

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

NOTICE OF DECISION

Case File: T2-2018-10511 & EP-2018-10614
Permit: Significant Environmental Concern – Water Resources and Road Rules Variance
Applicant(s): Symons Engineering Consultants **Owner(s):** Vasile & Christina Antimie
Location: 17741 SE Richey Rd.
Tax Lot 300, Section 19DA, Township 1 South, Range 3 East, W.M.
Tax Account #R993191370 Property ID #R340689
Zoning: Rural Residential
Overlays: Significant Environmental Concern – Water Resources (SEC-wr)
Proposal Summary: The applicant requests approval to construct a new single-family dwelling on the subject property within the SEC-wr overlay area. The applicant also requests a Road Rules Variance for the minimum access spacing standard.

Decision: Approved with Conditions

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, March 28, 2019, 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 review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or 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 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued By:



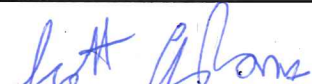
Chris Liu, Assistant Planner

For:

Michael Cerbone, AICP
Planning Director

Date:

Thursday, March 14, 2019



Scott Adams, Transportation Planner

Ian B. Cannon, P.E.
County Engineer

Thursday, March 14, 2019

Instrument Number for Recording Purposes:
#2017-027131

Vicinity Map

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Applicable Approval Criteria: Multnomah County Code (MCC) 11.15.2208(C): Rural Residential, MCC 11.15.2218 (C) & (D): Dimensional Requirements, MCC 11.15.2222: Lot of Record, MCC 11.15.2226: Off-Street Parking and Loading, MCC 11.15.6423: General Requirements SEC-wr, MCC 11.15.6429: Criteria for Approval SEC-wr, and MCC 11.15.9205: Dark Sky Lighting Standards.

Multnomah County Road Rules (MCRR): 4.000 Access to County Roads, MCRR 16.000: Variance from County Standards and Requirements, MCRR 5.000: Transportation Impact, MCRR 6.000: Improvement Requirements, MCRR 9.000: Compliance Method, MCRR 26.000: Stormwater and Drainage.

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/zoning-codes> under the link *Chapter 11.15 Urban Zoning Code* and www.multco.us/transportation-planning/plans-and-documents under the document titled *Multnomah County Road Rules*.

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). 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.

2. This land use permit **expires** as described in (a) and (b) below pursuant to MCC 37.0690(B) as applicable. 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.

- (a) 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.
- (b) 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 in compliance with all conditions of approval in the land use approval.

3. Prior to Land Use Planning sign-off on the building plans, the applicant shall:

- (a) Record pages 1 through 6 of this land use decision, the mitigation plan map (Exhibit A.41), and written mitigation plan (Exhibit A.31) with the County Recorder. Proof of recording must be provided to County Land Use Planning. [MCC 37.0670]
- (b) Obtain a Grading and Erosion Control (GEC) permit and a Floodplain Development (FD) permit from the County. Proof of issuance of the GEC and FD permit must be submitted when the applicant brings the building plans in for sign-off.
- (c) Complete the required plantings as identified on the mitigation plan map (Exhibits A.41) and the written mitigation plan (Exhibit A.31). Planting is limited to the period of March 30 – November 1. [MCC 11.15.6429(E)]
- (d) Outdoor lighting details shall be submitted with the building plans showing the proposed exterior lighting. All exterior lighting shall comply with the County's Dark Sky Lighting Standards listed in MCC 11.15.9205 and exterior lighting within the SEC-wr buffer zone shall be hooded and/or shielded as required by MCC 11.6423(B). No exterior lighting shall be placed north of the stream in the undeveloped area or the plant mitigation area
- (e) The applicant shall identify the northern portion of the property (north of the top of bank of Kelly Creek) as a "no construction disturbance zone" on the site plan. [MCC 11.15.6429(E)]

4. Prior to and during construction, the property owner or their representative shall ensure that:

- (a) Prior to construction, the Water Resource Area north of the well location and below the top of bank of Kelly Creek shall be flagged, fenced, or otherwise marked. This area and all areas north of the top of bank of Kelly Creek shall remain undisturbed except for the necessary work to install the well and complete the mitigation plantings as outlined in this land use decision. Such markings shall be maintained until construction is complete [MCC 11.15.6429(D)].

5. As an on-going condition, the property owner shall:

(a) The property owner and all future property owners shall ensure the survivability of all plantings noted in the mitigation plan map (Exhibit A.41) and written mitigation plan (Exhibit A.31) in perpetuity. [MCC 11.15.6429(E)]

(b) The property owner and all future property owners are required to maintain the mitigation plantings shown on Exhibit A.41 in a healthy and living state. Prior to the removal of any damaged, destroyed, dead vegetation (shrubs, trees and ground cover) , or the replacement of missing vegetation (shrubs, trees and ground coverings) the property owner shall contact Land Use Planning for permission to modify the mitigation planting area.

(c) The property owner and all future property owners shall ensure that no nuisance plants listed on the nuisance plants list below, the Metro Nuisance Plant list, the Metro Prohibited Plant List, and the state of Oregon Noxious Weed list are used as landscape plantings within the SEC-wr overlay zone. [MCC 11.15.6423(C)]

Table 1.
Nuisance Plants List

Common Name	Scientific	Common Name	Scientific
Lesser celandine	Chelidonium majus	Fall Dandelion	Loentodon autumnalis
Canada Thistle	Cirsium arvense	Purple Loosestrife	Lythrum salicaria
Common Thistle	Cirsium vulgare	Eurasian Watermilfoil	Myriophyllum spicatum
Western Clematis	Clematis ligusticifolia	Reed Canary grass	Phalaris arundinacea
Traveler's Joy	Clematis vitalba	Annual Bluegrass	Poa annua
Poison hemlock	Conium maculatum	Swamp Smartweed	Polygonum coccineum
Field Morning-glory	Convolvulus arvensis	Climbing Binaweed	Polygonum convolvulus
Night-blooming Morningglory	Convolvulus nyctagineus	Giant Knotweed	Polygonum sachalinense
Lady's nightcap	Convolvulus sepium	English, Portuguese Laurel	Prunus laurocerasus
Pampas grass	Cortaderia selloana	Poison Oak	Rhus diversiloba
Hawthorn, except native species	Crataegus sp. Except C. douglasii	Himalayan Blackberry	Rubus discolor
Scotch broom	Cytisus scoparius	Evergreen Blackberry	Rubus laciniatus
Queen Ann's Lace	Daucus carota	Tansy Ragwort	Senecio jacobaea
South American Waterweed	Elodea densa	Blue Bindweed	Solanum dulcamara
Common Horsetail	Equisetum arvense	Garden Nightshade	Solanum nigrum
Giant Horsetail	Equisetum telmateia	Hairy Nightshade	Solanum sarrachoides
Crane's Bill	Erodium cicutarium	Common Dandelion	Taraxacum officinale
Robert Geranium	Geranium robertianum	Common Bladderwort	Utricularia vulgaris

English Ivy	Hedera helix	Stinging Nettle	Utica dioica
St. John's Wort	Hypericum perforatum	Periwinkle (large leaf)	Vinca major
English Holly	Ilex aquafolium	Periwinkle (small leaf)	Vinca minor
Duckweed, Water Lentil	Lemna minor	Spiny Cocklebur	Xanthium spinosum
Fall Dandelion	Loentodon autumnalis	Bamboo sp.	various genera
Purple Loosestrife	Lythrum salicaria	-	-

6. The property owner shall monitor the mitigation area for a minimum of five (5) growing seasons after completion of all initial plantings.

(a) Annual monitoring reports are due by November 30th of each year and shall include post-construction photographs (taken within 30 days of the report); a narrative describing the current condition of the mitigation area, maintenance activities, and other relevant information necessary to document compliance with this condition. [MCC 37.0660 and MCC 11.15.6429(E)]

(b) Extension of the Monitoring Period: County Land Use Planning may extend the monitoring period at their discretion due to a failure to keep the required plantings alive and in good health and to meet the monitoring and reporting standards. [MCC 37.0660 and MCC 11.15.6429(E)]

(c) Release of Monitoring Obligation: County Land Use Planning will provide official notice of release from further monitoring requirements. [MCC 37.0660 and MCC 11.15.6429(E)]

7. Prior to issuance of the Certification of Occupancy, the property owners or their representative shall contact Staff Planner Chris Liu at 503-988-2964 or chris.liu@multco.us to schedule a site inspection with Land Use Planning to verify the project complies with all conditions of approval.

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.

4. Contact Chris Liu, Staff Planner, at 503-988-2964 or chris.liu@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

The above must be completed before the applicant can obtain building permits from the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.

County Transportation Conditions of Approval

1. **Access Permit:** Applicant will need to obtain an Access Permit for the access point onto SE Richey Rd. prior to building permit approval. (MCRR 4.100)
2. **Pave a 20-foot approach:** Applicant will need to pave a 20-foot paved approach onto SE Richey Rd. The paved approach will be measured from the edge of pavement of SE Richey Rd and must not create any drainage problems along the County road. A deposit will be required for the paved approach. Please contact Right of Way at (503) 988-3582 regarding this requirement. (MCRR 6.100)
3. **Furnish deed restrictions committing the property owner to participate in future right of way improvements.** A non-remonstrance agreement, or deed restriction, will require that the property participate in standard Rural Collector road improvements along the site's frontage that are not completed as a part of the site's required interim improvements. [MCRR 9.400] Contact Pat Hinds at (503) 988-3712 or patrick.j.hinds@multco.us to complete the deed restrictions.
4. **Stormwater:** Any alteration of the storm water discharge onto County right of way requires a Discharge Permit. Any alteration of storm water drainage to the existing discharge needs to be reviewed by the County. Increased run-off to incorporated Multnomah County could negatively impact the roadway system.
5. **Sight Distance:** The property owner shall maintain the sight distance from all access points, including maintenance of vegetation.

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:

The applicant requests approval to construct a new single-family dwelling and its related physical improvements on the subject property (17741 SE Richey Rd.) within the Significant Environmental Concern – Water Resources (SEC-wr) overlay area. If approved, a Grading and Erosion Control (GEC) Permit and Floodplain Development Permit will be required prior to Building Permit Plan Review.

2.0 Property Description:

The subject property is located on SE Richey Rd. near the intersection of Richey Rd. and SE Foster Rd. in the Pleasant Valley Urban Plan Area in Multnomah County. The subject property is within the Metro Urban Growth Boundary. The Pleasant Valley Urban Area is an area in-between the eastern border of the City of Portland and the western border of the City of Gresham. Portland and Gresham will eventually incorporate properties in the Pleasant Valley Urban Area into their respective jurisdictions.

Two tributaries of Kelly Creek flow through the subject property in an east-west direction and a portion of the property is within the mapped FEMA 100-year floodplain. The subject property is currently vacant.

3.0 Rural Residential Zone Criteria:

3.1 Code Compliance and Applications

MCC 37.0560: 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 Land Use 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 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 no active code compliance cases or known code compliance issues on the subject property. *Criteria met.*

3.2 Primary Uses

MCC 11.15.2208(C): Residential Use consisting of a single family dwelling constructed on a lot.

Staff: This application is to establish a single-family dwelling on the subject property.
Criterion met.

3.3 Dimensional Requirements

MCC 11.15.2218: (C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.

Staff: The applicant's site plan (Exhibit A.35) situates the proposed dwelling approximately 31 feet from the front property line, 14 feet from the east side property line, 119 feet from the west side property line, and 900 feet from the rear property line. SE Richey Rd. is a County maintained road. County transportation did not indicate that Richey Rd. has insufficient right-of-way (Exhibit B.2.). *Criteria met.*

3.4 Lot of Record

MCC 11.15.2222: (A) For the purposes of this district, a Lot of Record is a parcel of land: 1. For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to October 6, 1977; and 2. Which, when established, satisfied all applicable laws.

(B) A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

(C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.

(D) Except as otherwise provided by MCC .2220, .2224, and .7720, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

Staff: The County determined in land use case T2-2016-4844 that the subject property is a single lot of record (Exhibit A.14). The property owner was required to consolidate what was

previously two tax lots into a single lot, to perfect the lot of record. A bargain and sale deed (Exhibit A.12) recorded on March 3, 2017 via document #2017-027131 completed the required lot consolidation. Therefore, the subject property in its current configuration is a single lot of record as determined in land use case T2-2016-4844. *Criteria met.*

3.5 Off-Street Parking and Loading

MCC 11.15.2226: Off-street parking and loading shall be provided as required by MCC .6110 through .6148.

Staff: The applicant states in the submitted narrative (Exhibit A.4) that the proposed dwelling includes two parking spaces in a garage and two spaces in front of the garage. *Criterion met.*

4.0 Significant Environmental Concern Permit

4.1 General Requirements for Approval in Areas Designated as SEC-wr

MCC 11.15.6423(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 submitted an erosion control plan indicating they will employ Bio-bag check dams and sediment control fencing. If the County approves this SEC permit, a condition of approval can be included in this decision requiring the applicant to obtain a grading and erosion control (GEC) permit as well as a floodplain development permit prior to building permit plan review. Staff will verify the erosion control plan through the GEC permit review. *Criterion can be met through a condition of approval.*

4.2 MCC 11.15.6423(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: The submitted site plan (Exhibit A.35) shows proposed exterior lighting locations. A condition of approval can be included in this decision requiring lighting to be fully shielded with opaque materials and directed downward. *Criterion can be met through a condition of approval.*

4.3 MCC 11.15.6423(C): The following nuisance plants, in addition to the nuisance plants defined in MCC .6401, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:...

Staff: Staff reviewed the applicant's planting plan and found no proposed nuisance plants. In addition, the applicant's narrative (Exhibit A.4) states that no nuisance plants are proposed in the submitted mitigation plan. A condition of approval can be included in this decision prohibiting property owners from planting nuisance plants on the subject property. *Criterion can be met through a condition of approval.*

4.4 Criteria for Approval of SEC-WR Permit

MCC 11.15.6429: Except for the exempt uses listed in MCC .6406 and the existing uses pursuant to MCC .6412, 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 MCC .6408(A) and (C), and meets the general requirements in MCC .6422.

(A): Development on Low Impact Sites - Development on parcels in locations that would have low impacts on Water Resource Areas may be exempt from the Alternatives Analysis in (B) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E):

- 1. The development site is at least one hundred (100) feet from top of bank or top of ravine, which ever results in a greater distance from the Protected Water Feature.**

Top of ravine is the break in the > 25% slope. Slope should be measured in 25-foot increments away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.

Staff: In the submitted site plan (Exhibit A.35), the applicant proposes to locate the dwelling, parking, driveway, and septic greater than 100 feet from the top of bank of Kelly Creek. The proposed well is within 100 feet from the top of bank of Kelly Creek; therefore, the proposed development cannot be considered through this provision. The applicant has presented an alternative analysis as discussed in section 4.2.1 below as required by MCC 11.15.6429(B).

- 4.5 MCC 11.15.6429(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 alternative analysis which demonstrates that:

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

Staff: As noted in section 4.4 above, all proposed development except the well are greater than 100 feet from the top of bank of Kelly Creek. The applicant states in the narrative (Exhibit A.4) that the proposed well location was selected following consultation with the County Sanitarian to ensure required setback between the proposed septic drainfield. In "Item #8" of the Applicant's Response Memo (Exhibit A.27), the applicant further explains why they believe an alternate location (Exhibit A.35) on the northern portion of the property outside of the SEC-wr overlay would not be feasible:

Limited Access – the applicant states that the only access point from the north, Dahlquist Rd., is a private easement crossing nine properties from the connection with SE Foster Rd. Based on review of a title report, the applicant found the subject property does not include use of the easement; hence, they do not have guaranteed legal access from the north. The applicant believes that the alternate location would make periodic maintenance and emergency repairs extremely challenging.

In order to access, drill, and maintain the alternative well location at the northern portion of the property, construction of access bridges (with a minimum 60,000 lb. capacity) across the two tributaries of Kelly Creek would be necessary.

Environmental Impact – the applicant states that there would be energy inefficiencies in pumping the water the approximately 545 feet necessary to reach the site of the proposed dwelling. Further, the applicant believes that the amount of disturbance to the creek buffer area would be far greater when including the necessary bridge access across the creek and maintenance road between the bridges.

The applicant also discussed construction costs as well as overall costs in the response memo (Exhibit A.27); however, costs are not one of the factors considered in the above criteria.

The applicant has demonstrated that access issues and environmental impacts severely limit the practicability of utilizing the alternate well location on the northern portion of the property. *Criterion met.*

(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

Staff: As noted in the applicant's narrative (Exhibit A.4) and shown in the proposed site plan (Exhibit A.35), all disturbance will occur south of the protected streams. No development will occur north of the stream within the northern portion of the SEC-wr buffer zone. All physical development other than the well construction, water line installation and mitigation work will happen at least 100 feet south of the streams. The applicant also states that the proposed well location was selected following consultation with the County Sanitarian to ensure required setback between the proposed septic drainfield. *Criteria met.*

(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: In the submitted Natural Resource Assessment Report (Exhibit A.28), the consultant Tracy Brown ("Brown") of Tracy Brown Planning Consultants indicates that the riparian corridor primarily contains Himalayan blackberry. Blackberry is an invasive nuisance plant and the consultant identifies the entire southern corridor as "degraded". The submitted mitigation plan (Exhibit A.41), should restore the corridor to a "good" condition per Brown. The mitigation plan includes removal of all non-native plant species within the stream corridor and

planting native trees, shrubs, and ground cover within 75 feet of the top of bank on the southern side of the stream buffer. There are no estimated losses of function or value as the overall condition of the stream corridor will be restored to "good" condition per Brown. *Criteria met.*

- 4.6 MCC 11.15.6429(C): Development may be allowed to encroach into the 200' SEC-wr overlay zone or "buffer" when the provisions of (1) through (6) below are satisfied. These provisions are intended to allow development to extend a specific amount into the edges of the overlay zone without an alternatives analysis in exchange for increasing the area of vegetated corridor on the property that is in good condition.**

Staff: The applicant provided an alternatives analysis as required by MCC 11.15.6429(B) in section 4.5 above as the entire proposed development is within the SEC-wr overlay. Therefore, this criterion is not applicable. *This criterion is not applicable.*

- 4.7 MCC 11.15.6429(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.

(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: None of the amenities listed in (D)(1) are proposed. The applicant identified two existing trees located in the proposed development area that require removal (Exhibit A.35) The site plan also identifies the mature trees on the subject property that are to remain and the proposed mitigation plan identifies the proposed planting areas for new plantings. *Criteria met.*

(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.

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

Staff: In Brown's Natural Resource Assessment Report (Exhibit A.28), they point out that a majority of the corridor contains Himalayan Blackberry. The provided written Mitigation Plan (Exhibit A.31) removes invasive plant species and replaces them with native trees, shrubs, and ground cover to enhance the overall quality of the natural resource area. Once the mitigation

plantings are complete, Brown indicates the water resource area will be restored to “good condition”. A condition of approval ensures the survival and maintenance of the mitigation plantings. *Criteria met.*

(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.

(6) Where existing vegetation has been re-moved, 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: As described above, the majority of the work in the overlay area is to remove invasive plants (Exhibit A.34). Per the applicant’s narrative, trees will not be utilized as anchors to stabilize construction equipment (Exhibit A.4). The submitted existing conditions / nuisance plant removal plan (Exhibit A.34) highlights the areas of vegetation removal and the submitted preliminary planting / mitigation plan map (Exhibit A.41) identifies areas where new plantings will occur.

According to Brown’s Mitigation Plan (Exhibit A.31), existing native plants will be flagged and remain undisturbed to the greatest extent feasible. Once the new plantings are complete, soil will be placed around the plant and mulch and/or geotextile fabric will be used to protect the plants, and all disturbed areas will be seeded. A condition of approval can be included to ensure the implementation and adherence to the proposed mitigation plan and limit planting to the period of March 30 – November 1. *These criteria can be met through a condition of approval.*

(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 of approval can be added to this decision requiring the above. *This criterion can be met through a condition of approval.*

(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 proposed stormwater details (Exhibit A.21) indicate that a stormwater planter will be installed south of the proposed house. Adjacent to the driveway, filter strips aim to treat, infiltrate, and attenuate minor runoff. Excess flows from the filter strips will be discharged into a ditch along Richey Rd. In reference to b. and c. above, as stated previously, the entire proposed development is within the water resource overlay and Section 4.5 above contains an alternative analysis. County Transportation noted in a September 2018 e-mail that “Multnomah County Transportation finds your stormwater facilities satisfactory and has no further stormwater requirements at this time” (Exhibit A.27). *Criteria met.*

4.8 MCC 11.15.6429(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.

Staff: The entire southern portion of the parcel is within the SEC-wr buffer zone. Development cannot avoid impacting the stream buffer in this area. Most of the development in the southern buffer zone is located a minimum of 100 feet from the protected stream(s). This will reduce the magnitude of the disturbance within 100 feet of the top of bank of Kelly Creek. Development within this 100 feet is limited to work required for drilling, installing, and connecting the proposed domestic well (Exhibit A.35) and planting the mitigation area. The applicant is proposing to rehabilitate the stream buffer south of Kelly Creek. The applicant states that minimizing the impact to the extent necessary and completing the proposed mitigation plan (Exhibit A.31) will enhance the overall condition of the riparian area to “good condition” on

site. No mitigation will occur off site. Therefore, the proposal aligns with the above preferred mitigation sequence. *Criteria met.*

(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 development is a private single family dwelling and not for public benefit. The above criteria under (b) are not applicable.

(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.

Creation (off-site) 2:1

Restoration (off-site) 1.5:1

Creation (on-site) 1.5:1

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 natural resource area includes the entire southern portion of the SEC-wr buffer zone. As noted on the submitted Grading and Erosion Control plan (Exhibit A.36), the total area of natural resource area disturbance including the septic, house, driveway, and other physical improvements is approximately 20,657 sq. ft. Therefore, the total required mitigation area is also approximately 20,657 sq. ft. The proposed mitigation plan (Exhibit A.41) identifies a total mitigation area of approximately 20,657 sq. ft., with 4,000 sq. ft. of the total occurring within the riparian area. Given the total area of disturbance, the proposed mitigation plan ensures the 1:1 mitigation area requirement.

As noted in section 4.5, Brown assessed the riparian corridor as “degraded” and indicated the mitigation plan enhances the corridor to “good” condition. All mitigation will occur on-site. A condition of approval can be included in this decision to ensure the applicant implements and executes the mitigation plan as outlined in Exhibit A.31 & A.41. *These criteria can be met through a condition of approval.*

(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.

Table 2.

<p><i>Degraded Corridor</i> Combination of native trees, shrubs, and groundcovers covering is less than 50% of the area</p> <p>and/or</p> <p>Less than 25% tree canopy exists (aerial measure) and/or Greater than 10% of the area is covered by invasive, non-native species (Restoration up to “good” corridor required)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</p> <p>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically as appropriate.</p> <p>Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition.</p> <p>Vegetate corridor to establish “good” corridor conditions</p>
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Staff: The submitted, Natural Resource Assessment (Exhibit A.28), Mitigation Plan (Exhibit A.31), and Preliminary Planting / Mitigation Plan map (Exhibit A.41) include the required information listed in ‘a.’ through ‘e.’ and ‘Table 2’ above. *Criteria met.*

6.0 MULTNOMAH COUNTY ROAD RULES CRITERIA:

FINDINGS: Written findings are contained herein. The Multnomah County Road Rules 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*.

6.1 MCRR 4.000 Access to County Roads

MCRR 4.100 Application for New or Reconfigured Access: Applicants for a new, altered or reconfigured access onto a road under County Jurisdiction are required to submit a site plan. Applicants may be required to provide all or some of the following:

- A. Traffic Study-completed by a registered traffic engineer;
- B. Access Analysis-completed by a registered traffic engineer;
- C. Sight Distance Certification from a registered traffic engineer; and
- D. Other site-specific information requested by the County Engineer including a survey.

Staff: The applicant has proposed creating a new access onto SE Richey Rd, shown on the applicant's site plans. Adequate driveway spacing and sight distance has been documented for the new access onto SE Richey Rd.

Criterion is met.

- 6.2 MCRR 4.200 Number of Accesses Allowed:** Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property is the standard for approval pursuant to the Multnomah County Code. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system. If more than one access is desired, a land use application must be submitted in compliance with applicable Multnomah County Codes.

Staff: This project proposes a single access point onto SE Richey Rd.

Criterion is met.

- 6.3 MCRR 4.300 Location:** All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

Staff: For a Rural Collector (SE Richey Rd.), the minimum driveway spacing standard is 98 feet and minimum intersecting street setback is 98 feet (MCDCM, Table 1.2.5, Minimum Private Access Driveway Spacing Standards). The centerline of this project's proposed access is 20 feet from the centerline of an existing gravel driveway immediately east of it, and thus requires a Multnomah County Road Rules Variance to spacing standards.

Multnomah County Transportation finds these conditions satisfactory, as the existing driveway 20 feet away on the neighboring property only serves a farm structure, but not any residences. Additionally, the driveway spacing standards are subject to the road rules variance (below).

As conditioned, and through approval of the road rules variance, this criterion is met.

6.4 Multnomah County Road Rules Variance

For the County Engineer to consider a variance request, it must be submitted in writing with the appropriate fee to the County prior to the issuance of any development permit. The written variance request shall be signed by a person with the authority to bind the applicant and shall include the following information as applicable:

STAFF NOTE: During initial reviews on 7/5/18 and 9/4/18, County Transportation staff incorrectly cited the minimum access spacing standard as 148 feet on a Rural Collector; the correct standard is 98 feet (DCM Table 1.2.5). All references to the originally-stated 148 foot standard as follows have been corrected with the 98 foot standard.

Nonetheless, this Multnomah County Road Rules Variance to the minimum access spacing standard is still required given the site's proposed driveway centerline being 20 feet from a gravel access point on the property immediately east (17745 SE Richey Rd.) of the subject property (17741 SE Richey Rd.).

A. Applicant name, telephone/fax number(s), email address, mailing address,

Applicant Response:

Christina & Vasile Antimie
16933 SE Foster Rd
Gresham, OR 97080
503-317-6754

B. Property location and zoning;

Applicant Response:

Property location: 17741 SE Richey Rd. (R340689)

Zoning: RR-Rural Residential

C. Current or intended use of the property;

Applicant Response:

The applicant requests approval to allow the proposed driveway to serve a new single family home proposed to be constructed on the subject property as shown on submitted plans.

D. The nature and a full description of the requested variance;

Applicant Response:

As shown on Sheet SD-1 dated 11/21/18 of the submittal, the applicant proposes locating the access driveway for the proposed home approximately 104 feet to the west of the primary access driveway to the nearest home to the subject property located at 17745 SE Richey Road. This property contains a circular driveway system with the second access of this driveway located about 73 feet to the east.

This property also contains a third access driveway intersecting SE Richey Road located between the primary driveway and the proposed driveway approximately 20 feet east of the proposed driveway. This gravel road does not provide access to the neighboring property's residence but rather it serves as access to 1,200 square foot farm building located on a separate tax lot owned by the same owner. To the west of the proposed driveway is a driveway to the Pleasant Valley Elementary School across SE Richey Road about 251 feet away.

E. Site plan, sight distance, pedestrian traffic, intersection alignment, traffic generation, vehicle mix, traffic circulation including impact on through traffic, and other similar traffic safety considerations;

Applicant Response:

Site plan is attached. (Sheet SD-1, 11/21/18)

F. Existing right-of-way or improvement limitations, and utility considerations;

Applicant Response:

Site plan is attached. (Sheet SD-1, 11/21/18)

G. Adjacent land uses, their types, access requirements, and impact of traffic on them;

Applicant Response:

As discussed in this review, the applicant's proposal to locate the access driveway approximately 104 to the west of the primary access for the neighboring home located at 17745 SE Richey, approximately 20 feet from this property's secondary access to a farm structure also located on the property, and 251 feet from the access to the Pleasant Valley Elementary School across the street from the subject property is the best location given all considerations.

This location is far enough from all primary accesses so as not to adversely affect the functioning and safety currently enjoyed by these properties. In addition, approval of this request will not be materially detrimental or injurious to the owners of these properties.

H. Topography, grade, side hill conditions, and soil characteristics;

Applicant Response:

The property is located in the Johnson Creek Watershed and two tributaries of Kelly Creek flow through the middle of the property in an east-west direction. A portion of the property adjacent to these creeks is encumbered by the 100 year floodplain and approximately two-thirds of the property is restricted by the Significant Environmental Concern-Water Resources overlay.

I. Drainage characteristics and problems;

Applicant Response:

[No applicant response.]

[**Staff Comment:** County Land Use and Transportation staff have already reviewed and approved stormwater for the site.]

J. Fire Department access requirements within a public right-of-way and their written approval of the proposed modification;

Applicant Response:

[No applicant response]

[**Staff Comment:** City of Gresham Fire Access confirmed on 6/7/18.]

K. Natural and historic features including but not limited to trees, shrubs or other significant vegetation, water courses, wetlands, rock outcroppings, development limitation, areas of significant environmental concern, etc;

Applicant Response:

The property is bisected by two separate reaches of Kelly Creek, a tributary of Johnson Creek, and the entire southern half of the property is affected by the Significant Environmental Concern-Water Resources overlay. The SE Richey Road frontage contains a roadside ditch along the majority of the property frontage except at the proposed access location.

L. Multnomah County Comprehensive Plan policies applicable to the particular parcel or location.

Applicant Response:

The requested variance is part of a land use application associated with the applicant's request to site a home on the property (Case# T1-2018-10511). All of the items required by this section are included with this application.

6.5 16.200 General Variance Criteria: In order to be granted a variance, the applicant must demonstrate that:

A. Special circumstances or conditions apply to the property or intended use that do not apply to other property in the same area. The circumstances or conditions may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses;

Applicant Response:

The subject property is located at the outside apex of a fairly sharp curve on SE Richey Road. The property is bisected by two separate reaches of Kelly Creek, a tributary of Johnson Creek, and the entire southern half of the property is affected by the Significant Environmental Concern-Water Resources overlay.

The SE Richey Road frontage contains a roadside ditch along the majority of the property frontage except at the proposed access location. Given these limitations siting onsite sanitary sewer and domestic water service have been extremely challenging. Because of these constraints and locational parameters the applicant proposes locating the access driveway in the most logical and safest location.

With the exception of the access spacing standards, the proposed location complies with all other relevant road design standards including sight distance. Due to alignment of this portion of SE Richey Road and the location of existing access driveways, compliance with all relevant standards is not possible. The applicant has considered an alternative driveway location to shift the driveway to the west, but this location is problematic due to the depth of the roadside ditch and does not comply with sight distance requirements from the east. As such, the proposed access drive location appears to be the best given these special circumstances.

Staff Response:

As identified in the applicant's response, their proposed driveway location is resulting from site constraints including depth of roadside ditch and sight distance requirements. See Exhibit A.15 for SEC-wr Overlay Map; See Exhibit A.8 for Sheet C1: Preliminary Site Plan..

As conditioned, the criterion is met.

B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards;

Applicant Response:

Requiring the access driveway to be moved more than a couple of feet to the west will have a dramatic effect on the viability of developing the property with a single family home. The location and approval of the proposed septic system is the primary controlling factor in siting a home on the property.

Because of constraints caused by the location of Kelly Creek and the location of domestic wells on adjacent properties in addition to required setbacks, the proposed septic tank, drainfield and replacement drainfield are proposed in the only available location on the property.

Given these factors, requiring the applicant to move the access driveway to comply with the 98 foot minimum driveway access standard will significantly restrict the applicant's ability to develop the property in a reasonable fashion. As such, granting the variance is necessary to allow for the preservation and enjoyment of the applicant's private property rights and to allow some development of the property.

Staff Response:

As identified in the applicant's response, the proposed driveway location is resulting from site constraints including septic drainfields for the property itself and nearby properties' wells.

As conditioned, the criterion is met.

C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties;

Applicant Response:

As discussed in this review, the applicant's proposal to locate the access driveway approximately 104 to the west of the primary access for the neighboring home located at 17745 SE Richey, approximately 20 feet from this property's secondary access to a farm structure also located on the property, and 251 feet from the access to the Pleasant Valley Elementary School across the street from the subject property is the best location given all considerations.

This location is far enough from all primary accesses so as not to adversely affect the functioning and safety currently enjoyed by these properties. In addition, approval of this request will not be materially detrimental or injurious to the owners of these properties.

Staff Response:

As identified in the applicant's response, the only existing driveway not meeting the minimum 98 foot access spacing standard from the proposed driveway is a gravel driveway at 17745 SE Richey Rd. located 20 feet immediately east of the proposed driveway. This gravel driveway serves a farm structure, but not any residences.

As conditioned, the criterion is met.

D. The circumstances of any hardship are not of the applicant's making.

Applicant Response:

The specific conditions of the subject property and the location of existing access points that necessitate this request are not of the applicant's making. The installation of existing access driveways near the subject property preceded this application and the alignment of SE Richey Road has been established for many years. As noted in this review, limited options exist for alternative access locations due to sight distance limitations and site development constraints. As such, the circumstances necessitating this request are not of the applicant's making.

Staff Response:

As identified in the applicant's response, existing access driveways on nearby properties preceded this application and the alignment of SE Richey Rd. (a curve along 17741 SE Richey Rd., subject property, and 17745 SE Richey Rd., property to immediate east of subject property) results in the proposed driveway location having the best sight distance in both directions.

As conditioned, the criterion is met.

- 6.6 16.225 Access Variance Standards:** Exceptions to access standards may be made by the County Engineer when spacing or other safety considerations make non-standard access acceptable. In addition to the variance requirements of Section 16.200 of these Rules, the applicant will be required to demonstrate that the proposed variance will not negatively impact the safety or capacity of the transportation system for a variance to be granted. The following are examples of variances that may be considered along with specific criteria that must be addressed before such a variance can be granted.

B. Access Spacing: If it is not feasible to access a site and meet the access spacing standards, access may be located so as to provide the best access spacing possible. The County Engineer may require additional measures to mitigate sub-standard access spacing, such as a median or other restrictions.

Applicant's Response:

The applicant requests a variance to the access spacing standard. As discussed in this request due to property constraints and sight distance

considerations compliance with all County road standards is not possible.

Staff Response:

As identified in the applicant's response, existing access driveways on nearby properties preceded this application and the alignment of SE Richey Rd. (a curve along 17741 SE Richey Rd., subject property, and 17745 SE Richey Rd., property to immediate east of subject property) results in the proposed driveway location having the best sight distance in both directions.

The only existing driveway not meeting the minimum 98 foot access spacing standard from the proposed driveway is a gravel driveway at 17745 SE Richey Rd. located 20 feet immediately east of the proposed driveway. This gravel driveway serves a farm structure, but not any residences.

6.7 MCRR 4.400 Width: Driveway, Private road and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

Staff: For a Residential use, a new or reconfigured driveway must be a minimum 12 feet wide and maximum 24 feet wide (MCDCM, Table 1.2.4, Private Access Driveway Width Standards) The proposed access onto SE Richey Rd. is 12 feet wide.

Criterion is met.

6.8 MCRR 4.500 Sight Distance: All new or altered access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's A Policy on Geometric Design of Highway and Streets. The applicant submitted sheet SD-1 Sight Distance Exhibit that shows 450 feet of sight distance available in both directions. SE Richey Rd. has a posted speed limit of 45 mph and the available sight distance meets AASHTO standards.

In consideration these factors, Multnomah County Transportation finds the sight distances from the proposed access point satisfactory at this time.

Criterion is met.

6.9 MCRR 5.000 Transportation Impact

MCRR 5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

- A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or**
- B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.**

MCRR 5.200 The County Engineer will use the information obtained pursuant to subsection 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000. The County Engineer determination of pro-rata share of improvements will expire twelve months from the date of the County Engineer's determination or after the associated land use permit is granted or closed. If expired, a review process and new determination will be required.

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

Staff: The Multnomah County Road Rules defines a Transportation Impact as the effect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

A typical new single-family detached house generates 10 trips per day, so this project will create a Transportation Impact.

As conditioned, this criterion is met.

6.10 MCRR 6.000 Improvement Requirements

MCRR 6.100 Site Development: All subject parties with respect to any property proposed for development, including but not limited to the owner of the site and the applicant (if different than the owner), will be responsible for improvements to the right-of-way for any said development of the property which is found to cause a Transportation Impact, those improvements shall include:

- A. Dedication of Right of Way Requirement:** The subject parties are responsible for a pro-rata share, as determined by the County Engineer, of right-of-way and easement dedications necessary to bring the affected, existing, created or planned public streets and other facilities within and abutting the development to the current County standard. The dedication of the required easements and right-of-way may be conditions of approval of Design Review or any other development permit related to the proposal.

Staff: The County's standard cross-section for a Rural Collector as identified in Functional Classification Map facility includes 60 feet of right of way (See Table 2.2.5 in DCM) feet with 5-foot easements on each side. A 5-foot easement dedication allows the County to provide the services necessary to maintain the function of the roadway, provide adequate pedestrian facilities, and reduce the impact of utility upgrades on the traveling public while reducing right-of-way dedication requirements for property owners.

As conditioned, this criterion is met.

- B. Frontage Improvement Requirements:** In addition to easement and right-of-way dedication requirements, a prorata share may include half-street improvements along all of the site's County Road frontage(s). Right of Way improvements shall satisfy the standards of the County Design and Construction Manual based upon the functional classification of the road(s). The commitment to improve the affected streets or other facilities to the required standards shall be conditions of approval of Design Review or any other development permit related to the proposal. Half-street improvements can include all of the following:

Staff: The proposal for a new single family home constitutes a transportation impact as defined in MCRR 5.000 and thus improvements will be required. The driveway serving the site must have a 20-ft wide paved approach to County Road Name, a county road. This paved approach will be measured from the edge of pavement of County Road Name. It must not create any drainage problems along the County Road. This paved approach will help to protect the County Road from debris from the new driveway, and will improve the safety of this access.

There are no other physical improvements required at this time; However, the applicant will be required to record deed restrictions provided by County Transportation, committing the property owner to participate in future right of way improvement costs. A non-remonstrance agreement, or deed restriction, will require that the property owner to participate in standard Rural Collector road improvements along the sight's frontage that are not completed at this time. See MCRR 9.400 below.

As conditioned, this criterion is met.

- C. Required Submissions by Subject Parties.** Subject parties shall submit to the County Engineer the following: engineered plans, traffic studies, traffic analysis, reports, surveys or similar documents as requested or required by the County Engineer under this Subsection 6.100 or as may additionally be required under Section 18.
- D. Transportation Demand Management Options** that address strategies to reduce travel demand generated by the proposed development.

Staff: As determined in MCRR 5.000, a new single family detached house generates only ten (10) trips per day. County Transportation finds that proposal has submitted sufficient documentation related to the proposal, and does not warrant developing transportation demand management options. These criteria are not applicable.

6.11 MCRR 9.000 Compliance Method

MCRR 9.100 Once frontage or off-site improvement requirements have been established, one or any combination of the following methods must be used to satisfy those requirements:

MCRR 9.400 Non-Remonstrance Agreement: This agreement shall be recorded in the County's Deed Records against the affected property and "runs with the land", thereby

obligating the property owner and any successors in interest to share in the cost of the necessary improvements and to not remonstrate (object) against a petition or resolution for necessary improvements. In approving this method, the County Engineer may require a temporary improvement appropriate to the circumstances.

Staff: As indicated above, this project creates a Transportation Impact and Non-Remonstrance Agreements (i.e. deed restrictions) are the County's most common application of Transportation Impact-related requirements to new construction single-family detached house sites.

The applicant will be required to record deed restrictions provided by County Transportation, committing the property owner to participate in future right of way improvement costs. A non-remonstrance agreement, or deed restriction, will require that the property owner to participate in standard Rural Collector road improvements along the sight's frontage that are not completed at this time.

As conditioned, this criterion is met.

6.12 26.000 Stormwater and Drainage

26.100 Onsite management of Stormwater is a priority for County.

Staff: Multnomah County Transportation engineering staff reviewed the project's Drainage Report (April 3, 2018) on September 4, 2018 and found all conditions satisfactory.

Criterion is met.

7.0 CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern – Water Resources Permit to establish a single-family dwelling in the Rural Residential 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. All other exhibits are available for review in Case File T2-2018-10511 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	6.7.2018
A.2	1	Attachment B: Letter of Authorization from Vasile Antemie dated September 21, 2018	6.7.2018
A.3	1	Table of Contents	6.7.2018

A.4	34	Narrative	6.7.2018
A.5	12	Photo 1 through Photo 12 of Project Site and Natural Resource Assessment Report	6.7.2018
A.6	1	List of Attachments	6.7.2018
A.7	1	Sheet EC1: Existing Conditions / Nuisance Plant Removal Plan (Not to Scale)	6.7.2018
A.8	1	Sheet C1: Preliminary Site Plan	6.7.2018
A.9	1	Sheet C2: Preliminary Grading and Erosion Control Plan	6.7.2018
A.10	1	Sheet C3: Preliminary Utility & Drainage Plan	6.7.2018
A.11	1	Sheet L1: Preliminary Planting / Mitigation Plan	6.7.2018
A.12	3	Attachment A: Bargain and Sale Deed for Lot Consolidation	6.7.2018
A.13	8	Attachment C: Pre-Filing Conference Summary Notes dated September 24, 2015	6.7.2018
A.14	6	Attachment D: T2-2016-4844 Notice of Decision	6.7.2018
A.15	1	Attachment E: SEC-wr Overlay Map	6.7.2018
A.16	1	Attachment F: FEMA 100-Yr Floodplain	6.7.2018
A.17	4	Attachment G: Certification of Water Service for Subject Property along with two Well Driller's Water Supply Well Report for Nearby Properties	6.7.2018
A.18	5	Attachment H: Fire Service Agency Review (2 pages) and City of Gresham Fire Access and Water Supply Plan Review Comments (3 pages)	6.7.2018
A.19	1	Attachment I: Transportation Planning Review (Unsigned)	6.7.2018
A.20	6	Attachment J: Septic Review Certification (Unsigned) (1 page) and Site Evaluation Letter (5 pages)	6.7.2018
A.21	1	Attachment K: Drainage Narrative (1 page), Storm Water Certificate (1 page), Storm Water Plan (1 page) and Portions of Portland's Stormwater Management Manual (11 pages)	6.7.2018
A.22	11	Attachment L: Grading and Erosion Control Worksheet (8 pages), Erosion Control Plan Narrative (3 pages)	6.7.2018
A.23	3	Attachment M: Elevation Certificate	6.7.2018
A.24	3	Attachment N: Water Resource Area Certification Form signed by Tracy Brown Planning Consultants, LLC	6.7.2018
A.25	5	Attachment O: Antimie Property Soils	6.7.2018
A.26	3	Applicant Transmittal and Table of Contents	11.27.2018
A.27	16	Applicant Response Memo	11.27.2018
A.28	16	Natural Resource Assessment Report	11.27.2018

A.29	1	Attachment P: Notice of Assignment of Address T1-2018-10663	11.27.2018
A.30	6	Attachment J: Septic Review Certification (Signed)	11.27.2018
A.31	6	Attachment Q: Mitigation Plan	11.27.2018
A.32	6	Attachment R: Road Rules Variance Application	11.27.2018
A.33	6	Attachment S: Application for Permit to Use Public Right Of Way	11.27.2018
A.34	1	Revised Sheet EC1: Existing Conditions / Nuisance Plant Removal Plan (Not to scale)	11.27.2018
A.35*	1	Revised Sheet C1: Preliminary Site Plan (Not to scale)	11.27.2018
A.36	1	Revised Sheet C2: Preliminary Grading & Erosion Control Plan (Not to scale)	11.27.2018
A.37	1	Revised Sheet C3: Preliminary Utility & Drainage Plan (Not to scale)	11.27.2018
A.38	1	Revised Sheet L1: Preliminary Planting / Mitigation Plan (Not to scale)	11.27.2018
A.39	1	Revised Sheet SD-1: Sight Distance Exhibit (Not to scale)	11.27.2018
A.40	5	Revised (to-scale) Plans: Sheet C1, C2, C3, L1, and SD-1	11.27.2018
A.41*	1	Revised (to-scale) Sheet L1: Preliminary Planting / Mitigation Plan	3.12.2019
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1S3E19DA – 00300	6.7.2018
B.2	1	Transportation Planning Review (Signed)	7.5.2019
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	7.6.2018
C.2	1	Applicant's Acceptance of 180 Day Clock	9.5.2018
C.3	-	Application Complete (Day 1)	12.21.2018
C.4	3	Opportunity to Comment	12.21.2018
C.5	29	Administrative Decision	3.14.2019

Exhibit A.35



SYMONS ENGINEERING
CONSULTANTS, INC.

12805 se foster road
portland, oregon 97236
phone 503 760 1833
facsimile 503 762 1962

CLIENT

CHRISTINA & VASILE ANTIME
19333 SE FOSTER RD
GRESHAM, OR 97030
503-977-6754

PROJECT

ANTIME
RESIDENCE

SITE ADDRESS

TL 900 SE RICHEY RD
GRESHAM, OR 97060

SHEET NAME

PRELIMINARY
PLANTING / MITIGATION
PLAN

REVISION

4/16/19 ISSUED FOR SEC-WF REVIEW
1/21/19 REVISED FOR COMPLETENESS
3/7/19 MITIGATION PLAN ENHANCEMENT
3/11/19 ADDED MITIGATION LINE

ISSUE DATE

MARCH 11, 2019

DRAWING FILE

16-28c.DWG

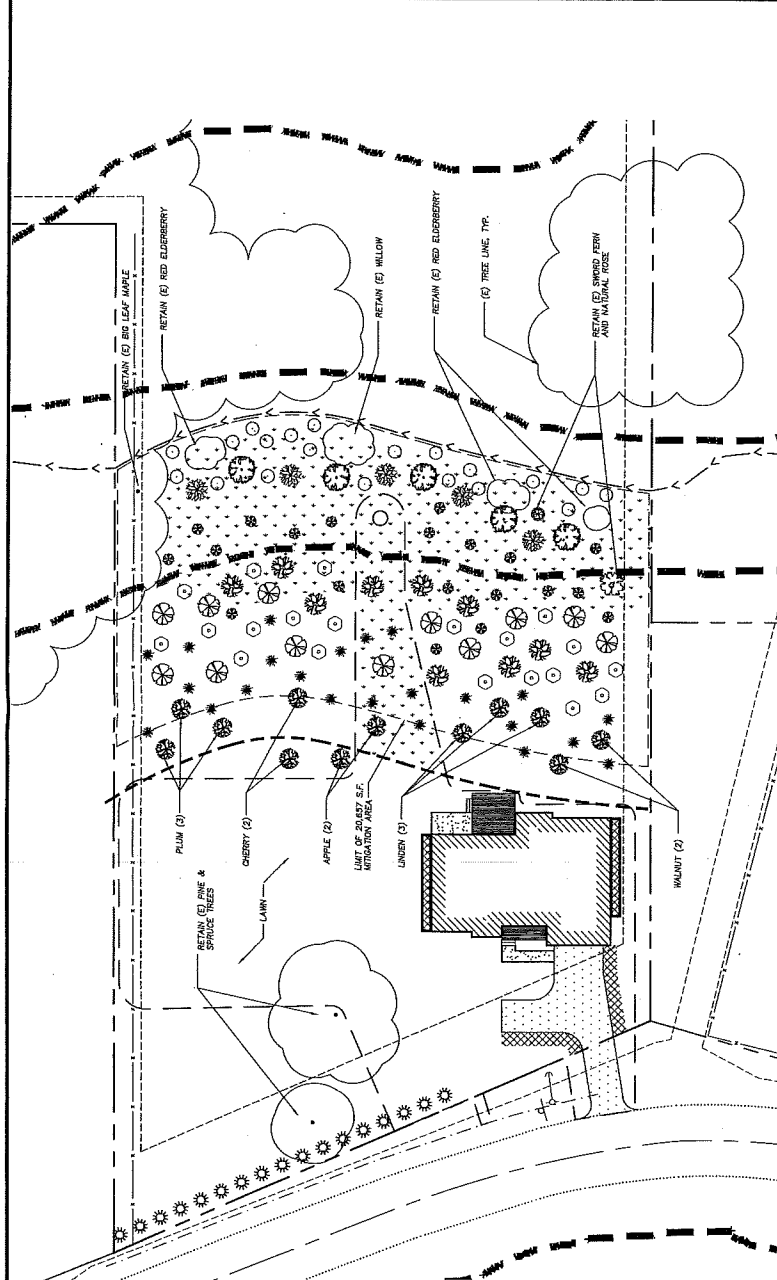
PROJECT NUMBER

16-28

SHEET 5

OF 8 SHEETS

EXHIBIT
A-1



PRELIMINARY
PLANTING / MITIGATION PLAN

SCALE: 1" = 20'
0 10 20



* Not to scale. Reduced from original *
to fit on 11" x 17" paper.

PLANT LEGEND

SYMBOL	QUANTITY	COMMON NAME	Botanical name	SIZE
	5	DOUGLAS FIR	Pseudotsuga Menziesii	1 1/2" CALIPER
	5	WESTERN RED CEDAR	Thuja Platylocha	1 1/2" CALIPER
	12	BIG LEAF MAPLE	Acer Macrophyllum	1 1/2" CALIPER
	10	BITTER CHERRY	Prunus Emarginata	1 1/2" CALIPER
	12	FRUIT/AUNT TREE	OWEN SELECTED SPECIES (see plan)	1 1/2" CALIPER
	20	PACIFIC NINEBARK	Physocarpus Opulifolius	3 GAL
	20	STYKA WILLOW	Salix Siliquosa	CUTTINGS
	20	RED OBER DOORWOOD	Cornus Sericea	3 GAL
	17	ANCHOVITAE	Thuja Occidentalis	3 GAL
	23	SWORD FERN	Polytaedium munitum	1 GAL
	20	PACIFIC NINEBARK	Physocarpus Opulifolius	3 GAL
	20	STYKA WILLOW	Salix Siliquosa	CUTTINGS
	20	RED OBER DOORWOOD	Cornus Sericea	3 GAL
	17	ANCHOVITAE	Thuja Occidentalis	3 GAL
	23	SWORD FERN	Polytaedium munitum	1 GAL

GROUND COVER PLANTS

MATURE URBAN MEADOW MIX (GRASS AND FORBES PT. 454) AT ALL AREAS OF DISTURBANCE TO BE REPLANTED TO INSURE REMAINING AREAS

STORMWATER FACILITY REQUIRED VEGETATION

IRRIGATION

MANUAL IRRIGATION FOR THE DURATION OF THE ESTABLISHMENT PERIOD

NOT FOR CONSTRUCTION