

DEPARTMENT OF COMMUNITY SERVICES

Land Use Planning Division



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

Notice of Hearings Officer Decision

This document provides notice of the Hearings Officer's decision in the matter of **T2-2025-0048**. The decision is effective on being mailed, and the mailing date is **April 7, 2026**. This notice is being mailed to those persons entitled to receive notice under MCC 39.1170(D).

This notice includes the signed Hearings Officer's decision which contains the following information: the name of the applicant or owner; the appellant's name; and the street address or location of the subject property along with a brief summary of the decision and the proposed use. For additional information, please visit our Land Use Planning website at <https://multco.us/departments/land-use-planning-division>.

The Planning Director has not appealed the Hearings Officer's decision. Therefore, the Hearings Officer's Decision is the County's final decision and may be appealed to the State of Oregon Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed by any person or organization that appeared and testified at the hearing, or by those who submitted written testimony into the record.

Appeal instructions and forms are available from:

Land Use Board of Appeals
201 High St SE, Suite 600
Salem, Oregon 97301-3398

503-373-1265
LUBA.Support@luba.oregon.gov
www.oregon.gov/LUBA

For further information, call or email the Multnomah County Land Use Planning Division at: 503-988-3043 or LUP-Hearings@multco.us.

**BEFORE THE LAND USE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON**

In the Matter of a Type III appeal of a Director's approval of a temporary permit to site construction office trailers used during construction of raw water pipelines for the Bull Run Pipelines Project on 7.97 acres zoned Rural Residential in unincorporated Multnomah County, Oregon

FINAL OPINION AND ORDER

**Temporary Trailers
36800 SE Lusted Road**

T2-2025-0048

I. Summary:

This Order is the decision of the Multnomah County Land Use Hearings Officer denying the appeal and approving with conditions this application for a temporary permit to site construction trailers for use during construction of Portland's raw water pipelines for the Bull Run Pipelines Project on 7.97 acres zoned Rural Residential (RR).

II. Introduction to the Property and Application:

Applicant

Robert Fraley
Portland Water Bureau
1120 SW Fifth Avenue, Room 405
Portland, OR 97204

Owner

Max L. Bissell Living Trust
36910 SE Lusted Road
Boring, OR 97009

Property

Legal Description: Tax Lots 1400 and 1500 in the Southwest Quarter of Section 23, Township 1 South, Range 4 East of the Willamette Meridian, Property ID: R237225 & R237226, Alt. Acct: R649716620 & R649716640, Street Address: 36800 & 36910 SE Lusted Road in Boring.

Applicable Laws

Multnomah County Code (MCC) 39.0015 (Definitions), MCC 39.1250 (Code Compliance and Applications), MCC 39.3005 (Lot of Record- Generally), MCC 39.6235 (Stormwater Drainage Control), MCC 39.6850 (Dark Sky Lighting Standards), MCC 39.3090 (Lot of record – Rural Residential), MCC 39.4365(A) (Review Uses, Temporary Uses), MCC 39.4375(C), (F) & (H) (Dimensional Standards and Development Requirements), MCC 39.8750 (Temporary Permits for Certain Uses).

The subject site consists of two tax lots (TLs 1400 & 1500) totaling ~7.97 acres zoned RR in unincorporated Multnomah County in the West of Sandy River rural area near Boring. Portions of the site are encumbered with overlays for Significant Environmental Concern for wildlife habitat (SEC-h) and geologic hazards (GH), but the temporary construction trailers this application seeks to site on the property are not

proposed for any areas encumbered with these overlays. The site is currently under construction pursuant to a different land use approval for the construction of pipelines needed to serve Portland's new water filtration plant (T3-2022-16220), which is also under construction on yet a different property.

The pipeline project currently under construction on this property received the necessary grading and erosion and sediment control permit (T1-2023-16571). As part of that work, the City of Portland previously placed a field office construction trailer on the property, outside of any mapped environmental or geological hazard areas pursuant to a temporary permit (T2-2024-0062). That temporary permit (Ex. A.6) expired last year, yet the trailer remained, which gave rise to a code enforcement action (Case CC-2025-0005) and ultimately this application for another/new temporary permit. The present permit is intended to remedy the code enforcement case, at least for another year.

The initial application, site plan and supporting documentation were submitted September 18, 2025 (Exs. A.1 to A.8) and subsequently augmented with property tax information (Exs. B.1 & B.2). The County followed a Type II process to review the application, issued notice and an invitation to comment to surrounding property owners (Ex. C.3). During the comment period, a local resident (Charles Ciecko) and the local CPO (Cottrell Community Planning Organization) submitted adverse comments (Exs. D.1 & D.2). Based on the entire record compiled up to that point, the director approved the temporary trailer request with four conditions (Ex. C.4) on December 3, 2025.

The CPO timely appealed the director's Type II decision (Ex. C.2), which triggered this Type III appeal procedure. In its appeal notice, the appellant raised the following issue(s):

"Decision fails to adequately address: MCC 39-6235 (stormwater drainage control); MCC 39.6850 (dark sky lighting standards); MCC 39.5085 (Geologic Hazard); Applicant is in clear violation of T2-2024-0062 Conditions of Approval. Decision fails to address SEC-h overlay."

In response, the county issued notice of a March 6, 2026 public hearing, pursuant to MCC 39.1150 (Ex. C.3), to address the CPO's appeal, and the applicant posted notice of the hearing on the property pursuant to MCC 39.1159. Just prior to the March 6th public hearing, several neighbors submitted comments in opposition to the permit and in support of the appeal: Charles Ciecko (Ex. H.2), Suzanne Courtier (Ex. H.5), Jennifer Hart (Ex. H.6), Laura Belson (Ex. H.7), and Paul Willis (Ex. H.8). The applicant supplemented the record with a comprehensive response to the appeal issues and negative public comments (Ex. H.3), an updated stormwater certificate (Ex. H.4) and a revised site plan (Ex. H.9).

III. The Public Hearing Process:

The County's notice for the March 6th public hearing (Ex. C.3) indicated it would be held remotely via a Zoom internet platform, in which everyone participating via video or telephone audio could hear everything that everyone said. At the commencement of the hearing, I made the disclosures and announcements required by ORS 197.797(5) and (6) and 197.796 and disclaimed any *ex parte* contacts, conflict of interest or bias. No one raised any procedural objections or challenged my ability to decide the matter impartially, or otherwise challenged my jurisdiction.

At the March 6th public hearing, Alexandra Howard, Deputy Planning Director and planner on the case, provided a verbal summary of the application and the basis for staff's written report (Ex. C.4), which recommended denial of the appeal and approval with five conditions. The applicant was represented by several members of its project team, including David Peters, Robert Fraley and attorney Zoe Powers. Mr. Peters and Mr. Fraley explained the proposal and expressed the applicant's acceptance of and agreement with staff's favorable recommendation and five proposed conditions. Ms. Powers provide legal argument, beginning with an objection that any substantive criteria applied to this temporary use permit.

The appellant was represented by Lauren Courter, who testified against the proposal and staff's favorable recommendation. Speaking in support of the appeal were Charles Ciecko, Jennifer Hart, Chris Courter and Suzanne Courter. These witnesses focused primarily on Condition 5 of T2-2024-0062, which provided a one-year lifespan for the original temporary use permit and required removal of the trailers within 5 days after expiration of the permit. These parties assert that the applicant violated Condition 5 by not removing the trailers and claimed that the violation was sufficient legal basis to deny this new permit. They assert that the only remedy for this violation of T2-2024-0062 is for the applicant to first remove the trailers, then to reapply for a new temporary use permit for the trailers and only after/if the temporary use permit is approved can the trailers return to the site. No one else requested the opportunity to testify, but the appellant and opponents requested that the record remain open.

On rebuttal, the applicant's attorney reiterated that no substantive standards apply to temporary use permits under MCC 39.8750. Alternatively, the applicant asserted that it meets all of the approval criteria analyzed in the director's decision (Ex. C.4). The attorney also explained that the opponents' primary argument, that this permit cannot be approved because the applicant violated Condition 5 of T2-2024-0062 by not removing the trailers, is not valid because MCC 39.1250(A)(1) expressly allows approval of this permit because it results in the property coming into full compliance with all applicable code provisions. The applicant echoed the open-record request, as did staff.

Following all public testimony, I ordered that the record remain open according to the following schedule:

1 week (March 13 @ 4 p.m.) – any comment or evidence on any relevant topic from anyone.

1 week (March 20 @ 4 p.m.) – response by any party to materials submitted as of the March 13th deadline.

1 week (March 27 @ 4 p.m.) – applicant's final rebuttal, no new evidence.

The following exhibits were received into the record during the first open record segment:

- Ex. I.1 Lot of Record Portions of T3-2022-16220 Decision (Lusted Road)
- Ex. I.2 BRCP Lighting inventory letter - T2-2025-0048 (Portal) 031326 FE
- Ex. I.3 Code Compliance Status (Lusted Road)
- Ex. I.4 SDS External License Listings (Lusted Road)

- Ex. I.5 Updated Storm Water Certificate, signed
- Ex. I.6 Updated Stormwater Site Plan Field Office Trailers
- Ex. I.7 Water Service (Lusted Road)
- Ex. I.8 Carrie Richter Testimony
- Ex. I.9 CCPO Open Record - T2-2025-0046 & T2-2025-0048
- Ex. I.10 Kristy McKenzie Testimony
- Ex. I.11 Ron Roberts Testimony
- Ex. I.12 Tami Wensenk Testimony - T2-2025-0048

The following exhibits were received into the record during the second open record segment as responsive to submissions received during the first segment:

- Ex J.1 Staff's Response to Open Record Memo
- Ex J.2 Applicant's Second Response
- Ex J.3 CCPO Response - T2-2025-0046 & T2-2025-0048
- Ex J.4 CCPO Letter on Code Compliance

The applicant's final rebuttal (Ex. K.1) was received during the third open-record segment, and the record closed at the end of the day on March 27, 2026.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria and issues not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. I find those criteria to be met, even though they are not specifically addressed in these findings.

A. The Appeal Arguments. I adopt the following findings in response to the issues raised by the appellant Cottrell Community Planning Organization in its appeal notice (Ex. C.2).

MCC 39-6235 (stormwater drainage control). While not exactly clear from the appeal notice, appellant claims the director's decision fails to adequately address the stormwater requirements in MCC 39-6235. The assumed implication is that the trailers would increase site's impervious surface area and exacerbate stormwater runoff, negatively impacting sensitive areas on the site and possibly increasing off-site drainage. This permit (T2-2025-0048), however, does not propose any ground disturbance beyond what was approved in the Erosion and Sediment Control Permit for the site (T1-2023-16571), and no additional impervious surface beyond what was reviewed and approved as part of T2-2024-0062, the earlier temporary permit for the construction trailers. Plans for T1-2023-16571 included all ground disturbance that was required to site the construction trailers, and that impact has not changed in this second permit. When T2-2024-0062 was approved, the applicant provided a Stormwater Drainage Control Certificate, signed by an Oregon licensed and registered professional engineer, that demonstrated compliance with the County's stormwater requirements. The current site plans are consistent with the plans approved with the Erosion and Sediment Control Permit (T1-2023-16571). This is sufficient to convince me that the temporary trailers will not increase the impervious surface area beyond what was already contemplated and approved in the Erosion

and Sediment Control Permit for the larger project. There is no new ground disturbance associated with the trailer placement, and stormwater requirements were already addressed for all ground disturbance. On this basis and the evidence in the record, I conclude that the applicable stormwater and drainage control requirements have been adequately addressed and are met.

MCC 39.6850 (dark sky lighting standards). The appeal asserts the director's decision fails to adequately address the Dark Sky Standards in MCC 39.6850. The previous approval for this use (T2-2024-0062) included a condition requiring the applicant to provide lighting fixture details to obtain Zoning Plan Review, which was sufficient to ensure compliance with the dark sky standards. The applicant provided those lighting details, which were approved through Zoning Plan Check Review (BP-2024-0093), and included illustrations of the exterior light fixtures attached to these trailers and show they meet the substantive requirements of MCC 39.6850 (Ex. I.2). The lighting specifications approved in BP-2024-0093 are also included in the application materials here. No changes have been made since the previous approval, and the applicant is required to comply with the Dark Sky Standards in MCC 39.6850 regardless of past permits or the status of its compliance at other portions of the project site.

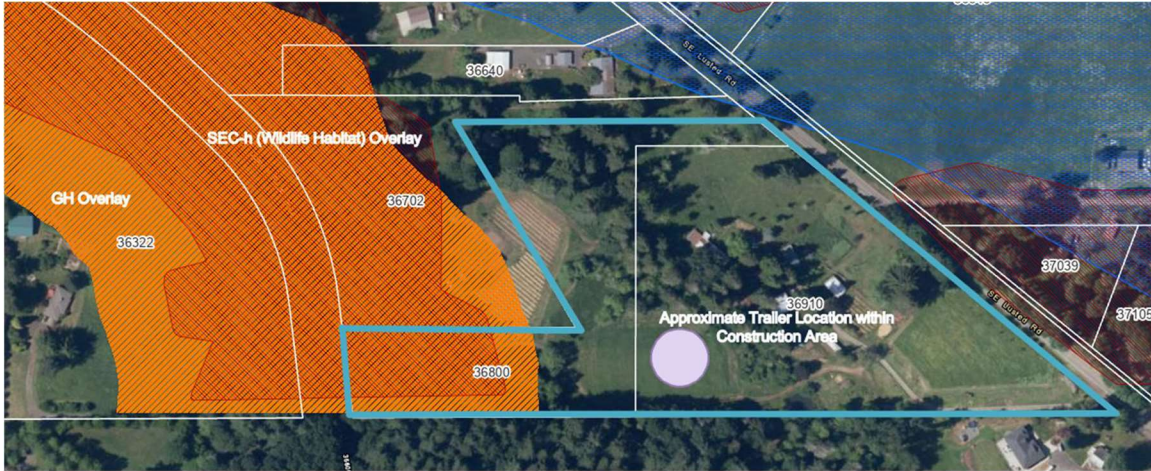
Multiple witnesses testified that the project site generally has bright floodlights that appear to violate the County's dark skies requirements (Exs. I.10, I.11, I.12, J.3 & J.4). I take these reports at face value, but find that they are not relevant to whether or not these *trailers* can or will comply, as opposed to the larger construction site. This evidence appears to show violations of the County's lighting standards by the project site, but not so much the trailers. The applicant echoes these conclusions by pointing out that what appears to be excessive light glare comes from the project site generally and not the trailers (Exs. J.2 & K.1). The applicant asserts that exterior lighting for the trailers can and does meet the County's dark sky standards.

Staff suggested a condition requiring the applicant to provide photographs showing the trailer's exterior lights so that a post-approval determination of compliance could be made (Ex. A.0). I question whether such a post-approval demonstration is legally sound. As the record currently stands, however, the applicant provided photographs at the hearing and during the open record period (Exs. H.3, I.2 & J.2) that are sufficient to demonstrate that the exterior lights can and do comply with the Dark Sky Standards in MCC 39.6850. Based on this evidence, which I view as credible and relevant, I find the requirement is satisfied without the need for a condition requiring post-approval compliance. The trailers and all other elements of the project site can and shall comply with the County's dark skies requirements. To the extent they do not, that would be the subject of a code complaint and possible code enforcement action by the County, but would not be a factor in the evaluation of this new temporary use permit.

MCC 39.5085 (Geologic Hazard) & MCC 39.5530 (Significant Environmental Concern).

The appeal asserts that placement of construction office trailers should have been reviewed under the standards of the following protective overlay zones: SEC-h (Significant Wildlife Habitat), SEC-wr (Significant Water Resources), and GH (Geologic Hazards). As shown in the figure below, portions of these overlay zones are located on the property generally, but *not* where the trailers are proposed in the site plan (Ex. A.4), primarily toward the eastern and northeastern portions of the

property. The approved location of the construction office trailers, identified in red on the figure, is outside the boundaries of all mapped protective overlay zones. Accordingly, the SEC-h, SEC-wr and GH overlay regulations are not development standards applicable to these temporary trailers, given their location.



The GH overlay shown as an orange stripe, and the SEC-h overlay is shown as a red stripe, both of which encumber only the western-most portion of the site (outlined in blue). The proposed location of the construction office trailers, in the approximate location of the light purple circle, is outside the boundaries of the mapped GH overlay zone. Accordingly, the GH overlay regulations are not development standards applicable to these temporary trailers, given their location.

MCC 39.5540 (SEC-h overlay). The appeal asserts the director’s decision fails to address the Significant Wildlife Habitat overlay (SEC-h) standards. Similar to the GH overlay, only the western portion of the site is encumbered by the SEC-h overlay. Again, the construction trailers are not proposed to be placed within the SEC-h overlay zone, as shown on the above image; therefore, the SEC-h overlay regulations are not development standards applicable to these temporary trailers, given their location.

Violation of T2-2024-0062 Conditions of Approval. This is another argument that is not clear from the appeal notice but appears to assert that the trailers approved in T2-2024-0062 should have been removed upon expiration of that permit and remain off the property during the pendency of this application as required by the following Condition 5 of that permit, which provides:

All temporary trailers shall cease and be removed from the property within 5 days of the expiration of this permit unless a new Temporary Permit is granted.

- a. If a new temporary permit is to be applied for, the property owner or their representative shall make the application at least 60 days prior to the expiration of this permit to avoid having to remove the improvements during the processing of a new permit. [MCC 39.1185(E), MCC 39.1185(G), and MCC 39.8750(A)]

The appellant and other opponents elaborated on this argument after the appeal was filed (Exs. H.2, H.5, H.6, H.7, H.8, I.8, I.9, I.10, I.11 & I.12) and assert that the

applicant's failure to remove the temporary trailers after the expiration of T2-2024-0062 warrants more aggressive enforcement action, including the denial of this permit for a new temporary use. They argue that the applicant should be required to remove the trailers *now* to remedy the apparent violation of Condition 5 from T2-2024-0062, *then* reapply for the temporary use permit and not return the trailers to the site until/unless the new temporary use permit is approved.

As a starting point, alleged violations of the code or prior permits are the subject of code enforcement and generally are not a land use matter or a factor in evaluating new land use permits. Moreover, T2-2024-0062 has expired and is no longer a valid permit; therefore, noncompliance with conditions of an expired permit is not actionable. Put differently, because T2-2024-0062 has expired, there appears to be no legal basis for enforcing an expired permit condition, and even if there was, it is outside of my authority. The most that can be said is that the trailers in their current locations appear to be a code violation because they lack a currently valid temporary use permit, which is the basis of Case CC-2025-0005.

At the March 6th public hearing, all of the witnesses testifying argued that the applicant's violation of this condition from the original temporary use permit is grounds to deny this new permit application. None, however, provided any authority for such a position, and I am aware of none, except for MCC 39.1250, which I discuss below. The remedy they seek also lacks legal support, *viz.*, removal of all of the trailers, reapplication for a new temporary permit (*i.e.*, not the present one), and no trailers allowed to return during the pendency of a new Type II review process, presumably including appeals. In light of MCC 39.1250(A)(1), I am disinclined to conclude that any violation of Condition 5 from T2-2024-0062 is material to this application for a new temporary use permit beyond what MCC 39.1250 requires. As previously mentioned, nothing in generally applicable Oregon land use law supports such a connection between violation of a prior permit and a new application, especially when the new permit is intended and will remedy the alleged violation. I also find no support in Oregon law for the remedy that the appellants and these witnesses seek based on alleged violations of the prior permit.

The new application (T2-2025-0048), is intended to replace the prior permit in its entirety and resolve the current violation, which staff asserts is its normal enforcement procedure and will happen here (Exs. I.3 & J.1). While MCC 39.1250, addressed in more detail below, is intended to prevent consideration of land use permits for a property on which there is a documented code violation, it includes an exception where a pending permit is intended to remedy the violation and "results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code." This application is specifically intended to remedy the only identified violation, *i.e.*, temporary construction trailers that lack a temporary use permit. Because that alleged code violation can be remedied by issuance of this new permit, MCC 39.1250(A)(1) allows the property owner to remedy the alleged violation by obtaining a permit to allow the use. From this, I reject the argument and proceed to an evaluation of the approval criteria for the temporary use permit to validate the temporary construction trailers.

In a related, but somewhat different argument, Carrie Richter (Ex. I.8) asserts that nothing in MCC 39.8750(A) allows or suggests that temporary use permits can be extended or that serial permits can be approved. Implicit in Ms. Richter's argument

is the notion that this permit would constitute a *de facto* extension or renewal of the prior temporary use permit. Alternatively, she asserts that serial permits are not allowed because they are not expressly authorized and, in her view, constitute an improper permit extension or renewal beyond one year. I disagree.

The prior permit (T2-2024-0062) allowed for one 12-month extension, which is permissible under MCC 39.1195(A), but which this permittee chose not to pursue. The code is silent, however, as to whether serial or subsequent separate temporary use permits are allowed. I am disinclined to interpret silence in the code to mean that serial or sequential temporary use permits are *prohibited*. See ORS 174.010. Absent any such express prohibition in the code, I interpret MCC 39.8750(A) to mean only what it says, *i.e.*, that temporary use permits are valid for one year, but that successive or serial separate permits are *not prohibited*. From this, I conclude that serial or sequential temporary use permits are allowed so long as they are separate permit applications and not renewals, and they meet the applicable criteria. For these reasons, I reject Ms. Richter's arguments about the nature of this new temporary use permit application (Ex. I.8).

B. Generally Applicable Criteria. I adopt and incorporate herein by this reference the staff report (Ex. A.0) to augment the following findings:

1. MCC 39.1250 Code Compliance and Applications. MCC 39.1250 prohibits the County from issuing or otherwise approving permits for any property that is not in full compliance with all applicable provisions of Multnomah County Zoning Code. Relevant to this new permit, however, MCC 39.1250(A)(1) specifically allows this application to proceed despite the applicant's violation of Condition 5 from T2-2024-0062 because it will resolve that violation:

A permit or other approval, including building permit applications, may be authorized if: ... It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement;

MCC 39.1250(A)(1).

The County received a complaint related to the use of construction trailers on the site after the expiration of the 2024 temporary permit (T2-2024-0062). In response, the County initiated two enforcement cases against the Portland Water Bureau (Case CC-2025-0005) based on the apparent violation of Condition 5. The County's code compliance process for such violations is to first request the respondent to apply for and obtain permits that would remedy the alleged violation.

With regard to the County's open enforcement file (code case CC-2025-0005), county staff explain how this permit will resolve the alleged violation (Ex. I.3):

- T2-2025-0048, if approved, will address the entirety of issues reported in code complaints CCINT-2025-0053 and CCINT-2025-0060 and remedy violations subsequently identified in code case CC-2025-0005 related to the Properties.

- There are no other open code compliance cases for this Property, other than CC-2025-0005.
- If T2-2025-0048 is approved, the County would consider the Properties to be in full compliance with all applicable provisions of the Multnomah County Zoning Code and any permit approvals previously issued by the County, under the County's interpretation of MCC 39.1250.

Post-hearing, staff provided the following explanation of the County's approach to code enforcement (Ex. J.1), the ultimate goal of which is compliance:

Land Use Planning's policy with respect to code compliance, is as follows: once a code compliance inquiry is determined to be a code violation, the County first seeks voluntary compliance with the offending party. Enforcement and pursuit of civil fines are typically pursued if and after a Voluntary Compliance Agreement is breached. Voluntary Compliance Agreements are common in Multnomah County, and typically include working with the applicant to obtain all necessary land use approvals. This approach is outlined in MCC 39.1520.

If the current permit process is unsuccessful and the application is denied, the County will presumably proceed to force the removal of the trailers (abatement of the nuisance and violation) through the code enforcement process. The initial processing of T2-2025-0048 addressed the issues raised in Cases CCINT-2025-0053 and CCINT-2025-0060, and approval of the current permit will result in "the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code," at least for a year. On this basis, I find this requirement met, and MCC 39.1250 is satisfied.

2. MCC 39.3005 Lot of Record, Generally. MCC 39.3005 requires that the subject parcel be deemed a legal lot of record to be eligible for consideration and approval of a land use permit. In this case, the subject parcels were evaluated as part of Portland's water filtration plant project (T3-2022-16220), which confirmed that both were legal lots of record. The two parcels that comprise the subject property were found to be two legal Lot of Records in T3-2024-16220, where the owner applied to consolidate both into a single lot of record. When the consolidation process is complete, the two parcels will be combined into a single parcel and a single Lot of Record, which satisfies this requirement.
3. MCC 39.4365 Review Uses. This application seeks approval for a temporary use – temporary construction trailers – which is allowed outright in the MUA-20 Zone. The specific requirements for temporary uses are addressed below under MCC 39.8750 (Temporary Permits for Certain Uses). I find that a temporary construction trailer is inherently a temporary use, which I conclude requires a temporary use permit. On that basis, I conclude this requirement is met.
4. MCC 39.4375(C) Setbacks and Building Height. All developments proposed in the RR base zone is required to comply with the dimensional and development standards in this section, most notably the following setbacks:

Front setback	30 feet
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Side setback	10 feet
Street side setback	30 feet
Rear setback	30 feet
Building Height	35 feet

The application plans show that the proposed/actual location for the construction office trailer complies with these setbacks, and the height does not exceed 35 feet (Ex. A.5). The applicant disputes that these or any other development or dimensional standards apply to this temporary use because no such standards are implicated in MCC 39.8750 (Temporary Permits for Certain Uses). While MCC 39.8750 may be silent on the subject, MCC 39.4375 is clear in requiring “all development” in the zone to comply with the dimensional and development standards the section contains. Even a temporary use is a “development” as defined in MCC 39.2000. Consequently, I reject the applicant’s argument about these trailers being immune from any dimensional or development standards, but conclude that the project meets those that are applicable.

5. MCC 39.4325(G) On Site Sewage Systems. At least one comment asserts that this trailer proposal does not comply with the requirement in MCC 39.4325(G) because it does not include on-site septic system to serve the trailers and does not independently demonstrate stormwater compliance (Ex. I.8). The applicant asserts that it satisfies this section’s requirements by providing temporary on-site sanitary restrooms (Ex. A.8) serviced by a DEQ-licensed pumper (Ex. I.4), and does not propose any new impervious surfaces that were not previously accounted for (Ex. I. 5). I agree that providing on-site sanitary restrooms satisfies the sanitary sewer requirement in MCC 39.4325(G) for these temporary trailers. Permanent on-site septic systems are not required for construction activities or these temporary trailers, and the temporary port-a-potties are sufficient to serve these temporary trailers. The record also shows that these trailers will be served with cold water that the Portland Water Bureau will provide from its own source (Ex. I.7). For these reasons, I find that the requirements of MCC 39.4325(G) are satisfied.

6. MCC 39.4375(F)(2) Stormwater & Drainage Control. The application proposes no new impervious surfaces or grading. T2-2025-0048 does not propose any additional ground disturbance beyond what was approved in T1-2023-16571, the Erosion and Sediment Control Permit for the site. The original temporary use permit for these trailers (T2-2024-0062) similarly did not propose any grading, ground disturbance or impervious surface and was approved based on the site’s grading permit (T1-2023-16571). T1-2023-1616571 authorized all ground disturbance required to site the construction trailers, and showed their locations. When T2-2024-0062 was approved, the applicant provided a Stormwater Drainage Control Certificate (signed by a Registered Professional Engineer licensed in Oregon) demonstrating compliance with the County’s stormwater requirements. The plans in this application are consistent with the project’s existing Erosion and Sediment Control Permit (T1-2023-16571). On this basis, I find that the stormwater, drainage and erosion control requirements are met.

7. MCC 39.4375(H) Exterior Lighting. This section requires all exterior lighting associated with these trailers to comply with MCC 39.6850. The light fixtures on the field office trailer were previously approved in BP-2024-0107 (Zoning Plan Review). No changes have been made or proposed to the light fixtures, and the applicant has

provided evidence that the external light fixtures on these trailers meet the functional standards in MCC 39.6850 (Exs. A.5, H.3, I.2 & J.2). On this basis, I find that the lighting requirements in MCC 39.4375(H) are met without the need for a condition of approval, as staff had suggested (Ex. A.0).

8. MCC 39.8750 Temporary Permits for Certain Uses. This section allows, among others, the following as temporary uses with permits lasting one year:

- (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.

The director concluded, and I agree, that the temporary construction trailer proposed in this application fits within these listed uses. On this basis, I find that the use proposed is allowed as a temporary use in the RR zone.

V. Decision and Conditions:

Based on the foregoing Findings, I deny the appellants' appeal and approve the applicant's request to establish one or more temporary construction trailers on the site as described in the application materials (Exs. A.1 to A.8) and revised site plan (Ex. H.9), subject to the following conditions.

1. Limits of Approval – Approval of this land use permit is based on the submitted written narrative and plans. No work shall occur under this permit other than what is described in the application materials (Exs. A.1 to A.8) and revised site plan (Ex. H.9). It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. See MCC 39.1170(B).
2. Permit Expiration – This temporary permit is valid for one year, with the allowance for up to one 12-month extension. See MCC 39.1185(E), MCC 39.1185(G), MCC 39.8750(A), MCC 39.1195(A). The initial permit approval period via T2-2025-0048 was from December 3, 2025 to December 3, 2026. Extensions shall be processed through a Type II process. Any extension must be made at least 60 days prior to the expiration of this permit to avoid having to remove the improvements during the processing of a new permit. See MCC 39.1185(E), MCC 39.1185(G), and MCC 39.8750(A).
3. Removal of Trailers Upon Expiration – The construction field office trailer shall cease use immediately upon expiration of this permit, and be removed from the property within 30-days after the expiration of this permit unless the applicant obtains a 12-month extension or a new Temporary Permit.
4. Zoning Plan Review Approval – If new Building Permits are needed from the City of Gresham, the applicant shall first submit building plans to Multnomah County for Zoning Plan Review and sign off. Once the County has approved Zoning

Plan Review the applicant may apply for building permits from the City of Gresham.

Date of Decision: April 1, 2026.



By: _____
 Daniel Kearns,
 Land Use Hearings Officer

Notice of Appeal Rights

This is the County’s final decision in this matter. The Planning Director may seek review of this decision by the Board of Commissioners pursuant to MCC 39.1160 within 14 days after the date of decision. All others with standing may appeal any aspect of this decision to the Oregon Land Use Board of Appeals pursuant to ORS 197.830 within 21 days after the date of decision.

**Exhibit List for T2-2025-0048
 (Bull Run Pipeline Temporary Trailer Permit)**

A	Application Materials	Date
A.1	Application Form	09/03/2025
A.2	Code Narrative	09/03/2025
A.3	Elevation and Floor Drawings – D1	09/03/2025
A.4	Elevation and Floor Drawings – E1	09/03/2025
A.5	Site Plan	09/03/2025
A.6	Temp Construction Easement – Bisell, VI	09/03/2025
A.7	Application Form – G1, VI	09/03/2025
A.8	Bull Run Sani-Can Contract	09/03/2025
B	Staff Exhibits	Date
B.1	Assessment and Taxation Property Information for Alt Acct R649716640 / Property ID R237226	02/24/2026
B.2	Assessment and Taxation Property Information for Alt Acct R649716620 / Property ID R237225	02/24/2026
C	Administration & Procedures	Date
C.1	150-day Waiver	01/23/2026
C.2	Notice of Appeal and Payment Receipt	12/16/2025

C.3	T2-2025-0048 Hearing Notice	02/03/2026
C.4	T2-2025-0048 Decision (appealed)	12/03/2025
D	Agency and Public Comments	Date
D.1	Ciecko Comment	11/05/2025
D.2	Cottrell Community Planning Organization Comment	11/06/2025
D.3	Historic Survey from Luciano Legnini, Archaeologist on behalf of United State Forest Service – Columbia River Gorge National Scenic Area (CRGNSA)	06/05/2025
H	Appeal Exhibits	Date
H.1	T2-2025-0048 prior record from below	03/05/2026
H.2	Ciecko Comment	03/05/2026
H.3	Applicant's response to appeal and public comments	03/05/2026
H.4	Updated stormwater certificate	11/05/2024
H.5	Suzanne Courtier comment	03/05/2026
H.6	Jennifer Hart comment	03/05/2026
H.7	Laura Belson comment	03/05/2026
H.8	Paul Willis comment	03/05/2026
H.9	Applicant's revised site plan	03/05/2026
I	Post-Hearing Exhibits	Date
I.1	Lot of Record Portions of T3-2022-16220 Decision	03/13/2026
I.2	BRCPLighting inventory letter (Portal) 031326 FE	03/13/2026
I.3	Code Compliance Status (Lusted Road)	03/13/2026
I.4	SDS External License Listing (Lusted Road)	03/13/2026
I.5	Updated Storm Water Certificate, signed	03/13/2026
I.6	Updated Stormwater Site Plan Field Office Trailers	03/13/2026
I.7	Water Service (Lusted Road)	03/13/2026
I.8	Carrie Richter Testimony	03/13/2026
I.9	CCPO Open Record - T2-2025-0046 & T2-2025-0048	03/13/2026
I.10	Kristy McKenzie Testimony	03/13/2026
I.11	Ron Roberts Testimony	03/13/2026
I.12	Tami Wensenk Testimony	03/13/2026
J	Second Post-Hearing Exhibits	Date

J.1	Staff's Response to Open Record Memo	03/20/2026
J.2	Applicant's Second Response	03/20/2026
J.3	CCPO Response - T2-2025-0046 & T2-2025-0048	03/20/2026
J.4	CCPO Letter on Code Compliance	03/20/2026
K	Final Post-Hearing Exhibits	Date
K.1	Applicant's Final Rebuttal	03/27/2026