
NOTICE OF DECISION

Case File: T2-2020-13000

Permit: Significant Environmental Concern; Lot of Record Verification

Applicants: Dean Mackeson **Owners:** Robert & Lisa Plympton

Location: 32 NE Sandy Dell Road, Troutdale
Tax Lot 800, Section 31CB, Township 1 North, Range 4 East, W.M.
Alternate Account #R944310440 Property ID #R322438

Base Zone: Commercial Forest Use (CFU)

Overlays: Significant Environmental Concern – Wildlife Habitat (SEC-h), Water Resources (SEC-wr), Flood Hazard (FD)

Proposal Summary: Applicant requests a SEC permit to construct an addition to an existing single-family dwelling and new septic system on the subject property within the SEC-h and SEC-wr overlay. The application includes a Lot of Record Verification for the current configuration of the subject property.

Decision: The SEC Permit is Approved with Conditions. The subject property 1N4E31CB - 00800 is a Lot of Record in its current configuration

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, August 20, 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. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or at 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 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: 2020.08.04 06:52:35
07:00

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Thursday, August 6, 2020

Instrument Number for Recording
Purposes: #2018-111972



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 39.3010 Lot of Record – (CFU), MCC 39.6850 Dark Sky Lighting Standards

CFU Zone: MCC 39.4070 Allowed Uses (D) Single Family Dwelling, MCC 39.4105 Building Height Requirements, MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for Dwellings and Structures

Significant Environmental Concern: MCC 39.5510 Uses; SEC Permit Required, MCC 39.5520 Application for SEC Permit, MCC 39.5560 General Requirements, MCC 39.5800 Criteria for Approval of SEC-wr Permit, MCC 39.5860 Criteria for Approval of SEC-h Permit

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at <http://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 four (4) years of the date of the final decision for residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary when construction has not commenced.
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - 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 years of the date of commencement of construction when the structure has not been completed.
 - i. For the purposes of Condition 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 A.20 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]
3. **At the time of land use sign-off for building plan check**, the property owner or their representative shall:
 - a. Demonstrate the addition to the existing dwelling has a fire retardant roof and there is a spark arrester on any chimney. [MCC 39.4115(C)]
 - b. Demonstrate that all proposed exterior lighting complies with the Dark Sky Lighting Standards of MCC 39.6850(C).
4. **Prior to and during construction**, the property owner or their representative shall ensure that:
 - a. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment. [MCC 39.5800(E)(5)]
 - b. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in MCC 39.5580 Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season. [MCC 39.5800(E)(6)]

- c. Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this Overlay. Such markings shall be maintained until construction is complete. [MCC 39.5800(E)(7)]
 - d. Compensation [mitigation] shall be completed prior to initiation of development where possible. [MCC 39.5800(F)(2)(f)]
 - e. In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. [MCC 39.5800(F)(2)(g)]
5. As an on-going condition:
- a. Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities. [MCC 39.5560(A)]
 - b. Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water resource or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision. [MCC 39.5560(B)]
 - c. The nuisance plants in MCC 39.5580 Table 1, in addition to the nuisance plants defined in MCC 39.2000, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone [MCC 39.5560(C)]
 - d. Areas of standing trees, shrubs, and natural vegetation shall remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource. [MCC 39.5800(E)(3)]
 - e. The Water Resource Area shall be restored to "good condition" and maintained in accordance with the mitigation plan pursuant to MCC 39.5800(F) and the specifications in Table 2 of MCC 39.5800. [MCC 39.5800(E)(4)]

Description of "Good Condition"	Mitigation Requirements
Combination of native trees, shrubs, and groundcover covering greater than 80% of the area and Greater than 50% tree canopy exists (aerial measure)	<p>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand.</p> <p>Revegetate impacted area per approved [mitigation] plan to reestablish "good" corridor conditions</p>

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 & PROPERTY DESCRIPTION:

Staff: The Applicant requests a SEC permit to construct an addition to an existing single-family dwelling, new replacement septic system, and stormwater detention pond within the SEC-wr overlay. The proposal will require the alteration of an existing driveway to accommodate a firetruck turnaround area located outside of the SEC-wr overlay, but within the SEC-h overlay; however, the activity qualifies for an exemption to the SEC-h permit requirements. The application includes a Lot of Record Verification for the current configuration of the subject property.

A separate Type 1 application for a Floodplain Development (“FD”) Permit and Erosion and Sediment Control (“ESC”) Permit associated with the project is pending (case #T1-2020-13453). The combined FD & ESC permit will be eligible for issuance following the approval of the SEC permit.

The subject property is located adjacent to the Sandy River in the west of the Sandy River rural plan area and is zoned Commercial Forest Use (CFU). Sandy Dell Rd. begins in the City of Troutdale and the paved portion extends until the border with the unincorporated area of Multnomah County. The subject property contains a number of trees and is relatively flat with a downward slope as you near the riverbank. Ground cover is located along the downward slope leading to the riverbank. The subject property contains the aforementioned single-family dwelling, pump house, and a shed.

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:

Staff: The subject property does not have any active compliance cases with the Code Compliance office. Staff is not aware of any compliance issues on the subject property at this time.

2.2 MCC 39.6850 Dark Sky Lighting Standards

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off 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 the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
4. 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 Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, 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.

(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 requiring the applicant to demonstrate compliance with the Dark Sky Lighting standards at building plan check is included in this decision. *As conditioned, the above criteria are met.*

3.0 LOT OF RECORD:

3.1 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:

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

Staff: The applicant provided a deed recorded August 29, 1957 (Exhibit A.27) that contains a legal description matching the current legal description of the subject property (Exhibit A.3). The first zoning for the area, the 'F-2' zone, was applied in 1958 as shown on the historical zoning map included as Exhibit B.3. In 1957, interim zoning was still in effect for the area, which did not have specific minimum lot size, dimensional standards, or access requirements (Exhibit B.4). Therefore, the subject property complied with applicable interim zoning laws when created or reconfigured in 1957.

In 1957, the process to divide the land required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As evidenced by the deed recorded in 1957 (Exhibit A.27), the applicable land division laws were satisfied

Based on the above, the subject property satisfied all applicable zoning and land division laws in 1957. The subject property is a Lot of Record in its current configuration.

3.2 MCC 39.3010 Lot of Record – (CFU)

(A) In addition to the standards in MCC 39.3005, for purposes of the CFU district, a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

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

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

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed 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) A Mortgage Lot;**
- (4) An area of land created by court decree.**

Staff: The Plympton family owned the subject property on February 20, 1990 (Exhibit A.31) and they did not own any contiguous property at that time. Subsection (B) is for information purposes. The subject property has not changed configuration since 1957. The subject property is not an area of land described as a tax lot solely for assessment and taxation purposes; an area of land created by the foreclosure of a security interest; a mortgage lot; or an area of land created by court decree. *Based on the above, the subject property qualifies as a single Lot of Record.*

4.0 CFU ZONE:

4.1 MCC 39.4070 Allowed Uses

(D) Alteration, maintenance, replacement or restoration of an existing lawfully established habitable dwelling as defined in MCC 39.2000 and located within 100-feet from an existing dwelling.

Staff: The proposal is for alterations to an existing lawfully established and habitable dwelling constructed in 1937. *Criterion met.*

4.2 MCC 39.4105 Building Height Requirements

(A) Maximum structure height – 35 feet.

(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

Staff: As shown in the preliminary building plans included as Exhibit A.22, the proposed building height remains under 35 feet following the proposed alterations to the existing dwelling. *Criterion met.*

4.3 MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Alteration and Maintenance of dwelling	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of August 26, 2006 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of August 26, 2006, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006

(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 39.4155 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

(C) The minimum forest practices setback requirement shall be increased where the setback 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 setback requirements in consultation with the Road Official.

Staff: The proposal conforms to the required setbacks and fire safety zones noted in the table above per the site plan included as Exhibit A.20. This application does not include a request for a reduction to the forest practices setback or an exception to a secondary fire safety zone. The county transportation division did not indicate that additional setbacks were necessary (Exhibit A.32). *Criteria met.*

4.4 (D) Fire Safety Zones on the Subject Tract.

(1) Primary Fire Safety Zone.

(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended farther down the slope from a dwelling or structure as follows:

(c) The building site must have a slope less than 40 percent.

Staff: A primary fire safety zone of 30 feet is required around the dwelling. The slopes do not exceed 10% (Exhibit A.20); hence, the primary fire safety zone does not need to be extended. The building site has slopes under 40% as required (Exhibit A.20). *Criteria met.*

4.5 MCC 39.4115 Development Standards for Dwellings and Structures

All dwellings and structures shall comply with the approval criteria in (B) through (D) below except as provided in (A). All exterior lighting shall comply with MCC 39.6850:

(A) For the uses listed in this subsection, the applicable development standards are limited as follows:

(1) Expansion of existing dwelling.

(a) Expansion of 400 square feet or less additional ground coverage to an existing dwelling: Not subject to development standards of MCC 39.4115;

(b) Expansion of more than 400 square feet additional ground coverage to an existing dwelling: Shall meet the development standards of MCC 39.4115(C);

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

Staff: The proposal is subject to the development standards of MCC 39.4115(C) per (A)(1)(b) above. The proposal is not for a mobile home. A condition of approval requiring compliance with (C)(3), (C)(4), and the Dark Sky Lighting Standards of MCC 39.6850 is included in this decision. *As conditioned, the above criteria are met.*

5.0 SIGNIFICANT ENVIRONMENTAL CONCERN:

5.1 MCC 39.5560 General Requirements in the West of Sandy River Planning Area Designated as SEC-wr or SEC-h

The requirements in this section shall be satisfied for development in the SEC-wr and SEC-h areas located in the West of Sandy River Planning Area in addition to the provisions of MCC 39.5800 or 39.5860 as applicable.

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

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

(C) The nuisance plants in MCC 39.5580 Table 1, in addition to the nuisance plants defined in MCC 39.2000, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone.

Staff: A condition of approval is included requiring compliance with (A), (B), and (C) above. *As conditioned, the above criteria are met.*

5.2 MCC 39.5800 Criteria for Approval of SEC-wr Permit

(A) Except for the exempt uses listed in MCC 39.5515 and the existing uses pursuant to MCC 39.5550, no development shall be allowed within a Water Resource Area unless the provisions of subsections (B) or (C) or (D) below are satisfied. An application shall not be approved unless it contains the site analysis information required in MCC 39.5520(A) and (C), and meets the general requirements in MCC 39.5560.

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

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

Top of ravine is the break in the > 25% slope. Slope should be measured in 25- foot increments away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple

resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.

Staff: As shown on the site plan included as Exhibit A.20, the development site is at least 100 feet from the top of bank of the Sandy River. Therefore, the proposal is exempt from the Alternatives Analysis requirement. The Applicant provided the required site analysis information, referenced in the report included as Exhibit A.26, and the requirements of MCC 39.5560 are included as conditions of approval. *Criteria met.*

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

Staff: As per (B) above, the proposal is for development on a Low Impact site; hence, the project is exempt from an Alternative Analysis.

- 5.4 (D) Buffer Averaging - Development may be allowed to encroach into the 200' SEC-wr overlay zone or "buffer" when the provisions of (1) through (6) below are satisfied. These provisions are intended to allow development to extend a specific amount into the edges of the overlay zone without an alternatives analysis in exchange for increasing the area of vegetated corridor on the property that is in good condition.**

(1) Site assessment information pursuant to MCC 39.5520(A) and (C) has been submitted.

(2) The riparian/vegetated corridor is certified to be in a marginal or degraded condition pursuant to Table 2 of this section. Buffer averaging is not allowed to encroach in areas certified to be in good condition.

(3) The maximum encroachment does not exceed 20% of the frontage length of the vegetated corridor by 20% of the required width.

(4) The entire remaining vegetated corridor on the project site or the first 50 feet closest to the stream (whichever is less) will be enhanced to "good" condition pursuant to Table 2 of this section.

(5) The area of encroachment will be replaced with added buffer area at a 1:1 ratio.

(6) The replacement area will be incorporated into the remaining vegetated corridor on the project site and meet the "good" condition pursuant to Table 2 of this section, regardless of its distance from the resource area.

Staff: The required site assessment information is included in the natural resource assessment report included as Exhibit A.26. Per the report, the corridor is in "degraded condition and the

encroachment is approximately 1,500 square feet, which is below the 20% limit of 2,800 square feet. A mitigation plan is included to ensure compensatory mitigation of 1,500 square feet of the water resource area at a 1:1 ratio. *Criteria met.*

5.5 (E) Development Standards- Development within the Water Resource Area shall comply with the following standards:

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

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

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

(4) The Water Resource Area shall be restored to "good condition" and maintained in accordance with the mitigation plan pursuant to subsection (F) below and the specifications in Table 2 of this section.

Staff: The proposal does not include the development of trails, rest points, viewpoints, and/or other similar facilities. The proposal does not include the removal of trees in an area of dense standing trees. Conditions of approval requiring compliance with (3) and (4) are included in this decision. *As conditioned, the above criteria are met.*

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

(6) Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in MCC 39.5580 Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.

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

(8) Stormwater quantity control and quality control facilities:

- (a) Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.**
- (b) The stormwater quantity control and quality control facility may only encroach a maximum of 25 feet into the outside boundary of the Water Resource Area of a primary water feature; and**
- (c) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Water Resource Area on the subject property.**

Staff: Per the stormwater certificate included as Exhibit A.9, a stormwater detention pond is necessary. A mitigation plan includes compensation for the area that will be dedicated to the detention pond (Exhibit A.20, A.24, and A.26). Conditions of approval requiring compliance with (5), (6), and (7) are included in this decision. *As conditioned, the above criteria are met.*

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

(1) Mitigation Sequence. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.

- (a) When a proposed development could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1 through 5 below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.**

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

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

Staff: The applicant proposes compensatory mitigation through on-site rehabilitation / restoration (Exhibit A.20, A.24, and A.26). No public benefit exception is requested as part of this application. Staff finds the proposal for compensatory mitigation acceptable, considering the proposal enhances the water resource area on the subject property currently in “degraded” condition to “good” condition. *Criteria met.*

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

(a) Any person who alters or proposes to alter regulated natural resource areas shall restore or create natural resource areas equivalent to or larger than those altered in order to compensate for resource losses.

(b) The following ratios apply to the creation or restoration of natural resource areas. The first number specifies the amount of natural resource area to be created and the second specifies the amount of natural resource area to be altered or lost. Creation (off-site) 2:1 Restoration (off-site) 1.5:1 Creation (on-site) 1.5:1 (Restoration (on-site) 1:1

(c) Only marginal or degraded water resource areas as described in Table 2 of this section may be the subject of a restoration project proposed as part of a Mitigation Plan.

(d) Highest priority sites for mitigation are marginal or degraded corridors that are closest to a natural drainage, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.

(e) The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County.

Staff: The proposed mitigation plan referenced in the natural resources assessment report and supporting documents (Exhibit A.20, A.24, and A.26) will rehabilitate / restore water resource area on the subject property in “degraded” condition at a 1:1 ratio. No off-site mitigation is proposed. *Criteria met.*

5.9 (f) Compensation shall be completed prior to initiation of development where possible.

(g) In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that offsite mitigation areas will be protected in perpetuity, the owner shall cause a

deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.

Staff: Conditions of approval requiring compliance with (f) and (g) above are included in this decision. *As conditioned, the above criteria are met.*

5.10 (3) Mitigation Plan Standards - Natural resource mitigation plans shall contain the following information:

(a) A description of adverse impacts that could be caused as a result of development.

(b) An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.

(c) A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.

(d) A map drawn to scale, showing where the specific mitigation activities will occur.

(e) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.

Staff: The Applicant satisfactorily addressed the above requirements in the natural resource assessment report included as Exhibit A.26 and preliminary site plan included as Exhibit A.20. *Criteria met.*

5.11 MCC 39.5860 Criteria for Approval of SEC-h Permit

Staff: As noted in section 1.0 above, the work within the boundaries of the SEC-h overlay is limited in scope to the alteration of an existing driveway. Therefore, the proposed alteration qualifies for an exception to the SEC-h permit requirements per MCC 39.5515. *The proposed alteration of the existing driveway qualifies for an exception from these requirements.*

6.0 PUBLIC COMMENT:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105. Staff did not receive any public comments during the 14-day comment period.

As Staff did not receive any public comments, this decision has satisfied the requirements of MCC 39.1105.

7.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the SEC permit for the proposed alterations to the existing single-family dwelling in the CFU zone. This approval is subject to the conditions of approval established in this report. The current configuration of the subject property qualifies as a single Lot of Record.

8.0 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 T2-2020-13000.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	02.18.2020
A.2	4	Applicant Letter and Narrative	02.18.2020
A.3	2	“Exhibit B”: Quit Claim Deed recorded on October 29, 2018 as instrument no. 2018-111972.	02.18.2020
A.4	1	“Exhibit C”: Exterior lighting details	02.18.2020
A.5	1	“Exhibit D”: Grading and Erosion Control Worksheet Cover Page	02.18.2020
A.6	5	“Exhibit E”: Septic Review Certification	02.18.2020
A.7	4	“Exhibit F”: Fire Service Agency Review	02.18.2020
A.8	1	“Exhibit G”: Well Flow Test	02.18.2020
A.9	12	“Exhibit H”: Stormwater Drainage Control Certificate	02.18.2020
A.10	1	“Exhibit I”: Transportation Planning Review Form (unsigned)	02.18.2020
A.11	2	“Exhibit J”: Flood Hazard Permit Application Form	02.18.2020
A.12	12	Natural Resource Assessment Report prepared by Schott & Associates	02.18.2020
A.13	2	Existing Conditions Map	02.18.2020
A.14	2	Preliminary Site Construction Plan	02.18.2020
A.15	5	Ground-Level Photographs	02.18.2020
A.16	1	Site Plan (Not-to-scale)	02.18.2020
A.17	1	Preliminary Plan Map (To-Scale)	02.18.2020

A.18	2	Existing Conditions Map (To-Scale)	02.18.2020
A.19	7	Building Plans (To-Scale)	05.21.2020
A.20*	2	Revised Preliminary Plan Maps	05.21.2020
A.21	1	Revised Existing Conditions Map	05.21.2020
A.22	7	Revised Building Plans	05.21.2020
A.23	1	Revised General Application Form	05.21.2020
A.24	11	Revised Applicant Narrative	05.21.2020
A.25	1	Revised Lighting Details	05.21.2020
A.26	22	Revised Natural Resources Assessment Report	05.21.2020
A.27	1	Deed Recorded August 1957 in Book 1859, Page 469	05.21.2020
A.28	3	Deed Recorded August 4, 1960 in Book 2021, Page 483-485	05.21.2020
A.29	2	Deed Recorded November 27, 1964 in Book 178, Page 204-205	05.21.2020
A.30	5	Deed Recorded February 23, 1966 in Book 467, Page 724-728	05.21.2020
A.31	1	Deed Recorded April 5, 1971 in Book 780, Page 803	05.21.2020
A.32	15	Transportation Planning Review Form (signed)	07.14.2020
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1N4E31CB -00800	02.18.2020
B.2	1	Department of Assessment, Records and Taxation (DART): Map for 1N4E31C	02.18.2020
B.3	1	Historic Zoning Map for 1N4E31C	05.21.2020
B.4	6	1953 Interim Zoning Regulations	05.21.2020
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	03.12.2020
C.2	1	Applicant's acceptance of 180 day clock	03.18.2020
C.3	1	Complete letter (Day 1)	06.10.2020
C.4	6	Opportunity to Comment	07.02.2020
C.5	19	Administrative Decision	08.06.2020

TAX LOT 800, MAP 11N, 4E, 31CB
LOCATED IN THE S.W. 1/4 SECTION 31, T.1N., R.4E., W.M.,
MULTNOMAH COUNTY, OREGON
FEBRUARY 6, 2019 SCALE 1"=20'
UPDATED JANUARY 3, 2020

[illegible]

FD = FURBO
FI = FIR TREE
PI = PINE TREE
CE = CEDAR TREE
IR = IRON ROD
YPC = YELLOW PLASTIC CAP
DE = DECIDUOUS TREE
MS = BLADE OF GRASS



GRAPHIC SCALE
(IN FEET)
1 INCH = 20 FT.

CENTERLINE CONCEPTS
LAND SURVEYING, INC.
19376 MOLALLA AVE., SUITE 120
OREGON CITY, OREGON 97045
PHONE 503.650.0189 FAX 503.650.0189
HARDY DELT RD-NE 321deg PRELIMINARY PLAN MAP-C2

Plotted M: \PROJECTS\PLANMAP\PRELIMINARY PLAN MAP-C31
PHONE 503.650.0188 FAX 503.650.0189



