

COTTRELL POND HEARING

Land Use Planning Division



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

Date: June 16, 2026

To: Hearings Officer Turner

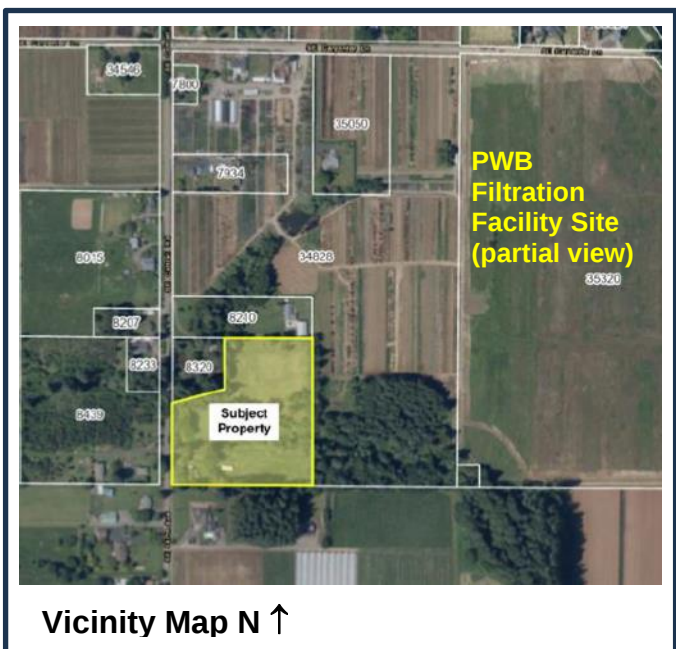
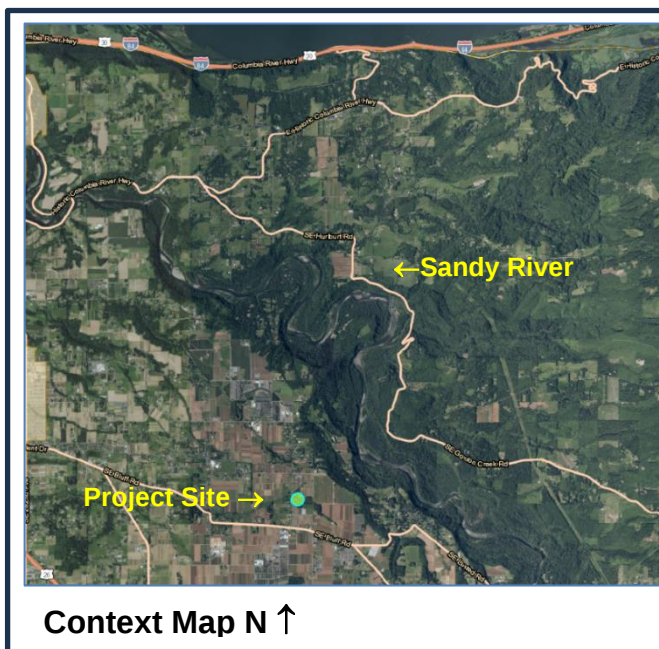
From: Anna Shank-Root, Planner 2, Land Use Planning Division

CC: Casefile T2-2025-0067

RE: Appeal of Approval of Case File T2-2025-0067: Request for a Lot of Record Verification and a Significant Water Resources (SEC-wr) permit.

On April 30 2026, Multnomah County Land Use Planning approved Case File T2-2025-0067 (T2-2025-0067 or "case"). The decision provided an approval for the applicant, Portland Water Bureau (PWB), to complete a stream restoration project in Johnson Creek, consisting of the removal of an artificial earth dam which created a pond in order to reestablish a natural stream channel. The decision also determined that the project site is a Lot of Record.

The site is located at 8344 Cottrell Road on Tax Lot 1S4E22CD00300, Property ID#R342546 and Alternate Account# R994220180. The site is in east Multnomah County, both south and west of the Sandy River in the Cottrell area, on the Clackamas County border. Two maps, one showing the site in the context of Multnomah County, and a second showing the local parcelization pattern including proximity to the PWB filtration facility approved via casefile T3-2022-16220, are provided below.



On May 14, 2026, the Cottrell Community Planning Organization/Pleasant Home Community Planning Organization ("Cottrell" or "CPO"), represented by Jennifer Hart, Chair of the CPO, appealed the T2-2025-0067. The following issues were raised upon appeal:

1. Failure to Assess Cumulative Impacts (MCC 39.5990(C)(3) and MCC 39.5590(D)(2)(b)(iv))
2. Inadequate Stormwater Analysis (MCC 39.5590(C)(4)(g) and MCC 39.6235)
3. Conclusory Alternatives Analysis (MCC 39.5590(C)(3)(a)-(e))
4. Failure to Adequately Address Public Comments (MCC 39.1105)

Each of the appeal topics relate to the SEC-wr review and approval. The appeal does not address the determination that the site is a Lot of Record.

This memo responds to the issues raised on appeal. For a complete analysis of applicable regulations, please review Attachment A: Notice of Decision, which includes the full staff report. This memo also includes a description of the relationship of this project to the Portland Water Bureau Filtration and Pipelines project that was approved via T3-2022-16220 and subsequent review by the Oregon Land Use Board of Appeals (LUBA).

Relationship Between T2-2025-0067 and the PWB Filtration Facility

During the review process for T3-2022-16220, in response to community concerns about the impact of T3-2022-16220 on conditions in Johnson Creek, PWB proposed to remove an artificial dam and the resulting pond to restore the natural stream channel of Johnson Creek. The Hearings Officer included PWB's recommended action in their decision for T3-2022-16220, which was issued on June 30, 2025 and affirmed by the Oregon Land Use Board of Appeals on February 11, 2026, as a condition of approval:

"Regarding Cottrell Pond, as defined in Exhibit U.20.a, prior to final certificate of occupancy for the Filtration Facility, Portland Water Bureau shall purchase the Pond Property and provide a written report from an aquatic biologist confirming the establishment of a natural stream channel and additional riparian planting areas on the Pond Property."

While the Condition of Approval from T3-2022-16220 may be the motivation for this project, staff found that T2-2025-0067 is a separate and distinct land use application from T3-2022-16220. As a result, T2-2025-0067 was reviewed separately and on its own merits as an independent use. The findings and analysis in this case address only the proposed stream restoration work located within the mapped SEC-wr overlay on 1S4E22CD – 00300 for compliance with applicable code requirements.



Issues Raised on Appeal

Text from the appeal filing (Attachment B) is included below in italics, followed by responses from Land Use Planning Staff.

1. **Ground 1 - Failure to Assess Cumulative Impacts, Multnomah County Code (MCC) 39.5990(C)(3) and MCC 39.5590(D)(2)(b)(iv).** *The County erred by reviewing this application entirely in isolation from the previously approved Portland Water Bureau Bull Run Filtration Facility (T3-2022-16220). The restoration of Cottrell Pond was a condition of that prior approval. The environmental impacts of the two projects on Johnson Creek—including changes to stormwater discharge, streamflow, and riparian corridor function—are inseparable and must be evaluated together. The decision failed to assess cumulative adverse impacts on the riparian area as expressly required under MCC 39.5590(D)(2)(b)(iv) (Attachment B).*

Staff Response: Under Ground 1, the appellant cites MCC 39.5590(C)(3) which reads as follows:

Alternatives Analysis Sites - Development proposed within a Riparian Area may be allowed if there is no alternative, when the other requirements of the Overlay including the Development Standards of subsection (4) and the provisions for Mitigation in subsection (D) are met. The applicant shall prepare an alternatives analysis which demonstrates that [...]

This provision refers to an Alternatives Analysis for development within the SEC-wr overlay. In this case, T2-2025-0067, the development is the dam removal and stream restoration, which by its nature must occur within a riparian area. The Notice of Decision (Attachment A) analyzed the dam removal and natural channel restoration development for compliance with MCC 39.5590(C)(3)(a) through (e), as well as the development standards in subsection (C)(4) and mitigation requirements in subsection (D). Staff maintains that T2-2025-0067 is a separate and distinct land use review, and that the dam removal and stream restoration is reviewed on its own merits, separate from T2-2022-16620.

Under Ground 1, the appellant also cites MCC 39.5590(D)(2)(b)(iv). This criterion indicates that the County “may” consider “the cumulative adverse effects of past activities on the riparian area,” when evaluating whether the project will have an overriding public benefit. In this case, the development to be mitigated is the removal of the past placement of an artificial dam that has been negatively impacting water temperatures and fish habitat in the watershed. Staff maintains that the development approved by T3-2022-16220 is not under review. This stream restoration project is reviewed on its own merits as an independent use.

2. **Ground 2 – Inadequate Stormwater Analysis (MCC 39.5590(C)(4)(g) and MCC 39.6235)** *The decision summarily dismissed stormwater concerns on the basis that no new impervious surfaces are proposed by this project. However, the decision failed entirely to analyze how increased stormwater discharge from the adjacent PWB filtration facility draining into the same Johnson Creek corridor will interact with the restored channel. This concern was raised in public comments (Exhibits D.1 and D.4) and was not substantively addressed. The decision’s stormwater findings are therefore not supported by substantial evidence in the record as required under MCC 39.5590(C)(4)(g) and MCC 39.6235 (Attachment B).*

Staff Response: Multnomah County Code stormwater regulations (MCC 39.6235) provide that stormwater drainage control facilities are required when more than 500 square feet of impervious surfaces are proposed. The proposed stream restoration project will not create any impervious surfaces on the subject property. MCC 39.5590(C)(4)(g) contains additional design requirements for

stormwater drainage control facilities when they are required per MCC 39.6235, but does not require stormwater facilities to be developed when no impervious surfaces are proposed. This stream restoration project is being evaluated independently on its own merits, and development reviewed under T3-2022-16220 is not re-evaluated through this case review.

3. **Ground 3 – Conclusory Alternatives Analysis (MCC 39.5590(C)(3)(a)-(e))** *The decision accepted the applicant’s alternatives analysis without adequate independent analysis or substantive evidence that the proposed 1.22-acre disturbance area necessary to achieve the project objectives. Staff findings on this criterion are conclusory and do not constitute the substantial evidence required to support approval under MCC 39.5590(C)(3)(a) through (e) (Attachment B).*

Staff Response: MCC 39.5590(C)(3) states that “development proposed within a Riparian Area may be allowed if there is no alternative,” which staff interprets as meaning that the alternatives analysis criteria are intended to ascertain whether there is an alternative location on the subject site where the proposed development can be reasonably located outside of the riparian area. Since the proposed development in this case is a stream restoration project, by definition it cannot occur outside of the riparian area, and therefore there is no reasonable alternative for the proposed development on the subject property. MCC 39.5590(C)(3)(b) requires that the development within the riparian area “has been limited to the minimum area necessary to allow for the proposed use.” The existing artificial dam and pond occupies 51,200 square feet of the subject property, and the proposed restoration project will disturb 53,400 on the subject site (Exhibits A.2 and A.3). The disturbance consists of work related to the removal of the pond, re-establishment of a natural stream channel, bank stabilization, and vegetation management to plant natives and discourage the growth of invasive species. Staff finds that the nature of the development that extends beyond the footprint of the pond and dam removal areas is consistent with the development standards and mitigation requirements of this section, and constitute the minimum necessary area to allow the proposed use.

4. **Ground 4 – Failure to Adequately Address Public Comments (MCC 39.1105)** *Substantive concerns raised by the Cottrell CPO and adjacent property owners (Exhibits D.1, D.3, and D.4) regarding the relationship between this project and T3-2022-16220 were dismissed with identical boilerplate responses stating the application “solely concerns the review of restoration of Cottrell Pond.” This does not constitute meaningful engagement with the merits of the concerns raised and fails the standard of reasoned decision-making required under a Type II review process per MCC 39.1105 (Attachment B).*

Staff Response: The County reviewed and considered the concerns raised by commenters during the Opportunity to Comment period. It is the County’s position that although the T3-2022-16220 decision may have motivated the applicant’s proposal to complete a stream restoration project, this restoration project is independent from the development reviewed by T3-2022-16220.

Conclusions and Recommendations

Based on the analysis above, staff recommends the approval of the Lot of Record Determination and SEC-wr permit for the removal of an artificial dam and resulting pond, and the restoration of the natural stream channel of Johnson Creek, and the adoption of conditions of approval as written in the Notice of Decision (Attachment A).

Attachments:

Attachment A: Notice of Decision

Attachment B: Appeal Filing

NOTICE OF DECISION



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Application for a Significant Water Resources (SEC-wr) Permit and a Lot of Record Verification

Case File: T2-2025-0067

Applicant: Robert Fraley, Portland Water Bureau

Proposal: Request for a Lot of Record Verification and a Significant Water Resources (SEC-wr) permit. The SEC-wr permit is for a restoration project within Johnson Creek, consisting of the removal of an artificial earth dam which has created a pond to reestablish a natural stream channel.

Location: 8344 SE Cottrell Road, Boring

Property ID # R342546

Map, Tax lot: 1S4E22CD -00300

Alt. Acct. # R994220180

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

Overlays: Significant Water Resources (SEC-wr)

Decision: The subject property known as 1S4E22CD -00300 is a Lot of Record in its current configuration. The requested Significant Water Resources (SEC-wr) permit is Approved with Conditions.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is May 14, 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.

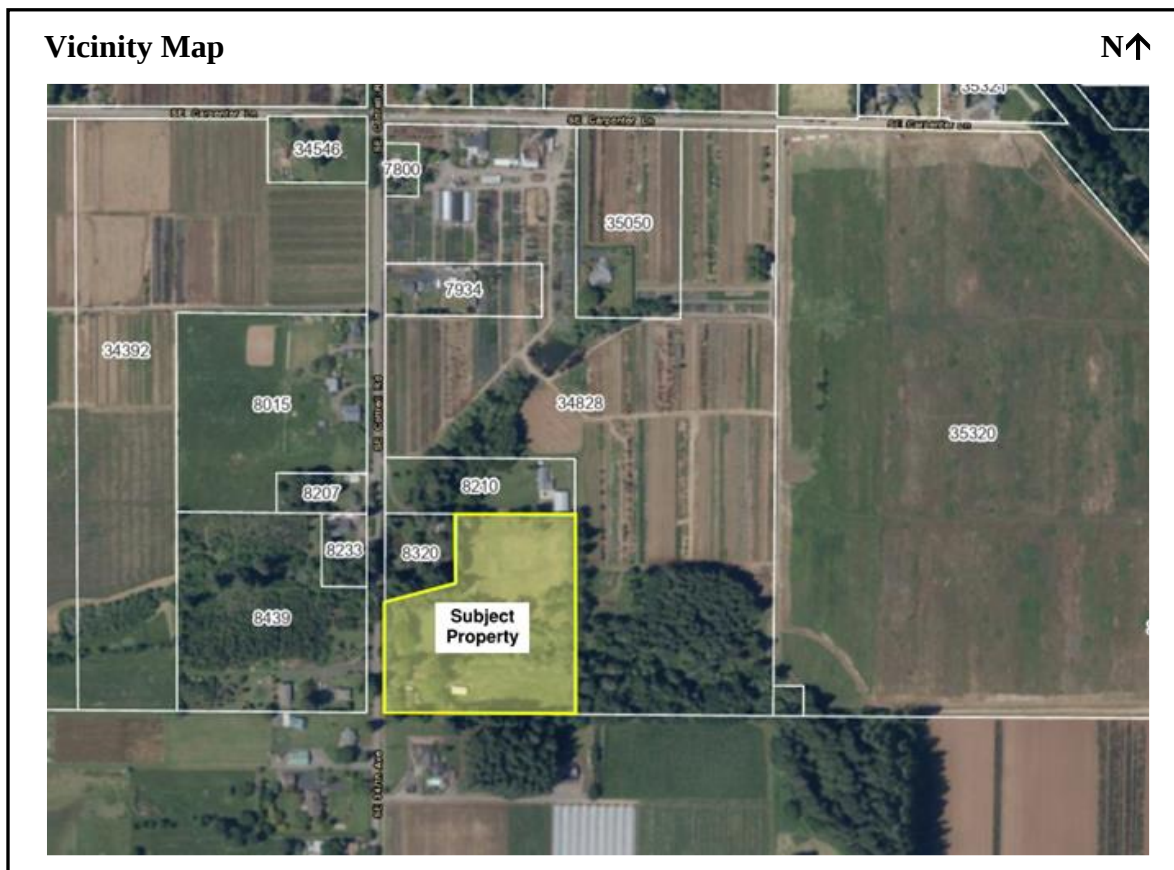
Opportunity to Appeal: The appeal form is available at www.multco.us/landuse/application-materials-and-forms. Email the completed appeal form to LUP-submittals@multco.us. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. This decision is not appealable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

Issued by: _____
Anna Shank-Root, Planner

For: Megan Gibb,
Planning Director

Date: April 30, 2026

Instrument Number for Recording
Purposes: # 2025-068915



Applicable Approval Criteria:

Multnomah County Code (MCC): General Provisions: MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.6235 Stormwater Drainage Control, MCC 39.6850 Dark Sky Lighting Standards

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – Multiple Use Agriculture – 20 (MUA-20)

Multiple Use Agriculture – 20 (MUA-20): MCC 39.4310(D) Allowed Uses – Public...conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources, MCC 39.4325(G) Dimensional Standards and Development Requirements

Significant Water Resources (SEC-wr): MCC 39.5510 Permits Required, MCC 39.5590 SEC-wr Permit Criteria (Significant Water Resources)

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.

Permit Expiration

This land use permit shall expire two (2) years after the date of the final decision, unless the use or development was established according to all specifications and conditions of approval in the land use approval. [MCC 39.1185(A)] Expiration of an approval means that a new application is required for uses that are not established during the approval period. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

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.

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 complies with this approval and is consistent with supporting documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. [MCC 39.1170(B)]

1. Prior to beginning restoration work, the property owner(s), their agent(s), or their representative(s) shall complete the following actions:

- a. Record pages 1 through 5 and Exhibit A.5 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. Please email the recorded document to anna.shank-root5@multco.us [MCC 39.1175 and MCC 39.5590(D)(3)(f)].
- b. 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. Please email the signed document to anna.shank-root5@multco.us. [MCC 39.1170(A) & (B)].
- c. Obtain an Erosion and Sediment Control (ESC) permit. [MCC 39.5590(C)(4)(i)]
- d. Obtain a Flood Development Permit for the alteration of a watercourse. [MCC 39.5015(B)]

2. All soil disturbing activities within all Riparian Areas shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. The Planning Director may extend the timeline of this period. [MCC 39.5590(C)(4)(i)(i)]. Any request for extension shall be made a minimum of 15 days before the deadline. The property owner must provide documentation as to why they are requesting an extension, provide a timeline for extension of the soil disturbance period, and demonstrate how the soil disturbing activities are in alignment with current Best Management Practices and Oregon Department of Fish and Wildlife in-stream timing schedule. [MCC 39.1170(A)]

- 3. Prior to and during development/restoration, the property owner(s) or their representatives shall:**
- a. Flag, fence, or otherwise mark the boundaries of the Riparian Area. Such markings must be maintained until construction is complete. [MCC 39.5590(C)(4)(f) & (E)(3)]
 - b. Not use trees as anchors for stabilizing construction equipment. [MCC 39.5590(E)(4)]
- 4. Upon completion of the restoration/mitigation actions, the property owner(s), their agent(s), or their representative(s) shall:**
- a. Document Restoration Installation - Provide certification by a professional wetland or riparian consultant, fish and wildlife biologist, landscape architect, or other qualified professional as determined by the Planning Director, that the riparian/vegetated corridor was restored according to the mitigation plan and that the vegetated corridor will qualify as “Good Corridor” within 5 years. [MCC 39.5590(C)(3)(d), MCC 39.5590(C)(4)(d), and MCC 39.5590(E)(1)]
 - b. Provide Annual Condition Reports for a 5-Year Period – For 5 years following initial planting efforts, provide a yearly report by November 30th, referencing this casefile, via email to LUP-submittals@multco.us outlining the condition of the plantings and if any modifications to the mitigation plan are necessary. Note: Please include thorough and clear information about the plantings and site conditions, including but not limited to a narrative description of conditions, photographs, information on maintenance, and the health of the plants. Any proposed modifications to the mitigation plan require written approval by Multnomah County Land Use Planning. Failure of vegetation to be maintained in a healthy growing state shall require continued monitoring by a professional, and failure to submit monitoring reports may result in enforcement actions. [MCC 39.5590(E)(2)]
- 5. As an on-going condition, the property owner(s) shall maintain the portions of the Riparian Area addressed by the Restoration Plan (Exhibit A.5) in “Good Condition” [MCC 39.5590(D)]**

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.

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 requests a Lot of Record Verification and a Significant Water Resources (SEC-wr) permit. The SEC-wr permit is for a restoration project within Johnson Creek, consisting of the removal of an artificial earth dam which has created a pond in order to reestablish a natural stream channel.

2.0 Property Description & History:

Staff: This application is for 8344 SE Cottrell Road, Boring. The subject property is located on the east side of SE Cottrell 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), is located within the Significant Water Resources (SEC-wr) overlay, and contains mapped Wetlands.

The accessor lists a single-family dwelling with built-in garage and a farm building, consistent with aerial photographs which show two buildings.

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 four (4) public comments during the 14-day comment period.

3.1 The Cottrell Community Planning Organization provided written comments on behalf of their organization and Pleasant Hill Community Association via email on February 4, 2026 (Exhibit D.1)

Staff: Cottrell PTO expresses concern regarding a lack of detail and preliminary nature of the information provided by the applicant. They request clarification on the impacts to existing vegetation and wildlife, the in-water work windows, planting plans, site conditions before and after the restoration work occurs, and construction details. Staff has reviewed all standards required for approval of a SEC-wr permit in section 7.0 of this report, and cited information provided by the applicant demonstrating compliance with all standards.

3.2 Kristy McKenzie, 34828 SE Carpenter Lane, provided written comments via email on February 4, 2026 (Exhibit D.2).

Staff: Commenter expresses concerns that this project should have been reviewed alongside the Portland Water Bureau facility that was reviewed and approved by T3-2022-16220. While the restoration of Cottrell Pond was a condition of approval to T3-2022-16220 (Exhibit B.7), this application solely concerns the review of restoration of Cottrell Pond, and will not consider any impacts of previously approved development.

3.3 Ron Roberts and Mary Roberts, Property Owners at 34826 and 34828 SE Carpenter Lane, provided written comments via email on February 4, 2026 (Exhibit D.3).

Staff: Commenters express concerns that this project should have been reviewed alongside the Portland Water Bureau facility that was reviewed and approved by T3-2022-16220. While the restoration of Cottrell Pond was a condition of approval to T3-2022-16220 (Exhibit B.7), this application solely concerns the review of restoration of Cottrell Pond, and will not consider any impacts of previously approved development.

3.4 Tamara Wensenk, 34828 & 34826 SE Carpenter Lane, provided written comments via email on February 4, 2026 (Exhibit D.3).

Staff: Commenter expresses concerns about increases in stormwater discharge into Johnson Creek from the Portland Water Bureau Filtration facility that was previously reviewed by T3-2022-16220 (Exhibit B.7). This application solely concerns the review of restoration of Cottrell Pond, and will not consider any impacts of previously approved development.

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: 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 Lot of Record Criteria:

5.1 MCC 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:

(a) By a subdivision plat under the applicable subdivision requirements in effect at the time; or

(b) By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

(c) By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or

Staff: To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet MCC 39.3005(B) of this section and meet the Lot of Record standards set forth in the Multiple Use Agriculture – 20 (MUA-20) zoning district. More specifically, section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

The applicant provided a title plant report indicating that the first deed describing the subject property was recorded in 1963 (Exhibits A.9 and B.5). In 1963, the subject property was zoned F2 per historical County zoning maps (Exhibit B.4). The F2 zone had a minimum lot size of 2 acres. There was no requirement for road frontage or minimum front lot line length or lot width (Exhibit B.6). The subject property is 8.14 acres, exceeding the 2-acre minimum in the F2 zone. The applicant has also provided a current deed for the subject property that contains a legal description that matches the recorded 1963 legal description (Exhibits A.8 and B.5).

The subject property complied with all applicable zoning laws at the time of its creation or reconfiguration.

In 1963, the process to create or divide a parcel required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As evidenced by the 1963 deed, the applicable land division laws were satisfied (Exhibit B.5).

Based upon the above, the subject property satisfied all applicable zoning and land division laws when it was created or reconfigured in 1963.

5.2 MCC 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: Section (A) is for information purposes.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: The subject property is less than the minimum lot size for new parcels or lots in the MUA-20 zone and therefore is subject to (B) above. *Criterion met.*

(C) Except as otherwise provided by MCC 39.4330, 39.4335, and 39.5300 through 39.5350, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

Staff: The property owner is not proposing to convey any portion of the subject property at this time. *Criterion met.*

(D) The following shall not be deemed to be a Lot of Record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) An area of land created by court decree.**

Staff: As discussed above under section 5.1, the subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The property is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

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

6.1 MCC 39.4310 Allowed Uses

* * *

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

Staff: The applicant has requested approval for the removal of an artificial earth dam within Johnson Creek to restore the natural stream channel. The removal of the dam and restoration will result in a conservation area that will protect water, soil, open space, forest, and wildlife resources. This allowed use is subject to other requirements of the zone and the Significant Water Resources (SEC-wr) overlay, which are evaluated below.

6.2 MCC 39.4325 Dimensional Standards and Development Requirements

* * *

(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.

Staff: No buildings, structure, or new impervious surfaces requiring on-site sewage and/or stormwater drainage control are proposed. The applicant has provided a septic review certification verifying that the proposed restoration work will not impact the existing septic system on the site (Exhibit A.11). *Criteria met.*

7.0 Significant Water Resources (SEC-wr) Permit Criteria:

7.1 MCC 39.5510 Uses; SEC Permit Required

(A) Except as provided in MCC 39.5515 and 39.5525, an SEC Overlays permit(s) is required for:

- (1) All development, including but not limited to the location, design, change, replacement, or alteration of any use or structure.

* * *

Staff: The proposed stream restoration project is an allowed use in the MUA-20 zone per MCC 39.4310(D). The proposed development does not meet any of the exceptions outlined in MCC 39.5515, nor is it a replacement structure as classified by MCC 39.5525. Therefore, an SEC-wr permit is required and the applicable criteria are outlined in Sections 7.2-7.4 below. *Criterion met.*

7.2 MCC 39.5590- SEC-wr PERMIT CRITERIA (SIGNIFICANT -WATER RESOURCES).

(A) Decision Review Process.

* * * * *

- (2) Applications that do not meet all of the criteria in MCC 39.5590(A)(1) shall be processed through the Type II review procedure. The applicant shall meet all of the criteria in MCC 39.5590 (B) through (E) below.

Staff: The project cannot meet the Type I review procedure, so the applicant has submitted this Type II application request addressing the criteria of MCC 39.5590 (B) through (E).

(B) Application Submittal Requirements. All applicants for an SEC-wr or SEC-s permit shall include the following:

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of subsection (C) and (E) below.
- (2) A site plan of the property showing:

* * *
- (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, dredging, and vegetation removal, including the amounts and methods.

Staff: The applicant has submitted the required materials described in (B) above as Exhibits A.1-A.12. *Criteria met.*

(C) SEC-wr and SEC-s Permit Approval Criteria.

- (1) Except for the exempt uses listed in MCC 39.5590 and the existing uses pursuant to MCC 39.5525, no development shall be allowed within a Riparian Area unless the provisions of subsections (2) or (3) and (4) below are satisfied. An application shall not be approved unless it contains the site analysis information required (B) above.**

Staff: As previously discussed, the proposed development is not a listed exempt use listed in MCC 39.5590 nor an existing use pursuant to MCC 39.5525. The development is in the Riparian Area; therefore, the development is subject to the applicable criteria as discussed below.

- (2) Low Impact Sites - Development on parcels in locations that would have low impacts on Riparian Areas may be exempt from the Alternatives Analysis in subsection (3) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this Overlay including the Development Standards of subsection (4) and the provisions for Mitigation in subsection (D):**

- (a) The entirety of the development site is at least one hundred (100) feet from top of bank or top of ravine, which ever results in a greater distance from the Protected Water Feature. Top of ravine is the break in the > 25% slope. Slope should be measured in 25foot increments away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.**

Staff: The subject site does not qualify as a low impact site and is therefore subject to the Alternatives Analysis in subsections (3) below.

- (3) Alternatives Analysis Sites - Development proposed within a Riparian Area may be allowed if there is no alternative, when the other requirements of the Overlay including the Development Standards of subsection (4) and the provisions for Mitigation in subsection (D) are met. The applicant shall prepare an alternatives analysis which demonstrates that:**

- (a) No practicable alternatives to the requested development location exists on the property further than 100 feet from the protected water feature; and**

Staff: The proposed removal of the artificial dam and restoration of the natural channel of Johnson Creek is water dependent. As the removal of the dam and restoration is located entirely within the Riparian Area, the development cannot practicably be located outside of the protected water feature. *Criterion met.*

- (b) Development within the Alternative Analysis Site in the Riparian Area has been limited to the minimum area necessary to allow for the proposed use;**

Staff: The applicant is proposing to remove an artificial dam and resulting pond from the stream channel of Johnson Creek. The dam and pond comprise approximately 1.17 acres on the subject site and the proposed grading and earthwork associated with the proposed restoration project is

1.22 acres (Exhibits A.3, A.5 and A.12). The applicant indicates that the project has been designed to impact the minimum necessary area to achieve the project objectives of upgrading the “degraded” corridor to a “good” corridor, restore fish passage, improve the water quality of Johnson Creek, and retain ecological functions such as breeding habitat for amphibians and adequate flood storage capacity (Exhibit A.3). *Criterion met.*

(c) Development shall occur as far as practically possible from the protected water feature; and

Staff: The proposed removal of the artificial dam and restoration of the natural channel of Johnson Creek is water dependent. It is integral to the proposed development that it occurs within the protected water feature; therefore, the development cannot practically be located outside of the stream. *Criterion met.*

(d) The Riparian Area can be restored to an equal or better condition; or

Staff: Per their Restoration Plan, the applicant proposes to complete restoration and mitigation efforts that will upgrade the project area from “Degraded” condition to “Good” condition. (Exhibits A.5 and A.12). As described in their Plan, Portland Water Bureau Staff evaluated the existing conditions of the riparian area, delineated the wetland areas and degraded corridor areas, and provided a vegetation restoration plan to restore the area to an equal or better condition. *Criterion met.*

(e) Any net loss on the property of Riparian Area is mitigated.

Staff: Per their Restoration Plan, the property contains 6.36 acres of degraded corridor. The applicant proposes to restore a 6.68-acre area on the subject property resulting in no net loss of resource area function or value (Exhibits A.5 and A.12). The proposed restoration work will result in the existing “degraded corridor” being elevated to “good corridor” as a result of the proposed pond removal and stream channel restoration. *Criterion met.*

(4) Development Standards; Development within the Riparian Area shall comply with the following standards:

(a) Development of trails, rest points, viewpoints, and other facilities in public and private parks for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.

Staff: No trails, rest points, viewpoints or other facilities are proposed. *Criterion met.*

(b) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH or greater) shall be removed without a one-for-one replacement with comparable species. Replacement trees shall be placed within the riparian corridor or adjacent to it to provide shade and water retention. Size of the replacement trees shall be 5 gallon or greater. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.

Staff: Per the applicant’s Code Narrative and Restoration Plan twenty (20) trees are proposed to be removed, which represents 8% of the total trees on the site (Exhibits A.3, A.5 and A.12). The applicant has identified the trees by type, size, and location on pages 19 and 20 of the Restoration

Plan (Exhibits A.5 and A.12). The restoration plan indicates that 950 native trees will be planted on the site, well exceeding the one for one replacement requirement. The applicant has indicated that a minimum of twenty (20) trees will be a size of 5 gallon or greater (Exhibit A.12). *Criterion met.*

- (c) **Areas of standing trees, shrubs, and natural vegetation shall remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.**

Staff: The applicant proposes to increase the contiguous areas of standing trees, shrubs, and natural vegetation along Johnson Creek by removing an artificial dam and pond and engaging in restoration and planting activities as shown in Exhibits A.5 and A.12. The Tree Removal and Protection Plan shows a cluster of trees near SE Cottrell Road that will be removed. However, many of the trees in that location will be left in place or protected to ensure that the standing trees remain connected and contiguous with the stand of trees along the creek (Exhibit A.5 - Appendix E). *Criterion met.*

- (d) **The Riparian Area shall be restored to "Good Corridor condition" as defined in MCC 39.5590 (D)(1), and maintained in accordance with the mitigation plan pursuant MCC 39.5590 (D).**

Staff: Per Code Narrative and Restoration Plan (Exhibits A.3, A.5 and A.12), the applicant proposes to complete restoration and mitigation efforts that will upgrade the area from its existing "Degraded" condition to "Good" condition by increasing native plant ground cover and tree canopy and restoring the natural stream channel of Johnson Creek. Maintaining the area in accordance with the mitigation plan is a condition of approval. *As conditioned, this criterion is met.*

- (e) **To the extent practicable, existing vegetation shall be protected and left in place.**

Staff: The applicant is proposing mitigation efforts that prioritize increasing the native vegetation on the site and removing invasive species, and they have indicated that the project has been designed to retain as much existing native vegetation as possible (Exhibits A.3, A.5 and A.12). To accomplish the removal of the dam, some existing vegetation will need to be removed. The tree removal and protection plan indicate that twenty (20) trees will be removed while twenty-six (26) trees will be protected. *Criterion met.*

- (f) **Prior to construction of the development, the boundaries of the Riparian Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by the permit. Such markings shall be maintained until construction is complete.**

Staff: Flagging, fencing or otherwise marking the boundaries of the Water Resource area prior to construction and maintaining the markings for the duration of construction is a condition of approval. *As conditioned, this criterion is met.*

- (g) **Stormwater drainage control facilities:**

- (i) **Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.**

- (ii) The stormwater drainage control facility may only encroach a maximum of 25 feet into the outside boundary of the Riparian Area of a primary water feature; and**
- (iii) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Riparian Area on the subject property.**

Staff: MCC 39.6235 requires stormwater drainage control facilities for the creation of 500 square feet or more of impervious surfaces. No impervious surfaces are proposed, and therefore (g) does not apply to this project. *Criterion does not apply.*

- (h) The nuisance and invasive nonnative plants, as defined in MCC 39.5520, shall not be used as landscape plantings within the Riparian Area.**

Staff: The applicant indicates in their planting lists that no nuisance or invasive nonnative plants will be used as landscape plantings within the Riparian Area (Exhibits A.3, A.5 and A.12). *Criterion met.*

- (i) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices.**
 - (i) Soil disturbing activities within a Riparian Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15.**

Staff: The applicant indicates that the Erosion and Sediment Control Plan includes the use of Best Management Practices. The Plan is included as part of the Erosion and Sediment Control permit, which the applicant has submitted as T1-2025-0069. Further the Pond Restoration Plan discusses stabilization of the banks and limitations of when development will occur. As required above, a condition will be required that soil disturbing activities within a Riparian Area shall be limited to the period between June 15 and September 15. Additionally, revegetation/soil stabilization must be accomplished no later than October 15. Extension of this window must be done in writing outlining the reasoning for the expanded window. *As conditioned, criterion met.*

- (j) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped Riparian Areas. Where illumination of a Riparian Area is unavoidable, it shall be minimized through use of a hooded fixture type and location. 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 minimalist manner.**

Staff: No outdoor lighting is proposed on the site (Exhibit A.3). *Criterion met.*

- (k) A bridge or open-bottom culvert, which does not disturb the bed or banks of the stream and is in compliance with the County's Flood Hazard regulations shall be utilized for any crossing of a protected streams.**

Staff: No stream crossings are proposed (Exhibits A.2, A.3, A.5 and A.12). *Criterion met.*

(D) Mitigation: Mitigation shall be required to offset the impacts of development within the Riparian Area. This subsection establishes how mitigation can occur.

- (1) Vegetated Corridor Condition:** For the purposes of the SEC-wr Overlay, vegetated corridor conditions are defined below.
 - (a) Good Corridor:** A combination of native trees, shrubs, and groundcover covering greater than 80% of the area, and greater than 50% tree canopy exists (aerial measure).
 - (b) Marginal Corridor:** A combination of native trees, shrubs, and groundcovers covering 50-80% of the area and/or 26-50% tree canopy exists (aerial measure).
 - (c) Degraded Corridor:** A combination of native trees, shrubs, and groundcovers covering is less than 50% of the area, and/or less than 25% tree canopy exists (aerial measure), and/or greater than 10% of the area is covered by invasive, non-native species.

Staff: The applicant has provided evaluation from experts of the existing conditions of the corridor where the restoration project is occurring as part of the provided restoration plan (Exhibits A.5 and A.12). As previously discussed, 6.36 acres of degraded corridor will be restored to a good corridor standard. *Criterion met.*

- (2) Mitigation Sequence:** Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.
 - (a) When a proposed development could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1 through 5 below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.**
 - (i) Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of the site which contains the regulated natural resource area;**
 - (ii) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.**
 - (iii) Compensating for the impact by repairing, rehabilitating, or restoring the affected environment;**
 - (iv) Compensating for the impact by replacing, enhancing or providing substitute resources or environment on-site;**
 - (v) Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.**

Staff: Per their Restoration Plan (Exhibits A.5 and A.12), the applicant proposes to remove an artificial dam, resulting pond, and non-native species from the natural resource area to restore the natural stream channel of Johnson Creek, and to complete additional restoration and mitigation efforts that will upgrade the area surrounding the disturbance from “Degraded” to “Good” condition. The entirety of the project focuses on the mitigation of negative impacts through minimizing additional disturbance to the site through thoughtful project design and prioritizing retention of existing native vegetation, restoring the affected stream channel by reversing previous

negative impacts associated with the artificial dam and resulting pond, and enhancing additional vegetative cover and wildlife habitat on the site (Exhibits A.3, A.5 and A.12).

Integral to the design of the proposal requires that the development is unable to avoid the portions of the natural resource area. The applicant describes in the Plan how the development will minimize impacts by protecting and leaving trees in place. For the dam, trees, and other vegetation that will be removed the applicant will compensate by rehabilitating and restoring the natural resource area. *Criterion met.*

- (b) When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit for the public project given:**
 - (i) The extent of the public need for the proposed development;**
 - (ii) The functional values of the Riparian Area that may be affected by the proposed development;**
 - (iii) The extent and permanence of the adverse effects of the development on the Riparian Area, either directly or indirectly;**
 - (iv) The cumulative adverse effects of past activities on the Riparian Area either directly or indirectly; and**
 - (v) The uniqueness or scarcity of the Riparian Area that may be affected.**

Staff: The proposed restoration process will positively impact the protected water body, Johnson Creek, by restoring fish passage, improving the water quality of Johnson Creek, and enhancing ecological functions such as breeding habitat for amphibians and adequate flood storage capacity (Exhibits A.3, A.5 and A.12). In consultation with the Johnson Creek Watershed Council, the removal of the dam and pond was identified as a high-priority project of great public benefit for the functional values of the riparian area (Exhibit A.7). *Criterion met.*

- (3) Compensatory Mitigation: General Requirements. As a condition of any permit or other approval allowing development, compensatory mitigation shall be required to offset the encroachment of the development into the area. The mitigation shall meet the following:**

- (a) Any person who alters or proposes to alter a Riparian Area shall restore or create a vegetated corridor equivalent to or larger than the altered corridor in order to compensate for resource losses.**

Staff: Per their Restoration Plan, the applicant proposes to remove an artificial dam, resulting pond, and non-native species from the natural resource area to restore the natural stream channel of Johnson Creek, and to complete additional restoration and mitigation efforts that will upgrade the area surrounding the disturbance from “Degraded” to “Good” condition (Exhibits A.5 and A.12). The artificial dam and pond comprise approximately 1.17 acres of the site, and the applicant proposes to restore 6.68 acres of the site (Exhibits A.3, A.5 and A.12) *Criterion met.*

- (b) The following ratios apply to the creation or restoration of the vegetated corridor. The first number specifies the amount of vegetated corridor to be created and the second specifies the amount of Riparian Area to be altered or lost.**

Creation (off-site) 2:1

Restoration (off-site) 1.5:1

Creation (on-site) 5:1

Restoration (on-site) 1:1

Staff: Per their Code Narrative and Restoration Plan the applicant proposes to remove an artificial dam and pond, which comprise about 1.17 acres on the subject site (Exhibits A.3, A.5 and A.12). The applicant is proposing 6.68 acres of mitigation work, which will include both creation and restoration on the subject site. The proposed mitigation well exceeds the 1:1 on-site restoration requirement required by (b). *Criterion met.*

- (c) Only Marginal or Degraded Corridor(s) as defined in MCC 39.5590 (D)(1) may be the subject of a restoration project proposed as part of a Mitigation Plan.**

Staff: Per the applicant's Restoration Plan, the subject site is considered a "degraded" resource area (Exhibit A.5). The Plan indicates that there is 6.36 acres of "degraded" resource that will be subject of restoration. *Criterion met.*

- (d) Highest priority sites for mitigation are Marginal or Degraded Corridor(s) that are closest to a natural drainage on the property, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.**

Staff: According to the applicant's Code Narrative and Restoration Plan the site where mitigation is proposed is a degraded corridor, and all work is occurring within or adjacent to Johnson Creek, a natural drainage (Exhibits A.3, A.5 and A.12). The applicant's Code Narrative and Restoration Plan (Exhibits A.3, A.5 and A.12) indicate that the proposed mitigation activities will increase the contiguous areas of standing trees, shrubs and natural vegetation along the corridor of Johnson Creek. *Criterion met.*

- (e) The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County and shall comply with (c) and (d) above.**

Staff: All mitigation activities outlined in the Restoration Plan are proposed on site (Exhibits A.5 and A.12). As no off-site mitigation is proposed, this criterion is not applicable. *Criterion not applicable.*

- (f) In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that offsite mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.**

Staff: To ensure compliance with the criterion, conditions will be required that property owner record the mitigation plan approval in the deed records of Multnomah County. *As conditioned, criterion met.*

- (4) **Mitigation Plan Standards: Natural resources mitigation plans shall contain the following:**
- (a) **A description of adverse impacts that could be caused as a result of development.**
 - (b) **An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.**
 - (c) **A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.**
 - (d) **A map drawn to scale, showing where the specific mitigation activities will occur.**
 - (e) **An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.**
 - (f) **Mitigation work shall be completed prior to initiation of development where possible.**
 - (i) **Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established in the next planting season.**
 - (ii) **Nuisance and invasive nonnative plants, as defined in MCC 39.5520, or other debris and noxious materials shall be removed and be kept removed from the Riparian Area by the property owner.**
 - 1. **Removal shall be by hand or mechanically with small equipment, as appropriate to minimize damage to existing native vegetation.**
 - 2. **Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas.**
 - 3. **Nuisance and invasive nonnative plants, as defined in MCC 39.5520, shall be replaced by the next growing season with native plants that are appropriate to the site conditions to restore the vegetated corridor.**

Staff: The applicant has provided this information as a Restoration Plan (Exhibits A.5 and A.12). *Criteria met.*

(E) Required Conditions of Approval for all SEC-wr and SEC-s Permits.

- (1) **Provide certification by a professional wetland or riparian consultant, fish and wildlife biologist, landscape architect, or other qualified professional as determined by the Planning Director, that the riparian/vegetated corridor was restored according to the mitigation plan and that the vegetated corridor will qualify as “Good Corridor” within 5 years.**
- (2) **The plantings shall be monitored for five years to ensure that the vegetation naturalizes. Failure of vegetation to be maintained in a healthy growing state shall require continued monitoring by a professional.**
 - (a) **A yearly report shall be provided to Multnomah County Land Use Planning outlining the condition of the plantings and if any modifications to the mitigation plan are necessary. Any proposed modifications to the mitigation plan require written approval by Multnomah County Land Use Planning.**
- (3) **Work areas shall be carefully located and marked to reduce potential damage to the Riparian Area.**

Staff: As previously discussed, the applicant has provided a mitigation plan that has been drafted by qualified professionals that the riparian/vegetated corridor will qualify as a “Good Corridor” within 5 years. As required above items are included as conditions of approval for this decision. *As conditioned, criteria met.*

8.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for:

1. A Lot of Record Verification that the subject property known as 1S4E22CD -00300 is a Lot of Record in its current configuration; and
2. For a Significant Water Resources (SEC-wr) permit to remove an artificial dam and pond, and restoration work in the Multiple Use Agriculture – 20 (MUA-20).

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
‘D’ Comments Received

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	2	Application Form	12.16.2025
A.2*	8	Plan Set	04.22.2026

A.3	19	Code Narrative	12.16.2025
A.4	47	Wetland Delineation Report	12.16.2025
A.5	23	Pond Restoration Plan	12.16.2025
A.6	3	Field Survey	12.16.2025
A.7	1	Johnson Creek Watershed Council Letter of Support	12.16.2025
A.8	6	Current Deed - Statutory Warranty Deed No. 2025-068915	12.16.2025
A.9	8	Title Plant Report	12.17.2025
A.10	8	Applicant Response to Public Comments	02.18.2026
A.11	15	Septic Review Certification	03.17.2026
A.12	5	Supplemental Memo Regarding April 22 Plan Set Changes	04.22.2026
A.13	N/A	Complete Case Record	Multiple Dates
‘B’	#	Staff Exhibits	Date
B.1	2	Assessment and Taxation Property Information for 1S4E22CD -00300 (Property ID # R342546/Alt. Acct. # R994220180	12.12.2026
B.2	1	Current Tax Map for 1S4E22CD	04.08.2026
B.3	3	Parcel Record Card - R994220180	01.07.2026
B.4	1	Zoning Map showing zoning from November 15, 1962 until October 5, 1977	04.03.2026
B.5	1	Warranty Deed - Book 2152, Page 60 recorded on Jan 24, 1963	04.03.2026
B.6	1	F2 Zoning District Requirements adopted on November 15, 1962	04.03.2026
‘C’	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	01.08.2026
C.2	6	Opportunity to Comment	01.21.2026
C.3	19	Decision	04.30.2026
‘D’	#	Comments	Date
D.1	1	Cottrell CPO Email Comments	02.04.2026
D.2	2	Kristy McKenzie Email Comments	02.04.2026
D.3	1	Ron & Mary Roberts Email Comments	02.04.2026
D.4	1	Tami Wensenk Email Comments	02.04.2026

Cottrell Pond Restoration

Legend

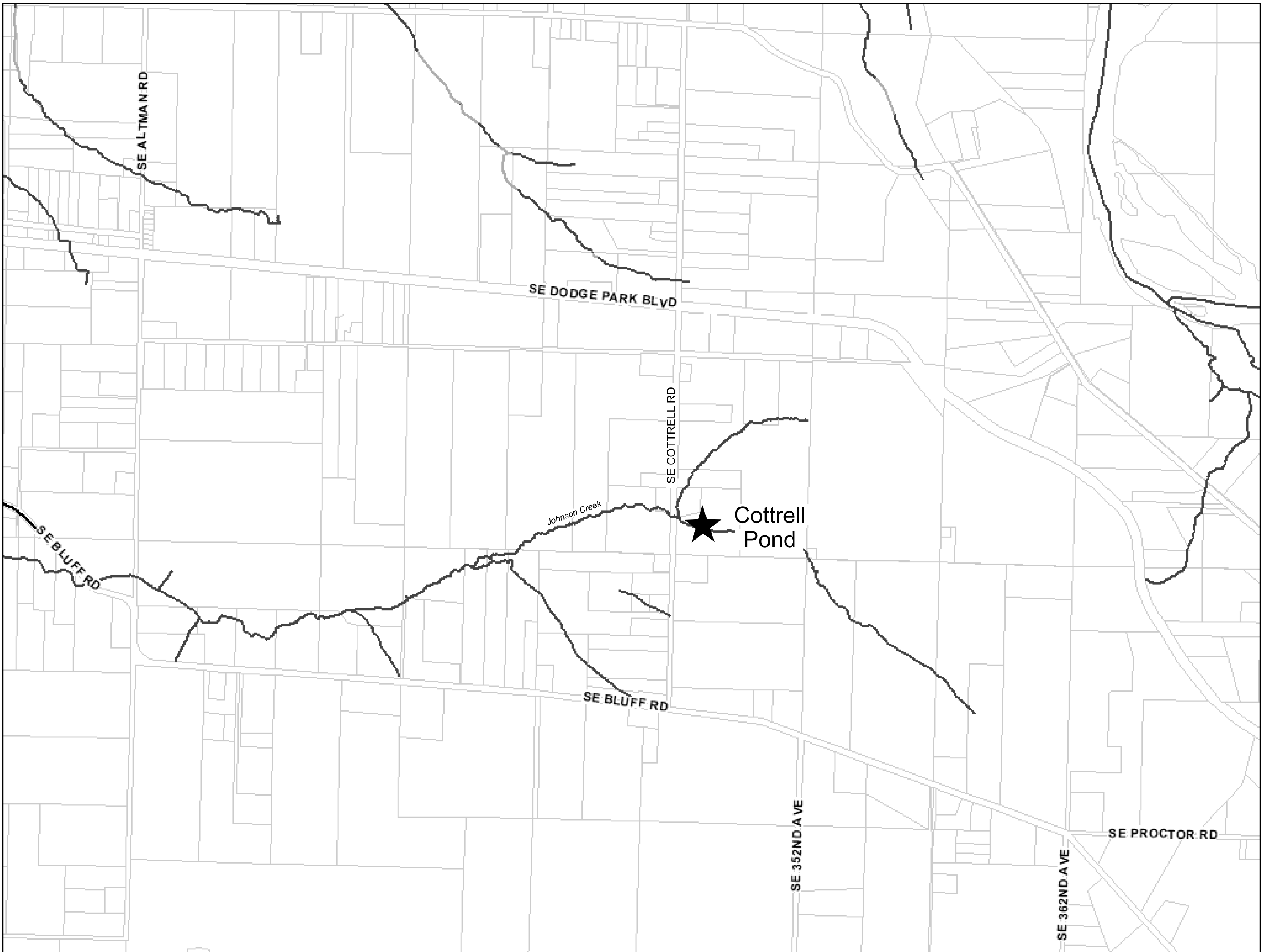
Stream Alignment Centerline	
Stream Alignment Cross Section	
Major Contour Line	
Minor Contour Line	
Coniferous Tree	
Deciduous Tree	
Boulders	
Culvert	
Water Meter	
Control Points	
Water Main	
Fire Hydrant	
Electric (underground)	
Gas Line (wrapped steel)	
Edge of AC Pavement	
Edge of Gravel	
Right of Way Line	
Existing Fence	
Ditch	
Stairway	
Utility Pole	
Building	
Existing Footbridge	
Log Sill Type 1	
Log Sill Type 2	
Rock	
Exclusion Fence	
Fiber Roll Wattles	

ABBREVIATIONS:

AVE	Avenue
BLVD	Boulevard
CMP	Corrugated Metal Pipe
DIA	Diameter
ODEQ	Oregon Department of Environmental Quality
OHW	Ordinary High Water
P/L	Property Line
RD	Road
SE	Southeast
SEC	Significant Environmental Concern

Sheet Index

Sheet Number	Sheet Title	Sheet Description
01	01	Cover Sheet
02	02	Existing Conditions
03	03	Proposed Conditions
04	04	Tree Management
05	05	Construction Management and Erosion Control
06	06	Temporary Water Management
07	07	Grading Plan
08	08	Profiles
09 - 10	09 - 10	Cross-Sections
11- 13	11- 13	Erosion Control Details



Location Map

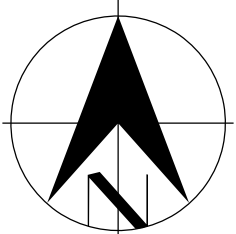
NTS

CONSTRUCTION NOTES:

1. INSTALL TEMPORARY ORANGE PLASTIC MESH FENCE PER DETAIL 1 ON SHEET 11.
2. REMOVE EXISTING FENCE.
3. REMOVE EXISTING SHED.
4. INSTALL CONSTRUCTION ENTRANCE.
5. INSTALL TYPE 3 FIBER ROLL WATTLES PER DETAIL 1 ON SHEET 13.
6. INSTALL SEDIMENT CONTROL BAG PER DETAIL 2 ON SHEET 13.
7. INSTALL TEMPORARY DIVERSION DAM.
8. INSTALL TEMPORARY DIVERSION PUMP AND PIPE.
9. INSTALL TOE ARMORING.
10. INSTALL CONSTRUCTED STREAM BED.
11. CONSTRUCT FLOW SPLIT.
12. CONSTRUCT POND OUTLET.
13. INSTALL LOG SILL TYPE 1.
14. INSTALL LOG SILL TYPE 2.

GENERAL NOTES:

1. UTILITIES AND SERVICE LATERALS AS SHOWN IN THE CONTRACT DOCUMENTS ARE AT APPROXIMATE LOCATIONS. VERIFY ALL LOCATIONS IN THE FIELD PRIOR TO CONSTRUCTION.
2. NOT ALL WATER OR GAS SERVICE LATERALS ARE SHOWN.
3. ALL WORK SHALL CONFORM TO THE 2020 EDITION OF CITY OF PORTLAND STANDARD CONSTRUCTION SPECIFICATIONS UNLESS OTHERWISE INDICATED BY CONTRACT DOCUMENTS.
4. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR OBTAINING ALL TRAFFIC CONTROL PERMITS AND PROVIDING REQUIRED TRAFFIC CONTROL PER SPECIAL PROVISIONS 00220, 00221, 00222 AND 00223.
5. THE CONTRACTOR MUST COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL REGULATIONS, INCLUDING REQUIREMENTS SET FORTH IN THE PERMITS OBTAINED FOR THIS PROJECT. THE CONTRACTOR MUST MAINTAIN AN APPROVED SET OF CONTRACT DOCUMENTS ONSITE DURING CONSTRUCTION INCLUDING A COPY OF ALL PERMITS.
6. TREES SHALL BE PROTECTED OR CLEARED AND SALVAGED FOR REUSE ONSITE AS SPECIFIED IN THE TREE MANAGEMENT PLAN. CONTRACTOR TO VARY ORIENTATION OF LARGE WOOD PLACEMENT AS DIRECTED BY PROJECT ENGINEER.
7. ALL EQUIPMENT, MATERIALS, AND PERSONNEL SHALL REMAIN WITHIN THE DESIGNATED WORK LIMITS. ALL DISTURBED AREAS OUTSIDE THE PROJECT BOUNDARY SHALL BE RESTORED TO ORIGINAL CONDITION OR BETTER.
8. CONSTRUCTION WORK AFFECTING AREAS BELOW ORDINARY HIGH WATER MUST BE CONDUCTED DURING THE APPROVED IN-WATER WORK WINDOW FOR JOHNSON CREEK (JULY 15 - AUGUST 31).
9. EROSION AND SEDIMENT CONTROL IS REQUIRED FOR THIS PROJECT. THE EROSION AND SEDIMENT CONTROL MEASURES SHOWN ON THESE PLANS REPRESENT A POSSIBLE COURSE OF ACTION AND SHALL BE MODIFIED BY THE CONTRACTOR TO MEET PERMIT REQUIREMENTS PER SITE CONDITIONS. THE CONTRACTOR MUST SUBMIT AND IMPLEMENT AN APPROVED EROSION AND SEDIMENT CONTROL PLAN (ESCP) PER SPECIAL PROVISION 00280 AND ODEQ EROSION CONTROL NOTES ON SHEET CE01.
10. EXPOSED SOILS SHALL BE DECOMPACTED AND AMENDED ACCORDING TO SPECIAL PROVISION 01040 AND WILL BE SEEDED ACCORDING TO SPECIAL PROVISION 01030. SITE REVEGETATION TO BE COMPLETED BY OWNER.
11. NATIVE SEED MIX TO BE PROVIDED BY OWNER.
12. SURVEY CONTROL AND PROJECT CONDITIONS SHOWN IN MODIFIED STATE PLANE NORTH NAD83 AND CITY OF PORTLAND VERTICAL DATUM."



Township/Range
Street Opening Permit Number and Date
Synergen Work Order Number
Locate Call In Reference Number

J:\Engineering\CAD\Projects\W02200 - W02299\W02229_Cottrell_Pond_Permits_Set_with_welland_hatch.dgn 5:06:58 PM 12/11/2025

No	Date	Description	Appd
Revision			
Survey	Mon / Yr	XXXX	

Designed By	Program Mgr
CAD Checked By	Const Mgr
Checked By	Const Supvr
Project Mgr	Date



Preliminary

Kenneth M. Ackerman, Chief Engineer, PE No 19424

Kenneth M. Ackerman, Principal Engineer, PE No 19424

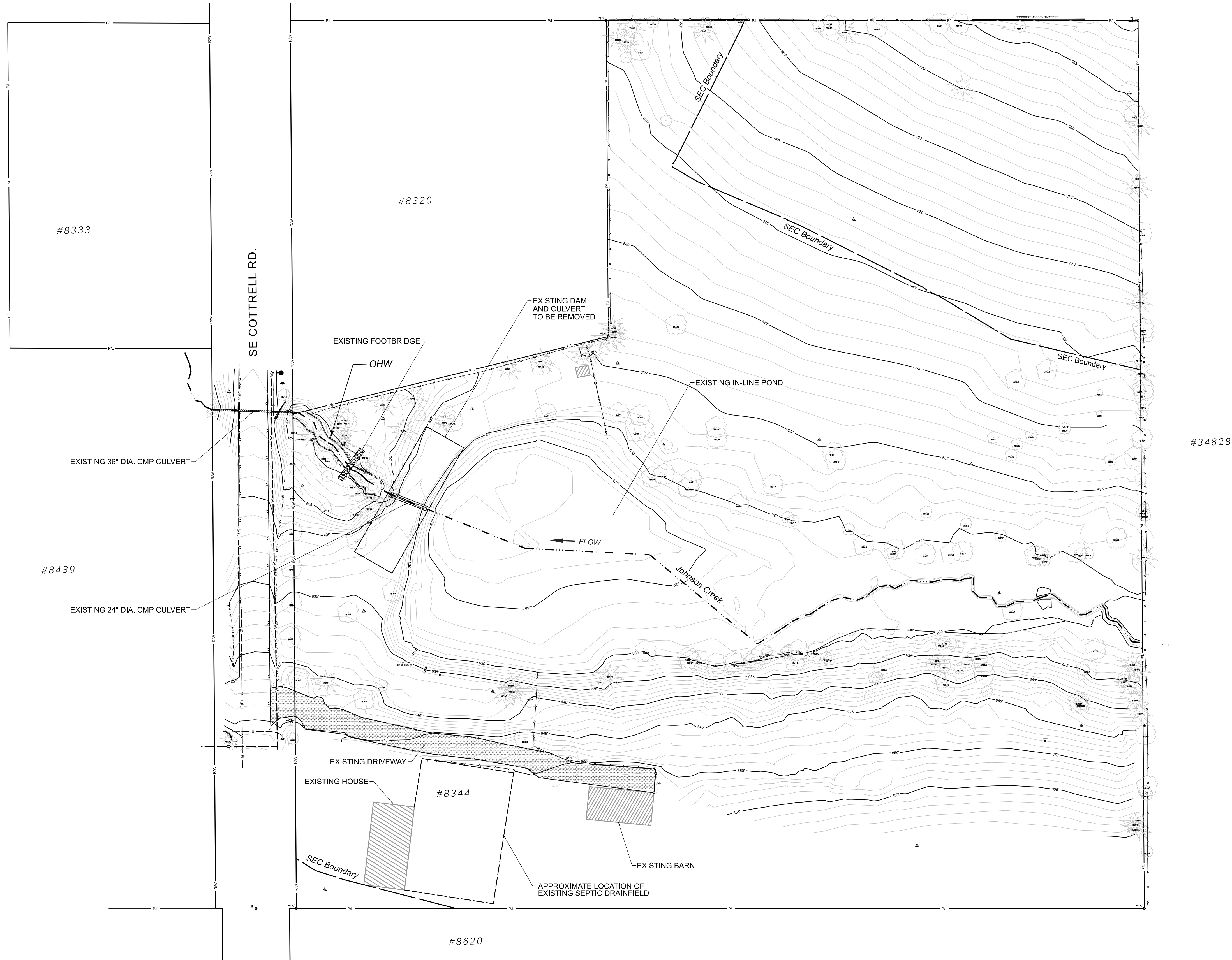


Cottrell Pond Restoration
MULTNOMAH COUNTY PERMIT PLANS

Cover Sheet

SAP Project No W02229
1/4 Section
Sheet No 1 of 13

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Survey	Mon / Yr	XXXX	

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CAD Checked By	Const Mgr
Checked By	Const Supvr
Project Mgr	Date

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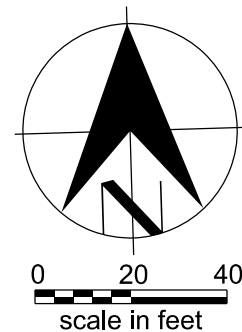
Preliminary

Kenneth M. Ackerman, Principal Engineer, PE No 19424



Cottrell Pond Restoration

Existing Conditions



SAP Project No
W02229
1/4 Section
Sheet No
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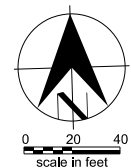
CONSTRUCTION NOTES:

9. STABILIZE EMBANKMENT TOE WITH EMBEDDED CLASS 50 RIPRAP.
10. CONSTRUCT GRAVEL STREAMBED.
11. CONSTRUCT FLOW SPLIT.
12. CONSTRUCT AMPHIBIAN POND OUTLET.
13. INSTALL LOG STRUCTURE.
14. INSTALL LARGE WOODY DEBRIS.

SHEET NOTE:

CONTRACTOR TO APPLY OWNER-SUPPLIED NATIVE SEED MIX TO ALL DISTURBED AREAS VIA HYDROSEEDING OR HAND.

#34828



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Project Mgr	Date	



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Date

Cottrell Pond Restoration

Proposed Conditions

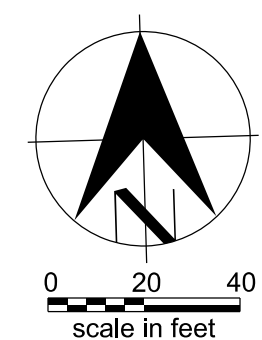
W02229
1/4 Section
Sheet No
3 of 13

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CONSTRUCTION NOTES:

1. INSTALL TEMPORARY ORANGE PLASTIC EXCLUSION FENCE PER DETAIL 1 ON SHEET 11.
- X REMOVE TREE



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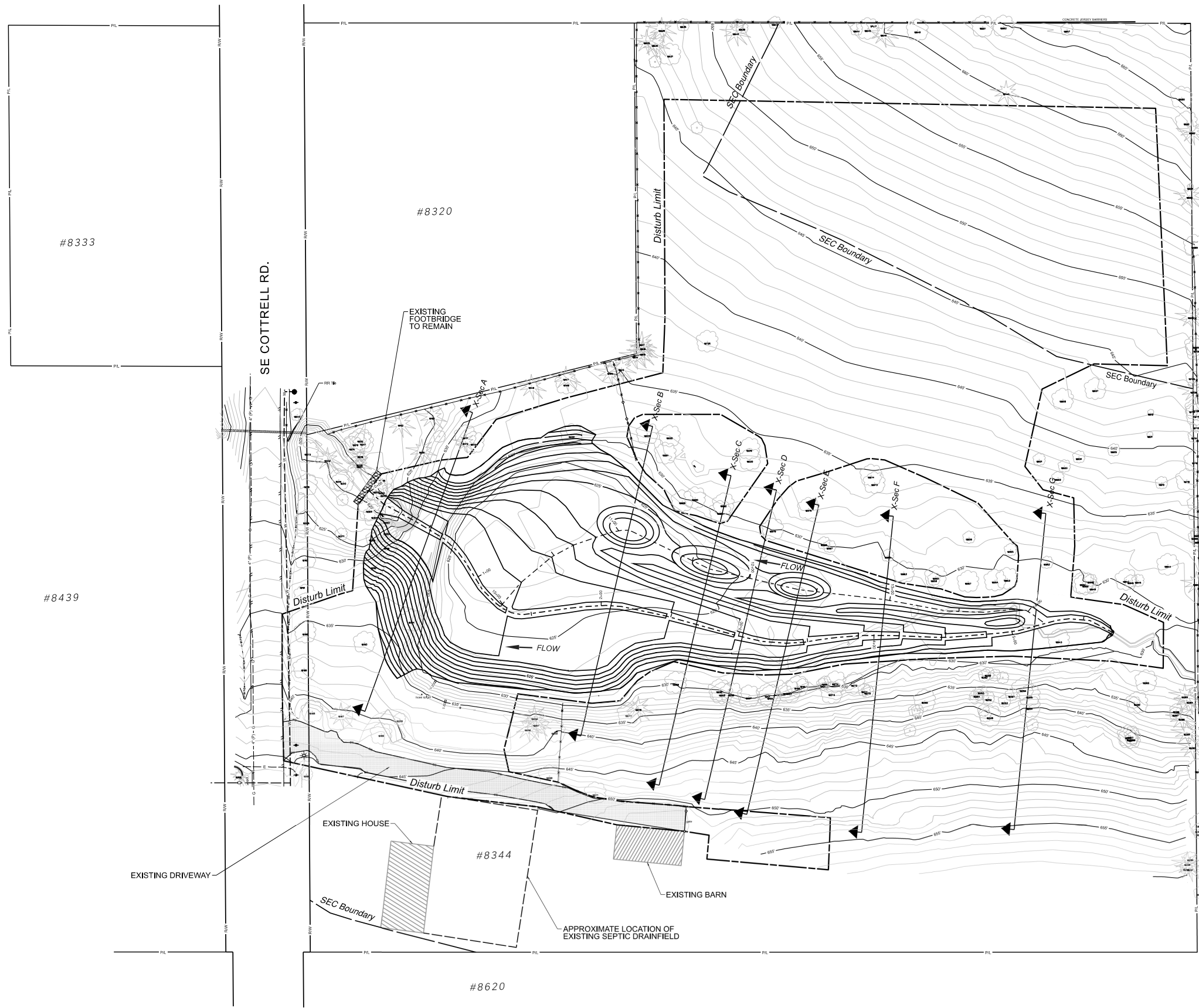


Cottrell Pond Restoration

Tree Management

SAP Project No	W02229
1/4 Section	
Sheet No	4 of 13

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Checked By	Const Supvr	
Project Mgr	Date	



Preliminary

Kenneth M. Ackerman, Principal Engineer, PE No 19424



Date

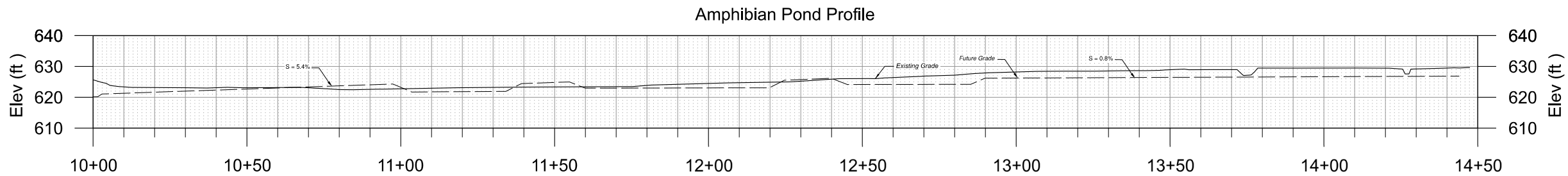
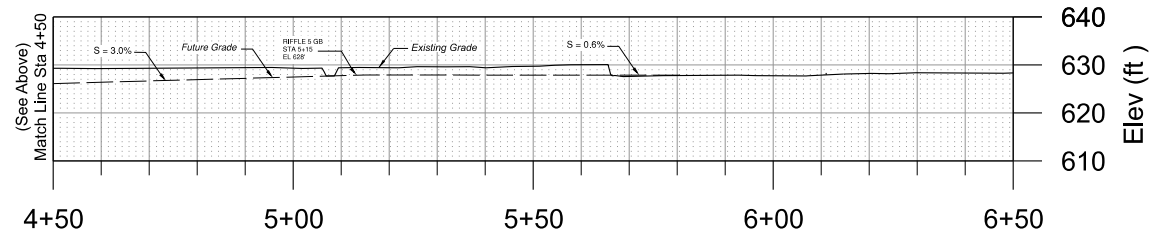
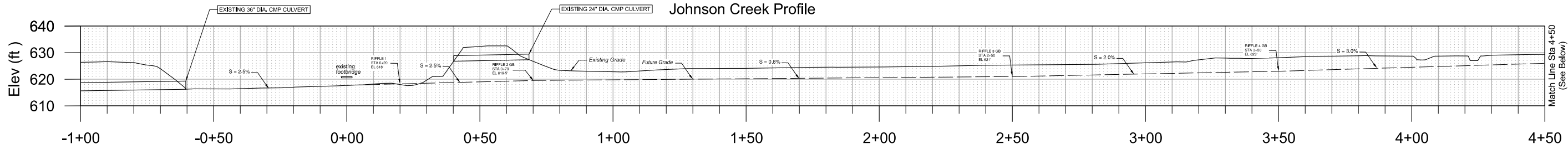
Cottrell Pond Restoration

Grading Plan



SAP Project No	W02229
1/4 Section	
Sheet No	7 of 13

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scale in feet

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Cottrell Pond Restoration

Profiles

SAP Project No
W02229
1/4 Section
Sheet No
8 of 13

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Project Mgr	Date	



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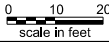
Kenneth M. Ackerman, Principal Engineer, PE No 19424

Date



Cottrell Pond Restoration

Cross-Sections

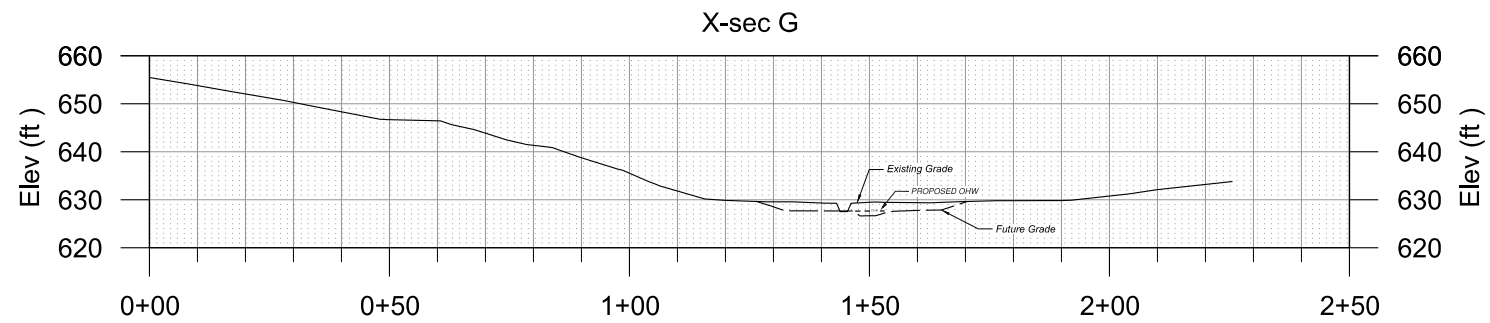
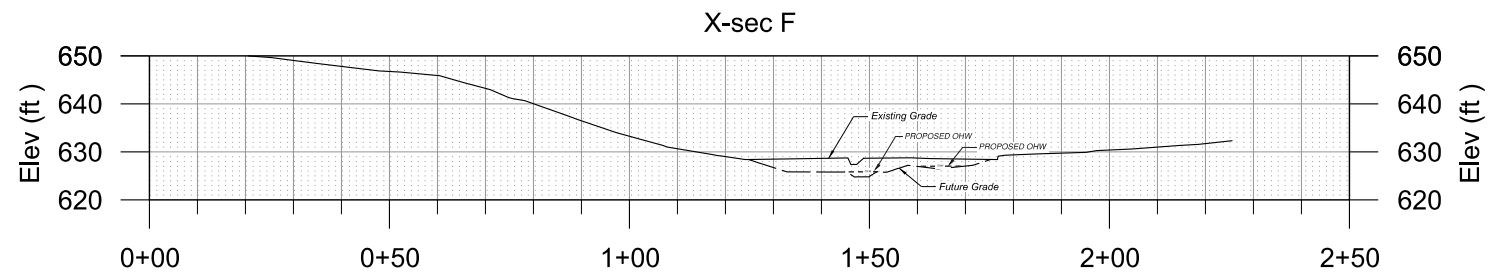
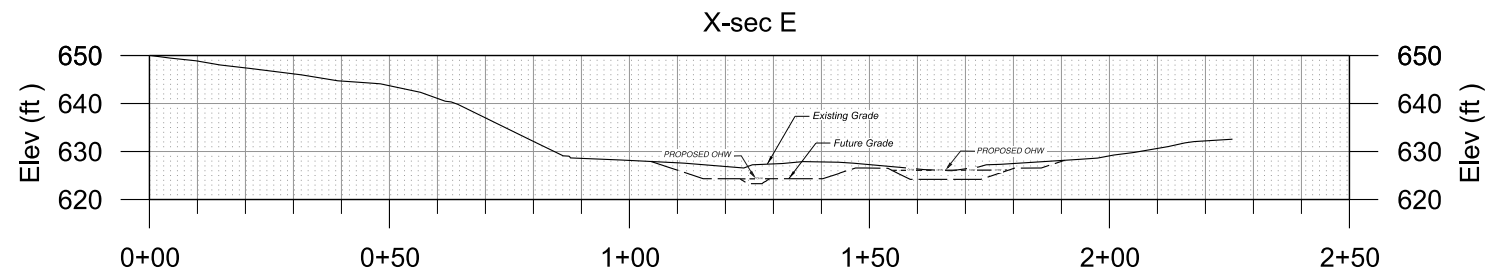


SAP Project No
W02229

1/4 Section

Sheet No

9 of 13



No	Date	Description	Appd	
Revision				
Survey	Mon / Yr	XXXX		

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Checked By	Const Supvr	
Project Mgr	Date	



Preliminary



Cottrell Pond Restoration

Cross-Sections

0 10 20
 scale in feet

SAP Project No
W02229

1/4 Section

Sheet No

10 of **13**

NOTICE OF APPEAL

Land Use Planning Division



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

APPLICANT INSTRUCTIONS

EVERY NOTICE OF APPEAL SHALL INCLUDE [MCC 39.1160 / MCC 38.0640]:

1. The county's case file number and date the decision to be appealed was rendered.
2. The name, mailing address, and daytime telephone number for each appellant.
3. A statement of how each appellant has an interest in the matter and standing to appeal.
4. A statement describing the specific reason for the appeal which includes the criteria or standard the appeal is addressing.
5. The appropriate appeal fee

It is the responsibility of the Appellant to complete a Notice of Appeal as set forth in the Multnomah County Code. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on this form.

APPELLANT INFORMATION (Person or group making appeal)

1. Appellant:

If several individuals are appealing together, list the additional names and addresses on a separate sheet and identify a representative in #2 below. If an organization is appealing, indicate group's name and mailing address here and identify a representative in #2 below.

Printed Name (Last First Middle): Cottrell Community Planning Organization / Pleasant Home Community Association

Address: PO Box 1411

City: Boring State: OR Zip: 97009

Daytime Phone: _____ Email: _____

2. Authorized Representative:

Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

Printed Name (Last First Middle): Jennifer Hart, Chair, Cottrell CPO

Address: 38200 SE Lusted

City: Boring State: OR Zip: 97009

Phone: 503-467-8733 Email: sandyjen23@gmail.com, carpenterlanefarm@gmail.com

DECISION BEING APPEALED

CASE INFORMATION

Decision being appealed (e.g., denial of a NSA Site Review, approval of a SEC permit, etc.):

Approval with Conditions of a Significant Water Resources (SEC-wr) Permit and Lot of Record Verification — Portland Water Bureau applicant Robert Fraley, for removal of artificial earth dam at Cottrell Pond and stream channel restoration within Johnson Creek.

Case Number: T2-2025-0067 Date of Issuance of Decision: April 30, 2026

APPEAL INFORMATION

Answer each question as completely and specifically as you can. (Attach separate sheets if needed)

1. What is your interest in this decision? (State your interest in the matter and your standing to appeal)

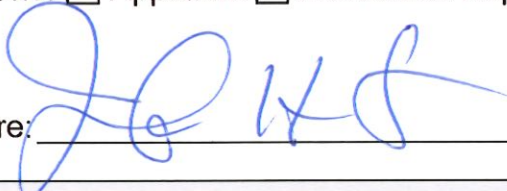
The Cottrell Community Planning Organization (CPO) and Pleasant Home Community Association are neighborhood associations recognized under Multnomah County Code with standing to appeal land use decisions affecting their planning area. The subject property at 8344 SE Cottrell Road, Boring, Oregon (Tax Lot 1S4E22CD-00300) is located within the Cottrell CPO boundary. The CPO submitted written comments during the public comment period on February 4, 2026 (Exhibit D.1), and is an interested party potentially aggrieved by this decision. Standing is conferred under MCC 39.1160 and MCC 38.0640.

2. What are your objections to the decision? (State the specific grounds for the appeal, i.e. criteria or standard)

Please see attached addendum for grounds 1-4.

Standing to Appeal: Those who are entitled to appeal a decision include those who are entitled to notice under Multnomah County Code and include: owners of record of property within 750 feet of the subject tract, neighborhood associates, and persons who have identified themselves in writing as interested parties or as to be potentially aggrieved or impacted by the decision. [MCC 39.1160 / MCC 38.0640]

Check One: ☐ Appellant ☒ Authorized Representative

Signature: 

Printed Name: Jennifer Hart Date: 5/14/2026

To Submit: Email the completed Notice of Appeal form to LUP-submittals@multco.us. An appeal requires a \$250.00 fee. We will send you an invoice for the appeal fee, which you will be able to pay online.

Appeals must be received prior to the close of the appeal deadline. Appeals are not 'received' until the invoice is paid.

Addendum to Notice of Appeal re: Case T2-2025-0067

Ground 1 — Failure to Assess Cumulative Impacts (MCC 39.5590(C)(3) and MCC 39.5590(D)(2)(b)(iv)) The County erred by reviewing this application entirely in isolation from the previously approved Portland Water Bureau Bull Run Filtration Facility (T3-2022-16220). The restoration of Cottrell Pond was a condition of that prior approval. The environmental impacts of the two projects on Johnson Creek — including changes to stormwater discharge, streamflow, and riparian corridor function — are inseparable and must be evaluated together. The decision failed to assess cumulative adverse effects on the riparian area as expressly required under MCC 39.5590(D)(2)(b)(iv).

Ground 2 — Inadequate Stormwater Analysis (MCC 39.5590(C)(4)(g) and MCC 39.6235) The decision summarily dismissed stormwater concerns on the basis that no new impervious surfaces are proposed by this project. However, the decision failed entirely to analyze how increased stormwater discharge from the adjacent PWB filtration facility draining into the same Johnson Creek corridor will interact with the restored channel. This concern was raised in public comments (Exhibits D.1 and D.4) and was not substantively addressed. The decision's stormwater findings are therefore not supported by substantial evidence in the record as required under MCC 39.5590(C)(4)(g) and MCC 39.6235.

Ground 3 — Conclusory Alternatives Analysis (MCC 39.5590(C)(3)(a)-(e)) The decision accepted the applicant's alternatives analysis without adequate independent analysis or substantial evidence that the proposed 1.22-acre disturbance footprint represents the minimum area necessary to achieve project objectives. Staff findings on this criterion are conclusory and do not constitute the substantial evidence required to support approval under MCC 39.5590(C)(3)(a) through (e).

Ground 4 — Failure to Adequately Address Public Comments (MCC 39.1105) Substantive concerns raised by the Cottrell CPO and adjacent property owners (Exhibits D.1, D.3, and D.4) regarding the relationship between this project and T3-2022-16220 were dismissed with identical boilerplate responses stating the application "solely concerns the review of restoration of Cottrell Pond." This does not constitute meaningful engagement with the merits of the concerns raised and fails the

standard of reasoned decision-making required under a Type II review process per MCC 39.1105.

**COTTRELL COMMUNITY
PLANNING ORGANIZATION
LEGAL CHECKING**

PO BOX 1411
BORING, OR 97009

219

24-7588/3230

May 14, 2026

Date

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Multnomah County Land Use \$ 250.00

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OnPoint Community Credit Union
P.O. Box 3750, Portland, OR 97208-3750
onpointcu.com

For

72-2025-0067 NDA

Katherine M Davis

Harford Clarke

**YOUR RECEIPT
THANK YOU
CALL AGAIN**

REG 05-14-2026 04:45
SCOTT 000001

1 MISC LUP	T12	\$250.00
TA1		\$250.00
TX1		\$0.00
TA2		\$250.00
TX2		\$0.00
TL		\$250.00
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