NOTICE OF DECISION

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Application for Geologic Hazard Permit and Significant Environmental Concern Reviews

Case File:	T2-2025-0050	**Applicant**:	Multnomah County Transportation Planning Division
Proposal:	Request for retroactive approval of a replacement 24-inch HDPE culvert that was completed as a post emergency action.		

Location:	NW Rocky Point Road	**Property ID #**	R326370 & R326371
	Map, Tax lot: 3N2W36A -00800 & 3N2W36A -00500	**Alt. Acct. #**	R982360310 & R982360320
Base Zone:	Commercial Forest Use (CFU-2)		
Overlays:	Significant Environmental Concern – Wildlife Habitat (SEC-h), Significant Environmental Concern – Scenic View (SEC-v), Geologic Hazard (GH)		

Decision: **Approved**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, June 16, 2026 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. 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. Email the completed appeal form to 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

Issued by:

Izze Liu, Planner

For: Megan Gibb,
Planning Director

Date: June 2, 2026

Vicinity Map **N↑**

Applicable Approval Criteria:

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

Commercial Forest Use (CFU-2) Zone: MCC 39.4070 Allowed Uses, (J) Reconstruction or modification of public roads and highways

Significant Wildlife Habitats: MCC 39.5540 SEC-h Permit Criteria (Significant Wildlife Habitats)

Significant Scenic Views: MCC 39.5570 SEC-v Permit Criteria (Significant Scenic Views)

Geologic Hazard: MCC 39.5075 Permit Required, MCC 39.5085 Geologic Hazards Permit Application Information Required, MCC 39.5090 Geologic Hazards Permit 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.

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 Multnomah County Transportation Division is requesting retroactive approval after conducting post emergency work within the right-of-way. The County constructed a new 24-inch HDPE pipe culvert to replace the existing one and repaired the road to pre-sinkhole conditions.

2.0 Property Description & History:

Staff: In January 2023, a sinkhole opened on the south side of Rocky Point Road over the location of the existing 18-inch diameter concrete culvert. The sinkhole was filled by the County on January 5, 2023, but it settled again on January 17, 2023. The Multnomah County Transportation Division declared an emergency and the work was completed in October 2025.

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.4). Staff did not receive public comments during the 14-day comment period.

4.0 Code Compliance and Applications Criteria:

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

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. *This criterion is met.*

5.0 Commercial Forest Use (CFU-2) Criteria:

5.1 MCC 39.4070 Allowed Uses

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

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(J) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result.

Staff: A new 24-inch HDPE pipe replaced an existing failing culvert, and emergency repairs to the road were completed to pre-sinkhole conditions.

6.0 Significant Wildlife Habitats Criteria:

6.1 MCC 39.5540 SEC-h Permit Criteria (Significant Wildlife Habitats)

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(C) SEC-h Permit Approval Criteria

(1) Development Standards

(a) Where a parcel contains any non-forested "cleared" areas within 200 feet of a public road, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

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

Staff: The replacement culvert was installed approximately 10 feet below the road grade and below the existing pipe which has been abandoned. The project area did not require clearing in a forested area. The area of disturbance is within the road right-of-way (Exhibit A.2). *These criteria are met.*

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

Staff: The applicant is not proposing an access road or driveway. The culvert replacement occurred within the right-of-way. *This criterion is not applicable.*

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

Staff: The area of disturbance for the culvert replacement is within the right-of-way. *This criterion is not applicable.*

(e) Nuisance and invasive nonnative plants, as defined in MCC 39.5540 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Staff: The applicant provided an erosion control plan that identifies permanent seeding (Exhibit A.9, Sheets FB01 & FB02). The applicant is not proposing to plant nuisance and invasive nonnative plants. *This criterion is met.*

(f) Ground disturbing activity within 100 feet of a water body as defined by MC 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.

Staff: The work was completed in October 2025. *This criterion is met.*

(g) Outdoor lighting shall be of a hooded fixture type and shall be placed in a location so that it does not shine directly into undeveloped habitat areas. Where illumination of habitat area is unavoidable, it shall be minimized through use of limited lumens with a hooded fixture type and proper placement. The location and illumination area of lighting needed for security of public utility facilities shall not be limited by this provision but should be done in a minimalistic manner.

Staff: No outdoor lighting is proposed. *This criterion is not applicable.*

7.0 Significant Scenic Views Criteria:

7.1 MCC 39.5570 SEC-v Permit Criteria (Significant Scenic Views)

(A) Decision Review Process

(1) Applications that meet all of the following criteria shall be processed through the Type I review procedure:

(a) The proposed building is no taller than 24 feet to top of ridgeline.

(b) Dark earthtone colors are used on the exterior siding, trim and doors facing an Identified Viewing Area.

(c) Building siding, roofing, windows and trim use low or non-reflective materials. Windows are low-e or better and have a reflectivity rating of 13 percent or less.

(d) No more than 25 percent of the building elevation facing an Identified Viewing Area is in glass.

Staff: The replacement culvert was installed 10 feet below the road grade and above the existing pipe which has been abandoned and filled with grout. The total length of the new buried pipe is 98 feet in length (Exhibit A.2). Approximately 3 feet of the pipe will be exposed at the inlet and approximately 2 feet of the pipe will be visible at the outlet. The HDPE pipe will be black with riprap materials placed at the inlet and outlet. The riprap materials are earth-toned sourced from a local quarry (Exhibit A.2). *These criteria are met.*

(e) All existing and proposed exterior lighting meets the Dark Sky Lighting Standards of MCC 39.6850. Shielding and hooding materials should be composed of non-reflective, opaque materials.

Staff: No exterior lighting is proposed. *This criterion is not applicable.*

(f) The proposed building and ground disturbance are screened by existing on-site vegetation or are topographically not visible from an Identified Viewing Area as mapped by the County.

Staff: The new culvert is mostly underground except for the exposed portions of the pipe at the inlet and outlet of the culvert. The applicant states the inlet and outlet will be visually subordinate due to the existing vegetation in this location (Exhibit A.2).

8.0 Geologic Hazards Criteria:

8.1 MCC 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. Fill physically supporting and/or protecting

a structure or access road for essential and public facilities subject to earthquake or tsunami building code requirements of the Oregon Structural Specialty Code is not included in this 5,000 cubic yard calculation. 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.

Staff: The ground disturbance associated with the replacement culvert is an Allowed Use under MCC 39.4070(J); therefore, the ground disturbing activities are in support of a lawfully established use. The applicant provided a Geotechnical Report written and prepared by GRI, a professional engineering consulting firm (Exhibits A.7 & A.8).

The project scope is within the right-of-way and the applicant states that the total volume of fill that has been deposited in this area is likely zero. The road was established over a hundred years ago based on the County's survey records for NW Rocky Point Road. For the replacement culvert project, 930 cubic yards of fill was deposited (Exhibit A.2). *This criterion is met.*

(B) Fill shall be composed of earth materials only.

Staff: The applicant states the fill materials include compacted angular, fragmental rocks, which was sourced from a local quarry (Exhibits A.2 & A.9, Sheet BB01). *This criterion is met.*

(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.

Staff: The Geotechnical Report recommends temporary excavation slopes be made no steeper than 1.5H:1V. *This criterion is met.*

(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.

Staff: The project does not include unsupported finished cuts and fills. *This criterion is not applicable.*

(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.

Staff: Fills encroached on the stream within the project area but the new 24-inch replacement culvert meets conveyance requirements as noted in the Hydraulic Memo which was prepared by an Oregon licensed Professional Engineer (Exhibit A.10). *This criterion is met.*

(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.

Staff: The development does not include fill generated by dredging. *This criterion 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 340-0410345(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.

Staff: The project is not located within the Tualatin River drainage basin. *This criterion is not applicable.*

(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.

Staff: The applicant confirmed that erosion and sediment control measures would be installed per the erosion control plan (Exhibit A.9, Sheets FB01 – FB02). The work started July 2025 and was completed by October 2025 which is when the intermittent stream was dry during construction. The applicant confirmed that all equipment operated outside the stream channel to excavate above the existing culvert and for the placement of the new culvert. The excavated area within the ordinary high water mark elevation at the inlet was limited to the smallest area needed to conduct the work. Grades outside the culvert was restored to preconstruction conditions. Primary staging areas were established in the existing pullout along Rocky Point Road. During construction, inspectors monitored the condition and effectiveness of erosion control Best Management Practices, turbidity, cleanliness and storage of materials and equipment used on site (Exhibit A.2). *This criterion is met.*

(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.

Staff: The applicant states that the 24-inch HDPE culvert design was selected after completing hydraulic and geotechnical investigations and studies. The new culvert closely matches the existing topography and the excavation was backfilled with compacted angular, fragmental rock. The new pipe slope was selected to maximize the cleansing velocity in the pipe (Exhibits A.2, A.7, A.8). *This criterion is met.*

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

Staff: The applicant confirmed that there were no exposed critical areas involved in the project. As shown on the erosion control plan, 0.05 acres of permanent seeding was planted (Exhibit A.9, Sheets FB01 – FB02). *This criterion is not applicable.*

(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).

Staff: The applicant provided an erosion control plan that identifies the disturbance areas and the Best Management Practices that were implemented (Exhibit A.9, Sheets FB01 – FB02). The applicant confirmed that the project would not reduce the current vegetative buffer. After construction, the project site was graded to match the pre-construction contours, and disturbed areas were covered with permanent seeding. The applicant states that no negative impacts to stream functions were expected, and the

replacement of the culvert improves downstream functions and water flow. The placement of riprap at both the inlet and outlet will decrease stream velocities, resulting in less hillside erosion (Exhibit A.2). *This criterion is met.*

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

Staff: The applicant provided an erosion control plan that identifies the use of sediment barriers, check dam, compost erosion blanket, and permanent seeding to ensure erosion would be controlled within the project area (Exhibit A.9, Sheets FB01 – FB02). *This criterion is met.*

(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.

(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.

(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.

Staff: The replacement culvert was designed to accommodate increased runoff and the applicant has confirmed that it would meet conveyance requirements as shown in the Hydraulic Memo (Exhibit A.10). The erosion control plan identifies the use of sediment barriers, check dam, compost erosion blanket, and permanent seeding to ensure erosion would be controlled within the project area (Exhibit A.9, Sheets FB01 – FB02). *These criteria are met.*

(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.

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

Staff: No drainage swales will be used for the project. The applicant provided a stormwater memorandum written by Doug Gates, P.E. (Exhibit A.11). The memorandum confirms that all stormwater sheet flows off the roadway surface and filters through vegetation and infiltrates into the site soils. The proposed drainage patterns for the project will remain the same as the existing, with no erosion point discharges existing or created, and no site runoff getting into the existing stream untreated (Exhibit A.11). *This criterion is not applicable.*

(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.

Staff: The applicant provided an erosion control plan that identifies the location of ground and other soil disturbances. The plan identified the use of sediment barriers, check dam, compost erosion blanket, and

permanent seeding to ensure erosion would be controlled within the project area (Exhibit A.9, Sheets FB01 – FB02). *This criterion is met.*

(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;

Staff: The applicant confirmed that this standard would be met (Exhibit A.2). *This criterion is met.*

(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.

Staff: The applicant confirmed that this standard would be met (Exhibit A.2). *This criterion is met.*

(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.

Staff: The development is not located within the Balch Creek drainage basin. *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.

Staff: The applicant confirmed that erosion and sediment control measures would be installed per the erosion control plan (Exhibit A.9, Sheets FB01 – FB02). The work started July 2025 and was completed by October 2025 which is when the intermittent stream was dry during construction. The applicant confirmed that all equipment operated outside the stream channel to excavate above the existing culvert and for the placement of the new culvert. The excavated area within the ordinary high water mark elevation at the inlet was limited to the smallest area needed to conduct the work. Grades outside the culvert was restored to preconstruction conditions. Primary staging areas were established in the existing pullout along Rocky Point Road. During construction, inspectors monitored the condition and effectiveness of erosion control Best Management Practices, turbidity, cleanliness and storage of materials and equipment used on site (Exhibit A.2). *This criterion is met.*

(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.

Staff: The applicant has confirmed that these standards would be met (Exhibit A.2). *These criteria are met.*

9.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Reviews and Geologic Hazard permit to construct a replacement culvert in the Commercial Forest Use zone.

10.0 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.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	3	Application Form	09.30.2025
A.2	24	Narrative	09.30.2025
A.3	14	Site Plan	09.30.2025
A.4	1	Appendix A – Vicinity Map	10.30.2025
A.5	1	Appendix B – Tax Lots	10.30.2025
A.6	1	Appendix C – Aerial	10.30.2025
A.7	37	Appendix D – Geotechnical Report	10.30.2025
A.8	17	Appendix E – Geologic Hazard Assessment Memo	10.30.2025
A.9	14	Appendix F – Plans	10.30.2025
A.10	47	Appendix G – Hydraulic Memo	10.30.2025
A.11	7	Appendix H – Stormwater Management Memo	10.30.2025
A.12	4	Appendix I – Fire Service Agency	10.30.2025
A.13	10	Revised Narrative	12.17.2025
'B'	**#**	**Staff Exhibits**	**Date**
B.1	1	Current Tax Map for 3N2W36A	09.30.2025
'C'	**#**	**Administration & Procedures**	**Date**
C.1	2	Incomplete Letter	10.30.2025
C.2	2	Applicant's acceptance of 180-day clock	10.30.2025
C.3	1	Complete Letter (day 1)	01.16.2026
C.4	5	Opportunity to Comment	03.12.2026
C.5	11	Decision	06.02.2026