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January 28, 2020

Case #T3-2019-12724

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 setback requirements within the Geologic Hazards Overlay, and Exception Secondary Fire Safety Zone, 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 setback requirements within the Geologic Hazards Overlay, and Exception to Secondary Fire Safety Zone 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 Leuthe'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 setback requirements within the Geologic Hazards Overlay, and an Exception to the Secondary Fire Safety Zone. These criteria were all addressed previously but the land use application has expired.

The applicant received a 'completeness' letter from Land Use Planning staff dated December 31, 2019. The completeness items are listed as follows and this narrative has been undated accordingly. The completeness items are as follows:

1. General:

- a. **Narrative:** The narrative contains numerous references to "information submitted and approved as part of the land use case no. T3-2012-2907." Please note that the aforementioned case expired in 2018 following an extension to the original application...please provide amendments or revise your narrative/submit supplemental information...

COMMENT:

Additional documents from the previous case listed below have been provided and this narrative has been updated accordingly.

- b. **Measure 49:** Please provide a copy of the...Final Order.

COMMENT:

The M49 Final Order #E118605 is attached as Exhibit 20.

- c. **Stormwater Certificate:** Steven M. White, P.E. provided a Water Quality Report for the subject property. Please have him complete the Storm Drainage Control Certificate..

COMMENT:

The Stormwater Certificate is attached as Exhibit 18.

- d. **Conditional Use Approval Criteria:** Staff is in the process of determining if your application will need to address the approval criteria listed in MCC 39.7015...

COMMENT:

The applicant will address additional criteria if requested.

2. Variance approval Criteria

- a. **As described in MCC 39.8205,** reduction of yards and setback requirements within the Geologic Hazard (GH) Overlay shall only be reviewed as a Variance...

COMMENT:

The narrative has been updated to address the Variance Approval Criteria listed in MCC 39.8215.

3. Exceptions to Secondary Fire Safety Zone

- a. Please provide an amendment to your narrative...

COMMENT:

The narrative has been updated to address the criteria listed in MCC 39.4155 (A).

4. Significant Environmental Concern Permit

- a. **Wildlife Habitat (SEC-h):** Please provide an amendment to your narrative or revise your narrative to address the Wildlife Conservation Plan criteria listed in MCC 39.5860(C)...
- b. **Streams (SEC-s)**

COMMENT:

The narrative and exhibits have been revised to address these sections. Exhibit 2 shows the extent of grading performed in 2016 on the west side of the site located a minimum 290-ft. from McCarty Creek. It also shows the proposed development site approximately 370-ft. from the creek – well outside of the 200-ft. buffer. It should be noted that the 30-ft. easement recorded on the plat does not match the centerline of the creek, which is well west of the easement. The exhibit has also been revised to include a planting/revegetation mitigation plan on the hillside where grading activities occurred in 2016. The planting plan includes Douglas fir, Vine Maple and Oregon grape as necessary. This exhibit and the updated narrative addresses the Significant Environmental Concern Permit requirements.

5. Geologic Hazards Permit

- a. **Narrative:** Please provide an amendment or revise your narrative to address the criteria listed in MCC 39.5080 and MCC 39.5090.

COMMENT:

The narrative has been revised.

- b. **Additional Information**
 - i. **MCC 39.6210:** Your materials must address the criteria listed in MCC 39.6210

COMMENT:

The narrative has been revised and the original Geotechnical Report prepared by GeoPacific Engineers, Inc. dated march 17, 2010 with revision dated October 19, 2010 is attached as Exhibit 21.

ii. Previous Grading Activity

COMMENT:

The grading/fill activities completed in 2016 were performed with observation by GeoPacific Engineering, Inc. They documented the fill and compaction activities and have provided information regarding completion of the work in a report dated January 29, 2019 prepared for a proposed Parcel 2 dwelling (See Exhibit 23). The property owner has never submitted that land use application and – as of January 2020 – it is our understanding that the property is on the market for sale. As discussed in that report, and shown on Exhibit 2, the fill activities did occur on Parcel 3 with the toe of the slope varying from 50-ft. to 90-ft. from the Parcel 2 flag pole. The previous owner filled this area with the maximum fill slope recommended by GeoPacific Engineering, Inc. to provide safe access to Parcel 2 within the flag pole. The work is now complete, stable and vegetated (with grass – the proposed vegetation plan provides Douglas fir, Vine Maple and Oregon grape for permanent restoration).

iii. Landslide Repair

COMMENT:

Exhibit 22, Final Summary Report from GeoPacific Engineering, Inc. dated February 11, 2011, has been provided to document the landslide repair that was conducted adjacent to the Parcel 3 site in 2009-2010, and completed in early 2011. The landslide occurred during the heavy snows in late 2008 and the emergency repair was necessary to ensure protection of McNamee Road. The owner applied for and received all necessary permits from Multnomah County including land use Case File #T2-09-060. In summary, the report states that “the fill is considered suitable for support of the proposed private driveway (for this Parcel 3 dwelling)”.

6. Road Rule Variance

- a. The County Transportation Planning Division requires a Road Rules Variance for your proposed driveway.**

COMMENT:

The required findings for this Road Rules Variance are provided in this narrative. The purpose of the variance is to authorize the use of the driveway which was approved per County Right-of-Way Permit #83317 dated 9/11/19 since the driveway does not meet standard sight distance requirement. Findings for approval of the driveway were provided in the original application and the applicant’s engineer at the time certified sight distance with a speed study (See Exhibit 16 dated 11/29/10. This variance provided findings which refer back to the original speed study and sight distance certification so no additional field work is provided (only the variance findings).

All required exhibits and findings have been provided in this revised land use application packet.

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.

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 and Certificate 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,” (See Exhibit 20).

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	Forest Practice Setbacks		Fire Safety Zones	
	Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)
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 an adjustment to reduce the Forest Practices setback on the east side from 130-ft. to 85-ft. The previous approval granted this setback reduction since this is located near a house on the adjacent property to the east. Findings were provided in the M49 application stating that the parcels were clustered (Parcels 1 & 2) and that there was no other buildable location on the property for a dwelling on Parcel 3. The building site is located as close to McNamee Road as possible and this reduction allows a safe encroachment into the 130-ft. 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 (total 85-ft.).

(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 adjustment 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 (if determined to be required). 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.

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 MCC 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 will 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 will be clustered with a legally existing dwelling or structure.

COMMENT:

Subsection 3 above is applicable to this application since there is an existing house on the property to the east. The house cannot be constructed within 130-ft. from the centerline of McNamee Road due to site constraints. The homesite is located as close as possible to the east property line and NW McNamee Road.

- (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 UrbanWildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or

COMMENT:

The secondary fire safety zone is 55-ft.

- (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

COMMENT:

No fences are proposed within 12-ft. of the dwelling.

- (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).

COMMENT:

A 13D sprinkler system is required (See Exhibit 15).

- (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 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 UrbanWildland 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:

No accessory structures are proposed with this application.

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 variance to the yards and setback requirements within the Geologic Hazards Overlay listed in Section 39.8215.

(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 a Variance 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:

Variance findings are as follows.

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 a Variance 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 a variance.

39.8215 VARIANCE APPROVAL CRITERIA.

The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (G) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or base zone. The circumstance or condition may relate to:

(1) The size, shape, natural features and topography of the property, or

COMMENT:

The site is unique based on topography and natural features (McCarthy Creek). There is only one location for a building site on the entire 15-acre site. Almost all of the site has very steep terrain.

(2) The location or size of existing physical improvements on the site, or

(3) The nature of the use compared to surrounding uses, or

(4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or base zone, or

COMMENT:

The proposed dwelling cannot comply with the 130-ft. setback requirement due to steep slopes on the west side of the building site. As shown on Exhibits 4 & 5, almost the entire dwelling is located within the 130-ft. setback. Without the proposed setback reduction, there would be no buildable area on the site.

(5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.

(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.

COMMENT:

The need for the variance is not a result solely from the applicant/property owner. The approved M49 identified this site as the 3rd homesite since there was no other location on the entire site that was reasonably-sized for the homesite.

(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.

COMMENT:

As noted, there is no other location on the 15-acre site where a home can be built without the need for a variance or other adjustment which would result in greater impacts due to the GH and SEC Overlays.

(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or base zone in which the property is located, or adversely affects the appropriate development of adjoining properties.

COMMENT:

No impact to surrounding properties will result from the approval of this variance. The home will be protected with a 16D fire sprinkler system.

(E) The Variance requested is the minimum necessary variation from the Code requirement which would alleviate the difficulty.

COMMENT:

The variance is the minimum necessary to create a buildable site as shown on the attached Exhibits 4 & 5.

(F) Any impacts resulting from the variance 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.

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 and mitigate any impacts.

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.

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 is provided on Exhibits 1-6.

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). Due to the grading/fill activities performed on the west side of Parcel 3 during 2014-16, some impacts to the SEC-H occurred, therefore the applicant proposes a replanting plan on the fill-slope as shown on Exhibit 2.

(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:

A Road Rules Variance is requested for the proposed access recently approved and constructed as part of County Right-of-Way Permit #83317 dated 9/11/10. As shown in the following findings, the proposed (now constructed) access is the only safe location for an access on the east side of the site.

- (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 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.

COMMENT:

No fencing is proposed with this application.

- (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 nuisance plants are proposed on the development site.

(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. Additionally the applicant proposes a Wildlife Conservation Plan for Parcel 3 to mitigate for the fill activities that occurred on the west side of the site in 2014-16. The plan proposes planting an area of approximately 24,000 sf on the fill slope with Douglas fir, Vine Maple and Oregon grape as necessary (See Exhibit 2).

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

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

COMMENT:

No forest areas were cleared with the fill activities on the west side of the site based on a review of aerial photos from 2012 or earlier. Additionally, no forest area will be cleared for construction of the proposed dwelling, access and related improvements as shown on Exhibit 2.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

COMMENT:

As noted, no areas have been or will be cleared for this development.

- (c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

COMMENT:

No fencing is proposed with this proposal.

- (d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

COMMENT:

Although no area has been cleared, the bottom (east) portion of the fill area included approximately 12,000 sf of native vegetation. Therefore the proposed revegetation area of the fill slope is 24,000 sf as shown on Exhibit 2.

- (e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.

COMMENT:

No stream riparian area has been disturbed.

- (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.

COMMENT:

The proposed Wildlife Conservation Plan is shown on Exhibit 2. The plan includes Douglas fir, Vine Maple and Oregon grape as necessary. It will be installed in spring 2021 or prior to occupancy of the dwelling, whichever comes first.

- (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:

COMMENT:

This section is not applicable.

- (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.

COMMENT:

The proposal is in compliance with the above criteria.

- (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:

COMMENT:

The applicant is no proposing clustering homesites.

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, LCDC 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:

A preliminary grading plan for site improvements is attached as Exhibits 6 & 7. Additionally, as noted, grading/fill activities on the west side of the site were concluded in 2016 and monitored by GeoPacific Engineers, Inc. (See attached reports). A variance is requested for a reduction of yards and setback requirements within the GH (provided previously in this report).

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.
- (B) Cemetery graves, but not cemetery soil disposal sites.
- (C) Excavations for wells, except that sites in the Tualatin River drainage basin shall comply with OAR 340-041-0345(4) for spoils or exposed areas.
- (C) Mineral extraction activities as regulated by MCC 39.7300 through 39.7330, except that sites in the Tualatin River drainage basin shall comply with OAR 340- 041-0345(4) for spoils or exposed areas.
- (E) Exploratory excavations under the direction of a Certified Engineering Geologist or Geotechnical Engineer.
- (F) Farming practices other than filling or the placement of structures.
- (G) Residential gardening disturbing less than 5,000 square feet of ground surface area and landscape maintenance disturbing less than 10,000 square feet of ground surface area when either activity is at least 100 feet from the top of the bank of any watercourse located at a lower elevation to and in the surface drainage path of the ground disturbing activity. Landscape maintenance includes normal planting,

transplanting, and replacement of trees and vegetation. Landscape maintenance does not include preparatory ground disturbing activity for a development project.

- (H) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.
- (I) Forest practices.
- (J) Ground disturbing activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.
- (K) Decommissioning or replacing an underground storage tank(s), such as a septic, oil, or other similar tank(s), but not including a sanitary drainfield, provided that:
 - (1) Any contaminated excavated material is handled in accordance with law, whether through treatment, being transported to and deposited at an off-site facility certified and willing to accept the material, or other direction from the Oregon Department of Environmental Quality, and
 - (2) Any replacement tank(s) is placed in the same location as the tank(s) being replaced.
- (L) Placement and replacement of mailbox posts, fence posts, sign posts, utility posts or poles, and similar support structures, but not including any post or pole that provides structural support to a building requiring a structural building permit.
- (M) Boring for utilities in a public road right-of-way, provided such activity does not occur within 100-feet of a water body and is completed within 48-hours of commencement. Completion includes final compaction of earthen materials within any trench and removal and lawful disposal or deposit of any excess excavation or fill material from the site of the activity.
- (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.

(O) Placement of gravel or asphalt for the maintenance of existing driveways, roads and other travel surfaces. (Ord. 1271, Amended, 03/14/2019)

COMMENT:

The proposal is no exempt from a grading permit since a new home and driveway is proposed.

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 in-formation contained in the GHP Form- 1, a geotechnical report as specified by the Director shall be prepared and sub-mitted.

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. Two proposed flow dispersal trenches are located on each side of the home and directed away from the septic drain field located south and southeast of the home.

39.5090 GEOLOGIC HAZARDS PERMIT STANDARDS.

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

- (A) The total cumulative deposit of fill on the site for the 20-year period preceding the date of the application for the GH permit, and including the fill proposed in the GH permit application, shall not exceed 5,000 cubic yards. For purposes of this provision, the term "site" shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.
- (B) Fill shall be composed of earth materials only.
- (C) Cut and fill slopes shall not exceed 33 percent grade (3 Horizontal: 1 Vertical) unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that a grade in excess of 33 percent is safe (including, but not limited to, not endangering or disturbing adjoining property) and suitable for the proposed development.
- (D) Unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point shall meet a setback from any property line of a distance at least twice the height of the cut or fill, unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that the cuts or fills will not endanger or disturb adjoining property. All unsupported finished cuts and fills greater than 4 feet in height at any point shall require a Certified Engineering Geologist or Geotechnical Engineer to certify in writing that the cuts or fills will not endanger or disturb adjoining property.

COMMENT:

The fill volume exceeded 5,000 cy but this was due to a landslide with repairs necessary to protect McNamee Road, as well as to provide safe access to Parcel 2. The design of the fill was in accordance with these standards and monitored by GeoPacific Engineers, Inc. copies of the Geotechnical Reports are attached as Exhibits 13, 21, 22 & 23.

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

COMMENT:

The fill does not encroach into any portion of McCarthy Creek.

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

COMMENT:

This Section is not applicable.

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

COMMENT:

The fill exceeded 100-ft. from the top of bank of McCarthy Creek.

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

COMMENT:

Any additional stripping necessary for construction of the access road and home will be performed in a manner which minimizes soil erosion. It is unlikely that the site will require a 1200cn permit.

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

COMMENT:

Cut and fills are minimized to are area around the house since a portion of the structure is cut several feet below grade.

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

COMMENT:

Erosion control measures using temporary vegetation and/or mulch will be used to protect exposed soil during construction.

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

- (1) A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;

- (2) The buffer required in subsection (K)(1) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment, and stormwater control

measures designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River drainage basin in OAR 340-041-0345(4).

COMMENT:

Natural vegetation will be retained on all sides of the homesite.

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

COMMENT:

Permanent plantings and the two drainage facilities will be installed with the house and in place prior to the next rain season.

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

COMMENT:

Storm runoff from the house will be conveyed to two stormwater dissipaters down the hill from the house.

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

COMMENT:

Any sediment will be retained with erosion control measures prior to leaving the top of slope.

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

COMMENT:

Surface water will be treated in flow-thru planters then conveyed down the hill to the stormwater dissipaters, avoiding any long-term erosion impacts.

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

COMMENT:

Stormwater will slowly flow from the dissipaters into natural vegetation, eliminating erosion downhill.

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

COMMENT:

Drainage swales are not proposed with this development.

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

- (1) Energy absorbing devices to reduce runoff water velocity;
- (2) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
- (3) Dispersal of water runoff from developed areas over large undisturbed areas.

COMMENT:

All three control measures will be used for permanent erosion control and surface water management.

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

COMMENT:

Excavated material will be removed from the site. Topsoil will be retained for re-use. No large stockpiles are proposed.

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

COMMENT:

Any solid wastes or other construction materials/chemicals will be removed from the site as required.

- (U) On sites within the Balch Creek drainage basin, erosion, sediment, and stormwater control measures shall be designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual

and the City of Portland Stormwater Management Manual. All ground disturbing activity within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

COMMENT:

This criterion is not applicable.

- (V) Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual.
- (W) The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes, unless mitigated as approved by the County Transportation Division.
- (X) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way.
- (Y) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill. (Ord. 1271, Amended, 03/14/2019)

COMMENT:

The applicant is aware of the above criteria and will ensure that any impacts are limited and properly addressed

39.6210 PERMITS REQUIRED.

- (A) Unless exempt under this Code, whether under MCC 39.6215, 39.5080, 38.5510 or otherwise, no ground disturbing activity shall occur except pursuant to one of the following permits: a Minimal Impact Project (MIP) permit, an Erosion and Sediment Control permit (ESC), an Agricultural Fill permit (AF), a Geologic Hazards permit (GH), or a Large Fill permit (LF).

COMMENT:

The applicant will obtain the required permits prior to any ground disturbing activities.

- (B) The permits referenced in subsection (A) are required in addition to and not in lieu of any other local, state or federal permit, including but not limited to permits required for ground disturbing activities within a water body regulated by the Oregon Department of State Lands, the U.S. Army Corps of Engineers or the Oregon Department of Fish and Wildlife.

COMMENT:

Although unlikely, the applicant will obtain any other state or federal permits prior to commencement of grading activities. It is our understanding that these permits will not be necessary for this project.

- (C) No ground disturbing activity shall occur except in support of a lawfully established use or in support of the lawful establishment of a use.**

COMMENT:

The ground disturbing activity will be for an approved use – a dwelling with related improvements.

- (D) No permit identified in subsection (A) shall be issued in any case where the planning director or a building official determines that the proposed ground disturbing activity will be hazardous by reason of flood, geological hazard, seismic hazard, or unstable soils; or is liable to endanger any other adjacent property; or result in the deposition of debris on any public right-of-way or property or water body; or otherwise create a nuisance.**

COMMENT:

The proposed development is designed in accordance with recommendations from the Geotechnical Engineer, GeoPacific Engineering, Inc. Therefore ground disturbing activity is unlikely to be hazardous.

- (E) Responsibility. For any ground disturbing activity authorized under a permit listed in subsection (A):**

- (1) Whenever sedimentation is caused by ground disturbing activity, the person, corporation or other entity shall be responsible to remove that sedimentation from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project.**
- (2) It is the responsibility of any person, corporation or other entity doing ground disturbing activity on, in, under or around a water body, or the floodplain or right-of-way, to maintain as nearly as possible in its present state the water body, floodplain, or right-of-way during such activity, and to return the same to a functional condition equal to or better than the condition existing immediately prior to the ground disturbing activity.**

COMMENT:

The applicant/owner is aware that he is ultimately responsible for development of the property and to mitigate any sedimentation or other impacts that result from the proposed ground disturbance activities on the site.

(F) Implementation.

- (1) Performance bond.** A performance bond may be required in the amount of the full cost of the establishment and maintenance of all erosion, sedimentation and stormwater control measures for activity authorized through any permit listed in subsection (A). The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.
- (2) Inspection and enforcement.** The director may take steps to ensure compliance with the requirements of Part 6, Geologic Hazards permit requirements, and Large Fill permit requirements, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subpart of MCC Chapter 39 shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the permit, work may be stopped until appropriate correction measures are completed.

COMMENT:

A bond may need to be posted prior to commencement of development to ensure erosion control measures are installed and maintained adequately throughout the development process. The applicant's engineer will provide periodic inspection of the work.

- (G) Final approvals.** A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subpart of MCC Chapter 39 only upon satisfactory completion of all applicable requirements. (Ord. 1271, Amended, 03/14/2019)

COMMENT:

The applicant understands that all site development requirements must be completed prior to issuance of the certificate of occupancy.

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, and Variance to setback requirements within the Geologic Hazards Overlay for property in the CFU-2 zone should be approved.