

NOTICE OF DECISION

Case File: T2-2020-13803
Permit: Geologic Hazards Permit
Applicant: Carlos Saca **Owners:** Rachael Spavins & Dermott Cleary
Subject: 10424 NW Laidlaw Road, Portland
Property: Map #1N1W26BB -02000 Tax Account #R961260060 Property ID #R324517
Base Zone: Rural Residential (RR)
Overlays: Geologic Hazards (GH); Significant Environmental Concern – Streams (SEC-s)
Proposal Summary: Applicant requests a Geologic Hazards Permit for proposed ground disturbance activities related to the removal of a portion of the existing driveway, installation of a concrete patio, and fencing. The proposal includes a GH permit exemption for footings to support an addition to the existing single-family dwelling and a SEC-s permit exception.

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, March 26, 2021 at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for digital review. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Chris Liu, Staff Planner via email at chris.liu@multco.us

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

Issued by: _____

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, March 12, 2021



Applicable Approval Criteria:

Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3090 Lot of Record – RR, MCC 39.6850 Dark Sky Lighting Standards

Rural Residential Zone Criteria: MCC 39.4360 Allowed Uses – (A) & (F), MCC 39.4375 Dimensional Requirements and Standards – (C), (D), (F), (G) and (H).

Geologic Hazards Criteria: MCC 39.5075 Permits Required, MCC 39.5080 Exemptions, MCC 39.5085 Application Information Required, MCC 39.5090 Geologic Hazards Permit Standards

Significant Environmental Concern Criteria: MCC 39.5515 Exceptions

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

Chapter 39 - Zoning Code

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.

1. Permit Expiration – This land use permit shall **expire** as follows:
 - a. **Within two (2) years** of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
 - ii. For purposes of Condition 1.a, notification of commencement of construction shall be given to Multnomah County Land Use Planning Division by sending an email to *chris.liu@multco.us*, a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed and erosion control installed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - b. **Within four (4) years** of the date of commencement of construction when the structure has not been completed. [MCC 39.1185(B)]
 - i. For the purposes of 1.b. completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

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

2. At the time of land use sign-off for building plan check, the property owner or their representative shall:
 - a. Demonstrate on the building plans that all proposed exterior lighting complies with the Dark Sky Lighting Standards of MCC 39.6850. In addition, the plan shall show all locations for existing lighting on the dwelling. Photographs of the existing lighting fixture shall be provided for documentation purposes. [MCC 39.4375(H)]
 - b. Provide a landscaping plan which shows the vegetation to be used to stabilize the disturbed ground area.
3. Prior to and during construction, the property owner or their representative shall ensure that:
 - a. The Erosion and Sediment Control Plan (Exhibit A.16) is followed. Silt fencing and wattles shall be installed prior to commencement of ground disturbance.
 - b. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development. [MCC 39.5090(J)]
 - c. Permanent plantings and any required structural erosion control and drainage measures shall be installed 15 days after the ground disturbance is complete. [MCC 39.5090(L)]
 - d. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary. [MCC 39.5090(M)]

- e. Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized. [MCC 39.5090(N)]
 - f. Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system. Control measures which may be required include, but are not limited to: (1) Energy absorbing devices to reduce runoff water velocity; (2) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule; (3) Dispersal of water runoff from developed areas over large undisturbed areas. [MCC 39.5090(R)]
 - g. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into water bodies by applying mulch or other protective covering; or by location at a sufficient distance from water bodies; or by other sediment reduction measures. [MCC 39.5090(S)]
 - h. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities. [MCC 39.5090(T)]
4. All Erosion Control measures shall remain in place and operational until such time as the landscaping plan is completed (see condition 2.b.) and all disturbed areas vegetated. [MCC 39.5090]

Note: When ready to have building plans reviewed 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 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 Staff Planner, Chris Liu via email at chris.liu@multco.us, for instructions on scheduling your review of the conditions of approval and building plans. Please ensure items required under, “At the time of land use sign-off...” are ready for review.

The above must be completed before the applicant can obtain building permits from the City of Portland. At building plan review, Land Use Planning may collect additional fees, including an erosion control inspection fee, as applicable.

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

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

Findings of Fact

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

1.0 PROJECT DESCRIPTION:

Staff: Applicant requests a Geologic Hazards Permit for proposed ground disturbance activities related to the removal of a portion of the existing driveway, installation of a concrete patio, and fencing. The proposal includes a GH permit exemption for footings to support an addition to the existing single-family dwelling and a SEC-s permit exception.

2.0 PROPERTY DESCRIPTION:

Staff: The subject property is in unincorporated west Multnomah County and is zoned Rural Residential. Washington County’s border with Multnomah County is immediately west of the subject property. The subject property is outside of the metro urban growth boundary. A single-family dwelling is located on the subject property.

3.0 PUBLIC COMMENT:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 (Exhibit C.3). Staff did not receive any public comments during the 14-day comment period.

4.0 GENERAL PROVISIONS:

4.1 § 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

* * *

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

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

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

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

4.2 MCC 39.3005 Lot of Record – Generally

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

*** * ***

Staff: Land Use case #T2-2020-13458 verified that the subject property was a Lot of Record as configured at the time. There have been no changes to the configuration of the subject property since the aforementioned Lot of Record Verification (Exhibit A.6). Therefore, the current configuration of the subject property is a Lot of Record. *Criteria met.*

4.3 MCC 39.3090 Lot of Record – Rural Residential

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

- (1) July 10, 1958, SR zone applied;**

* * *

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 39.4395, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 39.4380, 39.4385, and 39.5300 through 39.5350, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) An area of land created by court decree.**

Staff: Land Use case #T2-2020-13458 verified that the subject property was a Lot of Record as configured at the time. There have been no changes to the configuration of the subject property since the aforementioned Lot of Record Verification (Exhibit A.6). Therefore, the current configuration of the subject property is a Lot of Record. *Criteria met.*

5.0 RURAL RESIDENTIAL ZONE CRITERIA:

5.1 MCC 39.4360 Allowed Uses

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

(A) Residential use consisting of a single family dwelling on a Lot of Record.

* * *

(F) Accessory Structures subject to the following:

- (1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in the following list:**

* * *

- (l) Fences, gates, or gate support structures;**

* * *

(n) Similar structures.

Staff: Per the Applicant’s narrative and site plan, the proposal includes a ~390 sq. ft. addition to the existing single-family dwelling, installing a new concrete patio adjacent to the dwelling addition, and new concrete steps from an egress door on the side of the dwelling. The proposal also includes alterations to the existing driveway, exterior fencing, and front gate, as well as the installation of a wood privacy fence adjacent to the new patio. *Criteria met.*

5.2 MCC 39.4375 Dimensional Requirements and Development Standards

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

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

* * *

Staff: Per the site plan included as Exhibit A.15, the proposed improvements described in Section 5.1 above will exceed the required minimum yard dimensions of 30 ft. from the front property line, 30 ft. from the rear property line, and 10 ft. from the side property lines. County Transportation did not indicate the presence of insufficient right-of-way, which would necessitate an increased minimum yard. *Criteria met.*

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

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Staff: Exhibit A.7 is a Stormwater Drainage Control Certificate completed by Nathan Robinson, P.E. The certificate and supplemental documents state that the project may utilize the natural infiltration process for stormwater/drainage control. Runoff drains into a catch basing on the driveway or towards an offsite stream.

Exhibit A.8 is a Septic Review Certification completed by the County Sanitarian. The certification states that the property contains an existing septic system that is adequate to serve the proposed development. *Criteria met.*

5.4 (G) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

* * *

Staff: Per County zoning maps, adjacent properties are zoned Rural Residential (RR). There are no known existing farm uses / operations on the adjacent properties; hence, there is no projected impacts to such uses/operations. *Criteria met.*

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

Staff: A condition of approval (Condition #2) is included in this decision requiring the applicant to demonstrate compliance with the above criteria at the time of building plan sign-off. *Through a condition of approval, the above criterion is met.*

6.0 GEOLOGIC HAZARDS PERMIT CRITERIA:

6.1 MCC 39.5075 Permits Required

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

Staff: The subject property contains areas identified on the Geologic Hazards Overlay map. Therefore, ground disturbance associated with the proposed alteration to the driveway, installation of a new concrete patio, and new concrete steps adjacent to the side of the dwelling (Exhibit A.15) requires a Geologic Hazards (GH) permit. An exemption request for the excavation of footings associated with the proposed addition to the existing single-family dwelling is discussed in Section 6.2 below. *Criteria met.*

6.2 MCC 39.5080 Exemptions

Ground disturbing activity occurring in association with the following uses is exempt from GH permit requirements:

(A)An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished depth greater than four feet.

* * *

Staff: The Applicant requests an exemption to the GH permit requirements for the excavation of footings associated with the proposed ~390 sq. ft. addition to the existing single-family dwelling. Per the Applicant’s narrative and preliminary plans (Exhibit A.14, A.4 – A.5, and A.15), unsupported finished depths greater than four feet are not proposed. Based on the information in the case record, the proposed excavation for footings associated with the proposed ~390 sq. ft. addition to the existing single-family dwelling is exempt from the GH permit requirements. *Criterion met.*

6.3 MCC 39.5085 Geologic Hazards Permit Application Information Required

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

* * *

Staff: The Applicant provided the required application information as Exhibits A.1 – A.16. *Criteria met.*

6.4 MCC 39.5090 Geologic Hazards Permit Standards

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

(A) The total cumulative deposit of fill on the site for the 20-year period preceding the date of the application for the GH permit, and including the fill proposed in the GH permit application, shall not exceed 5,000 cubic yards. For purposes of this provision, the term “site” shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

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

Staff: A Geotechnical Reconnaissance and Stability Preliminary Study completed by Cynthia Hovind, PE GE is included in the application materials as Exhibit A.12. In the study, Hovind notes that less than 100 yards of soil will be removed and no additional fill will be imported for the project on the site. *Criteria met.*

6.5 (C) Cut and fill slopes shall not exceed 33 percent grade (3 Horizontal: 1 Vertical) unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that a grade in excess of 33 percent is safe (including, but not limited to, not endangering or disturbing adjoining property) and suitable for the proposed development.

(D) Unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point shall meet a setback from any property line of a distance at least twice the height of the cut or fill, unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that the cuts or fills will not endanger or disturb adjoining property. All unsupported finished cuts and fills greater than 4 feet in height at any point shall require a Certified Engineering Geologist or Geotechnical

Engineer to certify in writing that the cuts or fills will not endanger or disturb adjoining property.

Staff: Hovind's preliminary study notes that the maximum slopes will be 15%, with average slopes of 10% (Exhibit A.12). The study indicates that the ground disturbance in the southwestern portion of the property is to align the terrain of the subject property with adjacent properties to the west. The study does not show any unsupported finished cuts or fills greater than 4 feet in height. Hovind indicates that the proposed cuts, including the 1-2 feet deep cuts in the southwest area, will not cause stability problems for the subject property and/or adjacent properties. Based on the above, no additional setback will be required. *Criteria met.*

6.6 (E) Fills shall not encroach on any water body unless an Oregon licensed Professional Engineer certifies in writing that the altered portion of the waterbody will continue to provide equal or greater flood carrying capacity for a storm of 10-year design frequency.

(F) Fill generated by dredging may be deposited on Sauvie Island only to assist in flood control or to improve a farm's soils or productivity, except that it may not be deposited in any SEC overlay, WRG overlay, or designated wetland.

Staff: Hovind's study does not show any proposed fills that would encroach on a water body (Exhibit A.12). The study also does not show any fill generated by dredging that would be deposited on Sauvie Island. *Criteria met.*

6.7 (G) On sites within the Tualatin River drainage basin, erosion, sediment and stormwater drainage control measures shall satisfy the requirements of OAR 340-041- 0345(4) and shall be designed to perform as prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. Ground-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340-041-0345(4) is approved for alterations within the buffer area.

Staff: Per available county maps, the subject property is within the Tualatin River drainage basin. The Applicant's narrative states that the proposed erosion and stormwater controls (Exhibit A.14 & A.16) were designed in general accordance with the most recent City of Portland Erosion and Sediment Control Manual and the City of Portland 2016 Stormwater Management Manual. As shown on the site plan (Exhibit A.15), the nearest stream is greater than 200 ft. from the project area. *Criteria met.*

6.8 (H) Stripping of vegetation, ground disturbing activities, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction.

(I) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff.

Staff: The proposed ground disturbance subject to this GH permit is limited to the anticipated area necessary to remove the identified portions of existing driveway and install a new concrete patio (Exhibit A.16). Temporary silt fencing / wattles is proposed to minimize erosion. As areas are disturbed, the disturbed areas will be immediately stabilized with base rock and/or mulch, and permanent grass plantings will follow for disturbed areas where no development is proposed (Exhibit A.16).

Nate Robinson, PE completed a Stormwater Drainage Control Certificate stating that the site can accommodate stormwater runoff via natural infiltration (Exhibit A.7). The proposal reduces the impervious area on the site by approximately 1,000 sq. ft. The disturbed area where no development is proposed, will be replanted with grass to match the surrounding areas of the site (Exhibit A.16). *Criteria met.*

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

Staff: Per the Applicant's narrative (Exhibit A.14), in the driveway area, exposed soil will be covered with base rock immediately following excavation. Further, mulch will be installed in the SW corner of the property prior to planting. As noted in Section 6.11 below, permanent plantings must be completed within 15 days of the completion of the ground disturbance. A condition of approval (Condition #3) ensures compliance with (J). *Through a condition of approval, the above criterion is met.*

6.10 (K) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

(1) A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;

(2) The buffer required in subsection (K)(1) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment, and stormwater control measures designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River drainage basin in OAR 340-041-0345(4). Structural erosion control and drainage measures shall be installed as soon as practical.

Staff: As shown on the site plan (Exhibit A.15), the project site is greater than 200 ft. from the nearest stream. County maps do not show any wetlands on the subject property. There are no plans to remove vegetation within 100-ft of the stream. *Criteria met.*

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

Staff: Per the Applicant's narrative (Exhibit A.14), permanent plantings will be installed as soon as possible and temporary measures will be installed prior to that point. A condition of approval (Condition #3) is included to ensure compliance with (L) by requiring the permanent

plantings within 15 days following the completion of the ground disturbance. *Through a condition of approval, the above criterion is met.*

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

Staff: A Stormwater Drainage Control Certificate completed by Nate Robinsion, PE states that the expected runoff from the proposed development can be accommodated on the subject property via natural infiltration (Exhibit A.7). Robinsion provided additional supporting documents, including calculations, to support his findings (Exhibit A.7). The proposed project decreases the site's impervious area by approximately 1,000 sq. ft. Temporary silt fencing / wattles will be utilized when ground disturbance is occurring and grass will be planted following the completion of the disturbance (Exhibit A.16). *Criterion met.*

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

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

Staff: Per the Applicant's narrative and Erosion Control Plan (Exhibit A.14 & A.16), sediment control measures include the use of silt fencing and wattles. Following the proposed cut faces in the southwest area of the property, mulch will be used a temporary measure until the permanent plantings are complete. *Criteria met.*

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

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

Staff: A Stormwater Drainage Control Certificate completed by Nate Robinsion, PE states that the expected runoff from the proposed development can be accommodated on the subject property via natural infiltration (Exhibit A.7). Currently, runoff flows to a catch basin on the driveway or towards an offsite stream. No drainage swales or other drainage measures are proposed as part of the project. *Criteria met.*

- 6.15 (R) Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system. Control measures which may be required include, but are not limited to:**

(1) Energy absorbing devices to reduce runoff water velocity;

(2) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

(3) Dispersal of water runoff from developed areas over large undisturbed areas.

Staff: Erosion and sediment control measures are designed per best practices from the City of Portland Erosion and Sediment Control Manual (Exhibit A.16). Measures included the installation of a catch basin, wattles, and silt fencing. As the property is located downslope from NW Laidlaw Rd., the expectation is that no erosion or sediment would enter the public right-of-way. A condition of approval (Condition #3) requires compliance with the above criteria. *Through a condition of approval, the above criteria are met.*

6.16 (S) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into water bodies by applying mulch or other protective covering; or by location at a sufficient distance from water bodies; or by other sediment reduction measures;

(T) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

Staff: The above criteria in (S) and (T) are included as conditions of approval (Condition #3) for this decision. *Through a condition of approval, the above criteria are met.*

6.17 (U) On sites within the Balch Creek drainage basin, erosion, sediment, and stormwater control measures shall be designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. All ground disturbing activity within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

(V) Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual.

Staff: Per available County maps, the subject property is located outside of the Balch Creek drainage basin. No ground disturbing activities are proposed within a water body per the submitted narrative and site plan (Exhibit A.14 & A.15). Therefore, the above criteria are not applicable to the proposed project. *Criteria not applicable.*

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

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

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

Staff: The Applicant does not propose to bring any fill to the site (Exhibit A.14 – A.16). Therefore, the above criteria of (W), (X), and (Y) are not applicable to the project. *The above criteria are not applicable.*

7.0 SEC-S EXCEPTION CRITERIA:

7.1 MCC 39.5515 Exceptions

(A) Except as provided in subsection (B) of this Section, an SEC permit shall not be required for the following:

* * *

(8) Change, alteration, or expansion of a use or structure lawfully established on or before November 17, 1994 , or lawfully established within the Sauvie Island Multnomah Channel Planning Area on or before January 7, 2010 provided that:

(a) Within the SEC, SEC-w, and SEC-v, there is no change to, or alteration, or expansion of, the exterior of the structure;

(b) Within the SEC-h and SEC-s, there is no change to, or alteration or expansion of, the structure’s ground coverage in excess of 400 square feet. With respect to expansion, this exception does not apply on a project-by-project basis, but rather applies on a cumulative basis to all expansions occurring after the date above; and

(c) Within the SEC-h, there is no change to, or alteration or expansion of, a driveway in excess of 400 square feet.

* * *

Staff: The proposal includes the addition of ~390 sq. ft. to the existing single-family dwelling. Per County records (Exhibit B.1), the construction of the single-family dwelling was authorized prior to 1994. Therefore, the proposed ~390 sq. ft. addition qualifies for an exception to the SEC-s permit requirement.

Exhibit A.13 is a memorandum from a licensed biologist in support of the SEC-s permit exception. The memorandum describes the proposed alterations to the existing exterior fencing, which also qualifies for the SEC-s permit exception, as there will be no expansion to the existing ground coverage. *Criteria met.*

8.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for a Geologic Hazards (GH) permit for proposed ground disturbance activities discussed above. The applicant has also carried the burden necessary for: 1) The GH permit exemption to

excavate footings for the proposed ~390 sq. ft. addition to the existing single-family dwelling, and 2) The SEC-s permit exception for the proposed ~390 sq. ft. addition to the existing single-family dwelling and alteration of the exterior fencing. This approval is subject to the conditions of approval established in this report.

9.0 EXHIBITS:

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2020-13803.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	09.24.2020
A.2	2	Applicant Narrative	09.24.2020
A.3	1	Proposed Site Plan	09.24.2020
A.4	2	Proposed Floor Plans	09.24.2020
A.5	2	Proposed Elevation Drawings	09.24.2020
A.6	1	Copy of Cover Page for case #T2-2020-13458	09.24.2020
A.7	26	Stormwater Drainage Control Certificate	09.24.2020
A.8	4	Septic Review Certification	09.24.2020
A.9	7	Fire Service Agency Review	09.24.2020
A.10	16	Transportation Planning Review	09.24.2020
A.11	1	Copy of RRV Case Status Letter for case #EP-2020-13101	09.24.2020
A.12	7	Geologic Hazards Permit (GHP) Form 1, completed by Cynthia Hovind, PE GE	09.24.2020
A.13	13	SEC Permit Exception Memorandum, completed by ESA Associates	09.24.2020
A.14	4	Revised Applicant Narrative	11.06.2020
A.15*	1	Revised Site Plan	11.06.2020
A.16*	2	Erosion Control Plan & Plan Details	11.06.2020
‘B’	#	Staff Exhibits	Date

B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W26BB -02000 (Alt Acct# R961260060)	09.24.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 1N1W26BB	09.24.2020
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	10.21.2020
C.2	1	Applicant's acceptance of 180 day clock	10.27.2020
C.3	1	Complete letter (day 1)	12.02.2020
C.4	4	Opportunity to Comment and Mailing List	01.21.2021
C.5	17	Administrative Decision	03.12.2021