

# NOTICE OF DECISION



www.multco.us/landuse ▪ Email: land.use.planning@multco.us ▪ Phone: (503) 988-3043

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## Application for Temporary Permit

**Case File:** T2-2025-0008

**Applicant:** Robert Fraley, Portland Water Bureau

**Proposal:** Request for a Temporary Permit for a temporary construction entrance/driveway for the construction of the Portland Water Bureau's Intertie facility at 33444 SE Lusted Rd.

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**Location:** 33334 SE Lusted Rd, Gresham

**Property ID #** R342464

**Map, Tax lot:** 1S4E21A-01000

**Alt. Acct. #** R994210050

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

**Overlays:** None

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**Decision:** Approved with Conditions

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, September 3, 2025 at 4:00 pm.**

**Opportunity to Review the Record:** The complete case file and all evidence associated with this application is available for review by contacting [LUP-comments@multco.us](mailto:LUP-comments@multco.us). Paper copies of all documents are available at the rate of \$0.71/page.

**Opportunity to Appeal:** The appeal form is available at [www.multco.us/landuse/application-materials-and-forms](http://www.multco.us/landuse/application-materials-and-forms). Email the completed appeal form to [LUP-submittals@multco.us](mailto:LUP-submittals@multco.us). An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted

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**Issued by:** *Lisa Estrin*

Lisa Estrin, Senior Planner

**For:** Megan Gibb,  
Planning Director

**Date:** Wednesday, August 20, 2025

## Vicinity Map

N↑



## Applicable Approval Criteria:

**Multnomah County Code (MCC): General Provisions:** MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions

**Lot of Record:** MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – MUA-20

**Multiple Use Agriculture – 20 (MUA-20):** MCC 39.4315 Review Uses, Temporary Uses, MCC 39.4325 Dimensional Requirements and Development Standards.

Copies of the referenced Multnomah County Code sections are available by visiting <https://www.multco.us/landuse/zoning-codes> under the link **Chapter 39: Multnomah County Zoning Code** or by contacting our office at (503) 988-3043.

## Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **Permit Expiration** – This temporary permit runs from September 4, 2025 to September 4, 2026. [MCC 39.1185(G), and MCC 39.8750(A)]

2. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the Portland Water Bureau (PWB) to comply with these documents and the limitations of approval described herein. [MCC 39.1170(B)]
3. **Prior to construction of the temporary construction entrance/driveway**, the Portland Water Bureau or their representatives shall:
  - a. Obtain a permit from Transportation for the construction of the temporary construction entrance/driveway to SE Lusted Road.
  - b. Pursuant to MCC 39.6210, obtain the necessary Ground Disturbance permit from Land Use Planning.
  - c. Modify the plans to include a wheel wash for vehicles leaving the site. The modified plans shall be submitted as part of obtaining the Ground Disturbance permit as specified in Condition 2.b.
  - d. Acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to Lisa Estrin at [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@multco.us). [MCC 39.1170(A) & (B)]
4. The Temporary Construction Entrance/Driveway shall cease being used and shall be closed and de-construction started within 5 days of the expiration of this permit as specified by Condition No. 1, unless a new temporary permit is granted.
  - a. The area of the temporary construction entrance/driveway and its surrounding shall be returned to its original condition and vegetated within 30 days of expiration of this permit.
5. **As an on-going condition**, the property owner(s) shall:
  - a. Prevent the tracking of dirt and debris onto the public right-of-way. Vehicle wheels shall be cleaned before leaving the site and all truck beds containing materials shall be covered.

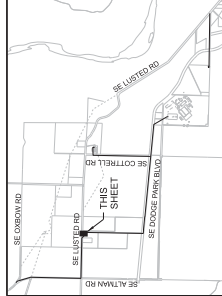
**Notice to Mortgagee, Lien Holder, Vendor, or Seller:**

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

1. SEE FWI-C-1002 FOR COORDINATES AND GRADING
2. SEE FWI-C-1003 FOR UNDERGROUND UTILITY PIPES
3. SEE FWI-L-1010 AND FWI-L-1011 FOR LANDSCAPE PLAN

1. INSTALL CABLE FENCE AND METAL POSTS.  
0421-006
2. GRAVEL MAINTENANCE STRIP, SEE FW-IL-1010
3. 6" THICK BASE AGGREGATE GRAVEL
4. RECONSTRUCT DITCH FOR EXISTING AGRICULTURE DRAIN TIE OVERFLOW TO EXISTING ROADSIDE CATCHBASIN- SEE GRADING PLAN ON FW-C-1002.

|         |        |          |               |                   |                  |            |                 |           |                    |                    |                |                          |                        |              |             |             |
|---------|--------|----------|---------------|-------------------|------------------|------------|-----------------|-----------|--------------------|--------------------|----------------|--------------------------|------------------------|--------------|-------------|-------------|
| ASPHALT | GRAVEL | CONCRETE | GRIND & INLAY | STORMFILTER STRIP | CONVEYANCE SWALE | STORM PIPE | STORM CURB/VERT | SEC. ZONE | PERMANENT EASEMENT | TEMPORARY EASEMENT | PROPOSED FENCE | Basin Emergency Overflow | Storm Maintenance Hole | Fire Hydrant | Water Meter | Water Valve |
|         |        |          |               |                   |                  |            |                 |           |                    |                    |                |                          |                        |              |             |             |



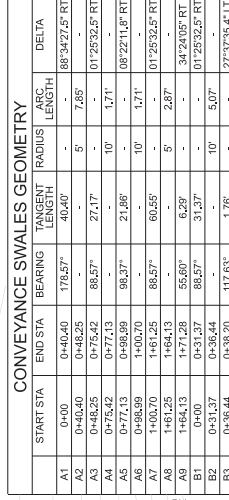
479

Run Filtration Pipelines

CIVIL

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|    | START STA | END STA | BEARING | TANGENT LENGTH     | RADIUS            | ARC LENGTH     | DELTA |
|----|-----------|---------|---------|--------------------|-------------------|----------------|-------|
| A1 | 0+00      | 0+40.00 | 178.57° | 40.40 <sup>f</sup> | -                 | 88°34'21.5" RT |       |
| A2 | 0+40.00   | 0+48.25 | 90.57°  | -                  | 5'                | 7.85°          |       |
| A3 | 0+48.25   | 0+58.37 | 98.57°  | -                  | 7.17 <sup>f</sup> | 01°23'52.5" RT |       |
| A4 | 0+58.37   | 0+64.38 | 85.37°  | -                  | 10'               | 1.71°          |       |
| A5 | 0+77.13   | 0+78.69 | 21.86°  | -                  | 10'               | 08°22'11.8" RT |       |
| A6 | 0+88.69   | 1+00.70 | 140.07° | -                  | 10'               | 1.71°          |       |
| A7 | 1+00.70   | 1+81.25 | 88.57°  | 80.45 <sup>f</sup> | -                 | 01°23'52.5" RT |       |
| A8 | 1+81.25   | 1+84.13 | 116.41° | -                  | 5'                | 2.87°          |       |
| A9 | 1+84.13   | 1+71.28 | 55.60°  | 6.29 <sup>f</sup>  | -                 | 34°24'05" RT   |       |
| B1 | 0+00      | 0+31.37 | 31.37°  | 31.37 <sup>f</sup> | -                 | 01°23'52.5" RT |       |
| B2 | 0+31.37   | 0+38.20 | 117.63° | -                  | 10'               | 5.07°          |       |
| B3 | 0+38.20   | 0+43.30 | 11.76°  | 1.76 <sup>f</sup>  | -                 | 27°23'45.1" RT |       |



**WARNING**

If this bar does not measure 1"

REUSE OF

|   |          |         |             |
|---|----------|---------|-------------|
| Design  | Drawn By | Checked | Project No. |
|  |          |         |             |

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| Const Mgr |  |
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| RG | JB |
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[illegible]

| Government          | Percentage |
|---------------------|------------|
| Current Government  | 75%        |
| Previous Government | 25%        |



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DUISBURG-ESSEN  
UNIVERSITY OF APPLIED SCIENCES

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|            |       |    |        |      |        |
|------------|-------|----|--------|------|--------|
| 6-JUN-2023 | 16:22 | 1  | 6/7/23 | Date | Survey |
|            |       | No |        |      |        |

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| ENDNO. 1 - 100% REVIEW COMMENT UPDATE | Description |
|---------------------------------------|-------------|
|---------------------------------------|-------------|

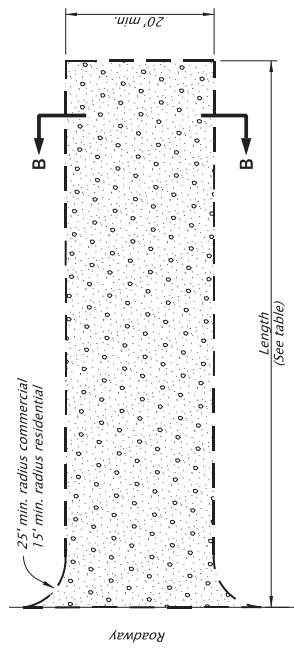
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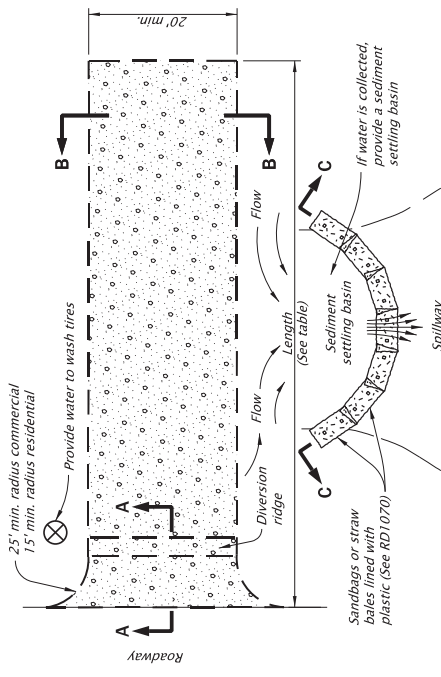
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| 1  | 6/7/23 |
| No | Date   |

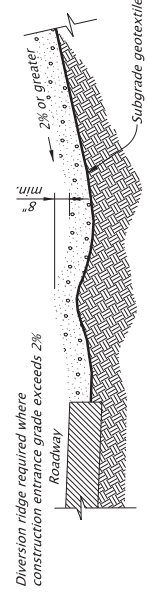
Survey



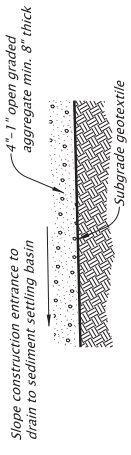
**CONSTRUCTION ENTRANCE - TYPE 1**  
NOT TO SCALE



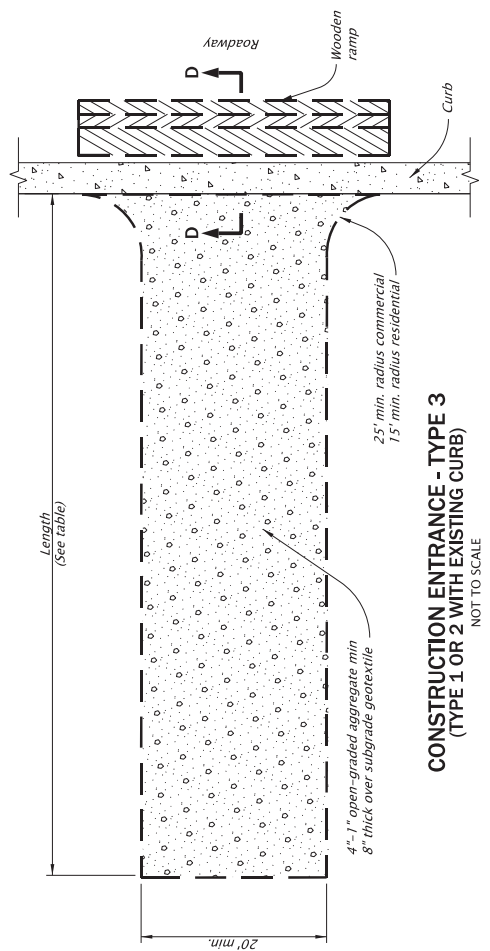
**CONSTRUCTION ENTRANCE - TYPE 2**  
NOT TO SCALE



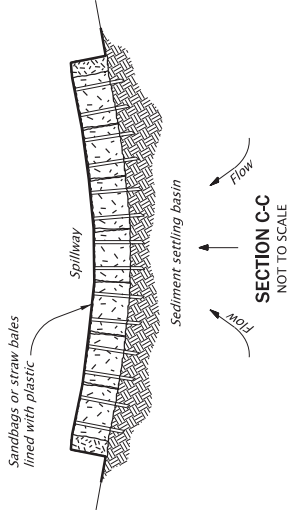
**SECTION A-A**  
NOT TO SCALE



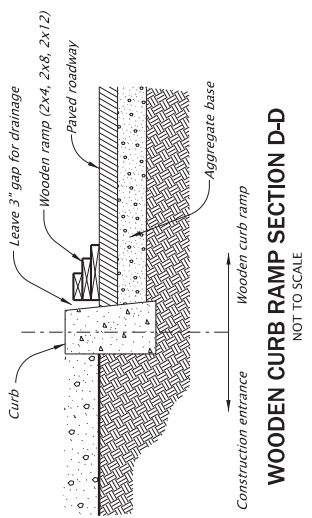
**SECTION B-B**  
NOT TO SCALE



**CONSTRUCTION ENTRANCE - TYPE 3**  
(TYPE 1 OR 2 WITH EXISTING CURB)  
NOT TO SCALE



**SECTION C-C**  
NOT TO SCALE



**WOODEN CURB RAMP SECTION D-D**  
NOT TO SCALE

- NOTES:**
- The Type 1 entrance is a simple entrance without a diversion ridge or settling basin.
  - The wooden ramp may be used on either Type 1 or Type 2 entrances in situations where there is curb and the curb is not removed for the construction entrance.

| CONSTRUCTION ENTRANCE TABLE |                             |
|-----------------------------|-----------------------------|
| MINIMUM LENGTH              |                             |
| Length (FT)                 | Area Of Exposed Soil (Acre) |
| 20                          | 0.25                        |
| 50                          | 0.25 < A < 1.0              |
| 100                         | A > 1.0                     |

CALC. BOOK NO.
N/A

SDR DATE
January, 2021

NOTE: All material and workmanship shall be in accordance with the current Oregon Standard Specifications

OREGON STANDARD DRAWINGS

CONSTRUCTION ENTRANCES

2021

DATE
REVISION DESCRIPTION

Jan 2021
Removed C&E book numbers

## Findings of Fact

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### 1.0 Project Description:

**Staff:** The applicant is requesting a Temporary Permit to install a temporary construction entrance/driveway adjacent to the Finished Water Intertie site to help facilitate truck movements during the construction of the Intertie facilities improvements for the Portland Water Bureau’s pipelines.

### 2.0 Property Description & History:

**Staff:** This application is for 33334 SE Lusted Rd, Gresham. The subject property is located on the south side of SE Lusted Road in unincorporated east Multnomah County outside of Metro’s Urban Growth Boundary (UGB). The subject property is zoned Multiple Use Agriculture – 20 (MUA-20). No overlays exist on the site.

The property is occupied by a single-family dwelling with an attached garage and is 1.86 acres (minus ½ public right-of-way width) according to the County Assessor.

### 3.0 Public Comment:

**Staff:** Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 (Exhibit C.2). Staff received no public comments during the 14-day comment period.

### 4.0 Code Compliance and Applications Criteria:

#### 4.1 § 39.1250 CODE COMPLIANCE AND APPLICATIONS.

**Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit or zoning review approval of development or any other approvals authorized by this code for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.**

**(A) A permit or other approval, including building permit applications, may be authorized if:**

\* \* \*

**Staff:** A finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance.

For purposes of the current application, there are no known open compliance cases associated with the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *Criterion met.*

## **5.0 Lot of Record Criteria:**

### **5.1 § 39.3005 - LOT OF RECORD – GENERALLY.**

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(1) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(2) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

\* \* \*

### **§ 39.3080 - LOT OF RECORD – MULTIPLE USE AGRICULTURE-20 (MUA-20).**

(A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

\* \* \*

**Staff:** In land use decision, T2-2015-4092, Land Use Planning found that the subject property was established in 1969 and it met the zoning and land division regulations at the time. It was found that tax lot 1S4E21A-01000 is a Lot of Record (Exhibit B.3). While the decision was for a property line adjustment (PLA), the PLA approvals in T2-2015-4092 and T2-2016-5020 were not utilized based upon a comparison of a 2009 Deed (Exhibit B.4) and the latest deed (Exhibit B.5) from a 2018 property transfer. *The subject property is a Lot of Record.*

## **6.0 Multiple Use Agriculture – 20 (MUA-20) Approval Criteria:**

### **6.1 § 39.4315 REVIEW USES.**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter.

(A) Temporary uses when approved pursuant to MCC 39.8700 and 39.8750.

**Staff:** The applicant has applied for a temporary permit for a temporary construction entrance/driveway on the subject property. The temporary use met the criteria listed in § 39.8750. *Criterion met.*

### **6.2 § 39.4325 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

(C) Minimum Yard Dimensions – Feet

| Front | Side | Street Side | Rear |
|-------|------|-------------|------|
| 30    | 10   | 30          | 30   |

Maximum Structure Height – 35 feet

**Staff:** The proposed temporary construction entrance/driveway will involve no physical improvements over 30-inches in height and will be constructed approximately 10-ft from the side property line. As the construction entrance/driveway will be less than 30-inches in height it may be constructed across the 30-ft Front Yard (Exhibit A.3.a & d). *Criterion met.*

**6.3 (G) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

**(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.**

**(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

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

**Staff:** No impervious surfaces are being created for the temporary construction entrance/driveway. The construction entrance/driveway will be graveled (Exhibit A.4). No stormwater disposal system is required as no impervious surface is being created. The temporary construction entrance/driveway does not require sewage disposal separate from what is available for the workers at the Intertie construction site. No lighting is proposed as part of the construction entrance/driveway. If used, construction lighting is exempt pursuant § 39.6850(B)(8). *Criteria met.*

**7.0 Temporary Permit Land Use Permit Approval Criteria:**

**7.1 § 39.8750- TEMPORARY PERMITS FOR CERTAIN USES.**

**(A) Notwithstanding the limitations of use as established by this Chapter in each of the several base zones, the Planning Director may issue temporary permits, valid for a period of not more than one year after issuance, for structures, or uses which are of a temporary nature, such as:**

**(1) Storage of equipment during the building of roads or developments;**

**(2) Real estate office used for the sale of lots or housing in subdivisions;**

**(3) Temporary storage of structures or equipment;**

**(4) Sheds used in conjunction with the building of a structure;**

**(5) Temporary housing; or**

**(6) Other uses of a temporary nature when approved by the Planning Director. >**

**Staff:** The proposed temporary construction entrance/driveway will serve as a secondary access point along Lusted Road during the construction of the Finished Water Intertie site. The purpose is to reduce back-up on Lusted Road with trucks entering and leaving the site. The applicant states that it will be removed approximately 12 months after it is installed. A condition of approval requires that it be removed once this temporary permit expires and no additional temporary permit is issued. The site will need to be restored to its original condition within 30 days of permit expiration. The proposed temporary construction entrance/driveway falls within the “Other uses of a temporary nature...” category listed above under (A)(6). Conditions of approval establish the timelines and limitations for this temporary use [§ 39.1170(A)]. *As conditioned, criterion met.*

## 8.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Temporary Permit to establish a temporary construction entrance/driveway in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

## 9.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with an ‘\*’ have been reduced in size and included with the mailed decision. All exhibits are available for digital review by sending a request to [LUP-comments@multco.us](mailto:LUP-comments@multco.us).

| Exhibit # | # of Pages | Description of Exhibit   | Date Received / Submitted |
|-----------|------------|--|---------------------------|
| A.1       | 2          | Application Form   | 2/20/2025                 |
| A.2       | 1          | Code Narrative   | 2/20/2025                 |
| A.3       | 4          | Plans<br>a. Finished Water Intertie Civil Site Plan<br>b. Finished Water Intertie Civil Grading Plan<br>c. Finished Water Intertie Erosion and Sediment Control<br>Final Stabilization and Landscape<br>d. Construction Entrance | 2/20/2025                 |
| A.4       | 2          | Driveway Material Response   | 8/13/2025                 |
| ‘B’       | #          | Staff Exhibits   | Date                      |
| B.1       | 2          | Assessment and Taxation Property Information for 1S4E21A-01000 (Alt Acct# R994210050 / Property ID# R342464)   | 8/13/2025                 |
| B.2       | 1          | Current Tax Map for 1S4E21A  | 8/13/2025                 |
| B.3       | 11         | T2-2015-4092 Lot of Record Decision  | 8/13/2025                 |
| B.4       | 1          | Bargain & Sale Deed recorded December 23, 2009<br>Instrument #2009-175426  | 8/13/2025                 |
| B.5       | 3          | Warranty Deed recorded June 01, 2018 Instrument #2018-058579   | 8/13/2025                 |
| ‘C’       | #          | Administration & Procedures  | Date                      |
| C.1       | 1          | Complete letter (day 1)  | 3/17/2025                 |
| C.2       | 3          | Opportunity to Comment   | 7/07/2025                 |
| C.3       | 7          | Decision   | 8/20/2025                 |