



NW Engineers, LLC
3409 NE John Olsen Avenue
Hillsboro, OR 97124
Phone (503) 601-4401
Fax (503) 601-4402
Website www.nw-eng.com

December 2, 2019

APPLICANT'S STATEMENT

APPLICANT/OWNER: Dieter Waiblinger
609 NE 84th Circle
Vancouver, Washington 98665

APPLICANT'S REPRESENTATIVE:
NW Engineers, LLC
Matthew Newman
3409 NE John Olsen Avenue
Hillsboro, Oregon 97124

REQUEST: Type III Conditional Use Permit for location of a house in the Protected Aggregate Mineral Impact Area (PAM-IA) Overlay, Implementation of State Measure 49 approval, Significant Environmental Concern for Wildlife Habitat (SEC-h) permit, Geologic Hazard permit for residential development, Variance to Secondary Fire Safety Zone, Forest Practices Standards and Setbacks for property in the CFU-2 zone.

MEASURE 49 STATE FINAL ORDER #: E118605

LEGAL DESCRIPTION: Tax Lot 703; Tax Map 2N1W 32B
Multnomah County, Oregon

SIZE: 15.07 Acres per Partition Plat No. 2012-047

ADDRESS: 13195 NW McNamee Road
Portland, Oregon 97231

LOCATION: South side of NW McNamee Road north of NW Skyline Blvd.

LAND USE DISTRICT: CFU-2 District

RELATED CASEFILES: T3-2015-3856, T3-2012-2097, T3-2010-907; SEC 17-97; HDP 3-95

I. APPLICABLE REGULATIONS

A. Multnomah County Comprehensive Plan

B. 2019 Multnomah County Code:

Section 39.4050	Commercial Forest Use CFU-2
Section 39.5500	Significant Environmental Concern
Section 39.4155	Exceptions to Secondary Fire Safety Zones
Section 39.5860	Criteria for Approval of Sec-H Permit
Section 39.5070	Geologic Hazard Overlay
Section 39.5435	Impact Area (PAM-IA) Overlay
Section 39.820	Variance Approval Criteria
DLSC Conditions	Modification of Measure 49

II. AFFECTED JURISDICTIONS

Fire Protection:	Tualatin Valley Fire & Rescue District
Police Protection:	Multnomah County Sheriff
Schools:	Portland School District
Water:	Well
Roads:	Multnomah County
Drainage:	Multnomah County

III. INTRODUCTION/BACKGROUND

Dieter Waiblinger (Applicant/Owner), request Conditional Use Permit for location of a house in the Protected Aggregate Mineral Impact Area (PAM-IA) Overlay, Implementation of State Measure 49 approval, Significant Environmental Concern for Wildlife Habitat (SEC-h) permit, Hillside Development permit for residential development, Variance to Secondary Fire Safety Zone, Forest Practices Standards and Setbacks for property in the CFU-2 zone.

The 15.07-acre site was created in 2012 per Partition Plat No. 2012-047, and Case T3-2012-2097, is within the Commercial Forest Use-2 Zone with Protected Aggregate and Mineral Sites (PAM-IA) Impact Overlay, Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay, Significant Environmental Concerns for Stream (SEC-s), and Hillside Development (HD) overlay. The property is also located in the West Hills Rural Plan Area. No modification to the PAM Impact Overlay is proposed with this application. The Case T3-2012-2097 Decision of the Hearings Officer is attached as Exhibit 14. Partition Plat No. 2012-047 is attached as Exhibit 11.

The purpose of this application is for construction of a dwelling on Parcel 3. The applicant needs to demonstrate that the Luethe's Measure 49 approval (E118605) is still valid since the property has been sold to Waiblinger. Mr. Waiblinger has ten years to construct the dwelling but only closed on the property in 2018. Additional criteria include Conditional Use Permit for location of a house in the Protected Aggregate Mineral Impact Area (PAM-IA) Overlay, Commercial Forest Use 2 standards, Variance criteria to Forest Practices Setbacks, HEC and HDP standards, and a Variance to the Secondary Fire Safety Zone. These criteria were all addressed previously but the land use application has expired.

As shown on the attached plans and photos, the Luethe's imported fill in 2016 along the access road and hillside for stabilization. It appears, however, that the fill activities were located entirely on Parcel 2. GeoPacific Engineers has studied this portion of the development site on Parcel 2, and Northwest Surveying, Inc. has provided an updated topographic survey of this area as well. GeoPacific Engineers also have reviewed this Parcel 3 site which included slide restoration in 2010-2012. No changes to the site have occurred since completion of the restoration and GeoPacific Engineers have updated their report (Exhibit 13) with setback recommendations consistent with the original approval (85-ft. from the east and 130-ft. from the south property lines, as well as specific criteria from break in slope). The proposed dwelling, therefore, is located within an approved 9,773 sq. ft. angular area which is established by the above Decision, firebreak requirements and slope standards (ie - 30-ft. from any slope exceeding 40%).

The future home will be designed with enhanced 13 D fire sprinklers, fire retardant roofing and a spark arrestor over the chimney to provide maximum protection to surrounding forest properties.

The Tualatin Valley Fire & Rescue District Deputy Fire Marshal Drew DeBois has reviewed the current site plan. The Fire Agency Review form is attached as Exhibit 15.

A complete site description and project history is provided in Case T3-2012-2097. Additional information is provided later in this report and attached exhibits. In summary, the Parcel 3 location was chosen because it is the only relatively level portion on Parcel 3 and access from the road is provided. The homesite is located approximately 200-ft. from NW McNamee Road. Although the site is within the PAM-IA Overlay, the quarry is on the other side of the ridge and there is no apparent noise or dust impacts on this residential site.

Detailed site, grading and erosion control plans have been prepared for the proposed home site. As shown on Exhibits 5 & 6, the future home is located within the angular area that meets the firebreaks, given the topographic and access site constraints. The home is located at least 30-ft. from the "break in slope" on all sides.

Regarding grading, erosion control and stormwater management, Exhibit 6 is provided to demonstrate site grading and drainage above the break in slope is feasible. Two sealed flow-thru planters are provided - one on each side of the house - with flow dispersal trenches, are proposed to limit impacts of stormwater from the house rain drains and driveway on the slope. Storm water disposal can be slowed to pre-development levels and placed safely on the edge of the site - away from the slope and septic drain field as recommended by Geopacific Engineers. This will keep storm water from eroding the slope or impacting the drain field. A preliminary storm drainage report is attached as Exhibit 18. Final grading, drainage and erosion control plans will be prepared prior to building permit submittal in accordance with the conditions of this application.

As noted, the home will maintain a minimum 130-ft. setback from the south property line adjacent to the METRO property. The setback is much greater to the west and north – more than 850-ft. and 350-ft., respectively, and more than 85-ft. to the east. Related Exhibits 4 & 7 provide a slope analysis and details which graphically provide evidence that the proposed homesite is located in the only practical site on the parcel.

IV. FINDINGS

MULTNOMAH COUNTY COMPREHENSIVE PLAN

COMMENT:

Except where required by the Multnomah County Code, this application is not required to address goals and policies related to the development of land, since the Multnomah County Comprehensive Plan is implemented by the code.

Modification of Conditions Established in Prior Case Measure 49 Forest Dwelling Review

COMMENT:

This application demonstrates compliance with DLCD Measure 49 Conditions.

Mr. & Mrs. Luethe; received Measure 49 Final Order and Home Site Authorization #E118605 from the Oregon Department of Land Conservation and Development dated September 22, 2009. On Page 5 of that Decision, the Final Order concludes that “the three home site approvals the claimants qualify for under Section 6 of Measure 49 will authorize the claimants to establish up to one additional lot or parcel and two additional dwellings on the Measure 37 claim property”

Partition Plat No. 2012-047 has been recorded creating the one additional lot authorized by the order (two original lots of record were re-recorded resulting in a 3-parcel partition). This order authorized two additional dwellings to be constructed on Parcels 2 & 3. The applicable conditions related to the dwellings since the lots have already been created are as follows:

1. Each dwelling must be on a separate lot or parcel, and must be contained within the property on which the claimants are eligible for Measure 29 relief....

COMMENT:

This proposal is to construct a dwelling on Parcel 3 of Partition Plat No. 2012-047, a lawfully created lot of record approved per Final Order and Home Site Authorization #E118605 and Case T3-2012-2097.

2. This home site authorization will not authorize the establishment of a land division or dwelling in violation of a land use regulation described in ORS 195.305(3) or in violation of any other law that is not a land use regulation as defined by ORS 195.300(14).

COMMENT:

This proposal to construct a dwelling does not violate ORS 195.305(3), or any other law that is not a land use regulation as defined by ORS 195.300(14).

3. A claimant is not eligible for more than 20 home site approvals...

COMMENT:

This proposal is to construct a single home. Total number of M49 homes authorized to Mr. & Mrs. Luethe are three dwellings (including the existing home). Parcel 3 has now been sold to Dieter Waiblinger.

4. The number of lots, parcels or dwellings a claimant may establish under this home site authorization is reduced by the number of lots, parcels and dwellings currently in existence...

COMMENT:

Partition Plat No. 2012-047 created one additional parcel since two legal tax lots existed previously. Two new homes are authorized since there is one existing home on the M49 property. This application is for the homesite on Parcel 3.

5. Temporary dwellings are not considered in determining the number of existing dwellings...

COMMENT:

No temporary dwellings exist on the property.

6. A home site approval only authorizes the establishment of a new lot, parcel or dwelling on the property on which the claimants are eligible for Measure 49 relief...

COMMENT:

The proposed dwelling is located on property authorized by the M49 approval.

7. The claimants may use a home site approval to convert a lot, parcel or dwelling currently located on the property on which the claimants are eligible for Measure 49 relief to an authorized home site...

COMMENT:

No lot or dwelling conversion is proposed.

8. The claimants may not implement the relief described in this Measure 49 Home Site Authorization if a claimant has been determined to have a common law vested right to a use...

COMMENT:

This condition is not applicable to this application or the M49 approval.

9. A home site approval does not authorize the establishment of a new dwelling on a lot or parcel that already contains one or more dwellings...

COMMENT:

Parcel 3 is currently vacant.

10. Because the property is located in a forest zone, the home site authorization does not authorize new lots or parcels that exceed five acres...

COMMENT:

Parcel 3 is the 15.07-acre remnant parcel.

11. Because the property is located in a forest zone, Measure 49 requires new home sites to be clustered so as to maximize suitability of the remnant lot or parcel for farm or forest use. Further, if an owner of the property is authorized by other home site authorizations...

COMMENT:

This condition was implemented by Case T3-2012-2097. Parcel 3 was established as the remnant parcel for forest use.

12. If the claimants transferred ownership interest in the Measure 37 claim property prior to the date of this order...

COMMENT:

Mr. & Mrs. Luethe have transferred ownership interest in the Measure 37 property, Parcel 3, in 2018.

13. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit...

COMMENT:

The new owner (Waiblinger) is aware that the building permit is required to develop the site.

MULTNOMAH COUNTY CODE

CHAPTER 39

PART 4 – BASE ZONES

PART 4.A.1 – COMMERCIAL FOREST USE DISTRICTS (CFU)

39.4050- PURPOSES.

- (A) The purposes of the Commercial Forest Use Base Zones (CFU) are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement applicable Comprehensive Plan policies, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.
- (B) One of the implementation tools to carry out the purposes of the CFU is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.
- (C) The CFU Base Zones are: CFU, CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5. These zones may be referred to collectively as the "CFU" because all standards and requirements applicable to the specific CFU base zone itself also apply to each of the other zones except as expressly stated otherwise.

39.4055 AREA AFFECTED.

MCC 39.4050 through 39.4155 shall apply to those lands designated CFU (CFU, CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5) on the Multnomah County Zoning Map.

COMMENT:

The site is located in the CFU-2 zone.

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:

Table 1.

Use Description of use and location	Forest Practice Setbacks		Fire Safety Zones	
	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements
Template Dwelling	N/A	30	130	Primary &Secondary required

COMMENT:

Although this is a Measure 49 dwelling rather than a template dwelling, the same setbacks apply.

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

COMMENT:

The applicant requests approval of a variance to reduce the Forest Practices setback on the east side from 130-ft. to 85-ft. The previous approval granted this setback.

(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.

COMMENT:

The 30-ft. Primary Fire Safety Zone is maintained on all sides. An Exception to the Secondary Fire Safety Zone is requested to 55-ft. on the east side. Again this reduction was approved in the original application.

(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.

COMMENT:

This section is not applicable.

(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.

COMMENT:

No trees are located within the 30-ft. Primary Fire Safety Zone on all sides. Slope of this area is less than 10%

(2) Secondary Fire Safety Zone.

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 39.4155.

COMMENT:

Tree are located downslope in all directions. They shall be limbed in accordance with these standards.

- (3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

COMMENT:

Trees will be managed within the firebreaks where proposed.

- (4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

COMMENT:

Required Primary and Secondary Fire Safety Zones are provided on the attached plans in accordance with the standards in Table 1 as modified by the variance request.

- (5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

COMMENT:

The property owner will maintain the firebreaks as required.

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):

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

COMMENT:

This section is not applicable.

- (B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

- (1) The structure shall satisfy the following requirements:

- (a) To meet the Forest Practices Setback, the structure shall be located a minimum of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;
- (b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;
- (c) The entirety of the development site is less than 30,000 square feet in total cleared area, not including the drive-way;
- (d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;
- (e) The local Fire Protection District verifies that their fire apparatus are able to reach the structure using the proposed driveway; or

COMMENT:

The proposed dwelling does not comply with the above standard (except d), therefore subsections (B)(2) and (B)(3) are addressed as follows:

(2) The structure shall satisfy the following requirements:

- (a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 39.4110;**

COMMENT:

The proposed plan has the least impact on surrounding lands based on the location of the proposed dwelling. As shown on Exhibit 2, the proposed dwelling is adjacent to forest lands in all directions. The proposed dwelling complies with the primary fire break standards of MCC 39.4110 which includes 30-ft. in all directions with a modified secondary firebreak to the east. The proposal has the least impacts to surrounding farm and forest uses since no farm use exists within well over 1,000-ft. to the west since this area is the access used by METRO to service the property.

Regarding the adjacent METRO property to the south, the proposed home is located 130-ft. from the property line and at a higher elevation. Any future farm or forest uses would be located at a lower elevation since this area slopes away from the house at 10% or greater. Application of pesticides or other chemicals typically used in managed farm or forest uses would be at a lower elevation than the residence – thus limiting impacts to the adjoining forest lands. Additionally, fire danger risks to adjacent forest and agricultural lands are minimized since proposed home will install an enhanced 13 D (fire sprinkler) system and provide the Class A envelope, as required by the Fire Marshal (See Exhibit 15).

- (b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**

COMMENT:

The proposed plan preserves all forestlands on-site for future operations. There are no farm uses on the parcel. The proposed dwelling is located on the only buildable portion of the parcel away from the steep, natural portion of the site.

- (c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**

COMMENT:

The plan minimizes impacts due to road construction to the extent practicable. No impact to forestland is expected due to road construction for the Parcel 3 private road/driveway access. The permit for access construction was issued by Multnomah County on September 12, 2019. A copy of the permit is attached as Exhibit 19. The proposed private road route was constructed/repared in 2012 as part of the slide repairs. No impacts to forestland is proposed with this plan.

- (d) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

COMMENT:

The access road on Parcel 3 is approximately 200-ft. in length.

- (3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

- (a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access;
- (b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source;

COMMENT:

The site is within the TVF&R District. A 4,000 gallon water supply shall be provided on-site adjacent to the driveway access. Preliminary approval from Drew Debois, Deputy Fire Marshal, is attached as Exhibit 15.

- (C) The dwelling or structure shall:

- (1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 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.

COMMENT:

The proposed site-built home will be built in accordance with these standards.

- (D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

- (1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.
- (2) Evidence of a domestic water supply means:
 - (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 - (b) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

COMMENT:

The applicant will construct a well prior to completion of the home. The well will be exempt from permitting requirements under ORS 537.545. The well contractor's report will be filed upon completion of the well.

SECTION 39.8200 ADJUSTMENTS AND VARIANCES

39.8200- ADJUSTMENTS AND VARIANCES; GENERALLY.

- (A) MCC 39.8200 through MCC 39.8215 (Adjustments and Variances) are designed to implement the Policies of the Comprehensive Plan. However, it is also recognized that because of the diversity of lands and properties found in the county there should be a zoning provision that permits justifiable departures from certain Zoning Code dimensional standards where literal application of the regulation would result in excessive difficulties or unnecessary hardship on the property owner.

COMMENT:

The applicant requests a setbacks Adjustment to the 130-ft. forest setback standard for a proposed dwelling. An 85-ft. setback had been approved through an Adjustment in Case T3-2012-2097.

- (B) To address those situations, modification of the dimensional standards given in MCC 39.8205 may be permitted if the approval authority finds that the applicant has satisfactorily addressed and met the respective approval criteria in MCC 39.8210, Adjustments, or 39.8215, Variances. If an Adjustment or Variance request is approved, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

COMMENT:

The request for an Adjustment is addressed in the approval criteria below.

- (C) The Adjustment review process provides a mechanism by which certain dimensional standards may be modified no more than 40 percent if the proposed development continues to meet the intended purpose of the regulations. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the regulation.
- (D) The Variance review process differs from the Adjustment review by providing a mechanism by which a greater variation from the standard than 40 percent may be approved for certain zoning dimensional requirements. The Variance approval criteria are based upon the traditional variance concepts that are directed towards consideration of circumstances or conditions on a subject property that do not apply generally to other properties in the same vicinity.
- (E) All proposed modification of the dimensional standards given in MCC 39.8205(A)(2) shall be reviewed under the Variance review process regardless of the proposed percentage modification.

COMMENT:

The applicant requests a setbacks adjustment to the 130-ft. forest setback standard for a proposed dwelling. Since the request reduces the setback to 85-ft. on the east side of the dwelling, the adjustment approval criteria of 39.8210 must be addressed.

39.8205 SCOPE

- (A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:
 - (1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts are prohibited. Additionally, reductions to the fire safety zones in the Commercial Forest Use zones are not allowed under the Adjustment process; and
 - (2) Reduction of yards and setback requirements within the Geologic Hazards Overlay (GH) shall only be reviewed as a Variance; and
 - (3) Reduction of yards/setback/buffer/resource protection setback requirements within the Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be reviewed as Variances; and
 - (4) Minor modification of yards and setbacks in the off-street parking and design review standards are allowed only through the "exception" provisions in each respective Code section.

COMMENT:

As noted above, the request is for an adjustment to the forest practices setback.

(B) Dimensional standards that may be modified under a Variance review are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, building height, sign height, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

- (1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlays; and**
- (2) Modification of fire safety zone standards given in Commercial Forest Use base zones; and**
- (3) Increase to any billboard height or any other dimensional sign standard.**

COMMENT:

The request is to modify the 130-ft. forest practices setback as authorized by this subsection.

(C) The dimensional standards listed in (A) and (B) above are the only standards eligible for Adjustment or Variance under these provisions. Adjustments and Variances are not allowed for any other standard including, but not limited to, minimum lot area, modification of a threshold of review (e.g. cubic yards for a Large Fill), modification of a definition (e.g. 30 inches of unobstructed open space in the definition of yard), modification of an allowed density in a Planned Development or houseboat moorage, or to allow a land use that is not allowed by the Base zone.

COMMENT:

The forest practices setback is a dimensional standard eligible for an adjustment.

39.8210 ADJUSTMENT APPROVAL CRITERIA

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (E) are met:

(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

COMMENT:

Granting of the adjustment for forest practices setbacks will equally or better meet the purpose of the regulation since the homesite is open and clear of trees – one of the only places on the site that is not forested or steep.

(B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for

adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

COMMENT:

Impacts from the forest setback reduction from 130-ft. to 85-ft. is mitigated by the secondary firebreak. METRO owns the adjacent property – there likely will not be any development on this portion of the property. Additionally, the adjacent forestland will be protected.

(C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the base zone; and

COMMENT:

One adjustment is requested.

(D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and

COMMENT:

Granting of the adjustment will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands since the forest lands are located at a lower elevation generally to the south and east (on-site, slightly higher off-site). Firebreaks will be in place to protect adjacent forestlands. Additionally, the home will be protected as follows:

- *A full primary fire break*
- *Class A fire retardant roof covering*
- *Class A fire retardant exterior siding-cladding*
- *An enhanced NFPA 13 D fire sprinkler system throughout the home inclusive of the garage with a minimum of a 500 gallon water supply.*

Any future timber harvest on METRO lands will be at least 85-ft. from the proposed dwelling. Additionally, there are no nearby farmlands.

(E) If in the Rural Residential (RR), Rural Center (RC), Burlington Rural Center (BRC), Orient Residential (OR), Orient Commercial/Industrial, Pleasant Hill Rural Center, or Springdale Rural Center base zone, the proposal will not significantly detract from the livability or appearance of the residential area.

COMMENT:

This section is not applicable.

SECTION 39.4155:

EXCEPTIONS TO SECONDARY FIRE SAFETY ZONES

- (A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of 39.4155 (B) when:
- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or
 - (2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties including the subject site; or
 - (3) The proposed dwelling or structure is intended to be located within 130 feet of a legally existing dwelling or structure.

COMMENT:

None of the above criteria above apply, however, Case File: T3-2-12-2097 approved a reduction in the secondary fire break from 100-ft. to 55-ft. on the east side of the site based on topographic constraints.

- (B) Exceptions to secondary fire safety zones shall only be granted upon satisfaction of the following standards:
- (1) If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban- Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or
 - (2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and
 - (3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and
 - (4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of subsection (B) (1) above are utilized, or
 - (5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of subsection (B) (2) above are utilized.
- Exception: Expansions of existing single family dwellings as allowed by MCC 39.4075 (A) shall not be required to meet this standard, but shall satisfy the standard of MCC 39.4115(C)(3).
- (6) All accessory structures within the fire safety zone setbacks required by MCC 39.4110, and all accessory structures within 50 feet of a dwelling, shall have a central monitored alarm system.

- (7) All accessory structures within 50 feet of a building containing shall have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.
- (8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban- Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction.

COMMENT:

The secondary firebreak for the proposed dwelling will be reduced to 55-ft. on the east side due to the proximity of the property line. The dwelling will be fitted with an enhanced 13 D fire sprinkler system and alarms as required (See Fire Marshal preliminary approval, Exhibit 15). No combustible fencing will be constructed within 12-ft. of the dwelling. No accessory buildings are proposed at this time. However, future property owners shall comply with this code if they choose to construct an accessory structure.

5.G – PROTECTED AGGREGATE AND MINERAL SITES (PAM)

SECTION 39.5400 PURPOSES.

The purposes of the Protected Aggregate and Mineral Resources Overlay, MCC 39.5400 through MCC 39.5445 (PAM) are:

- (A) To provide a mechanism to identify and, where appropriate, protect significant aggregate and mineral resource sites;
- (B) To allow surface mining subject to uniform operating standards; and
- (C) To regulate conflicts with surface mining activities.

COMMENT:

The purpose of the PAM Overlay is to protect significant aggregate and mineral resources – in this case – from surrounding development impacts.

SECTION 39.5405 AREA AFFECTED.

This Overlay shall apply to those lands designated PAM on the Multnomah County Zoning Map. On the Zoning Map shall also be a reference to the relevant site-specific Comprehensive Plan documents.

COMMENT:

As shown on Exhibit 2, the development site is within the PAM-IA Overlay.

SECTION 39.5435 IMPACT AREA (PAM-IA) - ALLOWED USES.

- (A) Except as provided in this Section, all uses allowed in the base zone are allowed in the PAM-IA when found to satisfy the applicable approval criteria given in such zone.

COMMENT:

This section was addressed and approved per Case T3-2012-2097. Residential uses are permitted in the PAM-IA Overlay through a Conditional Use Permit.

- (B) Uses identified through the Goal 5 process to be prohibited within the PAM-IA shall not be permitted;

COMMENT:

No new Goal 5 uses are proposed.

- (C) Noise or dust sensitive uses not prohibited in (B) may be permitted under the conditional use procedural provisions of MCC 39.7000 through 39.7035 when found by the Hearing Authority to satisfy the approval criteria of MCC 39.5440 and the approval criteria of the base zone; and

COMMENT:

As noted, the proposed residential use is permitted through a Type III Conditional Use Permit.

- (D) Conflicting uses required by the Goal 5 process to be conditionally approved may be permitted under the procedural provisions of MCC 39.7000 through 39.7035 when found by the Hearing Authority to satisfy the approval criteria of MCC 39.5440 and the approval criteria of the base zone.

COMMENT:

No conflicting uses are proposed.

SECTION 39.5440 USE APPROVAL CRITERIA.

- (A) In acting to approve a use subject to this Section, the Hearing Authority shall find that:

- (1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

COMMENT:

The proposed residence is located approximately 1,000-ft. from the edge of the quarry boundary. The active portion of the quarry is closer to 3,000-ft. from the proposed homesite.

Additionally there is a ridge between the quarry and the homesite which creates a noise and dust barrier. Finally double-pane windows will be provided for noise attenuation.

- (2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this Chapter, or the terms of a state agency permit. The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, showing that applicable DEQ noise control standards are met or can be met by a specified date by the nearby mining operation; and

COMMENT:

Although unnecessary, the applicant will provide a noise analysis if required. However, as noted, the ridge provides added noise attenuation.

- (3) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date.

COMMENT:

The proposed home complies with the minimum setbacks of the Overlay District.

(B) Approval Conditions.

- (1) Compliance with the use approval criteria may be satisfied through the imposition of clear and objective conditions of approval.

COMMENT:

Conditions will be imposed on this project demonstrating compliance with the standards of this section.

- (2) Approval of any conflicting use in the extraction area or impact area shall be conditioned upon execution of a restrictive covenant in favor of the mining operator. The restrictive covenant shall incorporate all approval conditions, and an agreement not to object to the conduct of lawful operations conducted at the nearby surface mine.

COMMENT:

The applicant agrees to recordation of a restrictive covenant as noted above.

5.H - SIGNIFICANT ENVIRONMENTAL CONCERN

SECTION 39.5500: PURPOSES

The purposes of the Significant Environmental Concern Overlays, MCC 39.5500 through MCC 39.5860 (collectively, the "SEC") are to protect, conserve, enhance, restore, and maintain significant natural and human-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds,

flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

SECTION 39.5505: AREAS AFFECTED

- (A) Except as otherwise provided in MCC 39.5510 or MCC 39.5515, the SEC shall apply to those lands designated SEC on the Multnomah County Zoning Map consisting of the following resource area designations:

COMMENT:

The site is designated SEC-h and SEC-s on the Multnomah County Zoning Map.

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:
- (1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5540 through 39.5860.
 - (2) A map of the property showing:
 - (a) Boundaries, dimensions, and size of the subject parcel;
 - (b) Location and size of existing and proposed structures;
 - (c) Contour lines and topographic features such as ravines or ridges;
 - (d) Proposed fill, grading, site contouring or other landform changes;
 - (e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
 - (f) Location and width of existing and proposed roads, driveways, and service corridors.

COMMENT:

The above information was provided in the original application as modified by this proposal. Specifically, the access road and homesite location for Parcel 3 was approved through Case T3-2012-2097.

39.5850- SEC-H CLEAR AND OBJECTIVE STANDARDS.

- (A) At the time of submittal, the applicant shall provide the application materials listed in MCC 39.5520(A) and 39.5860(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in MCC 39.5860(B)(1) through (4)(a)- (c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 39.5860 may be submitted.
- (B) The proposed development shall meet the applicable storm water and grading and erosion control requirements of MCC 39.6200 through 39.6235. Ground disturbance within 100 feet of a watercourse as defined by MCC 39.2000 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.
- (C) The nuisance plants listed in MCC 39.5580 Table 1 shall not be used as landscape plantings within the SEC-h Overlay Zone.
- (D) For development that fails to meet all of the standards listed in this section, a separate land use application pursuant to MCC 39.5860 may be submitted.

COMMENT:

No ground disturbance is proposed within 100-ft. from the creek. Revegetation will be with native plants.

39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT.

- (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:
 - (1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas; For the purposes of this section, a *forested area* is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A *non-forested "cleared"* area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.
 - (2) Location of existing and proposed structures;
 - (3) Location and width of existing and pro-posed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

- (4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

COMMENT:

All forested areas and cleared areas on site and adjacent to the property have been included on the Existing Conditions plan or Aerial Photo (Exhibits 2 & 3). There are non-forested cleared areas adjacent to the Parcel 2 homesite (on Parcel 2) but only a limited clearing area for the homesite and septic drainfield on Parcel 3 (also See Septic System Approval – Exhibit 9).

(B) Development standards:

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

COMMENT:

Development of the dwelling will occur only in the non-forested "cleared" areas. Development of the Parcel 3 dwelling and access road will be less than 200-ft. from NW McNamee Road.

- (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.
- (c) Diagram showing the standards in (a) and (b) above.
- (d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County "Design and Construction Manual," adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric

Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

1. The modification shall be the minimum necessary to allow safe access onto the public road.
2. The County Road Official shall provide written findings supporting the modification.

COMMENT:

This section was addressed and approved per Case T3-2012-2097.

- (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.

COMMENT:

This section was approved per Case T3-2012-2097 and complies with this standard.

- (6) Fencing within a required setback from a public road shall meet the following criteria:
 - (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.
 - (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.
 - (c) Cyclone, woven wire, and chain link fences are prohibited.
 - (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.
 - (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.
- (7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

COMMENT:

No new fencing is proposed at this time for the proposed homesite. Any new fences shall comply with the above standards. No nuisance plants are proposed on the two sites.

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

COMMENT:

A Wildlife Conservation Plan has been approved for Parcel 2 per Case T3-2012-2097 but none was required for Parcel 3. The plan, includes revegetation of approximately 24,000 sq. ft. of degraded area with Douglas fir, Vine maple and Oregon grape. This revegetation area represents a 2:1 mitigation for that area in the Parcel 2 “flag-pole” which may be impacted by gravel road access.

GEOLOGIC HAZARDS - GH

39.5070: PURPOSES

The purposes of the Geologic Hazards (GH) Overlay, MCC 39.5070 through MCC 39.5095, are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County, all in accordance with ORS 215, LCDDC Statewide Planning Goal No. 7 and OAR 340- 41- 455 for the Tualatin River Basin, and the Multnomah County Comprehensive Plan policies relating to natural hazards. In addition, the GH is intended to:

- (A) Protect human life;
- (B) Protect property and structures;
- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment; and
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- (F) Control stormwater discharges and protect streams, ponds, and wetlands within the Tualatin River and Balch Creek Drainage Basins.

39.5075: PERMITS REQUIRED

All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the Slope Hazard Map, or on lands with average slopes of 25 percent or more shall obtain a Geologic Hazard Permit as required in the GH, unless specifically exempted in MCC 39.5080.

COMMENT:

This section was addressed and approved per Case T3-2012-2097. No changes to the roadway design are proposed with this application. The grading permit for the access road has been issued and all the necessary fill activities for Parcel 2 were completed in 2016. No modification to the roadway design is proposed with this application.

39.5085 APPLICATION INFORMATION REQUIRED

An application for development subject to the GH shall include the following:

- (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.
- (B) An estimate of depths and the extent and location of all proposed cuts and fills.
- (C) The location of planned and existing sanitary drainfields and drywells.
- (D) Narrative, map or plan information necessary to demonstrate compliance with MCC 39.5090 (A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.
- (E) A Geologic Hazard Permit may be approved by the Director only after the applicant provides:
 - (1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or
 - (2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,
 - (3) A GHP Form- 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.
 - (a) If the GHP Form- 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the GHP Form- 1, a geotechnical report as specified by the Director shall be prepared and submitted.

COMMENT:

The above information is provided on the preliminary grading plan (Exhibit 6) and in the GHP Form prepared by GeoPacific Engineering, Inc. The purpose of the Geologic Hazard Permit is to review the location of the proposed homesite relative to the adjacent steep slope. A report from GeoPacific is attached as Exhibit 13.

(F) Geotechnical Report Requirements

- (1) A geotechnical investigation in preparation of a Report required by MCC 39.5085 (E) (3) (a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.
 - (2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.
 - (3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.
 - (4) The Director, at the applicant's expense, may require an evaluation of GHP Form- 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.
- (G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 39.5090 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.

COMMENT:

The applicant's Geotechnical Engineer, GeoPacific Engineers prepared a report for the original application and a second Geotechnical report dated for this plan which included the above. The current report (Exhibit 13) specifically addresses the building site. As noted previously, GeoPacific Engineers recommends a minimum 30-ft. building setback from the "break in slope." The grading and erosion control plan, prepared by the applicant's engineer, indicates that no grading in proposed down-slope (east) of the "break in slope" and that erosion fencing and other measures are proposed above this area. A proposed flow dispersal trench is located southwest of the home and directed away from the septic drain field located south and southeast of the home.

V. CONCLUSION

Based on the above findings, the applicant has demonstrated compliance with the requirements of the relevant sections of the Multnomah County Code. Therefore, the request for Type III Conditional Use Permit for location of a house in the Protected Aggregate Mineral

Impact Area (PAM-IA) Overlay for implementation of state Measure 49 approval, Significant Environmental Concern for Wildlife Habitat (SEC-h) permit, Hillside Development permit for residential development, Exception to Secondary Fire Safety Zone, Forest Practices Standards and Setbacks for property in the CFU-2 zone should be approved.