

NOTICE OF DECISION

Case File: T2-2021-14565

Permit: Geologic Hazards

Applicants: Anthony DiBenedetto

Owners: Anthony & Anna DiBenedetto,
Susan Rivard-DiBenedetto

Subject 1300 NW 53rd Drive, Portland

Property ID #: R223157, R223151

Site: **Map, Tax Lot:** 1N1E31AB -00800, 1N1E31AB -00100

Alternate Account #: R590301110, R590300610

Base Zone: Commercial Forest Use –2 (CFU-2)

Overlays: Significant Environmental Concern – Wildlife Habitat (SEC-h); Geologic Hazards (GH)

Proposal Summary: Applicant requests a modification to a previously approved Geologic Hazards permit (case no. T2-2020-12986). The requested modification relocates the previously proposed location of the in-ground swimming pool to comply with a PGE power line easement. No modifications to the previously approved SEC-h permit are proposed.

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is October 21, 2021 at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for digital review. Copies of all documents are available at the rate of \$0.40/per page. For further information, contact Chris Liu, Staff Planner via email at chris.liu@multco.us

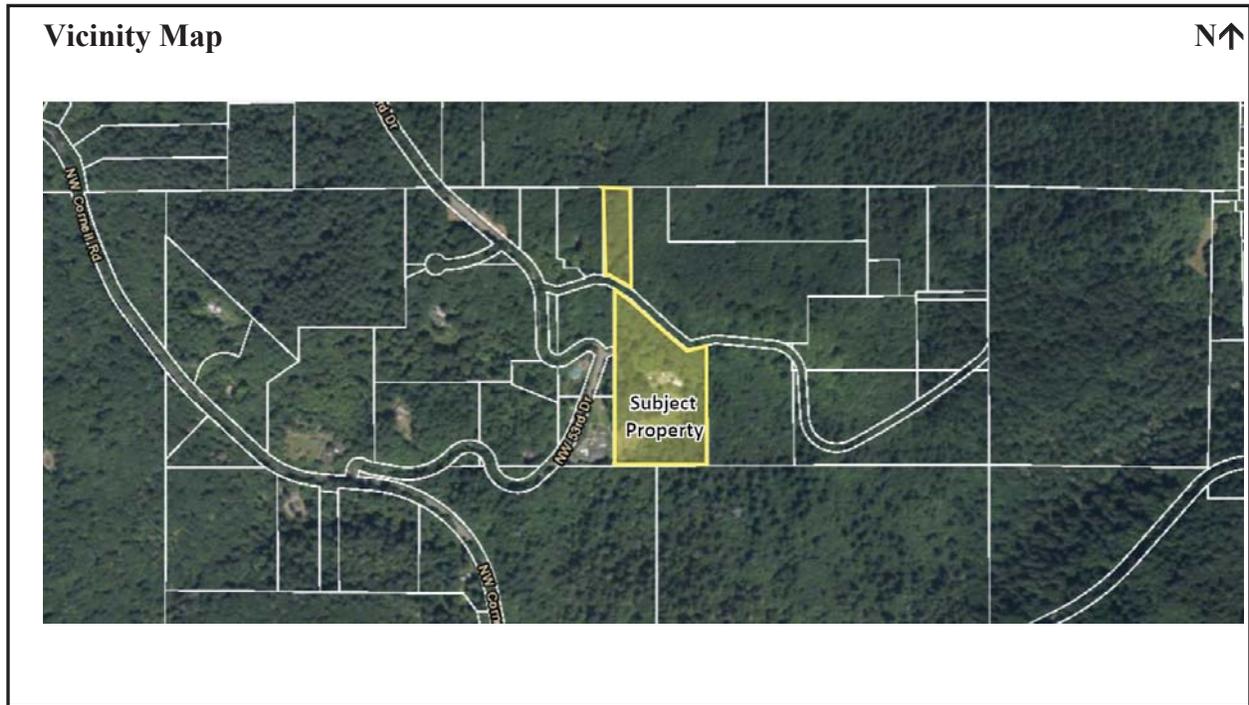
Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 503-988-3043. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by: _____

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Thursday, October 7, 2021



Applicable Approval Criteria

Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3030 Lot of Record – (CFU-2), MCC 39.6850 Dark Sky Lighting Standards

CFU-2 Zone: MCC 39.4070 Allowed Uses – (T) Accessory Structures within 100 ft. of a dwelling, MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for Dwellings and Structures

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

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

Chapter 39 - Zoning Code

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which 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.

1. Permit Expiration – This land use permit shall **expire** as follows:
 - a. **Within four (4) years** of the date of the final decision for residential development on land zoned for Commercial Forest Use outside of an urban growth boundary when construction has not commenced.
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - ii. For purposes of Condition 1.a.i, notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - b. Within four years of the date of commencement of construction when the structure has not been completed.
 - i. For the purposes of Condition 1.b, completion of the structure 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 property owner shall provide building permit status in support of completion of exterior surfaces of the structure 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. [MCC 39.1185]

Note #1: This revised/new Geologic Hazard permit does not extend the expiration date for T2-2020-12986 for the Significant Environmental Concern for wildlife habitat permit. The property owner must demonstrate compliance, as appropriate, with the conditions of approval in this and T2-2020-12986 land use decisions.

Note #2: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

2. Prior to land use sign-off for building plan check, the property owners or their representative shall:
 - a. The property owners shall acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to Chris Liu at chris.liu@multco.us. [MCC 39.1170(A) & (B)]
 - b. All exterior lighting associated with the in-ground pool shall be shown on the site plan. Lighting details and model #s for the proposed lighting shall be shown in the building plan set. The proposed light fixtures shall be in compliance with the County’s Dark Sky Lighting Standards of MCC 39.6850.
 - i. A Lighting Plan shall be provided that shows the location of all proposed and existing exterior light fixtures on the property. Photos of each light fixture shall be provided for documentation purposes.
3. All on-going conditions from land use case #T2-2021-12986 continue to be in effect including:

- a. The property owner and all future property owners shall establish and maintain a primary fire safety zone extending a minimum of 30 feet in all directions around the dwelling. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height. [MCC 39.4110(D)]
- b. The required primary fire safety zones shall be established within the subject tract. [MCC 39.4110(D)]
- c. 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. [MCC 39.5860(B)(7)]
- d. All ground disturbing activity shall be confined to the period between May 1st and October 1st of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October 1st the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December 1st the same year the development was begun. [MCC 39.5090(U)]
- e. 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. [MCC 39.5090(H)]
- f. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development. [MCC 39.5090(J)]
- g. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical. [MCC 39.5090(L)]
- h. 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. [MCC 39.5090(M)].
- i. Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized. [MCC 39.5090(N)]
- j. 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. [MCC 39.5090(O)]
- k. 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 [MCC 39.5090(R)]:
 - (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.
- l. 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. [MCC 39.5090(S)]

- m. 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. [MCC 39.5090(T)]
4. The required trees and shrubs in condition #13 from land use case #T2-2018-10544 shall be maintained in a living state. If they are removed, become diseased, or die, the tree(s) and/or shrubs removed shall be replaced with the same or similar species native tree of at least 6-ft tall or 5-gallon similar species native shrub. Replanting shall occur within the next planting season.

Note: Condition #13 stated, "The applicant shall plant 13 native tree species and 10 native shrub species as illustrated on the mitigation plan (Exhibit A.16.) by December 1, 2019. The trees shall be a minimum of 6-ft. tall at time of planting. The shrubs shall be of at least 5-gallon size."

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

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

Findings of Fact

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

1.0 Project Description:

Staff: In land use case, T2-2020-12986, the Applicant requested to amend a previous Significant Environmental Concern for wildlife habitat (SEC-h) and Geologic Hazards (GH) permit for a garage/shop/personal yoga studio addition to the existing single-family dwelling and an in-ground swimming pool adjacent to the addition. For this land use request, the Applicant is proposing to relocate the in-ground swimming pool to accommodate a PGE easement. This application only amends the Geologic Hazards permit. No revisions to the Significant Environmental Concern for wildlife habitat permit is proposed. No other changes to the previous approval are proposed.

2.0 Property Description & History:

Staff: The subject tract consisting of the properties identified as 1N1E31AB-00800 and 1N1E31AB-00100 is located in the West Hills Rural plan area in West Multnomah County. The subject tract is adjacent to Forest Park in the City of Portland boundaries. Existing development includes a two-story dwelling. The dwelling is in a relatively flat area of the tract with slopes less than 10 percent. South of the dwelling, the slopes become steep and exceed 25 percent.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 (Exhibit C.2). Staff did not receive any public comments during the 14-day comment period.

4.0 General Provisions:

4.1 § 39.1515 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 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:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

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.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

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. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

For purposes of the current application, staff is not aware of any open compliance cases on the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *Criteria met.*

4.2 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

MCC 39.3030 Lot of Record – CFU-2

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-2 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

Staff: Land Use case # T2-2011-1953 found that the subject property is a Lot of Record as currently configured. The finding stated that, “Together Tax Lots 800 and 100 (as previously described) are both currently in the applicants’ ownership and are aggregated as one lot of record”. The configuration and ownership remains the same as noted in the 2011 decision (Exhibits B.1 & B.2). Therefore, the subject property remains a Lot of Record. *Criteria met.*

5.0 CFU-2 Zone Criteria:

5.1 MCC 39.4070 Allowed Uses

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

(T) Accessory Structures subject to the following:

(1) The accessory structure is customarily accessory or incidental to any use permitted or approved in this base zone, is located within 100 feet of the dwelling and is a structure identified in the following list:

(i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;

Staff: The proposal amends the location of the in-ground swimming pool (Exhibit A.3), which will be located adjacent to the single-family dwelling. Following the proposed revision, the swimming pool will continue to be located in a non-forested area.

Land use case #T2-2020-12986 authorized the previous proposed location for the in-ground swimming pool. As the current proposal contains modifications to the previous land use case, new land use review is required. *Criteria met.*

5.2 MCC 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: As evidenced by the submitted preliminary building elevations (Exhibit A.5), the proposed in-ground swimming pool is under 35 feet in height. *Criteria met.*

5.3 MCC 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:

Use	Forest Practice Setbacks			Fire Safety Zones
	Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)
Accessory Structures within 100 ft. of the dwelling	N/A	30	30	Primary required

(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 39.4155 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

(C) The minimum forest practices setback requirement shall be increased where the setback 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 setback requirements in consultation with the Road Official.

Staff: Per the revised site plan submitted as Exhibit A.3, the proposal moves the location of a new accessory structure (pool) within 100 ft. of the dwelling. The new pool location is over 30 feet from all property lines. A primary fire safety zone of 30 feet around the pool structure is required. The applicant did not request a reduction to the Forest Practices Setback or an Exception to the Secondary Fire Safety Zone. County Transportation has indicated they have sufficient right-of-way, so no additional setbacks are required (Exhibit A.11). *Criteria met.*

5.4 (D) Fire Safety Zones on the Subject Tract.

(1) Primary Fire Safety Zone.

(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended farther down the slope from a dwelling or structure as follows:

(c) The building site must have a slope less than 40 percent.

(2) Secondary Fire Safety Zone. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required

for any dwelling or structure may be reduced under the provisions of MCC 39.4155.

(3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

Staff: A primary fire safety zone is required. A secondary fire safety zone is not required per Table 1 above. Conditions of approval are included to ensure compliance with (4) and (5) above. *As conditioned, the above criteria are met.*

5.5 MCC 39.4115 Development Standards for Dwellings and Structures

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

(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 in-ground pool is not a mobile home and does not contain a roof structure. The in-ground pool is a structure and must obtain a building permit for its construction. No exterior lighting is shown on the plans to support the pool. A condition has been included requiring that any new exterior lighting for the pool or for the property be in compliance with the Dark Sky Lighting Standards of MCC 39.6850. *As conditioned, the above criteria are met.*

6.0 Geologic Hazards Permit Criteria:

6.1 MCC 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 proposed pool location is on land located in a Geologic Hazard overlay. The project does not qualify for one of the listed exemptions. Therefore, a Geologic Hazards (GH) permit is required. Approval criteria for the GH permit are discussed below. *Criteria met.*

6.2 MCC 39.5085 Geologic Hazards Permit Application

An application for a Geologic Hazards Permit shall include two copies of each of the following:

Staff: The Applicant provided the required application materials in Exhibits A.1 – A.12.

6.3 MCC 39.5090 Geologic Hazards Permit Standards

A Geologic Hazards (GH) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(A) The total cumulative deposit of fill on the site for the 20-year period preceding the date of the application for the GH permit, and including the fill proposed in the GH permit application, shall not exceed 5,000 cubic yards. 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.

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

(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: Per the revised report from the Applicant’s Geotechnical Engineer (Exhibit A.9), the proposed level of ground disturbance remains the same. No slopes will exceed 33 percent grade per the Applicant’s submitted materials. *Criteria met.*

6.4 (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.

(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.

(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: Per the Applicant's submitted materials, the proposal does not include unsupported cuts/fills between 1- 4 ft. in height (Exhibit A.9 – A.10). The proposal does not include fill near a water body as neighboring streams are over 500 feet to the east and north. The subject property is located in the West Hills and is not located on Sauvie Island. *Criteria met.*

6.5 (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: The subject property is within the Balch Creek watershed and drains to the Willamette River Basin. Therefore, as the subject property is not located with the Tualatin River Drainage Basin, the above criterion does not apply. *Criterion not applicable.*

6.6 (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.

(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: As described in the report completed by the Applicant's Geotechnical Engineer (Exhibit A.9), the proposed development is in areas that are fairly level and were previously graded, graveled, or covered with concrete. Therefore, cuts and fills are limited to ensure that the proposed development does not create significant new impervious surface for the site. *Criterion met.*

Criterion (H) was included as a condition of approval for the previous decision. Staff incorporated that condition of approval into the current decision. *As conditioned, this criterion is met.*

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

(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).

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

Staff: The proposal does not include work within 100 ft. of a stream, water body, or wetland. Conditions of approval requiring compliance with (J) and (L) above are included in this decision. *As conditioned, the above criteria are met.*

6.8 (M) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary.

(N) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized.

(O) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding.

Staff: Conditions of approval requiring compliance with (M), (N), and (O) above are included in this decision. *As conditioned, the above criteria are met.*

6.9 (P) All drainage measures shall be designed to prevent erosion and adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural water bodies, drainage swales, or an approved drywell system.

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

Staff: Gutters and splash blocks handle stormwater onsite. The applicant does not propose any drainage swales. *Criteria met.*

6.10 (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.**

(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;

(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 above requirements are conditions of approval for this decision. *As conditioned, the above criteria are met.*

- 6.11 (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: As the subject property is within the Balch Creek drainage basin, a condition of approval requires ground disturbing activity to be confined to the period between May 1st and October 1st. *As conditioned, the above criterion is met.*

- 6.12 (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.**

(W)The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes, unless mitigated as approved by the County Transportation Division.

(X) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way.

(Y) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

Staff: The proposed project does not include any ground disturbing activities within a water body. The proposed project does not include any fill activities; hence, no fill trucks will enter or exit the site and the property owner will not receive any compensation for fill placement.
Criteria met.

7.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the modification to the Geologic Hazards Permit to establish an in-ground swimming pool in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

8.0 Exhibits

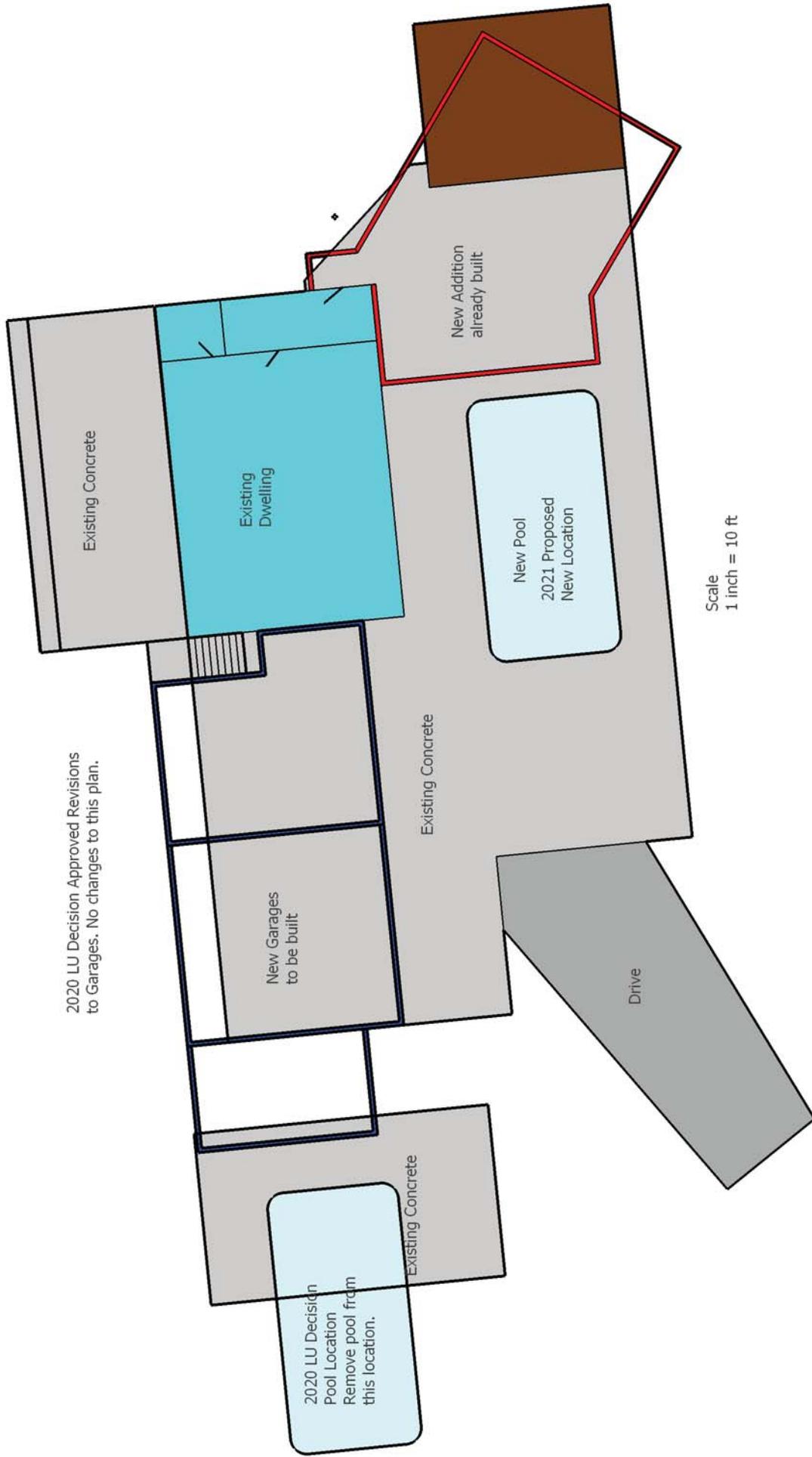
- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2021-14565.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	04.21.2021
A.2	1	Applicant Narrative	04.21.2021
A.3*	2	Revised Site Plans	04.21.2021
A.4	2	Building Plans – Page A1 & A2	04.21.2021
A.5	1	Building Plans – Page A4 Revised	04.21.2021
A.6	16	Building Plans – All Pages	04.21.2021
A.7	6	Fire Service Agency Review	04.21.2021
A.8	3	Tree Planting & Fire Safety Zones	04.21.2021
A.9	5	Revised Geologic Report	04.21.2021
A.10	1	Revised Geologic Hazards Permit Form 1	04.21.2021
A.11	15	Transportation Planning Review	08.04.2021
A.12	1	Revised General Application Form	08.12.2021
'B'	#	Staff Exhibits	Date

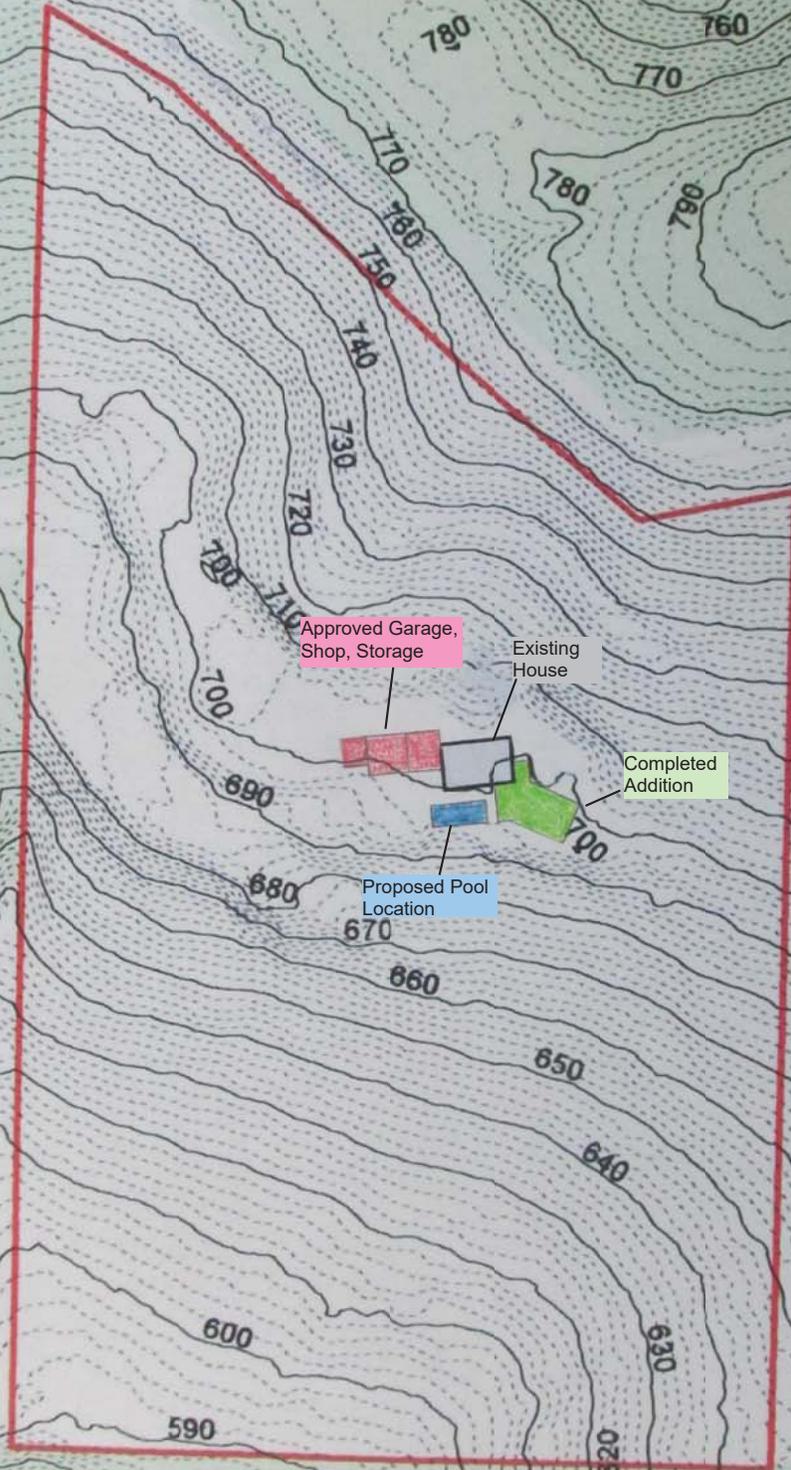
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for Alt Acct# R590301110	04.21.2021
B.2	2	Division of Assessment, Recording, and Taxation (DART): Property Information for Alt Acct# R590300610	04.21.2021
B.3	1	Division of Assessment, Recording, and Taxation (DART): Map for 1N1E31AB	04.21.2021
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	05.19.2021
C.2	5	Opportunity to Comment	08.05.2021
C.3	17	Administrative Decision	10.07.2021

EXHIBIT # 1



1300 NW 53rd Drive

EXHIBIT #2



Approved Garage,
Shop, Storage

Existing House

Completed Addition

Proposed Pool Location

1 Inch = 125 Feet

