

NOTICE OF DECISION

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

Case File: T2-2013-2889

Permit: Significant Environmental Concern
Permit - Water Resources (SEC-wr)

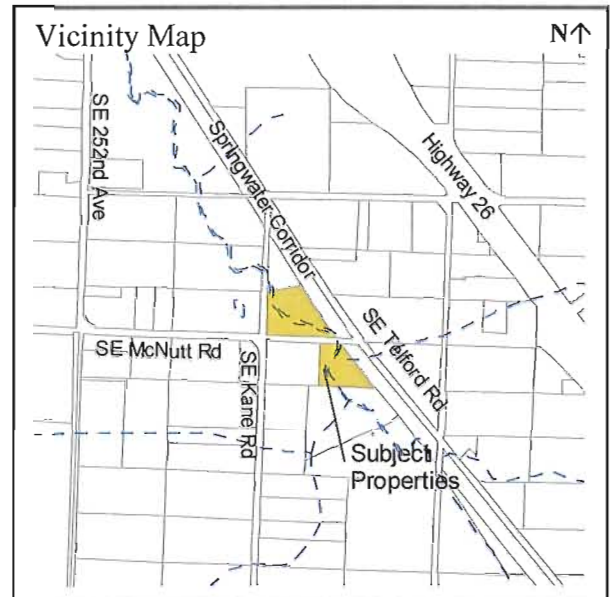
Location: 7835 SE Telford Road
Tax Lot, 600, 2000 Section 23D,
Township 1S, Range 3E, W.M.
R092604290 and R092604350

Applicants: Metro

Owners: METRO, Multnomah County

Base Zone: Multiples Use Agriculture – 20

Overlays: SEC-h, SEC-wr, Flood Hazard;



Summary: Install large woody debris structures for bank and channel stabilization. Reconnect local floodplain areas with high flows, invasive plant removal and re-vegetation.

Decision: Approved with Conditions

Unless appealed, this decision is effective Monday, October 28, 2013, at 4:00 PM.

Issued by:

By:


Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Monday, October 14, 2013

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 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 Don Kienholz, Staff Planner at 503-988-3043, ext. 29270.

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 Monday, October 28, 2013 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 37.0560 Code Compliance, 36.0005 Lot of Record, 36.2870 Lot of Record, 36.4550 General Requirements, 36.4555 Water Resources Approval Criteria.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) 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> or <http://web.multco.us/transportation-planning>.

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 two years from the date the decision is final pursuant to MCC 37.0690(A) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

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.

Note: Once this decision is final, application for building permits, if applicable, may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall call the Staff Planner, Don Kienholz, at (503) 988-3043 ext. 29270, 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 plans are needed for building permit sign off. At the time of building permit review, a fee of \$61.00 may be collected. In addition, an erosion control inspection fee of \$82.00 may be required.

- 1. Staging of equipment or vehicles shall occur no closer than 150-feet from the stream or water body [MCC 36.4545(G)].**
- 2. Any equipment or vehicle working in stream shall be inspected daily prior to entering the water body to ensure there are no leaks or hazardous materials present [MCC 36.4545(G)].**
- 3. Nuisance plants listed in MCC 36.4550(C) shall be removed from the development area and are prohibited from being planted.**
- 4. Vegetation planted as part of the habitat restoration and enhancement shall be native plants as proposed in the narrative [MCC 36.4555(D)(6)].**
- 5. Prior to work commencing, and through the duration of the project, equipment access areas shall be clearly flagged to prevent equipment from encroaching into the water resource areas other than what is necessary to construct the woody debris structures and the placement of boulders [MCC 36.4555(D)(7)].**

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*.

1.00 Project Description:

Staff: The applicant is seeking approval for a restoration project along Johnson Creek that will stabilize stream banks by adding woody debris structures, reconnect stream flows to the floodplain and enhance riparian habitat (Exhibits A.22 through A.26). The project will occur in the Multiple Use Agriculture-20 zone and within the Significant Environmental Concern overlays for Water Resources. The project sites are located adjacent to the Springwater Corridor just east of SE McNutt Road.

2.00 Code Compliance

MCC 37.0560 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 Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

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

Staff: There are no known code compliance issues associated with the two involved parcels and as such the County has the authority to issue this land use decision. There was a code compliance case opened on the northern property in 2001 but it has since been closed.

Criteria met.

3.00 Lot of Record:

MCC 36.0005 Lot of Record

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

**1. By a subdivision plat under the applicable subdivision requirements in effect at the time;
or**

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

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MCC 36.2870 LOT OF RECORD.

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR zone applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;

(6) May 16, 2002, Lot of Record section amended, Ord. 982.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.2860, 36.2875, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

Staff: The applicant has provided deed documents to demonstrate each involved property is a Lot of Record. Below is an analysis of each property:

Parcel 1, Tax Lot 2000: The applicant submitted a deed (Book 709, Pages 183) recorded November 24, 1969 (Exhibit A.29) that describes the subject property. In 1969, the property was zoned Suburban Residential (SR) (Exhibit B.5). The SR zone required a 40,000 minimum lot size and road frontage, and adequate access. The subject property is just under 3-acres in size and adjacent to a public road. Therefore the property met the zoning requirements.

Land divisions creating three or fewer parcels were not required to be reviewed by the County until 1978. Subdivision lots could be divided without a replat prior to 1994. Since the property was in existence since at least 1969 in its current configuration, it was not required to undergo a partition review or replat.

Considering the above facts, Parcel 1, also known as Tax Lot 2000, is a Lot of Record.

Parcel 2, Tax Lot 600: The applicant submitted a deed for tax lot 600 from 1987 (Exhibit A.30). However, that deed indicates the document is completing a contract of sale recorded March 19, 1971 in Book 778 Pages 142 through 145 (Exhibit B.3) The contract was in recordable form and contains the same legal description as the 1987 deed. Therefore, the property was first created in 1971 via the contract. In 1971, the property was zoned SR which required a 40,000 square foot minimum lot size, road frontage and access. The property met all those requirements.

As noted above, land divisions creating three or fewer parcels were not required to be reviewed by the County until 1978. Subdivision lots could be divided without a replat prior to 1994. The property was in existence since at least 1969 in its current configuration and was not required to undergo a partition review or replat.

Considering the above facts, Parcel 2, known as Tax Lot 600, is a Lot of Record.

Criteria met. Both parcels are lots of record

4.00 Multiple Agricultural Use-20:

A. MCC 36.2820 ALLOWED USES

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

Staff: The proposed habitat and flood plain restoration and enhancement is an allowed use.

Criterion met.

B. MCC 36.2855 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

All development proposed in this district shall comply with the applicable provisions of this section.

1. **(A) Except as provided in MCC 36.2860, 36.2870, 36.2875, and 36.4300 through 36.4360, the minimum lot size shall be 20 acres.**

Staff: The proposal does not include any land divisions so minimum lot size is not applicable.

Criterion met.

2. **(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**

Staff: A land division is not proposed therefore lot area is not applicable.

Criterion met.

3. **(C) Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Staff: No buildings are proposed. Therefore, setbacks and building height are not applicable.

Criterion met.

4. **(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.**

Staff: No buildings are proposed. Therefore yard requirements are not triggered.

Criterion met.

5. **(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

Staff: No buildings are proposed. Therefore height limitations are not applicable.

Criterion met.

6. **(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Staff: No impervious surface is proposed nor are any restrooms. As such, septic and stormwater are not reviewed.

Criterion met.

7. **(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.**

Staff: The applicant has submitted a grading and erosion control permit to ensure appropriate erosion control measures are in place. That permit satisfies this requirement.

Criterion met.

8. **(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:**

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.

Staff: A dwelling is not included with the application request.

Criterion met.

9. **(I) Agricultural structures and equine facilities such as barns, stables, silos, farm equipment sheds, greenhouses or similar structures that do not exceed the maximum height requirement may have a reduced minimum rear yard of less than 30 feet, to a minimum of 10 feet, if:**

(1) The structure is located at least 60 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the rear property line of the adjacent tract, or

(2) The structure is located at least 40 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the side property line of the adjacent tract.

(3) Placement of an agricultural related structure under these provisions in (I) do not change the minimum yard requirements for future dwellings on adjacent property.

Staff: No agricultural structures or buildings are proposed as part of the application.

Criterion met.

5.00 Significant Environmental Concern Permit:

A. MCC 36.4550 GENERAL REQUIREMENTS FOR APPROVAL IN AREAS DESIGNATED AS SEC-WR OR SEC-H.

The requirements in this section shall be satisfied for development in the SEC-wr and SEC-h areas in addition to the provisions of 36.4555 or 36.4560 as applicable.

1. **(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.**

Staff: The applicant's narrative discusses the Best Management Practices that will be implemented through the project. Those practices include:

- Performing work only during ODFW's in water work window of July 15 through August 31, coinciding with Johnson Creek's low summer flow.
- Revegetate stream bank and disturbed areas immediately following construction of the woody debris structures.
- Use of straw wattles.

- Staging and cleaning of equipment over 150-feet from a water body.
- Daily inspection of fluid leaks on equipment.
- Regular cleaning of equipment used in-stream.

The listed practices will help prevent erosion and protect the stream during the project.

Criterion met.

2. **(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.**

Staff: No lighting is proposed as part of the project.

Criterion met.

3. **(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:**

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

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

Staff: Nuisance plant removal in the development area shall be a condition of approval.

C. MCC 36.4555 CRITERIA FOR APPROVAL OF SEC-WR PERMIT –WATER RESOURCE

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.

1. **(B) Alternatives Analysis - Development proposed within a Water Resource Area may be allowed if there is no alternative, when the other requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E) are met. The applicant shall prepare an alternatives analysis which demonstrates that:**

- a. **(1) No practicable alternatives to the requested development exist that will not disturb the Water Resource Area; and**

Staff: Because the project includes restoration of segments of Johnson Creek, the project is dependant on the water resource that is protected under the SEC-wr. As such, there is no alternative to the location of the proposed project. The project helps meet the intent and purpose of the SEC-wr by enhancing the environmental characteristics of the mapped resource.

Criterion met.

- b. **(2) Development in the Water Resource Area has been limited to the area necessary to allow for the proposed use;**

Staff: The very nature of the project is to enhance habitat and flood capacity and requires work in the water resource in order to be effective. Restoration and enhancement projects are allowed in the underlying zone. Because the project is for the enhancement of the habitat and floodplain, the development is limited to those areas that need to be improved from a habitat and floodplain perspective. The assessment performed by Henderson Environmental Design-Build found that the general area of the project is in "good" condition as defined in the code. Over the years there has been a coalition of groups (including the Johnson Creek Watershed Council, Oregon Department of Fish and Wildlife, City of Gresham Etc) working on improving the water resource and enhancing the riparian corridors. The proposed work within the stream and along the corridor will improve the fish habitat (which is as important as upland habitat) as well as flood capacity. As such, the proposed development is limited to the area necessary for the fish habitat improvement and enhancement.

Criterion met.

- c. **(3) Development shall occur as far as practically possible from the stream; and**

Staff: The project meets the intent and purpose of the SEC code by enhancing the environmental characteristics of the mapped resource. Because of the nature of the project, the development cannot be done outside the stream. As such, it is as far as practically possible from the stream.

Criterion met.

- d. **(4) The Water Resource Area can be restored to an equal or better condition; or**

Staff: As identified by Henderson Environmental Design-Build, the area around the development project is already in “good” condition.

Criterion met.

- e. **(5) Any net loss on the property of resource area, function and/or value can be mitigated.**

Staff: There is no net loss to the resource area. All areas will remain in “good” condition and the project will enhance habitat and resources and improve the flood capacity of the creek.

Criterion met.

2. **(D) Development Standards – Development within the Water Resource Area shall comply with the following standards:**

- a. **(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.**

Staff: No facilities such as those mentioned in the criterion are proposed for the project.

Criterion met.

- b. **(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.**

Staff: The applicant is not proposing to remove any trees as part of the project. The ‘development’ is installing large woody debris structures in the creek and along the banks to provide improved fish habitat. Logs for the structures are to be imported in to the site, constructed and installed. Since no trees will be removed, no replacement is required.

Criterion met.

- c. **(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.**

Staff: The area of the project has been determined to be in “good” condition which includes tree stands of 50% canopy closure and native trees, shrubs, and ground cover

covering 85% of the area. Given that the development area is in “good” condition, the tree, shrub, and natural vegetation cover is and will remain connected and contiguous.

Criterion met.

- 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.**

Staff: The area of development is currently in “good” condition and will remain so after the woody debris structures and habitat is put in place.

Criterion met.

- e. **(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.**

Staff: The proposed development does not include tree or vegetation removal, other than invasive plants. Equipment access areas will be flagged prior to the start of construction. With the proposed development isolated to the creek, this criterion is met.

Criterion met.

- f. **(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.**

Staff: Any invasive vegetation is proposed to be removed. The applicant has stated that there will new vegetation planted throughout the project site as well. Native vegetation is proposed for the project and is a condition of approval. Part of the goal for the project is to create a 100-foot wide native riparian area.

Criterion met.

- g. **(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.**

Staff: The applicant has stated that equipment access areas will be flagged throughout the duration of the project. This shall be a condition of approval.

Criterion met.

- h. **(8) Stormwater quantity control and quality control facilities:**

(a) Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.

(b) The stormwater quantity control and quality control facility may only encroach a maximum of 25 feet into the outside boundary of the Water Resource Area of a primary water feature; and

(c) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Water Resource Area on the subject property.

Staff: No impervious surface is being added as a result of the project. Therefore, stormwater mitigation is not required.

Criterion met.

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

(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 onsite.**
- 5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments offsite.**

(b) When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit, given:

- 1. The extent of the public need for the proposed development ;**

2. The functional values of the Water Resource Area that may be affected by the proposed development;
3. The extent and permanence of the adverse effects of the development on the Water Resource Area, either directly or indirectly;
4. The cumulative adverse effects of past activities on the Water Resource Area, either directly or indirectly; and
5. The uniqueness or scarcity of the Water Resource Area that may be affected.

(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 offsite 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.

(3) Mitigation Plan Standards – Natural re-source 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.

Staff: As described in previous findings, the proposed project is to take place in an area that has been determined to be in “good” condition (A.8). The project does not remove trees or other vegetation from the development area other than nuisance species. The project enhances and creates fish habitat in the tributary of Johnson Creek and improves flood carrying capacity. The habitat enhancement includes adding large woody debris structures and boulders to create shade, crags, and protected areas. As such, no mitigation is required to off-set the project because the project will not result in the loss or degradation of a regulated natural resource area.

Criteria met.

6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Permit for Water Resources to construct and enhance habitat in Johnson Creek and improve flood capacity in the Multiple Use Agriculture-20 zone. This approval is subject to the conditions of approval established in this report.

7.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2013-2889 at the Land Use Planning office.

Exhibit #	# of Pages	Applicant Exhibits
A.1	1	General Application Form
A.2	1	Record of Survey Showing Subject Properties
A.3	2	Instrument 2008-104019 Conveying Property to Metro
A.4	1	May 10, 2013 Johnson Creek Restoration Project Map Cover Sheet G01
A.5	1	May 10, 2013 Existing Conditions Site Plan Sheet C01
A.6	1	May 10, 2013 Proposed Conditions Site Plan Sheet C02
A.7	1	May 10, 2013 Side Channel Profile View Sheet C03
A.8	1	May 10, 2013 Site Access, GEC Site Plan Sheet C04
A.9	1	May 10, 2013 Habitat Enhancement Structure Plan Sheet D01
A.10	1	May 10, 2013 Flood Plan Structure Plan View Sheet D02
A.11	1	May 10, 2013 Side Channel Woody Deflector Structure Sheet D03
A.12	1	May 10, 2013 General GEC Control Measure Details Sheet D04
A.13	1	Oregon State Historic Preservation Office Clearance Letter
A.14	7	Applicant’s May 10, 2013 Narrative
A.15	2	Riparian Vegetation Conditions Memorandum Authored by Phil Scoles, Soil and Water Scientist, Terra Science, INC
A.16	3	Hydrology and Hydraulic Analysis Technical Memorandum Authored by Shawn Stanley, PE, of Henderson Environmental Design-Build
A.17	54	May 10, 2013 Wetland Delineation Report, Exhibits, And Maps Authored by Terra Science, INC
A.18	1	Email From City of Portland to Metro Regarding Access to Subject Site
A.19	1	July 26, 2013 Johnson Creek Restoration Project Map Cover Sheet G01
A.20	1	July 26, 2013 Project Overview and Ownership Map
A.21	1	July 26, 2013 Existing Conditions Site Plan Sheet C01
A.22*	1	July 26, 2013 Proposed Conditions Site Plan Sheet C02

A.23*	1	July 26, 2013 Side Channel Profile View Sheet C03
A.24*	1	July 26, 2013 Site Access, GEC Site Plan Sheet C04
A.25*	1	July 26, 2013 Habitat Enhancement Structure Plan Sheet D01
A.26*	1	July 26, 2013 Flood Plan Structure Plan View Sheet D02
A.27	1	July 26, 2013 Side Channel Woody Deflector Structure Sheet D03
A.28	1	July 26, 2013 General GEC Control Measure Details Sheet D04
A.29	1	Deed Recorded in Book 709, Page 183 Demonstrating Tax Lot 2000 Is a Lot of Record
A.30	1	1978 Deed Recorded in Book 1976, Page 1448 Completing a Sales Contract From 1971 for Tax Lot 600
'B'	#	Staff Exhibits
B.1	4	Assessment and Taxation Property Information
B.2	1	Tax Lot Map
B.3	4	Contract of Sale Recorded in 1971 in Book 778, Page 142 Describing Tax Lot 600 and Demonstrating Lot of Record Status
B.4	4	Memorandum From Alan Young, Right of Way Specialist, Granting Permission for Metro to Utilize Portions of Unimproved McNutt Road for the Project
B.5	1	1962 Through October 5, 1977 Zoning Map

CONSTRUCTION NOTES:

1. DISTRIBUTE LWD 25 TO 50 FEET APART ALONG TRIBUTARY, BASED ON AVAILABILITY OF LOGS. LOGS TO BE PLACED ON BANK WITH OTHER END IN CHANNEL. USE ROOTWADS ONLY IF AVAILABLE AFTER CONSTRUCTION OF LWD STRUCTURES.
2. FIELD FIT LOGS ON LOWER ELEVATIONS OF FLOOD PLAINS BASED ON AVAILABILITY.
3. PLACE LOGS BENEATH EXISTING TREE ROOTS AND ASSOCIATED UNDERCUT BANKS.
4. AVOID DISTURBANCE OF EXISTING TREES.



PROPOSED CONDITIONS, PLAN VIEW

STRUCTURE LAYOUT TABLES

STATION	FEATURE	LOCATION	DETAIL SHEET	LOGS	ROOTWADS
1+60	LWD1	RIGHT	D01	2	2

STATION	FEATURE	LOCATION	DETAIL SHEET	LOGS	ROOTWADS
0+15	LWD3	CHANNEL	D03	5	3
0+70	SEE NOTE 3	RIGHT		0	2
2+15	LWD2	CHANNEL	D02	3	0

STRUCTURE CALLOUT REFERENCE

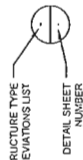
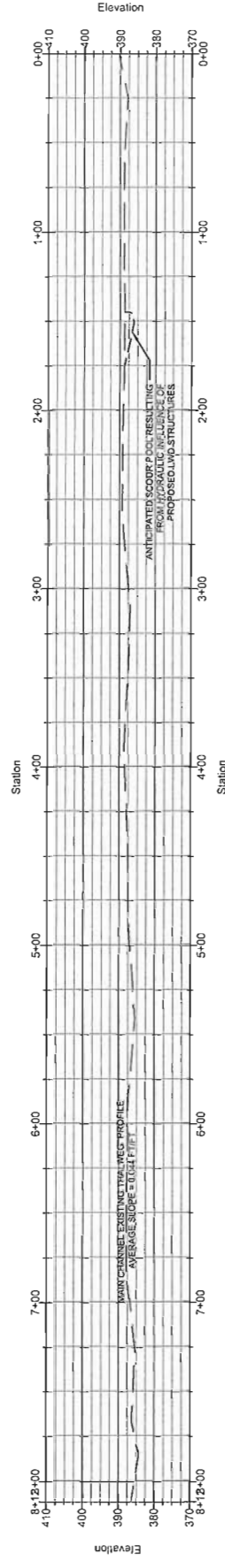


EXHIBIT
A.22

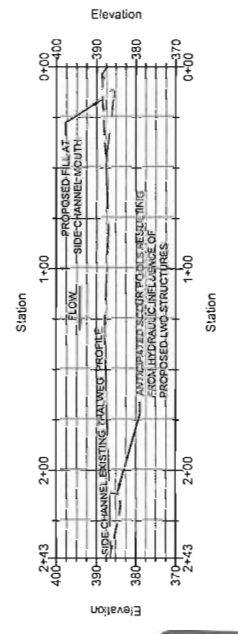


1. MAIN CHANNEL, PROFILE VIEW
SCALE = 2" = 1' H

STRUCTURE LAYOUT TABLES

MAIN CHANNEL				
STATION	FEATURE	LOCATION	DETAIL SHEET	ROOTWAYS
1+40	LWD1	RIGHT	D01	2

SIDE CHANNEL				
STATION	FEATURE	LOCATION	DETAIL SHEET	ROOTWAYS
0+15	LWD3	CHANNEL	D03	5
0+70	SEE NOTE 3	RIGHT	-	0
2+15	LWD2	CHANNEL	D02	3



2. SIDE CHANNEL, PROFILE VIEW
SCALE = 2" = 1' H



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METHOD OF WORK ISOLATION

DEWATERING AND RE-WATERING SEQUENCE

FISH RESCUE TO BE COORDINATED AND PERFORMED BY ODFW OR OTHER QUALIFIED PARTY.

FLOW CONDITIONS DURING IN-WATER WORK

EQUIPMENT AND MATERIALS LIST

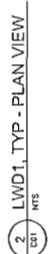
EROSION & POLLUTION CONTROL NOTES

ALL DISTURBED



A.24

1. LACE WOOD AND BALLAST PLACEMENTS TO BE FIT IN THE FIELD AND APPROVED BY THE OWNER'S REPRESENTATIVE.
2. WOOD PLACEMENTS SHALL CONSIDER BALLASTING NEEDS DURING CONSTRUCTION (BALLASTING CALCULATIONS, MATERIALS, AND METHODS TO BE INCLUDED IN DESIGN ITERATIONS BEYOND 60%).
3. WHENEVER POSSIBLE, SURFACE WOOD SHOULD BE PLACED PERPENDICULAR TO EACH OTHER WITH THE LOWEST PIECE PLACING THE DIRECTION OF THE LARGEST FLOW FORCE DURING FLOOD STAGE.
4. NO LIVING TREES SHALL BE MARKED (DAMAGED) DURING THE PLACEMENT OF IMPORTED WOOD MATERIAL. MINIMIZE CONTACTING SOIL WITHIN THE DRIP LINE OF LIVING TREES.
5. EXCAVATION AND STRUCTURES SHALL AVOID ROOT ZONES OF EXISTING TREES TO EXTENT POSSIBLE.
6. IN-CHANNEL EXCAVATION ASSOCIATED WITH INSTALLATION OF STRUCTURES SHALL BE MINIMIZED.
7. PIN PILES SHALL BE CONSTRUCTED FIRST FOLLOWED BY BRUSH WRACKS AND SURFACE LIVO. SURFACE LIVO SHALL BE PLACED ON THE UPSTREAM SIDE OF PIN PILES.



A.25

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GENERAL NOTES
THE DESIGN INTENT OF THE LWD2 STRUCTURE IS TO PROVIDE ENHANCED SALVAGED HABITAT AT ALL FLOW REGIMES WHILE MINIMIZING SITE DISTURBANCE NECESSARY FOR INSTALLATION.

IN TERMS OF CONSTRUCTION, LWD2 DIFFERS FROM LWD1 IN THAT ONLY THE PIN PILES ARE BURIED, AND BALLAST ROCK AND ROOTWADS MAY BE USED BUT ARE NOT REQUIRED. IN CONTRAST, LWD2 IS MOSTLY BURIED AND REQUIRES BOTH BALLAST ROCK AND ROOTWADS.

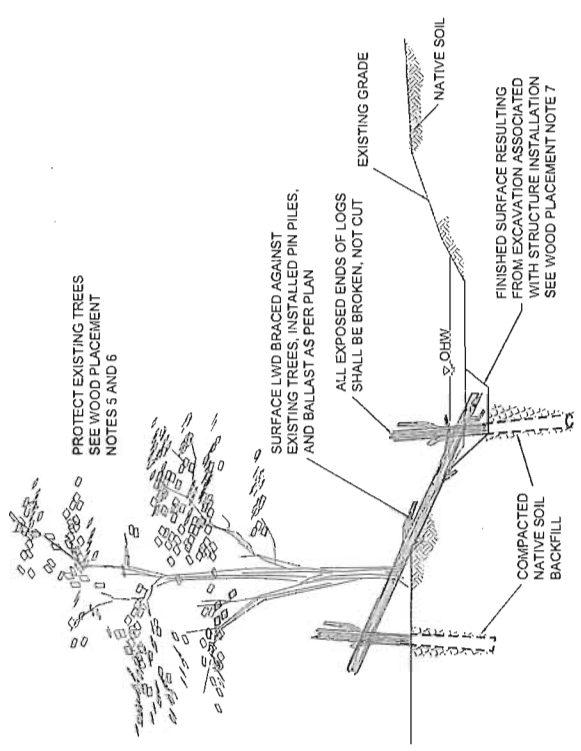
LWD2 SPECIFICATION

1. LWD2 SHALL CONSIST OF WHOLE OR PARTIAL TREES OR LOGS SALVAGED FROM ON-SITE CONSTRUCTION, REMOVAL ACTIVITIES OR PROVIDED BY CONTRACTOR AND/OR OWNER.
2. SEE SPECIFICATIONS FOR SOURCES, NUMBER, AND SIZE OF LWD.
3. WOOD LENGTHS GREATER THAN 30 FEET ARE PREFERRED AND WHOLE TREES ARE BEST.
4. TREES SHALL BE HANDLED TO MAXIMIZE WOOD LENGTH.
5. SALVAGED TREES SHALL NOT BE LIMBED UNLESS APPROVED BY OWNERS REPRESENTATIVE.
6. SOME CUTTING OF LWD2 PIECES MAY BE REQUIRED DURING PLACEMENT TO MATCH LOCATION AND SETTING.
7. TREE LENGTH ADJUSTMENTS WILL BE DIRECTED BY THE OWNERS REPRESENTATIVE.
8. EXCESS SOIL SHALL BE SHAKEN OR WASHED FROM THE ROOT WADS TO PREVENT SEDIMENT FROM ENTERING BODIES OF WATER DURING WOOD PLACEMENT.
9. EXPOSED ENDS OF LOGS SHALL BE BROKEN, NOT CUT, TO PROVIDE A MORE NATURAL AESTHETIC.

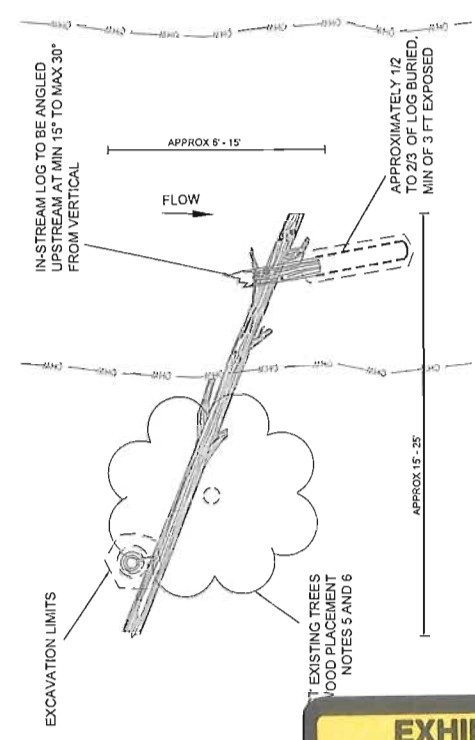
WOOD PLACEMENT

SIZE, LOCATION AND ORIENTATION OF LARGE WOOD PLACEMENTS SHOWN FOR EXISTING TREES AND PLACEMENTS SHALL BE BASED UPON THE SIZE AND SHAPE OF THE MATERIAL DELIVERED OR SALVAGED.

1. LARGE WOOD AND BALLAST PLACEMENTS TO BE FIT IN THE FIELD AND APPROVED BY THE OWNERS REPRESENTATIVE.
2. WOOD PLACEMENTS SHALL CONSIDER BALLASTING NEEDS DURING CONSTRUCTION (INCLUDING LOGS, BALLAST MATERIALS, AND METHODS TO BE INCLUDED IN DESIGN REVISIONS BEYOND 30%).
3. WHENEVER POSSIBLE, SURFACE WOOD SHOULD BE PLACED PERPENDICULAR TO EACH OTHER WITH THE LOWER PIECE PLACING THE DIRECTION OF THE LARGEST FLOW FORCE DURING FLOOD STAGE.
4. NO LIVING TREES SHALL BE BARKED (DAMAGED) DURING THE PLACEMENT OF IMPORTED WOOD MATERIAL. MINIMIZE COMPACTING SOIL WITHIN THE DRIP LINE OF LIVING TREES.
5. EXCAVATION AND STRUCTURES SHALL AVOID ROOT ZONES OF EXISTING TREES TO EXTENT POSSIBLE.
6. IN-CHANNEL EXCAVATION ASSOCIATED WITH INSTALLATION OF STRUCTURES SHALL BE MINIMIZED.



1 LWD2, TYP - SECTION VIEW
NTS



2 LWD2, TYP - PLAN VIEW
NTS