
NOTICE OF DECISION

Case File: T2-2020-13783

Permit: Significant Environmental Concern – Wildlife Habitat; Significant Environmental Concern – Scenic View

Applicants: Lorraine Guthrie **Owners:** David Hill & Kelley Rayborn

Subject: 16011 NW Sheltered Nook Road, Portland

Site: Tax Map: 2N2W24D -01400 Alt. Account #R764201510 Property ID #R269559

Base Zone: Rural Residential (RR)

Overlays: Significant Environmental Concern – Wildlife Habitat (SEC-h); Significant Environmental Concern – Streams (SEC-s); Significant Environmental Concern – Scenic View (SEC-v); Geologic Hazards (GH)

Proposal Summary: The Applicant requests approval of SEC-h, SEC-s, and SEC-v permits for a 2-story addition to an existing single-family dwelling. Site coverage of the proposed addition is approximately 1,193 sq. ft. The proposed addition will be located to the south of the existing structure between the existing dwelling and the existing driveway. A GH permit exemption is also included in the request.

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, May 24, 2021 at 4:00 pm.

Opportunity to Review the Record: The complete digital 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 via email 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: _____

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Monday, May 10, 2021

Instrument Number for Recording
Purposes: #2008-008387



Applicable Approval Criteria:
Multnomah County Code (MCC):

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

RR Zone Criteria: MCC 39.4360 Allowed Uses – (A) Single Family Dwelling; MCC 39.4375 Dimensional Requirements and Standards – (C), (D), (F), (G), (H).

Significant Environmental Concern: MCC 39.5510 Uses; SEC Permit Required; MCC 39.5520 Application for SEC Permit; MCC 39.5650 Criteria for Approval of SEC-v permit; MCC 39.5750 Criteria for Approval of SEC-s Permit; MCC 39.5860 Criteria for Approval of SEC-h Permit

Geologic Hazards Criteria: MCC 39.5075 Permits Required; MCC 39.5080 Exemptions

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.
 - ii. For purposes of Condition 1.a, notification of commencement of construction shall be given to Multnomah County Land Use Planning Division at land.use.planning@multco.us 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.
 - ii. For purposes of Condition 1.b.i, the property owner shall provide building permit status in support of completion of exterior surfaces of the structure and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to land.use.planning@multco.us. [MCC 39.1185].

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 5 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. The property owners shall acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to chris.liu@multco.us. [MCC 39.1170(A) & (B)]
 - c. Amend the site plan (Exhibit A.15) to reflect the removal of the shed from the property. The site plan shall also be amended to reflect the removal of the lean-to attached to the outbuilding. Verification of the removal of these items will be achieved via site inspection prior to the issuance of the Certificate of Occupancy as noted in Condition 6 below. [MCC 39.1515]
3. **At the time of land use sign-off for building plan check**, the property owner or their representative shall:
 - a. Provide a Planting Plan for the required SEC-s and SEC-h mitigation plantings as follows:

- i. SEC-s Mitigation Plantings: The Applicant designated a blackberry removal area within the northern portion of the subject property as shown in Exhibit A.15 within the SEC-s overlay. Native trees will be planted in this area as required for the SEC-s mitigation. The Applicant's Planting Plan shall identify the specific type and size of native trees that will be planted in this blackberry removal area.
 1. The SEC-s mitigation area shall be planted with twelve, 5 to 6 ft. tall native trees or 36 native tree seedlings. [MCC 39.5750(D)(1)]
 - ii. SEC-h Mitigation Plantings: The Applicant shall designate a separate planting area on the property for the SEC-h mitigation plantings. The area(s) shall be approximately 6,000 sq. ft.
 1. The SEC-h planting area(s) shall specify that all nuisance species are to be removed.
 2. The SEC-h mitigation area shall be planted with twelve, 5 to 6 ft. tall native trees or 36 native tree seedlings.
 3. The Planting Plan shall identify the specific type and size of trees or tree seedlings that will be planted in the SEC-h mitigation area. [MCC 39.5860(C)(4)]
 - b. Demonstrate that all proposed exterior lighting satisfy the Dark Sky Lighting Standards of MCC 39.6850(C). Site and building plans shall identify all proposed and existing exterior lighting, and lighting details shall be shown on the plans. [MCC 39.6850]
 - i. Demonstrate that all existing exterior lighting is sited, shaded or screened to avoid shining directly into the Stream Conservation area. [MCC 39.5750(E)]
 - c. Obtain a Minimal Impact Project Permit sign-off for the proposed ground disturbing activities. [MCC 39.6210]
4. **Prior to and during construction**, the property owner or their representative shall ensure that:
- a. The erosion control measures shall be installed prior to the start of construction as noted in the Erosion Control Statement (Exhibit A.12) and shown on the site plan (Exhibit A.15). Erosion control measures shall remain in effect for the duration of construction activities. [MCC 39.5750(E)]
 - b. The erosion control sign provided at the time of building plan check, shall be displayed at the driveway entrance to the subject property for the duration of the proposed ground disturbance.
5. **By October 15, 2022**, the property owner shall complete the SEC-s Mitigation Plantings. The following actions must occur as part of this mitigation:
- a. Blackberry mowing and removal shown on Exhibit A.15 and the Planting Plan shall commence and be completed between June 15th and September 15th.
 - b. The twelve, 5-6 ft. tall native trees or 36 native tree seedlings shall be planted within the SEC-s planting area within the same year as the nuisance plant removal.
6. **By October 15, 2022**, the property owner shall complete the SEC-h Mitigation Plantings. The following actions must occur as part of this mitigation:

- a. Blackberry mowing and removal shown on the Planting Plan for the SEC-h shall commence and be completed between June 15th and September 15th.
 - b. The twelve, 5-6 ft. tall native trees or 36 native tree seedlings shall be planted within the SEC-h planting area within the same year as the nuisance plant removal.
7. The approved soil disturbing activities as shown on Exhibit A.15 are limited within the Stream Conservation Area to the period between June 15th and September 15th. Revegetation / soil stabilization shall be completed by October 15th of each year that these activities occur for the approved project. No other ground disturbing activities have been authorized by this permit except those required to implement this decision. [MCC 39.5750(E)]
8. **Prior to issuance of the Certification of Occupancy**, the property owners or their representative shall:
 - a. Schedule an inspection by the Land Use Planning office to verify the removal of the shed [located at the southern portion of the subject property] and removal of the lean-to attached to the existing outbuilding [located south of the single family dwelling] as shown on Exhibit A.15. [MCC 39.1515]

Note: An inspection fee will be charged at the time of scheduling.

 - b. Demonstrate that all existing and new exterior lighting on the property is in compliance with the County's Dark Sky Lighting Standard. [MCC 39.6850]
9. **As an on-going condition**, the property owner shall:
 - a. No Nuisance Plants listed in MCC 39.5580 shall be planted on the property. Any nuisance plants on the list that are located on the property shall be removed from the property. Regular mowing of invasive blackberry in the areas shown in Exhibit A.15 is required. [MCC 39.5680(B)(7) & 39.5750(D)]
 - b. Ensure the survival of the trees or shrubs outlined in the planting plan referenced in condition 3 above. Any trees that die due to damage, health, or otherwise shall be replaced within the next planting season of a given year. This requirement shall remain in effect for the life of the structure. [MCC 39.5680(C)(4)]

Note: When ready to have building plans 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 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 review process for the proposed development.
3. Visit multco.us/landuse for instructions on submitting your building plans for plan check and review of your conditions of approval. 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 may collect additional review fees, 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: Applicant proposes a 2-story addition to an existing single-family dwelling in the Rural Residential (RR) zone. The proposed addition will be located to the south between the existing dwelling and existing driveway. The location for the proposed addition is in a cleared and relatively level portion of the property. Total increased ground coverage including porches and eaves is approximately 1,193 sq. ft.

2.0 Property Description:

Staff: The subject property is zoned Rural Residential (RR). A number of overlays cover the entire property or portions of the property including: Significant Environmental Concern – streams (SEC-s), Significant Environmental Concern – wildlife habitat (SEC-h), Significant Environmental Concern – scenic views (SEC-v), and Geologic Hazards (GH). Tax records list the following improvements: a single-family dwelling with attached garage, an outbuilding, and a shed.

3.0 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 (Exhibit C.4). Staff received the following public comments during the 14-day comment period.

3.1 Mark Tesauro & Ray Friedmann, neighboring property owners, provided comments via email on March 25, 2021 (Exhibit D.1)

Staff: Tesauro & Friedmann noted their support for the proposal. No comments related to approval criteria were included. Comments noted in the record.

4.0 General Provisions:

4.1 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; or**
- (2) It is necessary to protect public safety; or**

(3) It is for work related to and within a valid easement over, on or under an affected property.

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

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

For purposes of the current application, staff is not aware of any open compliance cases on the subject property. However, there appears to be a non-permitted shed on the property, as well as a non-permitted lean-to attached to the existing larger outbuilding. As the application did not propose to address those items, Conditions of approval require that the items shall be removed from the property prior to the issuance of the Certificate of Occupancy for the addition to the house. *As conditioned, the above criterion is met.*

4.2 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:

- 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;**

* * *

Staff: The subject property is Lot 16 of the Sheltered Nook subdivision. The subject property remains in the same configuration as it was at the time of the original subdivision in 1908, except for a portion dedicated to the County as public right-of-way. The County did not commence zoning or subdivision regulations until 1955. Therefore, the subject property is a single Lot of Record. *Criteria met.*

4.3 MCC 39.3090 Lot of Record – (RR)

(A) In addition to the standards in 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.

(C) Except as otherwise provided by MCC 39.4380, 39.4385, 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 in section 4.2 above, the subject property qualifies as a Lot of Record. The subject property is Lot 16 of the Sheltered Nook subdivision. The configuration has not changed since the approval of the subdivision in 1908, except for a portion dedicated to the County public right-of way.

The subject property is a Lot of Record that is less than the minimum lot size for new parcels in the RR zone and is subject to (B) and (C) above. 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, or an area of land created by court decree. *Criteria met.*

4.4 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 (Condition no. 3) is included in the decision requiring the Applicant to demonstrate compliance with the above standards prior to land use sign off for building plan check. The Applicant will need to demonstrate on the site and building plans that the proposed and existing exterior lighting satisfies the above standards. Prior to the issuance of the Certificate of Occupancy, an inspection verifying compliance with the above standards is required (Condition no. 8). *As conditioned, the above criteria are met.*

5.0 Rural Residential Zone Criteria:

5.1 MCC 39.360 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 proposed project involves an addition to an existing single-family dwelling on a Lot of Record. *Criterion met.*

5.2 MCC 39.4375 Dimensional 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: As per the site plan included as Exhibit A.15, the proposed addition will be located approximately 90 ft. from the front property line, more than 150 ft. from the rear property line, 102 ft. from the west side property line, and more than 400 ft. from the east side property line. Per the preliminary building plans included as Exhibit A.4, the proposed addition does not exceed 35 ft. in height. The subject property is adjacent to the local public right-of-way known as Sheltered Nook. No additional right-of-way dedication will be necessary on the western side of Sheltered Nook as it is already dedicated to centerline at 30 feet. No additional yard requirements pursuant to MCC 39.4375(D) are required for future right-of-way purposes (Exhibit A.13). *Criteria met.*

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

* * *

Staff: The proposal does not include any agricultural structures. Therefore, the above criterion is not applicable. *Criterion not applicable.*

5.4 (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 Applicant provided an on-site septic certification completed by the County Sanitarian (Exhibit A.17). Per the certification, the subject property contains an adequate on-site sewage disposal system to accommodate the proposal.

The Applicant provided a stormwater certificate completed by an Oregon licensed engineer (Exhibit A.11), which states the rate of stormwater runoff will be no greater than that before the proposed development. Per the certificate and accompanying report, a gutter, downspout, and splash block drainage control system will be utilized. *Criteria met.*

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

* * *

Staff: Per the Applicant's narrative and County Assessment information, there are no known active existing farm uses on adjacent land (Exhibit A.2). *Therefore, the above criterion is not applicable.*

6.0 Significant Environmental Concern Criteria:

6.1 MCC 39.5510 Uses; SEC Permit Required

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

Staff: The applicant has applied for a SEC-s, SEC-v and a SEC-h permit for the proposed addition. The applicable criteria for SEC-s, SEC-v, and SEC-h permits are discussed in Section 6.2 – 6.26 below.

6.2 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 information in Exhibits A.1 – A.17. *Criteria met.*

6.3 MCC 39.5650 Criteria for Approval of SEC-v permit

(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:

(1) Significant Scenic Resources – Those areas designated SEC-v on Multnomah County sectional zoning maps.

(2) Identified Viewing Areas – Public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. The Identified Viewing Areas are: Bybee-Howell House Virginia Lakes Sauvie Island Wildlife Refuge Kelley Point Park Smith and Bybee Lakes Highway 30 The Multnomah Channel The Willamette River Public roads on Sauvie Island.

(3) Visually Subordinate – The subject development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.

(B) In addition to the information required by MCC 39.5520, an application for development in an area designated SEC-v shall include:

(1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;

(2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;

(3) A list of identified viewing areas from which the proposed use would be visible; and,

(4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by subsection (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.

Staff: Section (A) is for information purposes. The Applicant provided the required information listed in Section (B) in Exhibits A.1 – A.17. *Criteria met.*

6.4 (C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be visually subordinate. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:

*** * ***

Staff: Per available topographical maps and the information provided by the Applicant (Exhibit A.11 & A.15), the subject property is not visible from an identified viewing area. As the building is not visible from the Identified Viewing Areas, the existing dwelling and proposed addition is visually subordinate. *Therefore, the above criterion are met.*

- 6.5 (D) Mining of a protected aggregate and mineral resource within a PAM Overlay shall be done in accordance with any standards for mining identified in the protection program approved during the Goal 5 process. The Application for SEC-v permit must comply only with measures to protect scenic views identified in the Goal 5 protection program that has been designated for the site.**

Staff: The proposal does not include the mining of protected aggregate and mineral resources. *Therefore, this criterion is not applicable.*

- 6.6 (E) The approval authority may impose conditions of approval on an SEC-v permit in The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.**

Staff: As noted in Section 6.4 above, the subject property is not visible from an identified viewing area, so the development is visually subordinate. Therefore, no conditions relative to potential adverse visual impact from the development are included in this decision. *Criterion met.*

6.7 MCC 39.5750 Criteria for Approval of SEC-s Permit

(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:

(1) Nuisance and invasive non-native plants – Those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List.

(2) Protected Streams -- Those streams which have been evaluated through a Goal 5 ESEE analysis and protected by Ordinance and those streams and wetlands mapped by Metro's Title 13 as Habitat Conservation Areas as modified through the planning process are designated SEC-s on the Multnomah County Zoning Maps.

(3) Stream Conservation Area – For the protected streams originally designated by Ordinance, the Stream Conservation Area designated on the zoning maps as SEC-s is an area extending upslope from and perpendicular to the centerline on both sides of a protected stream. The width of the Stream Conservation Area varies and shall be as depicted on the Multnomah County Zoning Maps and is from the centerline on both sides of the protected stream for the width of the mapped overlay. Any development proposed within a Stream Conservation Area shall be required to demonstrate that the development satisfies the standards of MCC 39.5750 (B) through (E).

Staff: Section (A) above is for information purposes.

- 6.8 (B) Except for the exempt uses listed in MCC 39.5515, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 39.5750 (C) through (F).**

Staff: The subject property contains a small seasonal drainage that flows west from an area outside the SEC-s overlay, then through a small portion of the SEC-s overlay, and then offsite into an unnamed tributary of McCarthy Creek. The unnamed tributary to McCarthy Creek is approximately 226 ft. from the development site (Exhibit A.15). The proposed development is within the Stream Conservation Area. As required, Staff addressed the provisions of MCC 39.5750 (C) through (F) in Section 6.9 – 6.12 below. *Criterion met.*

- 6.9 (C) In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:**

- (1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;**
- (2) A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;**
- (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;**
- (4) A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by subsection (E) (5) below;**
- (5) A detailed Mitigation Plan as described in subsection (D), if required; and**
- (6) A description of how the proposal meets the approval criteria listed in subsection (D) below.**

Staff: The site plan is included as Exhibit A.15. A detailed SEC-s report with an assessment completed by *Land and Water Environmental Services* is included as Exhibit A.16. Soil type within the proposed development area is Goble silt loam, with 3 – 15 % slopes. No evidence of flooding or erosion and/or other natural hazards were identified in the development area. No protective measures were proposed. The revised site plan indicates an approximately 40 ft. wide by 150 ft. long area of blackberries will be removed in the area and trees planted (Exhibit A.15). This is the applicant's mitigation plan. *Criteria met.*

- 6.10 (D) For the protected stream resources, the applicant shall demonstrate that the proposal:**

(1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:

* * *

Staff: Per the SEC-s report (Exhibit A.16), the Water Source function rating is MODERATE. Contribution to Water Quality function rating is HIGH. There is no fish habitat within the SEC-s overlay located on the subject property. Wildlife and Bird Habitat function rating is HIGH. Vegetation Cover function rating is HIGH. Vegetation Complexity function rating is HIGH. The revised site plan shows that a 6,000 sq. ft. area of blackberries exist within the SEC-s overlay zone (Exhibit A.15). The revised site plan indicated that these blackberries will be mowed and native trees planted in this area. The planting of trees will enhance the wildlife resources in the area and will contribute to anchoring the soils in this area and increase flood storage in the area by slowing rain from running off of the area by this vegetation. A condition of approval has been included (Condition no. 5) requiring the plantings to be done this fall after the blackberries have been removed in the summer.

In the areas along the edge of the SEC-s overlay and outside the SEC-s overlay, the vegetation cover function rating is MODERATE to LOW. Vegetation in this area includes nonnative species in the lawn area around the house and invasive Himalaya blackberry in the openings on the slopes. The SEC-s report recommends mowing additional areas to decrease the presence of the Himalaya blackberry. A condition of approval (Condition no. 5) is included to ensure mowing of invasive blackberry in the aforementioned areas along the edge of the SEC-s overlay and outside the SEC-s overlay.

Based on the above, the SEC-s report determined the overall effect to the environment within and outside the SEC-s would be minimal. Further, that the proposed mitigation would be sufficient to enhance the SEC-s area. *Criterion met.*

6.11 (E) Design Specifications: The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:

(1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the minimum width necessary to allow passage of peak winter flows shall be utilized for any crossing of a protected streams.

(2) All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.

(3) Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area.

(4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.

(5) Satisfaction of the erosion control standards of MCC 39.5090.

(6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.

(7) Demonstration of compliance with all applicable state and federal permit requirements.

Staff: The project does not propose any crossing over a stream or watercourse. An engineer, D. Beck, reviewed Stormwater and determined that water generated from new impervious surfaces can be handled by the use of gutters, downspout and splash block system (Exhibit A.11). A condition of approval (Condition no.3) requires siting, shading or screening for exterior lighting to avoid light shining directly into the Stream Conservation area. No trees over 6" in caliper, or any other tree, will be removed.

The Applicant addressed the erosion control standards of MCC 39.5090 in a statement included as Exhibit A.12. The erosion control layout has been included on the revised site plan (Exhibit A.15). The erosion control statement and the referenced supporting exhibits, demonstrated that the proposal will satisfy the standards of MCC 39.5090. A Minimal Impact Project permit will be required at sign-off for building plan check as required by MCC 39.6220.

A condition of approval (Condition no. 7) limits soil-disturbing activities within the Stream Conservation Area to the period between June 15 and September 15, and requires revegetation / soil stabilization by October 15. There are no known state or federal permit requirements for the proposed project. *As conditioned, the above criteria are met.*

6.12 (F) For those Stream Conservation Areas located within Metro's jurisdictional boundaries, the following requirements apply in addition to subsections (C) through (E) above:

* * *

(G) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the Mitigation Plan must comply only with measures identified in the Goal 5 protection program that has been designated for the site.

Staff: The subject property is located outside of Metro's jurisdictional boundary per Metro's available online maps. The subject property is not within a PAM Overlay per County maps. *Therefore, the above criteria are not applicable.*

6.13 MCC 39.5860 Criteria for Approval of SEC-h Permit

(A) In addition to the information required by MCC 39.5520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

* * *

Staff: The Applicant provided the required information in Exhibits A.1 – A.17. *Criteria met.*

6.14 (B) Development standards:

(1) Where a parcel contains any nonforested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: The proposed addition will be located within an existing cleared area as depicted on the Applicant's site plan (Exhibit A.15). *Criterion met.*

6.15 (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

Staff: As shown on the Applicant's site plan (Exhibit A.15), the proposed addition is approximately 90 ft. from NW Sheltered Nook Rd and the entirety of development is within 200 feet of the public road. The existing driveway is less than 500 ft. in length. *Criteria met.*

6.16 (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

Staff: The existing driveway is greater than 100' ft. from the south side lot line and greater than 50' from the driveway on the opposite side of the road (Exhibit A.15). Due to the existing drainfield location, the driveway cannot be relocated to meet one of the above standards. *Criteria not met.*

6.17 (5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Staff: The proposed addition is located within 300 ft. of the west side property line (Exhibit A.15). *Criteria met.*

6.18 (6) Fencing within a required setback from a public road shall meet the following criteria:

* * *

Staff: The Applicant did not propose any fencing within the required setback from NW Sheltered Nook Road (Exhibit A.15). There is no existing fencing within the required setback from NW Sheltered Nook Road. *Criteria met.*

- 6.19 (7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.**

Staff: Small amounts of thistle and scotch broom located in existing cleared areas will be removed (Exhibit A.5). No nuisance plants are proposed to be planted on the subject property. A condition of approval (Condition no. 9) ensures compliance with the above requirements. *Criterion met.*

- 6.20 (C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.**

(1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

Staff: An existing septic system on the property prevents the existing driveway from being relocated to comply with the development standards of subsection (B) above (Exhibit A.15). Due to this physical characteristic, the applicant must show that the wildlife conservation plan results in the minimum departure from the standards of subsection (B) above.

As the proposal is for an addition to an existing single-family dwelling, the Applicant utilized the provisions of (C)(4) below to propose mitigation measures in-lieu of a wildlife conservation plan. See section 6.23 below. *Criterion met.*

- 6.21 (2) The applicant can meet the development standards of subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B).**

Staff: The Applicant qualifies for (C)(1) above. *Therefore, this criterion is not applicable.*

- 6.22 (3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), the wildlife conservation plan must demonstrate the following:**

* * *

Staff: The Applicant qualified for (C)(4) below. Therefore, the applicant does not need to demonstrate compliance with (C)(3). *This criterion is not applicable.*

- 6.23 (4) For a property meeting subsection (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:**

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with subsection (B)(6).

(d) For non-forested “cleared” areas that require nuisance plant removal pursuant to subsection (B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

Staff: The subject property meets (C)(1) as described above. Given the proposal is for an addition to an existing single-family dwelling, the Applicant may utilize (C)(4). No trees will be removed as part of the project. As the proposal calls for 1193 sq. ft. of new ground coverage, the Applicant proposes to plant eleven (12) native trees 3’-4’ in height or thirty-three (36) native tree seedlings. This amounts to one (1) 3’-4’ tall native tree or three (3) native tree seedlings per 100 sq. ft. of new ground coverage.

No fencing is proposed or exists adjacent to NW Sheltered Nook Rd. Nuisance plants will be removed from the property as per Condition no. 9. A condition of approval (Condition no. 3) is included requiring the applicant to submit a planting plan prior to building plan check and to ensure the survival of the proposed mitigation plantings for the life of the structure (Condition no.9). *As conditioned, the above criteria are met.*

- 6.24 (5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, the wildlife conservation plan must demonstrate the following:**

* * *

Staff: The Applicant qualified for the mitigation measures in (C)(4) above. Therefore, the Applicant does not need to meet (C)(5). *This criterion is not applicable.*

- 6.25 (6) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.**

Staff: No protected aggregate and mineral resources within a PAM overlay are included in the proposal. *Therefore, the above criteria is not applicable.*

- 6.26 (D) Optional Development Impact Area (DIA). For the purpose of clustering home sites together with related development within the SEC-h overlay, an applicant may choose to**

designate an area around the home site for future related development and site clearing. For the purposes of establishing the appropriate mitigation for development within the DIA, existing vegetation within the DIA is presumed to be ultimately removed or cleared in the course of any future development within the DIA. Establishment of a DIA is subject to all of the applicable provisions in this section and the following:

* * *

Staff: The Applicant did not request an optional DIA as part of the proposal. *Therefore, the above criteria is not applicable.*

7.0 Geologic Hazards Criteria:

7.1 MCC 39.5075 Permits Required

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

* * *

Staff: The submitted application materials demonstrate the project qualifies for an exemption per MCC 39.5080. Staff addresses the exemption requirements in section 7.2 below. *Criteria met.*

7.2 MCC 39.5080 Exemptions

Ground disturbing activity occurring in association with the following uses is exempt from GH permit requirements:

(A)An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished depth greater than four feet.

* * *

(N)Uses not identified in subsections (A) through (M) that meet all of the following requirements:

- (1) Natural and finished slopes will be less than 25 percent; and,
- (2) The disturbed or filled area is 20,000 square feet or less; and,
- (3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,
- (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,
- (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

- (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified; and,
 (7) The use will occur outside the Tualatin River and Balch Creek drainage basins.

* * *

Staff: The proposal is for an addition that will be subject to a building permit. Per the submitted application materials (Exhibit A.8, A.12, and A.15), the natural and finished slopes are less than 25 percent, the disturbed area is less than 20,000 square feet, volume of soil to be stored is less than 50 cubic yards, and new impervious surfaces are less than 10,000 square feet. Per the submitted Storm Water Certificate, runoff is controlled through the use of gutter, downspout, and splash block drainage control system (Exhibit A.11). The subject property is within the Columbia Watershed. The Columbia Watershed is located outside of the Tualatin River and Balch Creek drainage basins. Therefore, the ground disturbing activity associated with the project is exempt from the Geologic Hazard permit requirements. *Criteria met.*

8.0 Conclusion:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the SEC-s, SEC-h, and SEC-v permits to establish an addition in the RR zone. This approval is subject to the conditions of approval established in this report.

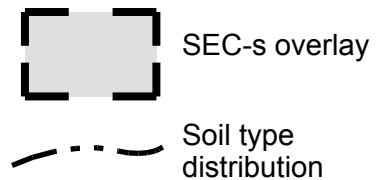
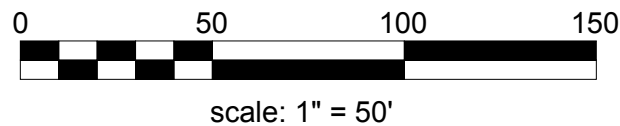
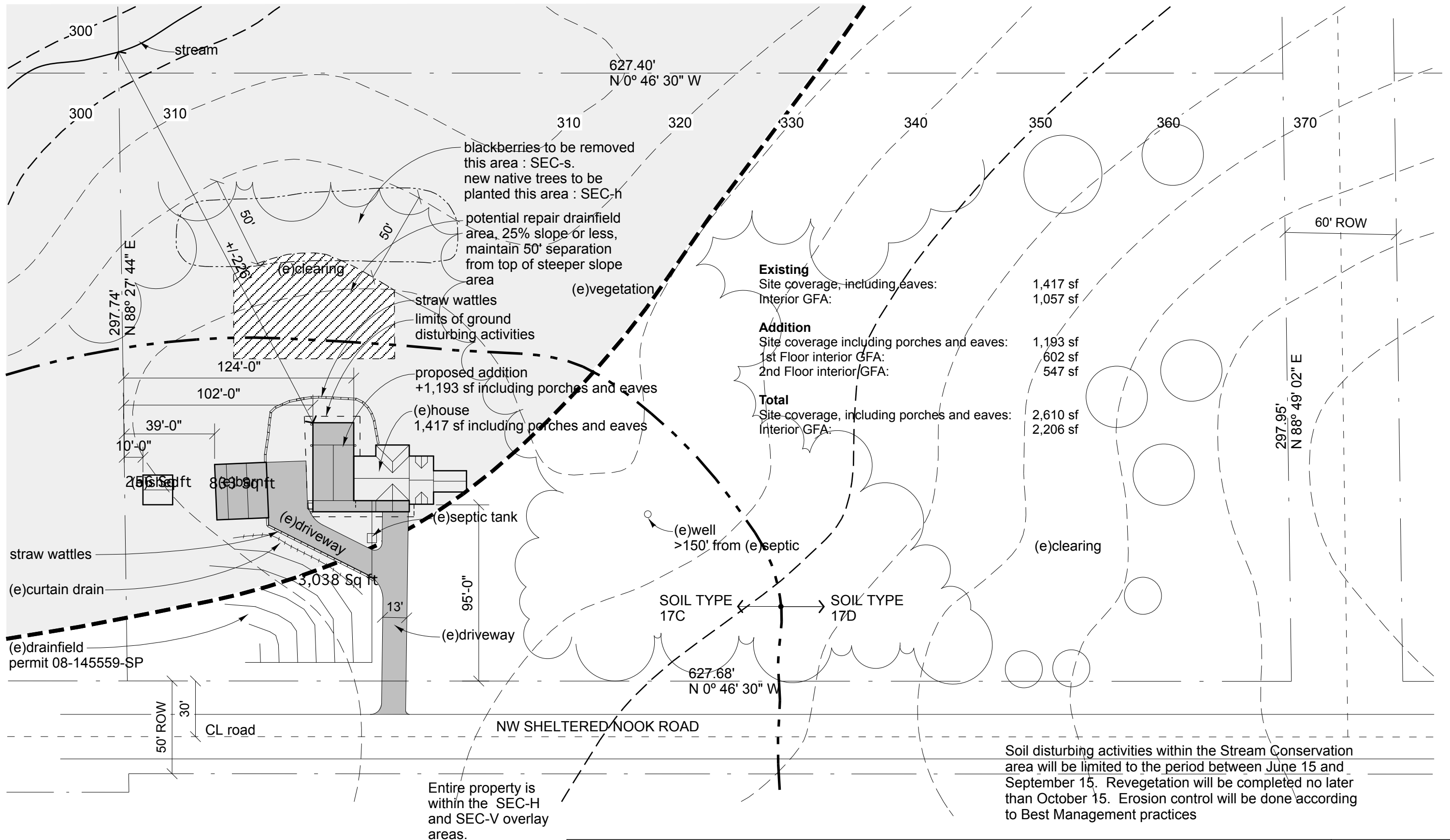
9.0 Exhibits:

- ‘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. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for digital review in Case File T2-2020-13783.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	09.23.2020
A.2	2	General SEC Narrative	09.23.2020
A.3	1	Site Plan	09.23.2020
A.4	8	Building Plans and Elevations	09.23.2020
A.5	3	SEC-h Narrative	09.23.2020
A.6	1	SEC-v Narrative	09.23.2020
A.7	4	SEC-s Report	09.23.2020
A.8	1	Geologic Hazards Exemption Narrative	09.23.2020

A.9	17	Septic Review Certification (unsigned)	09.23.2020
A.10	6	Fire Service Agency Review	09.23.2020
A.11	25	Stormwater Report	09.23.2020
A.12	2	Erosion Control Statement	09.23.2020
A.13	27	Transportation Planning Review	09.23.2020
A.14	1	Land Use Submittal Transmittal	09.23.2020
A.15*	1	Revised Site Plan	01.19.2021
A.16	12	Revised SEC-s Report	01.19.2021
A.17	6	Septic Review Certification (signed)	01.19.2021
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 2N2W24D -01400 (Alt Acct# 764201510)	09.23.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 2N2W24D	09.23.2020
‘C’	#	Administration & Procedures	Date
C.1	3	Incomplete letter	10.16.2020
C.2	1	Applicant’s acceptance of 180 day clock	10.16.2020
C.3	1	Complete letter (day 1)	01.21.2021
C.4	8	Opportunity to Comment	03.11.2021
C.5	22	Administrative Decision	05.10.2021
‘D’	#	Comments	Date
D.1	1	Comments from Mark T. & Ray F.	03.25.2021



16011 NW Sheltered Nook Road, Portland OR 97231

Architect: Lorraine Guthrie Architect, Inc. 2748 SW Patton Court, Portland OR 97201 503.804.5725
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PROPOSED SITE PLAN

11 December 2020

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