

STAFF REPORT



1600 SE 190th Ave. Portland, OR 97233-5910 ▪ Phone (503) 988 – 3043 ▪ www.multco.us/landuse/

Case File:	T3-2022-16220	Issue Date:	June 22, 2023
Permits:	Community Service Conditional Use Permit for Utility Facility (Filtration Facility), Community Service Conditional Use Permit for Utility Facility (Pipelines), Community Service Conditional Use Permit for Radio Transmission Tower (Communication Tower), Review Use for Utility Facility (Pipeline – EFU), Design Review (Filtration Facility, Pipelines, Communication Tower, Intertie Site), Significant Environmental Concern for Wildlife Habitat (Lusted Rd Pipeline, Raw Water Pipeline), Geologic Hazard (Raw Water Pipeline) and Lot of Record Verifications		
Proposal:	Portland Water Bureau proposes to build a drinking water filtration facility and communications tower located at the eastern end of SE Carpenter Road with raw and finished water pipelines connecting to the existing Bull Run conduit system.		
Applicant(s):	Bonita Oswald, Portland Water Bureau	Owner(s):	Various

Locations	
Filtration Facility Site:	Across from 35319 SE Carpenter Lane, Gresham Map, Tax Lot 1S4E22-00400 & 1S4E22D-00100 Alt. Acct. #R994220980 & R994220820 Property ID #R342619 & R342603
Base Zone:	Multiple Use Agriculture – 20 (MUA-20)
Overlays:	Significant Environmental Concern for wildlife habitat (SEC-h) & water resources (SEC-wr), Geologic Hazards (GH)
Pipelines:	
Properties Involved:	35227 SE Carpenter Ln (R342606), 36910 SE Lusted Rd (R237226), 36800 SE Lusted Rd (R237225), 36322 SE Dodge Park Blvd (R154381), 33304 SE Lusted Rd (R342513), 6704 SE Cottrell Rd (R342553), 34747 SE Lusted Rd (R341824), Property to the Southeast of 34747 SE Lusted Rd (R342633), Tax lot located between 37039 SE Lusted Rd and Lusted Rd (R342647)
Base Zones:	Multiple Use Agriculture-20 (MUA-20), Exclusive Farm Use (EFU), Commercial Forest Use (CFU), Rural Residential (RR)
Overlays:	Significant Environmental Concern for wildlife habitat (SEC-h) & water resources (SEC-wr), Geologic Hazards (GH)

Recommendation: APPROVE WITH CONDITIONS

To Review the Record: The complete case file, including all evidence associated with this application, is available for review at www.multco.us/landuse/portland-water-bureau-treatment-plant in the Document Library. Paper copies are available at the rate of \$0.40/per page for photocopies 11” x 17” or smaller. Aerial photographs and photocopies larger than 11” x 17” are \$10 per page. CDs are \$10 each. To request paper copies or CDs, please email LUP-hearings@multco.us.

❖ PUBLIC PARTICIPATION AND HEARING PROCESS:

Public Hearing: The Public Hearing is scheduled before one of the County’s Hearing’s Officers and will be a hybrid hearing. The in-person hearing will be held at 501 SE Hawthorne Blvd, Portland, OR 97214, Board Room 100. Virtual Hearing Instructions may be found at www.multco.us/landuse/hearings-officer.

For persons who need ADA accommodations, technology assistance or translation services, please contact Land Use Planning via email at LUP-hearings@multco.us by **June 23, 2023 at 4 pm**.

All interested parties may appear and testify in person or virtually and/or submit written comments on the proposal at or prior to the hearing. **The amount of time you may be allowed to testify may be limited to ensure all parties have an opportunity to testify.** Written comments should address issues with sufficient specificity and evidence to allow the Hearings Officer and all parties to consider them. Comments should be directed toward the approval criteria listed below and must be received prior to the close of the Hearing. The hearing procedure will follow the process outlined in Multnomah County Code 39.1140 (Hearings Process) which will be explained at the hearing.

To Attend the Hearing Virtually: Interested parties may contact our office to register for this event. Please provide your name, phone number, and email address either by phone to 503-988-3043 or by email to lup-hearings@multco.us **no later than noon on Thursday, June 29, 2023**. Please indicate in the email if you intend to testify. *The Virtual Hearing link will be emailed to you so you may access the hearing.*

Written testimony must be received by the Land Use Planning office by June 29, 2023 at 2 pm in order for a copy of it to be delivered to the Hearings Officer before the public hearing. You may also submit written testimony during the hearing up until the record is closed by the Hearings Officer. If submitting written testimony in person at the public hearing, please provide at least three copies of the document. Written testimony submitted after the above deadline while the record is open will be provided to the Hearings Officer at the end of the hearing. All written testimony in the record will be added to the Document Library as soon as Land Use Planning is able. The Hearings Officer may close the record at the end of the public hearing or set the record to close at a specific date and time at the hearing.

You may submit written testimony in person the day of the hearing or by mail, email or online comment form:

T3-2022-16220 Comments

1600 SE 190th Avenue

Portland OR 97233-5910

LUP-Comments@multco.us

LUP-Hearings@multco.us

[Online comment form](http://www.multco.us/landuse/portland-water-bureau-treatment-plant) (at www.multco.us/landuse/portland-water-bureau-treatment-plant)

Mailed testimony must be received before the Hearings Officer closes the public record for new evidence.

Hearings Officer's Decision: The Hearings Officer may announce a decision at the close of the hearing or on a later date, or the hearing may be continued to a time certain. Notice of the decision will be mailed to the applicant, parties within 750 feet of the subject property, and any other persons who submitted written comments or provided oral testimony at the hearing. A decision by the Hearings Officer may be appealed to the Land Use Board of Appeals (LUBA) by the applicant or other participants at the hearing. An explanation of the requirements for filing an appeal will be included in the notice of decision.

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised prior to the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

❖ **APPLICABLE APPROVAL CRITERIA:**

For this application to be approved, the proposal must meet the applicable approval criteria below:

Multnomah County Code (MCC): General Provisions: MCC 39.1250 Code Compliance and Violations, MCC 39.2000 Definitions, MCC 39.6850 Dark Sky Lighting Standards.

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3010 Lot of Record - CFU, MCC 39.3070 Lot of Record - EFU, MCC 39.3080 Lot of Record – MUA-20, MCC 39.3090 Lot of Record – RR.

Multiple Use Agriculture – 20: MCC 39.4305 Uses, MCC 39.4320(A) Conditional Uses, Community Service Uses, MCC 39.4325 Dimensional Requirements and Development Standards, MCC 39.4335 Lot Sizes for Conditional Uses, MCC 39.4340 Off-Street Parking and Loading.

Exclusive Farm Use: MCC 39.4215 Uses, MCC 39.4225(A) Review Uses, Utility Facilities..., MCC 39.4245 Dimensional Requirements and Development Standards.

Rural Residential: MCC 39.4355 Uses, MCC 39.4370(A) Conditional Uses, Community Service Uses, MCC 39.4375 Dimensional Requirements and Standards, MCC 39.4385 Lot Sizes for Conditional Uses, MCC 39.4390 Off-Street Parking and Loading.

Commercial Forest Use: MCC 39.4065 Uses, MCC 39.4080 (A) (5) Conditional Uses, Community Service, Water intake facility, related treatment facility, pumping station, and distribution line, MCC 39.4100 Use Compatibility Standards, MCC 39.4105 Building Height, MCC 39.4110 Forest Practice Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for ...Structures, MCC 39.4140 Lot Size for Conditional Uses, MCC 39.4145 Off-street Parking and Loading.

Utility Facilities Community Service Conditional Use: MCC 39.7520(A)(6) Use, Utility Facilities, MCC 39.7505 General Provisions, MCC 39.7515(A) through (H) Approval Criteria, MCC 39.7525 Restrictions, MCC 39.7750 Maintenance.

Radio Transmission Towers Community Service Conditional Use: MCC 39.7520(A)(8) Uses, Radio ...Transmission Towers, MCC 39.7560 Application Requirements, MCC 39.7565 Approval Criteria for New Transmission Towers, MCC 39.7570 Design Review, MCC 39.7575 Radiation Standards.

Design Review: MCC 39.8005 Elements of Design Review Plan, MCC 39.8010 Design Review Plan Approval Required, MCC 39.8020 Application of Regulations, MCC 39.8025 Design Review Plan Contents, MCC 39.8030 Final Design Review Plan, MCC 39.8040 Design Review Criteria, MCC 39.8045(C) Required Minimum Standards, Required Landscape Areas.

Parking, Loading, Circulation and Access: MCC 39.6505 General Provisions, MCC 39.6510 Continuing Obligation, MCC 39.6515 Plan Required, MCC 39.6520 Use of Space, MCC 39.6525 Location of Parking and Loading Spaces, MCC 39.6530 Improvements Required, MCC 39.6535 Change of Use, MCC 39.6540 Joint Parking and Loading Facilities, MCC 39.6545 Existing Spaces, MCC 39.6555 Design Standards: Scope, MCC 39.6560 Access, MCC 39.6565 Dimensional Standards, MCC 39.6570 Improvements, MCC 39.6575 Signs, MCC 39.6580 Design Standards: Setbacks, MCC 39.6585 Landscape and Screening Requirements, MCC 39.6590 Minimum Required Off-Street Parking Spaces, MCC 39.6595 Minimum Required Off-Street Loading Spaces, MCC 39.6600 Exceptions from Required Off-Street Parking or Loading Spaces.

Signs: MCC 39.6710 Conformance, MCC 39.6720 Exempt Signs, MCC 39.6725 Prohibited Signs, MCC 39.6730 Determination of Frontages, MCC 39.6740 Base Zone Sign Regulations, MCC 39.6745 Signs Generally, MCC 39.6780 Sign Placement, MCC 39.6805 Directional Signs, MCC 39.6820 Sign Related Definitions and Figures.

Significant Environmental Concern: MCC 39.5510 Uses; Sec Permit Required, MCC 39.5515 Exceptions,

Wildlife Habitat: MCC 39.5520 Application for Sec Permit, MCC 39.5545 Definitions, MCC 39.5560 General Requirements for Approval in The West of Sandy River Planning Area Designated As SEC-wr or SEC-h, MCC 39.5860 Criteria for Approval Of SEC-h Permit -Wildlife Habitat.

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

Comprehensive Plan Policies: Land Use 2.50, Farm Land 3.14, 3.15, Natural Hazards 7.1, 7.2, 7.3, 7.4 Public Facilities 11.3, 11.10, 11.11, 11.12, 11.13, 11.17

Transportation Planning - Multnomah County Road Rules (MCRR):

MCRR 4.000 Access to County Roads, MCRR 4.100 Application for New or Reconfigured Access, MCRR 4.200 Number of Accesses Allowed, MCRR 4.300 Location, MCRR 4.400 Width, MCRR 4.500 Sight Distance, MCRR 5.000 Transportation Impact, MCRR 6.000 Improvement Requirements, MCRR 6.100 Site Development: A. Dedication of Right of Way Requirement & B. Frontage Improvement Requirements, MCRR 8.000 Off-Site Improvement Requirements, MCRR 9.000 Compliance Method, MCRR 13.000 Temporary Road Closures, MCRR 15.000 Truck and Transit Restrictions, MCRR 18.250 Access/Encroachment Permit, and MCRR 26.000 Stormwater Management.

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting Land Use Planning's website at <https://multco.us/landuse/zoning-codes/> under the link **Chapter 39: Multnomah County Zoning Code** and at <https://multco.us/landuse/comprehensive-plan> under the link **Multnomah County Comprehensive Plan**. Copies of the referenced Multnomah County Road Rules sections are available by visiting Transportation Planning and Development Review's website at <https://www.multco.us/planreview> under the link **Related Documents**.

❖ RECOMMENDED CONDITIONS OF APPROVAL:

If the Hearing Officer finds the applications can be approved, Land Use Planning recommends the following conditions be included:

1. Permit Expiration – The Community Service Conditional Use Permit and related Type II permits for the Water Filtration Facility shall expire as follows:
 - a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of at least one of the approved structures of the Water Filtration Facility. Construction entails assembling components of a structure.
 - ii. For purposes of Condition 1.a, notification of commencement of construction shall be given to the Multnomah County Land Use Planning Division a minimum of seven (7) days prior to the date of commencement. Work may commence once notice is completed. Written notification shall reference case file #T3-2022-16220 and be sent to land.use.planning@multco.us.
 - b. Within four (4) years of the date of commencement of construction when all buildings/structures have not been completed. [MCC 39.1185(B)]
 - i. For the purposes of 1.b, completion of buildings/structures shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
 - ii. For purposes of Condition 1.b.i, the Portland Water Bureau shall provide photographic evidence and building permit status in support of completion of exterior surfaces of the structures and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to land.use.planning@multco.us and shall reference case file #T3-2022-16220. [MCC 39.1185]
2. Permit Expiration – The Community Service Conditional Use Permit and related Type II permits for the Communication Tower and its related physical improvements shall expire as follows:
 - a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of at least one of the approved structures of the Communication Tower (tower or accessory structure). Construction entails assembling components of a structure.
 - b. For purposes of Condition 1.a, notification of commencement of construction shall be given to the Multnomah County Land Use Planning Division a minimum of seven (7) days prior to the date of commencement. Work may commence once notice is completed. Written notification shall reference case file #T3-2022-16220 and be sent to land.use.planning@multco.us.

- c. Within four (4) years of the date of commencement of construction when all buildings/structures have not been completed. [MCC 39.1185(B)]
 - i. For the purposes of 2.b. completion of buildings/structures shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
 - ii. For purposes of Condition 2.b.i, the Portland Water Bureau shall provide photographic evidence and building permit status in support of completion of exterior surfaces of the structures and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to land.use.planning@multco.us and shall reference case file #T3-2022-16220. [MCC 39.1185]
 3. Permit Expiration – The Community Service Conditional Use Permit and related Type II permits for the Various Pipelines shall expire as follows:
 - a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 3.a, commencement of construction shall mean actual excavation of trenches for at least one segment of an approved pipeline.
 - ii. For purposes of Condition 3.a, notification of commencement of construction shall be given to the Multnomah County Land Use Planning Division a minimum of seven (7) days prior to the date of commencement. Work may commence once notice is completed. Written notification shall reference case file #T3-2022-16220 and be sent to land.use.planning@multco.us.
 - b. Within four (4) years of the date of commencement of construction when all pipelines have not been completed. [MCC 39.1185(B)]
 - iii. For the purposes of 3.b. completion of the pipelines shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
 - iv. For purposes of Condition 3.b.i, the Portland Water Bureau shall provide photographic evidence and building permit status in support of completion of exterior surfaces of the pipelines and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to land.use.planning@multco.us and shall reference case file #T3-2022-16220. [MCC 39.1185]
- Note:** The Portland Water Bureau may request to extend the timeframe within which these permits are 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.
4. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. [MCC 39.1170(B)]

5. Prior to commencement of any ground disturbing activities or construction on any private property not owned by the City of Portland, provide written documentation that the necessary easements over the property have been obtained or that the property owners have granted approval for the work to commence on the property.
6. Prior to commencement of any ground disturbing activities, the Portland Water Bureau shall demonstrate that they have obtained any necessary permits from the Oregon Department of Environmental Quality required for these activities. [MCC 39.7515(A)]
7. Prior to commencement of any ground disturbing activities inside of the Geologic Hazard overlay zones, the Erosion and Sediment Control permit, T1-2023-16571 shall be issued. [MCC 39.6225 & MCC 39.5090]
8. Prior to commencement of any portion of the approved projects, a Final Design Review Plan shall be submitted showing the following modifications: [(MCC 39.8040(A)(1) & (2))].
 - a. The location of the proposed cabinet for the Raw Water Pipeline (Exhibit A.214, Sheet LU-200) in the Rural Residential zone adjacent to the Lusted Road right-of-way. The proposed cabinet shall meet the applicable Yard requirements of MCC 39.4375(C). In addition, the accessory building located within the 10-ft side yard on Sheet LU-200 shall be labeled to be demolished or moved to meet the 10-ft yard requirement.
 - b. The proposed landscaping boulders at the Water Filtration Facility shall be shown on Sheets LU-200 and LU-305.
 - c. The Facility Circulation Map (LU-305), Proposed Conditions Site Plan (LU-302), Facility Enlargement 1 & 2 Plans (LU-400 & LU-401) in Exhibit A.212 shall be revised to show the other three loading zones that are shown in the Figure 39 of Exhibit A.5 narrative (MCC 39.6565(C) & 39.6595(G)).
 - d. The drawings for the Water Filtration Facility site (Exhibit A.212) shall be amended to add curbing to the perimeter of all parking, loading and vehicle maneuvering areas [MCC 39.6570(B)]. Additionally, details of the various designs of the parking spaces, and arrows designating travel direction shall be added to the drawings for all drive aisles indicating one or two-way traffic [MCC 39.6570(C)].
 - e. The drawings for the Water Filtration Facility site (Exhibit A.212) shall be amended to show the access drive entering the subject property from the SE Carpenter Lane right-of-way shall be perpendicular as it crosses the 30-foot Front Yard [MCC 39.6580(A)].
 - f. The plans for the two directional signs shown on LU-403, Exhibit A.212 shall be modified to come into compliance with the requirements listed in MCC 39.6805 [MCC 39.6745(D)].
 - g. The property owner shall either verify that no parking area signs are proposed in the various parking areas of the Water Filtration Facility parking lot, or if proposed that all parking area signs comply with the provisions of MCC 39.6780(G)(2). The location of any signs shall be shown on the Facility Circulation Map (LU-305), Proposed Conditions Site Plan (LU-302), Facility Enlargement 1 & 2 Plans (LU-400 & LU-401) in Exhibit A.212. [MCC 39.6805]
 - h. Note the vertical and horizontal vision clearance area (45-foot horizontal triangle and 3 feet vertical to 10 feet above grade) on the landscape plans.

- i. Demonstrate that the proposed trees along the north edge of the Intertie Site on SE Lusted Road, either due to their placement or due to their expected height at maturity, will not interfere with overhead utility lines. [MCC 39.8045 (C)(6)]
 - j. The ground disturbance boundaries shown on Exhibit A.195 shall be added to Exhibit A.214, Sheet LU-200. In addition, the disturbed area on tax lot 1S4E23C-00800 shall be revegetated with a low-growing native grass. A note shall be added to Sheet LU-200 of the type of native grass seed to be used. [MCC 39.5860(B)(7)]
9. Prior to submitting building plans for Zoning Plan Review, the property owners or their representative shall:
 - a. Acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. The signed acknowledgement shall be sent to Lisa Estrin at lisa.m.estrin@multco.us. [MCC 39.1170(A) & (B)]
 - b. Modify the plans to comply with the applicable conditions of approval and the Hearings Officer's Decision. No modifications may occur from the approved plans unless the Hearings Officer has granted those changes through the hearings process.
 - c. Once the plans are approved through Zoning Plan Review, the building plans may be submitted to the City of Gresham for building plan check.
10. Prior to and during construction, the property owner or their representative shall ensure that:
 - a. All trees and shrubs that are not authorized to be removed are protected during construction. The applicant shall preserve and protect the one existing small grove of Douglas-fir, bigleaf maple, and walnut trees near the Pleasant Home Water District easement and SE Carpenter Lane both during construction and on an on-going basis [MCC 39.8040(A)(4)].
11. Prior to issuance of the Certification of Occupancy, the Portland Water Bureau or their representative shall:
 - a. Complete the lot consolidation of the two existing parcels at the water filtration facility site into a single 95+/- parcel by recording all necessary legal documents as outlined in T1-2023-16600 when it is approved. [MCC 39.4335]
 - b. Mark all required and designated parking spaces shown on the approved plans (Exhibit A.212) as required by MCC 39.6515.
 - c. All required parking and loading areas shall be improved and placed in condition for use before the Building Department grants temporary or permanent Certificate of Occupancy for the operation of the Water Filtration Facility. [MCC 39.6530(B)]
 - d. Should the Hearings Officer grant the requested Exception to the required number of parking spaces, a Parking Lot Expansion Plan shall be filed with Land Use Planning showing how the required number of parking spaces can be provided on the subject Water Filtration Facility parcel in the future. [MCC 39.6600(C)]
 - e. Obtain approval from Clackamas County to utilize the proposed Emergency Access Road to SE Bluff Road, as proposed, before the Building Department grants temporary or permanent Certificate of Occupancy for the operation of the Water Filtration Facility.

- 1) If access is not granted, the Portland Water Bureau shall redesign their Emergency Access Road to comply with the Oregon Fire Code and any other applicable regulations, and apply to amend the Community Service Conditional Use Permit for the Water Filtration Facility. [MCC 39.7505(A)]

12. The Portland Water Bureau or operator of the various facilities, on an ongoing basis, shall comply with the following conditions:

- a. The Water Filtration Facility shall have ten maximum employees per day (7 for the 8 hr. shift and 3 for the 12hr shift), and not more than 30 visitors per day. Wastes including those associated with the drinking water quality analysis laboratory must be containerized and not enter the septic system. Only domestic strength wastewater is allowed. [MCC 39.4325(G)]
- b. The Portland Water Bureau shall restore to its pre-construction condition, the extent possible, any agricultural land and associated improvements on EFU zoned private property that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the pipeline. [MCC 39.4225 and ORS 215.275(4)]
- c. The roughly 4,000 square feet of asphalt surface at the Intertie Site between the Valve and Meter Vault and the Electrical Building shall be maintained as available for vehicle maneuvering and parking and shall not be used for outdoor storage (MCC 39.4340).
- d. Testing of emergency generators and fire pumps shall only be conducted between the hours of 7am to 10pm [MCC 39.7515(A)].
- e. All external lighting shall comply with the County's Dark Sky Lighting Standards of MCC 39.6850 [MCC 39.6850 & 39.7515(A)]. Placement of lighting shall avoid shining it directly into an undeveloped Significant Environmental Concern for water resource or wildlife habitat area. [MCC 39.5560(B)]
- f. The accessory building for the communication tower (Exhibit A.183) shall remain unoccupied and only be used to house equipment required for the tower operations (MCC 39.7565(H)).
- g. All planted areas must be continuously maintained, including provisions for watering planting areas where such care is required. The small grove of Douglas-fir, bigleaf maple, and walnut trees near the Pleasant Home Water District easement and SE Carpenter Lane (Exhibit A.212, Sheet LU-301) shall be protected and maintained on-going basis. Any required landscaping that becomes diseased, dies or is removed, shall be replanted within the next planting season with a similar species and a suitable size after discussion with and determination by the Planning Director [MCC 39.8040(A)(4) and MCC 39.8045(C)(4) & (5)].
- h. Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration [MCC 39.6520(A)]. No storage of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space [MCC 39.6520(B)]. A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space [MCC 39.6520(C)]. Loading areas shall not be used for any purpose other

than loading or unloading and is unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations [MCC 39.6520(D) & (E)].

- i. No nuisance plants listed in MCC 39.5580 Table 1 shall be planted on any of the subject properties with SEC-h or SEC-wr overlays within the control of the Portland Water Bureau. The Portland Water Bureau owners shall remove the nuisance plants listed in Table 1 from the cleared areas of the properties and replant with native grasses, ground covers or other approved plantings. The property owners shall maintain the cleared area free of these nuisance plants [MCC 39.5750 (F), MCC 39.5580, MCC 39.5860(B)(7)]

13. This permit does not authorize public tours or other public gatherings (educational or otherwise) on the Water Treatment Facility Site without first obtaining a Community Service Conditional Use Permit for an Accessory Use to a Community Service Use. [MCC 39.7505(A) & MCC 39.5690(F)].
14. The property owner shall complete a noise study within six-months of the Water Filtration Facility becoming fully operational in order to verify noise at property lines does not exceed 50 dBA at all times during normal operations and does not exceed 60 dBA during testing of emergency equipment. The study shall be conducted by a Professional engineer and the results documented in a written report that shall be available for public inspection. The property owner shall notify Multnomah County Land Use Planning if the study determines any of the noise thresholds have been exceeded and what modifications to the Facility are proposed to bring it into compliance.
 - a. The noise study and proposed modifications if any shall be submitted to Multnomah County Land Use Planning within 45 days of the six-month anniversary of the Water Filtration Facility becoming fully operational. [MCC 39.7515(A)]
 - b. Any modifications to the Water Filtration Facility found to be necessary to mitigate noise, as agreed by Multnomah County Land Use Planning and Portland Water Bureau, shall be completed within six months of the noise study's completion.
 - c. After any modifications, a new noise study will be completed within a time period agreed upon by Multnomah County Land Use Planning and the Portland Water Bureau to verify that the modifications were successful.
15. Within six-months of the Water Filtration Facility becoming fully operational, the property owner shall submit a written report to Multnomah County Land Use Planning demonstrating the transmission tower is in compliance with the radiation standards of MCC 39.7575. The report shall demonstrate that the instrument or instruments used were calibrated within the manufacturer's suggested periodic calibration interval; that the calibration is by methods traceable to the National Bureau of Standards; include a statement that the measurements were made in accordance with good engineering practice; and a statement or statements as to the accuracy of the results of the measurements [MCC 39.7575(A)(4)].
16. Any alteration made to the transmission tower after construction resulting in a substantial increase in the non-ionizing electromagnetic radiation (NIER) or radiation pattern of the NIER

source shall require a modification of the Community Service Permit [MCC 39.7575(C)]. Install erosion and sediment control best management practices (BMPs) based on an erosion and sediment control plan prepared and stamped by either a Certified Professional in Erosion and Sediment Control, Certified Professional in Stormwater Quality, Oregon Registered Professional Engineer, Oregon Registered Landscape Architect, or Oregon Certified Engineering Geologist. The erosion and sediment control plan shall effectively stabilize the site such that no disturbed ground is visible, and so no visible or measurable erosion or sedimentation occurs.

17. The Wildlife Conservation Plan (WCP) for the Raw Water Pipeline shall be amended to add six native trees on tax lot 1S4E23C-01500 and/or 1S4E23C-02200 as shown on in the graphic on page 111 in the staff report within the SEC-h overlay to mitigate for the removal of trees on tax lot 1S4E23C-00800 and not cover by the WCP. [MCC 39.5860(C)]

If the Hearings Officer finds the applications can be approved, Transportation Planning recommends the following conditions be included:

1. Pursuant to MCRR 5.200, the County Engineer determination of pro-rata share of improvements will expire twelve months from the date of the County Engineer’s determination or after the associated land use permit is granted or closed. If the applicant has not entered into a Project Agreement or Construction Permit(s) within 12 months, a review and new determination shall be required.
2. Applicant is required to permanently close the western access to SE Carpenter Ln, which is shown as ‘existing access road with easement’ on plan set Exhibit A.212. This second access from the subject property (R994220980) exceeds the one access per property standard (MCRR 4.200) and no Road Rules Variance application (MCRR 16.000) was sought by the applicant.
3. Complete and record right of way (ROW) dedications to meet the share of the 60 feet ROW width standard for Rural Local roads (MCRR 6.100A; MCDCM Table 2.2.5):
 - a. 15 feet on the northern (SE Carpenter Ln) frontage of the subject property for the Filtration site (ref R994220980);
 - b. 15 feet on the southern frontage of 35227 SE Carpenter Ln (R994220850);
 - c. 10 feet on the southern frontage of 35319 SE Carpenter Ln (R994220620).
 - d. The above dedications can be included in any re-plat of the property or by contacting Pat Hinds, County ROW Specialist, Pat Hinds (patrick.j.hinds@multco.us), to complete the ROW dedication process.
4. Pursuant to MCRR 6.100D, Applicant is required to submit a Transportation Demand Management (TDM) Plan prior to start of construction. The plan will identify person/people responsible for coordinating demand reduction strategies (carpooling, offset arrival times, incentive program, etc.), when the strategies will be deployed, and how the strategies will be measured for impact. Applicant will provide progress reports to the County every 6 months during the construction of the facility. If traffic volumes exceed overall recommended volumes entering the site, applicant will develop new strategies.

5. Prior to construction in the Right of Way (ROW), obtain Construction permit (MCRR 9.200, 18.200) for:
 - a. All frontage/ road improvements of SE Carpenter Ln and SE Cottrell Rd consistent with the preliminary Civil Plan set, Exhibit A.16, A.17 (MCRR 6.100B; MCRR 8.000).
 - i. applicant must ensure that all geologic hazard and environmental overlay permits from County Land Use have also been obtained, if applicable;
 - b. All roads requiring full or partial road work due to pipeline installation:
 - i. SE Dodge Park Blvd from SE Cottrell Rd to east of SE Altman Rd
 - ii. SE Altman Rd from SE Lusted Rd to SE Oxbow Rd
 - iii. SE Cottrell Rd from SE Dodge Park Blvd to SE Lusted Rd
 - iv. SE Lusted Rd from the Intertie Site to SE Altman Rd
 - c. All roads requiring preliminary or ongoing maintenance due to projected use:
 - i. SE Altman Rd from SE Oxbow Drive and Dodge Park Road
 - ii. SE Cottrell Rd from SE Lusted Road and SE Dodge Park Road
 - iii. SE Lusted Rd from SE Altman Road and SE Cottrell Road
 - iv. SE Hosner Rd from SE Lusted Road and SE Oxbow Parkway
 - v. SE Lusted Rd from SE Altman Road to SE Pleasant Home Rd
6. To ensure that the transportation network maintains a condition that is safe, does not create a safety hazard for the traveling public, nor creates an on-going maintenance problem, the applicant is required to maintain roads affected by Pipelines construction and detour routes. Pursuant to MCRR 9.500, a Project Agreement is required between the applicant and the County to establish the maintenance of roads during construction of the Filtration Plant. The agreement shall include and address the following:
 - a. Identify and outline project phasing as well as how all road closures and detour routes will be maintained during the construction period.
 - b. Applicant is required to return the road(s) to as good or better condition at the end of the Construction period and prior to the Certificate of Occupancy of the Filtration Plant facility.
7. Temporary road closures, partial or complete, in relation to the construction of the Pipelines and facilities that form this land use application, requires prior review and approval by County Transportation (MCRR 13.000). Applications will need to be submitted to row.permits@multco.us for review and approval by County Engineer (MCRR 18.250). Application requirements and documents can be found at the following webpage: <https://www.multco.us/roads/road-and-bridge-permit-applications>.
 - a. Traffic Control Plan (TCP) shall be submitted during the Construction Permitting process that shows detours and road closures. Any deviation to the approved TCP during construction shall require a resubmittal of the TCP for approval.

- b. All roads identified on the approved TCP as part of the construction area, whether as a detour and/or road closure, shall be evaluated for mitigation for serviceability during and after construction. The process for this will be outlined in the Project Agreement (see condition 6).
 - c. TCP(s) must demonstrate consultation/engagement with Agricultural businesses abutting the pipeline and detour routes and Gresham-Barlow School Districts, as recommended in the Construction TIA (Exhibit A.230) to ensure impacts on the local transportation network are known in advance.
 - d. Rural roads with a Pavement Condition Index (PCI) rating below 50 must not be used as detour routes in the Traffic Control Plan unless the applicant submits construction plans to mitigate impacts and improve the PCI. The Construction Permit process (see condition 5 above) will be used to review TCP and confirm appropriate detour routes.
8. Pursuant to MCRR 15.000 and ORS 810.040, the applicant is required to obtain Over-Dimension Permits for all truck movements through Multnomah County which exceed the legal limit and weight specified by Oregon Department of Transportation (ODOT): (<https://www.oregon.gov/odot/mct/pages/over-dimension.aspx>).
- a. Pursuant to MCRR 15.200 and 15.300, the County may restrict truck movements as authorized under State and Federal law on all roads established as arterials and collectors, and also restrict through truck movements on other road classifications, bridges, culverts, overpasses and underpasses, which may not accommodate larger vehicles.
 - b. County restrictions within the project vicinity include, but are not limited to:
 - i. No through trucks on SE Carpenter Ln from SE 327th Ave to the Filtration Plant site.
 - ii. No through trucks on SE Miller Rd from SE Bluff Rd to SE 327th Ave.
 - iii. No through trucks on SE Homan Rd.
 - iv. No through trucks on SE Oxbow Parkway.
 - v. No through trucks on SE Stone Rd and SE Short Rd between US26 and SE Dodge Park Blvd.
 - vi. S Buxton Rd and S Troutdale Rd are limited to trucks 40ft overall length.
9. Applicant is required to submit and obtain an Access / Encroachment Permit for the following accesses pursuant to MCRR 18.250:
- a. Filtration plant site: Exhibit A.211, A.212 00-LU-302 sheet 4 of 18 proposed condition site plan showing a new reconfigured access onto SE Carpenter Ln, after the 100% plans have been approved by the County as part of the Construction Permit.
 - i. Revised site plan must be submitted showing permanent closure of the as 'existing access road with easement', consistent with Condition 2 above.

- ii. Revised site plan must show the main site access as perpendicular to SE Carpenter Ln (between 75-90 degrees) where it connects to the paved roadway to ensure consistency Land Use code MCC 39.6580.
- b. Intertie site (R994210630):
- i. Applicant is required to provide a site plan showing all four subject property accesses (three to SE Lusted Rd and one to SE Dodge Park Blvd), pursuant to approved Land Use Decision and Transportation Planning Review (EP-2016-5112/T2-2016-5020) and MCRR 4.700 (Existing Non-Conforming Access).
 - ii. Applicant must provide copy of easements for PWB access from the subject property to SE Lusted Rd and SE Dodge Park Blvd.
 - iii. Access to the Intertie Facility at 33304 SE Lusted Rd (R994210630) shall be limited to the existing northeast driveway access onto SE Lusted Rd.
 - iv. Maintenance access to the Pipelines on the property shall use the northeast access as noted in 9(b)iii above. Access via SE Dodge Park Blvd is prohibited for PWB use.
 - v. The northeast access to SE Lusted Rd, serving the principal access to the Intertie facility, must have a paved apron 20 feet deep from the existing roadway towards the property line consistent with ODOT standard drawing RD715, to prevent erosion of the existing roadway surface on SE Lusted Road in accordance with MCDCM 2.1.1(4).
 - vi. Application forms, and guidance, can be found on the County Transportation website at the following webpage: <https://www.multco.us/roads/road-and-bridge-permit-applications>. Applications should be submitted to row.permits@multco.us
10. Provide revised drawings and documentation that demonstrate the stormwater details of the following plans, reports and details obtain County Engineer 100% design approval (MCRR 26.000):
- a. SE Carpenter Ln, from SE Cottrell Rd to Filtration Plant site, and SE Cottrell Rd, from the intersection with SE Carpenter Ln to SE Dodge Park Blvd (Exhibits A.206-A.208).
 - b. Ensure the discharge from the culvert from the Intertie site under SE Lusted Rd into Beaver Creek will not increase stormwater discharge volume at the outfall or downstream. Though the peak rates are comparable between the pre and the post development, the released discharge is a much greater volume. Ensure that the volume released does not create undue concentration of outflows that may affect downstream properties starting at the release point of any facility such as pipe, culvert and ditch.
 - c. County Engineer requires review and approval of any changes to on-site impervious surface areas greater than 500 sq. ft and any proposed stormwater discharge or facilities in the ROW for compliance with MCDCM standards [MCDCM 26.000].

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 proposed project includes the following water facilities and appurtenances:

- **Water Filtration Facility** - The 135 million gallon per day drinking water filtration facility and a communications tower, located on a 94-acre site in the Multiple Use Agriculture (MUA-20) zone and served by Carpenter Lane and approximately 0.33 miles (1,756 ft.) east of SE Cottrell Rd. An emergency access road is proposed via easement over EFU zoned private property in Clackamas County.
- **Raw Water (RW) Pipelines** - Two RW pipelines that extend approximately 0.4 miles (2,112 ft.) from existing conduits running along Lusted Road across private property just north of the county line to the filtration facility, through areas zoned Rural Residential (RR) and Exclusive Farm Use (EFU). The RW pipelines will start in a narrow tax lot on the east side of SE Lusted Rd adjacent to 37069 SE Lusted Rd and then cross SE Lusted Rd westward running onto 36910 & 36800 SE Lusted Rd and 36322 SE Dodge Park Blvd connecting into the filtration facility.
- **Finished Water (FW) Pipelines** - One FW pipeline extends approximately 1.5 miles in the MUA-20 zone from the Filtration Facility to the finished water Intertie. The pipeline is entirely in the existing Dodge Park Boulevard right-of-way (ROW) except for the portions within two lots, one on Carpenter Lane and one on Lusted Road. The FW pipeline will cross 35227 SE Carpenter Ln and 33304 SE Lusted Rd.
- **Finished Water (FW) Intertie** - The FW Intertie located on Lusted Road east of Altman Road in an area zoned MUA-20. The Intertie controls the flow of finished water to the water transmission system. The facility is located at the northwest corner of 33304 SE Lusted Rd property.
- **Other Pipelines** - Three pipelines located entirely in existing county ROW through areas zoned MUA-20 and EFU, which extend from the Intertie location various distances to connect with existing conduits: one at Altman Road and Lusted Road, one at Altman Road and Pipeline Road, and one at Altman Road and Oxbow Drive.
- **Lusted Hill Distribution Main (LRDM)** - The LRDM connects the new pipeline in Dodge Park Boulevard to the existing main adjacent to the Lusted Hill Treatment Facility on Cottrell Road. This main will supply water to existing local water customers and five wholesale water districts. The 0.6-mile main travels within the Cottrell Road ROW in the MUA-20 zone, then crosses the Water Bureau property at 6704 SE Cottrell Rd in the Commercial Forest Use (CFU) zone and connects to the existing main in an adjacent easement on 34747 SE Lusted Rd.

The proposed development requires approval of a Community Service Conditional Use Permit for a Utility Facility (Filtration Facility & Pipelines), Community Service Conditional Use Permit for a Radio Transmission Tower (Communication Tower located at Filtration Facility), Review Use for Utility Facility (Pipeline – EFU), Design Review, Significant Environmental Concern for wildlife habitat permit, and Geologic Hazard Permit. In addition, various Lot of Record Verifications for the private properties involved in the applications.

2.0 Public Comments:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application (Exhibit C.4) and received various written comments that have been summarized below.

- 2.1 Multnomah County Fire Protection District #10:** The Board of Directors for the Fire District #10 (the District) provided a resolution, report and recommendation on the Portland Water Bureau application (Exhibit D.1). The District is responsible for fire and emergency service within the West of Sandy River rural area. They are concerned about road conditions, traffic impacts on response times for emergency services and the potential generation of additional need for emergency services due to the project. The Water Filtration Facility square footage, use of hazardous materials requiring deliveries, construction traffic generation has a potential to increase the call load on the District which is limited. The Board of Directors concludes that the project construction and operation will require public services other than those existing or programmed for the area, will create hazardous conditions and is not consistent with Multnomah County Transportation Plan, 2016 which is included in the Multnomah County Comprehensive Plan.
- 2.2 Gresham-Barlow School District (GBSD), Superintendent James Hiu:** Superintendent Hiu representing GBSD which operates the Sam Barlow High School at the intersection of SE 302nd Avenue, SE Pipeline Road and SE Lusted Road, the West Orient Middle School at the intersection of SE Orient Drive and SE Short Road, and the East Orient Elementary School on SE 302nd Avenue near SE Orient Drive in the West of Sandy River rural area provided an email commenting on their concerns regarding risk mitigation and traffic congestion mitigation during the construction and ongoing operation (Exhibit D.2) and a Resolution from the GBSD Board of Directors (Exhibit D.3).
- 2.3 Shawn Nerison, Surface Nursery:** Mr Nerison indicates the Surface Nursery site borders the proposed Water Filtration Plant site to be located on SE Carpenter Lane (Exhibit D.4). The Surface Nursery property is located in Clackamas County and is immediately south of the project site. PWB is proposing to construct an Emergency Access Road through the Surface Nursery site as shown on Exhibit A.212, Sheet LU-302. In addition, the Construction Traffic Impact Analysis (Exhibit A.227) routes approximately one-half of the construction traffic through the Surface Nursery site to gain access onto SE Bluff Road. Clackamas County Planning must review the proposed land use application on the Surface Nursery site in the EFU zone. In his email, Mr. Nerison concerned that Multnomah County has determined that Dodge Park Blvd, Carpenter Lane and SE Cottrell Road are not available for use during construction.
- 2.4 Shelly and James Ekstrom:** The Ekstrom's farm is located at 33304 SE Lusted Road (1S4E21A-00900). The Intertie Site is proposed for the northeast corner of the farm field. The Finished Water Pipeline is proposed to be installed underground in an easement on the eastern side of the property. The Ekstroms are concerned about the conversion of prime farm land to site their Water Filtration Plant (Exhibit D.5). They are also concerned about the loss of income due to the installation of the Finished Water Pipeline on their farm land, the proper restoration of their farm soils and disturbed weed seeds. Also, they mention that the construction traffic may cause problems for farmers and crumbling road conditions.

- 2.5 Surface Nursery:** Mr. Nerison is Vice President of Surface Nursery Inc. On behalf of Surface Nursery and its employees, he provides information on the business operations on the site south of the Water Filtration Facility property (Exhibit D.6).
- 2.6 Michael and Carol Kost:** The Kosts live at 35321 SE Carpenter Lane. It is at the very end of SE Carpenter Lane and one of the properties across from the Water Filtration Facility. Their letter expresses concerns regarding the wildlife that come through the area and use the proposed Facilities site (Exhibit D.7). In addition, they are concerned regarding the loss of valuable farm land, possible light pollution, and noise generation from plant operations.
- 2.7 Susan & John Swinford:** The Swinforths live near the Lusted Hill Treatment Facility. They are opposed to the Water Filtration Facility as they believe it is incompatible with the existing land uses and would have a significant impact on the character and quality of life of the community (Exhibit D.8). Their concerns touch on land use changes, pollution due to use of chemicals and disposal of waste materials, and noise and vibration.
- 2.8 Julie Allott:** Ms. Allott opposes the Water Filtration Facility as it is in the middle of a neighborhood and near a school and forested area (Exhibit D.9). She is concerned that the transport of chemicals to the plant will create a potential risk to nearby homes and schools. Ms. Allott is also concerned about excessive traffic on local roads, road damage from trucks, and potential light and noise pollution. She has concerns regarding a fire event, as well, and the water treatment plant's location near a forested area, homes and schools.
- 2.9 Cottrell Community Planning Organization (CCPO):** CCPO is concerned with the estimated number of truck trips that the Water Filtration Facility may generate and what will be hauled by these trucks (Exhibit D.10). They are concerned that no Construction Traffic Impact Analysis was submitted as part of the application and that the initial Traffic Impact Analysis was for only post construction. CCPO believes it is evident the number of truck trips will affect the area and its animals, create hazardous conditions, and affect farmers. They believe that it is impossible to evaluate the impact of the proposed use without knowing the nature and extent of the construction activities. Exhibit D.11 is the email submitting the resolutions from the CCPO and Pleasant Home Community Association and it discusses the number of members that voted on the resolutions. Exhibit D.12 is Resolution 2023-01 from the CCPO signed by the Chair and has various findings to support their opposition to the project at SE Carpenter Lane.
- 2.10 Pleasant Home Community Association and Cottrell CPO:** They are concerned with the construction truck trip estimates from the PWB Decisions and Process Report and its determination that there will be "Local Impacts – Neighbors Impacted" (Exhibit D.13). Their concerns are similar to the CCPO concerns expressed in Exhibit D.10. Exhibit D.14 is Resolution 2023-01 from the Pleasant Home Community Association. It is signed by the Chair and has various findings to support their opposition to the project at SE Carpenter Lane.
- 2.11 Andy Gale and Sam Bacon:** Both Gale and Bacon are in opposition to the PWB Filtration project at SE Carpenter Lane and supports the Pleasant Home Community Association and Cottrell Community Planning Organization resolutions (Exhibit D.15). They are concerned about the impacts of the heavy equipment traffic on Clackamas County roads. They note that these roads are typically in poor condition and are not designed to accommodate the continuous heavy traffic, congestion and movement of materials. They are also concerned that the area contains Johnson Creek which functions as a wildlife corridor. Gale and Bacon note that

Clackamas County zoning is similar to Multnomah County zoning and the EFU and RRF zoning is not conducive to an industrial site.

3.0 Code Compliance and Applications Criteria:

3.1 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.

Importantly, 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.

4.0 Lot of Record Criteria:

4.1 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.

(a) “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.

- (b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:
1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
 2. 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
 3. 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
 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
 5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

* * *

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 its current 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 Lot of Record standards set forth in the EFU and CFU district establish additional requirements unique to the district. The findings below analyze for each private property whether the Lot of Record provisions in section (B) have been met.

Exhibit A.94			
Document Type	Instrument #	Recorded Date	Tax Lots Involved
Deed Page 1	B1078 P1033	12/18/1975	1S4E22D-00400
Warranty Deed Page 6	B1079 P796	12/24/1975	1S4E22D-00100
Exhibit A.168			
Contract	B797 P671	6/29/1971	1S4E22D-00100
Exhibit A.169			
Contract Assignment	B1079 P795	12/24/1975	1S4E22D-00100

Filtration Site (R994220980/1S4E22D-00400): The subject property known as 1S4E22D-00400 is currently zoned Multiple Use Agriculture (MUA-20). Applicant’s Lot of Record narrative can

be found in Exhibit A.3 starting on page 10. The applicant provided a deed (Exhibit A.94, Page 1) to support the Lot of Record request. The deed was signed on November 26, 1975 and was recorded on December 18, 1975. The deed was in recordable form when it was signed. On that date the property was zoned F-2 (Staff Exhibit B.1). In November 1975, the F-2 had a 2-acre minimum lot size (Staff Exhibit B.2). The 1975 Deed is the deed that created/reconfigured the subject property and is the current deed for the site. A Title Report (Exhibit A.93, Page 60) has been provided that has a matching legal description to the 1975 deed.

The subject property, which is 57.17+/- acres, abuts Carpenter Lane (a public road), has a front lot line length of 873.64 feet (Staff Exhibit B.4). **MCC 39.4325(B)** states “**That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**” Planning staff has included the additional 0.30 of an acre from the Carpenter Lane right-of-way as part of the lot size measurement. The subject property known as 1S4E22D-00400 exceeded the 2-acre minimum lot size at the time of its creation or reconfiguration in 1975.

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

In 1975, 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 December deed (Exhibit A.94, Page 1), the applicable land division laws were satisfied.

Based upon the above, the subject property known as 1S4E22D-00400 satisfied all applicable zoning and land division laws when it was created or reconfigured in 1975.

Filtration Site (R994220820/1S4E22D-00100): The subject property known as 1S4E22D-00100 is currently zoned MUA-20. Applicant’s Lot of Record narrative can be found in Exhibit A.3 starting on page 10. The applicant provided a deed (Exhibit A.94, Page 6) to support the Lot of Record request. The deed was signed on December 17, 1975 and was recorded on December 24, 1975. The deed states it was given in fulfillment of a contract dated June 22, 1971. The applicant provided a copy of the recorded Contract and Assignment of Real Estate Contract in Attachment A.2a and A.2b (Exhibit A.168 and A.169). Staff reviewed Assessment & Taxation Parcel Record Card (Staff Exhibit B.6) to locate the deed that last altered the subject property in January, 1975 (Staff Exhibit B.5). This deed (Staff Exhibit B.5) divided 0.98 of an acre from the subject property, 1S4E22D-00100 leaving it in its current size and configuration as a remainder unit of land. The December 17, 1975 deed was the first time there was a new legal description implementing its creation in January 1975 (Exhibit A.94, Page 6) and is the current deed for the site. A Title Report (Exhibit A.93, Page 60) has been provided that has a matching legal description to the December 1975 deed (Exhibit A.94, Page 6). In January 1975, the property was zoned F-2 (Staff Exhibit B.1). In January 1975, the F-2 had a 2-acre minimum lot size (Staff Exhibit B.2).

The subject property, which is 38.34+/- acres, abuts Dodge Park Blvd (a public road), has a front lot line length of approximately 1,506 feet (Staff Exhibit B.4). **MCC 39.4325(B)** states “**That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**” Planning staff has included the additional 1.72 acres from the Dodge Park Blvd right-of-way as part of the lot size measurement. The subject property known as 1S4E22D-00100 exceeded the 2-acre minimum lot size at the time of its creation or reconfiguration in 1975.

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

In 1975, 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 Staff Exhibit 5 and the December 17, 1975 deed (Exhibit A.94, Page 6), the applicable land division laws were satisfied.

Based upon the above, the subject property known as 1S4E22D-00100 satisfied all applicable zoning and land division laws when it was created or reconfigured in 1975.

Exhibit A.96			
Document Type	Instrument #	Recorded Date	Tax Lots Involved
Warranty Deed Page 58	B857 P88	5/16/1972	1S4E22DB-00300
B&S Deed Page 60	B2498 P1841	1/21/1992 (signed 1/7/92)	1S4E22DB-00300
Warranty Deed Page 62	99016670	01/26/1999	1S4E22DB-00300
Warranty Deed Page 65	99016671	01/26/1999	1S4E22DB-00300
Warranty Deed Page 68	99016672	01/26/1999	1S4E22DB-00300
Warranty Deed Page 71	2006-220185	11/29/2006	1S4E22DB-00300
B&S Deed Page 73	2007-217123	12/21/2007	1S4E22DB-00300
Warranty Deed Page 76	2013-068063	05/20/2013	1S4E22DB-00300

35227 SE Carpenter Ln (R994220850/1S4E22DB-00300): The subject property is zoned MUA-20. The County made a Lot of Record Verification in land use case T2-2010-1052 (Staff Exhibit B.7). The County found tax lot 1S4E22DB-00300 was lawfully created in 1972. *Criteria met.*

Exhibit A.94			
Document Type	Instrument #	Recorded Date	Tax Lots Involved
Warranty Deed Page 8	B661 P1297	2/4/1969	Divides off 1S4E21A-01000 from 1S4E21A- 00900
Exhibit A 96			
Document Type	Instrument #	Recorded Date	Property involved
B&S Deed Page 1	2009-175425	12/23/2009	1S4E21A-01000

Warranty Deed Page 2	2015-050111	05/01/2015	Parcel 1: 1S4E21A-00900 Parcel 2: 1S4E21A-01000
Warranty Deed Page 5	2018-058579	06/01/2018	Parcel 1: 1S4E21A-00900 Parcel 2: 1S4E21A-01000

33304 SE Lusted Rd (R994210630/1S4E21A-00900): The subject property is zoned MUA-20. The County made a Lot of Record Verification in land use case T2-2015-4092 (Exhibit B.8). The County found tax lot 1S4E21A-00900 was lawfully created or reconfigured in 1971. *Criteria met.*

36910 SE Lusted Rd (R649716640/1S4E23C-01400): The subject property is zoned Rural Residential (RR). The subject property is Parcel 2 of Partition Plat 1991-111 (Exhibit B.9). Planning reviewed the land division and found it complied with the land use laws at the time as demonstrated by the planning director's signature on the plat. Parcel 2 was created in 1991 by the recording of said plat. *Criteria met.*

36800 SE Lusted Rd (R649716620/1S4E23C-01500): The subject property is zoned RR. The subject property is Parcel 1 of Partition Plat 1991-111 (Staff Exhibit B.9). Planning reviewed the land division and found it complied with the land use laws at the time as demonstrated by the planning director's signature on the plat. Parcel 1 was created in 1991 by the recording of said plat. *Criteria met.*

Exhibit A.166			
Document Type	Instrument #	Recorded Date	Property involved
Deed	B950 P126	11/30/1923 Signed 10/30/1923	South 628.85+/- ft of 1S4E23C-00800

East of SE Lusted Rd (R994230150/1S4E23C-00800): The subject property is zoned RR. The subject property is the south 628.85+/- ft of tax lot 1S4E23C-00800. Applicant's Lot of Record narrative can be found in Exhibit A.7 starting on page 7. The applicant provided a deed and drawing (Exhibit A.166 and A.167) to support the Lot of Record request. The deed was signed on October 30, 1923 and was recorded on November 30, 1923. The deed was in recordable form when it was signed. The County did not commence zoning until the mid-1950s. As such, the creation of the narrow strip of land met all zoning and land division laws at the time of its creation. *Criteria met.*

36322 SE Dodge Park Blvd (R238000610/1S4E23C-02200): The subject property is zoned Exclusive Farm Use (EFU). Applicant's Lot of Record narrative can be found in Exhibit A.7 starting on page 8. The subject property is Lot 1, Block 3 of Edgewater subdivision (Exhibit B.10). The Edgewater subdivision was recorded in 1912. The County did not commence zoning

until the mid-1950s. As such, the recordation of the Edgewater subdivision met all zoning and land division laws at the time of its creation. *Criteria met.*

6704 SE Cottrell Rd & SE Lusted Rd (R994220300 & R994221120/1S4E22BA-00200 & 1S4E22BA-00100 combined): The subject property is zoned Commercial Forest Use (CFU). Applicant's Lot of Record narrative can be found in Exhibit A.7 starting on page 15. The County made a Lot of Record Verification in land use case T3-06-003 (Staff Exhibit 11, page 8). The County found both tax lots 1S4E22BA-00200 and 1S4E22BA-00100 combined are a single Lot of Record. *Criteria met.*

34747 SE Lusted Rd (R994150140/1S4E15C-00801): The subject property is zoned CFU. Applicant's Lot of Record narrative can be found in Exhibit A.7 starting on page 15. The County made a Lot of Record Verification in land use case T3-2019-11784 (Exhibit A.162.b). The County found that the legal parcel consists of tax lots, 1S4E15C-00801 & 1S4E15C-00800 combined and the legal parcel is a single Lot of Record. *Criteria met.*

4.2 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:

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

(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.

(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.

(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: Currently, the MUA-20 zone has a minimum lot size of 20 acres for the creation of new parcels under most circumstances and requires a 50-ft front lot line length and public road frontage or other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

Filtration Site (R994220980/1S4E22D-00400): Section (A) is for information purposes. The subject property exceeds the minimum lot size for new parcels in the MUA-20 zone at 57.17+/- acres. It has 873.64 ft of road frontage onto Carpenter Lane. It meets the 50-ft minimum front lot line length and meets the access requirement by fronting onto a public street. The property is not subject to (B) above, but may be occupied by any allowed, review or conditional use when in compliance with the other requirements of the MUA-20 district provided it remains a Lot of Record. (C) The property owner is required to dedicate a 10-ft wide strip of land adjacent to Carpenter Lane, but the property is currently vacant so no nonconforming yards are being created and all new physical structures will meet the required Yards. (D) 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 subject property is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.2, the subject property known as 1S4E22D-00400 is a single Lot of Record.

Filtration Site (R994220820/1S4E22D-00100): Section (A) is for information purposes. The subject property exceeds the minimum lot size for new parcels in the MUA-20 zone at 38.34+/- acres. It has 1,506 ft of road frontage onto Dodge Park Blvd. It meets the 50-ft minimum front lot line length and meets the access requirement by fronting onto a public street. The property is not subject to (B) above, but may be occupied by any allowed, review or conditional use when in compliance with the other requirements of the MUA-20 district provided it remains a Lot of Record. Section (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time. (D) 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 subject property is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.2, the subject property known as 1S4E22D-00100 is a single Lot of Record.

35227 SE Carpenter Ln (R994220850/1S4E22DB-00300): Section (A) is for information purposes. The subject property is 2.39+/- acres including the two adjacent rights-of-way and is substandard to the current minimum lot size of the MUA-20 zone. It has 267.73 ft of road frontage on Carpenter Lane and 268.33 ft of road frontage on Dodge Park Blvd. It meets the 50-ft minimum front lot line length and meets the access requirement by fronting onto a public street. The property is subject to (B) above, and may be occupied by any allowed, review or conditional use when in compliance with the other requirements of the MUA-20 district provided it remains a Lot of Record. Section (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time. (D) 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 subject property is not an area of land created by the foreclosure of a security interest or created by court decree.

Based on the findings in 4.1 & 4.2, the subject property known as 1S4E22DB-00300 is a single Lot of Record.

33304 SE Lusted Rd (R994210630/1S4E21A-00900): Section (A) is for information purposes. The subject property is approximately 36.65+/- acres including the two adjacent rights-of-way and exceeds the minimum lot size of the MUA-20 zone. It has 469+/- ft of road frontage on Lusted Road and 665.25 ft of road frontage on Dodge Park Blvd. It meets the 50-ft minimum

front lot line length and meets the access requirement by fronting onto a public street. The property is not subject to (B) above, but may be occupied by any allowed, review or conditional use when in compliance with the other requirements of the MUA-20 district provided it remains a Lot of Record. Section (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time. (D) The subject property is a legally described parcel created in 1971 (Staff Exhibit 8) and is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not an area of land created by the foreclosure of a security interest or created by court decree.

Based on the findings in 4.1 & 4.2, the subject property known as 1S4E21A-00900 is a single Lot of Record.

4.3 MCC 39.3090 LOT OF RECORD – RURAL RESIDENTIAL (RR).

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

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

(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 39.4395, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 39.4380, 39.4385, 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.

(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: Currently, the RR zone has a minimum lot size of 5 acres for the creation of new parcels under most circumstances and requires a 50-ft front lot line length and public road frontage or other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

36910 SE Lusted Rd (R649716640/1S4E23C-01400): Section (A) is for information purposes. The subject property is approximately 8.54+/- acres including the adjacent right-of-way and

exceeds the minimum lot size of the RR zone. It has 853.61+/- ft of road frontage on Lusted Road. It meets the 50-ft minimum front lot line length and meets the access requirement by fronting onto a public street. The property is not subject to (B) above, but may be occupied by any allowed, review or conditional use when in compliance with the other requirements of the RR district provided it remains a Lot of Record. Section (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time. (D) The subject property is Parcel 2 of Partition Plat 1991-111 (Staff Exhibit 9) and is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.3, the subject property known as 1S4E23C-01400 is a single Lot of Record.

36800 SE Lusted Rd (R649716620/1S4E23C-01500): Section (A) is for information purposes. The subject property is approximately 5.05+/- acres including the adjacent right-of-way and meets the minimum lot size of the RR zone. It has 79.60 ft of road frontage on Lusted Road. It meets the 50-ft minimum front lot line length and meets the access requirement by fronting onto a public street. The property is not subject to (B) above, but may be occupied by any allowed, review or conditional use when in compliance with the other requirements of the RR district provided it remains a Lot of Record. Section (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time. (D) The subject property is Parcel 1 of Partition Plat 1991-111 (Staff Exhibit 9) and is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.3, the subject property known as 1S4E23C-01500 is a single Lot of Record.

East of SE Lusted Rd (R994230150/1S4E23C-00800): Section (A) is for information purposes. The subject property is approximately 0.577+/- of an acre including the adjacent right-of-way and is substandard to the minimum lot size of the RR zone. It has 628.85 ft of road frontage on Lusted Road. The property meets the 50-ft minimum front lot line length and meets the access requirement by fronting onto a public street. The property is subject to (B) above, and may be occupied by any allowed, review or conditional use when in compliance with the other requirements of the RR district provided it remains a Lot of Record. Section (C) is for informational purposes. The property owner is not proposing to convey any portion of the lot at this time. (D) The subject property is Parcel 1 of Partition Plat 1991-111 (Staff Exhibit 9) and is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.3, the subject property known as 1S4E23C-00800 is a single Lot of Record.

4.4 MCC 39.3070 LOT OF RECORD – EXCLUSIVE FARM USE (EFU).

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown in Figure 1 below with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g., MUA-20, RR, RC, SRC, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, RL-C zone applied, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, zone change from EFU-38 to EFU-76 for some properties. Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;

(7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed 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) A Mortgage Lot.**
- (4) An area of land created by court decree.**

Staff: 36322 SE Dodge Park Blvd (R238000610/1S4E23C-02200): (A) The subject property is 10.55 acres in size. There are no adjacent properties that are zoned EFU or CFU within Multnomah County's jurisdiction. Surrounding properties are zoned MUA-20 or RR. The subject property complies with MCC 39.3070(A)(1) and is not required to aggregate. Section (B) is for information purposes. The subject property has less than the 80-acre minimum lot size for new parcels or lots in the EFU zone and is subject to (C) above. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record. (D) As discussed above under section 5.1, the subject property is a platted lot in a recorded subdivision (Exhibit B.10) is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not a mortgage lot, nor is an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.4, the subject property known as 1S4E23C-02200 is a single Lot of Record.

4.5 § 39.3010- LOT OF RECORD – COMMERCIAL FOREST USE (CFU).

(A) In addition to the standards in MCC 39.3005, for purposes of the CFU district, a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record.4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

(b) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot Size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;

(5) February 20, 1990, Lot of Record definition amended, Ord. 643;

(6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;

(7) May 16, 2002, Lot of Record section amended, Ord. 982.

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed 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) A Mortgage Lot;

(4) An area of land created by court decree.

Staff: Currently, the CFU zone has a minimum lot size of 80 acres for the creation of new parcels or lots under most circumstances and requires a 50-ft front lot line length and public road frontage or other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

6704 SE Cottrell Rd & SE Lusted Rd (R994220300 & R994221120/1S4E22BA-00200 & 1S4E22BA-00100 combined): (A) The subject property (1S4E22BA-00200 & 1S4E22BA-00100 combined) is a 19.5-acre parcel and is not required to aggregate with any adjacent property. Section (B) is for information purposes. The subject property has less than the 80-acre minimum lot size for new parcels or lots in the CFU zone and is subject to (C) above. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record. (D) The subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not a mortgage lot, nor is an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.5, the 19.5-acre parcel, 1S4E22BA-00200 & 1S4E22BA-00100 combined, is a single Lot of Record.

34747 SE Lusted Rd (R994150140/1S4E15C-00801): The County made a Lot of Record Verification in land use case T3-2019-11784 (Exhibit A.162.b). The County found that the legal parcel consists of tax lots, 1S4E15C-00801 & 1S4E15C-00800 combined and the legal parcel is a single Lot of Record.

(A) The subject property is a 37.24-acre parcel (1S4E15C-00801 & 1S4E15C-00800 combined) and is not aggregated with any adjacent properties. Section (B) is for information purposes. The subject property has less than the 80-acre minimum lot size for new parcels or lots in the CFU zone and is subject to (C) above. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record. (D) The subject property is not an area of land described as a tax lot solely for assessment and taxation purposes. The subject property is not a mortgage lot, nor is an area of land created by the foreclosure of a security interest or created by court decree. *Criteria met.*

Based on the findings in 4.1 & 4.5, the 37.24-acre parcel known as 1S4E15C-00801 is a single Lot of Record.

5.0 Multiple Use Agriculture – 20 Approval Criteria:

Staff Note: The initial land use application for the Water Filtration Facility Site included a request for public tours. The applicant is no longer seeking approval for this Community Service accessory use (Exhibit A.163, page 6, B.2.a Response).

5.1 § 39.4305 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4310 through 39.4320 when found to comply with MCC 39.4325 through 39.4345 provided such uses occur on a Lot of Record.

Staff: The properties known as Filtration Site (1S4E22D-00400 and 1S4E22D-00100), 35227 SE Carpenter Ln (1S4E22DB-00300), and 33304 SE Lusted Rd (1S4E21A-00900) were all found to be Lots of Record in Section 4.0 above. Provided the proposed use complies with the applicable land use laws, they may be approved on these Lots of Record.

5.2 § 39.4320 CONDITIONAL USES.

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

(A) Community Service Uses listed in MCC 39.7520 pursuant to the provisions of MCC 39.7500 through MCC 39.7810;

Staff: The applicant has applied for Community Service Conditional Use Permit for a Utility Facility (Utility Facility CS) and a Community Service Conditional Use Permit for a Radio Transmission Tower (Communication Tower CS) in the MUA-20 zone (Exhibit A.1). The Utility Facility CS includes the construction of the Water Filtration Facility, various Pipelines, Finished Water Intertie facility and portion of the Lusted Hill Distribution Main that will be located in the MUA-20 zone. The findings for the Utility Facility CS can be found in Section 9 below. The Communication Tower CS findings are located in Section 10.

5.3 § 39.4325 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this base zone shall comply with the applicable provisions of this section.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

* * *

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

* * *

Staff: Applicant’s narrative addressing Minimum Yard requirements for the Filtration Facility site is located in Exhibit A.3 starting on page 20.

Filtration Facility /Communication Tower Site: The physical improvements located at the Filtration Facility site include a number of buildings, structures, security fencing and the Communication Tower with its accessory building. The County’s Transportation Planning Division has determined that a 15-ft right-of-way dedication will be required along the south side of SE Carpenter Lane (Exhibit B.16). The applicant’s Proposed Conditions Site Plan (Exhibit A.212, LU-302) shows this 15-ft dedication, as such, the Minimum Yard Dimensions listed above are applicable and do not need to be increased to allow for future right-of-way dedication.

There are thirty (30) buildings or structures proposed for this development site that must comply with the Yard requirements. The applicant has identified the closest building/structure to each property line. The Front Lot Line is adjacent to SE Carpenter Lane. The closest structure to the front lot line is the Pleasant Home Water District (PHWD) Pump Station (#27 on Exhibit A.212, LU-302). It will be 110 ft+/- from the front lot line after 15 ft dedication. The opposite property line from the front lot line is the southern lot line. The closest building/structure to the southern lot line is the East Electrical Building (#16 on Exhibit A.212, LU-302) and it will be located between 465 – 733+/- ft from this rear lot line. The lot line adjacent to SE Dodge Park Blvd right-of-way is a Street Side Yard. The Pilot Conex Structure (#10 on Exhibit A.212, LU-302) is 182+/- ft from the northeastern lot line. The Communication Tower Accessory Building (#40 on Exhibit A.212, LU-302) is the closest building/structure to the eastern lot line at 1,206+/-feet which is a side yard. The West Electrical Building (#31 on Exhibit A.212, LU-302) is 167+/- ft from the western lot line which is also a side yard. All other buildings/structures are located to meet the Minimum Yard Dimensions listed MCC 39.4325(C) as shown.

The Security Fence and various gates surrounding the Filtration Facility and the PHWD Pump Station will be 8-ft in height so must be set back a minimum of 8-ft from all lot lines (Exhibit A.216). The security fence is closest to the southern lot line but still has a setback of approximately 44 feet (Exhibit A.212, LU-302). The minimum yard requirement listed in MCC 39.4325(C)(1) for fencing has been met.

Applicant's narrative addressing building height for the various buildings/structures is located in Exhibit A.3, Page 22, in Table 2.

The Maximum Structure Height of 35 feet is applicable to all buildings and structures except the chemical silos and the communication tower. Building Height is defined in MCC 39.2000 and is measured from finished grade to a set point based on the style of the building's roof type. Most of the buildings/structures are not close to the maximum height requirement. The applicant indicates that the Administration Office (#6 on Exhibit A.212, Sheet LU-302) will be 34.5 ft tall when completed. This is the only building that is close to the maximum building height.

The height of the Communication Tower is regulated by the site size in relation to the tower height as part of the approval criteria listed in MCC 39.7565. The tower is proposed at 180 feet and not 175 ft as listed in Table 2. The chemical silo may exceed the 35-ft height limitation as allowed by MCC 39.4325(E) above if located at least 30 feet from any property line. The chemical silos are located to the south of the chemical building (#12 on Exhibit A.212, Sheet LU-302) towards the center of the property and are significantly further than 30 feet from all property lines.

Criteria met.

Intertie Development Site:

Staff: As shown on the plan in Attachment H.2a (Exhibit A.186), the electrical building will be set back 121 feet from the north property line, 2,355 feet from the south, 96 from the east, and 112 feet from the west. The stairwell cover and fan cover will be set back 35 feet and 75 feet from the north property line, respectively, and 42-ft from the east property line and over 2,355 feet from the south. From finished grade to roof ridge of the Electrical Building is 16 feet. The highest point of the Intertie Vault is the cover of the stairway at 10 feet.

Criteria met.

(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: Applicant's narrative addressing sewage disposal, storm water and water service requirements for the Filtration Facility site is located in Exhibit A.3 starting on page 24.

Filtration Facility /Communication Tower Site: The County Sanitarian has reviewed the applicant's proposal for an on-site sewage disposal for the water filtration facility site (Exhibit A.124). The location for the approved septic system (#4 & #5) is shown on the Proposed Conditions Site Plan (Exhibit A.212, Sheet LU-302) and is to the northeast of the main parking area. The Sanitarian has placed specific restrictions on the use of the site for the septic system on the site. Land Use Planning recommends a condition of approval for the Water Filtration Facility to encompass these restrictions.

The applicant has provided a Stormwater Certificate (Exhibit A.197) signed by a registered professional engineer. A Stormwater Management Report (Exhibit A.73) was prepared that designed stormwater facilities for the Water Filtration Facility site that complies with MCC 39.6235 Stormwater Drainage Control regulations and will be adequate to handle the rate of runoff from the lot for the 10-year, 24-hour storm event from the newly created impervious surfaces at the site (Exhibit A.212, Sheet LU-307).

The Water Filtration Facility site is located outside of the Pleasant Home Water District service boundary (Exhibit A.126, page 3). The initial water service at the Water Filtration Facility during the construction phase of the project will be provided by the Pleasant Home Water District (Exhibit A.128). Once the Water Filtration Facility is completed, the Facility site will obtain its water from the Portland Water Bureau (Exhibit A.126 and Exhibit A.220).

Intertie Development Site: Applicant's narrative addressing sewage disposal, storm water and water service requirements for the Intertie site is located in Exhibit A.7 starting on page 19.

The physical improvements at the Intertie site will not have any sink or restroom facilities that will require the provision of an on-site sewage disposal system. The site is unoccupied.

The applicant has provided a Stormwater Certificate (Exhibit A.198) signed by a registered professional engineer. A Stormwater Management Report (Exhibit A.75) was prepared that designed stormwater facilities for the Intertie site that complies with MCC 39.6235 Stormwater Drainage Control regulations and will be adequate to handle the rate of runoff from the lot for the 10-year, 24-hour storm event from the newly created impervious surfaces at the site.

The Pleasant Home Water District is able to serve this site from a 6-inch line located on the south side of Lusted Road (Exhibit A.127). Water is needed for a hose bib and for watering landscaping. Any water generated by the irrigation will be captured by the stormwater system.

Criteria Met.

(I) Required parking, and yard areas shall be provided on the same Lot of Record as the development being served.

Filtration Facility /Communication Tower Site: Applicant’s narrative addressing required parking and yards for the Water Filtration Facility site is located in Exhibit A.3 on page 20 and in Exhibit A.5 starting on page 35.

Intertie Development Site: Applicant’s narrative addressing required parking for the Intertie site is located in Exhibit A.9 starting on page 15. The Yard standards are addressed above in Exhibit A.7 for MCC 39.4325(C) starting on page 17.

Criteria met.

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

Staff: Filtration Facility/Communication Tower Site: Applicant’s narrative addressing exterior lighting for the Water Filtration Facility are contained in Exhibit A.4 starting on page 53 and in Exhibit A.51 labeled E.2 Land Use Permitting Lighting Report.

In 1.A Filtration Facility CU Application Narrative (Exhibit A.4), the applicant discusses existing light impacts within the West of Sandy River area starting on page 44 through 52. This background information is informational only and is not needed to address the approval criteria of MCC 39.6850. Applicant’s Exhibit A.51 includes lighting fixture details for each proposed fixture. In addition, applicant’s Exhibit A.212, Sheets E-322 through Gen E-142 (pages 28 through 42 of the plan set) has a Site Lighting Key Plan, Site Lighting & Receptacle Plans, and General Lighting Schedules. See Section 17 for additional findings.

Criteria Met.

Intertie Development Site: Applicant’s narrative addressing exterior lighting for the Intertie site is contained in Exhibit A.92.B Pipelines Design Review Application Narrative starting on page 19 and in F.1 Exterior Site Lighting Analysis Finish Water Intertie Facility (Exhibit A.63). See Section 17 for additional findings.

Criteria Met.

5.4 § 39.4335 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4320, except subsection (C)(1) thereof, shall be based upon:

- (A) The site size needs of the proposed use;**
- (B) The nature of the proposed use in relation to its impact on nearby properties;**
- (C) Consideration of the purposes of this base zone; and**
- (D) A finding that the lot or parcel is at least two acres in area and in the West of Sandy River Rural Plan Area, if a lot or parcel is created to support a conditional use, a finding that the remainder parcel is not less than five acres.**

Staff: Applicant’s narrative addressing this standard for the Water Filtration Facility is contained in Exhibit A.3 on page 25.

For MCC 39.4335(C), the conditional use must be reviewed against the purpose of the MUA-20 zone. **MCC 39.4300- PURPOSE** states “**The purposes of the Multiple Use Agriculture base zone are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential**

development and appropriate Conditional Uses, when these uses are shown to be compatible with the agricultural uses, natural resource base, the character of the area and the applicable County policies.” Conditional uses must be shown to be compatible with agricultural uses, natural resource base, the character of the area and the applicable County policies. The applicant has addressed the compatibility issues listed above in Section 9 for the Water Filtration Facility, Pipelines and Intertie Site. Section 10 for the Communication Tower.

Filtration Facility/Communication Tower Site: The development site has approximately 94 acres available to site the entirety of the development. The applicant has indicated that approximately 50 acres will be used for the physical improvements, required yards, parking and access, landscaping, stormwater, and buffer areas. A detailed discussion of the Water Filtration Facility use was made in Section 9 below and potential impacts to neighboring properties and uses. The MUA-20 zone has a minimum lot size of 20 acres to create a new lot size. The applicant is proposing to aggregate the two lawfully existing parcels into a single 95.51 acre (including r.o.w. acreage) which is over 4.5 times the minimum lot size for the zone. Approximately 44 acres of land will remain on the subject parcel after the development that will be placed in native grasses and available for future land uses. Portland Water Bureau is not proposing to divide off a remainder parcel from the site. A condition of approval has been included that addresses the Lot Consolidation process.

The subject site, when consolidated into a single parcel, is a suitable size for the proposed community service conditional use for the utility facility and communication tower use as proposed.

As conditioned, criteria met.

Intertie Site & Pipelines:

Staff: Applicant’s narrative addressing this standard for the Intertie Site and Pipelines is contained in Exhibit A.7 on page 20. MCC 39.4335 Lot Sizes for Conditional Uses in the MUA-20 zone does not just apply to the creation of new lots or parcels for the use but that the site size for a use is adequate to ensure that the site adequately sized to ensure it does not impact nearby properties and uses.

The Intertie Site is a 160-ft by 138-ft easement that will be used to house the Intertie Valve and Meter Vault, associated Electrical Building and other physical improvements and landscaping (Exhibit A.214, Sheet LU-501). The distance from the front lot line to the Valve and Meter Vault is 34 feet and contains screening landscaping and the stormwater basin for the site. The distance from the western edge of the easement to the electrical building is 20 ft and mostly landscaped to screen the site. A 20-ft wide landscape area exists between the eastern edge of the easement and the Valve and Meter Vault to screen the site.

If the property where a pipeline will cross is not owned completely by the Portland Water Bureau, it will be located in an easement. A significant amount of the pipelines will be located in the public rights-of-way. A single Finished Water Pipeline (Exhibit A.216) exits the Water Filtration Facility on SE Carpenter Lane in the MUA-20 zone. It will cross tax lot 1S4E22DB-00300 at an angle and then follow SE Dodge Park Blvd west to 1S4E21A -00900 where it will enter at the southeast corner of the property and head north to the Intertie Site. The permanent easement will be approximately 65 feet in width and run up to the Intertie improvements. All other pipelines in the MUA-20 zone will be placed in the public rights-of-way. Based upon the findings in this section and Sections 9 and 11 below, the Lot Size for the physical improvements associated with the pipelines in the MUA-20 zone on private property is a suitable size.

Criteria met.

5.5 § 39.4340 OFF-STREET PARKING AND LOADING.

Off-Street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

Staff: The Intertie Site has a 4,000+ area of asphalt available between the Valve and Meter Vault and the Electrical Building available for off-street parking. An area that is more than adequate for two parking space is available to the east of the Electrical Building that also meet the backing requirements of the Parking code in MCC 39.6500 *et al.* PWB has indicated the site will be unmanned on a daily basis and has not proposed delineating any parking spaces at the site. Planning staff finds that the site is similar in use to a Wireless Communication Facility and County Code requires two parking spaces for those unmanned facilities. Any vehicles entering the site will be able to maneuver and park on the asphalt area. A condition of approval has been recommended that the area be maintained available for vehicle maneuvering and parking and not be used for outdoor storage.

6.0 Rural Residential Approval Criteria:

6.1 § 39.4355 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4360 through 39.4370 when found to comply with MCC 39.4375 through 39.4395 provided such uses occur on a Lot of Record.

Staff: The properties known as 36910 SE Lusted Rd (1S4E23C-01400), 36800 SE Lusted Rd (1S4E23C-01500), and 1S4E23C-00800 were all found to be Lots of Record in Section 4.0 above. Provided the proposed use complies with the applicable land use laws, they may be approved on these Lots of Record.

6.2 § 39.4370 CONDITIONAL USES.

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable standards of this Chapter:

(A) Community Service Uses under the provisions of MCC 39.7500 through 39.7810;

Staff: The applicant has applied for Community Service Conditional Use Permit for a Utility Facility (Utility Facility CS) in the RR zone (Exhibit A.1). The portion of the Utility Facility CS occurring in the RR zone is the Raw Water Pipeline. The findings for the Raw Water Pipeline portion of the Utility Facility CS can be found in Section 9 below.

6.3 § 39.4375 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

* * *

Staff: The proposed Raw Water Pipelines are located underground, but will have an at-grade vault on tax lot 1S4E23C -01500, two above ground less <30-inch tall vents on tax lot 1S4E23C -00800 (Exhibit A.7, page 21). In addition, a single utility 24” deep by 72” wide by 90” tall cabinet (Exhibit A.209) is to be installed on tax lot 1S4E23C-01400 to house CPRs and a distribution panel. The applicant has indicated that the cabinet on the RR zoned tax lot will be set back a minimum of 30 feet from the Lusted Road right-of-way. It will also need to be located outside of the 10-ft wide side yard of the property. The plans do not show the location of this cabinet. **MCC 39.2000 Definition** defines a **Yard** as “**An open space, on a lot with a building and bounded on one or more sides by such building, such space being unoccupied and unobstructed from 30 inches above the ground upward, except as otherwise specified in the base zone....**” The above ground structures will comply with the maximum structure height.

As part of the Raw Water Pipelines project, an existing retaining wall will be replaced. The wall location is shown on the Raw Water Pipeline Proposed Conditions Plan (Exhibit A.212, Sheet LU-200). The applicant has indicated that the new retaining wall will be three feet high (Exhibit A.163, page 10, Response to #6.)

A condition of approval has been included requiring that Exhibit A.214, Sheet LU-200 be modified to show the location of the utility cabinet to comply with MCC 39.4375(C) and MCC 39.7525(A)(2), if the Hearing Officer finds it applicable as discussed below in Section 9.

As conditioned, this criterion can be met.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, 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: The proposed Raw Water Pipelines will have no aboveground features that will require on-site sewage disposal. Surface trenching and other ground disturbance will occur for approximately 1,050 ft on tax lots 1S4E23C -01500 and 1S4E23C -01400 to install the two Raw Water Pipelines until the entrance to the tunnel portal where the pipeline installation will go underground until surfacing on the Water Filtration Facility site (Exhibit A.212, Sheet LU-200). The County Sanitarian has reviewed the ground disturbance on these two tax lots and finds that it will not impact the existing on-site sewage disposal systems for these properties (Exhibit A.221). No new impervious surfaces are being created on tax lots 1S4E23C -01500 and 1S4E23C -01400 so no stormwater/drainage control systems are required. No water systems are required for the underground pipeline.

Criteria met.

(H) All exterior lighting shall comply with MCC 39.6850.

Staff: The applicant's states that there will be no lighting associated with the proposed Raw Water Pipelines (Exhibit A.7, page 22).

6.4 § 39.4385 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a conditional use permitted pursuant to MCC 39.4370, except (B) (8) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to the impacts on nearby properties; and

(C) Consideration of the purposes of this base zone; and

(D) A finding that the lot or parcel is at least two acres in area and in the West of Sandy River Rural Plan Area, if a lot or parcel is created to support a conditional use, a finding that the remainder parcel is not less than five acres.

Staff: The amount of land needed for the Community Service Conditional Use Permit for the Raw Water Pipelines in the RR zone would correspond with the size of the easements obtain by the Portland Water Bureau plus the crossing area for the pipelines in SE Lusted Road and its connection to the existing pipeline in tax lot 1S4E23C-00800. The applicant has indicated the size of the permanent easements over tax lots 1S4E23C -01500 and 1S4E23C -01400 is 100 feet wide for a total of 3.42 acres. Tax lot 1S4E23C -01500 is 5 acres in size and the easement will use 1.32 acres of land (Exhibit A.219). Tax lot 1S4E23C -01400 is 8 acres and the easement will use 2.1 acres of the land. Staff has added 600 sq. ft. (100-ft wide path by 60-ft wide right-of-way) as the pipelines cross SE Lusted Road to connect into the pipeline that will supply the raw water to the Filtration Facility in tax lot 1S4E23C-00800 which is owned by the PWB. The total area is 3.43 acres. No additional land is needed to accommodate the Raw Water Pipeline use on these properties as no parking requirements are necessary for the use. The easement will not create any new unit of land from these existing Lot of Records.

Criteria met.

6.5 § 39.4390 OFF-STREET PARKING AND LOADING.

Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.

Staff: The code does not require on-site parking or loading for the proposed Raw Water Pipelines as there are no above ground facilities that require regular site visitation.

Criterion met.

7.0 Exclusive Farm Use Approval Criteria:

7.1 § 39.4215 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone for the uses listed in MCC 39.4220 through 39.4230 when found to comply with MCC 39.4245 through 39.4260 provided such uses occur on a Lot of Record.

Staff: The property known as 36322 SE Dodge Park Blvd (1S4E23C-02200) was found to be a Lot of Record in Section 4.0 above. Provided the proposed use complies with the applicable land use laws, it may be approved on the Lot of Record.

7.2 § 39.4220 ALLOWED USES.

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

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result. Reconstruction or modification also includes “channelization” of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings.

Staff: From the Intertie site, three Pipelines exit onto Lusted Road. The two Pipelines traveling along the northern side of Lusted Road right-of-way will be located within the EFU zone. The Pipelines travel west along SE Lusted Road to SE Altman Road and then head north on Altman Road. When the pipeline towards the center of the road nears SE Pipeline Road, it will turn left and re-enter the MUA-20 zone. It terminates shortly into an existing pipeline once entering SE Pipeline Rd (Exhibit A.214, Sheets LU-203, LU-204, LU-205). The other pipeline will remain in the EFU zone on the east side of the road until it reaches SE Oxbow Rd where it will connect into an existing Portland Water Bureau pipeline. For the entire distance the one pipeline will remain in the EFU zone except for approximately 30 ft when it enters the Lusted right-of-way in the MUA-20 zone. The other pipeline will exit the Intertie site in the MUA-20 zone and travel approximately 30 feet and then enter the EFU zone and when it terminates it will re-enter the MUA-20 zone for approximately 75 feet. The placement of the pipeline in a public right of way in the EFU zone is an Allowed Use.

7.3 § 39.4225 REVIEW USES.

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating power for public use by sale or transmission towers over 200 feet in height provided:

* * *

(3) All other utility facilities and/or transmission towers 200 feet and under in height subject to the following:

(a) The facility satisfies the requirements of ORS 215.275, “Utility facilities necessary for public service; criteria; mitigating impact of facility”; and

Staff: The applicant has applied for Review Use for Utility Facility in the EFU zone (Exhibit A.1). Two Raw Water Pipelines installed under the EFU zoned property, 1S4E23C-02200 by tunneling at a depth ranging from 147 to 217 ft before surfacing on the Portland Water Bureau property in the MUA-20 zone (Exhibit A.10, page 1).

To be able to place the utility facility on the EFU zoned property, the application must demonstrate compliance with criteria in **ORS 215.275 Utility facilities necessary for public service; criteria; rules; mitigating impact of facility.** It states:

(1) A utility facility established under ORS 215.283 (1)(c)(A) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.283 (1)(c)(A) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and nonresource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

(4) The owner of a utility facility approved under 215.283 (1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(5) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under 215.283 (1)(c)(A) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

Staff: The applicant states as part of their narrative that they considered six Raw Water Pipeline alternative alignments. The six alignments are shown in applicant's Raw Water Pipeline Alternatives from Lusted Road to Filtration Facility document. (Exhibit A.85, see Figure 2). The narrative concentrates on the Technical and Engineering Feasibility Factor under ORS 215.275(2)(a) to establish that the proposed route must cross 1S4E23C-02200 for the project's objectives (Exhibit A.10, starting page 7), and technical and engineering feasibility reasons. Staff is uncertain that all of PWB's objectives for the project qualify as technical and engineering feasibility factors for the application.

The geologic and seismic hazards identified along the SE Lusted Road Alternative 4 seems to preclude its use through the RR zoned lands avoiding the single EFU zoned property. Alternative routes through Clackamas County would have affected significantly more EFU zoned lands.

Alternative 2 was also discounted due to engineering concerns from geotechnical borings, soil characteristics and historic landslide records. The proposed pipeline route crossing one EFU parcel is technically feasible and the applicant has mitigated any impacts that would be created to the agricultural land by tunneling the routes for the two pipelines under the parcel so no restoration will be necessary to return the property to its former condition. The property should remain available for farming practices to occur on the property in the future as no above ground evidence of the pipelines will be evident. Staff has recommended a condition of approval that for any unanticipated disturbance, the PWB will be required to restore, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the pipeline.

The criteria in ORS 215.275 have been met.

(b) The facility satisfies the requirements of MCC 39.6500 through 39.6600; 39.7525(A); 39.8000 through 39.8050; and 39.6745.

Staff: The code does not require on-site parking or loading for the Raw Water Pipelines, as there is no above ground facilities. MCC 39.6500 *et al* are the County criteria for Parking, Loading, Circulation and Access have been met or are not applicable. MCC 39.7525(A) Restrictions specify front, side and rear yard requirements that are different from the standard EFU Yard requirements. Pursuant to **MCC 39.2000 Definitions, Yards** are only applicable to buildings or structures that are taller than 30 inches above the ground. As the pipelines are below ground, they do not need to meet the Yard requirements of MCC 39.7525(A). A Design Review application has been applied for the entire pipeline project in the various zones and meets the requirements listed in MCC 39.8000. See Section 11 for the Design Review findings. MCC 39.6745 is the requirements for signage in the EFU zone. No signage has been proposed for the Raw Water Pipelines within the EFU zoned portion of the project.

As designed the Raw Water Pipeline portion in the EFU zone has complied with (b) above.

7.4 § 39.4245 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

* * *

Staff: The proposed Raw Water Pipelines are located underground. **MCC 39.2000 Definition** defines a **Yard** as “**An open space, on a lot with a building and bounded on one or more sides by such building, such space being unoccupied and unobstructed from 30 inches above the ground upward, except as otherwise specified in the base zone....**” The pipelines installed in the EFU zone in the public right-of-way are also chiefly underground but have appurtenances that rise to the surface or are located on the surface. These appurtenances are not located on a Lot. The Minimum Yard Dimensions are not applicable.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the Lot of Record.

(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: The proposed Raw Water Pipelines will have no aboveground features that will require on-site sewage disposal. No new impervious surfaces are being created on tax lot 1S4E23C-02200 so no stormwater/drainage control systems are required. No water systems are required for the underground pipeline.

The applicant has addressed stormwater for the pipelines to be installed in the public right-of-way (Exhibit A.77, A.199, A.215).

Criteria met.

(H) All exterior lighting shall comply with MCC 39.6850.

Staff: The applicant's states that there will be no lighting associated with the proposed Raw Water Pipelines or the pipelines within the public rights-of-way (Exhibit A.7, page 24).

Criteria met.

8.0 Commercial Forest Use Approval Criteria:

8.1 § 39.4065 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in the CFU except for the uses listed in MCC 39.4070 through 39.4080 when found to comply with MCC 39.4100 through 39.4155 provided such uses occur on a Lot of Record.

Staff: The properties known as 6704 SE Cottrell Rd & SE Lusted Rd (1S4E22BA-00200 & 1S4E22BA-00100 combined), and 34747 SE Lusted Rd (1S4E15C-00801) were all found to be Lots of Record in Section 4.0 above. Provided the proposed use complies with the applicable land use laws, they may be approved on these Lots of Record.

8.2 § 39.4080 CONDITIONAL USES.

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

(A) The following Community Service Uses pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 39.4100, MCC 39.4105, MCC 39.4110, MCC 39.4115, and MCC 39.7500 through MCC 39.7525. For purposes of this Section, the applicable criteria of MCC 39.7515 shall be limited to Subsections (A) through (H) of that Section.

(5) Water intake facility, related treatment facility, pumping station, and distribution line. The term "distribution line" includes water conduits and water transmission lines.

Staff: The applicant has applied for Community Service Conditional Use Permit for a Utility Facility (Utility Facility CS) in the CFU zone (Exhibit A.1). A portion of the Lusted Road

Distribution Main (LRDM) occurs in the CFU zone. The LRDM travels up SE Cottrell Rd in the MUA-20 zone and as it enters the existing Portland Water Bureau's Lusted Hill Treatment Facility (LHTF) (1S4E22BA-00200) at the corner of Cottrell and Lusted Roads, it enters the CFU zone. Once on the LHTF property, it will cross it diagonally, tunnel under SE Lusted Rd and continue underground through 1S4E22BA-00100 and connect into an existing pipeline on tax lot 1S4E15C-00801 in an existing easement. The applicant's narrative for the LRDM in the CFU zone is in Exhibit A.7 starting on page 25. The Pipeline plans are contained in Exhibit A.214, Sheets LU-206 and LU-207. The findings for the Utility Facility CS portion of the can be found in Section 9 below.

Criteria met.

8.3 § 39.4100 USE COMPATIBILITY STANDARDS.

(A) Specified uses of MCC 39.4075 (D) and (E) and MCC 39.4080 (A), (B) and (C) may be allowed upon a finding that:

(1) The use will:

- (a) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;**
- (b) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and**

(2) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

(B) In the East of Sandy River Planning Area single family dwellings as specified in MCC 39.4075 (B) may be allowed upon a finding that they will not significantly impact open space, public facilities, wildlife habitat, and rural community character.

Staff: The applicant's narrative addressing the Use Compatibility Standards are located in Exhibit A.7 starting on page 26. The portion of the Lusted Road Distribution Main (LRDM) located in the CFU zone is shown on Exhibit A.214, Sheets LU-206 and LU-207.

(A)(1)(a) The pipeline will be installed underground and cross the existing Portland Water Bureau's Lusted Hill Treatment Facility. It will then be bored under SE Lusted Rd, through tax lot 1S4E22BA -00100 on the north side of the road and onto the adjacent tax lot S4E15C-00801 where the newly installed distribution main will connect into the existing Lusted Road Distribution main to serve residential and wholesale water customers east of the Lusted Hill Treatment Plant. The connection will take place in an existing utility corridor under an existing driveway. The area is not forested.

The applicant has provided an Agricultural Compatibility Study (Exhibit A.33) and a Forest Compatibility Study (Exhibit A.37) that found that the pipelines would not force a significant increase or change in farm or forest practices on surrounding lands.

(A)(1)(b) As the distribution main is installed underground in the CFU zone and connects to the existing pipeline under a driveway. The distribution main contains water and will not increase the risk for fires, increase fire suppression costs or increase risks to fire suppression personnel based on the Forest Compatibility Study (Exhibit A.37) and the fact it is underground.

(A)(2) In applicant’s narrative (Exhibit A.7, page 27), they state that the required statement was recorded and provided in Appendix D.7. It is actually the applicant’s exhibit D.6 (Exhibit A.43).

Criteria Met.

(B) All of the proposed development is located within the West of Sandy River Rural Plan area. No single-family dwelling is proposed. *Criterion is not applicable.*

8.4 § 39.4105 BUILDING HEIGHT REQUIREMENTS.

(A) Maximum structure height – 35 feet.

(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

Staff: No portion of the proposed pipelines or distribution main will be above ground. There will be no above ground appurtenances associated with the pipeline (Exhibit A.7, page 25, last paragraph).

8.5 § 39.4110 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES.

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

* * *

Staff: No portion of the proposed pipelines or distribution main will be above ground. There will be no aboveground appurtenances associated with the pipeline (Exhibit A.7, page 25, last paragraph).

8.6 § 39.4115 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES.

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A). All exterior lighting shall comply with MCC 39.6850:

Staff: The applicant is proposing to install a water distribution main underground in the CFU zone. The distribution main is composed of parts and will connect to an existing pipeline. **MCC 39.2000 Definitions** defines a “**Structure**” as “**That which is built or constructed. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.**” MCC 39.2000 also defines a “**Building**” as “**Any structure used or intended for supporting or sheltering any use or occupancy.**” As the distribution main qualifies as a “structure” that supports a use, planning staff has addressed MCC 39.4115.

The proposed distribution main will not have any exterior lighting installed on or near it.

Criterion met.

(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):

* * *

(2) The structure shall satisfy the following requirements:

(a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 39.4110;

(b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;

(d) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

Staff: (2)(a) The distribution main is a structure. Based upon its design features, planning staff will address (B)(2) and (B)(3). There are no single-family dwellings on any of the three tax lots associated with the development of the distribution main in the CFU zone. MCC 39.4110 are the County's Forest Practice Setbacks and Fire Safety Zones. There are no above ground appurtenances associated with the distribution main (Exhibit A.7, page 25, last paragraph) and as such they do not apply to the structure. The applicant discusses potential impacts to nearby forest and agricultural lands in their reports Agricultural Compatibility Study and Forestry Compatibility Study (Exhibits A.33 and A.37). The installation of the distribution main on tax lot 1S4E15C-00801 will involve boring up to the existing distribution main and then connecting to it within an existing cleared area that has previously been disturbed (Exhibit A.214, Sheets LU-206 & LU-207 and Exhibit A.7, page 26, last paragraph). Based upon applicant's design and compatibility studies, the structure's location has the least impact on nearby and adjoining forest and agricultural lands.

(2)(b) The distribution main will be installed in an existing utility corridor and setback from existing forested areas on the tax lots. A portion of the main will be bored so as to not impact these forested areas and SE Lusted Road (Exhibit A.214, Sheets LU-206 & LU-207 and Exhibit A.7, page 26, last paragraph). No farm uses exist on 1S4E22BA-00100 or 1S4E22BA-00200. A mixture of farm and forest uses exist on 1S4E15C-00801 but the distribution main connection to the existing pipeline will occur within an existing driveway. No additional lands will be taken out of farm or forest use to install the proposed distribution main. Adverse impacts on the three tax lots have been minimized.

(2)(c) No new access roads or service corridors are proposed. The distribution main will be installed within an existing utility corridor (Exhibit A.214, Sheets LU-206 & LU-207 and Exhibit A.7, page 26, last paragraph). The amount of forest land used has been minimized.

(2)(d) All access roads or service corridors are existing. No extensions are proposed.

Criteria met.

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access;

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source;

Staff: The proposed distribution main will be installed within an existing utility corridor. The Lusted Hill Treatment Facility was last reviewed for fire access as part of T3-2019-11784 in September 2019 (Exhibit A.162.b). The connection point for the new distribution main to the existing main on tax lot 1S4E15C-00801 will be located in an existing driveway. There is no perennial water source on the tax lot.

Criteria met.

(C) The dwelling or structure shall:

- (1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 through 446.200 relating to mobile homes;**
- (2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;**
- (3) Have a fire retardant roof; and**
- (4) Have a spark arrester on each chimney.**

Staff: The proposed distribution main does not require a plumbing permit or any other type of building permit (Exhibit A.218). The distribution main is installed underground and does not have any above ground appurtenances that will need to be fire retardant or have spark arresters (Exhibit A.7, page 26, last paragraph).

Criteria met.

(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

* * *

Staff: The Lusted Hill Distribution Main does not require a domestic water supply. The Lusted Hill Treatment Facility is serviced by the Pleasant Home Water District if a water supply is needed during construction (A.162).

Criterion not applicable.

(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the Lot of Record.

- (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: The proposed Lusted Hill Distribution Main will have no aboveground features that will require on-site sewage disposal. No new impervious surfaces are being created on tax lot 1S4E15C-00801, 1S4E22BA-00100 or 1S4E22BA-00200 so no stormwater/drainage control systems are required. No water systems are required for the underground pipeline.

The applicant has addressed stormwater for the pipelines to be installed in the public right-of-way (Exhibits A.77, A.199, A.215).

Criteria met.

8.7 § 39.4140 LOT SIZE FOR CONDITIONAL USES.

Lots less than the minimum specified in MCC 39.4120(A) may be created for the uses listed in MCC 39.4070® and 39.4080(A)(1) through (6), (9) through (13), and (16) and (B)(1) through (4), after approval is obtained pursuant to MCC 39.4100 and based upon:

- (A) A finding that the new lot is the minimum site size necessary for the proposed use;**
- (B) The nature of the proposed use in relation to its impact on nearby properties; and**
- (C) Consideration of the purposes of this base zone.**

Staff: The applicant is not proposing to create any new lots as part of the proposed Community Service Conditional Use application for the Lusted Hill Distribution Main (Exhibit A.7, page 28). Installation of the distribution main will occur within existing public rights-of-way, on existing private property owned by the Portland Water Bureau or within easements.

Criteria not applicable.

8.8 § 39.4145 OFF-STREET PARKING AND LOADING.

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 39.6500 through 39.6600.

Staff: The code does not require any on-site parking or loading for the proposed Lusted Hill Distribution Main as there is no above ground facilities that require regular site visitation.

Criterion met.

9.0 Utility Facilities Community Service Conditional Use Approval Criteria:

Staff Notes: The most complete general description of the water treatment process that will take place at the finished Water Treatment Facility is located in Exhibit A.53 (E.5 Filtration Facility Odor Considerations). It discusses each of the major process areas within the Facility.

The initial land use application for the Water Filtration Facility Site included a request for public tours. The applicant is no longer seeking approval for this Community Service accessory use (Exhibit A.163, page 6, B.2.a response). A condition of approval has been recommended to the Hearings Officer to ensure public tours do not occur at the site without first obtaining the necessary land use approvals.

The PWB application discusses the impacts the Water Filtration Facility, Pipelines, Communication Tower and other physical improvements will have once they are completed. The County's code states that the terms "development" and "use" are synonymous. This would seem to mean that the act of improving land is part of the use. When reviewing the use, significant impacts created by the development/construction need to be considered. In addition, the development of the Water Filtration Facility, Pipelines, etc. will take significantly more time than the average construction project within the County's jurisdiction.

"Development" in MCC 39.2000 Definitions is "Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including, but not limited to, a building, land use, occupancy, sewer connection or other similar permit, and any associated ground disturbing activity. As the context allows or requires, the term "development" may be synonymous with the term "use" and the terms "use or development" and "use and development."

9.1 § 39.7505 GENERAL PROVISIONS.

(A) Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority.

(B) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC 39.8000 through 39.8050.

(C) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

Staff: (A) The applicant has requested various community service approvals (Exhibit A.1) in order to construct the proposed development in the West of Sandy River area. Please see the detailed description of each portion of the Utility Facility Community Service Conditional Use application in the MUA-20, RR and CFU zones.

(B) Section 11 contains the discussion of the Design Review applications for the Community Service Conditional Use applications.

(C) This is not an approval criterion, but a clarification that a CS approval does not amend the zoning of the property.

9.2 § 39.7515 APPROVAL CRITERIA.

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC 39.7550 through 39.7575, wireless communications facilities, subject to the provisions of MCC 39.7705, and except for regional sanitary landfills, which shall comply with MCC 39.7600 through 39.7625.

(A) Is consistent with the character of the area;

Staff:

Water Filtration Facility: The applicant discussed the general character (Exhibit A.4, starting on page 4) of the project study area as shown in Figure 4 (page 12). They then focused on midsize to large agricultural operations (see A.157 for Study Area Images) near the Water Filtration Facility. Moving on to forest practices (woodlots and small-scale forest operations discussions (Exhibit A.37) within the area and then public facilities. The predominant rural land use in the study area is residential (Exhibit A.4, page 20) with it being the most sensitive use to potential impacts. The applicant looked at the various impacts that each of these individual uses generate to broaden the “Character of the Area”.

The growing of plants, limited preparation of agricultural products grown on a property that do not rise to the level of the “Commercial Processing of Agricultural Products conditional use (MCC 39.4320(B)(2)”, growing and non-frequent harvesting of forest products, and residential uses are primary uses in the MUA-20 and RR zone at all times. Once residential uses are established in the EFU and CFU zones, they also become primary uses provided they remain habitable. All of these primary uses qualities combined together are what define or create the character of the West of Sandy River. Community Service Conditional Uses may be permitted provided they are found or modified to be “consistent with the character of the area”.

The application looks at three core analysis areas: Transportation, Rural Development and Farm & Forest Areas (Exhibit A.4 starting on page 25).

Transportation - The applicant provided a Traffic Impact Analysis (TIA) for the built-out conditions of the proposed development (Exhibit A.31). Table 5 in the TIA shows 124 total site generated trips per day for the finished Water Filtration Facility site, with 32 trips in the morning peak hour and 32 trips in the evening peak hour. The applicant found that their project would not have a transportation impact.

Multnomah County Road Rule (MCRR) 5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a Transportation Impact. A minimum increase of 10 new trips per day is required to find a transportation impact.

Transportation Planning interprets this rule as follows: This criterion sets out that a transportation impact will be generated if the proposal generates trips according to one, or more, of the three qualifying criteria:

- by more than 20 percent,
- by more than 100 trips per day; or
- by more than 10 trips in the peak hour

As the site generated trips will increase by more than 20 percent, exceed 100 trips per day, and exceed 10 trips in the Peak AM and PM hours, the Water Filtration Facility is found to have a transportation impact. In Transportation Planning's Memorandum to the Hearings Officer (Exhibit B.16) various mitigation measures are proposed to off-set the impacts being generated by the proposed use.

The Water Filtration Facility construction is projected to begin in the third quarter of 2023 and finish in 2028. The Water Filtration Facility is scheduled to be operational by September 30, 2027. During the construction of the Water Filtration Facility, truck (material import/export, concrete and miscellaneous deliveries) and commuter (site worker, staff, client and craft labor) trips were analyzed in Exhibit A.230. Truck traffic will be spread out throughout the workday. Commuter trips will typically occur during the AM and PM peak periods. The Construction Traffic Impact Analysis report (Exhibit A.230) on page 8 includes tables of the Project Construction Traffic Trip Generation Summary, Average Construction Traffic Trip Generation Summary and Peak Construction Traffic Trip Generation Summary. Two proposed access routes are proposed to and from the Water Filtration site. One access will be from SE Carpenter Lane and the other will be from SE Bluff Rd via an easement through the Surface Nursery to the Water Filtration Facility's south property line (Emergency Access Road) (Exhibit A.212, LU-305). The EFU access easement connects to SE Bluff Road and is within Clackamas County's jurisdiction. They will need to grant a discretionary permit for its authorization. A condition of approval has been included should this route not become available for emergency access for the Water Filtration Facility. Transportation Planning has proposed a number of conditions for the project so that the transportation network is maintained in a safe condition and that the truck traffic does not create safety hazards for the traveling public (Exhibit B.16). A Traffic Control Plan will be required. Over-Dimension Permits for all truck movements through the County which exceed the legal limit and weight specified by Oregon Department of Transportation must be obtained. In addition, demand reduction strategies must be utilized.

Rural Development – The applicant looked at the impacts to residential uses and schools that could be adversely impacted by the Water Filtration Facility (Exhibit A.4, starting on page 30).

Figure 23 (page 31) shows where these sensitive uses under a worst-case scenario could potentially be impacted based upon the applicant's review. These potential impacts included noise and vibration, light and glare, air quality, water quality and hazardous conditions.

Noise & Vibration: The applicant submitted a baseline noise study conducted in April 2019 for the Water Filtration Facility site (Exhibit A.172). The April 2019 study found the existing median hourly daytime L_{50} ¹ sound levels at the site ranged between 41 dBA and 49 dBA and median nighttime L_{50} sound levels ranged between 38 dBA and 49 dBA.

The applicant has indicated that the Water Filtration Facility has been designed to keep normal filtration facility operations to 50 dBA at the property lines at all times except when the emergency generators and fire pumps are being tested. (Exhibit A.4, page 33 & 34). Generators and fire pumps will only be tested during daytime hours and will not exceed 60 dBA. The hours listed for daytime hours are 7 am to 10 pm.

Land Use Planning recommends the Hearings Officer limit the testing of the emergency generators and fire pumps to daylight hours. In addition, once the facility is fully operational, a noise verification study will be conducted to verify that the noise at the property lines does not exceed 50 dBA at all times during normal operations and 60 dBA during testing of emergency equipment.

Light and Glare: The applicant has provided a Lighting Report (Exhibit A.47 and Exhibit A.212.x through ll.) that has designed the various lighting for the Water Filtration Facility to be maintained completely within the boundaries of the property without spillage outside of the property. Attachment B (Exhibit A.47, page 10) shows all lighting on the property 100% on (fully energized). Attachment C (Exhibit A.47, page 12) shows the lighting on a typical night with lights dimmed. Attachment D (Exhibit A.47, starting on page 14) provides the lighting details for the fixtures to be used throughout the Water Filtration Facility. All light fixtures are compliant with the County's Dark Sky Lighting Standards in MCC 39.6850 provided they are appropriately mounted to point downwards. Land Use Planning recommends the Hearings Officer include a condition of approval that all light fixtures comply with the County's Dark Sky Lighting Standards of MCC 39.6850 and be appropriately mounted.

Air Quality: The applicant's discussion on air quality begins on page 46 of Exhibit A.4. The applicant indicates that the Water Filtration Facility will have two potential dust sources – gravel roads and the residual solids. Dust being generated from use of gravel roads can be mitigated in a variety of ways such as by driving very slowly while they are in use during the summer months, use of dust control sprays, sprinkling/irrigation. The use of gravel roads requires a deviation from the paving requirements of MCC 39.6570(A)(1). A Dust Control Plan for the use of these roads during the dry season can be required by the Hearings Officer pursuant to MCC 39.6570(A)(2).

Residual solids are generated from the cleaning of the raw water through the water filtration process. The materials are dewatered to create a moist cake and then hauled off and disposed of at an appropriate facility. The loading areas for residual solids are washed down to minimize dust. The residual solids are chiefly the concentrates of the organic matter removed from the raw water through the filtration process. PWB has indicated that currently once the residual solids are

¹ **Percent Sound Level (Ln).** The sound level that is exceeded n percent of the time; for example, L_{08} is the level exceeded 8 percent of the time, L_{25} is the sound level exceeded 25 percent of the time, and L_{50} is the sound level exceeded 50 percent of the time (median sound level)

loaded onto a truck, the solids are taken to a landfill. The material is inert and contains no hazardous materials.

Air quality can also be affected if odors were to be generated. Exhibit A.51 discusses potential emissions from the Water Filtration site and operations. The filtration facility will use ozone which can affect air quality. The applicant indicates any leaks will result in the ozone generators being shut down until repaired. PWB is in the process of converting its vehicle fleet to electric vehicles (EVs) and charging stations will be provided on site to support their use and reduce air quality impacts. No chlorine gas will be used at the site (Exhibit A.51) but a bleach solution (sodium hypochlorite) will be used. Applicant reference Appendix E.1 (Exhibit A.45) to evaluate other water treatment plant operations around the State. Land Use Planning finds Exhibit A.53 to be a better document to understand the proposed Water Filtration Facility processes and potential air quality effects from odor generation. The Water Filtration Facility does not appear to be a major contributor to air quality concerns once it is established.

Water Quality: The applicant's narrative looks at various potential water quality impacts that could be created by the Water Filtration Facility (Exhibit A.4, starting on page 49). The first potential impact is from the generation of stormwater from impervious surfaces. The Stormwater Management Plan (Exhibit A.73) and Stormwater Drainage Control Certificate (Exhibit A.197) complies with the County's Stormwater Drainage Control regulations of MCC 39.6235.

Applicant's report "Appendix E.7: Potential Discharges to Johnson Creek Memorandum" (Exhibit A.57) looks at various adverse events that could affect Johnson Creek that occupies the southwest corner of the property. The Report discusses the designs of the Facility that will prevent these impacts.

During the construction of the Water Filtration Facility, the water quality of Johnson Creek could be affected if inadequate erosion and sediment control or poor construction practices occur during its lengthy construction timeframe. Land Use Planning has included a condition of approval for the Hearings Officer requiring that the PWB obtain all necessary ground disturbing permits from the Department of Environmental Quality and Land Use Planning before any ground disturbing activities begin.

The Hearings Officer will need to hear from the community regarding the Character of the Area before deciding if the proposed Water Filtration Facility Design and mitigation measures to blend the facility into the area achieves the goals of this approval criteria.

Pipelines: Applicant's narrative for this criterion is located in Exhibit A.8 starting on page 5 through 18 for the Pipeline Conditional Use application. Pipeline construction is projected to begin in the first quarter of 2024 and finish in 2028. The Pipelines routes are chiefly within the public rights-of-way of SE Dodge Park Blvd, SE Lusted Rd, SE Altman Rd with small intrusions onto SE Oxbow Drive and SE Pipeline. SE Carpenter Lane will be crossed by the Finished Water Pipeline from the Water Facility site to gain access onto SE Dodge Park Blvd through 35227 SE Carpenter Lane, a private property currently owned by the City of Portland. Once the Pipelines are installed, only a few features will be at the surface. These are the air vents, appurtenance covers (Exhibit A.214, LU-208) cathodic protection rectifiers, and metal cabinets (Exhibit A.209).

A change to the applicant's initial application has occurred for the Finished Water Pipeline from where it leaves the Water Filtration Facility to its entrance at the Intertie Site. The initial application was for two pipelines to run parallel in Dodge Park Blvd. PWB has decided that only

one Finished Water Pipeline is needed between the Water Filtration Facility and the Intertie Site (Exhibit A.216).

Criterion met.

Intertie Site: Analysis for the Intertie Site begins on page 18 of Exhibit 8 and looks at the visual, auditory and light impacts for the small compound. The Intertie Site contains an Electrical Building where the generator will be housed, Intertie Valve and Meter Vault, stormwater management control, landscaping, pavement that can be used for parking if needed (Exhibit A.214, Sheets LU-500, LU-501). The Finished Water Pipeline will enter the Intertie Valve and Meter Vault from the south after the Pipeline has traversed from SE Dodge Park Blvd across the agricultural field underground. The finished water will then exit the Vault in three Pipelines (Exhibit A.214, Sheets LU-203, LU-204).

The design of the Electrical Building and Intertie Vault is shown in Exhibit A.21. Lighting for the site is via two pole mounted lights and one wall mounted light on the Electrical Building (Exhibit A.63). The proposed lighting meets the County's Dark Sky Lighting Standards. PWB has proposed significant landscaping at the Intertie Site to screen the improvements (Exhibit A.214, Sheets LU-501, LU-502). The landscaping helps to blend the site with surrounding tree farms, mature ornamental trees in the area and other surrounding nursery uses.

Noise: The applicant submitted a baseline noise study conducted on November 19, 2022 for the Intertie Site location (Exhibit A.175). The study found the ambient sound levels varied during the day and night and were influenced by traffic along SE Lusted Road and agricultural activities on the site. The hourly background sound levels ranged between approximately 37 and 41 dBA. Vehicles passing on Lusted Road increased noise levels to approximately 70 dBA and hourly average L_{eq}^2 sound levels exceeded 50 dBA.

The Acoustical Analysis (Exhibit A.65) for the Intertie Site identifies that the water valves within the Intertie Vault can be a source of noise during their operation. The Intertie Vault is underground and has limited openings. Two vents are proposed on the top of the Vault which could allow sounds to escape. These vents will have silencers added to them to reduce the level of sound that can be transmitted to the outside. Another limited noise source is the backup generator. The generator is housed in the concrete walled Electrical Building. The exhaust pipe and air inlets and outlets for the building will include acoustical silencers to reduce noise levels during testing and during emergency use. Modeling of sound levels for generator use sets it at less than 60 dBA at the closest noise sensitive unit (residential house to the west). Modeling of sound levels for the Intertie Vault at 50 dBA at the closest noise sensitive unit. Land Use Planning recommends a condition of approval that a Noise Study to verify that the acoustical silencers have successfully reduced the sound levels be included to meet the modeling study in Exhibit A.65.

As conditioned, this criterion can be met.

(B) Will not adversely affect natural resources;

Staff:

Water Filtration Facility: Applicant's narrative for this criterion begins on page 68 of Exhibit A.4. The site has two Significant Environmental Concern overlays on it: wildlife habitat (SEC-h)

² Equivalent Sound Level (L_{eq}). L_{eq} is the A-weighted level of a constant sound having the same energy content as the actual time varying level during a specified interval. The L_{eq} is used to characterize complex, fluctuating sound levels with a single number. Typical intervals for L_{eq} are hourly, daily, and annually.

and water resources (SEC-wr) (Exhibit A.212, Sheet LU-102). The applicant's proposed development of the Water Filtration Facility remains outside the SEC-h and SEC-wr overlays (Exhibit A.212, Sheet LU-302).

Criterion met.

Pipelines and Intertie Site: Applicant's narrative for this criterion begins on page 23 of Exhibit A.8. A portion of the installation of the Lusted Hill Distribution Main travels up SE Cottrell Road through the Significant Environmental Concern for water resources overlay (SEC-wr) overlay that protects the headwaters of a stream (Exhibit A.214, Sheet LU-102). The applicant will bore a 390-ft segment of the Distribution Main running up SE Cottrell to avoid any impacts to the riparian vegetation or stream (Exhibit A.214, Sheet LU-201).

In order to connect the Distribution Main to an existing pipeline, it must cross through an SEC-h overlay on the Lusted Hill Treatment Facility (tax lot 1S4E22BA-00200) site and on tax lots 1S4E15C-00801 and 1S4E22BA-00100 (Exhibit A.214, Sheet LU-206, LU-207). A Significant Environmental Concern for wildlife habitat permit has been applied for and approved to offset the encroachment of the Distribution Main work within the SEC-h overlay (See Section 14 below).

Two Pipelines head north in the SE Altman Road right-of-way. The western Pipeline terminates into an existing PWB pipeline at the intersection of SE Altman Road and SE Pipeline Road outside of any SEC-wr overlay. The eastern Pipeline continues on in the Altman Road right-of-way connecting into an existing PWB pipeline at the intersection of SE Altman and SE Oxbow Drive. This connection occurs within a SEC-wr overlay, but is exempt from obtaining a Significant Environmental Concern permit pursuant to MCC 39.5515(A)(24) (Exhibit A.214, Sheet 206).

The Raw Water Pipeline will be installed in the Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay (Exhibit A.214, Sheet LU-200). The Pipeline will be installed by boring underground within the SEC-h except at its connection point on tax lot 1S4E23C-00800. A Significant Environmental Concern for wildlife habitat permit has been applied for and approved to offset the encroachment of the Raw Water Pipeline within the SEC-h overlay (See Section 14 below).

The PWB has been able to design the rest of the Pipelines and the Intertie Site to avoid disturbing any natural resources.

Criterion met.

(C) The use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor**
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

Staff:

Water Filtration Facility: Applicant's narrative for this criterion begins on page 69 of Exhibit A.4. The applicant has also provided an Agricultural Compatibility Study (Exhibit A.33), Forest Compatibility Study (Exhibit A.37) and a Pesticides Report (Exhibit A.39). The Agricultural Compatibility Study looks at accepted farm practices and whether the Water Filtration Facility would alter those practices. The Pesticide Report does a risk-based analysis of pesticide use on surrounding lands and whether exposure on the Water Filtration Facility site would create a

conflict where a significant change would need to occur. PWB also looked at the impacts to finished water quality if pesticide drift was to occur on their site in Exhibit A.41. The analysis of forest practices is in the applicant's narrative on pages 8 - 9 and 11 - 12 (Exhibit A.4) and then continues on with their analysis for these criteria beginning on pages 77 through 83. Through these studies, PWB believes that there will be no significant change in accepted farm or forest practices on surrounding lands.

The above studies look at the Water Filtration Facility after it has been completed. No discussions have been included regarding impacts to surrounding farm uses while the development is under construction.

Two written comments were received from farmers regarding the Water Filtration Facility site (Exhibits D.5 and D.6). Ekstrom letter (Exhibit D.5) is concerned with the conversion of farm land at the Water Filtration Facility from farm land to an industrial use. The letter from Surface Nursery (Exhibit D.6) highlights the direct impacts that they find will occur to their farm property. The construction access/road to be built on their EFU zoned property is the Emergency Access Road that will connect the Water Filtration Facility site to SE Bluff Road in Clackamas County (Exhibit A.227). This farm property is immediately to the south of the Water Filtration Facility site. PWB will need to obtain approval from Clackamas County for this access through farm land. The Clackamas County application is a discretionary application (Land Use Permit - Type II, Not Otherwise Listed).



Pipelines Intertie Site: Applicant's narrative for this criterion begins on page 24 of Exhibit A.8. The Pipelines will be installed underground in SE Dodge Park Blvd, SE Cottrell Rd, SE Altman Rd SE Lusted Rd. Small segments will be installed underground in SE Carpenter Lane, SE Pipeline and SE Oxbow Drive. The CS application is for those portions of the Pipelines in the MUA-20, RR, CFU zones (Exhibit A.214, Sheet LU-002). The Pipelines in the EFU zoned areas are regulated differently (See Section 7). Once the Pipelines are installed, only limited appurtenances will be above ground (Exhibit A.214, Sheet LU-208).

The applicant has provided Agricultural Compatibility Study (Exhibit A.33), Forest Compatibility Study (Exhibit A.37) to support their findings that the proposed Pipelines will not significant change accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices of the surrounding farm and forest lands. The Pipelines will leave the public rights-of-way and enter private property in three cases. The Raw Water (RW) Pipeline is predominantly installed on private property (tax lots 1S4E23C-01400, 1S4E23C-01500, and 1S4E23C-00800) (Exhibit A.214, Sheet LU-200). The RW Pipeline enters an EFU zoned property before it enters the Water Filtration Facility site. Tax lots 1S4E23C-01400 and 1S4E23C-01500 are in limited farm use that will need to be restored once the construction project is completed.

The Finished Water (FW) Pipeline leaves SE Dodge Park Blvd and enters the MUA-20 zoned tax lot 1S4E21A-00900. As noted earlier, PWB is now only proposing one FW Pipeline between the Water Filtration Facility and the Intertie site. Land Use Planning does not know if that reduction in the number of pipelines on the property will reduce the size of the easement required from the property owner.

Tax lot 1S4E21A-00900 is owned by Shelly L. Ekstrom, LLC and is presently in nursery stock use. The Ekstroms provided the comments in Exhibit D.5. The FW Pipeline enters on the southeast side of the tax lot and runs northward to the Intertie Site. The Ekstroms indicate that approximately 5 acres of prime farm land will be taken out of production while physical improvements are being installed. PWB has not provided timelines as to how long the installation of the FW Pipeline will take on the property or when the Intertie Site will commence construction. Once the work is complete, PWB intends to restore the ground to its original soil layers so the land will not be harmed. In addition, PWB will allow a portion of the permanent easement to be farmed. An Agricultural Soil Restoration Study (Exhibit A.35) explains how this will be accomplished. The Ekstroms are concerned about loss of income and the actual feasibility of soil restoration which seem to go directly to the approval criteria.

(D) Will not require public services other than those existing or programmed for the area;

Water Filtration Facility: Applicant’s narrative for this criterion begins on page 84 of Exhibit A.4.

Public Services	Exhibit #
Water Service	
Pleasant Home Water District	A.128
PWB	A.126 & A.220
On-Site Waste Water Service (Septic)	A.124
Stormwater Management	A.73, A.197
Fire Protection	
Rural Fire District #10	A.130.a
Sheriff	A.108
Other Services	
Portland General Electric	A.116
Fiber	A.122

Trash & Recycling	A.120
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The Fire District #10 Board of Directors submitted a resolution, report and recommendation regarding the Water Filtration Facility application (Exhibit D.1). The report evaluates the proposed use and discusses the District's ability to serve it along with potential impacts, risks and hazards. District 10's station for the area does not have specialty response services including hazardous materials, and confined space rescue. These services must be dispatched from other fire stations. Beginning on page 21 lists findings from the District regarding the staffing levels at their fire station, their training, need for assistance from surrounding stations, impacts to roads will impact their response times, etc. The Board of Directors recommends denial of the application with one of the reasons being that it requires public services other than those existing or programmed for the area. Gresham Fire has provided a comment (Exhibit D.16).

The applicant has provided a Response to Fire District 10 Comment Memorandum (Exhibit A.225). In addition, they have provided a Construction Traffic Impact Analysis (Exhibit A.230). Transportation Planning has reviewed Exhibit A.230 and has provided comments regarding the analysis (Exhibit B.16). The analysis findings do propose gaining access to SE Bluff Road via the Emergency Access Road during the construction phase of the project.

Pipelines & Intertie Site: Applicant's narrative for the for this criterion begins on page 27 of Exhibit A.8.

Public Services		Exhibit #
Water Service		
Pipelines	N/A	
Intertie Site	Pleasant Home Water Dist.	A.127
On-Site Waste Water Service (Septic)		
Pipelines	N/A	N/A
Intertie Site	N/A	N/A
Stormwater Management		
Pipelines		A.77, A.199
Intertie Site		A.75, A.198
Fire Protection		
Pipelines		
Intertie Site	Gresham Fire / Fire Dist #10	A.130.b
Sheriff		
Pipelines	Multnomah County	
Intertie Site	“ “	A.110
Other Services		
Pipelines	PGE	A.118
Intertie Site	Fiber	N/A
	Trash & Recycling	N/A

(E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

Water Filtration Facility, Pipelines & Intertie Site: Applicant's narrative for the Water Filtration Facility for this criterion begins on page 85 of Exhibit A.4. Applicant's narrative for the Pipelines and Intertie Site for this criterion begins on page 28 of Exhibit A.8. The Oregon Department of Fish and Wildlife has provided an email indicating that the area appears to be impacted habitat (Exhibit A.59) and outside of big game winter habitat.

Criterion met.

(F) Will not create hazardous conditions;

Water Filtration Facility: Applicant's narrative for this criterion begins on page 86 of Exhibit A.4. The applicant has provided a Hazardous Materials Management Plan (Exhibit A.55) which addresses the materials to be used onsite at the Facility. The applicant has designed the Facility to use Chlorine in the form of a salt instead of a gas. The Facility is located out of the Geologic Hazard overlay zone on the property. Geologic and seismic hazard assessments of the site were conducted (Exhibit A.81). The physical improvements will be constructed using appropriate geotechnical foundation designs and site development. The ozone system is monitored and has control equipment designed to provide a safe and secure operation environment (Exhibit A.53, page 4)

The Fire District #10 Board of Directors submitted a resolution, report and recommendation regarding the Water Filtration Facility application (Exhibit D.1). The report evaluates the proposed use and discusses the District's ability to serve it along with potential impacts, risks and hazards. District 10's station for the area does not have specialty response services including hazardous materials, and confined space rescue. These services must be dispatched from other fire stations. The District believes that not all hazardous materials have been clearly identified (Exhibit D.1, page 18). In addition, information has not been included regarding hazardous material amounts during the 5-year construction phase. The District has identified additional concerns regarding hazardous material truck deliveries, etc. The Board of Directors recommends denial of the application with one of the reasons being that it will create hazardous conditions.

The applicant has provided a Response to Fire District 10 Comment Memorandum (Exhibit A.225). Their response on the hazardous conditions' criterion starts on page 2.

Pipelines and Intertie Site: Applicant's narrative for this criterion begins on page 29 of Exhibit A.8. PWB indicates that there are no hazardous materials associated, used or stored with the proposed water pipelines or intertie site. Fire District #10 Comments (Exhibit D.1) express concern regarding hazardous conditions being created by the installation of the pipelines being installed in the rights-of-way and the increase of truck traffic during construction.

The applicant has provided a Response to Fire District 10 Comment Memorandum (Exhibit A.225). Their response on the hazardous conditions' criterion starts on page 2.

(G) Will satisfy the applicable policies of the Comprehensive Plan;

Water Filtration Facility, Pipelines and Intertie Site: See Section 16 below.

(H) Will satisfy such other applicable approval criteria as are stated in this Section.

9.3 § 39.7520 USES.

(A) Except as otherwise limited in the EFU, all CFU and OR base zones, the following Community Service Uses and those of a similar nature, may be permitted in any base zone when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU, CFU and OR base zones are limited to those uses listed in each respective base zone.

(6) Utility facilities, including power substation or other public utility buildings or uses, subject to the approval criteria in MCC 39.7515(A) through (H).

Staff: The applicant has applied for various Community Service Conditional Use Permits for Utility Facility for the Water Filtration Facility, various Pipelines, Finished Water Intertie Facility, Lusted Hill Distribution Main.

9.4 § 39.7525 RESTRICTIONS.

A building or use approved under MCC 39.7520 through 39.7650 shall meet the following requirements:

(A) Minimum yards in EFU, CFU (Note – not applicable to CFU-1 through CFU-5), MUA-20, RR, BRC, OCI, OR and PH-RC, UF-20, LR-10, UF-20, MUF, SRC, and RC base zones:

(1) Front yards shall be 30 feet.

(2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

(3) Rear yards shall be as required in the base zone.

Staff:

Water Filtration Facility: There are thirty (30) buildings or structures proposed for this development site that must comply with the Yard requirements. The applicant has identified the closest building/structure to each property line. The Front Lot Line is adjacent to SE Carpenter Lane. The closest structure to the front lot line is the Pleasant Home Water District (PHWD) Pump Station (#27 on Exhibit A.212, LU-302). It will be 110 ft+/- from the front lot line after 10 ft dedication. The opposite property line from the front lot line is the southern lot line. The closest building/structure to the southern lot line is the East Electrical Building (#16 on Exhibit A.212, LU-302) and it will be located between 465 – 733+/- ft from this rear lot line. The lot line adjacent to SE Dodge Park Blvd right-of-way is a Street Side Yard. The Pilot Conex Structure (#10 on Exhibit A.212, LU-302) is 182+/- ft from the northeastern lot line. The Communication Tower Accessory Building (#40 on Exhibit A.212, LU-302) is the closest building/structure to the eastern lot line at 1,206+/-feet which is a side yard. The West Electrical Building (#31 on Exhibit A.212, LU-302) is 167+/- ft from the western lot line which is also a side yard. All other buildings/structures are located to meet the Minimum Yard Dimensions listed MCC 39.4325(C) as shown.

Criteria met.

Pipelines: The pipelines are buried underground. Yards only apply to buildings or structures that are over 30-inches in height. The vents associated with the pipelines are under 30-inches in height (Exhibit A.185). The Raw Water Pipeline has a single utility 24” deep by 72” wide by 90” tall cabinet (Exhibit A.209) to be installed on tax lot 1S4E23C-01400 to house CPRs and a distribution panel. The applicant has indicated that the cabinet on the RR zoned tax lot will be set back a minimum of 30 feet from the Lusted Road right-of-way. It will also need to be located outside of the 10-ft wide side yard of the property. **MCC 39.2000 Definitions** defines a

“Building” as “Any structure used or intended for supporting or sheltering any use or occupancy.”

The Hearings Officer will need to decide if the cabinet is supporting or sheltering a use. If so, it will need to be set 20-ft from the south property line on tax lot 1S4E23C-01400.

Intertie Site: As shown on the plan in Attachment H.2a (Exhibit A.186), the electrical building will be set back 121 feet from the north property line, 2,355 feet from the south, 96 from the east, and 112 feet from the west. The stairwell cover and fan cover will be set back 35 feet and 75 feet from the north property line, respectively, and 42-ft from the east property line and over 2,355 feet from the south.

Criteria met.

(D) Off-street parking and loading shall be provided as required in MCC 39.6500 through 39.6600.

Staff: See Section 13 for the findings regarding Off-Street Parking and Loading requirements.

(E) Signs for Community Service Uses pursuant to the provisions of MCC 39.6700 through 39.6820

Staff: See Section 14 for the findings regarding the proposed signs for the proposed developments.

(G) Other minimum yards, restrictions or limitations of use or development not required under this subsection shall be as provided in the base zone.

Staff: The MUA-20 approval criteria are listed in Section 5. The RR approval criteria are listed in Section 6. The CFU approval criteria are listed in Section 8.

10.0 Radio Transmission Towers Community Service Conditional Use Approval Criteria:

10.1 § 39.7520 USES.

(A) Except as otherwise limited in the EFU, all CFU and OR base zones, the following Community Service Uses and those of a similar nature, may be permitted in any base zone when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU, CFU and OR base zones are limited to those uses listed in each respective base zone.

(8) Radio and television transmission towers.

(a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier, and cellular telephone towers, and fixed point microwave towers are permitted in any base zone, provided only self-supporting structures are permitted in the Exclusive Farm Use base zone.

(b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any base zone except urban residential base zones, provided only self-supporting structures are permitted in the Exclusive Farm Use base zone.

* * *

Staff: The Portland Water Bureau (PWB) is proposing to construct a self-supporting communication tower at the Filtration Facility Site which will include a microwave dish, radio antennas, and accessory communications equipment. The communication tower will serve as a data conduit, allowing the City to route phone calls, computer communication, and data from the Water Bureau’s Supervisory Control and Data Acquisition (SCADA) system, to other locations in the region. The communications network also serves a critical role as the conduit for 800 MHz radio communications. PWB has applied for a Community Service Conditional Use Permit for a radio tower (Exhibit A.1).

10.2 § 39.7560 APPLICATION REQUIREMENTS.

An application for approval of a Community Service designation for a radio or television transmission tower shall contain at least the following information before it is complete:

(A) Site plan or plans to scale specifying the location of towers(s), guy anchors (if any), transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Such plan shall also demonstrate compliance with MCC 39.7565 (I) and (J).

(B) Landscape plan to the scale indicating size, spacing and type of plantings required in 39.7565 (B).

(C) Report from a professional engineer licensed in the State of Oregon, documenting the following:

(1) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design. A cross-section of the tower structure shall be included.

(2) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated.

(3) Evidence of structural integrity of the tower structure as required by the Building Official.

(4) Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris.

(5) Ice hazards and mitigation measures which have been employed, including increased setbacks and/or deicing equipment.

(D) Statements from the F.A.A, O.S.A.D., and F.C.C., that the standards of MCC 39.7565 (G) are met or the required good faith, timely effort it achieve such responses.

(E) Written authorization from adjoining property owners, if needed, under MCC 39.7565 (J).

(F) Responses to the applicable Comprehensive Plan Policies.

Staff: The PWB has provided the necessary application materials required by MCC 39.7560(A) through (F). Those application materials are listed below:

Application Exhibits	
A.6	1.C Communications Tower Conditional Use and Design Review Application Narrative

A.212	Appendix A.1 Filtration Facility Drawing Set (Revised, see 3.20.23 Appendix A.1a) LU-302 Proposed Conditions Plan – Page 8 LU-306 Landscape Plan – Page 12 LU-402 Tower Enlargement Area – Page 16
A.132	M.1 Design Report
A.134	M.2 Bull Run Tower Design Drawing (Revised, see 1.27.23 Attachment D.2)
A.136	M.3 Bull Run Tower Foundation Design
A.138	M.4 Communication Tower Design Calculations
A.140	M.5 Design Criteria and Failure Modes for Valmont Communication Towers
A.142	M.6 F.A.A. Letter (3-10-22)
A.144	M.7 O.S.A.D. Letter (2022-ODAV-S-264-OE)
A.146	M.8 Federal Communications Commission Radio Station Authorization
A.147	M.9a Microwave Path Survey Interpretation Memo
A.148	M.9b Microwave Path Survey Report
A.152	M.10 Tower Ice Hazards and Mitigation Measures Letter
A.154	M.11 Bull Run Filtration Tower NIER Study
A.176	Attachment D.1 Antennae Data Sheets
A.177	Attachment D.2 Tower Drawing with Antennae
A.178	Attachment D.3 Tower Antennae Locations
A.183	Attachment G.2 Ancillary Building Drawing Sheets

Criteria met.

10.3 § 39.7565 APPROVAL CRITERIA FOR NEW TRANSMISSION TOWERS.

New transmission towers base zone permitted under MCC 39.7520 (A) (8) (a) or (b) may be allowed, based on findings by the approval authority that the following criteria are met.

(A) The site is of a size and shape sufficient to provide the following setbacks:

(1) For a tower located on a lot abutting an urban residential base zone or a public property or street, except a building-mounted tower, the site size standards of MCC 39.7565 (I) and (J) are met as to those portions of the property abutting the residential or public uses.

(2) For all other towers, the site shall be of sufficient size to provide the setback required in the base zone between the base of the tower, accessory structures and uses, and guy anchors, if any, to all abutting property lines.

Staff: Applicant’s narrative can be found in Exhibit A.217 starting on page 9. The subject property is zoned Multiple Use Agriculture – 20 (MUA-20). The property abuts SE Carpenter Lane and SE Dodge Park Blvd. The freestanding lattice tower is proposed at 180 feet tall

(Exhibit A.177). No guy wires will be used. Planning staff have addressed the findings for MCC 39.7565(I) below and found the tower location met those standards. MCC 39.7565(J) is not applicable. The proposed tower and its accessory structure comply with the MUA-20 Yard requirements as discussed under MCC 39.4325(C) above. *Criteria met.*

(B) The required setbacks shall be improved to meet the following landscaping standards to the extent possible within the area provided:

(1) Landscaping at the perimeter of the property which abuts streets, residences, public parks or areas with access to the general public other than the owner of such adjoining property. Such landscaping plan shall demonstrate the following:

(a) For towers 200 feet tall or less, a buffer area no less than 25 feet wide shall commence at the property line. At least one row of evergreen shrubs shall be spaced not more than five feet apart. Materials should be of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting. At least one row of evergreen trees or shrubs, not less than four feet height at the time of planting, and spaced not more than 15 feet apart, also shall be provided. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

* * *

(c) In lieu of these standards, the approval authority may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls and other features designed to screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved in (a) and (b) above, except as lesser requirements are desirable for adequate visibility for security purposes and for continued operation of existing bona fide agricultural or forest uses, including but not limited to produce farms, nurseries, and tree farms.

Staff: Applicant's narrative can be found in Exhibit A.217 starting on page 10. The tower height is 180 feet. The Tower Enlargement Area plan (Exhibit A.212, Sheet LU-402) shows a 330 ft wide buffer between the public right-of-way of SE Dodge Park Rd and the tower. The plan shows a row of *Myrica californica* shrubs will be planted to the northwest, northeast and southeast of the tower facility to screen the area. In addition, a double row of *Pinus contorta* will be planted to the east and the northwest of the tower location. A grove of trees will be maintained to the north of the tower and the existing forested area running along SE Dodge Park Blvd will not be disturbed.

Criteria met.

(C) The applicant shall demonstrate that the tower can be expected to have the least visual impact on the environment, taking into consideration technical, engineering, economic and other pertinent factors. Towers clustered at the same site shall be of similar height and design, whenever possible. Towers shall be painted and lighted as follows:

(1) Towers 200 feet or less in height shall have a galvanized finish or be painted silver. If there is heavy vegetation in the immediate area, such towers shall be painted green from base to treeline, with the remainder painted silver or given a galvanized finish.

(2) Towers more than 200 feet in height shall be painted in accordance with regulations of the Oregon State Aeronautics Division.

(3) Towers shall be illuminated as required by the Oregon State Aeronautics Division. However, no lighting shall be incorporated if not required by the Aeronautics Division or other responsible agency.

(4) Towers shall be the minimum height necessary to provide parity with existing similar tower supported antenna, and shall be freestanding where the negative visual effect is less than would be created by use of a guyed tower.

Staff: Applicant's narrative can be found in A.217 starting on page 11. The proposed communication tower is a single, freestanding 180-ft tall lattice tower. It will be the only communication tower on the site. The height of the tower has been determined to allow for the use of the microwave system with 20 years of tree growth (Exhibit A.148). The applicant has specified the tower will be painted green below the tree line and a silver shade above the tree line to blend in with the forest to the northeast and east of the tower location as shown on Exhibit A.212, Sheets LU-302 and LU-402. The Oregon Department of Aviation (formerly Oregon State Aeronautics Division) has not required that the tower be lighted (Exhibit A.144). The applicant has not proposed any tower lighting. The proposed location allows for it to utilize existing mature vegetation to the northeast to reduce visual impact but be within a communication line with the existing Bull Run communication tower that exists off-site in the Bull Run watershed.

Criterion met.

(D) A minimum of two parking spaces shall be provided on each site; an additional parking space for each two employees shall be provided at facilities which require on-site personnel, provided additional parking may be required in accordance with MCC 39.6500 to 39.6600 if the site serves multiple purposes.

Staff: Applicant's narrative can be found in Exhibit A.217 starting on page 12. Two parking spaces are proposed southeast of the tower accessory building as shown on both the Proposed Conditions Plan and Tower Enlargement Plan (Exhibit A.212, Sheets LU-302 and LU-402). The water filtration facility parking is shown on the Proposed Conditions Plan and is in addition to the tower parking.

Criterion met.

(E) The applicable policies of the Comprehensive Plan are met.

Staff: See Section 16.0 for Comprehensive Plan Policy findings.

Criterion met.

(F) The NIER standards of MCC 39.7575 are met.

Staff: Staff has reviewed the applicable criteria of MCC 39.7575 under Section 10.5 below.

Criterion met.

(G) The following agency coordination standards are met:

(1) A written statement provided by the applicant from the appropriate official in the Federal Aviation Administration that the application has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or a statement that no compliance with Part 77 is required;

(2) A written statement provided by the applicant from the appropriate official in the Oregon State Aeronautics Division that the application has been found to comply with

the applicable regulations of the Division, or a statement that no such compliance is required; and,

(3) A written statement provided by the applicant from the appropriate official in the Federal Communications Commission that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.

(4) The statements in (1) through (3) may be waived when the applicant demonstrates that a good faith, timely effort was made to obtain such responses but that no such response was forthcoming, provided the applicant conveys any response received; and further provided any subsequent response that is received is conveyed to the approval authority as soon as possible.

Staff: Applicant's narrative can be found in Exhibit A.217 starting on page 14.

(G)(1) The Federal Aviation Administration (FAA) written statement is located in Exhibit A.142. The FAA found that the 180 ft tall communication tower would not be a hazard to air navigation and that marking and lighting are not necessary for aviation safety.

(G)(2) The Oregon State Aeronautics Division has been renamed the Oregon Department of Aviation (ODAV). The ODAV written statement is located in Exhibit A.144. The ODAV statement is as follows: "We do not object with conditions to the construction described in this proposal....It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground." The letter's comments indicate that "The structure does not exceed FAR Part 77.9 (a, b or c) or Obstruction Standards of OAR 738-70-0100.

(G)(3) The Federal Communications Commission (FCC) written statement is located in Exhibit A.146. The FCC document is a Radio Station Authorization for the property with a fixed location address of 35524 SE Carpenter Lane. That specific address is assigned to the Pleasant Home Water District property located at the rear of the water filtration facility site. The document goes on to reference the City of Portland Water Bureau as the Licensee. Based upon the information in this document, the City of Portland has been granted permission to use a set frequency for their communication tower by the FCC.

(G)(4) Not applicable

Criteria met.

(H) For a proposed tower in the EFU, CFU and MUA-20 base zones, the following restrictions on accessory uses shall be met:

(1) Accessory uses shall include only such buildings and facilities necessary for transmission function and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage areas, nor other similar uses not necessary for the transmission function.

(2) Accessory uses may include studio facilities for emergency broadcast purposes or for other special, limited purposes found by the approval authority not to create significant additional impacts nor to require construction of additional buildings or facilities exceeding 25 percent of the floor area of other permitted buildings.

Staff: Applicant's narrative can be found in Exhibit A.217 starting on page 14 and in Exhibit A.210 on Page 2.

The floor plan and building elevation for the accessory building for the communication tower shows a 12-ft by 20-ft single-story building (Exhibit A.183). The applicant has indicated that the building will be unoccupied and will house only electrical cabinets, piping, conduits and other equipment needed to support and run the tower. No studio facilities for emergency broadcast purposes will be included in the building. *A condition of approval has been recommended restricting the use of the tower accessory building.*

(I) Site size and tower setbacks:

(1) The site shall be of a size and shape sufficient to provide an adequate setback from the base of the tower to any property line abutting an urban residential base zone, public property, or public street. Such setback shall be sufficient to:

(a) Provide for an adequate vegetative, topographic or other buffer, as provided in MCC 39.7565 (C) and (B),

(b) Preserve the privacy of adjoining residential property,

(c) Protect adjoining property from the potential impact of tower failure and ice falling from the tower by being large enough to accommodate such failure and ice on the site, based on the engineer's analysis required in MCC 39.7560 (C) (4) and (5), and

(d) Protect the public from NIER in excess of the standard of MCC 39.7575 (A).

Staff: Applicant's narrative can be found in Exhibit A.217 starting on page 15.

(1) The entirety of the two tax lots involved in the filtration facility site is approximately 95-acres. The distance from the 180-ft tall lattice tower to the public right-of-way line of SE Dodge Park Blvd is 330 feet (Exhibit A.212, Sheet LU-402). The distance from the tower to the public right-of-way line of SE Carpenter Ln is approximately 980+/- feet (Exhibit A.212, Sheet LU-306).

(1)(a) The 330-ft buffer between Dodge Park Blvd and the tower location has a 90-130 ft wide mixed forest canopy between the property line and the start of existing fields. The applicant is proposing to add a double row of Pinus Contorta (Lodgepole Pine) approximately 130 feet to the northeast of the tower and a small double row of Pinus Contorta 80 ft to the northwest (Exhibit A.212, Sheet LU-402). Additional shrubs will also be added to the northwest, northeast and east of the tower site to screen the facility as required by MCC 39.7665(B) above.

(1)(b) The tower location is approximately 1400+/- ft from the nearest physical improvements on the property to the east (Exhibit A.212, Sheet LU-302). The dwelling on this property is over 1,550 feet from the tower location. Trees will be placed near the eastern property line that will help to provide a visual shield to the residence on this property. The tower is approximately 1,387 ft from the western property line for the project site and approximately 862 from the water towers to the south on the Pleasant Home Water District Site. The residential properties across SE Carpenter Lane are at least 1,000 feet or more from the tower site.

(1)(c) The location of the tower provides adequate setback distances (Exhibit A.212, Sheet LU-402) to protect the adjacent public rights-of-way and private properties should the tower fail or ice fall from the tower based on the findings discussed in MCC 39.7560(C)(4) and (5) above.

(1)(d) The applicant has demonstrated compliance with the NEIR standards in MCC 39.7575(A). See Section 10.5 below for additional findings.

Criteria met.

(2) A site is presumed to be of sufficient size when it:

(a) Meets the requirements of (1) (c) and (d) above,

(b) Provides a setback equal to 20 percent of the height of the tower to any property line abutting an urban residential base zone, public property, or public street, and

(c) Provides a setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not in an urban residential base zone nor a public property or a public street.

Staff: (2)(a) The project site is of a sufficient size to allow the tower location to protect the adjoining rights-of-way and private properties (Exhibit A.212, Sheet LU-402) from potential tower failure and ice falls as discussed under MCC 39.7560(C)(4) and (5) above.

(2)(b) The proposed tower will be 180 feet tall (Exhibit A.177). A 20% setback would need to be a minimum of 36 feet to any property line to meet the standard. The closest distance to a property line is 330 feet from the tower to the public right-of-way for SE Dodge Park Blvd (3.20.23 Appendix A.1a, page 16).

(2)(c) The rear yard setback for MUA-20 zoned property is 30 feet. The properties immediately to the south of the project site are located in Clackamas County and are zoned Exclusive Farm Use. Staff reviewed the EFU zone Dimensional Requirements in the Clackamas County Zoning Code. The Rear Yard setback is also 30 feet. The tower is over 740 feet to the Pleasant Home Water District Property which is located along its rear property line. The properties in Clackamas County are over 1,050 feet away from the tower (Exhibit A.212, Sheet LU-302).

Criteria met.

(3) Placement of more than one tower on a lot shall be permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site described in MCC 36.7560 (C) (4) will not lead to multiple failures in the event that one fails.

(4) Structures and uses associated with the transmission use other than the transmission tower shall be located to meet the setbacks required in MCC 39.7525.

(3) Applicant's narrative can be found in Exhibit A.217 starting on page 16. The proposed project is for a single tower on the project site (Exhibit A.212, Sheet LU-302).

Criterion not applicable.

(4) The Minimum Yards listed in MCC 39.7525(A) are 30 feet for the Front Yard, 20 feet Side Yard for a one-story building, and a 30 feet Rear Yard as required by the MUA-20 zone. The accessory building for the communication tower is one story in height (Exhibit A.183). The building is located approximately 20 feet southeast of the tower (Exhibit A.212, Sheet LU-402). The accessory building meets the minimum yard requirements of MCC 39.7525(A) (Exhibit A.212, Sheet LU-302).

Criterion met.

(J) Guy setbacks:

(1) For a guyed structure, the site shall be of a size and shape sufficient to provide an adequate setback from a guy anchor to any property line abutting an urban residential base zone, public property or public street in addition to the size required to comply with

39.7565 (I). Such setback shall be adequate to provide a vegetative, topographic or other buffer sufficient to obscure view to the anchor from such adjoining properties.

* * *

Staff: The proposed lattice tower (Exhibit A.177) will be freestanding and is not a guyed structure. *These criteria are not applicable to the project proposed.*

10.4 § 39.7570 DESIGN REVIEW.

The use shall comply with the design review provisions of MCC 39.8000 to 39.8050. This may be implemented as a condition of approval.

Staff: A Design Review application has been applied for as part of the subject application. See Section 11.0 for those findings. *Criterion met.*

10.5 § 39.7575 RADIATION STANDARDS.

Non-ionizing electromagnetic radiation standards.

(A) No source of non-ionizing electromagnetic radiation shall hereinafter be operating, which causes the general population to be exposed to radiation levels exceeding the mean squared electric (E²) or mean squared magnetic (H²) field strengths, or their equivalent plan wave free space power density, as specified in Table 1.

Staff: Applicant's NEIR study is located in exhibit M.11 Proposed Bull Run Filtration Tower NIER Study. Applicant's narrative for MCC 39.7575(A) is located in Exhibit A.217 starting on page 16. Information on the two antenna types and the microwave dish is in Attachment D.1 Antennae Data Sheets (Exhibit A.176). The Yagi Antennas (TY-900) have a frequency range of 890-960 MHz. The KP-900-SPOMA-8 Antennas have a frequency band of 824-900 MHz. On Table 1, these two different antenna types require an equivalent plane-wave power density of below $f/1500$. The applicant's NIER study (Exhibit A.154) demonstrates the antennas as proposed on the Communication Tower (Exhibit A.222 and A.223) will meet this requirement (Exhibit A.217, page 17).

The Microwave Antenna SC3-W100AC will operate at frequency 11,000 MHz (Exhibit A.176). On Table 1, the microwave antenna requires an equivalent plane-wave power density of below 1. The NIER study (Exhibit A.154) demonstrates that the microwave antenna as proposed on the Communication Tower (Exhibit A.222 and A.223) will meet this requirement.

Criteria met.

(1) For near field exposures, measurements of the mean squared electric and magnetic field strengths are especially important to determine compliance with the standards in columns 2 and 3 of Table 1. For convenience, mean squared electric or magnetic field strengths may be specified as the equivalent plane-wave power density. At higher frequencies (e.g., above 30-300 MHz), measurement of mean-squared magnetic field strength may not be necessary if it can be reliably inferred from measurements of either mean squared electric field strength or equivalent plane-wave power density.

TABLE 1 Non-Ionizing Electromagnetic Radiation Standards			
Frequency (MHz)	Mean Squared Electric (E) Field Strength* (V ² /m ²) [†]	Mean Squared Magnetic (H) Field Strength* (A ² /m ²) [‡]	Equivalent Plane-Wave Power Density* (mW/cm ²)
100 Khz – 3 MHz	80,000	.05	20
3 MHz – 30 MHz	4,000(180/f ²)	0.025(180/f ²)	180/ f ²
30 MHz – 300 MHz	800	0.005	0.2
300 MHz – 1500 MHz	4,000(f/1500)	0.025(f/1500)	f/1500
1500 MHz – 300 GHz	4,000	0.025	1.0

* All standards refer to root mean square (rms) measurements averaged over 0.5 hour (30 minutes).

[†] V²/m² = Volts squared per meter squared.

[‡] A²/m² = Amperes squared per meter squared.

Note: *f* = frequency in megahertz (MHz).

Staff: The antennas to be used on the communication tower all have a frequency higher than 30-300 MHz. Under (A) above, the applicant demonstrated in the M.11 NIER Study (Exhibit A.154) that the Maximum Permitted Exposure for the general population will be less than 33 percent and 6.6 percent for Occupational Population Limit (Exhibit A.217, page 17).

Criteria met.

(2) In the event the federal government promulgates mandatory or advisory standards more stringent than those described herein, the more stringent standards shall apply.

Staff: The NIER Study in Exhibit A.154 follows the Federal Communication Commission requirements.

Criteria met.

(3) These standards are adapted from the American National Standards Institute's American National Standard C95.1-1982, Safety Levels With Respect to Human Exposure to Electromagnetic Fields (300 kHz to 100 GHz). This ANSI standard's documentation should be consulted to help resolve any future questions about the basis or interpretation of the standards in this section.

Staff: Staff concurs with the applicant that the above is not an approval criterion but direction on what document to use to answer questions or interpret the standards of MCC 39.7575.

(4) Similarly, the latest revision of ANSI's American National Standards Institute's American National Standard C95.3, Techniques and Instrumentation for the Measurement of Potentially Hazardous Electromagnetic Radiation at Microwave Frequencies, is incorporated here by reference as one source of acceptable methods for measuring non-ionizing radiation levels in determining compliance with this standard.

(a) For all measurements made to ensure compliance with this section, evidence shall be submitted showing that the instrument or instruments used were calibrated within the manufacturer's suggested periodic calibration interval; that the calibration is by methods traceable to the National Bureau of Standards; a statement that the measurements were made in accordance with good engineering practice; and a statement or statements as to the accuracy of the results of the measurements.

Staff: See applicant's discussion regarding the modeling techniques used to determine the power density levels at approximately 1.5 meter or 6 feet above ground level (Exhibit A.217 page 17). Through the use of computer modeling and good engineering practices the engineer was able to determine that the proposed Communication Tower with its antennas will comply with Table 1. The engineer stamped and certified the NIER report as being accurate.

(5) The standards adopted herein shall be periodically reviewed by the Multnomah County Health Officer, in light of any new scientific knowledge as to the effects on the general population of non-ionizing electromagnetic radiation; and these standards may hereafter be raised, lowered or otherwise changed as the County shall require by amendment of this section. The first such reports shall be delivered on or before January 1, 1984.

Staff: The above is not an approval criterion for the applicant to address.

(6) For average times less than 0.5 hour, the allowed power density P in $\mu\text{w}/\text{cm}^2$ as a function of averaging time (in hours is given by $P = k / t$ (where in turn K is equal to 1/2 times the allowed power density for averaging times of 0.5 hour and greater.

Staff: The proposed Communication Tower has complied with the requirements in Table 1, so compliance with (6) is not needed to allow situations when the antennas will exceed the requirements (Exhibits A.154 and A.217, page 18).

Criterion not applicable.

(B) All existing sources of non-ionizing electromagnetic radiation in the frequency spectrum, 100 kHz to 300 GHz, except those exempted below, are within 120 days of the enactment of this section, hereby required to register with the County and provide the

following information for each individual source on forms provided by the Planning Director.

- (1) Name and address of owner of transmitter and/or antenna.
- (2) Name and address of owner of property on which the transmitter and/or antenna is located.
- (3) Location of transmitter.
- (4) Location of antenna by geographic coordinates by either latitude and longitude or state plane coordinates.
- (5) Output frequency of transmitter.
- (6) Type of modulation and class of service.
- (7) Power output of transmitter (average and peak).
- (8) Power input to antenna.
- (9) Manufacturer, type, manufacturer's model number of antenna and a copy of the antenna radiation patterns.
- (10) Gain of antenna with respect to an isotopic radiator.
- (11) Polarization of radiation from antenna.
- (12) Height of antenna above ground.
- (13) Horizontal and radial distance of antenna to nearest point on property line and to nearest habitable space regularly occupied by others than immediate family or employees of transmitter and/or antenna owner and/or operator.
- (14) Elevation above mean sea level of ground at the antenna location and the points specified in (B)(13).
- (15) The call letters assigned to the source.
- (16) Date of installation of present transmitter, and date of installation of the associated antenna, date of installation of the structure, if any, on which the antenna is located.
- (17) Any sources not so registered shall be regarded as a new source and any registered source with different essential technical characteristics than those of (B) (3) through (B) (13) above as a changed existing source.

Staff: (B) required the registration of all existing radio towers at the time of the adoption of these regulations. (B) is not an applicable code criterion to this tower.

(C) After August 19, 1982, no installation of a new source of non-ionizing electromagnetic radiation or changes in an existing source which in any way causes increases in the NIER or radiation pattern of the NIER source shall occur without first obtaining a Community Service use designation or modification thereof, unless otherwise provided herein.

Staff: The applicant has applied for a Community Service Conditional Use (CS) for a Communication Tower. Provided the CS is approved, the tower may be constructed. A condition of approval has been recommended to ensure that any change to the tower after it is built that would in any way increase the NIER or radiation pattern of the NIER source shall require a modification of the CS approval.

A condition of approval has been recommended.

(D) The application for the use shall be on forms provided by the Planning Director, and shall show:

- (1) The information required under (1) through (16) of subsection (B) above.**
- (2) The measured existing non-ionizing radiation levels at the nearest point on the property lines of the predicted maximum radiation from the source, and the nearest point regularly occupied by other than the immediate family and/or employees of the transmitter owner and/or operator.**
 - (a) These measurements shall be made at a height of 1.5 meters above the ground or at the greater height if habitation occurs at a greater height with lesser radial distance to the source.**
 - (b) If the measured level is equal to or less than 1/5 of the limits, the measurement shall be made for the continuous period 6 a.m., to 6 p.m., on a regular business day.**
 - (c) If the measured level is greater than 1/5 of the limits, the measurement shall be made for a continuous period of 168 hours.**
 - (d) If there exists an operational situation which would cause higher levels to occur at some other time than the intervals of (b) or (c) above, the measurement shall be made during that time.**
 - (e) These measurements may be made by whatever means the registered professional engineer under whose direction and supervision they are made deems appropriate. The effects of contributing sources of frequency below the lower frequency limit of broadband instruments may be appropriate separate single instant measurements of the contribution due to these sources. Further, levels below 20 microwatts/cm² or the minimum sensitivity of the instruments used, whichever is lesser, shall be deemed zero for further computational purposes.**
- (3) The calculated average levels at the three points specified in (D) (2) after installation of the new source, including both the background and the new source.**
- (4) The calculated levels at the boundaries of other sources at which the new source may cause a detectable increase in level.**
- (5) The calculated level at the predicted point of maximum radiation off of the property on which the new source is located caused by the new source along with the measured background NIER at this point. This measurement shall meet the requirements of (D) (2).**
- (6) The geographic coordinates (latitude and longitude or state plane coordinates) of each point of measurement and/or calculation shall be furnished.**

Staff: (D) The applicant has applied for a Community Service Conditional Use Permit for a Communication Tower using the applicable forms as specified by Land Use Planning (Exhibit A.1).

(D)(1) The information required in (1) through (16) of subsection (B) was provided in Exhibit A.224.

(D)(2) through (D)(6) The applicant has provided a NEIR study (Exhibit A.154) that provides the required information.

Criteria met.

(E) A Community Service use designation or modification thereof may be granted if the levels calculated in subsection (D), including the existing measured background, do not exceed the limits set forth in subsection (A), and if a new tower is required, the siting standards of this section are met. However, if the calculated levels, including existing measured background at any point specified in subsection (D) exceed one-third of the maximum levels of subsection (A), then, the approval shall be conditional upon measurements made after the new source is installed showing that the maximum levels of subsection (A) are not exceeded. If the calculated levels exceed the maximum level of subsection (A), the application shall be denied.

Staff: The Applicant’s NEIR study (Exhibit A.154) demonstrates compliance with the limits set in subsection (A).

Criterion met.

(F) All commercial intermittent sole source emitters of less than 1 KW average output are exempt from the measurement requirements of subsection (D) if they comply with the separation requirement of this subsection (F) and all other requirements of this section. Prior to issuance of a building permit for a tower to support an antenna associated with one of these uses, the Planning Director shall determine that the antenna meets the following requirements:

- (1) For an effective radiated power (ERP) of less than 100 watts the highest current point of the antenna is located at least ten feet and all portions of the antenna three feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.**
- (2) For an ERP greater than 100 watts, but less than 1,000 watts, the highest current point of the antenna is at least 15 feet and all portions of the antenna at least six feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.**
- (3) For an ERP equal to or greater than 1,000 watts, but less than 10 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.**

Frequency	Minimum Distance from Highest Current Portion	Minimum Distance from Any Portion
<7 MHz	11 feet	5 feet
7 - 30 MHz	$f/0.67$ feet	$f/1.5$ feet

Frequency	Minimum Distance from Highest Current Portion	Minimum Distance from Any Portion
30 - 300 MHz	45 feet	20 feet
300 -1500 MHz	$780 / \sqrt{f}$ feet	$364 / \sqrt{f}$ feet
>1500 MHz	20 feet	10 feet
Where f is frequency in megahertz.		

(4) For an ERP equal to or greater than 10 kW, but less than 30 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source, and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

Frequency	Minimum Distance from Highest Current Portion	Minimum Distance from Any Portion
<7 MHz	17.5 feet	8 feet
7 - 30 MHz	$f/0.4$ feet	$f/0.91$ feet
30 - 300 MHz	75 feet	33 feet
300 -1500 MHz	$1300 / \sqrt{f}$ feet	$572 / \sqrt{f}$ feet
>1500 MHz	34 feet	15 feet

Staff: The subject Communication Tower is subject to the measurement requirements listed in (D). The applicant has demonstrated compliance with these requirements in the NEIR study (Exhibit A.154).

(G) The following uses are exempt from all requirements of this section:

(1) All portable, hand-held and vehicular transmission sources.

(2) Industrial, scientific, and medical equipment operating at frequencies designated for that purpose by the FCC.

(3) Radio frequency machines:

(a) Which have an effective radiated power of 7 watts or less;

(b) Which are designated and marketed as consumer products, such as microwave ovens, citizen band radios, and remote control toys, or(c) Which are in storage, shipment or on display for sale, provided such machines are not operated.

(4) Amateur intermittent sole source emitters of less than 1 KW average output.

Staff: The Communication Tower does not qualify for any of these exemptions (Exhibit A.217, page 21).

11.0 Design Review Approval Criteria:

11.1 § 39.8005 ELEMENTS OF DESIGN REVIEW PLAN.

The elements of a Design Review Plan are: The layout and design of all existing and proposed improvements, including but not limited to, buildings, structures, parking and circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, accessways, pedestrian walkways, buffering and screening measures.

11.2 § 39.8010 DESIGN REVIEW PLAN APPROVAL REQUIRED.

No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this Code.

*** * ***

Staff: The Community Service Conditional Use (CS) for the Utility Facility for the Water Filtration Facility, Intertie Site and the Pipelines and the CS for the Radio Tower/Communication Tower in the MUA-20 and RR zones, the CS for the Distribution Main in the CFU zone and the Review Use of a Utility Facility for the Pipelines in the EFU zones require Design Review approval pursuant to MCC 39.8020(A) and MCC 39.4225(A)(3)(b). The applicant has applied for Design Review for the above uses (Exhibit A.1).

11.3 § 39.8020 APPLICATION OF REGULATIONS.

(A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any base zone.

(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 39.6590 shall only be subject to the following Design Review approval criteria: MCC 39.8040(A)(1)(a) and (1)(c), and (4) and (7), except when located in the RC, BRC, OR, OCI, PH-RC or SRC zone base zones.

(C) All other uses are subject to all of the Design Review Approval Criteria listed in MCC 39.8040 and 39.8045.

(D) Alteration or modification of the physical development previously reviewed through the Design Review process shall be subject to the Design Review Approval Criteria listed in MCC 39.8040 and 39.8045.

* * *

Staff: The Communication Tower is located on the same development site (tax lots 1S4E22D-00400 & 1S4E22D-00100 combined) as the Water Filtration Facility and will be reviewed together. The Filtration Facility & Communication Tower Site will be subject to all of the Design Review Approval Criteria listed in (C). The Intertie Site and Pipelines require no designated parking; hence the applicable approval criteria are limited to MCC 39.8040(A)(1)(a) and (1)(c), and (4) and (7).

11.4 § 39.8025 DESIGN REVIEW PLAN CONTENTS.

(A) The design review application shall be filed on forms provided by the Planning Director and shall be accompanied by a site plan, floor plan, architectural elevations and landscape plan, as appropriate, showing the proposed development.

(B) Plans shall include the following, drawn to scale:

- (1) Access to site from adjacent rights-of-way, streets, and arterials;**
- (2) Parking and circulation areas;**
- (3) Location, design, materials and colors of buildings and signs;**
- (4) Orientation of windows and doors;**
- (5) Entrances and exits;**
- (6) Existing topography and natural drainage;**
- (7) Pedestrian circulation;**
- (8) Boundaries of areas designated Significant Environmental Concern, Geologic Hazards and Areas of Special Flood Hazards;**
- (9) Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery;**
- (10) Areas to be landscaped;**
- (11) Exterior lighting location and design;**
- (12) Special provisions for handicapped persons;**
- (13) Surface and storm water drainage and on-site waste disposal systems;**
- (14) The size, species, and approximate locations of plant materials to be retained or placed on the site; and**
- (15) Proposed ground-disturbance, grading, filling and site contouring.**

Staff: Filtration Facility & Communication Tower Site (FFCTS): The applicant submitted the required materials.

The table below documents the relevant plan sheets for each of the required site plan elements.

Design Review Exhibits	
Site Plan Element	Filtration Facility (Exhibit A.212)

(1) Access to Site	Exhibit A.212 LU-302
(2) Parking & Circulation Areas	Exhibit A.212 LU-302, LU-305, LU-400, LU-401, LU-402
(3) Location, Design Materials & Colors	1.B Narrative multiple pages 1.Ab Architectural Plans (Exhibit A.15)
(4) Orientation of Windows & Doors	1.Ab Architectural Plans (Exhibit A.15)
(5) Entrances & Exits	1.Ab Architectural Plans (Exhibit A.15)
(6) Existing Topography & Natural Drainage	Exhibit A.212 LU-301
(7) Pedestrian Circulation	Exhibit A.212 LU-302, LU-305, LU-400, LU-401, LU-402,
(8) Boundaries of ESC, GH & Flood	shown on multiple plan sheets
(9) Service Delivery & Loading Areas	Exhibit A.212 LU-302, LU-305, LU-400, LU-401, LU-402, LU-403
(10) Landscaped Areas	Exhibit A.212 LU-306, LU-400, LU-401, LU-402
(11) Exterior Lighting	Exhibit A.212 E-322 through E-333
(12) ADA Provisions	Exhibit A.212 LU-302, LU-400
(13) Drainage and Sewer	Exhibit A.212 LU-302, LU-307, LU-404, LU-407, Gen-C-920, Gen-C-923
(14) Planting Specifications	Exhibit A.212 LU-306, LU-401, LU-402 LU-404, LU-409, LU-410 Attachments F1 and G.3
(15) Proposed Ground Disturbance	Exhibit A.212 LU-304

Pipelines: EFU - The applicant submitted the required materials (Exhibits A.214).

Intertie Site: The applicant submitted the required materials. The site plans are in Exhibit A.214, Sheets LU-500 and LU-501. Applicant's narrative is in Exhibit A.9. The Pipeline and Intertie Architectural Plans are in Exhibit A.202.

These requirements are met.

11.5 § 39.8030 FINAL DESIGN REVIEW PLAN.

Prior to land use approval for building permit review or commencement of physical development where no additional permits are necessary, the applicant shall revise the plans to show compliance with the land use approvals granted, all conditions of approval and required modifications. Final design review plan shall contain the following, drawn to scale:

(A) Site Development and Landscape Plans drawn to scale, indicating the locations and specifications of the items described in MCC 39.8025, as appropriate;

(B) Architectural drawings, indicating floor plans, sections, and elevations; and

(C) Approved minor exceptions from yard, parking, and sign requirements.

Staff: Modifications to the plans are necessary to comply with the applicable approval criteria. A condition of approval has been recommended to the Hearings Officer requiring a Final Design Review Plan be submitted to show compliance so that the County has a complete set of plans that shows all necessary improvements on a set of plans. *As conditioned, this criterion can be met.*

11.6 § 39.8040 DESIGN REVIEW CRITERIA.

(A) Approval of a final design review plan shall be based on the following criteria:

(I) Relation of Design Review Plan Elements to Environment.

(a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.

Staff:

Filtration Facility & Communication Tower Site (FFCTS): The site development will retain the forested area along the northeast property edge for screening and to maintain the natural landscape. Grading will retain the overall topography of the site. The view corridor of Mount Hood from west of the property will be maintained, as shown in the applicant's narrative Figure 17 visual simulation. The applicant provides photographs of structures on properties adjacent to and in the vicinity of the site in the application narrative Figures 2 through 10 (Exhibit A.5). The residences mainly are wooden structures of one or one-and-one-half stories with gabled roofs on properties with multiple accessory structures with shed roofs. Existing agricultural and public buildings have gabled, pitched, and flat roofs and use wood and metal. As shown in Figures 13 through 16 (Exhibit A.5 and A.15), to match the surrounding existing structures, the development's primary buildings will have offset gabled roofs like the surrounding agricultural buildings and the secondary buildings and walkway canopies will use shed roofs. All of the proposed buildings will be one or two stories, like the buildings in the vicinity. Buildings will be clustered in the west portion of the site.

This criterion is met.

Pipelines:

EFU Zoned RW Pipelines - The Applicant prepared responses to the design review criteria in Exhibit A.7 and A.9. As stated in Exhibit A.7, Page 24, there are no proposed appurtenances or above-ground structures." The proposed pipelines located on property zoned EFU and within the right-of-way in Segment 3 are proposed below ground with all construction occurring off-site in lands zoned Rural Residential or MUA20. By tunnel-boring the pipelines there will be no ground disturbance to the EFU land.

Approval criteria (A)(1)(a), (1)(c), (4) and (7) are met.

Other Pipelines (Raw & Finished) – The pipelines will be installed underground with various appurtenances installed at the surface. These appurtenances are air valves/vents, cathodic protection rectifiers (CPR) (Exhibit A.209), and various utility structures/cabinets. Three CPRs will be installed at the connection points with the existing Bull Run Conduits (see Figure 10 on page 14 in Exhibit A.8). A single utility 24" deep by 72" wide by 90" tall cabinet will be installed on tax lot 1S4E23C-01400 to house CPRs and a distribution panel. The applicant has

indicated that the cabinet in the RR zoned tax lot will be set back a minimum of 30 feet from the Lusted Road right-of-way. It will also need to be located outside of the 10-ft wide side yard of the property. Staff did not locate its location on the Proposed Conditions Plan LU-200 (Exhibit 3.24.23 A.2a Site Plan). A condition of approval has been recommended to the Hearings Officer requiring as part of the Final Design Review Plan the CPR cabinet's location be shown for the Raw Water Pipeline.

The above-ground air valves (Exhibit A.214 LU-208), will be approximately 30 inches high and 6- to 12-inches in diameter and painted gray to reduce contrast against the roadways and drives adjacent to which they will be installed. Adjacent valve cans, access lids, and small access ways will be at-grade and drains will be below grade. The appurtenances will be within public right-of-way, set back from the roadway, or along access drives on private property. At-grade vaults will be spaced approximately every 1,000 feet along the pipelines for maintenance access. The applicant states that no above-ground appurtenance will be closer than 80 feet from a residence. PWB has existing conduits, interties, and appurtenances in the vicinity.

Through a condition, the criterion can be met.

Intertie Site: Five elements will be aboveground at this location: The 10-foot-high covered stairwell access shed for the below-grade finished water Intertie Vault (Vault), the concrete roof of the Intertie Vault with a 4.5-foot-high ventilation louver on top of the Vault, five CPRs mounted on the Intertie Vault and the 16-foot-high electrical building will be located on one half-acre easement south of SE Lusted Road and east of Altman Road. The Intertie Site also will have a 7-foot-high gated security fence, an access drive from SE Lusted Road along on the east side of the site, and landscaping (Exhibit A.214, LU-500, LU-501 & LU-502).

There are no existing or other proposed buildings or structures on the site. Existing structures in the vicinity are one- and two-story residences, agricultural buildings, and accessory structures with gabled and pitched roofs. The proposed electrical building will be 780 square feet, comparable in size to the garages and agricultural accessory structures in the vicinity. The three structures at the Intertie Site are designed with materials, rooflines, and colors that are similar to structures on properties in the vicinity. The applicant references the closest residence to the west of the intertie site, which is blue with white trim, for the blue color of the electrical building walls. Applicant discusses the visual relationship of the surrounding area and buildings with the Intertie Site's building and structure design starting around page 3 of Exhibit A.9.

The applicant proposes screening landscaping at the Intertie Site that is similar to surrounding features: North of SE Lusted Road is a grove of evergreen trees; nursery stock grows to the south. The applicant provides visual simulations of views of the site in Figures 9 through 12 in Exhibit A.9 and A.212, Sheet LU-502.

The proposed above-ground elements of the pipelines will be similar to existing structures and utility facilities in the vicinity in terms of size, height, and color. The proposed landscaping materials for the Intertie Site will be similar to surrounding trees, shrubs, and crops. Therefore, the proposed design relates and has a visual relationship with the surrounding area.

This criterion is met.

(b) The elements of the design review plan should promote energy conservation and provide protection from adverse weather conditions, noise, and air pollution.

Staff:

FFCTS: The applicant lists the design elements that promote energy conservation and provide protection.

Energy conservation: The proposed facility is positioned to use gravity for both water intake from the Bull Run watershed and for conveyance to the City of Portland Powell Butte facility and distribution system. By using gravity, the facility requires less pumping, and therefore less energy. The administration building is designed to have photovoltaic panels on the roof and a radiant heating and cooling system to reduce energy needs. Other building elements include low-carbon concrete and low-e glazing.

Weather conditions: The filtration facility will enable enhanced filtration of water that can mitigate water quality issues resulting from weather events within the Bull Run watershed. The metal siding and roofs on the buildings is fire-resistant. Roof eaves include metal snow and ice guards. Walkway canopies and door canopies will protect workers from precipitation. The development will retain the forested area along the northeast edge of the site, which will provide weather protection.

Noise: The applicant submitted an exterior noise report, in Appendix E.3 (Exhibit A.49). The report concludes that the continuously operated mechanical equipment will be under the Multnomah County noise ordinance exterior limit at the property lines of 50 dBA. Emergency generators and fire pumps tested below the daytime level of 60 dBA. The reduced pumping also results in less noise than a non-gravity-fed system.

Air quality: The applicant submitted Appendix E.4, Potential Local Impacts of Facility Operation (Exhibit A.51), which identifies potential sources of emissions: vehicle emissions, diesel engines for the generators and emergency fire pumps, and potential leaks of ozone transported to the site. The Portland Water Bureau plans to replace vehicles with electric vehicles. The report found no potential air quality issues. The development does not require an air quality permit from the Oregon Department of Environmental Quality.

This criterion is met.

(c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter related, and shall provide spatial variety and order.

Staff:

FFCTS: The facility is not open to the general public. Scheduled, authorized visitors will use the administration building, therefore, the design focused on this building to incorporate human-scale elements such as its height, window placement, landscaping placement, and gable roof. The other structures are designed according to their functions but will have similar metal cladding and color scheme to the administration building. The development uses separate buildings for separate functions in order to reduce building massing and keep structures at a similar scale. The four 50-foot-high chemical storage silos will be painted green and screened to reduce their visibility (Exhibit A.15). *This criterion is met.*

Pipelines: *EFU RW Pipelines*- See (A)(1)(a) above).

Other Pipelines – All of the aboveground, at-grade, and below ground elements serve the function of conveying water. The elements are necessarily interrelated. Each appurtenance area associated with the pipelines will be approximately 10 square feet, at a scale that interrelates with the roadways and accessways where they will be installed. Spatial variety and order are dictated by the requirements of a functional water conveyance system (Exhibit A.214, LU-208).

Intertie Site: The tallest structure proposed for the Intertie Site will be the 16-foot-high, 780 square foot Electrical Building (Exhibit A.214, LU-500 & A.21 LU-551). The building will have two egress doors and eaves, and therefore be similar in appearance to residential and

agricultural accessory structures in the area (Exhibit A.9). According to the applicant, the site has been designed and the building oriented to avoid the need for access roads around the entire perimeter building, which instead will have access from the north and east. The Electrical Building will serve the Intertie Vault which serves the pipelines leaving the site. The elements are interrelated and efficiently and attractively serve their function on the site. Perimeter landscaping will help to provide spatial variety and order to the site. *This criterion is met.*

(2) Safety and Privacy - The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.

Staff:

FFCTS: The PWB facility would not be open to the general public. The Applicant's Proposed Conditions Site Plan (Exhibit A.212, LU-302) shows the buildings clustered towards the center half of the site, surrounded by rigid perimeter fencing. A Site Security Diagram is shown in Figure 28 of Exhibit A.5. Any security features in Figure 28 not shown in Exhibit A.212 LU-302, LU 400, LU-401, LU-402 need to be incorporated into the Final Design Plans if the project is approved. Agricultural style fencing is shown along the south property line (Clackamas County boundary). The entrance is off SE Carpenter Lane, with a driveway that allows a turnaround for unauthorized vehicles and a security gate approximately 150 feet from SE Carpenter Lane. The plans show landscaping along the driveway to serve as additional security buffers (Exhibit A.212, LU-306, LU-400, LU-401, LU-402). The filtration facilities are separated from the administration building, where authorized visitors would be allowed, by a second security gate. The facility would include operational security measures as well, such as patrols, security cameras, and interior secure doors. As a condition of approval, Land Use Planning recommends the Hearings Officer require any missing information such as the boulders be added to the landscape plans as part of Final Design Review.

As conditioned, this criterion can be met.

(3) Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and braille signs.

Staff:

FFCTS: The administration building, where authorized visitors would be allowed, has two designated ADA parking/van spaces adjacent to the entrance with an accessible pathway and signage (Exhibit A.212 LU-302, LU-400) The applicant states that where possible in the non-public areas, ramps and guardrails would be provided, but OSHA rules preclude operator physical limitations.

This criterion is met.

(4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.

Staff:

FFCTS: The site had been cleared and used for agricultural fields. The site has areas of nursery stock growing and existing access roads. A forested area designated SEC-h begins along the northeast edge of the site, along both sides of Dodge Creek Road, and northeast to the Sandy

River. Johnson Creek runs immediately off-site at the southwest of the site. The southwest corner of the property has an SEC-wr overlay designation, but the applicant proposes no development, grading, or other ground disturbing activity in that portion of the site.

In order to retain the gravity-fed system from the Bull Run headworks, the design retains the site's natural topography as much as practicable. As shown on the grading plan Sheet LU-304, the applicant proposes to grade the southeastern portion of the site from a low elevation of 710 feet in the southeast corner to a rise of 740 feet at the center of that portion. The developed northwest two-thirds of the site would be graded at contours of approximately 700 feet to 720 feet, with the process facilities sunken into the landform at 690 feet and berms along the entrance driveway and along the western edge of the site.

Stormwater will be managed by using existing flows and detained and filtered, as shown on Exhibit A.212, Sheet LU-307 and described in Appendix H.1 Filtration Facility Stormwater Drainage Report (Exhibit A.73 & A.197).

In the southeast portion of the site, the applicant is proposing only landscaping, reusing salvaged topsoil after grading to recreate rolling topography and planting as shown on the landscape plans (Exhibit A.212, LU-306 and LU-404).

A condition of approval requires that the applicant will protect trees and shrubs during construction. A condition of approval requires that the applicant will preserve and protect the one existing small grove of Douglas-fir, bigleaf maple, and walnut trees near the Pleasant Home Water District easement and SE Carpenter Lane both during construction and on an on-going basis.

As conditioned, this criterion is met.

Pipelines: *EFU RW Pipelines* - See (A)(1)(a) above).

Other Pipelines - Trees and shrubs within the public right-of-way are limited. The vegetation in the public rights-of-way is mowed or sprayed to maintain sightlines for vehicles, maintain ditches and for other purposes. The air valves, valve cans, access lids, small access ways, and drains will not disturb vegetation unnecessarily but may require some removal if access is needed or to maintain airflow. For the various pipelines, the contractor will excavate a trench, install the pipeline and appurtenances, then replace the excavated material and restore grades to the existing condition. The areas where the appurtenances will be installed will be within already graded public right-of-way and private access drives.

This criterion is met.

Intertie Site: The Intertie Site is currently in agricultural use growing nursery stock. The applicant proposes to grade the Intertie Site, as shown on Exhibit A.185, Sheet LU-504. The site's existing topography slopes downward approximately five feet from the southwest to the northeast. The proposed grading would retain that basic topographical orientation, but would grade for installation of a bioretention basin along the north portion of the site, for the vehicle accessway, and create a berm for landscaping.

This criterion is met.

(5) Pedestrian and Vehicular Circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and

convenience and shall be harmonious with proposed and neighboring buildings and structures.

Staff:

FFCTS: The facility will not be open to the general public for security reasons and therefore access will not connect to neighboring properties and structures. Vehicular and pedestrian access are designed for facility workers and deliveries, with the exception of a dirt road along the south boundary for agricultural access of the adjacent property. The facility circulation map in Figure 27 and Sheet LU-305 shows that the main access route, the secondary truck access route, emergency access route to SE Bluff Road in Clackamas County, and accessways to the Pleasant Home Water District facilities are separated. Parking is at the administration building and the filtration building. Three loading zones are for deliveries—one at the administration building, one at the maintenance building and one at the process basins. Three additional loading areas (two at the chemical building and one at the solids handling building) are identified in the design review narrative and not identified on the facility plans (Section 1.B, Figure 39 and Plan Set A.1a Sheet LU-400). Marked pedestrian walkways connect the buildings and facilities and are separated from the vehicle ways.

This criterion is met.

(6) Drainage - Surface drainage and stormwater systems shall be designed so as not to adversely affect neighboring properties or streets. Systems that insure that surface runoff volume after development is no greater than before development shall be provided on the lot.

Staff:

FFCTS: The proposed development will contribute to runoff into Johnson Creek. According to the stormwater drainage report in Appendix H.1 (Exhibit A.73 & A.197), the project will install planters, basins, and grassy swales on-site to meet the Oregon Department of Environmental Quality and City of Portland water quality treatment (pollutant reduction) requirements and handle a 25-year storm event. The project will install five on-site dry detention ponds, one sloped basin on site, and one eco-roof on Building 40 to meet stormwater flow requirements. Vegetated filter strips will be installed on-site to manage runoff from the overflow basin and perimeter security roads. Exhibit A.212, Sheets LU-307 shows the overall the stormwater management plan features, and LU-404 (stormwater planting), LU-407 (showing the five detention pond sections), LU-408 (flow control manhole details) GEN-C-920 (Storm Details showing typical basin and planter sections with underdrain) and Gen-C-923 (Storm Details showing typical grassy swale, roadside ditch outfall flow spreader sections) provide the details for the plan. The existing site has three points of discharge which will be maintained and used for the proposed development. The applicant's report states that the post-development stormwater flows "will be equal to or less than the pre-development flows." The application narrative states that the stormwater management plan incorporates design to respond to the adjacent (west) property owner's concerns regarding excessive runoff onto that property and improve conditions. The County Stormwater Certificate is in Exhibit A.197.

This criterion is met.

(7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.

Staff:

FFCTS: Exhibit A.212, Sheets LU-302 and LU-306 show setbacks of 130 feet or more from the property lines with berms and a variety of native ground covers, shrubs, and trees to screen the facilities from neighboring properties while retaining the Mount Hood view corridor from the west. The visual simulations in Figures 17 through 20 in Exhibit A.5 show that the most visually prominent feature is the existing pair of Pleasant Home Water District tanks. The administration building will be visible at the entrance at SE Carpenter Lane. The other proposed buildings, equipment, and parking and loading areas, clustered in the site's interior, with the exception of the Communications Tower, will largely be screened from view from neighboring properties.

This criterion is met.

Pipelines: *EFU RW Pipelines* - See (A)(1)(a) above).

Other Pipelines - The pipelines will not require any services, parking, or loading after they are constructed except for occasional inspections and/or maintenance. The appurtenances along the pipelines cannot be screened and buffered with planted landscaping as they are chiefly in the public rights-of-way and various maintenance practices by the County and PWB would impact them. The proposed appurtenances are the same in type and scale as existing water system facilities in the area, and do not appear to cause adverse impacts (Exhibit A.185, Sheet LU-208).

This criterion is met.

Intertie Site: The Intertie Site will not require any designated services, parking, or loading as it is not staffed on a regular basis. A paved area between the Electrical Building and the Vault has room for two or more vehicles to park if needed during site visitations for maintenance or repair events. The Electrical Building will house the services for the valves and meters in the Intertie Vault. As shown in Exhibit A.214, Sheet LU-500, the Intertie buildings will be clustered in the center of the property, with a 10- to 30-foot-wide vegetated berm planted with a mixture of shrubs and ground covers around the perimeter to screen the development. The plan also shows that more than a dozen trees will be planted across the front of the property along SE Lusted Road, and ten trees around the southwest corner. The applicant has provided a number of model views of the Intertie Site to help visualize it from various angles (Exhibit A.214, Sheet LU-502). The clustering of Intertie buildings, and proposed vegetation screening at the Intertie Site minimize any adverse impacts that could be created by the development.

This criterion is met.

(8) Utilities - All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.

Staff:

FFCTS: As shown on Exhibit A.212, Sheet LU-303, all proposed utilities on the site will be underground. The applicant proposes no change to existing overhead power lines in a Portland General Electric easement or to overhead lines along SE Carpenter Lane.

This criterion is met.

(9) Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.

Staff:

FFCTS: Exhibit A.212, Sheet LU-403 and Figure 35 in the applicant's Exhibit A.5 show the three proposed sign designs. The sign locations are shown on Exhibit A.212, Sheet LU-400. A 2-foot by 3-foot potentially downlighted metal address sign (total height unknown) will be installed at the entrance off SE Carpenter Lane, per Gresham Fire District requirements. A similar three-foot by six-foot potentially downlighted metal directional sign will be installed in the center of the driveway approximately 100 feet in from SE Carpenter Lane. Approximately 150 feet from SE Carpenter Lane, within the driveway roundabout, a concrete monument sign with painted color letters and logo on a metal face and downlighting incorporated into the column will be installed. The directional and monument sign likely will not be visible on the site due to the placement, topography, and screening. The concrete and metal materials are consistent with the other structure design elements.

This criterion is met.

11.7 § 39.8045 REQUIRED MINIMUM STANDARDS.

(A) Private and Shared Outdoor Recreation Areas in Residential Developments:

(1) Private Areas - Each ground level living unit in a residential development subject to design review plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents and their guests.

(2) Shared Areas - Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development, as follows:

(a) One or two-bedroom units: 200 square feet per unit.

(b) Three or more bedroom units: 300 square feet per unit.

Staff: The proposed improvements do not include any residential development.

(B) Storage

Residential Developments - Convenient areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be entirely enclosed.

Staff: The proposed improvements do not include any residential development.

(C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

(1) A minimum of 15% of the development area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.

Staff: The 91.17-acre site requires 13.68 acres of landscaping. Exhibit A.212, Sheet LU-302, labeled as the Proposed Conditions Site Plan, shows the proposed plantings on the site. The applicant's narrative states that 56.82 acres, or 62%, of the site will be landscaped. Much of that is on the southeast portion, which will be planted with native grass and forb mixes. In addition, the 6.14-acre forested area along the northeast to southeast edge of the site will remain.

This requirement is met.

(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

Staff: The entire site is subject to final design review plan. As shown on Exhibit A.212, Sheets LU-302, and LU-306, all areas that will not be improved with facilities or accessways will be landscaped.

This requirement is met.

(3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

Staff: All parking areas or loading areas are subject to this requirement. The applicant has broken the parking down into four parking areas, but they are all required parking for the Water Filtration and Communication Tower site. Provided the hearings officer grants the parking exception requested in Section 12 below, a total of 38 parking spaces are required for the site. The 38 spaces require 950 square feet of landscaping. According to the applicant's narrative (Exhibit A.5), Parking Areas 1 and 2 include 1,385 square feet of landscaping. There is also an additional 50 square feet of landscaping adjacent to the two parking spaces adjacent to the Communication Tower area.

This requirement is met.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

Staff: The parking and loading areas on the site are more than 100 feet from all lot lines and streets and with landscaped areas between them (Exhibit A.212, LU-302).

This requirement is met.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

- 1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;**
- 2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and**
- 3. Vegetative ground cover.**

Staff: Exhibit A.212, Sheet LU-306 shows that the front yard adjacent to SE Carpenter Lane will be landscaped. Exhibit A.212, Sheet LU-409 lists the plant species and planting sizes, including trees, shrubs, and groundcover. Exhibit A.212, Sheet LU-410 shows typical planting spacing. Based on the landscape plans, the trees do not exceed 60 feet of separation and the shrubs will be less than three feet in height and spaced less than 5 feet apart.

This requirement is met.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

Staff: As shown in Exhibit A.212, Sheets LU-302 and, LU-306, landscaping is shown in defined planting areas.

This requirement is met.

(e) A parking landscape area shall have a width of not less than 5 feet.

Staff: Based on the scale of Exhibit A.212, Sheet LU-400, Facility Enlargement 1, all parking landscaped areas appear to be more than 6 feet wide.

This requirement is met.

(4) Provision shall be made for watering planting areas where such care is required.

Staff: In the narrative, the applicant states that supplemental irrigation will be used for the ornamental plants in the parking area. A condition of approval requires irrigation for these areas.

As conditioned, this requirement is met.

(5) Required landscaping shall be continuously maintained.

Staff: A condition of approval requires continuous maintenance.

As conditioned, this requirement is met.

(6) Maximum height of tree species shall be considered when planting under overhead utility lines.

Staff: The applicant does not propose to plant any trees under the only overhead utility line on the property, which is within the Portland General Electric easement on the west property line.

This requirement is met.

(7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Staff: The applicant proposes landscaping using contouring, berms, plantings, and walkways.

This requirement is met.

12.0 OFF-STREET PARKING AND LOADING APPROVAL CRITERIA:

12.1 § 39.6505 GENERAL PROVISIONS.

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking, loading and traffic circulation and access (whether pedestrian, vehicular or otherwise) shall be provided according to the requirements of this Section Subpart. For nonconforming uses, the objectives of this Subpart shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

12.2 § 39.6515 PLAN REQUIRED.

A plot plan showing the dimensions, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit.

Staff: The applicant has provided a parking plan, circulation plan, proposed conditions site plan, grading plan, stormwater management plans, landscaping for the Water Filtration Facility Site (Exhibit A.212 LU-400, LU-305, LU-302, LU-304, LU-306). A condition of approval is needed regarding a space marking detail for the various design of the parking spaces.

As conditioned, this criterion can be met.

12.3 § 39.6520 USE OF SPACE.

(A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

(B) No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.

(C) A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.

(D) Except for residential and local commercial base zones, loading areas shall not be used for any purpose other than loading or unloading

(E) In any base zone, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.

Staff: Planning staff recommends that the Hearings Officer add (A), (B), (C) and (E) as conditions of approval to ensure that the required parking and loading spaces remain available for their intended purposes in the future.

As conditioned, these criteria can be met.

12.4 § 39.6525 LOCATION OF PARKING AND LOADING SPACES.

(A) Parking spaces required by this Subpart shall be provided on the lot of the use served by such spaces.

(B) Exception - The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

(1) Parking use of the alternate site is permitted by this Chapter;

(2) The alternate site is within 350 feet of the use;

(3) There is a safe and convenient route for pedestrians between the parking area and the use;

(4) Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and,

(5) There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.

(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

Staff: All off-street parking, loading spaces and vehicle maneuvering areas are provided on the Filtration Facility property (Exhibit A.212 Sheets LU-302, LU-305, LU-400, LU-401 and LU-402).

This criterion is met.

12.5 § 39.6530 IMPROVEMENTS REQUIRED.

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 29.014, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

(B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited.

Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.

Staff: Planning staff recommends that the Hearings Officer condition that the parking and loading areas be improved and placed in condition for use before the Building Department is able to grant the Certificate of Occupancy. Land Use Planning has found forfeiture of performance bonds is not feasible and an unreliable methodology to achieve compliance.

12.6 § 39.6540 JOINT PARKING OR LOADING FACILITIES.

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

(B) Owners of two or more adjoining uses, structures, or parcels of land may utilize jointly the same parking or loading area, when approved by the Planning Director, upon a finding by the Director that the hours of operation do not overlap and provided satisfactory legal evidence is presented to the Director in the form of a deed, lease, contract or similar document, securing full access to such parking or loading areas for all the parties jointly using them.

Staff: Only the Portland Water Bureau will use the parking and loading facilities at the Water Filtration Facility site.

These criteria are not applicable.

12.7 § 39.6550 STANDARDS OF MEASUREMENT.

(A) Square feet means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.

(B) When a unit or measurement determining the number of required off-street parking or off-street loading spaces results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.

§ 39.6555 DESIGN STANDARDS: SCOPE.

(A) The design standards of this Subpart shall apply to all parking, loading, and maneuvering areas except those serving a single family dwelling on an individual lot in a rural base zone and except those serving a single family or a two-family dwelling in an urban base zone. Any non-residential use approved on a parcel containing a single family dwelling shall meet the design standards of MCC 39.6560 through 39.6580.

(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

Staff: The design standards of MCC 39.6560 through 39.6580 are applicable to the Water Filtration Facility site.

12.8 § 39.6560 ACCESS.

(A) Where a parking or loading area does not abut directly on a public street or private street approved under Part 9 of this Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

Staff: The Filtration Facility does not abut directly on a street and a driveway will be provided from SE Carpenter Lane (Exhibit A.212, Sheet LU-400). The Applicant states that the proposed entry drive from SE Carpenter Lane is 35-feet wide (Exhibit A.5, page 35). The entry drive provides two-way traffic to and from the property via SE Carpenter Lane. Traffic directions are shown on Exhibit A.212, Sheets LU-400 and LU-401. As shown on Sheet LU-400, a 45-foot vision clearance area is provided at the driveway and SE Carpenter Lane.

This criterion is met.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:

- (1) The authorized provider of structural fire service protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;**
- (2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;**
- (3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and**
- (4) Authorization of the proposed deviation would not:**
 - (a) be materially detrimental to the public welfare;**
 - (b) be injurious to property in the vicinity or in the base zone in which the property is located; or**
 - (c) adversely affect the appropriate development of adjoining properties.**

Staff: No deviation from the two-way access requirement has been requested. *This criterion is not applicable.*

(C) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this Subpart. Required spaces may be located in a private street when authorized in the approval of such private street.

Staff: No parking or loading is proposed for the Water Filtration Facility site within SE Carpenter Lane. *This criterion is not applicable.*

12.9 § 39.6565 DIMENSIONAL STANDARDS.

(A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

Staff: All off-street parking spaces are a minimum 10-feet wide and a minimum 19-feet long. Two ADA parking spaces will be provided. These parking stalls will need to meet the applicable size requirements under building codes. All off-street parking is uncovered, and the minimum vertical clearance is met. (Exhibit A.212, Sheets LU-400 and LU-401).

These criteria are met.

(3) For parallel parking, the length of the parking space shall be 23 feet.

Staff: One parallel parking spot along the driveway provides parallel bus parking. The bus parking space is 65-feet long (Exhibit A.212 Sheet LU-400).

This criterion is met.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

Staff: As shown in Exhibit A.212, Sheets LU-400 and LU-401, the space dimensions are exclusive of access drives, aisles, ramps or columns.

This criterion is met.

(B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

Staff: There are four parking areas supporting the Filtration Facility and Communication Tower. These are Parking Area 1 (labeled #13 on LU-400) serves as the main parking area for parking; Parking Area 2 (labeled #14 on LU-400) which serves for Fleet Parking; Parking Area 3 (labeled #19 on LU-400) serving as Tower Parking; and Parking Area 4 (labeled #21 on LU-400) serving as Maintenance Parking.

Parking Area	Parking Angle	Required Aisle Width	Proposed Aisle Width<
Parking Area 1	< 90 degrees	20 ft	23.5 ft
Parking Area 2	< 90 degrees	20 ft	20 ft
Parking Area 3	90 degrees	25 ft	25 ft
Parking Area 4	90 degrees	25 ft	25 ft

Bus Parking Space	Parallel	12 ft	20 ft
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This criterion is met.

(C) Loading spaces shall meet the following requirements:

(1)

Base Zone	Minimum Width	Minimum Depth
All	12 feet	25 feet

(2) Minimum vertical clearance shall be 13 feet.

Staff: As stated in Exhibit A.5, Page 36, there are six loading areas (see Figure 39) and each loading area has a minimum width and depth of 12 feet and 25 feet, respectively, and a minimum 15 feet of vertical clearance. Figure 39 does not show the actual size of the loading spaces or drive aisles serving them. It shows one loading area provided in front of the administration building and five are located behind the automated vehicle gate located between the administration and maintenance buildings. All six loading areas are shown on Figure 39 of Exhibit A.5. Three loading areas are identified on Exhibit A.212, Sheet LU-400. A condition of approval has been included to revise the Facility Circulation Map (LU-305), Proposed Conditions Site Plan (LU-302), Facility Enlargement 1 & 2 Plans (LU-400 & LU-401) in Exhibit A.212 to show the other three loading zones that are shown in the Figure 39 of Exhibit A.5 narrative. Loading zones need to be shown on the site drawings and shown to meet the above requirements.

As conditioned, this criterion can be met.

12.10 § 39.6570 IMPROVEMENTS.

(A) Surfacing

(1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider.

Staff: As provided in Section 1.B Filtration Facility Design Review Narrative (Exhibit A.5), “the parking areas are paved and meet the cited surfacing standards” and paving sections are provided in Exhibit A.212, Sheets LU-405 and LU-406. Those sheets show minimum asphalt paving of 4” thick over a 4” rock base for asphalt roads. The emergency access road has a design that exceeds the Gresham Fire District standards (as documented in Exhibit A.91 and Exhibit A.212, Sheet LU-406).

As shown and noted on the Facility Circulation Map (Exhibit A.212, LU-305), the PWB is seeking to deviate from the paving standards for the following roads: Road I (Gravel Surface), Road J (Asphalt and Gravel Surface), Perimeter Road/Road K (Gravel Surface), a portion of the Pleasant Home Water District Pump Station Access Rd (Gravel), and the Emergency Access Road/Road L (Gravel Surface) leading out to Clackamas County’s SE Bluff Road. The standard in (A)(1) includes all areas used for maneuvering of vehicles, whether it is for truck or motor vehicle traffic, including the driveways. It does not exempt roads used only on an emergency

basis or rarely. Deviation from the requirement can be granted by the Hearings Officer via the deviation process listed below in (2).

Road I leads from the paved area surrounded by the Administration Building (#6), Maintenance Building (#7), General Storage Building (#8), Mechanical Dewatering/Solids Building (#11) and Chemical Building (#12) and runs past the communication tower allowing access to its two parking spaces and accessory building and connects into Emergency Access Road/ Road L. It is 20 feet in width. Six inches of gravel will be placed on top of the subgrade for all proposed gravel roads. The subgrades proposed will be either the Cement-Modified Subgrade Conditions or the Reinforced Subgrade Condition shown on Exhibit A.212, Sheet LU-406.

Road J starts off of Road I and is between the Gravity Thickeners (#13) and the Mechanical Dewatering/Solids Building (#11) back to a paved area between the Chemical Building (#12) and #11.

Perimeter Road/Road K goes around the entire facility and is outside of the fence line. A portion of the road on the east side of the facility will be used by PHWD to access its water towers at the rear of the property. It is also the Perimeter Road for the entire facility and outside of the fence line. Six inches of gravel will be placed on top of the subgrade for all proposed gravel roads. The subgrades proposed will be either the Cement-Modified Subgrade Conditions or the Reinforced Subgrade Condition shown on Exhibit A.212, Sheet LU-406.

Pleasant Home Water District Pump Station Access Road is accessed off of the main entry drive. It is outside of the main facility near SE Carpenter Lane. Six inches of gravel will be placed on top of the subgrade for all proposed gravel roads. The subgrades proposed will be either the Cement-Modified Subgrade Conditions or the Reinforced Subgrade Condition shown on Exhibit A.212, Sheet LU-406.

Emergency Access Road/Road L starts near the detention ponds (#44) southwest of the communication tower and heads south eastwards towards Clackamas County. It will exit the property at the southeast corner along the rear property line and continue on in Clackamas County and eventually connect into SE Bluff Road. Clackamas County will be reviewing the portion of the access road within their jurisdiction. The Emergency Road will be 26 feet wide. Exhibit A.91 describes the way the gravel roadway will be built to handle the fire apparatus weight of 75,000 pounds. Six inches of gravel will be placed on top of the subgrade for all proposed gravel roads. The subgrades proposed will be either the Cement-Modified Subgrade Conditions or the Reinforced Subgrade Condition shown on Exhibit A.212, Sheet LU-406.

In order to allow these five gravel roadways, the Hearings Officer must authorize a deviation from the surfacing standard in paragraph (A)(1) as the facility as a whole requires more than four parking spaces and is not exempt from the paving requirement listed in MCC 39.6570(A)(1).

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize, alternate surfacing systems that provide a durable dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

Staff: Fire District #10 has provided comments regarding the proposed Water Filtration Facility in Exhibits A.130 and D.1. They have provided no comment that the proposed gravel roadways are a concern provided they are able to handle a 75,000 lb. fire vehicle and meet their width and height requirements.

This criterion is met.

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public right-of-way shall be paved for a minimum of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

Staff: The County Engineer has verified that the proposed deviation to the internal vehicle roadways are exempt from their standards (Exhibit B.12).

This criterion is met.

(c) Authorization of the proposed deviation would not:

- 1. be materially detrimental to the public welfare;**
- 2. be injurious to property in the vicinity or in the base zone in which the property is located; or**
- 3. adversely affect the appropriate development of adjoining properties; and**

Staff: The table below lists the closest gravel road to each property line and its distance and the nearest off-site land use on the adjoining property:

Gravel Road	Property Line	Distance to Prop. Line	Off-site Land Use
Road I	Northeast	227+/- ft	SE Dodge Park Blvd
Road J	Northeast	256+/- ft	SE Dodge Park Blvd
Perimeter Road/Road K	South	33+/- ft	Farm use (Nursery Stock)
Pleasant Home Water District Pump Station Access Road	North	110+/- ft	SE Carpenter Lane
Emergency Access Road/Road L	East	20+/- ft	Single Family Dwelling
Perimeter Road/Road K	West	80+/- ft	Farm Use (Nursery Stock)

The proposed Emergency Access Road/Road L skirts the property line and may create adverse effects to the residential development to the east. The residence on 1S4E23C-02200 is approximately 83 feet east of the shared property line. The Emergency Access Road runs approximately 20 feet west of the shared line for approximately 420 feet until reaching the Clackamas County border. Vehicles traveling on the roadway may cause dust to exit the site and enter the adjoining property. The Perimeter Road/Road K may create impacts for the two

adjacent farm uses depending on its actual usage level. No other potential impacts to the public welfare or adjacent properties were identified as of this time.

(d) Any impacts resulting from the proposed resurfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200 feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

Staff: The extent of the potential impacts to the dwelling east of the Emergency Access Road is dependent on the actual use of the Emergency Access Road. Potential time of use include during the construction of the Water Filtration Facility to haul structural fill materials to the site or trucks leaving via this route to SE Bluff Road during this time period. After completion of the Water Filtration Facility, the Emergency Access Road is the access route to the Raw Water Pipeline Cover on the property. Land Use Planning is unsure how often the pipeline will need to be inspected or its cover accessed. Additional information is needed to understand the potential impacts and determine if a deviation is appropriate for the 420 ft portion of the Emergency Access Road running along the east property line. For the Perimeter Road/Road K additional information on the amount of usage is needed to better understand if potential impacts will occur during the dry season and whether mitigation is necessary.

Land Use Planning recommends that the deviation be granted for all other road, except the portions of the Perimeter Road/Road K and the Emergency Access road discussed above.

(3) Notwithstanding paragraph (A)(1) of this section, parking fields for intermittent uses such as special events associated with public parks, sporting events, and the like may be surfaced with gravel, grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

Staff: There are no grass or gravel parking fields proposed. *This criterion is not applicable.*

(B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.

(3) Except for development within the RC, BRC, SRC, PH-RC, OR, OCI and all CFU zones, the outer boundary of a parking or loading area with fewer than four required parking spaces may use a five foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. If the outer boundary of the parking area is within 50 feet of a dwelling on an adjacent parcel, the plant materials shall create a continuous screen of at least four feet in height except at vision clearance areas where it shall be maintained at three feet in height.

Staff: The parking, loading and vehicle maneuvering areas are all part of the “parking and loading areas” for the Parking, Loading, Circulation and Access code.

(B)(1) The off-street parking areas are physically buffered from public streets and adjoining properties by existing and proposed landscaping and buffer and screening standards as shown in Exhibits A.212, Sheets LU-302, LU-400 through LU-402.

Criterion met.

(B)(2) All areas containing parking, loading and vehicle maneuvering areas are required to be provided with a continuous 4-inch curb. The term “bumper rail” does not equate to wheel stops. It is an older term that Land Use Planning equates to a continuous rail to prevent vehicles from leaving areas where vehicles should be traveling and into the landscaping. The PWB states in their narrative (Exhibit A.5, page 37) that they are proposing 4-inch wheel stops for parking spaces and at most loading areas as identified in Exhibit A.212, Sheet LU-400. Staff cannot identify wheel stops on the LU-400 plan for the identified loading areas. In addition, it does not appear that the parking spaces for the Communication Tower or in parts of Parking Area 4 (#21) have them. Land Use Planning recommends the Hearings Officer add a condition of approval that the drawings for the Water Filtration Facility site be amended to add curbing to the perimeter of all parking, loading and vehicle maneuvering areas.

As conditioned, this criterion can be met.

(B)(3) There are more than four required parking spaces for the entirety of the Water Facility project. The on-site parking spaces are not located within 50 feet of a dwelling on an adjacent parcel.

This criterion is not applicable.

(C) Marking - All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 39.6515, and such marking shall be continually maintained. Except for development within the RC, BRC, SRC, PH-RC, OR, or OCI zones, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.

Staff: The parking and loading plans do not appear to contain a space marking detail for the parking spaces. Under MCC 39.6515, Land Use Planning recommended a condition of approval for a parking space marking detail for the various design of the parking spaces. In addition, Land Use Planning recommends a condition of approval for additional arrows designating travel direction should be added to all drive aisles indicating one or two-way traffic.

As conditioned, this criterion can be met.

(D) Drainage - All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Staff: Parking and drive aisles are graded and drained to on-site surface water management facilities and storm pipes (Exhibit A.212, LU-304 and LU-307). The Stormwater Report is provided in Exhibit A.72 and A.197) documenting compliance with stormwater quality and treatment standards as outlined in City of Portland Stormwater Management Manual.

This criterion is met.

(E) Covered Walkways - Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams,

may be provided. Such structures shall meet the setback, height and other requirements of the base zone which apply.

Staff: As stated on page 37 of Exhibit A.5, “No covered walkways are proposed in parking areas. All covered walkways proposed at the facility meet the development standards of the MUA-20 zone.”

This criterion is met.

12.11 § 39.6575 SIGNS.

Signs, pursuant to the provisions of this subpart shall also meet MCC 39.6780.

Staff: See Section 13 for more information about signage.

This criterion is met.

12.12 § 39.6580 DESIGN STANDARDS: SETBACKS.

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street perpendicularly.

Staff: The property abuts SE Carpenter Lane and SE Dodge Park Boulevard. The proposed Water Filtration Facility access drive to the site comes off of SE Carpenter Lane (Exhibit A.212.d, LU-302). Applicant’s narrative (Exhibit A.5, page 37) states “all yards abutting street lot lines include landscaping and buffering and do not include parking, loading or other vehicle maneuvering areas with the exception of the entry drive that connects directly to Carpenter Lane”. Unfortunately, the entry drive does not enter the street perpendicularly. The word “Perpendicularly” is an adverb to the word “perpendicular”. The Merriam-Webster Dictionary defines “Perpendicular” as “a: standing at right angles to the plane of the horizon: exactly upright. B: being at right angles to a given line or plan.” A right angle is 90 degrees. The proposed entry drive is approximately 45 degrees to SE Carpenter Lane. Land Use Planning recommends to the Hearings Officer a condition of approval that the access drive as it enters the property from the SE Carpenter Lane right-of-way be perpendicular as it crosses the 30-ft Front Yard.

As conditioned, this criterion can be met.

(B) In the RC, BRC, SRC, PH-RC, OR and OCI base zones, off-street parking for new, replacement or expansion of existing commercial or industrial developments on a parcel less than 1 acre shall provide a minimum of 10 foot landscaped front yard or street side setback. All other minimum yard dimensions for parking shall be as required in this Subpart.

Staff: This application is in the MUA-20 base zone.

This criterion is not applicable.

(C) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Staff: As shown in Exhibit A.212.d, Sheet LU-302, the required 30 ft front and street side yards abutting SE Carpenter Lane and SE Dodge Park Boulevard are landscaped. There are no walkways and the only pavement is a single access drive onto SE Carpenter Lane, which is 35 feet wide.

This criterion is met.

(D) Parking or loading areas on property located in the C-3, LM, or MR-4 base zones that adjoins any other base zone located in the Urban Planning Area and along the same street, shall not be located closer to the street property line than the required setback of the adjoining base zone for a distance of 50 feet from the boundary of any such base zone.

(E) Parking or loading areas on property located in the C-3, LM, or MR-4 base zones and across a street from any other base zone located in the Urban Planning Area, shall have a setback of not less than five feet from the street property line, and such five foot setback area shall be permanently landscaped and maintained.

Staff: None of the Water Filtration Facility site is zoned C-3, LM or MR-4. The above two criteria are not applicable.

12.13 § 39.6585 LANDSCAPE AND SCREENING REQUIREMENTS.

(A) The landscaped areas requirements of MCC 39.8045 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 39.6555 (A).

Staff: Refer to Section 11 to review the findings related to MCC 39.8045.

This criterion is met.

12.14 § 39.6590 MINIMUM REQUIRED OFF-STREET PARKING SPACES.

(F) Unspecified Uses. Any use not specifically listed above shall have the off-street parking space requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Staff: In PWB narrative in Exhibit A.5 starting on page 38, they utilized office and storage uses of Multnomah County parking code to develop an equivalent use upon which to calculate the minimum parking spaces for the Water Filtration Facility. These parking categories were utilized in the Lusted Hill Treatment Facility Conditional Use Permit T3-2019-11784 (Exhibit A.162.b) and found to be acceptable by the hearings officer in that case. The number of parking spaces determined to be necessary using these two parking categories came to 52 parking spaces. In addition, two (2) parking spaces are required for the Communication Tower pursuant to MCC 39.7565(D). This would bring the total spaces up to 54 parking spaces.

The Applicant then provided a parking analysis for the Water Filtration Facility (Exhibit A.31, page 18). Through that analysis PWB determined that they had the following amount of parking needed: 20 staff parking spaces, five (5) visitor parking spaces, six (6) fleet vehicle parking spaces and seven (7) electric golf cart parking spaces. One bus parking space was listed for the Group Educational Tours which were initially applied for, but the applicant withdrew that request when informed of the need to add an additional Community Service Conditional Use to the project (Exhibit A.163, page 6, B.2.a response). The Proposed Conditions Site Plan (Exhibit A.212 LU-302) still shows its being proposed but at present staff is uncertain of its use with the consultant just stating it is needed for when the PWB bus may be on site

In the applicant's narrative (Exhibit A.5, page 40) an exception to the number of off-street parking spaces has been sought under MCC 39.6600 below.

If the Hearings Officer grants the exception, this criterion will be met.

12.15 § 39.6595 MINIMUM REQUIRED OFF-STREET LOADING SPACES.

(G) Unspecified Uses. Any use not specifically listed above shall have the loading space requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Staff: In PWB narrative in Exhibit A.5 starting on page 39, the applicant indicated that based on their analysis (Exhibit A.31, page 19) six loading spaces were needed for their operations at the Water Filtration Facility, which included a loading/drop off area in front and rear of the Administrative Building (#6) (two total), one near the Maintenance Building (#7), two next to the Chemical Building (#12) and one next to the Mechanical Dewatering Building (#11) (See Exhibit A.212.d for # Keynotes). Figure 39 which is labeled the Parking and Loading Plan (Exhibit A.5, page 42) shows these six (labeled H & C). The Planning Director finds their methodology and analysis to be acceptable and accepts the proposed six loading spaces as appropriate for the use. Unfortunately, Land Use Planning is unable to locate all six of the loading spaces on the plans (Exhibit A.212). A condition of approval has been included to require revision of the Proposed Condition Site Plan, Facility Circulation Map (LU-305), Facility Enlargement Plans (LU-400, LU-401 & LU-402) to show all loading zone locations.

12.16 § 39.6600 EXCEPTIONS FROM REQUIRED OFF-STREET PARKING OR LOADING SPACES.

(A) The Planning Director may grant an exception with or without conditions for up to 30% of the required number of off- street parking or loading spaces, upon a finding by the Director that there is substantial evidence that the number of spaces required is inappropriate or unneeded for the particular use, based upon:

- (1) A history of parking or loading use for comparable developments;**
- (2) The age, physical condition, motor vehicle ownership or use characteristics or other circumstances of residents, users or visitors of the use; or**
- (3) The availability of alternative transportation facilities; and**
- (4) That there will be no resultant on-street parking or loading or interruptions or hazards to the movement of traffic, pedestrians or transit vehicles.**

Staff: No exception from the required off-street loading spaces is proposed. The PWB is requesting an exception from the number of required 52 off-street parking spaces to 36 parking spaces. The Applicant prepared a parking study as part of the Traffic Impact Analysis (TIA) in order to determine an appropriate number of parking and loading spaces for the specific Filtration Facility use. According to the TIA (Exhibit A.31, pages 18-20), the Filtration Facility will have 26 full-time employees with a maximum of 10 employees working an individual shift. Six spaces are needed for fleet vehicles. Five spaces are needed for visitors. Parking Area 1 (#13 on Exhibit A.212, Sheet LU-400) will have 23 standard spaces, two (2) ADA parking spaces and shows one (1) bus parking space. The bus parking space (#18) is on the east side of Road A (Exhibit A.212, Sheet LU-400). The bus parking space can also work as a loading space. These 25 parking spaces are within the main parking area and are available to anyone gaining access to the site. Parking Area 2 (#14) will have six (6) standard parking spaces for Fleet Parking. Parking Area 2 is located behind a secondary Automated Vehicle Gate (#10). Parking Area 3 (#19) will have two (2) spaces adjacent for the Communication Tower which are required pursuant to MCC 39.7565(D). These spaces are also behind a Secondary Automated Vehicle Gate (#10). Parking Area 4 (#21) will have 4 standard spaces and they will be for Maintenance Parking. These spaces are also behind a Secondary Automated Vehicle Gate (#10).

With 54 parking spaces required, a 30% reduction would reduce the number of required spaces to 38 parking spaces (37.8 spaces and then rounded as required by MCC 39.6550(B)). **MCC 39.6520(B)** states “**No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.**” Staff is uncertain whether the Fleet Parking and the Maintenance Parking Spaces meet the intent of (B) above. The total number of proposed parking spaces at the Water Filtration Facility is 37 parking spaces if all standard parking spaces are counted (38 spaces if the non-standard bus space is counted). If the fleet and maintenance parking spaces are removed from the count, the total standard parking spaces would be twenty-seven (27).

The Hearings Officer will need to decide if the applicant has met the intent of the code for the 30% reduction.

(B) The Director shall file with the application for the building or other required permit, findings in support of any exception, including any conditions of approval.

Staff: Findings are provided in MCC 39.6600 (A). *As referenced, this criterion is met.*

(C) An exception in excess of 15% of the required number of spaces shall include a condition that a plan shall be filed with the application, showing how the required number of spaces can be provided on the lot in the future.

Staff: If the Hearings Officer grants the exception for the 30% reduction in the number of required parking spaces, a condition of approval will need to be included requiring this parking lot expansion plan. Land Use Planning has included a recommended condition for the Hearings Officer.

As conditioned, this criterion can be met.

13.0 Signs Approval Criteria:

13.1 § 39.6720 EXEMPT SIGNS.

The following signs are exempt from the provisions of this Subpart, but may be subject to other portions of the County Zoning Code:

(A) Signs not oriented or intended to be legible from a right-of-way, private road or other private property;

(B) Signs inside a building, except for strobe lights visible from a right-of-way, private road or other private property;

(C) Signs legally erected in the right-of-way in accordance with MCC 29.500 through 29.583, the Multnomah County Road Rules and Design and Construction Manual adopted thereunder, and Administrative Rules and Regulations pursuant to MCC 15.225 through 15.236;

(D) Building numbers required by the applicable street naming and property numbering provisions in Multnomah County Code;

(E) Signs carved into or part of materials which are an integral part of the building;

(F) Flags on permanent flag poles which are designed to allow raising and lowering of the flags;

(G) Banners on permanent poles which are designed and intended as a decorative or ornamental feature;

(H) Painted wall decorations and painted wall highlights;

(I) Bench advertising signs which have been lawfully erected.

Staff: FFCTS: Signs at the Filtration Facility site are not exempt and findings for 39.6700 are provided for the Filtration Facility.

Intertie Site: As shown in Exhibit A.9, Figure 19 (page 16), the placement of address numbers may be placed on the building or property in one or more locations (MCC 39.9975 Placement of Address Numbers). The PWB is proposing to place the address sign within the front yard next to the Lusted Road frontage, but out of the vision clearance area. The sign face will be 8-inches wide by 24-inches long. Overall height from finished grade to top of sign is 5-ft. The address sign is required by the Gresham Fire District and is exempt under provision (D).

This criterion is met.

13.2 § 39.6740 BASE ZONE SIGN REGULATIONS.

Signs are allowed in unincorporated Multnomah County depending on the base zone in which a property is situated as described in MCC 39.6745 through 39.6765. Signs are allowed on properties that are zoned PD or have CS designations to the extent that signs are allowed in the base zone, except as provided in this subpart.

Staff: In the MUA-20 zone, MCC 39.4310(I) Allowed Uses lists Signs, as permitted in this Chapter. The Water Filtration Facility property will have a freestanding sign plus two other signs (one address and one directional) adjacent to SE Carpenter Lane (Exhibit A.212, Sheets LU-302, LU-403). Signage at the site is permissible subject to this code.

13.3 § 39.6745 SIGNS GENERALLY.

For all uses and sites in all zones except the LM, C-3 and MR-4 zones, the following types, numbers, sizes and features of signs are allowed. All allowed signs must also be in conformance with the sign development regulations of MCC 39.6780 through MCC 39.6820.

(A) The following standards apply to Free Standing Signs:

- (1) Allowable Area - Free standing signs are allowed .25 square feet of sign face area per linear foot of site frontage, up to a maximum of 40 square feet.**
- (2) Number - One free standing sign is allowed per site frontage.**
- (3) Height - The maximum height of a free standing sign is 16 feet. 3609105850**
- (4) Extension into the Right-Of-Way - Free standing signs may not extend into the right-of-way.**

Staff: Sheet LU-403 in Exhibit A.212 and Figure 35 in the applicant's Exhibit A.5 show the three proposed sign designs and LU-400 and Figure 36 show the sign locations on the site. One free standing sign is proposed. The applicant indicates the other two are directional signs.

MCC 39.6820 Sign Related Definitions and Figures clarifies the different types of signs allowed by our code.

(J) Directional Sign - A permanent sign which is designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which the public is directed.

(N) Free Standing Sign - A sign on a frame, pole or other support structure which is not attached to any building.

The proposed freestanding sign is regulated by MCC 39.6745. Directional signs are regulated under MCC 39.6805. The Carpenter Lane site frontage is approximately 800 feet. Therefore, the maximum sign square footage of 40 square feet applies. Approximately 150 feet from SE Carpenter Lane, within the driveway roundabout, a 3-foot by 8-foot (24 square feet) concrete monument sign with painted color letters and logo on a metal face and downlighting incorporated into the column will be installed. The sign is not more than 16 feet in height and will not extend into the right-of-way. *This criterion is met.*

(B) The following standards apply to Signs Attached to Buildings:

(1) Total Allowable Area - The total allowable area for all permanent signs attached to the building is determined as follows: Eighteen square feet maximum sign face area is allowed, or .25 square feet of sign face area per linear foot of the occupant's primary building frontage, whichever is more.

(2) Individual Sign Face Area - The maximum size of an individual sign within the total allowable area limit is 50 square feet.

(3) Types of Signs - Fascia, marquee, awning and painted wall signs are allowed. Projecting roof top and flush pitched roof signs are not allowed.

(4) Number of Signs - There is no limit on the number of signs if within the total allowable area limit.

(5) Extension into the Right-Of-Way - Signs attached to buildings may not extend into the right-of-way.

Staff: The applicant states that the only signs visible from the roadway are shown on Figure 35 and Sheet LU-400 and are intended to identify the address, name and location of the facility, direct visitors and deliveries, and a monument sign. Signs attached to buildings will not be visible from the right of way. *This criterion is not applicable.*

(C) Sign Features. Permanent signs may be indirectly illuminated downward onto the sign face.

Staff: As shown on Sheet LU-403, any lighting will be downlit. *This criterion is met.*

(D) Additional Signs Allowed. In addition to the sign amounts allowed based on the site and building frontages, the following signs are allowed in all base zones for all usages:

(1) Directional signs pursuant to MCC 39.6805.

(2) Temporary lawn, banner and rigid signs.

(3) Subdivisions may have a free standing sign at each entrance, up to a total of four, each of which may be up to ten feet in height and 50 square feet in area.

Staff: As shown on LU-400 in Exhibit A.212, two directional signs will be constructed: one with the property address along the site frontage and a directional sign approximately 100 feet from the frontage along the entry road providing direction to the administration building. MCC 39.6805 establishes the criteria for directional signs: the maximum sign face is six square feet

with a maximum free-standing height of 42 inches; any lighting must be indirectly illuminated downward onto the sign face; the provisions do not allow flashing lights, electronic message centers or moving or rotating parts. The two directional sign faces are 2-feet by 3-feet, or 6 square feet (Exhibit A.212, Sheet LU-403). The directional sign (#2) for the Administration building is labeled at a maximum 6-ft in height. The directional sign (#3) does not specify a maximum height, nor is the sign drawn to scale. The plans for the two signs need to be modified to come into compliance with the directional sign code of MCC 39.6805. Land Use Planning recommends that the Hearings Officer condition that the plans for the two directional signs shown on LU-403, Exhibit A.212 come into compliance with the requirements listed in MCC 39.6805.

As conditioned, this criterion can be met.

13.4 § 39.6780 SIGN PLACEMENT.

(A) Placement. All signs and sign structures shall be erected and attached totally within the site except when allowed to extend into the right-of-way.

Staff: All signs and sign structures are outside the right-of-way, as shown on Appendix A.1a, Sheet LU-400.

This criterion is met.

(B) Frontages. Signs allowed based on the length of one site frontage may not be placed on another site frontage. Signs allowed based on a primary building frontage may be placed on a secondary building frontage.

Staff: The entry sign was based on the length of SE Carpenter Lane site frontage. This sign is within the site and next to the designated frontage along SE Carpenter Lane, as shown on Exhibit A.212, Sheet LU-400.

This criterion is met.

(C) Vision Clearance Areas.

(1) No sign may be located within a vision clearance area as defined in subsection (C) (2) below. No support structure(s) for a sign may be located in a vision clearance area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less.

(2) Location of vision clearance Areas - Vision clearance areas are triangular shaped areas located at the intersection of any combination of rights-of-way, private roads, alleys or driveways. The sides of the triangle extend 45 feet from the intersection of the vehicle travel area (See MCC 39.6820 Figure 2). The height of the vision clearance area is from three feet above grade to ten feet above grade.

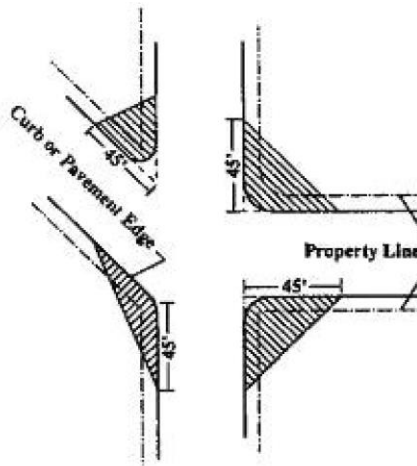


Figure 2 – Visibility Triangle

Visibility Triangle Areas at Typical Intersections

Staff: Sheet LU-400 of Exhibit A.212 shows signs outside the vision clearance triangle at the driveway approach to SE Carpenter Lane.

This criterion is met.

(D) Vehicle Area Clearances. When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, alleys, parking lots, and loading and maneuvering areas.

Staff: As stated in the applicant’s submittal (Exhibit A.5, Page 44) no sign extends over vehicle or pedestrian areas.

This criterion is met.

(E) Pedestrian Area Clearances. When a sign extends over private sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign structure shall be at least 8-1/2 feet above the ground.

Staff: As stated in the applicant’s submittal (Exhibit A.5, Page 44) no sign extends over pedestrian areas.

This criterion is met.

(F) Required Yards and Setbacks. Signs may be erected in required yards and setbacks.

Staff: The address sign is in the front yard setback. The other directional sign and the entry sign are located within the property.

This criterion is met.

(G) Parking Areas.

(1) Unless otherwise provided by law, accessory signs shall be permitted on parking areas in accordance with the provisions specified in each base zone, and signs designating entrances, exits or conditions of use may be maintained on a parking or loading area.

(2) Any such sign shall not exceed four square feet in area, one side. There shall not be more than one such sign for each entrance or exit to a parking or loading area.

Staff: A condition of approval requires the property owner or their representative to ensure parking area signs, if any, do not exceed the provisions of MCC 39.6780(G) (2). *As conditioned, this criterion is met.*

13.5 § 39.6805 DIRECTIONAL SIGNS.

Directional signs shall comply with the following provisions:

Maximum Sign Face Area:	Six Square Feet
Types of Signs Allowed:	Free Standing, Fascia, Projecting, Painted Wall
Maximum Height	Free Standing 42 Inches Fascia and Projecting 8 feet
Extensions into R/W:	Not Allowed
Lighting:	Indirectly illuminated downward onto the sign face
Flashing Lights:	Not Allowed
Electronic Message Centers:	Not Allowed
Moving or Rotating Parts:	Not Allowed

Staff: Refer to findings in Section 39.6745(D).

14.0 Significant Environmental Concern Approval Criteria:

14.1 § 39.5510 USES; SEC PERMIT REQUIRED.

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone; provided however, that the location and design of any use, or change or alteration of a use, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this subpart.

Staff: The SEC-h overlay protects the forested area along SE Lusted Road and Dodge Park Boulevard in the project vicinity of the Raw Water Pipelines and the Lusted Road Distribution Main.

Raw Water Pipelines: Provided the Raw Water (RW) pipelines in the RR and EFU zones are approved by the Hearings Officer, a SEC-h permit is required for its use in the SEC-h overlay zone.

Distribution Main: The Lusted Road Distribution Main exits SE Cottrell Road near the intersection of SE Lusted Road and SE Cottrell Road at the Lusted Hill Treatment Facility (1S4E22BA-00200). The site is zoned CFU. Provided the Hearings Officer approves the use, a

SEC-h permit is required for its installation on 1S4E22BA-00200, 1S4E22BA-00100 and 1S4E15C-00801 in the SEC-h overlay zone.

14.2 § 39.5515 EXCEPTIONS.

(A) Except as provided in subsection (B) of this Section, an SEC permit shall not be required for the following:

(13) Right-of-way widening, new surfacing, and vegetation removal for existing rights-of-way when the additional right-of-way or surfacing or vegetation removal is deemed necessary by the county engineer to meet the needs of the traveling public.

(24) The placement of utility infrastructure such as pipes, conduits and wires within an existing right-of-way.

Staff: As described in the response to MCC 39.5510(A), placement of the raw water pipelines and the Lusted Road distribution main will not be solely within an existing right-of-way. Therefore, the various projects on private property are not excepted from obtaining an SEC-h permit.

Significant Environmental Concern for Water Resource overlays: The following portions of the proposed pipeline projects are not required from obtaining a Significant Environmental Concern for Water Resource permit as the work will occur strictly within the public right-of-way:

1. The Finished Water Pipeline at the intersection of SE Altman Road and SE Oxbow Drive;
2. The Lusted Road Distribution Main at the intersection of SE Dodge Park Blvd and SE Cottrell Road and as it travels up SE Cottrell Road; and
3. Any ground disturbance, new surfacing, vegetation removal for the installation of the pipelines within the public right-of-way.

14.3 § 39.5520 APPLICATION FOR SEC PERMIT.

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 39.5540 through 39.5860.

(A) An application for an SEC permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5540 through 39.5860.

(2) A map of the property showing:

- (a) Boundaries, dimensions, and size of the subject parcel;**
- (b) Location and size of existing and proposed structures;**
- (c) Contour lines and topographic features such as ravines or ridges;**
- (d) Proposed fill, grading, site contouring or other landform changes;**
- (e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;**
- (f) Location and width of existing and proposed roads, driveways, and service corridors.**

(g) In the SEC-wr overlay, the location of natural drainageways, springs, seeps, and wetlands on the site.

Staff: The applicant provided the written description in the applicant's Exhibit A.11 and provided required drawings in Exhibit A.194 & A.195.

These requirements are met.

14.4 § 39.5560 GENERAL REQUIREMENTS FOR APPROVAL IN THE WEST OF SANDY RIVER PLANNING AREA DESIGNATED AS SEC-WR OR SEC-H.

The requirements in this section shall be satisfied for development in the SEC-wr and SEC-h areas located in the West of Sandy River Planning Area in addition to the provisions of MCC 39.5800 or 39.5860 as applicable.

(A) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.

Staff:

Raw Water Pipeline: Ground disturbance is proposed within the SEC-h zone for the RW Pipeline project area on tax lot 1S4E23C-00800 (Exhibit A.195). The work will include excavation, grading and removal of three trees for the pipe connection in the SEC-h overlay zone. An Erosion and Sediment Control permit will be required for all the ground disturbance work involved with the installation of the Raw Water Pipelines. A condition of approval is recommended to ensure this permit has been issued prior to any work occurring on the project.

As conditioned, this criterion can be met.

Distribution Main: Ground disturbance will occur within the SEC-h zone. As the distribution main enters the Lusted Hill Treatment Facility site, the applicant is proposing to trench within the existing driveway and parking area up until the Geologic Hazard zone (Exhibit A.194, Sheet LU-602). Just prior to the Geologic Hazard overlay, the installation project will switch over to trenchless installation (boring) and will remain trenchless until the main is to be connected to the existing pipeline on 1S4E15C-00801. An Erosion and Sediment Control permit will be required for all the ground disturbance work involved with the installation of the Raw Water Pipelines. A condition of approval is recommended to ensure this permit has been issued prior to any work occurring on the project.

As conditioned, this criterion can be met.

(B) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water resource or habitat areas. Where illumination of a water resource or habitat 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 utility facilities shall not be limited by this provision.

Staff: Based on information provided in Exhibits A.11, A.47, A.63, and A.212, Sheet E-322, no outdoor lighting is proposed within the SEC-h zones of the Lusted Road Treatment Facility, RW pipeline, or the Lusted Road Distribution Main.

This criterion is met.

(C) The nuisance plants in MCC 39.5580 Table 1, in addition to the nuisance plants defined in MCC 39.2000, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone.

§ 39.5580- NUISANCE PLANT LIST.

Table 1

Common Name	Scientific Name	Common Name	Scientific Name
Lesser celandine	<i>Chelidonium majus</i>	Purple Loosestrife	<i>Lythrum salicaria</i>
Canada Thistle	<i>Cirsium arvense</i>	Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Common Thistle	<i>Cirsium vulgare</i>	Reed Canary grass	<i>Phalaris arundinacea</i>
Western Clematis	<i>Clematis ligusticifolia</i>	Annual Bluegrass	<i>Poa annua</i>
Traveler' s Joy	<i>Clematis vitalba</i>	Swamp Smartweed	<i>Polygonum coccineum</i>
Poison hemlock	<i>Conium maculatum</i>	Climbing Bindweed, Wild buckwheat	<i>Polygonum convolvulus</i>
Field Morning-glory	<i>Convolvulus arvensis</i>	Giant Knotweed	<i>Polygonum sachalinense</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>	English, Portuguese Laurel	<i>Prunus laurocerasus</i>
Lady's nightcap	<i>Convolvulus sepium</i>	Poison Oak	<i>Rhus diversiloba</i>
Pampas grass	<i>Cortaderia selloana</i>	Himalayan Blackberry	<i>Rubus discolor</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>	Evergreen Blackberry	<i>Rubus laciniatus</i>
Scotch broom	<i>Cytisus scoparius</i>	Tansy Ragwort	<i>Senecio jacobaea</i>
Queen Anne's Lace	<i>Daucus carota</i>	Blue Bindweed	<i>Solanum dulcamara</i>
South American Waterweed	<i>Elodea densa</i>	Garden Nightshade	<i>Solanum nigrum</i>
Common Horsetail	<i>Equisetum arvense</i>	Hairy Nightshade	<i>Solanum sarrachoides</i>
Giant Horsetail	<i>Equisetum telmateia</i>	Common Dandelion	<i>Taraxacum officinale</i>
Cranesbill	<i>Erodium cicutarium</i>	Common Bladderwort	<i>Utricularia vulgaris</i>

Common Name	<i>Scientific Name</i>	Common Name	<i>Scientific Name</i>
Roberts Geranium, Herb Robert	<i>Geranium robertianum</i>	Stinging Nettle	<i>Urtica dioica</i>
English Ivy	<i>Hedera helix</i>	Periwinkle (large leaf)	<i>Vinca major</i>
St. John's Wort	<i>Hypericum perforatum</i>	Periwinkle (small leaf)	<i>Vinca minor</i>
English Holly	<i>Ilex aquafolium</i>	Spiny Cocklebur	<i>Xanthium spinosum</i>
Golden Chain Tree	<i>Laburnum watereri</i>	Bamboo sp.	<i>various genera</i>
Duckweed, Water Lentil	<i>Lemna minor</i>	Fall Dandelion	<i>Leontodon autumnalis</i>

Staff: None of the nuisance plant species listed in MCC 39.5580 Table 1 are proposed to be planted within any on-site SEC-h zones, as documented in Exhibit A.194, Sheet LU-602. A condition of approval requires that no nuisance plants listed in MCC 39.5580 Table 1 be planted.

As conditioned, this criterion is met.

14.5 § 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT.

(A) In addition to the information required by MCC 39.5520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;

For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.

(2) Location of existing and proposed structures;

(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

Staff: The applicant provided this information in Exhibit A.194, Sheets LU-600 through 603.

These requirements are met.

(B) Development standards:

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

Staff:

Raw Water Pipeline: As depicted in Exhibit A.194, Sheet LU-601, and described in Exhibit A.11, trenchless boring will avoid all impacts to the forested SEC-h zones on the RW Pipelines, except for where the RW Pipelines connect into the existing pipeline (Exhibit A.195) on tax lot 1S4E23C-00800 on the eastside of SE Lusted Road. This ground disturbance on tax lot 1S4E23C-00800 will require the removal of three trees but is technically a non-forested "cleared" area.

This standard is met.

Distribution Main: Ground disturbance within the SEC-h zones on the Lusted Road Distribution Main is proposed mostly within non-forested cleared areas (Exhibit A.194, Sheet LU-602) except at the "Retrieval Portal" location on 1S4E15C-00801 where it shows a small portion of the forested area will be disturbed, but it appears it will be just outside of the SEC-h overlay zone. The applicant will need to carefully delineate the protected SEC-h forested area plus a 25 foot buffer zone to protect the root zone of the vegetation [see MCC 39.5505(E)]. The other option would be to modify the proposal to avoid encroachment into the forested area of any part of the construction zone to ensure no accidental encroachment.

This standard is met.

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

Staff: Based on information provided in Exhibit A.11, the Lusted Road Distribution Main and RW pipelines extend beyond 200 feet from the nearest public roads.

This standard is not met.

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

Staff:

Raw Water Pipelines: Based on information provided in Exhibit A.11, although no part of the access drive from Lusted Road to the RW pipeline tunnel portal is within the SEC-h zone, the proposed road is longer than 500 feet.

This standard is not met.

Distribution Main: The Lusted Hill Treatment Facility has an existing driveway and service area that will need to be extended to install the distribution main by trench and then switch over to boring by opening a portal for access. The portal access approximately 645 feet from SE Cottrell Road.

This standard is not met.

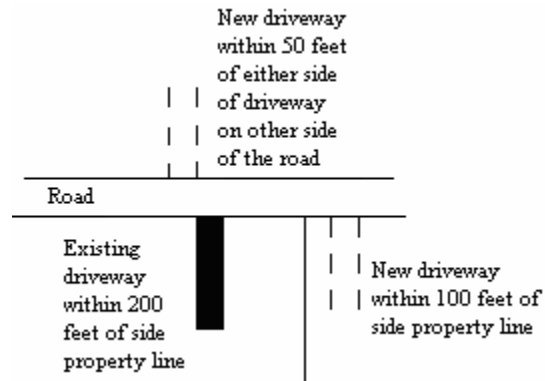
(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an

existing access road or driveway approach within 200 feet of that side property line;
or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

Staff:

Raw Water Pipeline: The proposed permanent driveway access from SE Lusted Road to the RW pipeline tunnel portal is within 50 feet of an existing driveway on the opposite side of the road as depicted in Figure 9 of Exhibit A.11.

This standard is met.

Distribution Main: The proposed permanent driveway access from SE Cottrell Road to the Lusted Road Treatment Facility is also within 50 feet of an existing driveway on the opposite side of the road, as depicted in Figure 14 of Exhibit A.11.

This standard is met.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

- 1. The modification shall be the minimum necessary to allow safe access onto the public road.**
- 2. The County Road Official shall provide written findings supporting the modification.**

Staff: The applicant is not requesting a modification.

This standard does not apply.

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

Staff:

Raw Water Pipeline: The RW Pipelines are approximately 100 feet from the south property line adjacent to the Clackamas-Multnomah County border. Three of the five properties immediately adjacent to the border have development within 200 feet of the common side property line.

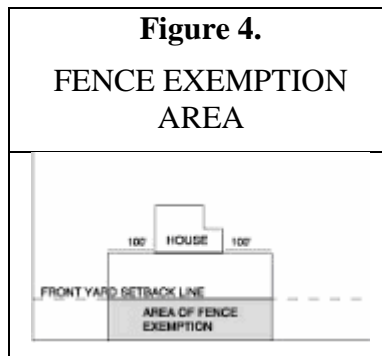
This standard is met.

Distribution Main: According to the information presented in Exhibit A.11, the adjacent property to the south of the Lusted Hill Treatment Facility site (1S4E22BA-00200) has structures and developed areas within 200 feet of the common property line. Although all project ground disturbance and surface development commence within 300 feet of that shared property line, the Lusted Road Distribution Main extends beyond tax lot 1S4E22BA-00200 through tax lot 1S4E22BA-00100 onto tax lot 1S4E15C-00801. The installation of the Distribution Main connection on 1S4E15C-00801 is not within 300 feet of the western side property line where adjacent improvements exist.

This standard is not met.

(6) Fencing within a required setback from a public road shall meet the following criteria:

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
- (c) Cyclone, woven wire, and chain link fences are prohibited.**
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.**
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development. (See Figure 4 below.)**



(f) Fencing standards do not apply where needed for security of utility facilities.

Staff:

Raw Water Pipelines: No fencing is proposed as part of the project.

This standard is met.

Distribution Main: The Lusted Hill Treatment Facility site is secured by fencing. The fencing is exempt from these standards. No other fencing is proposed at this time. Based on information presented in Exhibit A.11, no fencing is proposed in the jurisdictional area.

This standard is met.

(7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Staff:

Raw Water Pipeline: After the grade is restored, the disturbed area will be reseeded to existing conditions (Exhibit A.195). Staff is uncertain what plant materials will be used in this area. A condition of approval is recommended that the applicant utilize a low growing native grass on tax lot 1S4E23C-00800. On Exhibit A.194, Sheet LU-601, the plan indicates native shrub plantings and seeded ground cover.

This standard can be met.

Distribution Main: None of the nuisance plant species listed in MCC 39.5580 Table 1 are proposed to be planted within any on-site SEC-h zones, as documented in Exhibit A.194, Sheet LU-602 and existing Water Bureau management of nuisance plant species will continue within the facility grounds per the narrative in Exhibit 2.D. A condition of approval requires that no nuisance plants listed in MCC 39.5580 Table 1 be planted.

As conditioned, this criterion is met.

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

Staff:

Raw Water Pipelines: At the RW pipeline, an SEC-h resource lies in the path of the only available property access from the existing raw water pipeline to the Water Filtration Facility site. The project does not meet the Development Standards (B)(2) and (B)(3). Development Standard (B)(2) cannot be met and the project be achieved as the RW Pipeline is a linear project extending over three properties. Development Standard (B)(3) requires that the access road/driveway and service corridor not exceed 500 feet in length. With the PWB boring approximately 1,280+/- feet of RW Pipelines, it seems that they could have extended the boring an additional 535 feet so that the access drive would not have needed to exceed 500 feet in length. The Hearings Officer will need to determine if the proposed Wildlife Conservation Plan results in the minimum departure from the standards in order to allow the use. The Wildlife Conservation Plan (WCP) is located in Exhibits A.67.

The WCP does not discuss the disturbed SEC-h habitat for the connection of the RW Pipelines to the existing pipeline as shown in Exhibit A.195 on tax lot 1S4E23C-00800. Three trees will be

removed from this SEC-h overlay area. To mitigate this encroachment, trees could be added along the perimeter of the SEC-h overlay on tax lot 1S4E23C -01500 and/or 1S4E23C-02200. A condition of approval has been recommended to mitigate for the encroachment not covered by the WCP.

If the Hearings Officer determines that (C)(1) is not met, the WCP will need to meet (C)(2) and (C)(3) or (C)(5).

Distribution Main: For the Lusted Road Distribution Main, an SEC-h resource occurs between SE Cottrell Road and the existing water main to which it must connect to. The PWB has indicated that the project does not meet the development standards of subsection (B)(2), (B)(3), and (B)(5) due to the unique physical characteristics of the site as described in Exhibit A.11. The Wildlife Conservation Plan is located in Exhibits A.69.

The Distribution Main could continue in the SE Cottrell Road right-of-way to the intersection of SE Lusted Road and then travel east within the SE Lusted Rd right-of-way to tax lot 1S4E22BC-00100 to then connect with the pipeline on 1S4E15C-00801. Encroachment into the SEC-h overlay while in the public right-of-way is exempt pursuant to MCC 39.5515(A)(24). The overall length of the project within the SEC-h overlay would be reduced from 1,353+/- ft to approximately 470 feet. By taking this route, (B)(3) could be met as the service corridor would also be reduced to 470 feet. Technically, (B)(2) could be met as tax lot 1S4E22BC-00200 is adjacent to SE Cottrell Road and SE Lusted Road. Based upon this discussion, the proposed project does not result in the minimum departure from the standards and hence the project must comply with (C)(2) below.

(2) The applicant can meet the development standards of subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B).

Staff: The Wildlife Conservation Plan does not propose any mitigation for the encroachment into the SEC-h overlay zone. (C)(2) requires alternative conservation measures that exceed the standards of subsection (B) which the County understands to mean mitigation. The PWB shows in Figure 4 of Exhibit A.69 plantings that were done for a prior mitigation plan. These plantings are not applicable for mitigation to this project. They were mitigation for work done for encroachment into the SEC-h under a prior land use application. The Wildlife Conservation Plan (Plan) (Exhibit A.69) addresses the standards under (C)(3). The Plan proposes no alternative conservation measures and no mitigation measures. The Plan does not demonstrate compliance with (C)(2) above.

The Lusted Hill Treatment Plant property has approximately 0.40 of an acre near the corner of SE Cottrell and SE Lusted Roads outside the SEC-h overlay zone that may be suitable for use as a mitigation area. The Water Filtration Facility site has areas adjacent to the SEC-h overlay zone that could potentially be used for mitigation area. These areas outside of the SEC-h overlay would require deed restriction be recorded and a plan developed utilizing (C)(5) option 2.

At present, this criterion has not been met.

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

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of

clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

Staff:

Raw Water Pipelines: The applicant's exhibits show that conservation measures have been included to reduce the proposed impacts to the forested areas. The project proposes to avoid all impacts to forested areas within the SEC-h zone by trenchless boring of the RW pipelines.

This criterion is met.

Distribution Main: The Distribution Main will be installed through the parking lot to the existing pipeline corridor that was deforested under land use permit T3-2019-11784. The "Retrieval Portal" construction area on tax lot 1S4E15C-00801 appears to show that it will encroach into the existing forested area (Exhibit A.194, Sheet LU-602). The General Sheet Notes on Sheet LU-602 indicates "No proposed tree removal..."

Provided no trees are removed in the forested area, this criterion is met.

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

Staff:

Raw Water Pipelines: The applicant proposes no clearing, as the pipelines will be tunneled under the SEC-h areas.

This criterion is met.

Distribution Main: The Distribution Main will be installed through the parking lot in the SEC-h overlay to the existing pipeline corridor that was deforested under land use permit T3-2019-11784.

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

Staff:

Raw Water Pipelines: According to the applicant's narrative in Exhibit A.11 and Exhibit A.194, Sheet LU-601, there is no existing fencing, and no fencing is proposed within the SEC-h in the project area.

This criterion is met.

Distribution Main: The Lusted Hill Treatment Facility has a security fence around the perimeter of the facility itself. No fencing exists within the forested area and none are proposed (Exhibit A.11 and Exhibit A.194, Sheet, LU-602).

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

Staff:

Raw Water Pipelines: According to the applicant's narrative in Exhibit A.11 and Exhibit A.194, Sheet LU-601, the PWB proposes no clearing for the installation of the RW Pipelines on tax lots 1S4E23C -01500 and 1S4E23C -02200, as the pipelines will be tunneled under the SEC-h area. On tax lot 1S4E23C -00800, three trees will need to be removed for the connection of the RW

Pipelines to the existing pipeline (Exhibit A.195). This portion of the project is not discussed in the Wildlife Conservation Plan or narrative. To mitigate for the removal of these trees, six trees should be added to tax lot 1S4E23C-01500 and/or 1S4E23C-02200 within the SEC-h overlay where there is no tree cover. Staff has included a graphic below showing where the trees could be added. Staff is not recommending planting the trees back on tax lot 1S4E23C-00800 as it is only 10-ft wide and immediately adjacent to SE Lusted Road and the trees would not provide any significant wildlife cover. A condition of approval has been recommended that six trees be planted in the SEC-h overlay to mitigate for the loss of trees from 1S4E23C-00800.



As conditioned, this criterion is met.

Distribution Main: According to the applicant’s narrative in Exhibit A.11, page 28, no newly cleared areas are proposed within the SEC-h resource area.

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

Staff:

Raw Water Pipelines: According to the applicant’s narrative in Exhibit A.11 and as shown on Exhibit A.194, there are no stream riparian areas within the SEC-h in the project area. There are two ponds outside of the SEC-h overlay zone on tax lot 1S4E23C-01400 that the access road will cross between (Exhibit A.214, Sheet LU-200). To the east and south of the access road, the PWB will be restoring the area with a forest- shrub mix with a native understory seeding (Exhibit A.229). To the west and south of the access road, native seeding mix will be used. For installation of the two RW Pipelines between the ponds, PWB have indicated they will bore the pipes (Exhibit A.214, Sheet LU-200).

This criterion is met.

Distribution Main: According to the applicant’s narrative in Exhibit A.11 and as shown on Exhibit A.194, there are no stream riparian areas within the SEC-h in the project area.

This criterion is met.

(4) For a property meeting subsection (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:

* * *

Staff: (C)(4) is for additions to single family dwellings. The subject proposal does not propose an addition to a single-family dwelling.

This criterion does not apply.

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

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

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

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes. Existing fencing located in the front yard adjacent to a public road shall be consistent with subsection (B)(6).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table:

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) Location of mitigation area. All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the ground disturbing activity standards set forth in MCC 39.6200 through MCC 39.6235.

(j) Plant size. Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) Plant spacing. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on-center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) Plant diversity. Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) Nuisance plants. Any nuisance plants listed in MCC 39.5580 Table 1 shall be removed within the mitigation area prior to planting.

(n) Planting schedule. The planting date shall occur within one year following the approval of the application.

(o) Monitoring and reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

Staff: The PWB is utilizing (C)(3) for both of its wildlife conservation plans (Exhibits A.67 and A.69). PWB does not need to comply with (C)(5) if the two plans comply with either (C)(1) and (C)(3) or (C)(2) and (C)(3). At present, Land Use Planning finds that the Distribution Main Plan has not complied with (C)(2) as no alternative conservation measures (mitigation) have been proposed. If the Hearing Officer agrees, the PWB would need to revise the Distribution Main's Plan to meet (C)(5), option 2 in order to comply with (C)(2).

(6) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.

Staff: The application does not include PAM resources and is not within a PAM overlay.

This criterion does not apply.

(D) Optional Development Impact Area (DIA). For the purpose of clustering home sites together with related development within the SEC-h overlay, an applicant may choose to designate an area around the home site for future related development and site clearing. For the purposes of establishing the appropriate mitigation for development within the DIA, existing vegetation within the DIA is presumed to be ultimately removed or cleared in the course of any future development within the DIA. Establishment of a DIA is subject to all of the applicable provisions in this section and the following:

* * *

Staff: The proposal does not include homesites. *These criteria do not apply.*

15.0 Geologic Hazard Approval Criteria:

15.1 § 39.5075 PERMIT REQUIRED.

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

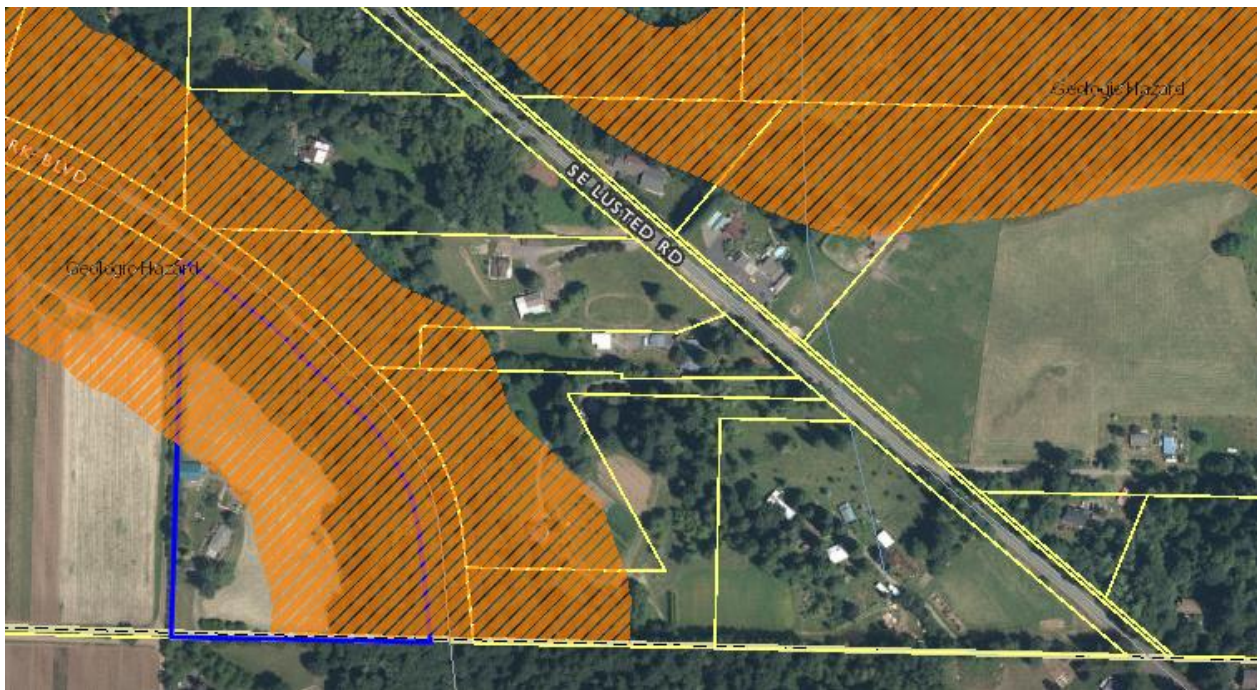
Staff: The applicant has applied for a Geologic Hazard permit for the construction of the pipelines within the areas of Geologic Hazard (Exhibit PWB Permit Application Forms). The Geologic Hazard (GH) Permit is required due to the construction of underground tunnel work within the mapped GH overlay, and as the tunnel qualifies as "development". **MCC 39.2000 Definitions** defines "Development" as "Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including, but not limited to, a building, land use, occupancy, sewer connection or other similar permit,

and any associated ground disturbing activity. As the context allows or requires, the term “development” may be synonymous with the term “use” and the terms “use or development” and “use and development.”

Raw Water Pipelines: The Raw Water (RW) Pipelines crosses tax lots 1S4E23C-00801, 1S4E23C-01400, 1S4E23C-01500 and 1S4E23C-02200, SE Lusted Rd and SE Dodge Park Blvd and is shown on is shown on Exhibit A.214, Sheet LU-200.



The Geologic Hazard overlay exists over a portion of 1S4E23C-02200 and 1S4E23C-01500, and SE Dodge Park Blvd. The trenchless (boring) of the RW Pipelines constitutes Development within the Geologic Hazard overlay even though it is completely underground.



The ground disturbance that will occur on 1S4E23C-00801, 1S4E23C-01400, and on the portion of tax lot 1S4E23C-01500 outside the GH overlay will be authorized through a separate Type I permit that is not before the Hearings Officer. The Erosion and Sediment Control permit will be

issued by the Planning Director in the future if the land use permits authorize the raw water pipeline.

Distribution Main: The tax lots 1S4E22BA-00200, 1S4E22BA-00100 and 1S4E15C-00801 are involved in the installation of the Distribution Main.



The Lusted Hill Distribution Main will involve trenched and trenchless (boring) work within the Geologic Hazard (GH) overlay zone. While the GH zone exists on the three CFU zoned tax lots, the Retrieval Portal work is outside of the zone. The information provided in Exhibit A.89 is

conflicting as to whether ground disturbance will occur within the GH overlay or not. In Exhibit A.164, page 2, the applicant clarifies that there will be ground disturbing activity within the GH overlay zone. An open trench will extend into the GH overlay and then a 20-ft deep by 5-ft wide portal will be constructed to start the trenchless work for installing the Distribution Main (Exhibit A.89, page 15). A GH Permit is required for the installation of the Distribution Main.

15.2 § 39.5085 GEOLOGIC HAZARDS PERMIT APPLICATION INFORMATION REQUIRED.

An application for a Geologic Hazards Permit shall include two copies of each of the following:

(A) A scaled site plan showing the following both existing and proposed:

- (1) Property lines;**
- (2) Building structures, driveways, roads and right of way boundaries;**
- (3) Location of wells, utility lines, site drainage measures, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);**
- (4) Trees and vegetation proposed for removal and planting and an outline of wooded areas;**
- (5) Water bodies;**
- (6) Boundaries of ground disturbing activities;**
- (7) Location and height of unsupported finished slopes;**
- (8) Location for wash out and cleanup of concrete equipment;**
- (9) Storage location and proposed handling and disposal methods for potential sources of non-erosion pollution including pesticides, fertilizers, petrochemicals, solid waste, construction chemicals, and wastewaters;**
- (10) Soil types;**
- (11) Ground topography contours (contour intervals no greater than 10-feet); and**
- (12) Erosion and sediment control measures.**

Staff: The applicant submitted the required materials in the following exhibits:

Current Exhibit #	Applicant's Description
A.7	Narrative Section 2. Pipeline Overview, Page 30
A.164	Attachment E.1 Geologic Hazards Permits Narrative, Page 2-3, Question 1-3, 10
A.87	I.3 Raw Water Pipelines Geologic Hazards Permit Form, Page 5, and Sheets Geohazard Permit Application Site Plan, GH-001, GH-02, GH-03 (pages 11-13)
A.89	I.4 Luster Road Distribution Main Geologic Hazards Permit Form, Page 4, and Sheets Geohazard Permit Application Site Plan, GH-001, GH-04, GH-05, GH-06, ESC-201, ESC-202 (pages 13 – 18)

A.180	Attachment E.2 Responses to County Comments on Geologic Hazards Permits, Sheets GH-06, GH-03, Figure 3 (page 8-10), Boring Logs (pages 13 – 55); and ESC-004 (page 12).
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This criterion is met.

(B) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut (cubic yards) and fill (cubic yards), total volume of fill that has been deposited on the site over the 20-year period preceding the date of application, and existing and proposed slopes in areas to be disturbed (percent slope). Such calculations are not required for 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. For purposes of this subsection, 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 applicant submitted the required calculations in the following materials: therefore Exhibit A.7, page 30; Exhibit A.87, pages 6-7, 10; Exhibit A.89, pages 6-8, 10-11.

This criterion is met.

(C) Written findings, together with any supplemental plans, maps, reports or other information necessary to demonstrate compliance of the proposal with all applicable provisions of the Geologic Hazards standards in MCC 39.5090. Necessary reports, certifications, or plans may pertain to: engineering, soil characteristics, stormwater drainage control, stream protection, erosion and sediment control, and replanting. The written findings and supplemental information shall include:

(1) With respect to fill:

(a) Description of fill materials, compaction methods, and density specifications (with calculations). The planning director may require additional studies or information or work regarding fill materials and compaction.

(b) Statement of the total daily number of fill haul truck trips, travel timing, loaded haul truck weight, and haul truck travel route(s) to be used from any fill source(s) to the fill deposit site.

Staff: The applicant submitted the required written findings in the following materials: Exhibit A.7, page 31; Exhibit A.164, page 3, Questions 4-5; Exhibit A.87, pages 6, 9-10; Exhibit A.89, pages 7, 10-11.

This criterion is met.

(2) A description of the use that the ground disturbing activity will support or help facilitate.

Staff: The applicant submitted the required written findings in Exhibit A.7, page 31.

(3) One of the following:

(a) Additional topographic information showing the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(b) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(c) A GHP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with their stamp and signature affixed indicating that the site is suitable for the proposed development.

(i) If the GHP Form– 1 indicates a need for further investigation, or if the director requires further study based upon information contained in the GHP Form– 1, a geotechnical report as specified by the director shall be prepared and submitted.

[a] A geotechnical investigation in preparation of a geotechnical report shall be conducted at the applicant’s expense by a Certified Engineering Geologist or Geotechnical Engineer. The report shall include specific investigations required by the director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from landslide hazards.

[b] Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the geotechnical report to ensure safety of the proposed development.

[c] Observation of work required by an approved geotechnical report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant’s expense; the geologist’s or engineer’s name shall be submitted to the director prior to issuance of the permit.

[d] The director, at the applicant’s expense, may require an evaluation of GHP Form– 1 or the geotechnical report by another Certified Engineering Geologist or Geotechnical Engineer.

Staff: The applicant submitted the required reports and forms in the following materials:

Exhibit #	Exhibit Description	Page #s
A.7	2 Pipeline Overview Narrative	31-32
A.164	E.1 Geologic Hazards Permits Narrative	2-3, Question 6-7
A.180	E.2 Responses to County Comments on Geologic Hazards Permits	All
A.81	I.1a Filtration Facility Geotechnical Engineering Summary	All
A.82	I.1b Raw Water Pipelines Geotechnical Engineering Summary	All
A.83	I.1c Finished Water Pipelines Geotechnical Engineering Summary	All
A.87	I.3 Raw Water Pipelines Geologic Hazards Permit Form	All
A.89	I.4 Luster Road Distribution Main Geologic Hazards Permit Form	All

(4) Documentation of approval by each governing agency having authority over the matter of any new stormwater discharges into public right-of-way.

Staff: This criterion is not applicable to the development. See Exhibit A.7, page 32.

(5) Documentation of approval by the City of Portland Sanitarian and any other agency having authority over the matter of any new stormwater surcharges to sanitary drainfields.

Staff: This criterion is not applicable to the development. See Exhibit A.7, page 32.

15.3 § 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 applicant states no regulated fill is proposed within the GH overlay and no fill has been deposited within the last 20-year period prior to the date of the application. See Exhibit A.7, page 33; Exhibit A.87, pages 6-10; and Exhibit A.89, pages 6-11.

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

Staff: No regulated fill will be used for the project. Structural fill materials will consist of 1 inch or ¾ inch crushed aggregate. See Exhibit A.7, page 33; Exhibit A.87, pages 6-10; and Exhibit A.89, pages 6-11.

(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 applicant has worked closely with a geotechnical engineer and any slopes cut will be filled to the original grade. See Exhibit A.7, page 33; Exhibit A.164, page 2, Question 1; Exhibit A.87, page 6; and Exhibit A.89, pages 6-7.

(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: No unsupported or finished cuts and fills are proposed within GH overlay areas. A geotechnical engineer has reviewed the project. See Exhibit A.7, page 33; Exhibit A.87; and Exhibit A.89, pages 7 and 10.

(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: There are no mapped streams, water bodies, or wetlands within the project area. See Exhibit A.7, page 33; Exhibit A.87, page 12 (Sheet GH-02); and Exhibit A.89, page 14 (Sheet GH-04).

(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: *This criterion is not applicable to the development.* See Exhibit A.7, page 34.

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

Staff: *This criterion is not applicable to the development.* The proposed development is not located within the Tualatin River drainage basin. See Exhibit A.7, page 34.

(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 Raw Water Pipelines is entirely underground within the Geologic Hazard overlay with no impact to vegetation or ground surface disturbance. The Distribution Main segment has plans for vegetation protection and erosion control. See Exhibit A.7, page 34; Exhibit A.164, page 3, Question 8; Exhibit A.180, page 11 (Sheet ESC-004); Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 14-18 (Sheet GH-04, GH-05, GH-06, ESC-201, ESC-202).

(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: PWB states the two pipeline segments are designed to minimize ground disturbance through the use of trenchless construction. The Raw Water Pipelines segment will require minimal disturbance (~10% of the pipe length). The applicant will obtain an Erosion and Sediment Control (ESC) permit (Type I permit) for the work to be completed outside of the Geologic Hazard overlay zone. The Type I permit will only be issued provided the land use is approved. The ESC permit has erosion control plans, but is not before the Hearings Officer. See Exhibit A.7, page 34; Exhibit A.87; Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202).

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

Staff: The entire Raw Water Pipelines installation is trenchless with no impact to ground surface disturbance within the GH overlay zone. Approximately 10% of Distribution Main will

require erosion control. Temporary erosion control plans have been provided. See Exhibit A.7, Page 34; Exhibit A.87; Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

(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: There are no mapped streams, water bodies, or wetlands within the Geologic Hazard overlay areas. See Exhibit A.7, page 35; Exhibit A.87, page 12 (Sheet GH-02); Exhibit A.89, pages 16-18 (Sheet GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

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

Staff: The entire Raw Water Pipeline installation in the Geologic Hazard over is trenchless with no impact to ground surface disturbance. Approximately 10% of the Distribution Main will disturb the ground surface. Erosion control plans have been provided. See Exhibit A.7, page 35; Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

(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.

Staff: The entire Raw Water Pipelines installation is trenchless with no impact to ground surface disturbance in the Geologic Hazard overlay. Approximately 10% of the Distribution Main will disturb the ground surface. Erosion control plans have been provided. See Exhibit A.7, page 35; Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

(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.

Staff: The entire Raw Water Pipelines installation is trenchless with no impact to ground surface disturbance in the Geologic Hazard overlay. Approximately 10% of the Distribution Main will disturb the ground surface. Erosion control plans have been provided. See Exhibit A.7, page 35; Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

(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 entire Raw Water Pipelines installation is trenchless with no impact to ground surface disturbance in the Geologic Hazard overlay. Approximately 10% of the Distribution Main will disturb the ground surface. Erosion control plans have been provided. See Exhibit A.7, page 35; Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

(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.

Staff: The entire Raw Water Pipelines installation is trenchless with no impact to ground surface disturbance in the Geologic Hazard overlay. Approximately 10% of the Distribution Main will disturb the ground surface. Erosion control plans have been provided. See Exhibit A.7, page 35; Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

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

Staff: The entire Raw Water Pipelines installation is trenchless with no impact to ground surface disturbance in the Geologic Hazard overlay. Approximately 10% of the Distribution Main will disturb the ground surface. Erosion control plans have been provided. See Exhibit A.7, page 35; Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

(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 entire Raw Water Pipelines installation is trenchless with no impact to ground surface disturbance in the Geologic Hazard overlay. Approximately 10% of the Distribution Main will disturb the ground surface. Erosion control plans have been provided. See Exhibit A.7, page 35; Exhibit A.87, pages 12-13 (Sheets GH-02, GH-03); Exhibit A.89, pages 16-18 (Sheets GH-06, ESC-201, ESC-202); Exhibit A.180, page 11 (Sheet ESC-004).

(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: No disposed soil material or stockpiled topsoil is proposed within the GH overlay area. See Exhibit A.7, page 36; Exhibit A.180, page 3, Question 9.

(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 Raw Water Pipelines installation within the GH overlay is trenchless and this criterion is not applicable. The applicant has supplied the appropriate documentation for the project. See Exhibit A.7, page 36; Exhibit A.87. For the Distribution Main, the handling, disposal, site monitoring and clean up are proposed as detailed in Exhibit A.89, Sheet ESC-004, BMP Matrix for Construction Phase. See Exhibit A.7, page 37; Exhibit A.89; Exhibit A.180, page 11 (Sheet ESC-004).

(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: *This criterion is not applicable to the development.* The proposed development is not located within the Balch Creek drainage basin. See Exhibit A.7, page 37.

(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: *This criterion is not applicable to the development.* There are no mapped streams, water bodies, or wetlands within the GH project area on either the Raw Water Pipelines or Distribution Main installations. See Exhibit A.7, page 37; Exhibit A.87, page 12 (Sheet GH-02); Exhibit A.89, page 14 (Sheet GH-04).

(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.

Staff: No regulated fill is proposed for the project. See Exhibit A.7 page 37; Exhibit A.164, page 3, Question 4-5; Exhibit A.87, pages 6 and 10; Exhibit A.89, Page 6-11.

(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.

Staff: No regulated fill is proposed for the project. See Section 2. Pipeline Overview, Page 37; E.1 Geologic Hazards Permits Narrative, Page 3, Question 4-5; I.3 Raw Water Pipelines Geologic Hazards Permit Form, Page 6, 10; I.4 Luster Road Distribution Main Geologic Hazards Permit Form, Page 6-11.

(Y) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

Staff: *This criterion is not applicable to the development.* See Exhibit A.7, page 37.

16.0 Comprehensive Plan Policies:

Applicant's narrative starts on page 89 of Exhibit A.4. Please refer to their response, accordingly.

Land Use

Other Policies

Policy 2.50 As part of land use permit approval, impose conditions of approval that mitigate off-site effects of the approved use when necessary to:

- 1. Protect the public from the potentially deleterious effects of the proposed use; or**
- 2. Fulfill the need for public service demands created by the proposed use.**

Staff: If the Hearings Officer determines that the proposed Water Filtration Facility and its related Pipelines create off-site effects that need mitigation such as pave and widen a failing road that construction vehicles will utilize to transport materials to and from the various construction site, this Comprehensive Plan Policy may be applied as it is an approval criterion as listed in MCC 39.7505(G).

Farm Land

Multiple Use Agricultural Land

County policies for these areas promote agricultural activities and minimize conflicts between farm and non-farm uses but are less stringent than policies in Exclusive Farm Use zones.

Policy 3.14 Restrict uses of agricultural land to those that are compatible with exclusive farm use areas in recognition of the necessity to protect adjacent exclusive farm use areas.

Policy 3.15 Protect farm land from adverse impacts of residential and other non-farm uses.

Staff: Policies 3.14 and 3.15 are supportive of the Community Service approval criteria MCC 39.7515(A) and (C). They are not just directions to Land Use Planning but to the applicant that the proposed use(s) must be compatible with agricultural land uses. Arguments by an applicant that protection of agricultural lands in the MUA-20 zone do not need to be to the same level as those in EFU zoned areas is inconsistent with the protections provided to MUA-20 agricultural lands. Community Service or other non-farm uses must protect farm land and any existing farm uses from adverse impacts caused by the proposed development and use in order to protect adjacent EFU lands. The Hearings Officer will need to find that the proposed development will not create adverse impacts to surrounding agricultural uses or mitigate those impacts so that they are no longer adverse.

Natural Hazards

Earthquake Hazards

Policy 7.3 Direct development away from areas with hazards associated with potential liquefaction resulting from major earthquakes.

Staff: The proposed Water Filtration Facility, Pipelines and Intertie Sites are located in an area with a Liquefaction Probability of 0-5 percent (Exhibit B.14).

Policy Met.

Policy 7.4 Protect against seismic hazards to structures and ground areas susceptible to earthquake damage.

Staff: The proposed Water Filtration Facility, Pipelines and Intertie Sites are located in an area with a Modified Mercalli Intensity Scale/Damage Potential of Light from a Magnitude 9 Cascadia Earthquake (Exhibit B.15).

Policy Met.

Public Facilities

General Policies

Policy 11.3 Support the siting and development of public facilities and services appropriate to the needs of rural areas while avoiding adverse impacts on farm and forest practices, wildlife, and natural and environmental resources including views of important natural landscape features.

Staff: Both Pleasant Home Water District and Lusted Water District obtain water currently from the Portland Water Bureau's Bull Run system. The proposed Water Filtration Facility and its related Pipelines and other improvements will continue to provide water to both these districts to serve the West of Sandy River rural area. Provided the Hearings Officer approves the various Community Service Conditional Use permits, the above Policy will be met.

Policy 11.10 Except as otherwise provided by law, new electrical substations and water system storage tanks or reservoirs intended to solely serve uses within the urban growth boundary shall not be located outside the urban growth boundary unless it can be demonstrated that there is no practical alternative site within the urban growth boundary that can reasonably accommodate the use.

Staff: The proposed project does not include the development of a new electrical substation. The Water Filtration Facility will serve the Pleasant Home Water District and the Lusted Water District within the West of Sandy River area. The proposed use is not solely serving uses within the urban growth boundary.

Policy met.

Policy 11.11 For development that will be served by a power utility company, the utility company must be willing and able to provide the power needs of the development.

Water Supply and Wastewater Treatment Systems

Policy 11.12 A water supply system for new development shall be by either of the following methods:

- 1. Connection to a public water system having adequate capacity to serve the development and all other system customers.**
- 2. A private water system that produces safe drinking water with sufficient volume and pressure to meet applicable Building Code and Fire Protection Code.**

Staff: Prior to the construction of the Water Filtration Facility at tax lots 1S4E22D-00400 & 1S4E22D-00100, Pleasant Home Water District has agreed to provide water to the site (Exhibit A.128). Once the Water Filtration Facility is completed, Portland Water Bureau will become the water purveyor for the site (Exhibit A.126 and A.220). The Intertie Site will be served by the Pleasant Home Water District (Exhibit A.127).

Policy met.

Policy 11.13 Wastewater disposal for new development shall be by any of the following methods:

- 1. Connection to a public sewer system having adequate capacity to serve the development and all other system customers**
- 2. A private system that meets Oregon Department of Environmental Quality regulations**

Staff: The Water Filtration Facility will be connected to an on-site sewage disposal system (Exhibit A.124). The location for the system can be seen on Exhibit A.212, Sheet LU-302 and is labeled #4 and #5 and is east of the main parking area.

Policy met.

Police, Fire and Emergency Response Facilities

Policy 11.17 As appropriate, include school districts, police and fire protection, and emergency response service providers in the land use process by requiring review of land use applications from these agencies regarding the agency's ability to provide the acceptable level of service with respect to the land use proposal.

Staff: Fire District #10 has provided the service provider form at Exhibit A.130 and comments as Exhibit D.1. Multnomah County Sheriff has offered Will Serve forms for the Water Filtration Facility and the Intertie Site (Exhibit A.108 and A.110). The Gresham Barlow School District has provided written comments at Exhibits D.2 and D.3. Gresham Fire District has provided a written comment (Exhibit D.16).

Policy met.

17.0 Dark Sky Lighting Standards

17.1 § 39.6850 DARK SKY LIGHTING STANDARDS.

(A) The purpose of the Dark Sky Lighting Standards in this Section is to protect and promote public health, safety and welfare by preserving the use of exterior lighting for security and the nighttime use and enjoyment of property while minimizing the obtrusive aspects of exterior lighting uses that degrade the nighttime visual environment and negatively impact wildlife and human health.

(B) The following exterior lighting is exempt from the requirements of paragraph (C) of this section:

(1) Lighting lawfully installed prior to October 22, 2016, provided that the building enlargement threshold in paragraph (C) of this section is not exceeded.

Staff: No lighting on the site was installed prior to October 22, 2016. *This exemption is not applicable.*

(2) Lighting used for safe pedestrian passage, installed at ground level (such as along walkways and stairs), provided that individual lights produce no more than 30 lumens.

Staff: The submittal did not document pedestrian lighting specifically. While lighting may meet this exemption, the exemption was not requested in the submittal.

(3) Lighting that shines for not more than 90 nights in any calendar year provided that individual lights produce no more than 70 lumens.

(4) Lighting which shines for not more than 60 nights in any calendar year associated with discrete farming practices as defined in ORS 30.930 and agricultural use as defined in OAR 603-095-0010, except that permanent lighting on buildings, structures or poles associated with farm practices and agricultural use is subject to the requirements of this section. For purposes of this exemption, "discrete farming practices" does not include farm stand or agri-tourism events or activities.

(5) Lighting which shines for not more than 60 nights in any calendar year associated with discrete forest practices as defined by ORS chapter 527 (The Oregon Forest Practices Act), except that permanent lighting on buildings, structures or poles associated with forest practices is subject to the requirements of this section.

(6) Lighting which shines for not more than 60 nights in any calendar year associated with theatrical, television, and performance activities. For purposes of this exemption, theatrical, television, and performance activities do not include farm stand or agri-tourism events or activities.

(7) Lighting in support of work necessary to protect, repair, maintain, or replace existing structures, utility facilities, service connections, roadways, driveways, accessory uses and exterior improvements in response to emergencies pursuant to the provisions of MCC 39.6900, provided that after the emergency has passed, all lighting to remain is subject to the requirements of this section.

(8) Lighting used by a public agency in service of a temporary public need, when such lighting cannot both serve the public need and comply with the standards in paragraph (C) of this section.

(9) Lighting required by a federal, state, or local law or rule, when such lighting cannot comply with both the law or rule and the standards in paragraph (C) of this section.

(10) Lighting used in support of public agency search and rescue and recovery operations.

(11) Traffic control devices in compliance with the Manual on Uniform Traffic Control Devices, when such lighting cannot both serve the public need and comply with the standards in paragraph (C) of this section.

(12) Lighting necessary to meet federal, state or local historic preservation standards when such lighting cannot both meet historic preservation standards and comply with the standards in paragraph (C) of this section.

(13) Underwater lighting.

Staff: Submerged lights will be provided for the process monitoring. These lights are exempt from the standards.

(14) Lighting of national, state, and local recognized jurisdiction flags pursuant to the United States Flag Code or laws regulating the proper display of jurisdiction flags.

Staff: None of the proposed lighting meets exemptions MCC 39.6850 (B)(3) through (12) and (14). *These exemptions are not applicable.*

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.

(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

Staff: Exterior lighting is provided at the Finished Water Intertie and at the Filtration Facility. The applicant submitted an Exterior Site Lighting Analysis for both the Intertie building and Filtration Facility (Exhibit A.63 and A.47, respectively) documenting that exterior lights do not trespass beyond the site locations. According to these documents, all fixtures have full cutoff beam distributions with zero up-light and all light will be contained on the site with models demonstrating 0 foot-candle light trespass along all property lines.

As stated by the applicant in Exhibit A.9, page 19, “proposed exterior lighting will be fully shielded and directed downwards.” Type M1 lights will be mounted to the side of the electrical building and will be used in the evenings. Type S1 pole mounted lights will be used for seldomly-occurring maintenance activities performed at night. Both Type M1 and Type S1 will be on switches allowing for independent operation.

As shown on Exhibit A.212, Sheet LU-403 and Figure 35 in the applicant’s Exhibit A.5, the downlighting on the monument entry sign will be incorporated into the concrete column and the directional signs may be downlit. A condition of approval is recommended that the proposed lighting meet MCC 39.6850 (C) when installed.

As conditioned, these standards are met.

18.0 Transportation Planning

Staff: Multnomah County Transportation Planning and Development has reviewed the Portland Water Bureau Water Filtration Facility, raw and finished water pipes and communication tower. Their detailed analysis is contained in the Transportation Planning Memorandum (Exhibit B.16). The recommended conditions of approval have been included above under the subheading Transportation Planning.

19.0 Exhibits

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits
- ‘D’ Comments Received

All exhibits are available for review at <https://www.multco.us/landuse/document-library-pwb-treatment-plant>.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	3	PWB Permit Application Forms	10/12/22
A.2	35	Land Use Applications Introduction	10/12/22
A.3	25	1. Filtration Facility Site Overview	10/12/22

A.4	111	1.A Filtration Facility Conditional Use Application Narrative	10/12/22
A.5	50	1.B Filtration Facility Design Review Application Narrative	10/12/22
A.6	27	1.C Communications Tower Conditional Use and Design Review Application Narrative (<i>Revised, see Exhibit A.217</i>)	10/12/22
A.7	41	2. Pipeline Overview	10/12/22
A.8	35	2.A Pipelines Conditional Use Application Narrative	10/12/22
A.9	23	2.B Pipelines Design Review Application Narrative	10/12/22
A.10	11	2.C Pipeline EFU Review Application Narrative	10/12/22
A.11	32	2.D Pipeline SEC Review Application Narrative	10/12/22
A.12	1	A.1a Flysheet	10/12/22
A.13	40	A.1a Site Plans (<i>Revised, See Exhibit A.212</i>)	10/12/22
A.14	1	A.1b Flysheet	10/12/22
A.15	54	A.1b Architectural Plans	10/12/22
A.16	1	A.1c Flysheet	10/12/22
A.17	8	A.1c Civil Engineering Plans	10/12/22
A.18	1	A.2a Flysheet	10/12/22
A.19	25	A.2a Site Plans (<i>Revised, see Exhibit A.214</i>)	10/12/22
A.20	1	A.2b Flysheet	10/12/22
A.21	7	A.2b Architectural Plans	10/12/22
A.22	1	A.2c Flysheet	10/12/22
A.23	5	A.2c Civil Engineering Plans	10/12/22
A.24	1	A.3 Flysheet	10/12/22
A.25	7	A.3 Significant Environment Concern Overlay Drawings	10/12/22
A.26	1	B.1 Flysheet	10/12/22
A.27	9	B.1 Bull Run Treatment Projects Outreach History	10/12/22
A.28	1	B.2 Flysheet	10/12/22
A.29	27	B.2 Bull Run Filtration Site Advisory Group Summary	10/12/22
A.30	1	C.1 Flysheet	10/12/22
A.31	171	C.1 Bull Run Filtration Project Traffic Impact Analysis	10/12/22
A.32	1	D.1 Flysheet	10/12/22

A.33	165	D.1 Agricultural Compatibility Study	10/12/22
A.34	1	D.2 Flysheet	10/12/22
A.35	24	D.2 Agricultural Soil Restoration Study	10/12/22
A.36	1	D.3 Flysheet	10/12/22
A.37	30	D.3 Forestry Compatibility Study	10/12/22
A.38	1	D.4 Flysheet	10/12/22
A.39	70	D.4 Pesticides Report	10/12/22
A.40	1	D.5 Flysheet	10/12/22
A.41	23	D.5 Potential Impacts of Pesticide Use on Finished Water Quality	10/12/22
A.42	1	D.6 Flysheet	10/12/22
A.43	2	D.6 Lusted Hill Treatment Facility Recorded Farm and Forest Deed Restriction	10/12/22
A.44	1	E.1 Flysheet	10/12/22
A.45	22	E.1 Oregon Water Treatment Plant Operations	10/12/22
A.46	1	E.2 Flysheet	10/12/22
A.47	88	E.2 Land Use Permitting Lighting Report	10/12/22
A.48	1	E.3 Flysheet	10/12/22
A.49	18	E.3 Bull Run Filtration Facility Exterior Noise Analysis	10/12/22
A.50	1	E.4 Flysheet	10/12/22
A.51	4	E.4 Potential Local Impacts of Facility Operation	10/12/22
A.52	1	E.5 Flysheet	10/12/22
A.53	8	E.5 Filtration Facility Odor Considerations	10/12/22
A.54	1	E.6 Flysheet	10/12/22
A.55	41	E.6 Hazardous Materials Management Plan	10/12/22
A.56	1	E.7 Flysheet	10/12/22
A.57	3	E.7 Potential Discharges to Johnson Creek	10/12/22
A.58	1	E.8a Flysheet	10/12/22
A.59	2	E.8a Oregon Department of Fish and Wildlife Communication	10/12/22
A.60	1	E.8b Flysheet	10/12/22
A.61	1	E.8b Oregon Department of Fish and Wildlife Deer & Elk Habitat Map	10/12/22

A.62	1	F.1 Flysheet	10/12/22
A.63	20	F.1 Exterior Site Lighting Analysis Finish Water Intertie Facility	10/12/22
A.64	1	F.2 Flysheet	10/12/22
A.65	10	F.2 Preliminary Acoustical Analysis of the Facility Pipeline Finished Water Intertie	10/12/22
A.66	1	G.1 Flysheet	10/12/22
A.67	8	G.1 Raw Water Pipeline Wildlife Conservation Plan	10/12/22
A.68	1	G.2 Flysheet	10/12/22
A.69	7	G.2 Distribution Main Wildlife Conservation Plan	10/12/22
A.70	1	G.3 Flysheet	10/12/22
A.71	5	G.3 Draft Inadvertent Discovery Plan for Cultural Resources	10/12/22
A.72	1	H.1 Flysheet	10/12/22
A.73	499	H.1 Filtration Facility Stormwater Drainage Report	10/12/22
A.74	1	H.2 Flysheet	10/12/22
A.75	61	H.2 Finished Water Intertie Stormwater Report – 17 pages a. Appendix A – 7 pages b. Appendix B References – 14 pages c. Appendix C Calculation Results – 12 pages d. Appendix D Conveyance Calculations – 5 pages e. Appendix E Operations & Maintenance – 3 pages f. Appendix F Stormwater Certificate Form – 3 pages	10/12/22
A.76	1	H.3 Flysheet	10/12/22
A.77	117	H.3 Pipelines Stormwater Report – 17 pages a. Appendix A: Figures – 4 pages b. Appendix B: Stormwater Drawings – 12 pages c. Appendix C: References – 35 pages d. Appendix D: Calculations – 43 pages e. Appendix E: Operations & Maintenance – 3 pages f. Appendix F: Stormwater Certification Form – 3 pages	10/12/22
A.78	1	H.4 Flysheet	10/12/22
A.79	6	H.4 Stormwater Drainage Control Certification – Bull Run Filtration Facility – 2 pages a. Stormwater Drainage Control Cert. - Finished Water Intertie Site – 2 pages b. Stormwater Drainage Control Cert. – Filtration Pipelines – 2 pages	10/12/22

A.80	1	I.1 Flysheet	10/12/22
A.81	2	I.1a Filtration Facility Geotechnical Engineering Summary	10/12/22
A.82	2	I.1b Raw Water Pipelines Geotechnical Engineering Summary	10/12/22
A.83	2	1.1c Finished Water Pipelines Geotechnical Engineering Summary	10/12/22
A.84	1	I.2 Flysheet	10/12/22
A.85	4	I.2 Raw Water Pipeline Alternatives from Lusted Road to Filtration Facility	10/12/22
A.86	1	I.3 Flysheet	10/12/22
A.87	13	I.3 Raw Water Pipelines Geologic Hazards Permit Form – 1 page a. Key Plan for Forms – 2 pages b. Raw Water Pipeline – Tunnel within Geologic Hazard Zone – Form B – 2 pages c. Geologic Hazards Permit Form 1 – 5 pages d. Plans – 3 pages	10/12/22
A.88	1	I.4 Flysheet	10/12/22
A.89	18	I.4 Lusted Road Distribution Main Geologic Hazards Permit Form – 1 page a. Key Plan for Forms – 3 pages b. Finished Water Pipeline – LRDM within Geologic Hazard Zone – Form A – 1 page c. Geologic Hazards Permit Form -1 – 4 pages d. Geologic Hazards Permit Application Additional Responses – 2 pages e. Bull Run Filtration Pipelines Project Geohazard Area Exhibits – 7 pages	10/12/22
A.90	1	J.1 Flysheet	10/12/22
A.91	2	J.1 Gravel Road Emergency Vehicle Support	10/12/22
A.92	1	K.2 Flysheet	10/12/22
A.93	122	K.2 Current Title Reports	10/12/22
A.94	8	K.3a Filtration Facility Property Deeds	10/12/22
A.95	1	K.3b Flysheet	10/12/22
A.96	78	K.3b Finished Water Pipelines Property Deeds	10/12/22
A.97	1	K.3c Flysheet	10/12/22
A.98	34	K.3c Raw Water Pipelines Property Deeds	10/12/22

A.99	1	K.4a Flysheet	10/12/22
A.100	2	K.4a Historic Imagery Filtration Facility	10/12/22
A.101	1	K.4b Flysheet	10/12/22
A.102	3	K.4b Historic Imagery Raw Water Pipelines	10/12/22
A.103	1	K.5 Flysheet	10/12/22
A.104	2	K.5 Partition Plats – Partition Plat 1991-111 a. Edgewater Subdivision Plat	10/12/22
A.105	1	K.6 Flysheet	10/12/22
A.106	1	K.6 Historic Zoning Maps 1S4E23C-1400 and 1500	10/12/22
A.107	1	L.1 Flysheet	10/12/22
A.108	1	L.1 Multnomah County Sheriff's Office Facility Will Serve Form	10/12/22
A.109	1	L.2 Flysheet	10/12/22
A.110	1	L.2 Multnomah County Sheriff's Office Intertie Will Serve Form	10/12/22
A.111	1	L.3 Flysheet	10/12/22
A.112	1	L.3 Clackamas County Sheriff's Office Will Serve Letter	10/12/22
A.113	1	L.4 Flysheet	10/12/22
A.114	1	L.4 Sandy Fire District 72 Will Serve Letter	10/12/22
A.115	1	L.5a Flysheet	10/12/22
A.116	1	L.5a Portland General Electric Facility Will Serve Letter	10/12/22
A.117	1	L.5b Flysheet	10/12/22
A.118	1	L.5b Portland General Electric Intertie Will Serve Letter	10/12/22
A.119	1	L.6 Flysheet	10/12/22
A.120	1	L.6 M.V.S. & Recycling Services Will Serve Letter	10/12/22
A.121	1	L.7 Flysheet	10/12/22
A.122	2	L.7 Zply Fiber Will Serve Letter	10/12/22
A.123	1	L.8 Flysheet	10/12/22
A.124	24	L.8 Septic Review Certification	10/12/22
A.125	1	L.9 Flysheet	10/12/22
A.126	3	L.9a Portland Water Bureau Facility Will Serve Letter	10/12/22
A.127	1	L.9b Pleasant Home Water District Intertie Certification of Water Service	10/12/22

A.128	2	L.9c Pleasant Home Water District Certification of Water Service	10/12/22
A.129	1	L.10 Flysheet	10/12/22
A.130	14	L.10 Fire Service Agency Review a. Mult. Rural Fire Protection Dist. #10 9/21/22 – 5 pages b. Gresham Fire / District #10 dated 7-12-2022 – 9 pages	10/12/22
A.131	1	M.1 Flysheet	10/12/22
A.132	8	M.1 Design Report	10/12/22
A.133	1	M.2 Flysheet	10/12/22
A.134	1	M.2 Bull Run Tower Design Drawing	10/12/22
A.135	1	M.3 Flysheet	10/12/22
A.136	1	M.3 Bull Run Tower Foundation Design	10/12/22
A.137	1	M.4 Flysheet	10/12/22
A.138	15	M.4 Communication Tower Design Calculations	10/12/22
A.139	1	M.5 Flysheet	10/12/22
A.140	2	M.5 Design Criteria and Failure Modes for Valmont Communication Towers	10/12/22
A.141	1	M.6 Flysheet	10/12/22
A.142	4	M.6 Federal Aviation Administration Determination of No Hazard to Air Navigation	10/12/22
A.143	1	M.7 Flysheet	10/12/22
A.144	5	M.7 Oregon Department of Aviation Comments Regarding Construction or Alteration of an Antenna Tower	10/12/22
A.145	1	M.8 Flysheet	10/12/22
A.146	1	M.8 Federal Communications Commission Radio Station Authorization	10/12/22
A.147	1	M.9a Flysheet	10/12/22
A.148	2	M.9a Microwave Path Survey Interpretation Memo	10/12/22
A.149	1	M.9b Flysheet	10/12/22
A.150	29	M.9b Microwave Path Survey Report	10/12/22
A.151	1	M.10 Flysheet	10/12/22
A.152	2	M.10 Proposed Tower for Bull Run Filtration Facility Ice Hazards and Mitigation Measures	10/12/22
A.153	1	M.11 Flysheet	10/12/22

A.154	9	M.11 Proposed Bull Run Filtration Tower NIER Study	10/12/22
A.155	64	N.1 Resumes	10/12/22
A.156	1	O.1 Flysheet	10/12/22
A.157	31	O.1 Study Area Images	10/12/22
A.158	1	O.2 Flysheet	10/12/22
A.159	23	O.2a 2022-15566 Pre-Application Conference Notes	10/12/22
A.160	10	O.2b 2022-15566 PWB Bull Run Filtration Project Transportation Comments	10/12/22
A.161	1	O.3 Flysheet	10/12/22
A.162	122	O.3 Prior Land Use Decisions a. T3-2017-7661 – 28 pages b. T3-2019-11784 – 67 pages c. T3-2013-2935 – 17 pages d. T3-2019-11560 – 7 pages	10/12/22
A.163	15	Bull Run Filtration Land Use Completeness Response Narrative	1/27/23
A.164	4	Attachment E.1 Geologic Hazards Permits Narrative	1/27/23
A.165	8	Attachment K.1a Cathodic Protection Rectifiers Narrative (Revised, see Exhibit A.209)	1/27/23
A.166	3	Attachment A.1a Legal Lot Deed	1/27/23
A.167	2	Attachment A.1b Legal Lot Map	1/27/23
A.168	3	Attachment A.2a Contract 1971	1/27/23
A.169	2	Attachment A.2b Contract Assignment 1975	1/27/23
A.170	1	Attachment B.1 Resume Adam Jenkins PE INCE	1/27/23
A.171	1	Attachment B.1 Resume Justin Morgan INCE	1/27/23
A.172	14	Attachment B.1 Acoustic Baseline Measurement	1/27/23
A.173	1	B.1 Flysheet	1/27/23
A.174	1	C.1 Flysheet	1/27/23
A.175	9	Attachment C.1 Pre-Construction Ambient Sound Level Measurement	1/27/23
A.176	7	Attachment D.1 Antennae Data Sheets	1/27/23
A.177	2	Attachment D.2 Tower Drawing with Antennae	1/27/23
A.178	2	Attachment D.3 Tower Antennae Locations	1/27/23
A.179	1	E.2 Flysheet	1/27/23

A.180	55	Attachment E.2 Responses to County Comments on Geologic Hazards Permits	1/27/23
A.181	1	F.1 Flysheet	1/27/23
A.182	6	Attachment F.1 Landscape Drawing Sheets	1/27/23
A.183	3	Attachment G.2 Ancillary Building Drawing Sheets	1/27/23
A.184	2	Attachment G.3 Tower Area Drawing Sheet (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.185	3	Attachment H.1 Appurtenances and Grading Drawing Sheets (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.186	2	Attachment H.2a Intertie Yard Setbacks	1/27/23
A.187	2	Attachment H.2b Intertie Site Plan Drawing Sheet (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.188	2	Attachment H.2c Intertie Landscape Drawing Sheet (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.189	2	Attachment H.2d Intertie Model View Lusted Road (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.190	2	Attachment H.2e Intertie Model View Lusted Road (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.191	2	Attachment H.2f Intertie Model View Lusted Road (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.192	2	Attachment H.2g Intertie Model View Farm Road (<i>Revised, see Exhibit A.214</i>)	1/27/23
A.193	1	I.1 Flysheet	1/27/23
A.194	7	Attachment I.1 Pipeline SEC Drawing Sheets	1/27/23
A.195	2	Attachment I.2 Multnomah Connection Proposed Ground Disturbance	1/27/23
A.196	1	J.2 Flysheet	1/27/23
A.197	2	Attachment J.2a Stormwater Drainage Control Certificate Facility	1/27/23
A.198	2	Attachment J.2b Stormwater Drainage Control Certificate Intertie	1/27/23
A.199	2	Attachment J.2c Stormwater Drainage Control Certificate Pipelines	1/27/23
A.200	3	Attachment J.6 Existing Retaining Wall	1/27/23
A.201	26	Attachment J.7a Pipeline Drawing Sheets Site Plans (<i>Revised, see Exhibit A.214</i>)	1/27/23

A.202	7	Attachment J.7b Pipeline Drawing Sheets Architectural Plans	1/27/23
A.203	7	Attachment J.7c Pipeline Drawing Sheets Civil Plans	1/27/23
A.204	3	Attachment K.1b Agricultural Review of Cathodic Protection Rectifiers	1/27/23
A.205	1	K.3a Flysheet	1/27/23
A.206	8	Attachment K.3a Off-site Improvements Drawing Sheets	1/27/23
A.207	7	Attachment K.3b Off-site Grading and Paving Drawing Sheets	1/27/23
A.208	8	Attachment K.3c Off-site Roadway Plan and Profile Drawing Sheets	1/27/23
A.209	8	Revised Attachment K.1a Cathodic Protection Rectifiers Narrative_2.23.	2/24/23
A.210	2	Response to County questions - T3-2022-16220	2/24/23
A.211	1	A.1a Flysheet	3/20/23
A.212	42	<p>Appendix A.1a Site Plans Cover Pages – pg 1 - 4</p> <p>a. Cover Sheet – LU – 101 pg. 5</p> <p>b. Vicinity and Zoning Map - LU-102 pg. 6</p> <p>c. Existing Conditions Plan – LU- 301 pg. 7</p> <p>d. Proposed Conditions Site Plan LU-302 pg. 8</p> <p>e. Utility Plan LU-303 pg. 9</p> <p>f. Grading Plan LU-304 pg. 10</p> <p>g. Facility Circulation Map LU-305 pg. 11</p> <p>h. Landscape Plan LU-306 pg. 12</p> <p>i. Stormwater Management Plan – Filtration Facility LU-307 pg. 13</p> <p>j. Facility Enlargement 1 LU-400 pg. 14</p> <p>k. Facility Enlargement 2 LU-401 pg.15</p> <p>l. Tower Area Enlargement 2 LU-402 pg. 16</p> <p>m. Signs LU-403 pg. 17</p> <p>n. Stormwater Planting LU-404 pg. 18</p> <p>o. Roadway Typical Section LU-405 pg. 19</p> <p>p. Roadway Typical Section-2 LU-406 pg. 20</p> <p>q. Pond Section Details LU-407 pg. 21</p> <p>r. Flow Control Maintenance Hole Details LU-408 pg. 22</p> <p>s. Plant Species and Sizes LU-409 pg. 23</p> <p>t. Planting Details LU-410 pg. 24</p> <p>u. Storm Details 1 Gen-C-920 pg. 25</p> <p>v. Storm Details 4 Gen-C-923 pg. 26</p> <p>w. Attachment B: Lighting Plans Cover Sheet pg. 27</p> <p>x. Site Lighting Key Plan E-322 pg. 28</p> <p>y. Lighting & Receptacle Plan – Grid 1 E-323 pg. 29</p> <p>z. Lighting & Receptacle Plan – Grid 2 E-324 pg. 30</p>	3/20/23

		aa. Lighting & Receptacle Plan – Grid 3 E-325 pg. 31 bb. Lighting & Receptacle Plan – Grid 4 E-326 pg. 32 cc. Lighting & Receptacle Plan – Grid 5 E-327 pg. 33 dd. Lighting & Receptacle Plan – Grid 6 E-328 pg. 34 ee. Lighting & Receptacle Plan – Grid 7 E-329 pg. 35 ff. Lighting & Receptacle Plan – Grid 8 E-330 pg. 36 gg. Lighting & Receptacle Plan – Grid 9 E-331 pg. 37 hh. Lighting & Receptacle Plan – Grid 10 E-332 pg. 38 ii. Lighting & Receptacle Plan – Grid 11 E-333 pg. 39 jj. Lighting Schedule – 1 Gen-E-140 pg. 40 kk. Lighting Schedule – 2 Gen-E-141 pg. 41 ll. Lighting Schedule – 3 Gen E-142 pg. 42	
A.213	1	A.2a Flysheet	3/24/23
A.214	26	Appendix A.2a Site Plans Cover Pages – pg. 1-3 a. Cover Sheet LU-000 pg. 4 b. Key Map LU-001 pg. 5 c. Zoning Map LU-002 pg. 6 d. Raw Water Pipeline Existing Conditions Grid 1, 2, & 3 LU-100 pg. 7 e. Finished Water Pipeline Existing Conditions Grid 4 & 5 LU-102 pg. 8 f. Finished Water Pipeline Existing Conditions Grid 6 & 7 LU-103 pg. 9 g. Finished Water Pipeline Existing Conditions Grid 8 & 9 LU-104 pg. 10 h. Finished Water Pipeline Existing Conditions Grid 10 & 11 LU-105 pg. 11 i. Finished Water Pipeline Existing Conditions Grid 12 & 13 LU-106 pg. 12 j. Finished Water Pipeline Existing Conditions Grid 14 & 15 LU-107 pg. 13 k. Finished Water Pipeline Existing Conditions Grid 16 LU-108 pg. 14 l. Raw Water Pipeline Proposed Conditions Grid 1, 2 & 3 LU-200 pg. 15 m. Finished Water Pipeline Proposed Conditions Grid 4 & 5 LU-201 pg. 16 n. Finished Water Pipeline Proposed Conditions Grid 6 & 7 LU-202 pg. 17 o. Finished Water Pipeline Proposed Conditions Grid 8 & 9 LU-203 pg. 18 p. Finished Water Pipeline Proposed Conditions Grid 10 & 11 LU-204 pg. 19 q. Finished Water Pipeline Proposed Conditions Grid 12 & 13 LU-205 pg. 20	3/24/23

		r. Finished Water Pipeline Proposed Conditions Grid 14 & 15 LU-206 pg. 21 s. Finished Water Pipeline Proposed Conditions Grid 16 LU-207 pg. 22 t. Finished Water Intertie Typical Appurtenance LU-208 pg. 23 Finished Water Intertie Site Plan LU-500 pg. 24 Finished Water Intertie Landscape Plan LU-501 pg. 25 Finished Water Intertie Visualizations LU-502 pg. 26	
A.215	1	Bull Run Filtration Pipelines Stormwater Report Addendum	3/28/23
A.216	1	T3-2022-16220 3-24-23 Memo	3/28/23
A.217	32	1.C Communications Tower Conditional Use and Design Review Application Narrative April 2023	4/18/23
A.218	2	Email re Bldg. Permits for Lusted Hill Distribution Main	4/27/23
A.219	2	T3-2022-16220 4-28-23 Memo	5/1/23
A.220	1	T3-2022-16220 4-28-23 Certification of Water Service	5/1/23
A.221	1	T3-2022-16220 4-28-23 Location of Drain Fields on Raw Water Pipeline Properties	5/1/23
A.222	1	T3-2022-16220 5-3-23 Memo	5/4/23
A.223	1	T3-2022-16220 5-3-23 Tower Supplemental Attachment 1	5/4/23
A.224	1	T3-2022-16220 5-3-23 Tower Supplemental Attachment 2	5/4/23
A.225	4	T3-2022-16220 5-8-23 Response to Fire District 10 Comments	5/9/23
A.226	220	Appendix - Traffic Count Data	5/9/23
A.227	26	Bull Run Filtration Construction Traffic Impact Analysis	5/9/23
A.228	1	LRDM and SEC	6/2/23
A.229	1	LU-200 Symbology Clarification	6/2/23
A.230	386	Updated Construction Traffic Impact Analysis	6/2/23
'B'	#	Staff Exhibits	Date
B.1	1	1962 - 10.5.1977 Zoning 1S4E22	5/1/23
B.2	2	Zoning Districts ZO 1974-5-17	5/1/23
B.3	1	F2 Zone 1974-5-17	5/1/23
B.4	1	Current Tax Map 1S4E22D	5/1/23
B.5	1	Warranty Deed B1025 P516	5/1/23
B.6	3	Parcel Record Card for R994220930	5/1/23

B.7	9	T2-2010-1052 Decision	5/1/23
B.8	11	T2-2015-4092	5/1/23
B.9	1	Partition Plat 1991-111	5/1/23
B.10	1	Edgewater Subdivision Plat 1912	5/1/23
B.11	35	T3-06-003 Hearing Officer Decision	5/1/23
B.12	1	County Engineer Letter regarding Paving Exception	5/16/23
B.13	36	Transportation Planning Memorandum to Hearings Officer	6/14/23
B.14	1	Probability of Liquefaction Map	6/14/23
B.15	1	Earthquake Damage Potential Map	6/14/23
B.16	35	Revised Transportation Planning Memorandum	6/22/23
'C'	#	Procedural Exhibits	Date
C.1	6	T3-2022-16220 Incomplete Letter 11.10.2022	11/10/22
C.2	1	T3-2022-16220 Applicant Response Letter 11.15.2022	11/15/22
C.3	1	T3-2022-16220 Complete Letter 02.28.2023	2/28/23
C.4	5	T3-2022-16220 OTC 03.31.2023	3/31/23
C.5	24	T3-2022-16220 Public Hearing Notice mailed June 8, 2023 – 4 pages a. Oregonian Ad published June 9, 2023 – 2 pages b. Transportation Email regarding Posting of Signs in R.O.W. on June 15, 2023 – 11 pages c. Hearing Notice Mailing List – 5 pages d. Proof of Mailing of Hearing Notice – June 8, 2023 – 2 page	6/22/23
C.6	16	Evidence of Notice Posting	6/22/23
'D'	#	Public Comments	Date
D.1	28	Fire District 10 Comments 1.03.2023	1/3/23
D.2	2	GBSD Email rec'd 3.3.23	3/3/23
D.3	1	GBSD PWB Water Treatment Plant Opposition Resolution SIGNED rec'd 3.3.23	3/3/23
D.4	1	Nerison Comment 3.6.23	3/6/23
D.5	2	Ekstrom Comment dated 3.14.23 rec 3.21.23	3/21/23
D.6	2	Surface Nursery - Farm Impacts Letter 4.4.23	4/4/23
D.7	1	Kost Comment 4.17.23	4/17/23

D.8	2	Swinford Comment 4.17.23	4/17/23
D.9	1	Allott Comment rec 4.21.23	4/21/23
D.10	1	Cottrell Community Planning Organization Comment rec 4.21.23	4/21/23
D.11	1	Cottrell CPO Email submitting Resolutions rec 4.21.23	4/21/23
D.12	1	Cottrell CPO Resolution rec 4.21.23	4/21/23
D.13	1	PHCA Comments - PWB water plant rec 4.21.23	4/21/23
D.14	1	PHCA Resolution rec 4.21.23	4/21/23
D.15	1	Gale – Bacon Comment rec 5.2.23	5/2/23
D.16	1	Gresham Fire and Emergency Services Comment rec 6.5.23	6/6/23
D.17	2	Oregon Health Authority Comment rec 6.12.23	6/12/23
D.18	1	Grahn Comment rec 6.12.23	6/12/23
D.19	1	Wilson Comment rec 6.12.23	6/12/23
D.20	3	Oregon Trail School District Comment rec 6.12.23	6/12/23
D.21	1	Jessen Comment rec 6.14.23	6/14/23
D.22	3	Oregon Trail School District Comment Addendum rec 6.14.23	6/14/23
D.23	1	Woodward Comment rec 6.19.23	6/20/23