

1600 SE 190<sup>th</sup> Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

## NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-2016-6441

**Permit:** Significant Environmental Concern

**Location:** Sandy River adjacent to Oxbow Park  
Tax Lot 200, Section 15, and Tax Lot 200, Section 11, Tax Lot 800, Section 10,  
Township 1 South, Range 4 East, W.M.  
Tax Account #R994150020, R994110070 and R994100580

**Applicants:** Metro, c/o Gary Shepherd, Office of Metro Attorney

**Owners:** United States of America, c/o Bureau of Land Management  
and Metro, Parks & Green Spaces

**Base Zone:** Commercial Forest Use (CFU)

**Overlays:** Significant Environmental Concern for water resources (SEC-wr), scenic waterway  
(SEC-sw)

**Summary:** Metro is proposing to construct an emulated landslide and place large log structures along the margin of the Sandy River. In addition, Metro will be placing a second large wood habitat jam. All projects will be comprised of native soil, large logs and boulders. To construct the jam, the area will be excavated and the jam built in layers. Native soil, sand and cobble will be backfilled over the jam to restore natural conditions.

**Decision:** Approved with Conditions

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, June 19, 2017 at 4:00 pm.**

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. 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 Multnomah County Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by:



Lisa Estrin, Planner

For:  Michael Cerbone, AICP Planning Director  
Monday June 5, 2017



**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-0167 or [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@multco.us).

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, June 19, 2017 at 4:00 pm.**

- a. **Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 29.303, MCC 36.2020, MCC 36.4515, MCC 36.4540, MCC 36.4545, MCC 36.4550, MCC 36.4555, MCC 36.4560, MCC 37.0640, MCC 37.0560, MCC 37.0690(B), and (ORS 273.705 and ORS 358.905 to 358.955).

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [multco.us/landuse/zoning-codes](http://multco.us/landuse/zoning-codes) under the link *Chapter 36: West of Sandy River Rural Plan Area*.

## **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.

2. 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.

3. This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(B):

(1) When construction has not commenced within two years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.

(2) When the structure has not been completed within four years of the date of commencement of construction. 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.

The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

4. Prior to excavation of the side channel, the applicant shall identify where the 670+/- cubic yards of excess excavated materials will be disposed of off-site. The disposal site(s) must comply with the County's Grading and Erosion Control regulations of MCC 29.303. [MCC 37.0560]
5. All in-water-work shall be limited to July 15 to August 31<sup>st</sup> in 2017 or 2018, unless the State of Oregon grants an extension to the in-water work period. [MCC 35.4555(F)]
6. If any Cultural Resources and/or Archaeological Resources are located or discovered on the tax lots or within the project area, including finding any evidence of historic campsites, old burial grounds, implements, or artifacts, the following procedures shall be implemented:
- a. Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
  - b. Notification – The project applicant shall notify the County Planning Director and the State Historic Preservation Office (SHPO) within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours. This includes the Yakama Nation; contact Cultural Specialist for the Cultural Resources Program at: (509) 865-5121 extension 4720; Fax number (509) 865-4664.
  - c. Survey and Evaluation – The applicant shall follow any and all procedures outlined by SHPO and if necessary obtain the appropriate permits (see ORS 273.705 and ORS 358.905 to 358.955).
  - d. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments shall also receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.
  - e. Construction activities may recommence when SHPO requirements are satisfied.



7. The following procedures shall be in effect if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):
  - a. Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
  - b. Notification – Local law enforcement officials, the Multnomah County Planning Director, State Historic Preservation Office and the Indian tribal governments shall be contacted immediately.
  - c. Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
  - d. Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and this protection process may conclude.
  - e. Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760. [MCC 35.4555(H)]
8. Best Management Practices for sediment and erosion control shall be used for the entirety of the project. No ground disturbance shall occur until such time as the grading and erosion control permit is issued by the County. [MCC 35.4555(J)]
9. A post-construction report shall be prepared, stamped and signed by an Oregon Professional Engineer and provided to Multnomah County Land Use Planning within 90 days of completion of the project. The post-construction report shall confirm the project has been completed in compliance with approved designs and all conditions of Multnomah County Land Use Permit T2-2017-6441. Any variation from approved designs or conditions of approval shall be clearly indicated. The post-construction report shall include:
  - a. Dated pre- and post-construction photos taken for the six identified projects marked on Exhibit B.3. The photos should clearly show the site conditions before and after construction.
  - b. A narrative that describes any deviation from the approved plans.
10. The applicant or their representative shall monitor all project sites to determine whether 85% of each type of vegetation (trees, shrubs, ground cover) planted continues to live, thrive and grow for a minimum period of 5 growing seasons after completion of all the initial plantings. Annual monitoring reports are required.
  - a. For any replanted area identified in Exhibit B.3 that falls below the 85% threshold shall be replanted during the next planting season.
  - b. Annual Monitoring Report Due Date: Annual monitoring reports are due by November 30th of each year.
  - c. Extension of the Monitoring Period: The monitoring period may be extended, at the discretion of Land Use Planning, for failure to provide monitoring reports, failure of the site to meet performance standards for two consecutive years (without irrigation or replanting) or when needed to evaluate re-planting or other corrective or remedial actions.

- d. Release of Monitoring Obligation: Monitoring is required until Land Use Planning has officially released the site from further monitoring.
- e. Failure to Submit Monitoring Reports: Failure to submit the required monitoring report by the due date may result in an extension of the monitoring period, forfeiture of the financial security and/ or enforcement action.

11. The annual monitoring report shall include the following information:

- a. The permit number, monitoring date, report year, and a determination of whether the site is meeting performance standard of Condition No. 10.
- b. Post construction photographs of each monitoring area taken within the last 30 day prior to the report date.
- c. A brief narrative that describes maintenance activities and recommendations to meet performance standard. This includes when irrigation occurred and when the above ground portion of the irrigation system was or will be removed from the site.
- d. Any other information necessary or required to document compliance with the performance standard listed in Condition No. 10.

12. The applicant or their contractor's shall not trespass onto or do any modifications to Donald & Beverly Jones' property (1S4E14-00700 & 1S4E14 -00800).

13. The cement sand bags will be removed from the embankment of the Sandy River. The cement bags will not be used as ballast and will be properly disposed of at a licensed facility for recycling or disposal outside of Oxbow Regional Park. [MCC 36.4555(H)]

14. No trees shall be cut or removed as part of the BLM Side Channel or Alder Alcove projects. [MCC 36.4555(D)(2)]

15. Equipment access areas shall be flagged to prevent equipment from deviating from the access paths designated on the plans. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment. [MCC 36.4555(D)(5) & (7)]

**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*.

### **1.00 Project Description:**

**Staff:** The subject application will review two specific projects adjacent to Oxbow Regional Park in the Sandy River. The first project is referred to by the applicant as the BLM Side Channel project. The project will reconnect a small side channel to the Sandy River; that was previously plugged by park personnel. The River will be able to access the unplugged side channel when it has higher flows above the ordinary high water level. The applicant has identified the following improvements to be made as part of this overall project:

- Excavate plug at side channel entrance and re-grade approximately 400 feet of the channel.
- Install an apex log jam at the side channel entrance to increase flows down the side channel
- Install five margin wood structures to the secondary channel.
- Excavated material will be placed above ordinary high water to ballast the log jam.
- Relocate existing trail crossing on side channel upstream to reduce impacts from seasonal vehicle access.
- Install seasonal ford to existing maintenance road to reduce impacts from seasonal access
- Revegetate with native trees and shrubs.

The second project is called the Alder Alcove project. This project will remove a previous armoring project along a portion of the Sandy River. An emulated landslide will be constructed and the outlet of the side channel to provide pool and cover habitat and provide additional bank stability. The applicant has identified the following improvements for the Alder Alcove project:

- Remove concrete sand bag revetment
- Install emulated landslide feature
- Install 5 margin wood structure to side channel
- Sand bags will not be used as ballast in the emulated landslide and margin wood structures.
- Revegetate with native plants and trees.

### **2.00 Property Description & History:**

**Applicant’s Narrative:** The section of the Sandy River within the project area is characterized by a broad sinuous alluvial reach with expansive floodplain surfaces, point bars and vegetated islands, secondary channels and side channels. Underlying geology of the river and floodplain is volcanic and derived from a series of lahar deposits. Hydrology of the Sandy River is characterized by low flows in late summer, high flows in the fall and winter generated from rainfall and rain-on-snow, and snowmelt in the spring. In the last 100 years the Sandy has experienced several large flow events that caused substantial flooding, bank erosion and damages to Oxbow Park Infrastructure.

The subject application is intended to increase the quantity and quality of the site’s stream, floodplain, and upland habitat to benefit fish, wildlife, and water quality. The proposed work will enhance stream complexity and cover using large wood in the stream channels, improve fish passage to the tributary areas and floodplain (in high water events), revegetate exposed areas, and restore the hydrologic function to the floodplain. The proposed improvements will also increase habitat for wildlife and

provide suitable in-stream and off-channel habitat for adult and juvenile fishes, in an area where physical habitat quality, including off-channel habitat, has been identified as a limiting factor.

### **3.00 Commercial Forest Use Criteria:**

#### **3.01 § 36.2020 ALLOWED USES.**

##### **(F) An uninhabitable structure accessory to fish and wildlife enhancement.**

**Staff:** The two project areas include an uninhabitable structure for fish and wildlife enhancement. The improvements include an apex log jam, 10 margin wood structures and an emulated landslide feature. These structures are part of the fish habitat enhancement in the Sandy River. *The use is an allowed use.*

### **4.00 Significant Environmental Concern (SEC) Criteria**

#### **4.01 § 36.4515 USES - SEC PERMIT REQUIRED.**

**(A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that development, including but not limited to, the location and design of any use, or change, replacement or alteration of a use, except as provided in MCC 36.4520, shall be subject to an SEC permit.**

**(C) Activities proposed for lands designated as Scenic Waterways under the Oregon Scenic Waterways System shall be subject to an SEC-sw permit in addition to approval from the Oregon Parks and Recreation Department.**

**Staff:** The BLM Side Channel and the Alder Alcove projects will alter the floodplain of the Sandy River and construct a number of large wood structures. Both the grading and construction of man-made structures trigger the requirement for a SEC-water resource permit. In addition, the Sandy River is protected under the State's Scenic Waterways System. An SEC-scenic waterway permit is required for the two projects.

#### **4.02 § 36.4540 APPLICATION FOR SEC PERMIT.**

**A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC district and with the applicable criteria for approval specified in MCC 36.4545 through 36.4560. An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.**

**(A) General SEC: All applications for SEC permits shall include the information listed in this section in sufficient detail for County staff to evaluate the impacts of the proposal. The applicant is responsible for providing all of the required information. In addition to the information listed in this section, the application shall contain the supplemental information that is listed for the resource area in which the development is proposed.**

**(1) A written description of the proposed development and how it complies with the requirements applicable to the resource area in which development is proposed as listed in SEC-sw, SEC-wr, SEC-h.**

**(2) A map of the property drawn to scale 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) Location of natural drainageways, springs, seeps, and wetlands on the site. The Planning Director may require the applicant to provide the location of the SEC-wr boundary, topography, or the location of development as determined by a registered professional surveyor or engineer;
- (e) Proposed fill, grading, site contouring or other landform changes;
- (f) 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;
- (g) Location and width of existing and proposed roads, driveways, parking and maneuvering areas, and service corridors and utilities.

(3) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.

(4) Application for a flood hazard permit, erosion control permit, and/or other required natural hazards permit for the proposed development;

**(B) SEC-Scenic Waterway:** In addition to the information in 36.4540(A), an application in the SEC-sw overlay area shall include a letter from the Oregon Parks and Recreation Department which indicates that the proposed development as shown on the site map and scaled drawing required in (A)(2) and (3) above has been reviewed and is, or can be, consistent with the provisions of the Oregon Scenic Waterways Management Plan.

(1) For areas within the SEC-sw overlay, the building design shall also include a description of the exterior materials and proposed exterior colors including roofing.

**(C) SEC-Water Resource:** In addition to the information requirements listed in MCC 36.4540(A) above, the following information shall be submitted for applications within the SEC-wr overlay.

(1) A topographic map of the development area and adjacent areas of the site at contour intervals of five feet or less showing a delineation of the Water Area or Habitat Area as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, and utility installations;

(2) The location of wetlands;

(3) Information for the site from the adopted West of Sandy River Wildlife Habitat and Stream Corridor ESEE Report, the County Goal 5 Inventory;

(4) Preparation of plans and surveys - Inventories, assessment of existing conditions, and mitigation or restoration plans shall be prepared by a qualified professional such as a fish or wildlife biologist at the discretion of the Planning Director. Wetlands shall be identified and delineated by a qualified wetland



specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual;

(5) The applicant shall provide evidence that when federal or state requirements apply, that the agency has been contacted, and shall provide an assessment of whether the project can meet the requirements based on the agency response;

(6) An assessment of the existing condition of the Water Resource Area in accordance with Table 2 Riparian/Vegetated Corridor Standards;

(7) An inventory of vegetation, including percentage ground and canopy coverage, and location of nuisance plants listed in Table 1;

(8) A detailed Mitigation Plan as described in 36. 4555(E), if required;

(9) The location of all existing trees of a caliper greater than six (6) inches in diameter at breast height (DBH);

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

The applicant has provided the required information in Exhibits A.1 through A.22. *Criterion met.*

## **5.00 Scenic Waterway**

### **5.01 § 36.4545 CRITERIA FOR APPROVAL OF SEC-SW PERMIT - SCENIC WATERWAY.**

The SEC-sw designation shall apply to those wild and scenic waterways that are designated SEC on Multnomah County sectional zoning maps. An application shall not be approved unless it contains the information in 36.4540(A) and (B). Any proposed activity or use requiring an SEC-sw permit shall be subject to the following:

(A) Submittal of a letter from the Oregon Parks and Recreation Department which indicates that the proposed development has been reviewed and is, or can be, consistent with the provisions of the Oregon Scenic Waterways Management Plan.

**Staff:** The Sandy River is protected under the State's Scenic Waterways System. The applicant obtained approval from the Oregon Parks and Recreation Department (Exhibit A.12). The application for SEC permit is addressed in Sections 5.02 through 5.09.

### **5.02 (B) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.**

**Staff:** The BLM Side Channel (BLM) and the Alder Alcove (Alcove) projects are intended to improve salmon and steelhead habitat in the Sandy River. The BLM project will occur to open up an existing side channel to improve it for winter habitat for resident fish species and add to the carrying capacity of the floodplain. The Alcove project will remove revetments and create an emulated landslide feature to protect Oxbow Park and enhance the salmonid habitat through the re-introduction of wood into the Sandy River. These improvements must occur within the floodplain of the Sandy River in order to achieve its goals. The improvements will be made to appear like natural wood structures (Exhibit A.4, A.17, & A.22). *Criterion met.*

### **5.03 (C) Agricultural land and forest land shall be preserved and maintained for farm and**

**forest use.**

**Staff:** The upland areas to be used for staging and access are within Oxbow Regional Park. Oxbow Regional Park is forested for the most part with campgrounds and recreational areas spread throughout. The Park will continue to be forested after the two projects are completed. No farm uses will be harmed as part of this project. *Criterion met.*

- 5.04 (D) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.**

**Staff:** The apex log jam, emulated landslide feature and ten margin wood structures all qualify as a “structure” as defined in Multnomah County Code MCC 35.0005 Definitions. The Sandy River is a *Wild and Scenic River* protected by the State of Oregon and Multnomah County. The construction of these wood installations is needed to improve the quality of habitat for salmon and steelhead species. The wood installations will be roughened by machinery to make them appear more natural in their setting. The proposed project will help to preserve the natural habitat for the Salmonids species. *Criterion met.*

- 5.05 (E) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion**

**Staff:** Two separate temporary construction access roads will be used to access the BLM Side Channel and the Alder Alcove projects. The access for the BLM Side Channel will utilize an existing dry channel. Two permanent improvements will be made along this access route through the dry creek. The first is a trail crossing re-alignment which will reduce the impacts caused by recreational use during the wet season. The second improvement will be the installation of a seasonal maintenance ford for park access. After the completion of the project, exposed areas will be re-vegetated after completion of the project. *Criterion met.*

- 5.06 (F) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.**

**Staff:** The applicant submitted a Cultural Resource Survey of the Oxbow Park lands dated from August 26, 2015 (Exhibit A.10). The report indicates that no cultural resources were found. A condition of approval has been included that if in the unlikely event that an archaeological object or site is encountered, work is to cease and appropriate Government Agencies contacted. *Through a condition, this criterion will be met.*

- 5.07 (G) 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:** The applicant will use best management practices and appropriate timing for construction of the project. Project may only occur during the in-water work period established by the Oregon Department of Fish and Wildlife for the Sandy River. In addition, the County will be issuing a Grading and Erosion Control Permit for the work. A condition of approval has been included requiring Best Management Practices for all proposed ground disturbance actions. *Through a condition, criterion met.*

- 5.08 (H) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.**

**Staff:** The BLM Side Channel project will use logs, rocks and other natural materials that are typically found within the waterway for its apex log jam and margin wood installations. The placement of these materials will attempt to mimic a natural log jam at the opening of the side channel entrance. The Alder Alcove project will construct similar wood improvements (emulated landslide feature and 5 margin wood structures) along the bank of the Sandy River. As part of the project a concrete sand bag revetment will be removed from along the Sandy River bank. For the BLM Side Channel project and another project called the State Lands Lower restoration project (reviewed in land use case, T2-2016-6444) will utilize natural rocks and boulders as ballast materials. It has been determined by Planning Staff and concurred by project applicant that the proposed use of cement sand bags as ballast is not a natural material found along the Sandy River and does not seem compatible with the character and visual quality of a Scenic and Wild River. The applicant did not submit pictures or documentation that the use of cement sand bags is of a visual quality to be used as part of the wood installations. A condition of approval has been included requiring that after the cement sand bags are removed from the embankment of the Sandy River, they not be used as ballast and be properly disposed of at a licensed facility for recycling or disposal outside of Oxbow Regional Park. *Through a condition, this criterion will be met.*

- 5.09 (I) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.**

**Staff:** During the planning of the project, the applicant found no fragile or endangered plant habitat in the area of ground disturbance (Exhibit A.7). *Criterion met.*

## **6.00 Water Resource Criteria**

### **6.01 § 36.4550 GENERAL REQUIREMENTS FOR APPROVAL IN AREAS 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 in addition to the provisions of 36.4555 or 36.4560 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:** The applicant will use best management practices and appropriate timing for construction of the project. Project may only occur during the in-water work period established by the Oregon Department of Fish and Wildlife for the Sandy River. In addition, the County will be issuing a Grading and Erosion Control Permit for the work. A condition of approval has been included requiring Best Management Practices for all proposed ground disturbance actions and the removal of excess materials from the Sandy River flood plain and Oxbow Regional Park. *Through a condition, criterion met.*

- 6.02 (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:** No outdoor lighting will be installed as part of this project. *Criterion not applicable at this time.*

- 6.03 (C) The following nuisance plants, in addition to the nuisance plants defined in 36.4510, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:**

**Staff:** The applicant has indicated that only native plants currently found on the site will be used as part of this project. No nuisance plants will be used in the replanting of the disturbed area (Exhibit A.17). *Criterion met.*

**6.04 § 36.4555 CRITERIA FOR APPROVAL OF SEC-WR PERMIT -WATER RESOURCE**

**Except for the exempt uses listed in MCC 36.4520 and the existing uses pursuant to 36.4525, no development shall be allowed within a Water Resource Area unless the provisions of section (A) or (B) or (C) below are satisfied. An application shall not be approved unless it contains the site analysis information required in 36.4540(A) and (C), and meets the general requirements in 36.4550.**

**Staff:** The applicant addresses the criteria in (B) below. The applicant has demonstrated compliance with the criteria in MCC 36.4550. *Criterion met.*

- 6.05 (B) Alternatives Analysis - Development proposed within a Water Resource Area may be allowed if there is no alternative, when the other requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E) are met. The applicant shall prepare an alternatives analysis which demonstrates that:**

**(1) No practicable alternatives to the requested development exist that will not disturb the Water Resource Area; and**

**Staff:** The BLM Side Channel and the Alder Alcove projects are located within the Sandy River. It is not possible to avoid the water resource area and complete the projects. The projects are to enhance fish habitat within the River. The applicant has demonstrated compliance with (D) and (E) as described below in Sections 6.09 through 6.17. *Criteria met.*

- 6.06 (2) Development in the Water Resource Area has been limited to the area necessary to allow for the proposed use;**

**Staff:** Each project has been planned to achieve its end goal of improving various aspects of improved fish and wildlife habitat. Each project disturbs the minimum amount necessary to complete the various installations. *Criterion met*

- 6.07 (3) Development shall occur as far as practically possible from the stream; and**

**Staff:** It is not possible for the BLM Side Channel and the Alder Alcove to occur out of the floodplain of the Sandy River. *Criterion met.*

- 6.08 (4) The Water Resource Area can be restored to an equal or better condition; or  
(5) Any net loss on the property of resource area, function and/or value can be mitigated.**

**Staff:** The BLM Side Channel project is to unplug a side channel that was previously altered by park personnel in the past. This improvement will enhance the floodplain and fish habitat. The Alder Alcove project will remove a cement sand bag revetment placed along the river's

bank in the past. The emulated landslide and 5 wood installations will replace this revetment. The installation of large wood structures into the Sandy River will improve the quality of fish and wildlife habitat within the area. *Criteria met.*

**6.09 (D) Development Standards- Development within the Water Resource Area shall comply with the following standards:**

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

**Staff:** While the BLM Side Channel project will involve the re-routing of an existing trail, it will not develop a separate trail. The trail re-route is to reduce impacts to a side channel during high water events. No other recreational resource will be created as part of the BLM Side Channel or Alder Alcove project. *Criterion met.*

**6.10 (2) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH greater) shall be removed without a one-for-one replacement with comparable species. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.**

**Staff:** The applicant has indicated that no trees are proposed to be removed for the BLM Side Channel or the Alder Alcove projects. A condition of approve has been included to highlight and document their statement. *Through a condition, criterion met.*

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

**Staff:** The applicant states that areas that are disturbed as part of the restoration projects will be re-vegetated. The proposed projects will enhance the fish and wildlife habitat within the Sandy River floodplain. *Criteria met.*

**6.12 (4) The Water Resource Area shall be restored to "good condition" and maintained in accordance with the mitigation plan pursuant to (E) below and the specifications in Table 2.**

**Staff:** The applicant has submitted a vegetation assessment for the BLM Side Channel and Alder Alcove projects. The plant communities in the BLM Side Channel area have been reviewed and was found in 2 of 3 areas to be in "good" condition. The third area is located below the ordinary high water line and has non-native plant species and is degraded. The plant communities in the Alder Alcove area were reviewed and the wet riparian forest was found to be in good condition. The second plant community is a lower elevation riparian forest type that was found to be in a marginal-degraded condition. The applicant's report indicates that the riparian zone will be enhanced through the removal of invasive species and the replanting native species in all areas of disturbance. *Criterion met.*

**6.13 (5) To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential**



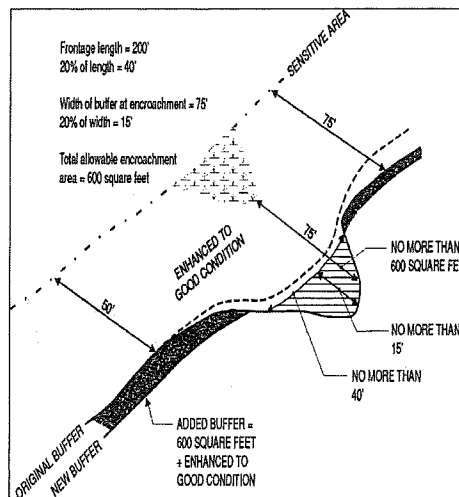
**damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.**

**Staff:** The Alder Alcove project will remove cement sand bags along the River's bank and construct an emulated landslide and 5 wood installations/structures. This work will occur chiefly in the Sandy River. Significant existing vegetation will not be harmed or removed.

The BLM Side Channel project will utilize a dry side channel for access to the apex log jam area. Areas where vegetation is removed will be replanted on a 1 to 1 ratio. The applicant has indicated that "Equipment access areas will be flagged to prevent equipment from encroaching into the water resource areas other than what is necessary for the restoration work." A condition of approval has been included to ensure compliance. *Through a condition of approval, criterion met.*

- 6.14 (6) Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.

**Figure 1**



**Staff:** The applicant has indicated that all disturbed areas where will be re-vegetated as part of the project as shown in Exhibit A.14. The replanting will occur immediately after completion of the construction activities. Native plants will be used. *Criterion met.*

- 6.15 (7) Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this district. Such markings shall be maintained until construction is complete.

**Staff:** The applicant has committed to flagging out-of-bounds areas to reduce disturbance. A condition of approval has been included to remind them. *Through a condition, criterion met.*

- 6.16 (8) Stormwater quantity control and quality control facilities:
- (a) Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.
  - (b) The stormwater quantity control and quality control facility may only

**encroach a maximum of 25 feet into the outside boundary of the Water Resource Area of a primary water feature; and**

**(c) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Water Resource Area on the subject property.**

**Staff:** No new impervious surfaces will be created during the BLM Side Channel or Alder Alcove project. *Criterion not applicable.*

**6.17 (E) Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This section establishes how mitigation can occur.**

**(1) Mitigation Sequence. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.**

**(b) When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit, given:**

- 1. The extent of the public need for the proposed development;**
- 2. The functional values of the Water Resource Area that may be affected by the proposed development;**
- 3. The extent and permanence of the adverse effects of the development on the Water Resource Area, either directly or indirectly;**
- 4. The cumulative adverse effects of past activities on the Water Resource Area, either directly or indirectly; and**
- 5. The uniqueness or scarcity of the Water Resource Area that may be affected.**

**Staff:** The proposed work will improve fish and wildlife habitat by enhancing stream complexity with large wood structures and opening up side channels for fish passage during high water events. State and local agencies have been working together to attempt to save salmonid species in our waterways. By completing the BLM Side Channel project the Sandy River floodplain's functionality will be improved which will help in protecting private and public property in the area. The Alder Alcove project will improve the visual quality of the Wild and Scenic River and fish habitat because the applicant proposes to remove nuisance plants and re-vegetation to offset the grading impacts to complete the installation of the various wood installations. Staff finds there is an overriding public benefit for the BLM Side Channel and Alder Alcove projects. *Criterion met.*

## **7.00 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern permit to install the BLM Side Channel and the Alder Alcove projects in the Sandy River in the Commercial Forest Use zone. This approval is subject to the conditions of approval established in this report.

## **8.00 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. All other exhibits are available for review in Case File T2-2016-6441 at the Land Use Planning office.

| Exhibit # | # of Pages | Description of Exhibit  | Date Received/ Submitted |
|-----------|------------|---|--------------------------|
| A.1       | 1          | General Application Form  | 12/16/2016               |
| A.2       | 1          | Cover Page  | 12/16/2016               |
| A.3       | 1          | Table of Contents   | 12/16/2016               |
| A.4       | 19         | Narrative   | 12/16/2016               |
| A.5       | 3          | Attachment 1<br>a. A&T Map 1S4E10 & Index<br>b. A&T Map 1S4E11 & Index<br>c. A&T Map 1S4E15   | 12/16/2016               |
| A.6       | 13         | Attachment 2<br>a. Deed Information   | 12/16/2016               |
| A.7       | 43         | Attachment 3<br>a. Lower Sandy River Habitat Assessment and Candidate Site Design Project   | 12/16/2016               |
| A.8       | #          | Exhibit 4<br>a. Oxbow Stream Restoration Project  | 12/16/2016               |
| A.9       | 34         | Exhibit 5<br>a. Oxbow Stream Restoration Project  | 12/16/2016               |
| A.10      | #          | Exhibit 6<br>a. Cultural Resource Survey of the Oxbow Regional Park Project   | 12/16/2016               |
| A.11      | 8          | Exhibit 7<br>a. Joint Permit Application  | 12/16/2016               |
| A.12      | 1          | Exhibit 8<br>a. Oregon Park and Recreation Department Letter of Approval  | 12/16/2016               |
| A.13      | 16         | Exhibit 9<br>a. Vicinity Map and Sheet Index – Sheet 1 of 19<br>b. Notes and Abbreviations – Sheet 2 of 19<br>c. Existing Conditions – Sheet 3 of 19<br>d. Site Overview and Access - Sheet 4 of 19 | 12/16/2016               |

|      |      |   |            |
|------|------|---|------------|
|      |      | <ul style="list-style-type: none"> <li>e. Alder Alcove – Sheet 6 of 19</li> <li>f. BLM Side Channel – Sheet 7 of 19</li> <li>g. BLM Side Channel – Zoom In – Sheet 8 of 19</li> <li>h. Erosion Control Alder Alcove – Sheet 10 of 19</li> <li>i. Erosion Control Side BLM Channel – Sheet 11 of 19</li> <li>j. Erosion Control Details – Sheet 12 of 19</li> <li>k. Erosion Control Notes – Sheet 13 of 19</li> <li>l. BLM Side Channel Apex Jam – Sheet 15 of 19</li> <li>m. Alder Alcove Emulated Landslide – Sheet 16 of 19</li> <li>n. Details 1 – Sheet 17 of 19</li> <li>o. Revegetation Plan – Sheet 18 of 19</li> <li>p. Revegetation Details – Sheet 19 of 19</li> </ul>   |            |
| A.14 | 4    | <p>Exhibit 10</p> <ul style="list-style-type: none"> <li>a. United States Department of the Interior Bureau of Land Management Recreation or Public Purposes Lease</li> </ul>   | 12/16/2016 |
| A.15 | 9    | Oxbow Park West Side Sandy River Restoration Project Completeness Response  | 2/02/2017  |
| A.16 | 2    | Oregon Parks and Recreation Department Email dated January 25, 2017   | 2/02/2017  |
| A.17 | 160. | <p>Revised Oxbow Restoration Project Plans</p> <ul style="list-style-type: none"> <li>a. Notes and Abbreviations – Sheet 2 of 19</li> <li>b. Existing Conditions – Sheet 3 of 19</li> <li>c. Site Overview and Access – Sheet 4 of 19</li> <li>d. Alder Alcove – Sheet 6 of 19</li> <li>e. BLM Side Channel – Sheet 7 of 19</li> <li>f. BLM Side Channel Zoomed In – Sheet 8 of 19</li> <li>g. Erosion Control Alder Alcove – Sheet 10 of 19</li> <li>h. Erosion Control Side BLM Channel – Sheet 11 of 19</li> <li>i. Erosion Control Details – Sheet 12 of 19</li> <li>j. Erosion Control Notes – Sheet 13 of 19</li> <li>k. BLM Side Channel Apex Jam – Sheet 15 of 19</li> <li>l. Alder Alcove Emulated Landslide – Sheet 16 of 19</li> <li>m. Details 1 – Sheet 17 of 19</li> <li>n. Revegetation Plan – Sheet 18 of 19</li> </ul> | 2/02/2017  |

|      |    |  |            |
|------|----|--|------------|
|      |    | o. Revegetation Details – Sheet 19 of 19   |            |
| A.18 | 19 | Oxbow Restoration Project Plans Set for DSL/Army                                     | 2/02/2017  |
| A.19 | 3  | Cement Sandbag Email   | 5/24/2017  |
| A.20 | 1  | Alder Alcove Sandbag Photo   | 5/24/2017  |
| A.21 | 1  | Oxbow Sandbag Photo from 1972  | 5/24/2017  |
| A.22 | 1  | Alder Alcove Revised Plan – Sheet 09 of 22   | 5/24/2017  |
|      |    |  |            |
| 'B'  | #  | Staff Exhibits   | Date       |
| B.1  | 2  | A&T Property Information for 1S4E10 - 00800  | 12/16/2016 |
| B.2  | 2  | A&T Property Information for 1S4E11 - 00200  | 12/16/2016 |
|      |    |  |            |
| 'C'  | #  | Administration & Procedures  | Date       |
| C.1  | 3  | Incomplete Letter  | 1/13/2017  |
| C.2  | 1  | Applicant's Acceptance of 180 Day Clock and Deeming the Application Complete (Day 1) | 2/02/2017  |
| C.3  | 3  | Opportunity to Comment   | 2/02/2017  |
| C.4  | 19 | Administrative Decision  | 5/31/2017  |