

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:** T2-2018-11001

**Permit:** Significant Environmental Concern for Water Resources

**Location:** 7620 SE 262<sup>nd</sup> Ave.  
Tax Lot 4000, Section 24C  
Township 1 South, Range 3 East, W.M.  
Tax Account: R092602040  
Property Id: R118844

**Applicants:** Johnson Creek Watershed Counsel

**Owners:** David & Maria Farwell

**Base Zone:** Multiple Use Agriculture - 20

**Overlays:** Significant Environmental Concern for Water Resources.



**Summary:** Improve fish passage through retrofitting existing culvert under State Highway 26 by installing baffles and repair/improve the stream bed to a more natural stone bed directly adjacent downstream on property at 7620 SE 262<sup>nd</sup> Ave. as known as Tax Lot 4000. The intent is to improve/restore the stream-bed downstream from the culvert located in the Multiple Use Agriculture Zone and the Significant Environmental Concern for Water Resources Overlay Zone.

**Decision:** Approved with Conditions

Unless appealed, this decision is effective March 13, 2019 at 4:00 PM.

Issued by:



George A. Plummer, Planner

For: Michael Cerbone, AICP  
Planning Director

Date: February 27, 2019

**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 George Plummer, Planner at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or [george.a.plummer@multco.us](mailto:george.a.plummer@multco.us)

**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 Land Use Planning offices 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.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is March 13, 2019 at 4:00 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): MCC 36.2800-.2885: Multiple Use Agriculture – 20 (MUA-20), MCC 36.4500 -.4535: Significant Environmental Concern, and MCC 36.4550 -.4555: Significant Environmental Concern for Water Resources. 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 <http://www.multco.us/landuse>

### **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.

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s) included as Exhibits A.1 through A.7. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the Johnson Creek Watershed Counsel, the applicant, is the responsible party for implementing the project as proposed in the application submittal and ensuring compliance with the conditions of approval. The project shall be as represented on the map showing the where the project activities will occur. [MCC 39.1130 and MCC 36.4555 (E)]
2. This land use permit expires two years from the date the decision if the project has not commenced within two years of the date of the final decision as final pursuant to MCC 37.0690(B) as applicable. The property owner/applicant 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.
3. A condition of approval will limit work to during ODFW's in water work period for Johnson Creek, which coincides with Johnson Creek's low summer flow per ODFW. [MCC 36.4550(A)]
4. The applicant shall ensure that no trees are removed or damaged during the project. No tree shall be used as an anchor for stabilizing construction equipment. The applicant shall ensure that

vegetation accidentally removed or damaged be replaced with similar native species vegetation re-established as soon as practicable (within weeks) at the beginning of the fall rainy season. Any nuisance plants removed shall be replaced with non-nuisance native plants by the next growing season. Any newly planted vegetation shall be maintained in living condition which shall be checked at two years and five years and replaced if they have not survived, they shall be replanted. [MCC 36.4555 (D)]

5. The applicant shall ensure that the Water Resource Area, area within 200 feet of the stream, that is not designated as part of the project be flagged, or fenced prior to bringing equipment on-site. The applicant shall ensure that area be designated to remain undisturbed and remain flagged or fenced until the project is complete with no more equipment entering the site. The equipment access areas shall be the minimum size necessary to accomplish the project. [MCC 36.4555 (D)]
6. The Applicant shall ensure that any disturbed soil areas within 200 feet of the stream resulting from the project be mulched and reseeded immediately when the project is complete. If the grass does not re-establish by the beginning of the fall rainy season, the applicate shall ensure the mulch is maintained and grass is reseeded within two weeks of the beginning of the fall rainy season. [MCC 36.4555 (D)]
7. The project in-water work shall only be done during the Oregon Department of Fish and Wildlife in-stream (work period). Any disturbed soil areas within 200 feet of the stream shall be reseeded immediately when the project is complete and if the grass does not re-establish the applicate shall ensure the grass is reseeded when the rain returns be re-established prior to fall rainy season. [MCC 36.4555 (D)]
8. The following nuisance plants, in addition to the nuisance plants, shall not be used as landscape plantings within the SEC-wr Overlay Zone: [MCC 36.4550(C)]

Nuisance Plant List Table 1

Common Name	Scientific Name
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler' s Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>
Lady' s nightcap	<i>Convolvulus sepium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Ann' s Lace	<i>Daucus carota</i>
South American Waterweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>

Common Name	Scientific Name
Giant Horsetail	<i>Equisetum telemateia</i>
Crane' s Bill	<i>Erodium cicutarium</i>
Robert Geranium	<i>Geranium roberianum</i>
English Ivy	<i>Hedera helix</i>
St. John' s Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquafolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Lentil	<i>Lemna minor</i>
Fall Dandelion	<i>Loentodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Reed Canary grass	<i>Phalaris arundinacea</i>
Annual Bluegrass	<i>Poa annua</i>

Swamp Smartweed	<i>Polygonum coccineum</i>
Climbing Binaweed	<i>Polygonum convolvulus</i>
Giant Knotweed	<i>Polygonum sacha- linense</i>
English, Portugese Laurel	<i>Prunus laurocerasus</i>
Poison Oak	<i>Rhus diversiloba</i>
Himalayan Blackberry	<i>Rubusdiscolor</i>
Evergreen Blackberry	<i>Rubus laciniatus</i>
Tansy Ragwort	<i>Senecio jacobaea</i>

Blue Bindweed	<i>Solanum dulcamara</i>
Garden Nightshade	<i>Solanum nigrum</i>
Hairy Nightshade	<i>Solanum sarrachoides</i>
Common Dandelion	<i>Taraxacum officinale</i>
Common Bladderwort	<i>Ultricularia vuigaris</i>
Stinging Nettle	<i>Utica dioica</i>
Periwinkle (large leaf)	<i>Vinca major</i>
Periwinkle (small leaf)	<i>Vinca minor</i>
Spiny Cocklebur	<i>Xanthium spinoseum</i>
Bamboo sp.	<i>various genera</i>

**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. PROJECT DESCRIPTION**

**Staff:** Improve fish passage through retro-fitting culvert under State Highway 26 by installing baffles and improving/restoring the stream-bed downstream from the culvert located in the Multiple Use Agriculture Zone and the Significant Environmental Concern for Water Resources Overlay Zone.

The project is considered an in-stream restoration on the North Fork of Johnson Creek to improve fish passage through an existing culvert that currently presents a barrier to fish migration. The project is to improve the passage for the culvert crossing by installing baffles to slow the water to improve the ability of the fish to swim up-stream. The project will retrofit the culvert under Highway 26 and repair/improve the stream bed to a more natural stone bed directly adjacent downstream on property at 7620 SE 262<sup>nd</sup> Ave. as known as Tax Lot 4000, Section 24C Township 1 South, Range 3 East, Willamette Meridian Tax Account: R092602040.

### **2. CODE COMPLIANCE AND APPLICATIONS**

**MCC 39.1515: 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.**

**Staff:** There are alleged code compliance issues on the property at 7620 SE 262<sup>nd</sup> Ave. That property will be used for access to the culvert project and on which the stream-bed restoration is proposed adjacent to the culvert will be for better fish passage.

While generally a permit can not be issued on a property where there are known code compliance issue per MCC 39.1515, for the subject project unless it is brought into compliance, the Johnson Creek Watershed Council has an easement (Exhibit A.6) obtained for access to the property, to conduct the restoration project. As allowed per MCC 39.1515(A)(3), listed above, a permit may be issued when there is an easement for an unrelated project such as a fish passage improvement project work easement without the full compliance requirement for the property. With the easement included as Exhibit A.6 the project can be permitted.

### 3. MULTIPLE USE AGRICULTURE – 20

#### Allowed Uses

**MCC 36.2820:** The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

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

**Staff:** In the MUA-20 a public conservation project to improve fish passage is an allowed use. However, the project is located in the SEC-wr Overlay requiring a Type II SEC-wr permit.

### 4. SIGNIFICANT ENVIRONMENTAL CONCERN FOR WATER RESOURCES

#### 4.1 Area Affected

The SEC overlay zone shall apply to those lands designated SEC-sw, SEC-wr, and SEC-h on the Multnomah County Zoning Map.

**(A) The approval criteria that apply to uses in areas designated SEC-sw, SEC-wr, and SEC-h shall be based on the type of protected resources on the property, as indicated by the subscript letter in the zoning designation, as follows:**

<b>Zoning Designation</b>	<b>Approval Criteria-</b>
SEC-wr (water resource)	MCC 36.4550 and 36.4555

**(C) SEC-Water Resource Area (SEC-wr) -Protected water features, riparian/vegetated corridors and the adjacent impact areas, that are identified as significant resources in the Goal 5 Inventory, and as established by these definitions, are the areas included within the SEC-wr Overlay District.**

**(1) Protected Water Features shall include:**

\* \* \*

**(b) Rivers, streams, and drainages downstream from the point at which 50-acres or more are drained to the water feature (regardless of whether it carries year-round flow); and**

**(c) Streams carrying year-round flow; and**

**(d) Streams designated as significant in the Goal 5 inventory;**

**(2) Riparian/Vegetated Corridors and Impact Area - The width of the riparian/vegetated corridor for all Protected Water Features varies and shall be as depicted on the Multnomah County Zoning Maps and is measured from the top of bank.**

**(3) The zoning maps used to designate the SEC-wr zoning Overlay were created digitally by interpreting various data sources and maps contained in the 2002 West of Sandy River Goal 5 ESEE report. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. For those areas included in the 2002 West of Sandy River Plan, the SEC-wr zoning Overlay shall be interpreted to be the Water Resource Area as defined in this subsection B.**

**Staff:** The subject project site is located within the SEC-wr Overlay Zones.

**4.2. Uses; SEC Permit Required**

**MCC 36.4515 (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.

**MCC 36.4520 Exceptions:** An SEC permit shall not be required for the following:

- (J)** Stream enhancement or restoration projects limited to removal by hand of invasive vegetation and planting of any native vegetation on the Metro Native Plant List;
- (K)** Enhancement or restoration of the riparian corridor for water quality or quantity benefits, or for improvement of fish and wildlife habitat, pursuant to a plan that does not include placement of buildings or structures and does not entail grading in an amount greater than 10 cubic yards. This exemption is applicable to plans that are approved by Soil and Water Conservation District, the Natural Resources Conservation District, or the Oregon Department of Fish and Wildlife under the provisions for a Wildlife and Habitat Conservation Plan, and submitted to the County.

**MCC 36.0005 Definitions – Structure:** 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.

**Staff:** The project requires an SEC-wr permit. While the project is a stream enhancement to improve/restore fish habitat, the proposed project includes features that are defined as structures, such the baffles, and concrete collar retrofitted to the existing culvert. The work is not covered under exceptions because it includes placement of structures. The application requests approval of an SEC-wr permit for the project.

**4.3. General Requirements for Approval in Areas Designated as SEC-wr**

The requirements in this section shall be satisfied for development in the SEC-wr areas in addition to the provisions of 36.4555 as applicable.

- 4.3.1. MCC 36.4550(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 has also submitted an application for a Grading and Erosion Control Permit which includes erosion control methods. The permit will require Best Management Practices. A condition of approval will limit work to during ODFW's in water work period for Johnson Creek, which coincides with Johnson Creek's low summer flow. *This criterion is met through meeting condition.*

- 4.3.2. MCC 36.4550(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 re-source 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 lighting fixtures are proposed. This criterion is met.

- 4.3.3. MCC 36.4550(C) The following nuisance plants (see list in conditions), 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 list of plants is included under Condition Number 1 of this decision. A condition of approval will require none of the nuisance plants be planted for the project. *This criterion is met through meeting condition.*

**4.4. Criteria For Approval of SEC- Water Resource (SEC-wr) Permit -**

- 4.4.1. MCC 36.4555 (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**
- (2) Development in the Water Resource Area has been limited to the area necessary to allow for the proposed use;**
- (3) Development shall occur as far as practically possible from the stream; and**
- (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:** There is no alternative site for this project due to the existing condition and need to retrofit the culvert to improve fish passage. The project will be a short term temporary disturbance to the Water Resource Area. The project has to be in the stream. The project helps meet the intent and purpose of the SEC-wr through restoration and enhancement of the habitat and environmental characteristics of the mapped resource. The project will restore the Water Resource Area, the stream, resulting in a better condition for fish passage in the North Fork of Johnson Creek improving the function of the stream resource area.

\* \* \*

- 4.4.2. MCC 36.4555 (D) Development Standards- Development within the Water Resource Area shall comply with the following standards:**

- (2) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 per-cent 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 application does not include the removal of any trees. A condition of approval will require no tree damage or removal. *This criterion is met through meeting condition.*



- (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 application does not include the removal of any trees. A condition of approval will require no tree damage or removal. *This criterion is met through meeting condition.*

- (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 project is a restoration project to improve the fish passage to a good condition. Maintenance is needed when the restoration project includes plantings. This project is restoration of the stream by placement baffles in the culvert and placement of rocks in the stream bed. This type of project does not need or include a maintenance component unless vegetation is accidentally removed or damage requiring replacement than the planted vegetation must be maintained in a living condition which shall be reviewed at two year and five years. If the planted vegetation does not survive it must be replaced. *This criterion is met through implementing conditions.*

- (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 application does not include the removal of any trees. A condition of approval will require no tree damage or removal. A condition will require that trees not be used to as anchors for stabilizing construction equipment. A condition will require any vegetation that is accidentally removed or damaged shall be replaced with vegetation established as soon as practicable at the beginning of the fall rainy season. A condition will require any disturbed soil areas within 200 feet of the stream resulting from the project be reseeded immediately when the project is complete and if the grass does not re-establish the applicate shall ensure the grass is reseeded when the rain returns be re-established prior to fall rainy season. *This criterion is met through meeting condition.*

- (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.**

**Staff:** A condition will require mulching of all disturbed soil areas related to the project. Nuisance plants shall be replaced with non-nuisance plants by the next growing season. A condition will require any vegetation that is removed or damaged shall be replaced and established as soon as practicable at the beginning of the fall rainy season. A condition will require any disturbed soil areas within 200 feet of the stream shall be reseeded immediately when the project is complete and if the grass does not re-establish the applicant shall ensure the

grass is reseeded when the rain returns or be re-established within two weeks of beginning of the to fall rainy season. *This criterion is met through meeting condition.*

- (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:** A condition will require areas with the Water Resource Area, within 200 feet of the stream, that is not designated as part of the project, be flagged or fenced to remain undisturbed and remain delineated until the project is complete. A condition will require the equipment access areas be the minimum size necessary to accomplish the project. *This criterion is met through meeting condition.*

**(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:** The project is an in-stream restoration with no need for a stormwater system. Criteria not applicable.

**4.4.3. MCC 36.4555 (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.**

- (a) When a proposed use or development activity could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1. through 5. below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.**
  - 1. Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of the site which contains the regulated natural resource area;**
  - 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;**
  - 3. Compensating for the impact by repairing, rehabilitating, or restoring the affected environment;**
  - 4. Compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site.**
  - 5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.**
- (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 project is an in-stream restoration to improve fish passage through an existing culvert that currently presents a barrier to fish migration. The proposal as presented with conditions will not cause adverse impacts to a natural resource area other than some minor short term disturbance areas. There is an overriding public benefit to improve fish passage for migrating fish to this section of the North Fork of Johnson Creek. There are no permanent or cumulative adverse effects resulting from the project. *These criteria have been met.*

- (2) Compensatory Mitigation: General Requirements.** As a condition of any permit or other approval allowing development which results in the loss or degradation of regulated natural resource areas, or as an enforcement action, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or violator.
- (a) Any person who alters or proposes to alter regulated natural resource areas shall restore or create natural resource areas equivalent to or larger than those altered in order to compensate for resource losses.
  - (b) The following ratios apply to the creation or restoration of natural resource areas. The first number specifies the amount of natural resource area to be created and the second specifies the amount of natural resource area to be altered or lost.  
(Restoration (on-site) 1:1
  - (c) Only marginal or degraded water resource areas as described in Table 2 may be the subject of a restoration project proposed as part of a Mitigation Plan.
  - (d) Highest priority sites for mitigation are marginal or degraded corridors that are closest to a natural drainage, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.
  - (e) The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County.
  - (f) Compensation shall be completed prior to initiation of development where possible.
  - (g) In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that off-site mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.

**Staff:** The proposed project does not result in any permanent degradation of the regulated natural resource areas. There may be some minor impact of disturbance to vegetation that as conditioned will be restored. The proposed project is a mitigation of negative impact of the

culvert placed years before this stream the SEC-wr protective overlay was adopted. As such there is no mitigation required other than the conditions of approval requiring restoring area of vegetation damaged by the project. *These criteria have been met.*

**(3) Mitigation Plan Standards - Natural resource mitigation plans shall contain the following information:**

- (a) A description of adverse impacts that could be caused as a result of development.**
- (b) An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.**
- (c) A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.**
- (d) A map drawn to scale, showing where the specific mitigation activities will occur.**
- (e) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.**

**Staff:** There are no adverse impacts predicted for the project other than minor vegetation disturbance. The Johnson Creek Watershed Counsel is the responsible party. The application submittal includes a map showing where the specific mitigation/restoration activities will occur. A condition will require that the in-stream work be accordance with the Oregon Department of Fish and Wildlife in-stream (work period) timing schedule. These criteria are met through meeting conditions of approval.

**5. CONCLUSION**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the SEC-wr Permit to install in-stream structures in the Highway 26 culvert for the North Fork of Johnson Creek and adjacent area downstream in the MUA-20 Zone and the SEC-wr Overlay Zone. This approval is subject to the conditions of approval established in this report.

**6. EXHIBITS**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	10/11/18
A.2	2	Narrative	10/11/18
A.3	6	Technical Memorandum	10/11/18
A.4	9	Design Plans	10/11/18
A.5	2	Water Resources Area Cortication Form	10/11/18
A.6	6	Construction Access Agreement for property at 7620 SE 262 <sup>nd</sup> Ave. also identified as Tax Lot 4000, Section 24CTownship 1 South, Range 3 East, W.M. (Tax Account: R092602040)	10/11/18

'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	
B.2	1	A&T Tax Map with Property Highlighted	
B.3			