



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

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## NOTICE OF DECISION

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

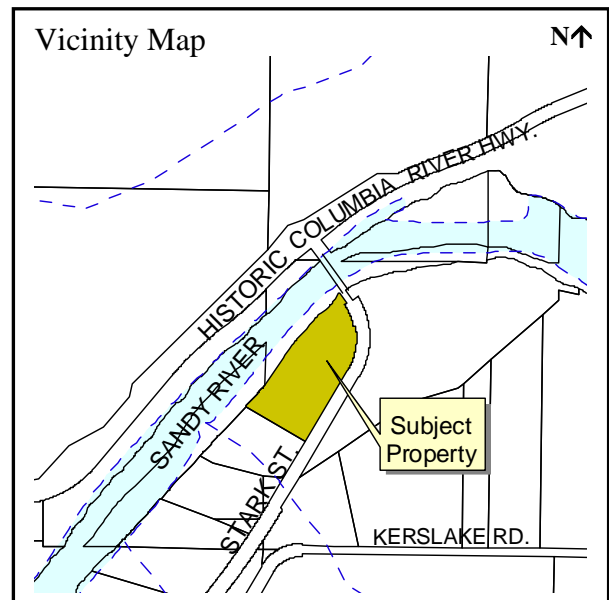
**Case File:** T2-06-097

**Permit:** Expansion of a Non-Conforming Use and Significant Environmental Concern for Water Resources and Wildlife Habitat Permit

**Location:** 29311 SE Stark St.  
Tax Lot 00700, Section 6AC,  
Township 1 South, Range 4 East, W.M

**Applicant:** Scott Ashcom  
PO Box 4323  
Portland, OR 97208

**Owner:** Junki Yoshida  
29311 SE Stark St.  
Troutdale, OR 97060



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**Summary:** Expansion of a Non-Conforming Use and Significant Environmental Concern for Water Resources and Wildlife Habitat Permit to for a 156 square foot gazebo and two as built pump houses totaling 178 square feet in area.

**Decision:** Approved with Conditions.

Unless appealed, this decision is effective May 4, 2007, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, November 21, 2007

Instrument Number for Recording Purposes: #2006055583

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

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

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is May 4, 2007 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Chapter 37: Administrative Rules and Procedures, MCC 36.7200 et. al: Nonconforming Uses and MCC 36.4500: Significant Environmental Concern.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

### **Scope of Approval**

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

### **Conditions of Approval**

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

1. In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. Within 30 days of this decision becoming final and prior to building permit sign-off, the applicant shall record the Notice of Decision including the Conditions of Approval (pages 1-4) of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to

the issuance of any permits and filed with Multnomah County Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670 & 36.4555(E)(2)]

2. The property owner shall restore Water Resource Area to "good condition" and maintained it in that condition in accordance with the mitigation plan approved and attached as Exhibits 1.2, 1.7 and 1.8 [MCC 36.4555(D)(4)]. The mitigation shall be accomplished as described in the cited exhibits and shall include the following as described by the applicant:

*Impacts to the natural resource buffer consist of 334,375 square feet. The impacts will be mitigated with a 1:1 onsite restoration ratio in the portion of the buffer that is degraded (Appendix D Mitigation Enhancement Plan). In addition, the portion of the natural resource area with a degraded condition will be enhanced to a "good" condition." The total area in the mitigation enhancement area is 7,200 square feet. The enhancement plan calls for the removal and control of Himalayan blackberry and English ivy found along portions of the slopes in the forested area. The control method will be compatible with Multnomah County requirements. The upland enhancement area will be planted with trees, shrubs, and forbs. Plant material was selected to match existing native communities in and around the subject property, increase habitat value and increase species and structural diversity.*

*Tree species in the upland enhancement area will include big-leaf maple (Acer macrophyllum), Douglas fir (Pseudotsuga mensensii) and Western red cedar (Thuja plicata). The shrub layer will include salmon berry (Rubus spectabilis), red elderberry (Sambucus racemosa), Indian plum (Oemleria cerasiformi), red flowering currant (Ribes sangium) and common snowberry (Symphoricarpos alba). The herbaceous layer will include trillium, sword fern (Polystichum munifum )and Heucheria.*

*Douglas fir and Big-leaf maple should be planted along the top to mid slope. Western red cedar should be scattered along mid slope to toe of slope. Indian plum, red flowering currant and red elderberry should be grouped in scattered clusters of 3 to 5 plants. Common snowberry should be planted in large clusters of 7 to 15 plants with a 4 to 5 on center spacing. Salmonberry should be planted mid slope and along the toe of the slope,. Sword fern should be scattered along the top and slope. The remaining herbaceous should be planted in large, group clusters along the top and mid slope to replace the English ivy.*

*Dense planting with small stock is preferred to sparse planting with large stock. Plantings should be installed between December and March. When plantings must be installed outside these times, additional measures may be needed to assure survival. Plantings should be placed in groups ranging from seven to ten of the same species to encourage massing. Groupings of different species can be placed next to each other, as long as the species are appropriate for the given hydrologic conditions.*

3. This approval in no way increases the number of patrons allowed on site at any given time. Condition Number 2 of Case T2-02-088 which states, "all uses shall be limited to a maximum of 100 patrons on-site at any given time." This approval shall include that requirement. Patrons are defined as all people on site other than those employed by the restaurant. [MCC 36.7210(A)]
4. No use of the gazebo shall exceed the requirement of Condition Number 3 of Case T2-02-088 which states "Sound eliminating from the site due to entertainment or outdoor gatherings, on the subject property, shall not exceed 75 Decibels at any property line or offsite location." [MCC 36.7210(C)(2)]

5. The only vegetation removed in relation to this development and mitigation plan shall be nuisance vegetation which appears on the list under MCC 36.4550(C) Table 1. Removed vegetation shall be replaced with vegetation outlined in the migration plan by the next growing season after its removal. Bare soil areas resulting from vegetation removal shall be covered with straw mulch to prevent erosion. [MCC 36.4550(D)(6)]
6. Property owner shall not plant any nuisance vegetation which appears on the list under MCC 36.4550(C) Table 1. [MCC 36.4550(C)]

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building area are needed for building permit sign off.

**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 AND CONCLUSIONS**

This decision is based on the findings and conclusions in the following section.

**Staff Report Formatting Note:** To address Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold** font. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings follow the **Staff** label. Staff conclusions follow the findings and are labeled **Conclusion**. At the end of the report, Exhibits are described. The applicant's submittals are included and made part of this decision under the category: Exhibit 1...

### **1. DESCRIPTION OF APPLICATION PROPOSAL :**

**Applicant:** *The applicant proposes to construct a gazebo consisting of 156.25 square feet on the subject property. Two pump houses are located two hundred feet from the top of bank. The pump houses cover two wells. One well formerly served the entire property and was located inside Haggar's Restaurant under previous owners. Construction of the Riverview Restaurant, which replaced Haggar's, resulted in the well that had formerly been inside Haggars being located directly outside the restaurant in a small pump shed. This pump house is designated "Existing Well" on the attached map. This pump shed has a surface area of 5'x5'=25ft sq. The second pump house is to shelter the well intended for use, if necessary, for tire suppression. This shed measures 12.5'X 10'=125 ft sq. This shed is designated "Fire Pump House " on the attached map. There is a small "Generator" on the attached map. The pumps are surrounded by existing asphalt.*

*If it is raining or snowing, the gazebo may be used as temporary shelter for restaurant diners under the small roof.*

**Staff:** The proposal is a request for two pump-houses and a gazebo on a property with a non-conforming restaurant use within the Significant Environmental Concern for Water Resource Overlay Zone District.

### **2. SITE AND VICINITY CHARACTERISTICS**

**Applicant:** *The Riverview Restaurant property is located at 293 11 SE Stark Street, Troutdale, Oregon (Multnomah County, in the NE1/4 of Sec. 6, T1S, R4E, TL600 & 700)(Figure 1). The property is a rectangle shape with SE Stark Street forming the east, northeastern property boundary. The Sandy River borders the northern and western property boundary. No water resources are located on the subject property.*

*The topography is level on the majority of the property with moderate to steep slopes extending northwest and west to the Sandy River., The property is zoned Rural Residential (RR). According to the Multnomah County Zoning Map, the property is in a SEC overlay designated SEC-wr and SEC -h (Appendix F)., The western half of the lot is mapped with a Significant Environmental Concern (SEC)Overlay for Water Resources (SEC-wr)and the eastern half with a Significant Environmental Concern Wildlife Habitat (SEC-h)Overlay zone.*

*An existing restaurant and associated parking area occupy the majority of the level area found on the property. The access driveway is located on the southeast corner of the lot off of SE Stark*

*Street. The vegetation around the restaurant consists of a large maintained lawn area with a few scattered clusters of Douglas fir. Adjacent to the lawn are large landscape beds with ornamental shrubs. Native vegetation was observed along the sloped area adjacent to the river.*

**Staff:** The subject property is 4.8 acres in size, according to County Assessment Records (Exhibit 2.1), is located along the Sandy River and Stark Street southwest of the bridge. The property is a little over a mile by road from the City of Troutdale. Currently the development on the site consists of a restaurant, a parking area, a sand filter septic system and two pump-houses (legalized through this permit).

The river bank rises up steeply about 30 feet from the river then forms a relatively flat bench that's about 400 feet wide on which the proposed development will be located. On the other side of Stark Street the canyon rock wall rises nearly vertical a hundred feet high then levels out. The opposite side of the river has similar topography with a steep river bank, a bench and rock wall. Along Stark Street within the canyon properties are predominately used as large lot residential properties. On the other side of the river the canyon is narrow with just the Historic Columbia River Highway within the canyon. Where the canyon widens the properties downstream on the east side of the river are developed as residential properties. State Park land is located directly upstream on the opposite side of the river. On the bluffs above the canyon is predominately farmland with some residential uses to the southeast of the site.

### 3. **OWNERSHIP**

**MCC 37.0550: Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser.**

**Staff:** County Assessment records show the property owner as Yoshida Real Estate. Junki Yoshida has signed the application form (Exhibit 1.1).

### 4. **TYPE II CASE PROCEDURES**

**Staff:** The application was submitted September 14, 2003. The application was deemed complete on December 27, 2006 when additional items were submitted. An Opportunity to Comment Notice was mailed on January 3, 2007 to all owners of properties within 750 feet of the subject property. The property owners were given 14-days to provide comments on the application (MCC 37.0530).

### 5. **RURAL RESIDENTIAL ZONE DISTRICT**

#### 5.1. **Dimensional Standards and Development Requirements.**

##### **36.3155(C) Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

**Maximum Structure Height - 35 feet**

**Staff:** The proposed structures meet the minimum yard requirements. All the structures are one story tall meeting the height requirement.

## **6. NONCONFORMING USES**

- 6.1. MCC 36.7200 (A) The purpose of this section is to establish standards and procedures regulating the continuation, alteration, expansion, and replacement of nonconforming uses. The intent is to allow procedures for considering changes to nonconforming uses that do not increase the level of adverse impacts on the neighborhood, or changes required for the use to comply with State or County health or safety requirements.**

**Staff:** This application is for an alteration/expansion of a non-conforming use.

- 6.2. MCC 36.7200 (B) Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 36.7205 or 36.7210.**

**Staff:** This decision addresses the provision of MCC 36.7210 in sections under 6.5 of this decision. This criterion is met.

- 6.3. MCC 36.7200 (C) If a nonconforming use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this Zoning Code at the time of the proposed resumption.**

**Staff:** A previous Case T2-02-088 (Exhibit 2.3) verified that the non-conforming use on the property had not been abandoned or discontinued for more than two years. Staff has been working closely with the redevelopment of this site since the decision was issued for T2-02-088 and can verify that the use has not been discontinued since that decision was effective on December 31, 2003. This criterion has been met.

## **6.4. Verification of Nonconforming Use Status**

- 6.4.1. MCC 36.7215 (A) The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:**

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

**Applicant:** *A Nonconforming Use Permit was approved by Multnomah County in Case T2-02-088 which verified that the use was legally established and operation at the time of enactment. The nonconforming use is for a restaurant in a rural residential zone. The nonconforming use is verified by Case T2-02-088 and T&03-083.*

**Staff:** A Nonconforming Use Permit was approved by Multnomah County in Case T2-02-088 (Exhibit 2.3) which verified that the use was legally established and in operation at the time of enactment of the Zoning Code. The nonconforming use is for a restaurant in a rural residential zone. Case T2-02-088 verified that the non-conforming use on the property had not been abandoned or discontinued for more than two years. Staff has been working closely with the

redevelopment of this site since the decision was issued for T2-02-088 and can verify that the use has not been discontinued since that decision was effective on December 31, 2003. This criterion has been met.

**6.4.2. MCC 36.7215 (B) The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the Planning Director shall consider:**

- (1) Description of the use;**
- (2) The types and quantities of goods or services provided and activities conducted;**
- (3) The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;**
- (4) The number, location and size of physical improvements associated with the use;**
- (5) The amount of land devoted to the use; and**
- (6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.**
- (7) A reduction of scope or intensity of any part of the use as determined under MCC 36.7215 (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.**

**Staff:** In the decision for Case T2-02-088: a Non-conforming Use verification and alteration/expansion case findings under Section 10.1.2 staff made a finding that the existing use at the time that zoning was originally applied to the property was a tavern/restaurant, campground, cabins, recreation/outdoor uses, and concessions stands (Exhibit 2.3). The finding determined that the entire 4.86 acre site was devoted to these uses which became non-conforming uses.

The findings in Case T2-02-088 determined that while the number of patrons served by all the uses on the property varied substantially during different seasons and days of the week. On average the uses on the property served a similar number of patrons as a 100 seat year round restaurant would serve. This determination allowed for the alteration/expansion of the tavern/restaurant use to establish a restaurant with seating capacity of 100. An appropriate number of parking spaces were required for a restaurant of that size according to MCC 36.4100-4215: Off-Street Parking and Loading.

The proposed uses a gazebo and pump-house will not increase the number of patrons using the site at any giving time. Condition Number 2 of Case T2-02-088 states, “The all uses shall be limited to a maximum of 100 patrons on-site at any given time (patrons are all people on site other than those employed by the restaurant).” There is no proposal to change that condition.

**6.4.3. MCC 36.7215 (C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.**



**Staff:** This code section was addressed in Section 10.1.3 of the decision for Case T2-02-088 (Exhibit 2.3) which was a final and effective County decision for the existing use.

- 6.4.4. MCC 36.7215 (F) An applicant may prove the existence, continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application.**

**Staff:** The existence, continuity, nature and extent of the nonconforming use were established in Case T2-02-088 (Exhibit 2.3) using this standard.

**6.5. ALTERATION, EXPANSION OR REPLACEMENT OF NONCONFORMING USES**

- 6.5.1. MCC 36.7210 (C) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.7215, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider all of the criteria listed below. Adverse impacts to one of the criterion may, but shall not automatically, constitute greater adverse impact on the neighborhood.**

**Staff:** There will be no additional off site impacts resulting from the gazebo and pump-houses given the conditions of approval established under Case T2-02-088. Given the findings below, the proposed gazebo meets the standard of greater adverse impact on the neighborhood.

**MCC 36.7210 (C) (1) The character and history of the use and of development in the surrounding area;**

**Applicant:** *The Gazebo is designated "Gazebo" on the attached map. The roof of the gazebo measures 12.5'x12.5'=156.25 ft sq. History of the property is detailed in the supporting documentation for the NonConforming Use Permit.*

**Staff:** The surrounding area is primarily large lot residential use within the canyon along the river to the southwest and downstream on the other side of the river, farm land above the bluffs on both sides of the river with a cluster of large lot residential use on the bluff to the southeast of the site, and State Park land to the northeast on the other side of the river.

The history of use on this property is thoroughly discussed in the findings in Case T2-02-088 (Exhibit 2.3). The property has had a tavern/restaurant use and recreational use since prior to establishment of zoning for the property. The current use established through Case T2-02-088 is a 100 seat restaurant and accessory structures with the site limited to 100 patrons at any given time.

**MCC 36.7210 (C) (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood;**

**Applicant:** *There will be no noise, vibration, dust, odor, fumes, glare or smoke emanating from the pump houses or gazebo.*

**Staff:** The use of the gazebo is mostly aesthetic and possibly for small gathering of people. The pump-houses are for irrigation and emergency water supply. Given that use the gazebo will not increase the vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood. Enclosing the water pumps inside the pump-houses will reduce the minor noise from the pumps. The pump-houses will not result in increased vibration, dust, odors, fumes, glare or smoke detectable within the neighborhood. Given Condition Number 3 of Case T2-02-088 (Exhibit 2.3) which states “Sound eliminating from the site due to entertainment or outdoor gatherings, on the subject property, shall not exceed 75 Decibels at any property line or offsite location,” the use will not increase degree of noise either. This standard is met.

**MCC 36.7210 (C) (3) The comparative numbers and kinds of vehicular trips to the site;**

**Applicant:** *No additional vehicle miles are anticipated due to the pump house structures and gazebo.*

**Staff:** The gazebo will not result in any additional numbers or kinds of vehicle trips other than those permitted under Case T2-02-088 (Exhibit 2.3) given the number of patron are limit to 100 at any given time. This standard is met.

**MCC 36.7210 (C) (4) The comparative amount and nature of outside storage, loading and parking;**

**Applicant:** *No change is anticipated in the amount and nature of outside storage, loading and parking due to the pump houses and gazebo.*

**Staff:** There will be no storage associated with the gazebo. This standard is met.

**MCC 36.7210 (C) (5) The comparative visual appearance;**

**Applicant:** *The gazebo enhances the visual appearance of the walkway where it is located, and provides shade in sunny weather, and shelter in rain.*

**Staff:** The gazebo is meant to enhance the visual appearance of the site. This standard is met.

**MCC 36.7210 (C) (6) The comparative hours of operation;**

**Applicant:** *No change is anticipated in hours of operation due to the subject alterations.*

**Staff:** There will be no change in hours due to the gazebo. This standard is met.

**MCC 36.7210 (C) (7) The comparative effect on existing flora;**

**Applicant:** *The 335 square feet of impervious area added to the use will be mitigated as required by the ordinances below. See report and plan of the Biologist Team (Schott & Associates).*

**Staff:** The gazebo will be built in an area that was previously lawn. No impact to flora will result from the gazebo. This standard is met.

**MCC 36.7210 (C) (8) The comparative effect on water drainage or quality; and**

**Applicant:** *The small addition of impervious surface will have no measureable impact on existing drainage or water quality as approved in the existing permit*

**Staff:** There will be a minor amount of water drainage resulting from the gazebo. This site is very sand with stormwater absorbed at a rapid rate. The gazebo will have a comparative effect on water drainage and quality. This standard is met.

**MCC 36.7210 (C) (9) Other factors which impact the character or needs of the neighborhood.**

**Applicant:** *The mitigation stipulated to in this application will enhance the environmental quality of the site and neighborhood by reducing erosion, improving water quality, and improving fish and wildlife habitat. See report and plan of the biologists team.*

**Staff:** There are no other factors to consider.

**7. SIGNIFICANT ENVIRONMENTAL CONCERN FOR WATER RESOURCES**

**7.1. MCC 36.4505 The SEC overlay zone shall apply to those lands designated SEC-sw, SEC-wr, and SEC-h on the Multnomah County Zoning Map.**

\* \* \*

**(C) SEC-Water Resource Area (SEC-wr) - Protected water features, riparian/vegetated corridors and the adjacent impact areas, that are identified as significant resources in the Goal 5 Inventory, and as established by these definitions, are the areas included within the SEC-wr Overlay Zone Subdistrict.**

**(1) Protected Water Features shall include:**

\* \* \*

**(b) Rivers, streams, and drainages downstream from the point at which 50-acres or more are drained to the water feature (regardless of whether it carries year-round flow)**

**(2) Riparian/Vegetated Corridors and Impact Area - The standard width of the riparian/vegetated corridor for all Protected Water Features shall be two hundred (200) feet from the top of bank.**

**Staff:** The proposed development sites are located within the SEC-wr Overlay District (Exhibit ).

**7.2. Application for SEC Permit.**

**7.2.1. MCC 36.4540 (A) General SEC: All applications for SEC permits shall include the information listed in this section in sufficient detail for County staff to evaluate the impacts of the proposal. The applicant is responsible for providing all of the required information. In addition to the information listed in this section, the application shall contain the**

supplemental information that is listed for the resource area in which the development is proposed.

- (1) A written description of the proposed development and how it complies with the requirements applicable to the resource area in which development is proposed as listed in SECsw, SECwr, SECh.
- (2) A map of the property drawn to scale showing;
  - (a) Boundaries, dimensions, and size of the subject parcel;
  - (b) Location and size of existing and proposed structures;
  - (c) Contour lines and topographic features such as ravines or ridges;
  - (d) Location of natural drainageways, springs, seeps, and wetlands on the site. The Planning Director may require the applicant to provide the location of the SECwr boundary, topography, or the location of development as determined by a registered professional surveyor or engineer;
  - (e) Proposed fill, grading, site contouring or other landform changes;
  - (f) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
  - (g) Location and width of existing and proposed roads, driveways, parking and maneuvering areas, and service corridors and utilities.
- (3) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.
- (4) Application for a flood hazard permit, erosion control permit, and/or other required natural hazards permit for the proposed development;

**Applicant:** *(1) An existing restaurant and associated parking area occupy the majority of the level area found on the property. The access driveway is located on the southeast corner of the lot off of SE Stark Street. The vegetation around the restaurant consists of a large maintained lawn area with a few scattered clusters of Douglas fir. Adjacent to the lawn are large landscape beds with ornamental shrubs. Native vegetation was observed along the sloped area adjacent to the river.*

*The applicant proposes to construct a gazebo consisting of 156.25 square feet on the subject property. Two pump houses are located two hundred feet from the top of bank. The pump houses cover two wells. One well formerly served the entire property and was located inside Haggar's Restaurant under previous owners. Construction of the Riverview Restaurant, which replaced Haggar's, resulted in the well that had formerly been inside Haggars being located directly outside the restaurant in a small pump shed. This pump house is designated "Existing Well " on the attached map. This pump shed has a surface area of 5'x5'=25ft sq. The second pump house is to shelter the well intended for use, if necessary, for tire suppression. This shed measures 12.5'X 10'=125 ft sq. This shed is designated "Fire Pump House" on the attached map. There is a small "Generator" on the attached map. The pumps are surrounded by existing asphalt.*

*The boundaries are shown on the existing map in Appendix A. The development proposes to have a low impact on the water resources by ensuring the proposed gazebo is more than 100 feet from the top the of creek bank,, The proposed gazebo is located in an existing lawn area, There has been no tree or native vegetation removal to accommodate the gazebo or the pumps nor will there be any in the future. Impacts to the natural resource buffer consist of a total of 334.375 square feet. The impacts will be mitigated on a 1: 1 ratio in the portions of the buffer that is marginal and*

*degraded. All the development standards listed in §36.4555 (D) and mitigation requirements (E) are addressed below.*

*(2) A map of the property drawn to scale is enclosed in Appendix (A). (a)The map identifies the property size and boundary. The map identifies (b) location of existing structures, (c) contour lines and topographic features, and (d) the location of the Sandy River located off site. There are no other water resources on the property; (e) There will be no till, grading, site contouring or other landform changes; (f) the map shows the location of all existing native trees. There will be no removal of trees or any other disturbance to native plant species; (g) the locations of all existing roadways are shown on the enclosed map.*

*(3) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing vegetation is enclosed*

*(4) None required.*

**Staff:** The applicant submitted the required information (Exhibits 1.2 through 1.8).

**MCC 36.4540 (C) SEC-Water Resource:** In addition to the information requirements listed in MCC 36.4540(A) above, the following information shall be submitted for applications within the SEC-wr overlay.

- (1) A topographic map of the development area and adjacent areas of the site at contour intervals of five feet or less showing a delineation of the Water Area or Habitat Area as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, and utility installations;**
- (2) The location of wetlands;**
- (3) Information for the site from the adopted West of Sandy River Wildlife Habitat and Stream Corridor ESEE Report, the County Goal 5 Inventory;**
- (4) Preparation of plans and surveys - Inventories, assessment of existing conditions, and mitigation or restoration plans shall be prepared by a qualified professional such as a fish or wildlife biologist at the discretion of the Planning Director. Wetlands shall be identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual;**
- (5) The applicant shall provide evidence that when federal or state requirements apply, that the agency has been contacted, and shall provide an assessment of whether the project can meet the requirements based on the agency response;**
- (6) An assessment of the existing condition of the Water Resource Area in accordance with Table 2 Riparian/Vegetated Corridor Standards;**
- (7) An inventory of vegetation, including percentage ground and canopy coverage, and location of nuisance plants listed in Table 1;**
- (8) A detailed Mitigation Plan as described in 36. 4555(E), if required;**
- (9) The location of all existing trees of a caliper greater than six (6) inches in diameter at breast height (DBH);**
- (10) 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.**

**Applicant:** *See scaled drawing of the gazebo which was filed with Multnomah County on Thursday, 16 November by Wally Hancock (2 copies on tile with county). The scale map included in the "Application for a Significant Environmental Concern Permit for Riverview Restaurant"*

*(September 2006, prepared by Schott & Associates) shows the relationship between the building and existing and finished grades and existing vegetation. The biologists Report SEC Water Resources (attached) includes a description of proposed vegetation.*

*(1) The topographic map for the site is located in the Appendix A.*

*(2) No jurisdictional wetlands were observed on site. The Sandy River flows adjacent to the north, northwest property boundary.*

*(3) To implement Goal 5, the County conducted an Economic, Social, Environmental and Energy (ESEE) analysis with the purpose of developing an environmental protection program specific to the resource within and development in the West of Sandy River area. To accomplish this, the County inventoried natural resources, including riparian corridors and wildlife habitat according to OAR 660-023. The results of the ESEE evaluations were used to develop a protection program composed of policies and zoning ordinance (SEC) (Parametrix, 2002).*

*As noted above, a Riparian Corridor and Wildlife Habitat Inventory and Assessment were conducted for the unincorporated areas of Multnomah County by Fishman Environmental Services, LLC. According to Fishman Environmental Services (ESEE p. 11), the wildlife habitat inventory was conducted using an offsite inventory and assessment method. The assessment method used is based on a modified application of the WHA (as noted above). According to the ESEE report (ESEE, 2002. Sect 2.3, Inventory and Mapping Methodology) riparian corridors were mapped as combinations of stream channels, associated wetlands and wildlife habitat (forests) adjacent to streams. As a result, some of the larger riparian corridor units are a combination of riparian and adjacent upland forested wildlife habitat. Summary sheets were prepared for each wildlife habitat unit using existing background information when available and aerial photo interpretation along with limited ground-truthing, (ESEE, 2002. Sect 2.3, Inventory and Mapping Methodology).*

*According to the Multnomah County Zoning Map, the subject property is in a SEC overlay designated SEC-wr and SEC-h. The property was included in the general study area that consisted of 10,250 acres (ESEE, 2002, 2.2 Study Area). The Natural Resource Inventory and Assessment Wildlife Habitat Summary Sheet (Site Code: S-R/U, Map sheet #1, 2) that includes the property quadrant was reviewed (Appendix E). It is considered a significant resource and functions were given a high rating.*

*(4) A site visit was conducted by Schott & Associates, Inc. in August 2006. A wetland determination was completed and the ordinary high water mark was flagged. Donald E. Knauer, a registered Professional Land Surveyor, surveyed flagging. No jurisdictional wetlands were observed on site. The Sandy River flows adjacent to the north, northwest property boundary.*

**Staff:** The applicant submitted the required information (Exhibits 1.2 through 1.8).

### **7.3. General Requirements for Approval in Areas Designated as SEC-wr**

#### **7.3.1. MCC 36.4550 (A) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.**

**Applicant:** *There will be no grading and no soil disturbance during the construction of the gazebo. No work will be performed near the River. The area around the gazebo is seeded with grass and there will be no stormwater runoff that could present erosion issues.*

**Staff:** There will be no soil disturbing activities. The foundations for these buildings were established when the restaurant was built under Grading and Erosion Control Permit T1-03-055. This standard is met.

- 7.3.2. MCC 36.4550 (B) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water resource or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision.**

**Applicant:** *No outdoor lighting will be developed in conjunction with the gazebo or pump houses.*

**Staff:** No new lighting is proposed. This standard is met.

- 7.3.3. MCC 36.4550 (C) The following nuisance plants, in addition to the nuisance plants defined in 36.4510, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:**

Table 1  
Nuisance Plant List

Common Name	Scientific
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler' s Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>
Lady' s nightcap	<i>Convolvulus sepium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Ann' s Lace	<i>Daucus carota</i>
South American Waterweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>
Giant Horsetail	<i>Equisetum telmateia</i>
Crane' s Bill	<i>Erodium cicutarium</i>
Robert Geranium	<i>Geranium robertianum</i>
English Ivy	<i>Hedera helix</i>
St. John' s Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquifolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Lentil	<i>Lemna minor</i>

Common Name	Scientific
Fall Dandelion	<i>Loentodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Reed Canary grass	<i>Phalaris arundinacea</i>
Annual Bluegrass	<i>Poa annua</i>
Swamp Smartweed	<i>Polygonum coccineum</i>
Climbing Binaweed	<i>Polygonum convolvulus</i>
Giant Knotweed	<i>Polygonum sachalinense</i>
English, Portugese Laurel	<i>Prunus laurocerasus</i>
Poison Oak	<i>Rhus diversiloba</i>
Himalayan Blackberry	<i>Rubusdiscolor</i>
Evergreen Blackberry	<i>Rubus laciniatus</i>
Tansy Ragwort	<i>Senecio jacobaea</i>
Blue Bindweed	<i>Solanum dulcamara</i>
Garden Nightshade	<i>Solanum nigrum</i>
Hairy Nightshade	<i>Solanum sarrachoides</i>
Common Dandelion	<i>Taraxacum officinale</i>
Common Bladderwort	<i>Utricularia vulgaris</i>
Stinging Nettle	<i>Urtica dioica</i>
Periwinkle (large leaf)	<i>Vinca major</i>
Periwinkle (small leaf)	<i>Vinca minor</i>
Spiny Cocklebur	<i>Xanthium spinosum</i>
Bamboo sp.	<i>various genera</i>

**Applicant:** *None of the above listed nuisance plants will be utilized in planting for required mitigation under this alteration permit. The nuisance plant list was reviewed to ensure that these plant species will not be planted in the landscaped area.*

**Staff:** None of the listed plants are proposed to be planted as part of this development. This standard is met.

#### **7.4. Criteria for Approval of SEC-wr Permit -Water Resource**

- 7.4.1. MCC 36.4555 Except for the exempt uses listed in MCC 36.4520 and the existing uses pursuant to 36.4525, no development shall be allowed within a Water Resource Area unless the provisions of section (A) or (B) or (C) below are satisfied. An application shall not be approved unless it contains the site analysis information required in 36.4540(A) and (C), and meets the general requirements in 36.4550.**

**Staff:** This application contains a site analysis with the information required in 36.4540(A) and (C), and meets the general requirements in 36.4550.

- 7.4.2. MCC 36.4555 (A) Development on Low Impact Sites - Development on parcels in locations that would have low impacts on Water Resource Areas may be exempt from the Alternatives Analysis in (B) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E):**

**(1) The development site is at least one hundred (100) feet from top of bank or top of ravine, whichever results in a greater distance from the Protected Water Feature.**

**Top of ravine is the break in the > 25% slope. Slope should be measured in 25-foot increments away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.**

**Applicant:** *The applicant will mitigate as proposed in the attached biologist team report and plan.*

**Staff:** The proposed buildings are located in the low impact area as shown on Exhibit 1.2

- 7.4.3. MCC 36.4555 (D) Development Standards- Development within the Water Resource Area shall comply with the following standards:**

**MCC 36.4555 (D) (1) Development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.**

**Applicant:** *N/A. No such facilities are proposed.*

**Staff:** None of the listed types of development are proposed at this time. This standard is met.



- 7.4.4. MCC 36.4555 (D) (2) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH greater ) shall be removed without a one-for-one replacement with comparable species. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.**

**Applicant:** *N/A. No trees or vegetation is proposed to be cut.*

**Staff:** No tree removal is proposed. This standard is met.

- 7.4.5. MCC 36.4555 (D) (3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.**

**Applicant:** *All natural vegetation will remain contiguous. Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.*

**Staff:** The proposed uses will have no impact on vegetation. This standard is met.

- 7.4.6. MCC 36.4555 (D) (4) The Water Resource Area shall be restored to "good condition" and maintained in accordance with the mitigation plan pursuant to (E) below and the specifications in Table 2.**

**Applicant:** *This criteria will be met through the applicant's mitigation plan. The Water Resource Area shall be restored to "good condition " and maintained in accordance with the mitigation plan pursuant to (E) below.*

**Staff:** The applicant proposes a mitigation plan that will restore the water resource are to a good condition according to MCC 36.4555 (E) below and the specifications in Table 2 under MCC 36.4555(E)(3). This standard is met.

- 7.4.7. MCC 36.4555 (D) (5) To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.**

**Applicant:** *Applicant will remove no vegetation except as required by ordinance. Applicant will protect all vegetation and all vegetation will be left in place. See biologist team mitigation plan. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.*

**Staff:** The proposed plan is to only remove nuisance vegetation. No additional soil disturbance is needed for the proposed development other than what is necessary for the removal of nuisance vegetation and planting of mitigation vegetation. No equipment will be anchored by vegetation. This standard is met.

- 7.4.8. MCC 36.4555 (D) (6) Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.**

**Applicant:** *Any nuisance plants removed will be replaced by plants approved by Multnomah County. See biologist team mitigation plan. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas, Nuisance plants shall be replaced with non-nuisance plants by the next growing season.*

**Staff:** The only vegetation removed will be nuisance vegetation. A condition of approval will require it to be replaced by the next growing season and will require straw mulch of bare soil areas resulting from vegetation removal.

- 7.4.9. MCC 36.4555 (D) (7) Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this district. Such markings shall be maintained until construction is complete.**

**Applicant:** *All mitigation areas will be flagged as required and maintained until construction of mitigation area is completed. Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this district. Such markings shall be maintained until construction is complete.*

**Staff:** The mitigation areas will be flagged. The two pump houses have been completed and the foundation for the gazebo is in place. There will be no additional soil disturbance associated with the development. The previous soil disturbance associated with this development was regulated under Grading and Erosion Control Permit T1-03-055 and was fenced. This standard is met.

- 7.5.. MCC 36.4555 (E) Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This section establishes how mitigation can occur.**

**Applicant:** *While no natural resources protected by environmental overlays will be destroyed, altered, or in any way changed, the applicant agrees to mitigate. See the biologist team Mitigation Plan.*

**Staff:** The applicant has proposed a mitigation plan that meets these requirements.

- 7.5.1. MCC 36.4555 (E) (1) Mitigation Sequence. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.**  
**(a) When a proposed use or development activity could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1. through 5.**

below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.

1. Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of the site which contains the regulated natural resource area;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
3. Compensating for the impact by repairing, rehabilitating, or restoring the affected environment;
4. Compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site.
5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.

**Applicant:** *The applicant proposes to construct a gazebo consisting of 156.25 square feet on the subject property. Additionally, two pumps houses and a generator; totaling 178.125 sq ft are located in the parking area. The total impervious area of alterations to existing nonconforming use at the site is 334.375 sq ft.*

*According to the Multnomah County Zoning Map, the entire property is located in a Significant Environmental Concern (SEC) Overlay zone. The first western half of the lot is mapped with a Significant Environmental Concern (SEC) Overlay for Water Resources (SEC-wr). This boundary extends 200 feet east from the ordinary High water mark to approximately the middle of the lot. The remaining eastern half is mapped with a SEC Wildlife Habitat (SEC-h) Overlay zone. The boundaries are shown on the overlay map in Appendix F.*

*The mapped SEC overlays cover the entire property making it impossible to avoid an impact into the natural resource area. The development proposes to minimize the impact in the natural resource area and compensate for impacts through mitigation.*

*The development proposes to have a low impact on the water resources by ensuring the proposed gazebo is more than 100 feet from the top of the creek bank. The proposed gazebo is located in an existing lawn area. There has been no tree or native vegetation removal to accommodate the gazebo nor will there be any in the future. The pumps are located in an existing parking area.*

**Staff:** The applicant proposes compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site through a mitigation plan and its implementation.

**7.5.2. MCC 36.4555 (E) (2) Compensatory Mitigation: General Requirements.** As a condition of any permit or other approval allowing development which results in the loss or degradation of regulated natural resource areas, or as an enforcement action, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or violator.

- (a) Any person who alters or proposes to alter regulated natural resource areas shall restore or create natural resource areas equivalent to or larger than those altered in order to compensate for resource losses.
- (b) The following ratios apply to the creation or restoration of natural resource areas. The first number specifies the amount of natural resource area to be created and the second specifies the amount of natural resource area to be altered or lost.

Creation (off-site)	2:1
Restoration (off-site)	1.5:1
Creation (on-site)	1.5:1

**(Restoration (on-site) 1:1**

- (c) Only marginal or degraded water resource areas as described in Table 2 may be the subject of a restoration project proposed as part of a Mitigation Plan.**
- (d) Highest priority sites for mitigation are marginal or degraded corridors that are closest to a natural drainage, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.**
- (e) The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County.**
- (f) Compensation shall be completed prior to initiation of development where possible.**
- (g) In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that off-site mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.**

**Applicant:** *Impacts to the natural resource buffer consist of 334.375 square feet. The impacts will be mitigated with a 1:1 onsite restoration ratio in the portion of the buffer that is degraded (Appendix D Mitigation Enhancement Plan). In addition, the portion of the natural resource area with a degraded condition will be enhanced to a "good" condition." The total area in the mitigation enhancement area is 7,200 square feet. The enhancement plan calls for the removal and control of Himalayan blackberry and English ivy found along portions of the slopes in the forested area. The control method will be compatible with Multnomah County requirements. The upland enhancement area will be planted with trees, shrubs, and forbs. Plant material was selected to match existing native communities in and around the subject property, increase habitat value and increase species and structural diversity.*

*Tree species in the upland enhancement area will include big-leaf maple (*Acer macrophyllum*), Douglas fir (*Pseudotsuga mensensii*) and Western red cedar (*Thuja plicata*). The shrub layer will include salmon berry (*Rubus spectabilis*), red elderberry (*Sambucus racemosa*), Indian plum (*Oemleria cerasiformi*), red flowering currant (*Ribes sangium*) and common snowberry (*Symphoricarpos alba*). The herbaceous layer will include trillium, sword fern (*Polystichum munifum*) and *Heucheria*.*

*Douglas fir and Big-leaf maple should be planted along the top to mid slope. Western red cedar should be scattered along mid slope to toe of slope. Indian plum, red flowering currant and red elderberry should be grouped in scattered clusters of 3 to 5 plants. Common snowberry should be planted in large clusters of 7 to 15 plants with a 4 to 5 on center spacing. Salmonberry should be planted mid slope and along the toe of the slope,. Sword fern should be scattered along the top and slope. The remaining herbaceous should be planted in large, group clusters along the top and mid slope to replace the English ivy.*

*Dense planting with small stock is preferred to sparse planting with large stock. Plantings should be installed between December and March. When plantings must be installed outside these times, additional measures may be needed to assure survival. Plantings should be placed in groups ranging from seven to ten of the same species to encourage massing. Groupings of different species can be placed next to each other, as long as the species are appropriate for the given hydrologic conditions.*

**Staff:** The applicant has proposed a development area of 334.375 square feet with mitigation enhancement area of 7,200 square feet to be restored to good condition (Exhibit 1.7 and 1.8). The mitigation area greatly exceeds the minimum standard. The proposed mitigation area is a degraded area that is closest to the stream which will increase contiguous areas of standing trees, shrubs, and natural vegetation along the drainage. It may not be possible to implement the mitigation prior to the development due to planting season for the mitigation plants. To ensure that on-site mitigation areas are established and maintained, a condition of approval will require the property owner to record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that off-site mitigation areas will be protected in perpetuity, a condition of approval will require the owner to record a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County. These standards are met with a condition.

**7.5.3. MCC 36.4555 (E) (3) Mitigation Plan Standards - Natural resource mitigation plans shall contain the following information:**

- (a) A description of adverse impacts that could be caused as a result of development.**
- (b) An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.**
- (c) A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.**
- (d) A map drawn to scale, showing where the specific mitigation activities will occur.**
- (e) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.**

**Applicant:** *No grading will take place in the mitigation enhancement area. Dense planting with small stock is preferred to sparse planting with large stock. Plantings should be installed between December and March. When plantings must be installed outside these times, additional measures may be needed to assure survival. Plantings should be placed in groups ranging from seven to ten of the same species to encourage massing. Groupings of different species can be placed next to each other, as long as the species are appropriate for the given hydrologic conditions.*

*Trees, shrubs, and groundcovers should be adequately mulched with an appropriate material (e. g. compost or straw) to retain moisture and discourage weed growth around newly installed plant material.*

*Planting trees, shrubs, and rhizomes will occur during the first winter upon completion of the site grading, but no later than the beginning of March.*

*The goal of the enhancement project is to restore the degraded portion of the natural resource area to a forested community with a good condition.*

**Objectives**

*The objective is to enhance the existing forest community by planting native trees and shrubs and herbaceous material to create more structural-and species diversity. This will enhance the existing wildlife habitat.*

**Success Criteria**

*A survivorship of 80% is proposed for the tree and shrub plantings after three years. Invasive species should not exceed 10% cover.*

#### *Mitigation Monitoring*

*A three-year monitoring effort of the mitigation area is proposed. The monitoring biologist will complete a field investigation of the site and submit an annual written report to Multnomah County.*

*The following explains the timing of the monitoring, the photograph documentation, and the vegetation assessment,*

#### *Timing*

*The monitoring methods will involve a yearly site visit from the monitoring biologist to inspect the sites and do a stem count and species inventory. This should be at the middle of the growing season (near the end of August). If the plants of the mitigation sites appear to be stressed, the monitoring biologist may suggest irrigation during the summer months.*

#### *Photographs*

*Permanent photo-stations will be established at the mitigation sites. These photo points will be placed in such a way as to give an overview of the general condition of the site. These photo points will be shown on the mitigation plan.*

#### *Vegetation Assessment*

*Percent survivorship of woody species will be estimated by counting the dead of each species, and then subtracting that number from the number planted. This number will be divided by the number planted, then multiplied by 100 to obtain the percentage of survivorship.*

*Canopy cover or herbaceous species (Quadrat sampling) will be estimated by the monitoring biologist using five one sq. micro-plots. Random sample plots will be established in the mitigation area to illustrate the establishment of the vegetation.,*

#### *Contingency Plan*

*Numerous problems can prevent a mitigation area from developing as proposed. Contingency measures will be designed and implemented once the problems have been identified. Possible corrections include animal disturbances, or incorrect species for the local conditions. The project biologist will monitor the vegetation. If; during the monitoring process problems are identified corrective measures will be determined and implemented. If survival of planted individuals proves to be inadequate then additional vegetation and/or weed control will be needed to insure the 80% survival at the end of the three years. Herbivore control may also be needed.*

*Plant mortality may come from many causes. the main causes are weak nursery stock and water stress. If survivorship of any planted species falls below 80%, the cause of the mortality will be assessed. If the mortality is due to inappropriate placement of the plant in relation to the hydrology of the site, the monitoring biologist will recommend adjustments to the replanting site. In the event of weak nursery stock, the mortality should be immediately evident (within a few days) and should be detected in the review of the planting.*

*The contingency measures for herbivory and plant mortality (often linked) are to replant the affected plants and protect them. Plantings can be surrounded by plant cages formed by 3 'chicken wire to protect them from damage from beavers and nutria. If the individual plant cages are not*

*sufficient to deter the beavers, fencing the entire area with 3' chicken wire may be needed to ensure success of the site. If small rodent girdling of the plantings is the problem, the base of the tree may need to be protected with a rodent guard.*

*In the event of an extended drought, irrigation may be necessary to ensure establishment of the plantings. If mortality is due to water stress, watering of the site will be done up to 7 times during the period from July 1 to August 31,*

*Invasive species will be controlled before planting takes place. If cover of invasive species becomes greater than 15%, more dramatic control measures will need to take place. These include cutting the canes of Himalayan blackberry in summer and applying, by painting or daubing (not spraying) new sprouts with an herbicide approved for use near water and in wetlands. This application should be done in 2 months after cutting and again in late summer or early fall (if needed). Follow-up treatments will occur on an as needed basis. The Multnomah County Significant Environmental Concern standards encourage removal of invasive species will be followed.*

*The aforementioned mitigation plan has been designed to rehabilitate the enhancement area to a "Good Corridor" outlined in Table 2 of the Significant Environmental Concern mitigation section.*

*The responsible party for the maintenance of this site is:*

*Schott & Associates  
P. O. Box 589  
Aurora, OR 97002*

*503-678-6007 Phone  
503-678-6011 Fax*

*Applicant and Owner:  
River view Restaurant  
Mr. Junki Yoshida  
29.3 11 SE Stark Street  
Troutdale, Oregon 97060  
(503) 661-3663*

**Staff:** The mitigation plan included the required information (Exhibit 1.7 and 1.8). These standards are met.

## **8. CONCLUSION**

The proposed development, two pump-houses and gazebo along with the mitigation plan with conditions of approval meet the Code requirements for an alteration/expansion of a non-conforming use and for development within an SEC-wr overly district.

## **9. EXHIBITS**

### **9.1. Exhibits submitted by Applicant**

- Exhibit 1.1: Application form (1 page)
- Exhibit 1.2: Site plan (1 oversized page)
- Exhibit 1.3: Elevation and floor plan for the gazebo (1 oversized page)
- Exhibit 1.4: Applicant narrative (8 pages)
- Exhibit 1.5: Addendum to narrative from Donald E. Knauer Register Surveyor to accompany maps (1 page)
- Exhibit 1.6: Water Resource Area Certification Form (1 page)
- Exhibit 1.7: Schott & Associates Water Resource Assessment and Mitigation Plan (39 pages)
- Exhibit 1.8: Amended Schott & Associates Water Resource Assessment and Mitigation Plan without appendix (17 pages)

**9.2. Exhibits included by the County**

- Exhibit 2.1: County Assessment Record (2 pages)
- Exhibit 2.2: Zoning Map (1 page)
- Exhibit 2.3: Case T2-02-088 (54 pages)