
NOTICE OF DECISION

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

Case File: T2-2017-9705
Permit: Hillside Development and Erosion Control
Location: 11575 NW Laidlaw Road
Tax Lot 2900, Section 22D, Township 1 North, Range 1 West, W.M.
Tax Account #R090601990 Property ID #R118522
Applicants: Steve and Marjorie Thompson
Owners: Steve and Marjorie Thompson
Base Zone: Rural Residential (RR)
Overlays: Hillside Development and Erosion Control (HD)
Significant Environmental Concern for Streams (SEC-s)

Summary: The applicant is requesting a Hillside Development and Erosion Control (HD) permit to construct a replacement single-family dwelling.

Decision: Approved with Conditions

Unless appealed, this decision is effective Thursday, April 19, 2018, at 4:00 PM.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, April 19, 2018 at 4:00 pm.

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.

Issued by:

By: 

Rithy Khut, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Thursday, April 5, 2018

Instrument Number for Recording Purposes: #2016071009



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 Rithy Khut, Staff Planner at 503-988-0176 or at rithy.khut@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): Multnomah County Code (MCC): MCC 37.0560 Code Compliance and Applications, MCC 33.0005 Definitions, MCC 33.0565 Conditions of Approval – Accessory Structures

Rural Residential – RR: MCC 33.3120 Allowed Uses, MCC 33.3155 Dimensional Requirements and Development Standards, MCC 33.3170 Lot of Record, MCC 33.3185 Access

Hillside Development and Erosion Control – HD: MCC 33.5515 Application Information Required, MCC 33.5520 Grading and Erosion Control Standards, MCC 33.5525 Hillside Development and Erosion Control Related Definitions

Copies of the referenced Multnomah County Code (MCC) can be obtained by visiting our website at <https://www.multco.us/landuse/> or by contacting our office at (503) 988-3043.

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.

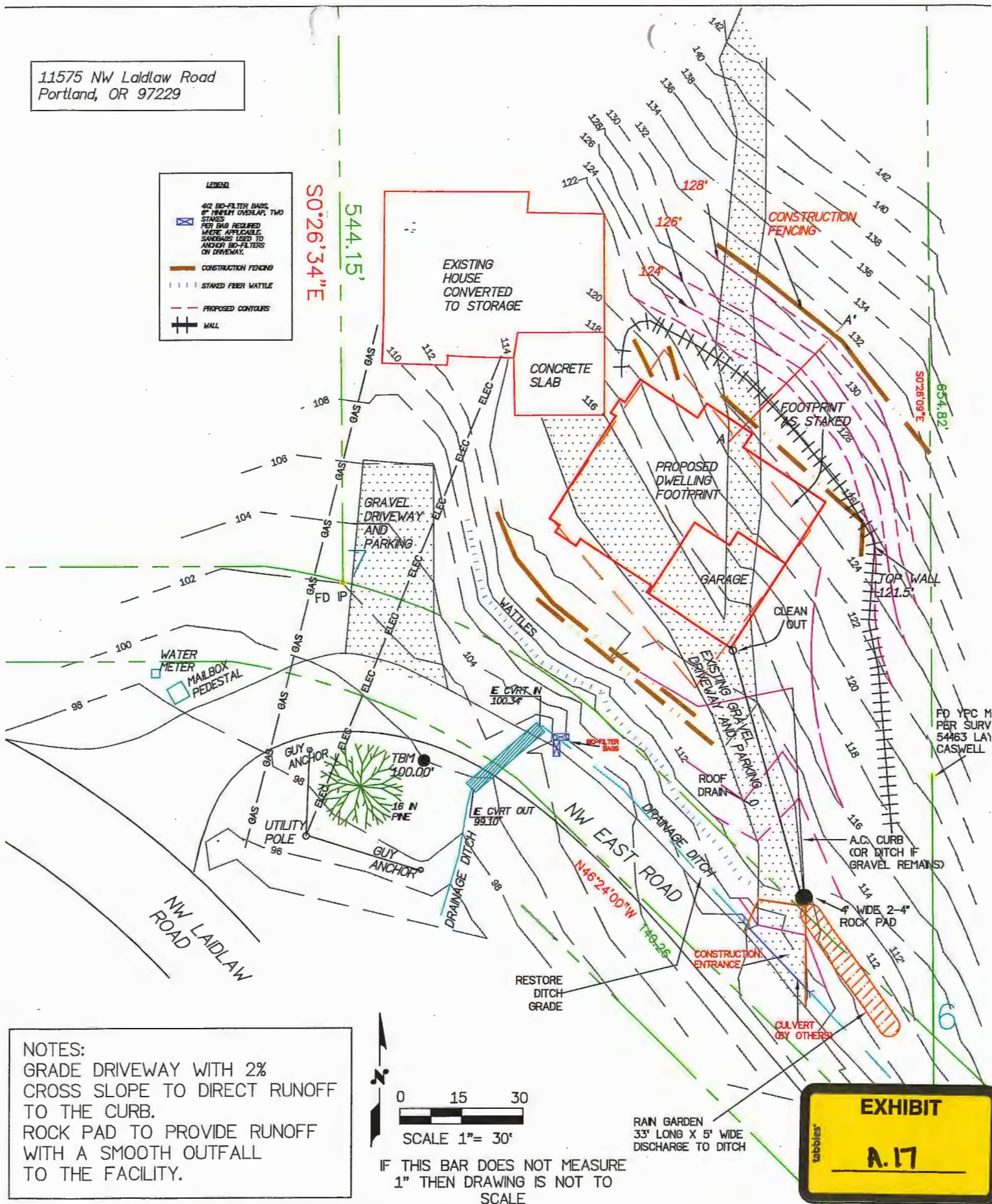
1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. This land use permit expires when construction has not commenced within two (2) years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. Alternatively, this land use permit expires when the structure has not been completed within four (4) years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval. [MCC 37.0690(B)]
 - **Note:** 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.
3. Prior to Land Use Planning sign-off for a building permit, the property owners or their representative shall:
 - Record pages 1 through 4 and Exhibit A.17 of this Notice of 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 shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 37.0670]
 - Record a covenant with County Records that states that the owner understands and agrees that the former single-family dwelling that is being converted to storage cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. [MCC 33.0565 and MCC 37. 37.0660]
4. At the time of building permit sign-off, the property owner or their representative shall:
 - Submit building plans that demonstrate that the proposed single-family dwelling is less than 35 feet in height. [MCC 33.3155(C)]
 - Submit a building plan and provide cut/specification sheets showing all exterior lighting supporting the subject property. The exterior lighting shall be fully shielded with opaque materials and directed downwards.
 - i. "Fully shielded" means no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding.
 - ii. Shielding must be permanently attached.
 - iii. The exterior lighting shall be contained within the boundaries of the Lot of Record on which it is located. [MCC 33.3155(F) and MCC 33.0570]
5. Prior to and during construction, the property owner or their representative shall ensure that:

- Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development. [MCC 33.5515(F)]
 - All work shall be in accordance to the approved Geotechnical Report and observed by a Certified Engineering Geologist or Geotechnical Engineer. [MCC 33.5515(F)]
 - Spoil material or stockpiled topsoil associated with the development shall be prevented from eroding by installing protective plastic covering. [MCC 33.5515(G) and MCC 33.5520(A)(2)(m)]
 - Erosion and sediment control measures are in proper working order. The property owner and project engineer shall monitor the erosion and sediment control measures to ensure the measures are in proper working order. Additional measures shall be immediately installed to remedy the problem if sediment is determined to be escaping the development area. [MCC 33.5520(A)(2)(a), MCC 33.5520(A)(2)(h), MCC 33.5520(A)(2)(j), and MCC 33.5520(D)]
 - The disturbed soil area is reseeded with grass seed in spring once it is warm enough for the seed to germinate. Until there is permanent vegetative cover, disturbed soil area shall be mulched with straw to prevent sediment runoff. The applicant shall inspect the site after all large rain events to determine that the erosion control is working and that no sediment is leaving the property. If there is any evidence that the installed erosion control silt fencing is not properly working and sediment is leaving the property, the applicant shall immediately reinstall the silt fence to prevent any further sediment from leaving the property. [MCC 33.5520(A)(2)(a), MCC 33.5520(A)(2)(b), MCC 33.5520(A)(2)(d), MCC 33.5520(A)(2)(f), MCC 33.5520(A)(2)(h), MCC 33.5520(A)(2)(i), MCC 33.5520(A)(2)(l), and MCC 33.5520(B)]
 - Non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters are prevented from leaving the construction site through proper handling, disposal, continuous site monitoring, and clean-up activities. On-site disposal of construction debris is not authorized under this permit. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires, polyethylene, etc.), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects.
 - Any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems is removed. If any features within the adjacent public right-of-way are disturbed, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality. [MCC 33.5520(A)(2)(m) and MCC 33.5520(A)(2)(n)]
6. Prior to issuance of the Certification of Occupancy, the property owners or their representative shall:
- Provide evidence and photographs demonstrating that the existing single-family dwelling being converted is not being used temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. Photographs or other evidence shall demonstrate that cooking facilities, toilet(s), and bathing facilities have been removed and pipes for water and natural gas are capped. [MCC 33.3120(F)]

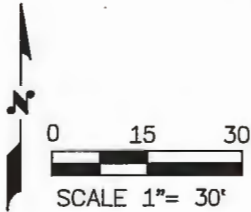
11575 NW Laidlaw Road
Portland, OR 97229

- LEGEND**
- 42 80-FILTER BAGS, 6" MINIMUM OVERLAP, TWO STAPLES PER BAG REQUIRED WHERE APPLICABLE. SANDBARS USED TO ANCHOR 80-FILTERS ON DRIVEWAY.
 - CONSTRUCTION FENCING
 - STAKED PEER WATTLE
 - PROPOSED CONTOURS
 - WALL

544.15'
S0°26'34"E



NOTES:
GRADE DRIVEWAY WITH 2% CROSS SLOPE TO DIRECT RUNOFF TO THE CURB.
ROCK PAD TO PROVIDE RUNOFF WITH A SMOOTH OUTFALL TO THE FACILITY.



IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

RAIN GARDEN
33' LONG X 5' WIDE
DISCHARGE TO DITCH

EXHIBIT
A.17

ENVIRONMENTAL MANAGEMENT SYSTEMS, INC

 OR: 503-353-9891
 FAX: 503-353-9895
 4980 SE Hammond Way
 Suite B112
 Hillsdale, OR 97222

CHECKED BY:	STEVE THOMPSON	SCALE: 1"=30'
DRAWN BY:	T:1N, R:1W, SEC 22, TL: 02900	26 Mar 2018
	STORMWATER SITE PLAN	PAGE 1 of 2

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, Rithy Khut, at (503) 988-0176 or at rithy.khut@multco.us, 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 Portland. Five (5) 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 will be collected.

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 requesting a Hillside Development and Erosion Control (HD) permit to construct a replacement single-family dwelling.

2.00 Property Description & History:

Staff: The proposed single-family dwelling will be located on a property that is at the junction of NW Laidlaw Road and NW East Road. The property is zoned Rural Residential (RR) in the West Hills Rural Area. There are multiple environmental overlays on the property including: a Significant Environmental Concern for Streams (SEC-s) on the northern western portion of the property and a Hillside Development and Erosion Control (HD) overlay over the entire property.

Originally owned by Dana Diller, the property was eventually purchased by Steven and Marjorie Thompson in 2016. At 1.97 acres, the property currently contains single-family dwelling, established in 1950, located in the southern portion of the property with the remainder of the property being forested.

3.00 Code Compliance and Application Criteria:

3.01 § 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.**

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

Staff: There is no active code compliance issue associated with the property; therefore the County has the authority to issue this land use decision. *These criteria are met.*

4.00 Rural Residential – RR Criteria

4.01 § 33.3120 ALLOWED USES

(C) Residential use consisting of a single family dwelling constructed on a Lot of Record.

Staff: The applicant/property owners are seeking a replacement dwelling as provided in the above code. The proposal states that the existing single-family dwelling will be converted into storage.

(F) Accessory Structures subject to the following:

- (1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:**
 - (a) Garages or carports;**
 - (b) Pump houses;**
 - (c) Garden sheds;**
 - (d) Workshops;**
 - (e) Storage sheds, including shipping containers used for storage only;**
 - (f) Greenhouses;**
 - (g) Woodsheds;**
 - (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;**
 - (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;**
 - (j) Sport courts;**
 - (k) Gazebos, pergolas, and detached decks;**
 - (l) Fences, gates, or gate support structures; and**
 - (m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and**
 - (n) Similar structures.**
- (2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.**
- (3) The Accessory Structure may contain one sink.**
- (4) The Accessory Structure shall not contain:**
 - (a) More than one story;**
 - (b) Cooking Facilities;**
 - (c) A toilet;**
 - (d) Bathing facilities such as a shower or bathing tub;**
 - (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or**
 - (f) A closet built into a wall.**
- (5) Compliance with MCC 33.0565 is required.**

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

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

Staff: The applicant/property owners are seeking to convert the existing single-family dwelling into a structure for storage. The conversion of the existing single-family dwelling into a storage building is a listed use as described above. Because the applicant has not applied for an Accessory Use Determination, the proposal must meet the requirements as described above.

The existing single-family dwelling is one story and approximately 1,800 square feet. To ensure that the proposed converted single-family dwelling complies with the requirement that the structure not be designed or used whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use a condition will be required that the cooking facilities, toilet and bathing facilities be removed. Additionally, if a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep shall be disassembled for storage. *As conditioned, this criterion is met.*

4.02 § 33.3155 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS

(A) Except as provided in MCC 33.3160, 33.3170, 33.3175 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

(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: The subject application does not include the creation of new parcels or lots therefore these criteria are not applicable. *These criteria are met.*

(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.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

(a) The Yard being modified is not contiguous to a road,

(b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(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: The site plan indicates that the structures on the property include the existing single-family dwelling that will be converted into a storage building and the proposed new single-family dwelling (Exhibit A.17). NW East Road is 50 feet which is a sufficient width of right-of-way. Therefore, the minimum yard does not need to be increased.

The front yard is 30 feet and is adjacent to the right-of-way along NW East Road. The side yards are 10 feet from the east and west lot line. The rear yard is 30 feet from the lot line to the north. The site plan indicates that the proposed single-family dwelling is 31 feet from the front property line and 25 feet from the nearest side property line, which is to the east. The rear property line is more than 400 feet from either the proposed single-family dwelling or converted storage building.

The building illustration indicates that proposed single-family dwelling will be two stories, which is typically less than 35 feet (Exhibit A.4). However to ensure that the proposed single-family dwelling meets the height standards, a condition will be required that the proposed dwelling be less than 35 feet in height. *As conditioned, these criteria are met.*

(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: The applicant/property owners are not proposing barns, silos, windmills, antennae, chimneys, or similar structures; therefore, this standard is not applicable. *This criterion is met.*

(F) All exterior lighting shall comply with MCC 33.0570.

Staff: The standards for MCC § 33.0570 Dark Sky Lighting Standards are as follows:

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.

(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

The building illustration did not include exterior lighting information. Therefore, to ensure that these requirements are met, a condition of approval will be required that all exterior lighting complies with MCC 33.0570. *As conditioned, this criterion is met.*

4.03 § 33.3170 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, 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, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

(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 33.3185, 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 33.3160, 33.3175, and 33.4300 through 33.4360, 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: As defined in MCC 33.0005, the definition of a Lot of Record is as follows:

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.*

Staff: The subject property is located within the Bonny Slope Subdivision, which was platted on February 12, 1923 (Exhibit B.3). At the time of the plat, Lot 24 was 5.03 acres. Subsequently, the Lot 24 was reconfigured into its current configuration at 1.97 acres. The applicant has provided multiple deeds for the subject property. The oldest deed provided was recorded on June 10, 1960 in Book 2013, Page 336 that describes the property as it is described today (Exhibit A.7). At that time in 1960, the zoning was Suburban Residential (SR), which had a 40,000 square feet minimum lot size and requirements for both a water supply and an individual sewage disposal system (Exhibit B.4 and B.5). The lot as described in 1960 satisfied all applicable zoning laws because it was in full compliance with all zoning minimum lot size, dimensional standards, and access requirements. The lot also satisfied all applicable land division laws because a deed was recorded prior to October 19, 1978. Considering the facts above, the subject property, tax lot 2900, 1 North 1 West, Section 22D is a Lot of Record. *These criteria are met.*

4.04 § 33.3185 ACCESS

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 33.3170(B).

Staff: The proposed single-family dwelling is located on a lot that abuts NW East Road, which is a public street. *This criterion is met.*

5.00 Hillside Development and Erosion Control Criteria

5.01 § 33.5505 PERMITS REQUIRED

Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC 33.5510.

Staff: The proposed single-family dwelling is located in a mapped hazard area on the "Slope Hazard Map" and is located in Rock Creek, which is a tributary within the Tualatin River Drainage Basin. The applicant has applied for a Hillside Development Permit to authorize the proposed development.

5.02 § 33.5515 APPLICATION INFORMATION REQUIRED

An application for development subject to the requirements of this subdistrict shall include the following:

- (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.**
- (B) An estimate of depths and the extent and location of all proposed cuts and fills.**
- (C) The location of planned and existing sanitary drainfields and drywells.**
- (D) Narrative, map or plan information necessary to demonstrate compliance with MCC 33.5520 (A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.**
- (E) A Hillside Development permit may be approved by the Director only after the applicant provides:
 - (1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or**
 - (2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,**
 - (3) An HDP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.
 - (a) If the HDP Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information******

contained in the HDP Form– 1, a geotechnical report as specified by the Director shall be prepared and submitted.

Staff: The applicant has provided a Hillside Development Permit Application: Geotechnical Reconnaissance and Stability Preliminary Study, a Hillside Development Permit Worksheet, and a Geotechnical Engineering Report completed by Scott L. Hardman, Registered Professional Engineer and Geotechnical Engineer on December 11, 2016 (Exhibit A.14, A.15, and A.16). The Geotechnical Report, Geotechnical Reconnaissance and Stability Preliminary Study, and the Hillside Development Permit Worksheet satisfy the requirements above. *These criteria are met.*

(F) Geotechnical Report Requirements

- (1) A geotechnical investigation in preparation of a Report required by MCC 33.5515 (E) (3) (a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.**
- (2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.**
- (3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.**
- (4) The Director, at the applicant's expense, may require an evaluation of HDP Form– 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.**

Staff: The Geotechnical Engineering Report completed by Scott L. Hardman, Registered Professional Engineer and Geotechnical Engineer outlines and details specific information to ensure reasonable safety from earth movement hazards (Exhibit A.14). The Report discusses the regional geology, seismic setting, and specific site characteristics. The site lies within the Portland Basin and is underlain by Portland Hills Silt. Exploratory Test were dug on the site on November 23, 2017 and Infiltration Testing was done on November 23, 2016. Based on the results of those test, Scott L. Hardman, Registered Professional Engineer and Geotechnical Engineer found that the proposed development is geotechnically feasible. The conclusions also recommended action items that should be done prior, during, and after development. To ensure that those recommendations are met, a condition will be required. *As conditioned, these criteria are met.*

(G) Development plans shall be subject to and consistent with the Design Standards for Grading and Erosion Control in MCC 33.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.

Staff: The applicant shall be subject to the requirements of the Design Standards for Grading and Erosion Control as discussed in Section 5.03 below.

5.03 § 33.5520 GRADING AND EROSION CONTROL STANDARDS

Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards.

Conditions of approval may be imposed to assure the design meets the standards:

(A) Design Standards For Grading and Erosion Control

(1) Grading Standards

- (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;**
- (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;**
- (c) Cuts and fills shall not endanger or disturb adjoining property;**
- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;**
- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;**

Staff: The applicant has provided a Hillside Development Permit Application: Geotechnical Reconnaissance and Stability Preliminary Study, a Hillside Development Permit Worksheet, and a Geotechnical Engineering Report completed by Scott L. Hardman, Registered Professional Engineer and Geotechnical Engineer on December 11, 2016 (Exhibit A.14, A.15, and A.16). The Geotechnical Engineering Report details specific site characteristics that will need to be considered as part of this project.

In preparing the site, all areas that will receive engineered fill should first be cleared of vegetation to an average depth of 4 inches. The soil generated from the stripping will need to be stockpiled on the site in a designated area or removed from the site. The stripped area should also be compacted in-place prior to the placement of engineered filled or crushed aggregate. The Geotechnical Engineering Report also discusses the structural foundations that will be required for this project. The report states, "Shallow, conventional isolated or continuous spread footings maybe used to support the proposed structure..." The applicant's place also show a retention wall placed immediately north and east of the proposed single-family dwelling. None of the reports or worksheets indicate that cut and fill slopes will be steeper than 3:1 or any of the cut and fills will disturb adjoining properties.

The applicant has also provided a Storm Water Certificate completed by Environmental Management Systems, Inc. on August 7, 2017 (Exhibit A.10). The Storm Water Certificate discusses the current conditions and recommended a rain garden be constructed on the property to ensure that storm water is collected and disposed at a 10-year design frequency. *These criteria are met.*

(2) Erosion Control Standards

(a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)". Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.

Staff: The applicant's site plan includes erosion and stormwater control plans (Exhibit A.17). The plans indicate that there will be construction fencing, bio-filter bags and staked fiber wattles installed prior to land disturbing activities. To ensure that these actions occur a condition will be required that erosion control measures be installed prior to construction or land disturbance.

The applicant has also provided a Storm Water Certificate completed by Environmental Management Systems, Inc. on August 7, 2017 (Exhibit A.10). The Storm Water Certificate discusses the current conditions and recommended a rain garden be constructed on the property to ensure that storm water is collected and disposed at a 10-year design frequency. Additionally, there are no streams within 100 feet of the project site, therefore no buffer is needed. *As conditioned, this criterion is met.*

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

Staff: The Hillside Development Permit Worksheet indicates that the stripping of vegetation, grading, and other soil disturbance shall be limited to an area near the proposed single-family dwelling (Exhibit A.16). The site plan illustrates the location of construction fencing, bio-filter bags, and staked fiber wattles (Exhibit A.17). To ensure that erosion control is managed on the property, a condition will be required that these measures be installed prior to land disturbing activities. *As conditioned, this criterion is met.*

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

Staff: The site plan indicates that the area north of the proposed single-family dwelling will be recontoured and a retaining wall constructed (Exhibit A.17). The retaining wall will reduce erosion potential as bare slopes are stabilized. To ensure that bare soil is stabilized, a condition will be required that temporary vegetation and/or mulching shall be used to protect exposed areas during development. *As conditioned, this criterion is met.*

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

Staff: This standard can be met with a condition that will require that temporary vegetation and/or mulching be used to protect exposed areas during development. *As conditioned, this criterion is met.*

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

- 1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;**
- 2. The buffer required in 1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;**

Staff: The site plan indicates that the proposed development is more than 100 feet from the top of the bank of a stream, waterbody, or wetland; therefore, this standard does not apply. *These criteria are met.*

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

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

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

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

(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

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

Staff: The site plan includes erosion control and indicates that there will be construction fencing, bio-filter bags and staked fiber wattles installed prior to land disturbing activities (Exhibit A.17). To ensure that those erosion measures are in place, conditions will be added to ensure that, if necessary, additional provisions shall be made to structurally impede surface runoff through the use of debris basins, silt traps, and other measures to effectively accommodate increased runoff and prevent surface water from damaging the cut face of excavations. Permanent plantings and seeding of bare areas shall be done as soon as practical. *As conditioned, these criteria are met.*

(l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

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

Staff: The site plan includes erosion indicate that there will be construction fencing, bio-filter bags and staked fiber wattles installed prior to land disturbing activities (Exhibit A.17). These erosion measures will ensure that pollution discharges will be prevented. *These criteria are met.*

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

Staff: A condition will be required that disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures. *As conditioned, this criterion is met.*

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

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

(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

Staff: The subject property is not located within the Balch Creek Drainage Basin; therefore, this requirement does not apply. *This criterion is met.*

(B) Responsibility

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

Staff: A condition will be required that whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project. *This criterion is met.*

6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for a Hillside Development (HD) permit to establish a replacement single-family dwelling in the Rural Residential (RR) zone. This approval is subject to the conditions of approval established in this report.

7.00 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural 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 T2-2017-9705 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	11/09/2017
A.2	5	Narrative	11/09/2017
A.3	1	Site Plan (reduced to 8.5" x 11")	11/09/2017
A.4	1	Single-family Dwelling Illustration	11/09/2017
A.5	1	Floor Plan	11/09/2017
A.6	1	Site Plan (23.5" x 36")	11/09/2017
A.7	1	Warranty Deed recorded in Book 2013, Page 336 on June 10, 1960	11/09/2017
A.8	1	Warranty Deed recorded in Book 1189, Page 1931 on June 30, 1977	11/09/2017
A.9	2	Statutory Warranty Deed recorded as Document #2016-071009 on June 10, 2016	11/09/2017
A.10	3	Storm Water Certificate completed by Greg N. Berry, Registered Professional Engineer on August 7, 2017	11/09/2017
A.11	6	Septic Review Certification	11/09/2017
A.12	2	Fire Service Agency Review	11/09/2017
A.13	2	Certification of Water Service	11/09/2017
A.14	20	Geotechnical Engineering Report completed by Scott L. Hardman, Registered Professional Engineer and Geological Engineer on November 11, 2016	11/09/2017
A.15	6	Hillside Development Permit (HDP) Application: Geotechnical Reconnaissance and Stability Preliminary Study (HDP Form - 1)	11/09/2017
A.16	6	Hillside Development Permit (HDP) Worksheet	11/09/2017
A.17*	1	Revised Site Plan (8.5" x 11")	03/27/2018

'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1N1W22D -02900 (R090601990)	11/09/2017
B.2	1	Department of Assessment, Records and Taxation (DART): Map for 1N1W22D -02900 (R090601990)	11/09/2017
B.3	1	Map of Bonny Slope Subdivision, platted on March 15, 1923	
B.4	1	Zoning Map showing zoning prior to 1962	
B.5	5	Zoning Code from December 22, 1960	
B.6	2	Printout of the "Liberty" from Adair Homes	
'C'	#	Administration & Procedures	Date
C.1	1	Incomplete letter	12/06/2017
C.2	1	Applicant's acceptance of 180 day clock	12/10/2017
C.3	1	Complete letter (day 1)	12/18/2017
C.4	10	Opportunity to comment & mailing list	03/02/2018
C.5		Administrative decision & mailing list	