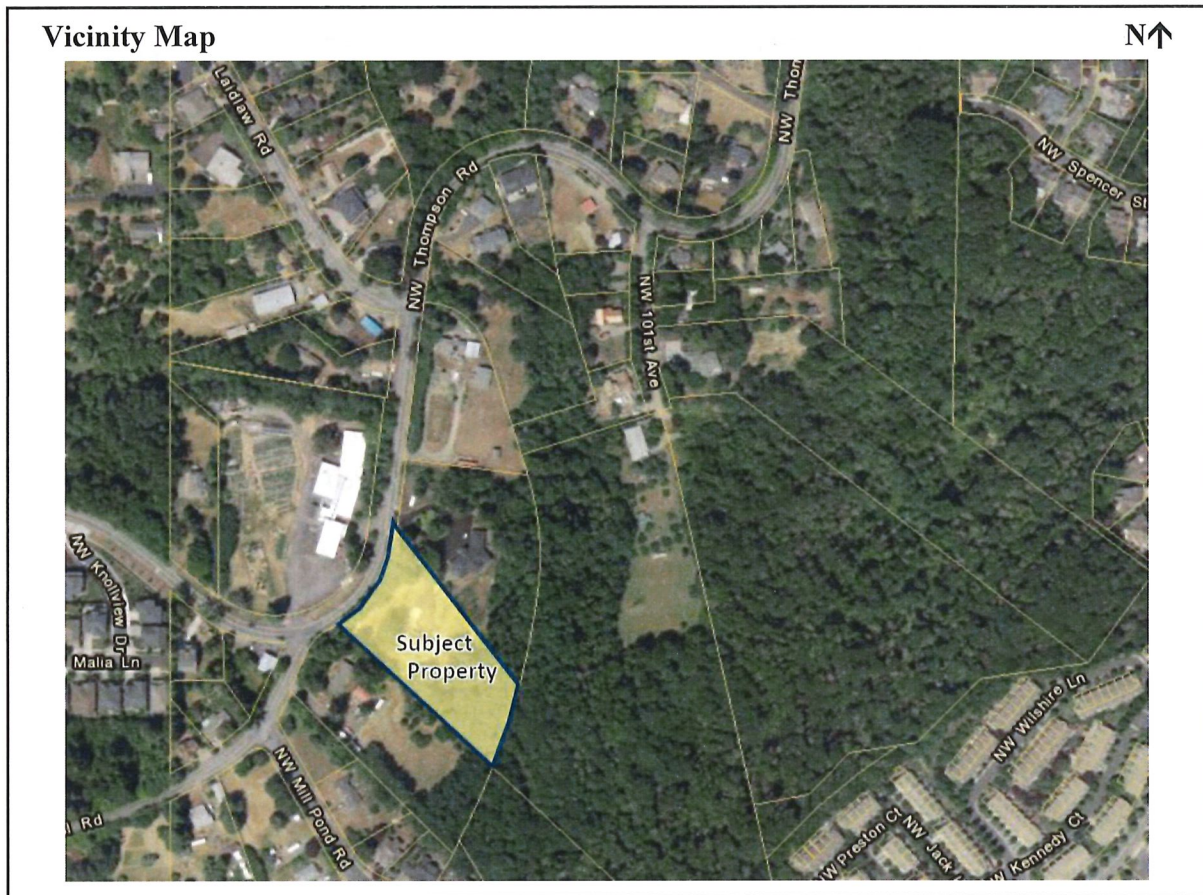


Date: Thursday, March 19, 2020



Applicable Approval Criteria:

Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3090 Lot of Record – Rural Residential (RR), MCC 39.6850 Dark Sky Lighting Standards.

Rural Residential Zone: MCC 39.4360 Allowed Uses – (J) Sports Court & (n) Similar Structures, MCC 39.4375 Dimensional Requirements and Standards

Geologic Hazards: MCC 39.5075 Permits Required, MCC 39.5085 Required Application Information, MCC 39.5090 Geologic Hazards Permit Standards

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

Chapter 39 - Zoning Code

Conditions of Approval

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

1. Permit Expiration – This land use permit shall expire as follows:
 - a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
 - ii. For purposes of Condition 1.a, notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - b. Within four (4) years of the date of commencement of construction when the structure has not been completed. [MCC 39.1185(B)]
 - i. For the purposes of 1.b, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

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

2. The proposed stormwater drainage control system shall be installed as indicated on the site plan included as Exhibit A.14.
3. All exterior lighting associated with the sport court shall comply with the Dark Sky Lighting Standards of MCC 39.6850.
4. Prior to and during construction, the property owner or their representative shall ensure that:
 - a. Stripping of vegetation, ground disturbing activities, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction. [MCC 39.5090(H)]
 - b. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development. [MCC 39.5090(J)]

- c. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical. [MCC 39.5090(L)]
- d. Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized. [MCC 39.5090(N)]
- e. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by the installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding. [MCC 39.5090(O)]
- f. Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system. [MCC 39.5090(R)]
- g. 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. [MCC 39.5090(T)]
- h. The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes, unless mitigated as approved by the County Transportation Division. [MCC 39.5090(W)]
- i. Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way. [MCC 39.5090(X)]
- j. No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill. [MCC 39.5090(Y)]

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 by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us to review your plans, obtain your access permit, and satisfy any other requirements. You may schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/> or leave a message at 503-988-3582. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact Chris Liu, Planner, at 503-988-2964 or chris.liu@multco.us, **for an appointment** for review of the conditions of approval and to sign the building permit plans. Please ensure that any items required under, "At the time of land use sign-off for building plan check..." are ready for land use planning review. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department.

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

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

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

1.0 PROJECT DESCRIPTION:

Staff: The applicant requests a Geologic Hazards permit to construct an approximately 38’ x 62’ sports court and associated retaining wall within the Geologic Hazards overlay in the Rural Residential (RR) zone.

The subject property is located in rural West Unincorporated Multnomah County near the border between Multnomah County and Washington County. The subject property is outside of the Metro Urban Growth Boundary. Per County tax records, there is a single-family dwelling on the subject property.

2.0 GENERAL PROVISIONS:

2.1 MCC 39.1515 Code Compliance and Applications

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

Staff: There are no active compliance cases for the subject property. Staff is not aware of any compliance issues on the subject property at this time. *Criteria met.*

2.2 MCC 39.3005 Lot of Record – Generally

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

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

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

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

Staff: Land Use Case no. T2-2015-4633 reaffirmed the finding in case no. T2-07-120 that the subject property is a Lot of Record. As there have been no changes to the configuration of the subject property since that decision, the subject property remains a Lot of Record in its current configuration. *Criteria met.*

2.3 MCC 39.3090 Lot of Record – Rural Residential (RR)

(A) In addition to the standards in MCC 39.3005, for the purposes of the RR district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

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 39.4395, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: As stated above, Land Use Case no. T2-2015-4633 reaffirmed the finding in case no. T2-07-120 that the subject property is a Lot of Record. As there have been no changes to the configuration of the subject property since that decision, the subject property remains a Lot of Record in its current configuration. *Criteria met.*

3.0 RURAL RESIDENTIAL ZONE:

3.1 MCC 39.4360 Allowed Uses - (F) Accessory Structures

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

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in the following list:

(j) Sport Courts

(n) Similar Structures

Staff: The proposal is for a sport court and associated retaining wall that is accessory to the residential use on the subject property. *Criterion met.*

The sport court and retaining wall are not buildings; hence, MCC 39.4360(F)(2) – (F)(8) are not applicable to this proposal.

3.2 MCC 39.4375 Dimensional Requirements and Standards.

(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

(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: Per the submitted site plan included as Exhibit A.13, the proposed sport court will be located greater than 37 ft. from the front property line, approximately 91 ft. from the south side-property line, 66 ft. from the north side-property line, and greater than 310 ft. from the rear property line. The front lot line is approximately 238 ft. in length (Exhibit A.13). The County Right-of-way office did not indicate insufficient right-of-way. *Criteria met.*

3.3 MCC 39.6850 Dark Sky Lighting Standards

(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.

Staff: The applicant provided detail sheets for the proposed lighting (Exhibit A.12). Proposed lighting consists of aluminum poles with mounted LED lights angled down to the court. The lighting source is shielded via a “shoebox” design from the top to ensure light is focused

downward (Exhibit A.12). A condition of approval is included to ensure these standards are met. *As conditioned, the above criteria are met.*

4.0 GEOLOGIC HAZARDS:

4.1 MCC 39.5085 Geologic Hazards Permit Application Information Required

An application for a Geologic Hazards Permit shall include...

Staff: The applicant provided the required application information as Exhibits A.1 – A.16.
Criteria met.

4.2 MCC 39.5090 Geologic Hazards Permit Standards

A Geologic Hazards (GH) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(A) The total cumulative deposit of fill on the site for the 20-year period preceding the date of the application for the GH permit, and including the fill proposed in the GH permit application, shall not exceed 5,000 cubic yards. For purposes of this provision, the term “site” shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

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

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

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

Staff: The total proposed fill for the site is less than 275 cubic yards, no cut or fill slopes in excess of 33% are proposed, and no unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point are proposed (Exhibit A.2 & A.3).
Criteria met.

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

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

Staff: Per the submitted materials completed by the contracted engineer (Exhibit A.2 & A.3), no proposed fills will encroach on any water body and fills generated by dredging are not proposed. *Criteria met.*

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

Staff: The subject site is within the Tualatin River Drainage Basin. Measures for controlling erosion are proposed and a stormwater system is designed to manage runoff onsite to the maximum extent possible (Exhibit A.2 – A.4). Land disturbing activities are greater than 100 ft. from the top of bank of the nearest water body. *Criteria met.*

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

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

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

Staff: Per the contracted engineer: all disturbed areas will be graded continuously until finished grades are achieved. Any unintended disturbance will be temporarily grassed. All fill areas will be grassed immediately after final grade is achieved. Construction BMP's [best management practices] will be in place during excavation and until the permanent vegetation and drainage system is fully installed (Exhibit A.2). The project site was chosen due to the flattest slopes on the property. The total cut and fills will be minimized. To accommodate the additional runoff created by the new impervious surface, both a large planter area and a 4' diameter x 5' deep drywell will be installed with this project (Exhibit A.2 – A.4, and A.14).

The proposal includes the use of temporary vegetation and/or mulch to protect exposed soils (Exhibit A.2 – A.4). A condition of approval is included to ensure the requirements of (H), (I), and (J) are met. *As conditioned, the above criteria are met.*

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

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

Staff: All on-site trees, shrubs, and plants will be maintained during construction of the project and supplemented with new plantings in the approximate 4' x 60' planting area shown on the site plan (Exhibit A.13 – A.14). Permanent plantings, wall drainage, and the permanent drywell will be installed before the construction BMP's [best management practices] (silt fence, temporary grass/mulch, compost socks) are removed (Exhibit A.2 – A.4). A condition of approval is included to ensure the requirements of (K) and (L) are met. *As conditioned, the above criteria are met.*

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

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

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

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

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

Staff: The runoff created by the new impervious surface will be mitigated through the new 4' x 60' planter area and the 4' diameter x 5' deep drywell (Exhibit A.14). The proposal includes silt traps to capture sediment in the runoff water (Exhibit A.2 – A.4). The excavation area will be promptly graded and paved. Perimeter retaining walls will stabilize the slope and will include subsurface drainage (Exhibit A.2 – A.4, and A.14). As mentioned, the surface runoff will be captured by the 4' diameter x 5' deep drywall. No drainage swales will be installed. *Criteria met.*

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

Staff: The proposed erosion and sediment control devices referenced above aim to ensure no measurable erosion or sediment exit the site, enter the public right-of-way, or are deposited into any water body or storm drainage system (A.2 – A.4). A condition of approval is included to ensure this criterion is satisfied. *As conditioned, the above criterion is met.*

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

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

Staff: Spoil material or topsoil will be removed as it is excavated and will not be stored on site (Exhibit A.2). Double containment will be in place for any hazardous materials and equipment. Drip pans will be placed beneath stored construction equipment and filter socks will be placed on the downhill side. Any oil or hydraulic leaks will be repaired immediately. A condition of approval is included to ensure the above criteria are satisfied. *As conditioned, the above criteria are met.*

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

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

Staff: The subject site is not within the Balch Creek drainage basin. No part of the project proposes to disturb ground within a water body (Exhibit A.2 – A.3). *Criteria met.*

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

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

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

Staff: The maximum estimated daily number of trucks trips is estimated at five (20 total for the project) and no adverse impacts are anticipated. All loads will be covered before leaving the site. All excess soil will be washed off and wheel will be cleaned prior to leaving the site. (Exhibit A.2 – A.3). Aggregate base for the concrete slab for the sports court is the only fill material proposes. The aggregate base will be purchased from a commercial supplier. A condition of approval is included to ensure the above criteria are satisfied. *As conditioned, the above criteria are met.*

5.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Geologic Hazards Permit to establish a sports court and associated retaining wall in the Rural Residential (RR) zone. This approval is subject to the conditions of approval established in this report.

6.0 EXHIBITS:

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits
- ‘D’ Comments Received

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-12286 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Application Form	07.29.2019
A.2	7	Geologic Hazards Permit Worksheet	07.29.2019
A.3	4	Geologic Hazards Permit Form 1	07.29.2019
A.4	8	Grading and Erosion Control Worksheet	07.29.2019
A.5	1	Site Plan ‘Lot Limits’ (Not-to-Scale)	07.29.2019
A.6	1	Site Plan ‘Project Limits’ (Not-to-Scale)	07.29.2019
A.7	4	Sport Court Details	07.29.2019
A.8	6	Stormwater Certificate	07.29.2019
A.9	3	Fire Service Agency Review	07.29.2019
A.10	19	Lighting Details	07.29.2019
A.11	3	Septic Review Certification	07.29.2019
A.12	12	Revised Lighting Details	07.29.2019
A.13	1	Revised Site Plan ‘Lot Limits’ (To-Scale)	01.21.2020

A.14	1	Revised Site Plan 'Project Limits' (To-Scale)	01.21.2020
A.15	1	Retaining Wall Building Plan (To-Scale)	01.21.2020
A.16	1	Retaining Wall Details Plan (To-Scale)	01.21.2020
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1N1W26B- 00500	07.29.2019
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	08.08.2019
C.2	1	Applicant's acceptance of 180 day clock	09.05.2019
C.3	1	Complete letter (Day 1)	01.20.2020
C.4	6	Opportunity to comment & mailing list	02.27.2020
C.5	17	Administrative decision & mailing list	03.19.2020
'D'	#	Public Comment	Date
D.1	1	Comments from Carol Chesarek	03.13.2020