

---

## NOTICE OF DECISION

---

**Case File:** T2-2019-12627

**Permit:** Significant Environmental Concern

**Applicants:** Daniel O'Neill **Owner:** Daniel O'Neill

**Location:** 27210 NW Reeder Road,  
Tax Lot 700, Section 23, Township 3 North, Range 1 West, W.M.  
Tax Account #R91230150 Property ID #R502908

**Base Zone:** Multiple Use Agriculture – 20 (MUA-20)

**Overlays:** Significant Environmental Concern (SEC); Flood Hazard

**Proposal Summary:** The applicant requests approval of a Significant Environmental Concern (SEC) permit for a Single-Family Dwelling in the MUA-20 zone. The County previously approved an SEC permit for the construction of the Single Family Dwelling in 2011; however, that permit expired.

---

**Decision:** Approved with Conditions

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, April 2, 2020 at 4:00 pm.**

**Opportunity to Review the Record:** The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or at [chris.liu@multco.us](mailto:chris.liu@multco.us)

**Opportunity to Appeal:** An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

---

**Issued by:** **Chris Liu** Digitally signed by Chris Liu  
Date: 2020.03.18 13:11:40  
+07'00'

**By:** Chris Liu, Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:** Thursday, March 19, 2020

Instrument Number for Recording  
Purposes: # 2006-172737



### **Applicable Approval Criteria:**

#### **Multnomah County Code (MCC):**

General: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – MUA-20, MCC 39.6850 Dark Sky Lighting Standards

MUA-20 Zone: MCC 39.4310 Allowed Uses, MCC 39.4325 Dimensional Requirements and Development Standards, MCC 39.4340 Off Street Parking and Loading, MCC 39.4395 Access,

Significant Environmental Concern: MCC 39.5540 Criteria for Approval

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. Prior to land use sign-off for building plan check, the property owners or their representative shall:
  - a. Record pages 1 through 4 and Exhibit B.3 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 39.1175]
  - b. Submit a Flood Hazard permit application for the single-family dwelling and any proposed agricultural structures. Once the Flood Hazard permit is issued, the applicant may proceed to building plan check with the County.
  - c. Provide Land Use Planning with a signed finalized Voluntary Compliance Agreement (VCA) from the County Code Compliance office. A draft VCA will not be accepted.
3. All proposed exterior lighting associated with the single-family dwelling shall comply with the Dark Sky Lighting Standards of MCC 39.6850.
4. The property owner shall install the proposed approximately 40' x 5' stormwater trench identified in Exhibit A.7.
5. The property owner shall plant the 10 native trees identified in the planting plan included as Exhibit B.3 within the next planting season. Native plantings include: Ponderosa Pine, Red Alder, Western Red Cedar, Big Leaf Maple, Cottonwood, or Willow Trees. These plantings shall be maintained and shall be replaced with at least 6 feet tall native species, should the

plantings be damaged or destroyed. Replacement plantings shall be completed within the next planting season [MCC 39.5540(G)].

6. The exterior of the single-family dwelling shall be painted a dark earthen color matching a recommended color in Row B or C of the National Scenic Area Scenic Resources Implementation Handbook. The roof shall consist of a composite roofing material that is black or dark brown matching Row A of the National Scenic Area Scenic Resources Implementation Handbook. [MCC 39.5540(L)].

**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](mailto:row.permits@multco.us) to review your plans, obtain your access permit, and satisfy any other requirements. You may schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/> or leave a message at 503-988-3582. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact Staff Planner Chris Liu at 503-988-2964 or [chris.liu@multco.us](mailto: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 PROPOSAL:**

**Staff:** The applicant requests approval of a Significant Environmental Concern permit for a single-family dwelling in the Multiple Use Agriculture – 20 (MUA-20) zone. This permit essentially reauthorizes the single-family dwelling previously approved in land use case no. T2-2011-1709. The aforementioned 2011 case expired as construction of the dwelling was not completed within the maximum timeframe allowed in the zoning code.

### **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.**

**(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 Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement;**

\*\*\*

**Staff:** The applicant is in the process of finalizing a Voluntary Compliance Agreement (VCA) with the Code Compliance office. The VCA will allow sequencing the necessary permits to address the compliance issues with accessory structures on the property. A condition of approval requires the applicant to provide a signed copy of the finalized VCA to planning staff prior to building plan review for the single-family dwelling associated with this SEC permit. *As conditioned, the above criteria are 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:** In land use case no. T2-2011-1709, the County found that the subject property was a Lot of Record in the configuration at that time as it satisfied applicable zoning and land division laws. There have been no changes to the configuration since the 2011 decision; therefore, the subject property remains a Lot of Record in its current configuration of approximately 27.60 acres. *Criteria met.*

### **2.3 MCC 39.3080 Lot of Record – (MUA-20)**

(A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 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 39.4345, 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 39.4330, 39.4335, and 39.5300 through 39.5350, 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 described above, in land use case no. T2-2011-1709, the County found that the subject property was a Lot of Record in the configuration at that time as it satisfied applicable zoning and land division laws. There have been no changes to the configuration since the 2011 decision; therefore, the subject property remains a Lot of Record in its current configuration of approximately 27.60 acres. *Criteria met.*

## **3.0 MULTIPLE USE AGRICULTURE -20 ZONE:**

### **3.1 MCC 39.4310 Allowed Uses**

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

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

\*\*\*

**Staff:** The proposal is to place a single-family dwelling on the subject property, which is a Lot of Record as noted in section 2.0 above. The proposed single-family dwelling is the only dwelling on the subject property. *Criteria met.*

### 3.2 MCC 39.4325 Dimensional Requirements and Development 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 (Exhibit A.13), the single-family dwelling is greater than 30 feet from the front and rear property lines, and greater than 10 feet from the side property lines. The front lot line exceeds 50 feet in length. The proposed single-family dwelling is approximately 34 feet in height. Per the transportation planning review form submitted as Exhibit A.6, no additional right-of-way is necessary. *Criteria met.*

3.3 (G) 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:** The single-family dwelling has a septic system approved by the County Sanitarian in 2013 (Exhibit A.16). An approximately 40’ x 5’ stormwater trench is proposed to control

runoff (Exhibit A.7). A condition of approval is included to ensure the above criteria are met. *As conditioned, the above criteria are met.*

**3.4 (I) Required parking, and yard areas shall be provided on the same Lot of Record as the development being served.**

**(J) All exterior lighting shall comply with MCC 39.6850.**

**Staff:** Per the submitted materials, there are two parking spaces to accommodate the single-family dwelling use. The provisions of the Dark Sky lighting Standards are discussed in section 3.5 below. *Criteria met.*

**3.5 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:** A condition of approval is included requiring that all exterior lighting associated with the single-family dwelling comply with the Dark Sky Lighting Standards of MCC 39.6850. *As conditioned, the above criteria are met.*

**4.0 SIGNIFICANT ENVIRONMENTAL CONCERN:**

**4.1 MCC 39.5520 Application for SEC Permit**

**An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 39.5540 through 39.5860.**

**(A) An application for an SEC permit shall include the following:**

\*\*\*

**Staff:** The applicant provided the required SEC permit application information as Exhibits A.1 – A.16.



#### **4.2 MCC 39.5540 Criteria for Approval of SEC Permit**

**The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, cultural areas, and wild and scenic waterways that are designated SEC on Multnomah County sectional zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:**

**(A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area**

**Staff:** The area leading from the edge of the dwelling to the Columbia River maintains an open, beach front aesthetic. Using the existing building site from the original 1970 dwelling that has since been removed, limits the need for additional disturbance to the surrounding vegetation and floodplain area. Per the planting plan included as Exhibit B.3, additional native trees will be planted to enhance the site. *Criterion met.*

#### **4.2 (B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.**

**Staff:** The proposed single-family dwelling replaces a previous dwelling that was demolished. This dwelling utilizes the same building site where the original dwelling was previously located. The site was chosen in order to maintain the surrounding land on the property and preserve said land for farm or forest use. *Criterion met.*

#### **4.3 (C) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.**

**Staff:** As discussed above, the single-family dwelling subject to this permit is located in the same building site where the original dwelling was previously located. This site was chosen in order to maintain the surrounding land for farm or forest use and to protect the surrounding land as it is identified as an area of significant environmental concern. *Criterion met.*

#### **4.4 (D) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.**

**(E) The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.**

**(F) Significant fish and wildlife habitats shall be protected.**

**Staff:** The subject site is private property accessible through a private driveway. The property is not intended for public recreation. Along the front property line that runs parallel to NW Reeder Road, there are a series of tall trees that provide a buffer that may provide a form of protection from vandalism and trespass. No development is proposed within the Columbia River, which ensures significant fish habitat will be maintained. No additional disturbance is

proposed on other areas of the property, which aids in protecting potential wildlife habitat. *Criteria met.*

- 4.5 (G) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.**

**(H) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.**

**Staff:** Per the submitted application materials, the proposal does not include the removal of any natural vegetation along the Columbia River or a wetland. There are no known archeological areas in the immediate vicinity of the proposed development area for the single-family dwelling. *Criteria met.*

- 4.6 (I) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.**

**(J) 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 subject site is within the Flood Hazard overlay. As per a condition of approval, the applicants must submit a separate application to address the flood hazard development standards. All ground disturbance associated with the construction of the single-family dwelling was completed following the original land use approval in 2011. A grading and erosion control [now referred to as a sediment and erosion control permit in Multnomah County Code (MCC) Ch. 39] was obtained at that time and that permit remains valid. *As conditioned, the above criteria are met.*

- 4.7 (K) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.**

**Staff:** The subject property has contained a single-family dwelling since the 1970s. The replacement dwelling is larger than the original dwelling; however, there is adequate acreage that remains undisturbed and available for farming and / or forest uses, as well as other resource preservation activities. Ambient noise levels are anticipated to remain the same as existed with the original dwelling. *Criterion met.*

- 4.8 (L) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.**

**Staff:** In the previous 2011 approval (T2-2011-1709; Exhibit B.2) for the proposed single-family dwelling, the County found that the contemporary Craftsman elements, shake siding, exposed rafters and brackets, and natural materials generally blend with the natural settings of Sauvie Island. Additionally, the County found that the roughly 8,000 square feet home is on the larger side, but the bulk of the dwelling was consistent and compatible with the character

and visual quality of other homes in the significant environmental concern area. With the use of dark earthtone colors for the exterior materials of the dwelling, the County found that such colors are compatible with areas of significant environmental concern.

Staff accepts the previous findings made in 2011 by the County mentioned above. No lighting details were supplied, so the applicant will be required to provide that information prior to building plan check. A condition of approval is included to ensure compliance with the above criterion. *As conditioned, the above criterion is met.*

**4.9 (M) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.**

**Staff:** There are no known areas recognized as fragile or endangered plant habitat, or valued for specific vegetative features. The natural vegetation is maintained per the submitted application materials. *Criterion met.*

**4.10 (N) The applicable policies of the Comprehensive Plan shall be satisfied.**

**Staff:** Areas on Sauvie Island containing significant natural / historic / cultural resources can be designated with the Significant Environmental Concern (SEC) overlay. This overlay ensures that additional review occurs to address such resources when development is proposed. The subject property was designated SEC; hence, the current review for the proposed single-family dwelling. Staff did not identify any additional pertinent Comprehensive Plan policies for this project. *Criterion met.*

## **5.0 CONCLUSION:**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Permit to establish a single-family dwelling in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

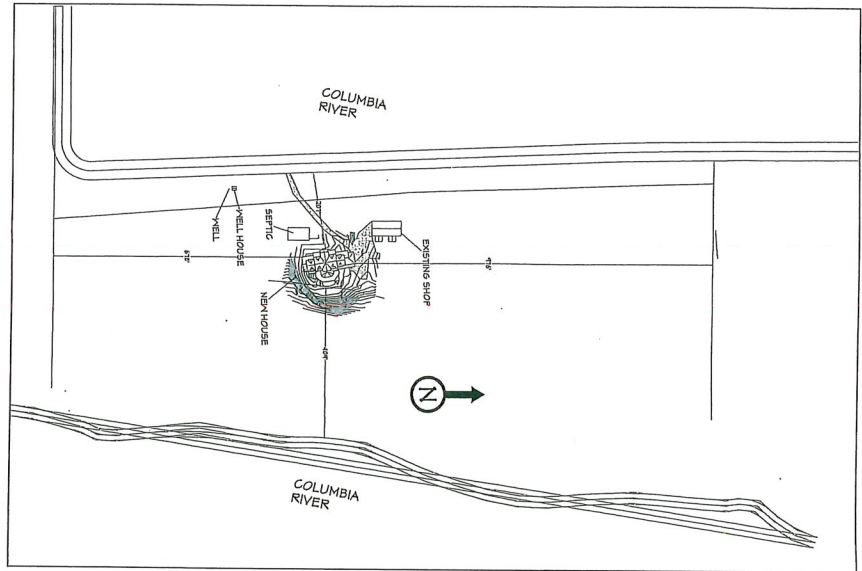
## **6.0 EXHIBITS:**

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

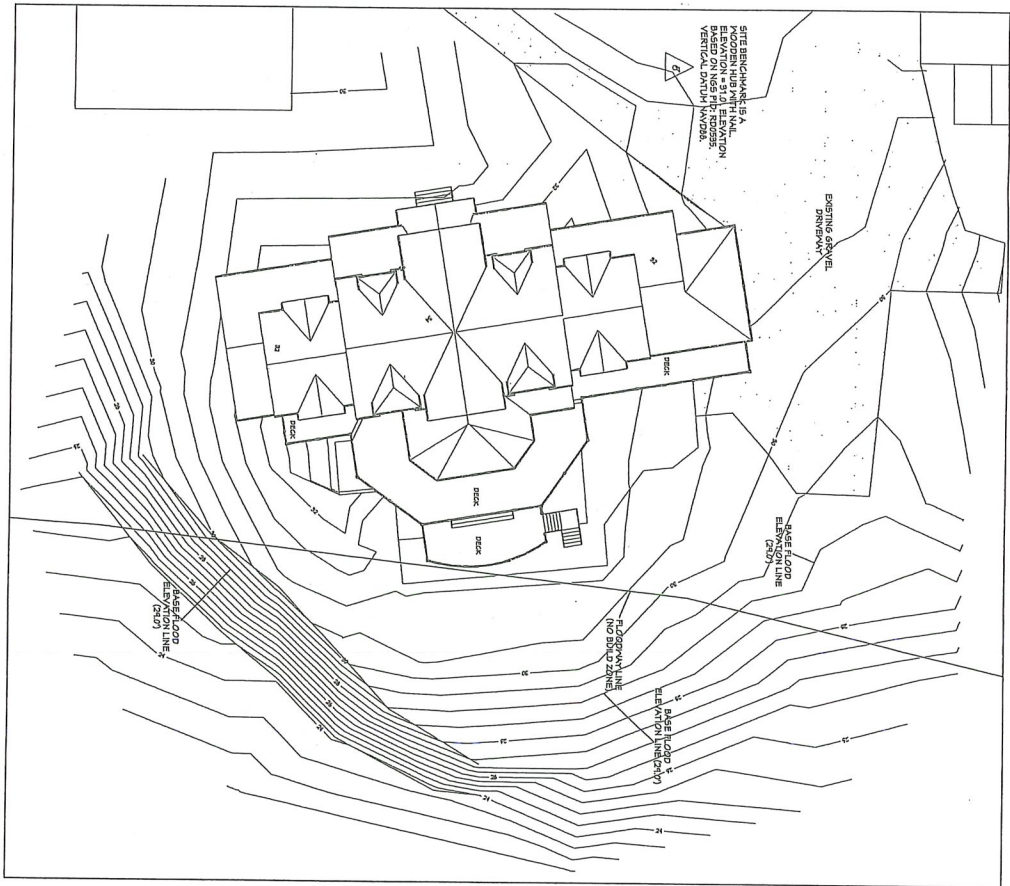
Exhibits with a "\*" after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-12627 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	11.01.2019
A.2	2	Request for Waiver of Pre-Filing Meeting Requirement	11.01.2019
A.3	13	Code Section Tracker Table for MCC 36.	11.01.2019

A.4	2	T2-2013-3053 Conditions of Approval	11.01.2019
A.5	21	SEC Code Criteria Narrative	11.01.2019
A.6	1	Transportation Planning Review Form	11.01.2019
A.7	6	Stormwater Certificate and supplemental documents	11.01.2019
A.8	1	Certification of Water Service	11.01.2019
A.9	6	Septic Review Certification (Un-signed)	11.01.2019
A.10	2	Fire Service Agency Review Form	11.01.2019
A.11	13	Structure General Notes	11.01.2019
A.12	7	Elevations / Floor Plans (reduced size; not-to-scale) -1: Front / Rear Elevations -2: Right / Left Elevations -3: Main Floor Plan -4: Upper Floor Plan -5: Foundation Plan -6: Cross Section Plan -7: Cross Section Plan v2	11.01.2019
A.13*	1	Site Map Plan (reduced size; not-to-scale)	11.01.2019
A.14	2	Updated Code Narrative	11.01.2019
A.15	1	Site Plan - Vegetation	11.01.2019
A.16	21	Septic Authorization Summary and supplemental documents	03.10.2020
<b>'B'</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 3N1W23 -00700	11.01.2019
B.2	15	Copy of decision for case no. T2-2011-1709	01.10.2020
B.3*	1	Planting Plan	12.5.2019
<b>'C'</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete letter	11.29.2019
C.2	1	Applicant's acceptance of 180 day clock	12.01.2019
C.3	1	Complete letter (day 1)	12.19.2019
C.4	4	Opportunity to comment & mailing list	12.30.2019
C.5	13	Administrative decision & mailing list	03.19.2020



FIRM MAP AND PANEL NUMBER  
41051C0035H



SITE MAP  
(SCALE 1" = 10')





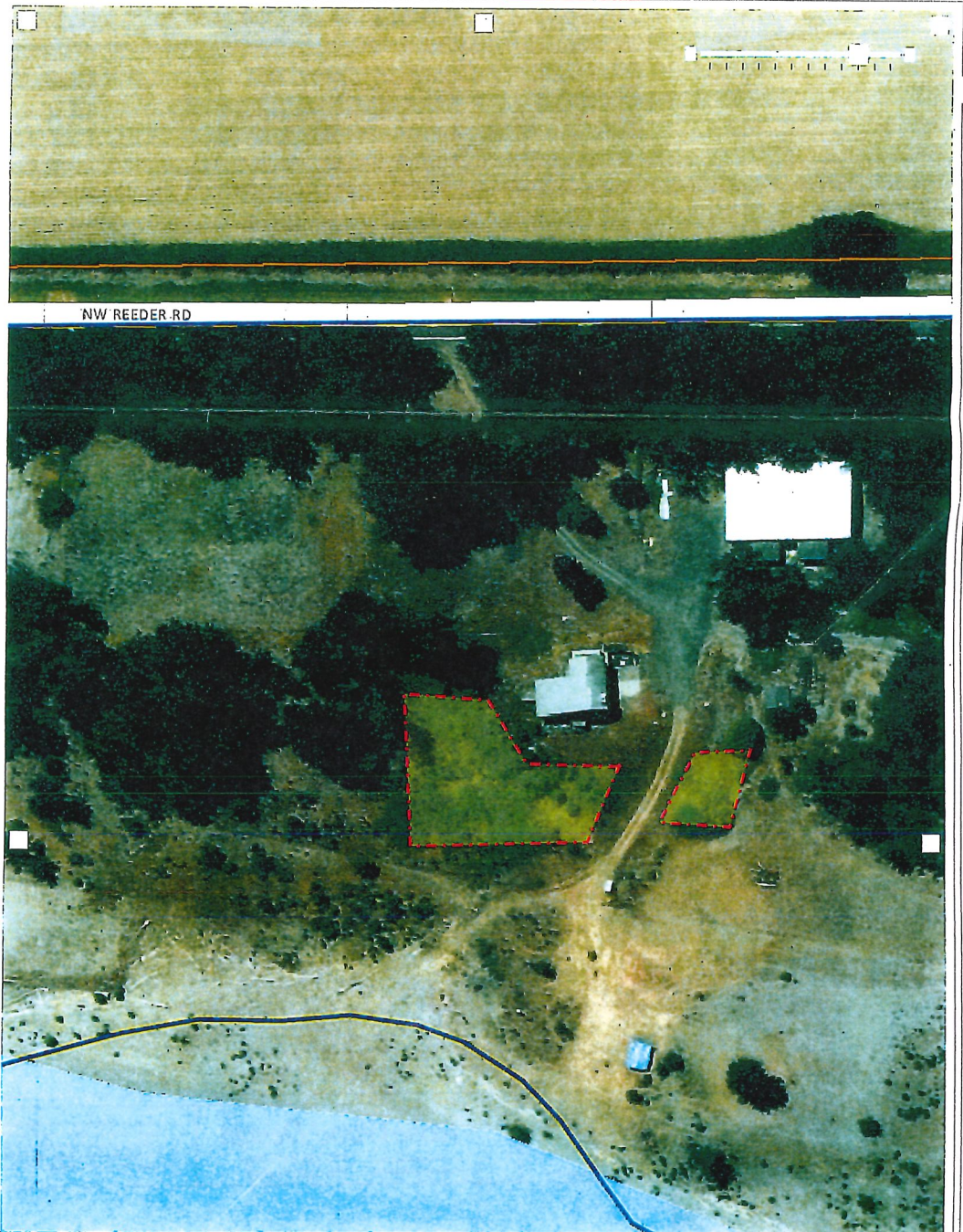
### Planting Plan

Trees to be planted in shaded area east of dwelling.

No more than 3 trees shall be planted in the northern planting area; the remainder in the southern planting area.

7 trees shall be planted in the southern area.

0 50 100ft



EXHIBIT

B3