



**NOTICE OF DECISION ON A TYPE II LAND USE PERMIT**

**Decision:** Approved with Conditions

**Permit Type:** Stream Conservation Area Review

**File No.** Z0303-24

**Applicant's Proposal:** Replacement of three existing culverts on existing access road, relocation of an existing fence within the RSCA setback, installation of a backup power generator, replacement of existing gravel road, and construction of new animal pens.

**Decision Date:** October 15, 2024

**Deadline for Filing Appeal:** October 28, 2024, at 4:00 pm.

**Issued By :** Taylor Campi, Senior Planner, [TCampi@clackamas.us](mailto:TCampi@clackamas.us)

**Applicant:** Kristin Solomon

**Owner of Property:** Oregon Metro

**Zoning:** EFU – Exclusive Farm Use District

**Assessor's Map & Tax Lot(s):** T2S R3E Section 32 Tax Lot 600, 1600, and 1601

**Site Address:** 17255 S McCubbin Road

**Location Map**



**Community Planning Organization (CPO) for Area:**

REDLAND-VIOLA-FISCHER'S CPO  
WARD LANCE 503-631-2550  
LANCECWARD@AOL.COM

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

**Opportunity to Review the Record and Decision:** The complete decision, including findings and conditions of approval, and the submitted application are available for review online at <https://accela.clackamas.us/citizenaccess/>. Select the **Planning** tab and enter the file number to search. Select **Record Info** and then select **Attachments** from the dropdown list, where you will find the submitted application. A copy of the decision, application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost by contacting the Planner listed above. Copies of all documents may be purchased at a cost established by the County fee schedule.

**Appeal Rights:** **This decision will not become final or effective until the period for filing an appeal with the County has expired without the filing of an appeal.** Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision pursuant to Subsection 1307.09(C) of the Clackamas County Zoning and Development Ordinance may appeal this decision to the Clackamas County Land Use Hearings Officer by filing a written appeal. An appeal must include a completed Appeal Form available at [www.clackamas.us/planning/supplemental.html](http://www.clackamas.us/planning/supplemental.html) and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified above.

Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

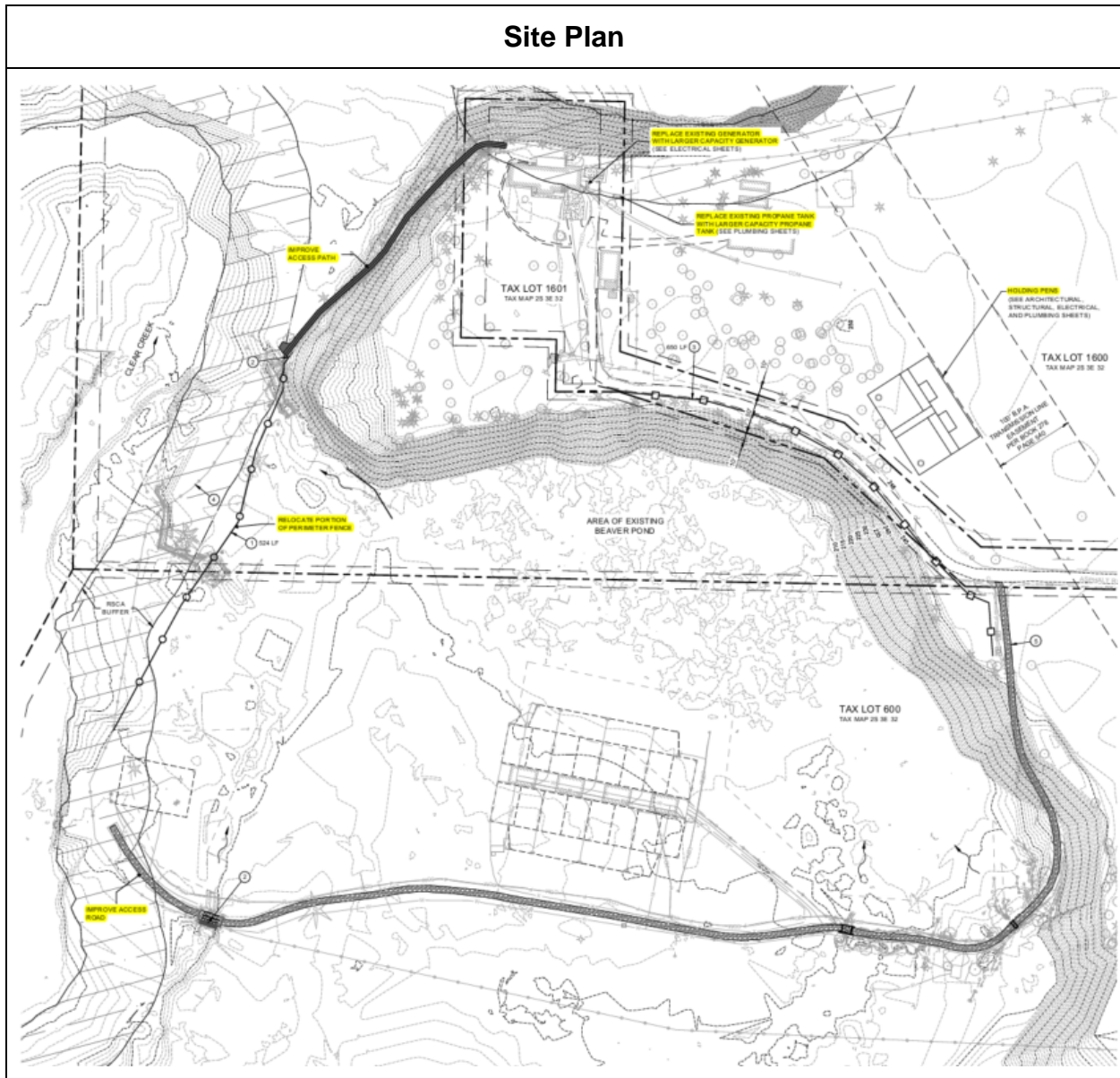
A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRenhard@clackamas.us](mailto:DRenhard@clackamas.us).  
503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통?*

# Location Map





## 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 parentheses.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on 7/24/2024 and additional documents submitted on 9/4/24. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with these

documents and the limitation of any approval resulting from the decision described herein.

2. The approval of this Clear Creek Stream Conservation Area (SCA) permit is valid for four (4) years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void. (704.09(C))
  - a. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved SCA permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.
    - i. A "major development" permit is:
      1. A building or manufactured dwelling placement permit for a new primary structure that was part of the SCA permit approval; or
      2. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the SCA permit approval.
    - ii. If the approval of this SCA permit is not implemented within the initial approval period established by Subsection 704.09(C), a two-year time extension may be approved pursuant to Section 1310.

## **APPLICABLE APPROVAL CRITERIA**

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This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 401 704, and 1307.

## **PUBLIC AND AGENCY COMMENTS**

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Notice was sent to applicable agencies and owners of property within 750 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. Comments from the following were received:

DSL (Department of State Lands) submitted a response to the required Wetland Land Use Notification indicating that the proposed project **may** require a State permit (call 503-509-0460) and Federal permit from the Army Corps of Engineers (call 503-808-4373).

No other comments were received.

## FINDINGS

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The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

1. **Background/Overview of Applicant's Proposal:** The subject property is used as a facility for animal husbandry, an outright permitted farm use. The applicant's proposal includes construction of new animal pens outside of the RSCA boundary, a new uninterrupted power supply (UPS) system for the existing pens, replacement of an existing emergency power generator, replacement of the potable water supply line to the existing single family home, replacement of undersized crossings with fish-passable structures under an existing access road, implementation of water surface elevation controls in the wetlands where beaver have historically made dams, relocation of the perimeter fence at the southern edge of the site, replacement of the existing gravel road servicing the interior of the site, and upgrading the existing access path with aggregate. Approximately 16,000 feet of the existing fence is located within the 100' RSCA setback and this proposal would relocate all but 351 feet of fence outside of the RSCA setback. Both the generator and tank sit within the RSCA setback and are proposed to be replaced. Approximately 735 square feet of existing gravel road will be resurfaced within the RSCA. The existing access trail will be improved with about 300 square feet of gravel surfacing material within the RSCA.
2. **ZDO Section 401**

Section 401 regulates the EFU zone, which is the zone applicable to the subject property. Table 401-1 identifies farm use, as defined in Oregon Revised Statutes (ORS) 215.203, as an allowed primary use.

**Finding:** As the applicant states in their application, the definition of farm use in the Oregon Revised Statutes 215.203, farm use includes "propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission" and the Oregon Department of Fish and Wildlife has issued a Letter of Authorization to Oregon Zoo pursuant to OAR 635-044 for the existing farm use. ***This criterion is met.***

3. **ZDO Section 704, River and Stream Conservation Area (RSCA)**

### 704.02 DEFINITIONS

**Finding:** *The criteria, requirements, standards, and text of ZDO Section 704 are subject to the definitions outlined in Subsection 704.02.*

***These criteria are met.***

#### 704.03 AREA OF APPLICATION

- B. Section 704 also applies to land that is located within 100 feet of the mean high water line of large Type F streams, except principal rivers identified in Subsection 704.03(A), identified on Water Protection Rule Classification (WPRC) Maps compiled pursuant to OAR 629-635-000 and adopted as part of the Comprehensive Plan. The location of these streams may vary from these maps if more specific information is provided. Classified as Stream Conservation Areas (SCAs), these large streams are designated in the Comprehensive Plan as those that generally have annual average flows of 10 cubic feet per second or greater.

**Finding:** *The proposed development is located within 100 feet of the mean high water line of Clear Creek, a large Type F stream. Therefore, Section 704 applies. This criterion is met.*

- E. The provisions of Section 704 are in addition to those requirements of the State Scenic Waterways Act, Omnibus Oregon Wild and Scenic Rivers Act of 1988, and the Federal Wild and Scenic Rivers Act of 1968. In those areas so designated, the requirements of the County shall be administered subject to the application requirements of Subsection 704.08 and prevail when they are more restrictive than state and federal standards.

**Finding:** *The criteria of this Subsection are understood in the review of this application. Clear Creek is not designated as a Scenic River by the Federal or State Government through the acts noted above. This criterion is met.*

- F. Notwithstanding Subsections 704.03(A) through (E), Section 704 does not apply to land that is inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary, nor does it apply to Oregon Department of Fish and Wildlife, or other state or federally approved, fish enhancement projects.

**Finding:** *The criteria of this Subsection are understood in the review of this application. The subject property is not inside the UGB. This criterion is met.*

#### 704.04 RIVER AND STREAM SETBACKS

The following minimum setbacks shall apply to structures exceeding 120 square feet or 10 feet in height:

**Finding:** *The standards of this Subsection do not apply because the proposed alteration qualifies under a Setback Exception of Subsection 704.05 as outlined below.*

**This criterion is not applicable.**

704.05 SETBACK EXCEPTIONS

A. The following uses are exempt from the minimum setback standards of Subsection 704.04:

2. Repairs, additions, alterations to, or replacement of structures, roadways, driveways, or other development, which is located closer to a river or stream than permitted by the setback requirements of Subsection 704.04, provided that such development does not encroach into the setback any more than the existing structures, roadways, driveways, or other development;

***Finding:*** Each of the site enhancements proposed within the RSCA involve alteration, addition, or replacement of roadways, trails, and other development located closer than allowed by the 100-foot RSCA setback. As shown on the submitted site plan, none of these elements will encroach into the setback more than existing structures, and the relocation of the southern fence will remove the majority of an existing encroachment. ***This criterion is met.***

704.06 DEVELOPMENT STANDARDS

A. The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet, if the dwelling or accessory structure can be seen from a principal river.

***Finding:*** No portion of the subject property can be seen from a principal river. ***This criterion is not applicable.***

B. Commercial or industrial facilities, such as structures, parking areas, and storage areas shall comply with Subsection 704.04, and signs shall be screened from view of the Principal River or Stream Conservation Area by an opaque vegetation buffer. These facilities shall be subject to design review, pursuant to Section 1102.

***Finding:*** No commercial or industrial facilities are proposed. ***This criterion is not applicable.***

C. Subdivisions and partitions shall be designed, where possible, to allow compliance with Section 704.

***Finding:*** No subdivisions or partitions are proposed. ***This criterion is not applicable.***

704.07 VEGETATION PRESERVATION REQUIREMENTS

A. A minimum of 75 percent of the setback area (distance) shall be preserved with native vegetation.



**Finding:** The approximately 350 square feet of disturbed or potentially disturbed areas within the Stream Conservation Area constitute less than 1% of the total acreage within the Stream Conservation Area on the subject property. With over 99% of the setback area preserved with native vegetation, **this criterion is met.**

B. Tree cutting and grading shall be prohibited within the buffer or filter strip, with the following exceptions:

**Finding:** No tree or vegetation removal is proposed with any of the site enhancements within the Stream Conservation Area. **This criterion is met.**

C. Commercial forest activities and harvesting practices outside an urban growth boundary shall be subject to the Oregon Forest Practices Act. Commercial forest harvesting activities inside an urban growth boundary shall be reviewed pursuant to the Forest Policies of the Comprehensive Plan.

**Finding:** No commercial forest activities are proposed. **This criterion is not applicable.**

#### 704.08 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application filed pursuant to Subsection 704.09 shall include:

**Finding:** The applicant has provided the necessary submittal materials to proceed with the application. **This criterion is met.**

#### 704.09 ADMINISTRATION OF SECTION 704

*The standards of this Subsection that pertain to the Approval Period and Time Extensions are outlined in the Conditions of Approval above*

B. Development and grading permits in a Stream Conservation Area (SCA) shall be reviewed through a Type II application pursuant to Section 1307.

**Finding:** The proposed development is located within 100 feet of the mean high water line of a large Type F stream. Therefore, this proposal is being reviewed through a Type II application pursuant to Section 1307. **This requirement is met.**