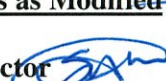




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Planning (503) 842-3408  
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**Variance Request #851-22-000267-PLNG: Weeks/McGlynn  
Administrative Decision & Staff Report**

**Decision:** Approved with Conditions as Modified  
**Decision Date:** December 6, 2022  
**Report Prepared By:** Sarah Absher, CFM, Director 

**I. GENERAL INFORMATION:**

**Request:** Variance request to reduce the required 20-foot front yard setback to 11-feet and to exceed the 35-foot height maximum by 6-feet for a maximum building height of 41-feet as measured from existing, pre-construction grade (Exhibit B).

**Modified:** Variance approval for a maximum building height of 40-feet as measured in accordance with TCLUO Section 3.320(4)(1). Front yard setback request is denied.

**Location:** Located in the Unincorporated Community of Neskowin, the subject property is Lot 57 Unit Two, of Sahhali Shores at Neskowin, is accessed via Haystack Drive, a private road, and designated as Tax Lot 2900 of Section 13DB, Township 5 South, Range 11 West, W.M., Tillamook County, Oregon (Exhibit A).

**Zone:** Neskowin Rural Residential (Nesk-RR)

**Applicant:** Stephen Weeks, 720 SW Washington Street #800, Portland, OR 97205

**Property Owner:** Robert McGlynn, 1322 SW Upland Drive, Portland, OR 97221

**Description of Site and Vicinity:** The subject property is located in Unit Two, Sahhali Shores at Neskowin (Exhibit A). The subject property is irregular in shape, steep in slope, well vegetated, unimproved and encompasses 0.48 acres according to County Assessors records (Exhibit A). Access to the subject property is from Haystack Drive, a private road. The surrounding area is also zoned Nesk-RR and the general area consists of single-family residential uses (Exhibit A).

The subject property is located in an area of known geologic hazard and the provisions of TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas applies to development of the property.

Mapped wetlands are not present on the property however mapped wetlands are identified in the vicinity. The subject property is not located within an Area of Special Flood Hazard as shown on FEMA Flood Insurance Rate Map (FIRM) Panel No. 41057C0865F (Exhibit A).

To comply with the Sahhali Shores at Neskowin design standards for development of residential properties, the Applicant is requesting a Variance to the maximum height standard of the Nesk-RR zone and a reduction of the required front yard setback (Exhibit B). The Applicant states these Variance requests are necessary due to the steeply sloped nature of the property and due to the methodology of how the height of structures is measured for properties within the Nesk-RR zoning district (Exhibit B).

## II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

The request is governed through the following Sections of the Tillamook County Land Use Ordinance (TCLUO). The suitability of the proposed use, in light of these criteria, is discussed in Section III of this report:

- A. Section 3.320: Neskowin Rural Residential (NeskRR) Zone
- B. Article VIII: Variance Procedures and Criteria
- C. Section 4.005: Residential and Commercial Zone Standards
- D. Section 4.130: Development Requirements for Geologic Hazard Areas

## III. ANALYSIS:

### A. Section 3.320: Neskowin Rural Residential (NeskRR) Zone

*Section 3.320(1), Land designated Rural Residential is intended to maintain the rural character of the community by retaining large lots where typically community water and sewer are not available. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes.*

**Section 3.320(2) and 3.320(3)** list uses permitted outright and conditionally in the zone. The applicant is proposing a height variance and front yard setback reduction for the construction of a single-family dwelling (Exhibit B).

**Findings:** Staff finds that the requested use for the construction of a single-family dwelling is allowed outright in the Nesk-RR zone.

### **Section 3.320 (4), STANDARDS:**

- (h) *The minimum front yard shall be 20 feet.*
- ...
- (l) *The maximum building height shall be 35 feet. **Higher structures may be permitted only according to the provisions of Article VIII.** Within the Neskowin Community Growth Boundary, building height shall be measured as the vertical distance from existing grade at a given point to the highest surface of any building element or projection above that same point. The building height shall not exceed the*

*maximum building height at any point. Existing grade is defined as the grade prior to land disturbing activities or fill placement.*

**Findings:** Subsection 4 of Section 3.320 outlines various development standards for new lot/parcel creation, dimension requirements, lot coverage maximums, maximum building height, setbacks and new utility installation. The submitted site plan demonstrates compliance with the relevant standards with the exception of the maximum height allowance and front yard setback as stated above.

The subject property is not considered to be an oceanfront lot. Oceanfront lots are defined in Article 11 of the TCLUO as *a lot which abuts the State Beach Zone Line (ORS 390.770) or a lot where there is no portion of a buildable lot between it and the State Beach Zone Line.* Properties west of the subject property and the Sahhali Shores at Neskowin development are also zoned Nesk-RR where zoning allows for development of properties. It should be noted that “buildable” is not limited to construction of a single-family dwelling.

The height calculation and methodology for determining building height described above is limited to properties within the Neskowin Community Boundary. It should also be noted that the height development standard above states that *higher structures may be permitted only according to the provisions of Article VIII.* Inclusion of this Variance language is unique to Neskowin zoning districts.

Staff finds the requested Variances may be permitted only on finding that the criteria of TCLUO Article 8 have been satisfied. TCLUO Article 8: Variance Procedures and Criteria is addressed below.

**A. Article VIII: Variance Procedure and Criteria; including Section 4.005 Residential and Commercial Zone Standards**

*The purpose of a VARIANCE is to provide relief when a strict application of the dimensional requirements for lots or structures would cause an undue or unnecessary hardship by rendering the parcel incapable of reasonable economic use. No VARIANCE shall be granted to allow a use of property not authorized by this Ordinance.*

Article VIII of the Tillamook County Land Use Ordinance governs the applications of Variances within the County. Article IV, Section 4.005 lists the purposes of the land use standards in each of the residential and commercial zones.

**Section 8.020** requires notification of the request to be mailed to landowners within 250-feet of the subject property, to allow at least 14 days for written comment and requires Staff to consider comments received in making the decision.

**Findings:** A notice of the request was mailed to property owners within 250 feet of the subject property and other agencies on October 20, 2022. Comments received are included in “Exhibit C”. Concerns raised are summarized as follows:

- Proposal requests exceeding the building height maximum when other properties in the vicinity have complied with Nesk-RR building height requirements.
- Height maximum should be determined at 24-feet.
- Proposal diminishes privacy and open space.
- Front yard variance is not necessary when eaves are permitted to encroach 24-inches into a required yard as per TCLUO Section 4.110(7).
- Sahhali Shores at Neskowin HOA development review committee has not yet reviewed development proposals for construction of a dwelling on the subject property.

Concerns reflected in the public comments received are addressed throughout the report.

**Section 8.030** states that a Variance may be authorized if the applicants/property owners adequately demonstrate that the proposed use satisfies all relevant requirements, including demonstration that all four review criteria in Section 8.030 are met. These criteria, including Section 4.005 Residential and Commercial Zone Standards, along with Staff's findings and conclusions are indicated below:

*(1) Circumstances attributable either to the dimensional, topographical, or hazardous characteristics of legally existing lot, or to the placement of structures thereupon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met. Such circumstances may not be self-created.*

**Findings:** Applicant's submittal contains an explanation as to why the height and front yard variances are necessary (Exhibit B). *The slope averages 50% as it falls nearly 100' down from the road, but the steepest slopes, about 75%, occur at the top of the slope immediately adjacent to Haystack Drive. Setbacks, as established by 3.324(h-j) are 20 feet at the front and rear yards and 5 feet at the east side yard adjacent to protected open space. Sahlali Shores COA regulations establish a more restrictive setback of 15 feet on the west side yard adjacent to tax lot 2800, further restricting the narrow lot. Per Section 4.117, roof overhangs may extend into the required setback two feet if the eaves are part of an energy efficiency measure providing shading to the windows and the walls below. As energy efficiency is an important goal of the owner, the proposed roof includes large projecting eaves as part of a holistic sustainable design solution.*

*The extreme slopes at the top of the lot immediately adjacent to Haystack Drive create significant access challenges that impact the configuration and construction of the driveway and the garage (a requirement of all houses in Sahlali Shores as noted in Sahlali Covenants, Conditions and Restrictions (CCR) 9.7). The upper portion of the lot is the steepest in all Sahlali Shores and has the least street frontage of any lot on Haystack Drive. See the Neighborhood Topo Plan on page 3. These dimensional and topographic conditions create significant challenges to the development of the property as a single-family residence. The maximum building height per Section 3.324(l) is 35 feet from the existing natural grade to any point of the structure. The property is not an ocean-front lot per Tillamook County zoning map. The Vicinity Plan on page 2 depicts this condition. CCR 9.3.2(e) establishes a different limit on building height. The maximum allowable height is 30 feet, measured from the average existing contour on the uphill side of the house. While more restrictive on the uphill side of the house, this regulation is actually more accommodating of the impacts of steep sites on building geometry (Exhibit B).*

*Applicant adds, Due to its location, orientation and downward slope, the lot is well secluded from neighboring properties. The two houses across the street are positioned on much higher ground, with grade at the base of the house on tax lot 100 approximately 38 feet above and lot 200 about 54 feet above the highest grade at the house location on the subject property. Views of the coastline from these houses will remain. Furthermore, the design of both houses places the primary living spaces on the second floors where site lines are even more advantageous. See the Neighborhood Site Plan on page 4 and the Neighborhood Section Diagram on page 5 for illustrations of this relationship (Exhibit B).*

Applicant refers to the accompanying geologic hazard report where siting recommendations in the report are to site the garage as close to the roadway as possible in order to reduce grading due to the steeply sloped nature of the subject property (Exhibit B).

To comply with this recommendation, Applicant states the project has been designed in a manner that results in a reduced front yard setback ranging from 13 feet to 23 feet below the elevation of the road with

slopes in excess of 75%. Site conditions requires the driveway to be built on an elevated concrete structure supported on walls and columns. The proposed design slopes the driveway down from the road at 25% slope, the maximum recommended by consulting civil engineer Jason Morgan, with allowances for flatter transition zones to avoid cars bottoming out. Applicant states this very steep driveway sets the floor level of the garage at elevation 147'. With a square footprint approximately 20 feet on a side to accommodate the required two vehicle parking spaces, the base of the rear wall of the garage is 28 feet above grade. With a standard 8' wall height and an 18" thick roof construction the height reaches 37'-6" above grade before even factoring in an allowance for a sloped roof (Exhibit B).

Due to the slope differential (75% of natural topography versus 25% of the proposed driveway), Applicant states positioning the garage as close to the road as possible helps keep the height of the walls lower. Applicant explains that the further the garage is placed from the road the taller the structure must be. For every foot of horizontal distance from the road, the vertical height of the garage above grade grows by 6". Page 12 includes a Cross Section through the driveway and the garage (Exhibit B).

Variance request for Building Height: Staff finds that topographic constraints exist due to circumstances attributable to topographical characteristics of the subject property. Staff concludes that construction of a single-family dwelling is a substantial property right enjoyed by the majority of landowners in the vicinity. Staff finds that the building height calculation methodology for properties within the Neskowin Community Boundary is difficult to achieve on steeply sloped properties and due to the steep topographic nature of the subject property, this circumstance is not self-created.

Variance request for Front Yard Setback Reduction: Applicant's profiles confirm the foundation wall of the structure primarily adheres to the 20-foot front yard setback with the exception of the two foundation corners as depicted on the site plan included in "Exhibit B" of the Applicant's submittal. The Applicant's submittal includes the Geologic Hazard Report (GHR) completed for development of the subject property. The GHR is comprised of the Engineering Geologic Site Reconnaissance and Geologic Hazard Report prepared by Warren Krager, R.G., C.E.G., dated October 5, 2021, and the Engineering Portion of the Geologic Hazard Report prepared by Jason Morgan, P.E., dated October 20, 2021 (Exhibit B). Primary relevant geologic hazards on this site related to steep slope, hard shallow rock, soft surface soil and regional seismic hazards (Exhibit B).

In review of the GHR, staff finds the GHR does not conclude that the front yard setback must be reduced due to geologic hazards at the site in order to construct a single-family dwelling on the subject property (Exhibit B). The GHR does not state it is necessary to push the building envelope forward with a reduced front yard setback and neither professional gives a clear determination of how much the front yard setback should be reduced. Mr. Morgan acknowledges construction on the property must either comply with the front yard setback requirement of the zone or comply with a reduced setback established by variance approval. Mr. Krager is silent on the need for a reduced front yard setback in order to construct a dwelling on the property (Exhibit B). Both professionals conclude the site is suitable for the construction of a single-family dwelling (Exhibit B).

TCLUO Section 4.110(7) states, *Architectural features such as cornices, eaves, canopies, gutters, signs, chimneys, and flues shall not project more than 18 inches into a required yard unless evidence is presented to the Department that such projections increase the energy efficiency of the building, either by the capture of solar radiation or by providing shading for cooling, in which case they shall not project more than 24 inches into a required yard.* Profile depicts the eave extending further into the required 20-foot front yard setback. Evidence in the record does not support the need for a reduced setback for the proposed eave overhang. Staff finds eaves can encroach up to 24-inches and without requiring an approved Variance.

Staff concludes this criterion has been met in relation to the request for a building height variance due to the steep topographic nature of the subject property.

Staff concludes this criterion has not been met in relation to the request for the front yard setback reduction for the siting of the foundation and for request for the extension of eaves beyond the allowed 24-inches permitted through TCLUO Section 4.110(7). The criterion for a reduced front yard setback by two-feet and the establishment of an 18-foot front yard setback to provide relief for those areas of the foundation footprint depicted on the submitted site plan included in “Exhibit B” of the Applicant’s submittal lacks justification for this setback reduction. The GHR does not explicitly state or require a reduction in the front yard setback due to “*circumstances attributable either to the dimensional, topographical, or hazardous characteristics of legally existing lot, or to the placement of structures thereupon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met.*”

*(2) A variance is necessary to accommodate a use or accessory use on the lot which can be reasonably expected to occur within the zone or vicinity.*

**Findings:** Single-family dwellings are an outright allowed use in the Nesk-RR zone and this use is consistent with uses on the surrounding properties expected to reasonably occur in the zone and vicinity. Applicant states that to reasonably accommodate development of the property with construction of a single-family dwelling, the requested variances are necessary. Applicant states the modest footprint of the upper level, only containing the required garage and the house entry space placed as low as possible with the steepest recommended driveway exceeds the standard for allowable height in Section 3.324(1). The proposal includes a front setback variance request to minimize the amount of the necessary height variance (Exhibit B).

Construction of a single-family dwelling is a use that is reasonably expected to occur within the zone and vicinity. Topographic survey information and the elevation profiles submitted by the Applicant confirm the steeply sloped nature of the property as well as the need for the Variance to comply with the garage design requirements contained in the CCRs for the Sahhali Shores at Neskowin community. For the reasons and circumstances described above and in recognition that the construction of a single-family dwelling is an outright permitted use in the Nesk-RR zone, Staff concludes this criterion has been met to support the Variance request for relief to the 35-foot building height maximum.

Staff also finds other properties in the vicinity have been able to construct a single-family dwelling on properties without a variance to the front yard setback requirement. This criterion in relation to the front yard setback request has not been met.

*(3) The proposed variance will comply with the purposes of relevant development standards as enumerated in Section 4.005 and will preserve the right of adjoining property owners to use and enjoy their land for legal purposes.*

#### **B. Section 4.005: Residential and Commercial Zone Standards**

- (1) To ensure the availability of private open spaces;*
- (2) To ensure that adequate light and air are available to residential and commercial structures;*
- (3) To adequately separate structures for emergency access;*
- (4) To enhance privacy for occupants or residences;*
- (5) To ensure that all private land uses that can be reasonably expected to occur on private land can be entirely accommodated on private land, including but not limited to dwellings,*

- shops, garages, driveway, parking, areas for maneuvering vehicles for safe access to common roads, alternative energy facilities, and private open spaces;*
- (6) *To ensure that driver visibility on adjacent roads will not be obstructed;*
- (7) *To ensure safe access to and from common roads;*

**Findings:** The applicant's submittal includes a narrative responding to the standards outlined above as well as supplemental drawings and a site plan (Exhibit B). Staff finds that all uses are contained within the property boundaries, and that availability of open space and privacy, adequate area for light and air, adequate separation for emergency access is maintained through adhere of setback requirements for development of the property. Because the structure is to be sited downslope, area for light and air should not be obstructed. Driver visibility as well as safe access via Haystack Drive is not negatively impacted as a result of the proposed residential development given all uses are expected to occur within the boundaries of the subject property (Exhibit B).

Specifically in relation to standards related to emergency access, Applicant states, *Granting of the requested variances will not constrain emergency access and, in fact the positioning of the house closer to the street, if approved, would improve emergency access to this property. The structure would be more accessible to emergency vehicles on Haystack Drive and more easily reached by emergency personnel, via the shorter driveway or by traversing the slope around the perimeter of the house* (Exhibit B).

In review of the submitted site plan and elevation profiles, Staff finds that the driveway connection to the building footprint of the structure is proposed on a portion of the structure that already adheres to the 20-foot front yard setback (Exhibit B).

- (8) *To ensure that pleasing view are neither unreasonably obstructed nor obtained;*

**Findings:** Applicant states, *granting of a setback variance improves the sightline to favorable views from the adjacent undeveloped lot south of the subject property. Views from the houses across the street will be preserved in such a way that does not preclude the project site from rightfully enjoying similar views.* Applicant's submittal includes an analysis of potential view impacts to properties within close proximity to the subject property and includes discussion of potential impacts to both improved and unimproved properties (Exhibit B).

Applicant notes the two houses across the street sit on substantially higher ground, 38 feet and 54 feet above the base elevation of the proposed dwelling (Exhibit B). Applicant argues that from these advantageous positions, favorable views of the ocean, the trees and the horizon will remain over the top of the proposed dwelling (Exhibit B).

Applicant states the design of the roof slopes of the proposed dwelling has been developed with sensitivity to the view corridors from both neighboring houses, and the roof is intentionally designed to minimize obstruction of views in all instances (Exhibit B). To further minimize the height of the ridges, Applicant states that the roof slope is proposed at 2.5:12, the lowest pitch we can recommend in this climate and on this forested property. Additionally, the proposed roof design minimizes the presence of the house from the street. The highest point of the roof above grade on the uphill, street-facing side is 25 feet, substantially lower than the county-permitted standard of 35 feet and still five feet below the Sahhali Shores at Neskowin allowable height of 30 feet. The highest point of the roof of the proposed design is only 7 feet above the level of Haystack Drive and is nestled deep into the hill with the least impact on the neighborhood possible (Exhibit B).

Upon receipt of concerns expressed by adjacent property owners during the public comment period, the applicant provided additional responses to help address concerns related to potential impacts to views. In

response to these concerns, staff conducted a site visit on November 5, 2022. Staff found property to the south is vacant and that the property to the north is also vacant and is publicly owned property. Properties to the east, across Haystack Drive are residentially improved properties. These properties sit higher in elevation than the subject property.

Concern of establishment of a precedence should these Variance requests is reflected in the public comments included as “Exhibit C” of this report. Applicant explains this is unlikely given the unique and situationally based circumstances of this request (Exhibit B). Applicant also reiterates these Variance requests are necessitated from compliance with design requirements imposed on properties part of the Sahhali community and are not to obtain a better view or unreasonably obstruct adjacent property views (Exhibit B).

*(9) To separate potentially incompatible land uses;*

**Findings:** The use is allowed outright in the Nesk-RR zone and development of properties for residential use is expected to occur in this area.

*(10) To ensure access to solar radiation for the purpose of alternative energy production.*

**Findings:** County records do not indicate any such facilities are in the vicinity of the subject property. Staff finds that the proposed construction of a single-family dwelling on the property does not unreasonably shadow or otherwise inhibit access to solar radiation on adjacent properties.

Based upon the findings outlined above, Staff concludes this criterion in relation to both Variance requests has been met.

*(4) There are no reasonable alternatives requiring either a lesser or no variance.*

**Findings:** Applicant explains that the need for a height variance is not the result of designing a tall house with soaring interior volumes and floor levels positioned to achieve a more advantageous view. The height is the result of the back wall of the garage reaching down to the ground. Applicant adds that the need for access to the garage, both from the street and from the house like every other home in Sahhali, determines the height of the structure (Exhibit B).

Due to the extreme slope, Applicant states the property cannot be developed as a single-family residence with a garage and a sloped roof within the development standards. There are no reasonable alternatives to the requested variances that do not impinge on the Sahhali development criteria. Denial would deprive the property owners of their substantial right to enjoyed by others in this area (Exhibit B).

Applicant states this property is unique among the lots in Unit Two, Sahhali Shores at Neskowin. It is the steepest lot with the shortest frontage and requires favorable consideration of the requested variances to construct a single-family house. Denial of the requested variances would substantially harm the property owners, who have a significant financial investment in this legally platted property valued as a buildable lot within the Sahhali Shores at Neskowin development, a planned community approved for single-family houses by Tillamook County (Exhibit B).

Applicant has provided an analysis of the parameters and factors that determine the dimensions of the structure and explores alternative approaches for design of the dwelling to identify a reasonable alternative requiring a lesser or no variance (Exhibit B). These include a requirement for a two-car garage mandated by Sahhali CCRs with minimum dimensions of 20-feet by 20-feet, topographic constraints due to the steeply sloped nature of the property, limiting driveway slope to no steeper than 25%, efforts to comply



with driveway design requirements also part of the Sahhali CCRs as well as design of roof pitch and roof orientation (Exhibit B).

To construct a single-family house on this unique site, based on the proposed setback variance, Applicant is requesting an adjustment of five feet to the maximum allowable height. Applicant states this would only apply to the walls on the downhill side of the house accommodating the ridge of the sloped roof that reaches a maximum of 40 feet above grade and adds that the proposed design remains well below the Sahhali CCR limit of 30 feet on the uphill, street-facing side of the house. Applicant refers to the drawing on page 11 that depicts the proposed Roof Heights Above Grade while Elevation Diagrams are shown on page 14 and 15 (Exhibit B).

Applicant states the requested height variance to 40 feet only pertains to County regulations and is only needed on the north side of the structure facing away from the neighborhood. This side of the house will not be visible from any other lot in Sahhali (Exhibit B). Granting of this variance does not establish a precedent for other property at Sahhali, because none has as steep of a slope at the access side of the lot (Exhibit B).

Applicant adds that the reduced setback is proposed to minimize disturbance of the natural environment, is consistent with recommendations in the geohazard report, and serves to keep the overall height a little lower. Applicant explains that if the dwelling were located further down the hill in compliance with the 20' building setback (County and Sahhali) the height variance would need to be 41 feet. A 5 feet adjustment for the eave encroachment in the southeast corner would still be proposed.

In review of the elevation profiles and information submitted with these Variance requests, staff finds the dwelling foot can be adjusted to meet the 20-foot front yard setback and be sited in a manner that fits into the requested 40-foot height maximum. The elevation profile depicts the 20-foot front yard setback line and the ridge height of the structure at 40-feet, demonstrating the dwelling can be sited in a manner that does not necessitate increasing the building height to 41-feet as stated in the application (Exhibit B).

Given the circumstances of the property and requirement to comply with Sahhali Shores at Neskowin design requirements enforced through the CCRs, Staff finds that there is adequate evidence in the record to demonstrate that the proposed height increase to 40-feet is a reasonable alternative that results in the property owners ability to comply with the design requirements contained within the Sahhali Shores at Neskowin CCR's for construction of a single-family dwelling, a property right that could otherwise be preclude the enjoyment of a substantial property right shared by others in the vicinity.

Staff concludes the criterion in Section 8.030(4) has been met for the requested height Variance of 40-feet. As stated previously in this report, the GHR did not specifically state a front yard setback reduction is needed for development of the property. For the reasons stated previously in this report, Staff concludes this criterion has not been met for the Variance request for relief to the front yard setback requirement.

#### **C. Section 4:130: Development Requirements for Geologic Hazard Areas**

*(b) Inactive landslides, landslide topography and mass movement topography identified in DOGMI bulletins 74 and 79 where slopes are greater than 19 percent;*

...

*(3) A GEOLOGIC HAZARD report is required prior to approval of planned developments, coast resorts, subdivisions and partitions governed by the Land Division Ordinance, building permits, mobile home permits, sand mining, occurring in areas identified in (1) with the following exception:*

*(a) For building or mobile home or manufactured home permits in areas identified in (1)(b), reports are needed for lots 20,000 square feet or larger only where the proposed structure is to be situated on slopes greater than 29 percent or if (1)(f) applies.*

**Findings:** This requirement can be met through the Conditions of Approval.

#### **IV. DECISION: APPROVED WITH CONDITIONS**

Staff concludes, based on the findings of fact and other relevant information in the record, that the applicant has satisfied/or is able to satisfy the applicable ordinance requirements through the Conditions of Approval, and therefore, approves the request subject to the provisions in Section V below.

By accepting this approval, the applicants/property owners agree to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval. The applicants/property owners shall obtain all of the necessary local, state, and federal permits and comply with all applicable regulations for the proposed building site.

This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. Forms and fees must be filed in the office of this Department before **4:00 PM on December 19, 2022.**

#### **V. CONDITIONS OF APPROVAL:**

Section 8.060: COMPLIANCE WITH CONDITIONS and Section 8.070: TIME LIMIT requires compliance with approved plans and conditions of this decision, and all other ordinance provisions, and allows 24 months for compliance with Conditions and start of construction. Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. The applicant/property owner shall obtain all Federal, State, and Local permits, as applicable.
2. The applicant/property owner shall obtain an approved consolidated Zoning and Building Permit from the Tillamook County Department of Community Development.
3. The applicant/property owner shall submit a site plan, drawn to scale depicting all required setbacks are met at the time of consolidated Zoning and Building Permit application submittal.
4. The applicant/property owner shall submit a Fire Letter from the local fire department at the time of consolidated Zoning and Building Permit application submittal.
5. Development of the property shall be done in accordance with the development standards of TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas. A Geologic Hazard Assessment is required for development of this property.
6. Height of the structure shall not exceed 40-feet in height as measured in accordance with TCLUO Section 3.320(4)(1). Certification by a licensed professional surveyor confirming the height of the structure does not exceed the approved 40-foot height maximum shall be provided to the Department prior issuance of the Certificate of Final Occupancy by the Department.
7. Eaves shall not encroachment into the front yard setback more than 24-inches as per TCLUO Section 4.110(7): Projections From Buildings.

8. A letter of design review approval from the Sahhali Shores HOA confirming the proposed development of the property and design of the single-family dwelling meets applicable CCRs is required at the time of consolidated zoning/building permit application submittal.

This approval shall be void on December 6, 2024, unless construction of approved plans has begun, or an extension is requested from, and approved by this Department.

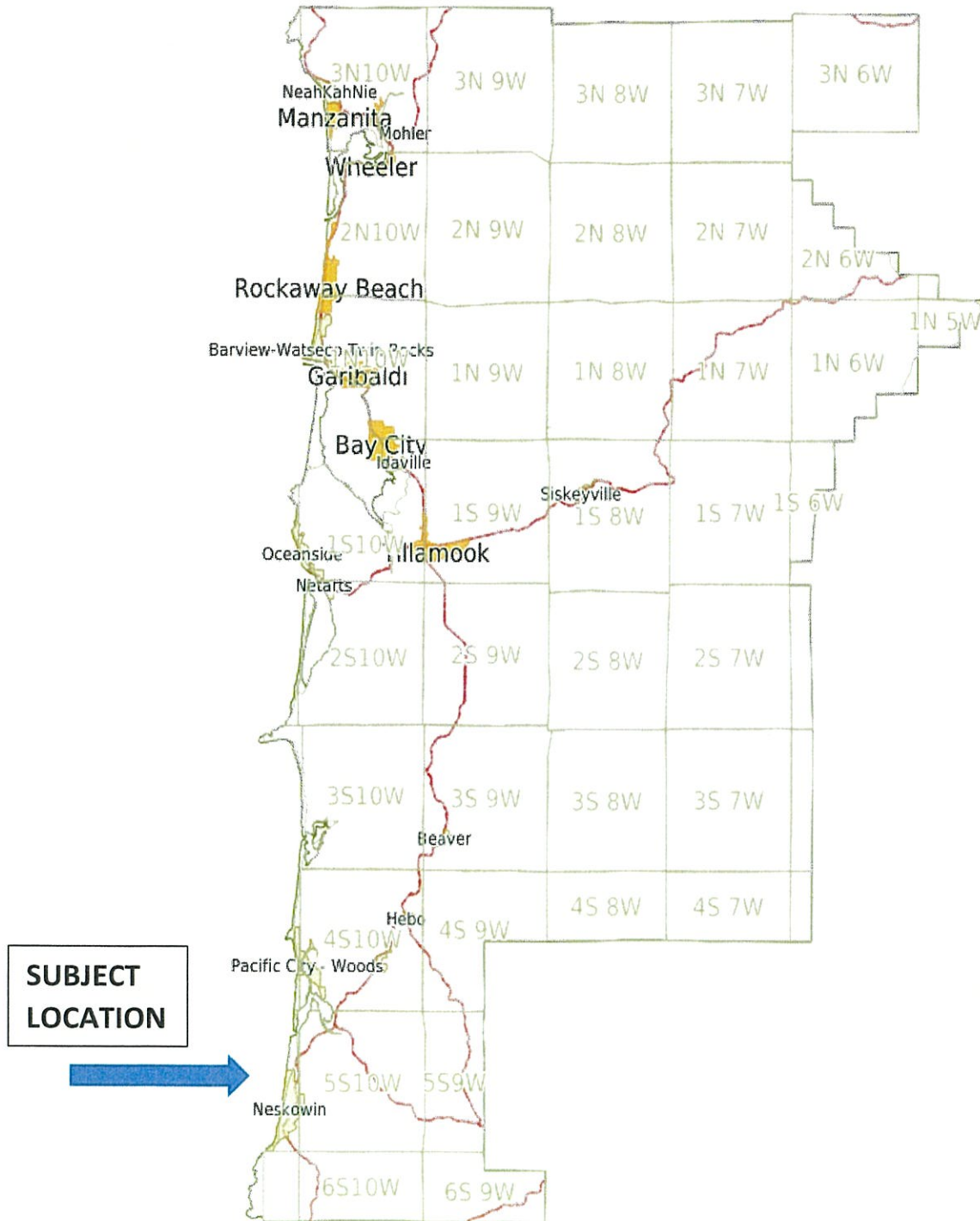
**VI. EXHIBITS:**

All Exhibits referenced herein are, by this reference, made a part hereof:

- A. Vicinity map, Assessor map, Zoning map, FEMA FIRM, NWI Map
- B. Applicant's submittal
- C. Public Comments
- D. Neskowin Building Height Diagram

# EXHIBIT A

# VICINITY MAP



#851-22-000267-PLNG: McGLYNN

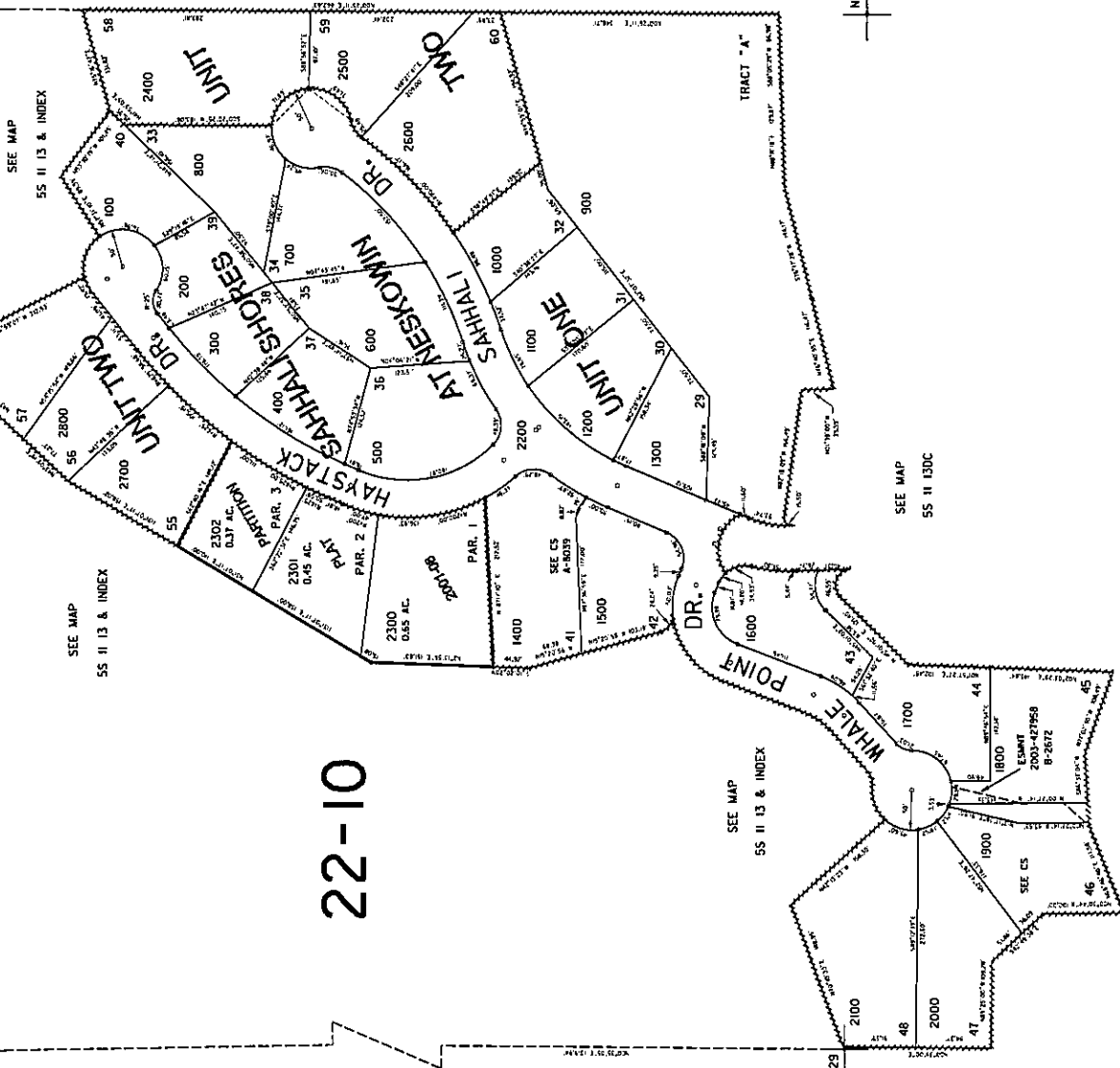
THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

NW1/4 SE1/4 SEC.13 T.5S. R.11W. W.M.  
TILLAMOOK COUNTY

5S 11 13DB  
SAHHALI SHORES

*Subject Property*

CEN. SEC. 13



SEE MAP  
5S 11 13 & INDEX

SEE MAP  
5S 11 13 & INDEX

SEE MAP  
5S 11 13 & INDEX

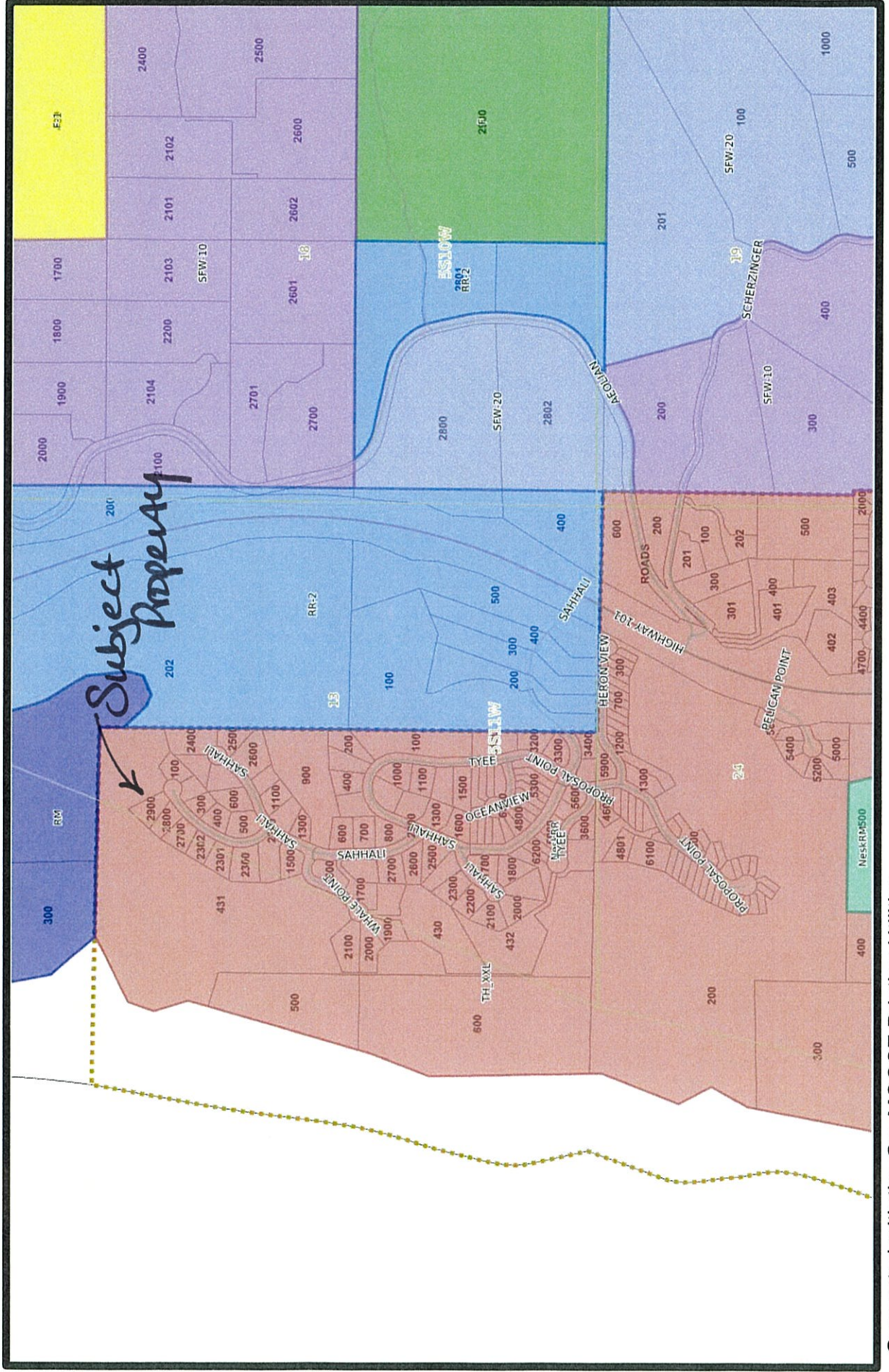
SEE MAP  
5S 11 13DC

NE COR GOV'T LOT 30

NW COR GOV'T LOT 29

5S 11 13DB  
SAHHALI SHORES  
REVISED 01/20/06, WS

# Map



# National Flood Hazard Layer FIRMette



123°58'40"W 45°8'24"N

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

**SPECIAL FLOOD HAZARD AREAS**

- Without Base Flood Elevation (BFE)  
*Zone A, V, A99*
- With BFE or Depth  
*Zone AE, AO, AH, VE, AP*
- Regulatory Floodway

**OTHER AREAS OF FLOOD HAZARD**

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile  
*Zone X*
- Future Conditions 1% Annual Chance Flood Hazard  
*Zone X*
- Area with Reduced Flood Risk due to Levee. See Notes.  
*Zone X*
- Area with Flood Risk due to Levee  
*Zone D*

**OTHER AREAS**

- Area of Minimal Flood Hazard  
*Zone X*
- Effective LOMRS
- Area of Undetermined Flood Hazard  
*Zone*

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

**CROSS SECTIONS WITH 1% ANNUAL CHANCE WATER SURFACE ELEVATION**

- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

**OTHER FEATURES**

- Digital Data Available
- No Digital Data Available
- Unmapped

**MAP PANELS**

- Digital Data Available
- No Digital Data Available
- Unmapped

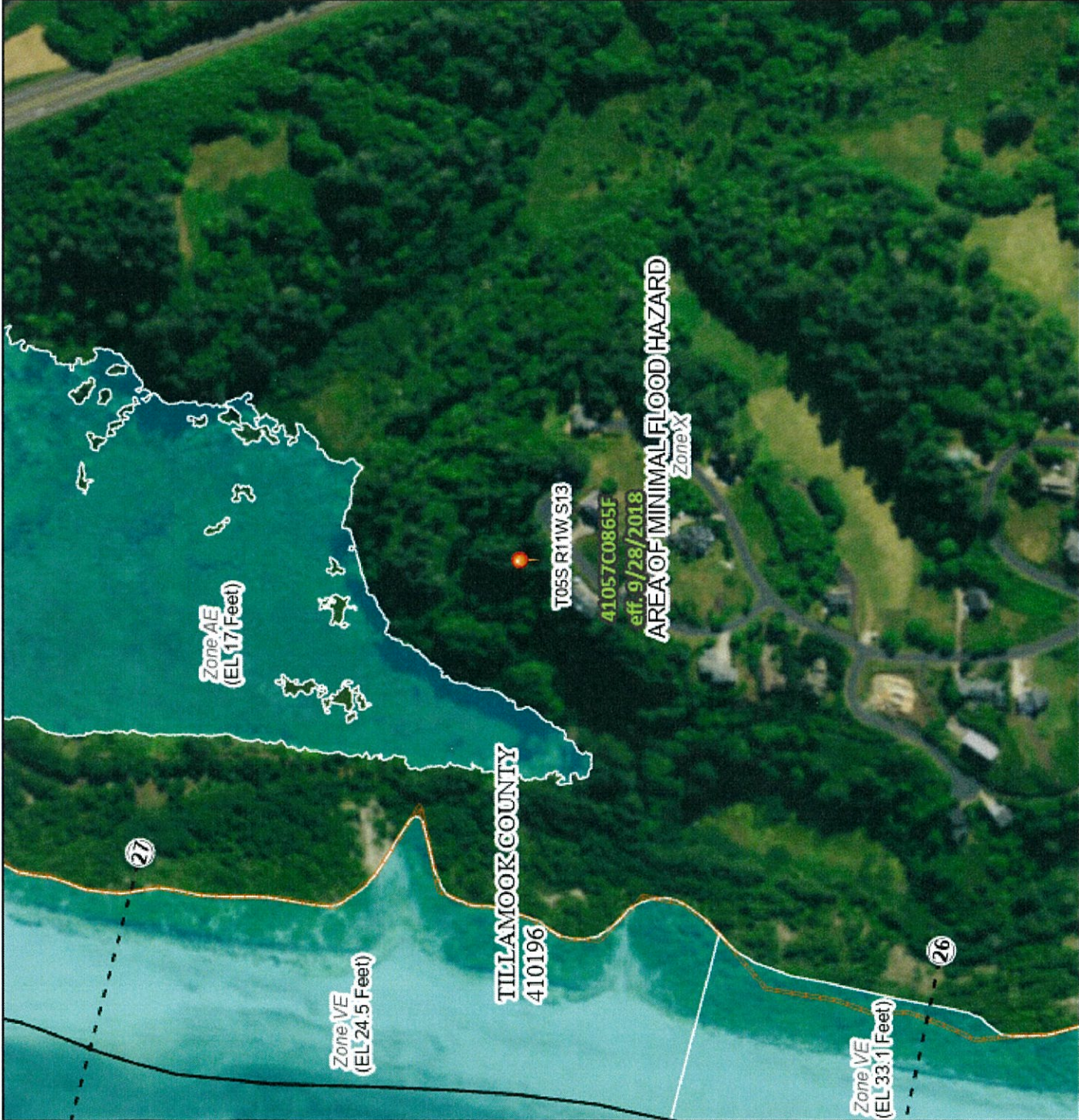
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **12/2/2022 at 2:04 PM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT



123°58'3"W 45°7'59"N

0 250 500 1,000 1,500 2,000 Feet

1:6,000





U.S. Fish and Wildlife Service

# National Wetlands Inventory

## #851-22-000267-PLNG: McGlynn



December 2, 2022

### Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

# EXHIBIT B



## PLANNING APPLICATION

**Applicant**  (Check Box if Same as Property Owner) 503-867-3165  
 Name: Stephen Weeks Phone: ~~503-226-1575~~  
 Address: 720 SW Washington St #800  
 City: Portland State: OR Zip: 97205  
 Email: ~~weeks@bora.co~~ *Stephenweeksarchitect@gmail.com*

### Property Owner

Name: Rob McGlynn Phone: 203.906.8320  
 Address: 1322 SW Upland Dr  
 City: Portland State: OR Zip: 97221  
 Email: robert.mcglynn@gmail.com

OFFICE USE ONLY	
Date Stamp	
<b>RECEIVED</b>	
JUL 11 2022	
BY: <i>mail</i>	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by: <i>MJ</i>	
Receipt #:	
Fees: <i>1,300</i>	
Permit No: 851- <i>22</i> - <i>60267</i> -PLNG	

Request: Front yard setback and height variance for single family residential lot in Sahhali Shores, Neskowin.

- | Type II  | Type III   | Type IV   |
|--|--|---|
| <input type="checkbox"/> Farm/Forest Review                                | <input type="checkbox"/> Appeal of Director's Decision           |   |
| <input type="checkbox"/> Conditional Use Review                            | <input type="checkbox"/> Extension of Time                       | <input type="checkbox"/> Appeal of Planning Commission Decision |
| <input checked="" type="checkbox"/> Variance                               | <input type="checkbox"/> Detailed Hazard Report                  | <input type="checkbox"/> Ordinance Amendment                    |
| <input type="checkbox"/> Exception to Resource or Riparian Setback         | <input type="checkbox"/> Conditional Use (As deemed by Director) | <input type="checkbox"/> Large-Scale Zoning Map Amendment       |
| <input type="checkbox"/> Nonconforming Review (Major or Minor)             | <input type="checkbox"/> Ordinance Amendment                     | <input type="checkbox"/> Plan and/or Code Text Amendment        |
| <input type="checkbox"/> Development Permit Review for Estuary Development | <input type="checkbox"/> Map Amendment                           |   |
| <input type="checkbox"/> Non-farm dwelling in Farm Zone                    | <input type="checkbox"/> Goal Exception                          |   |
| <input type="checkbox"/> Foredune Grading Permit Review                    |  |   |
| <input type="checkbox"/> Neskowin Coastal Hazards Area                     |  |   |

### Location:

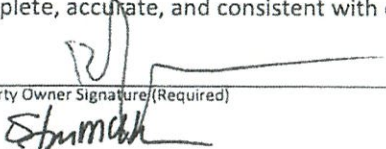
Site Address: Sahhali Shores Unit 2, Lot 57, Haystack Drive

Map Number:	<u>5S</u>	<u>11W</u>	<u>13DB</u>	<u>2900</u>
	Township	Range	Section	Tax Lot(s)

Clerk's Instrument #: \_\_\_\_\_

### Authorization

This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

Property Owner Signature (Required)  
  
 Applicant Signature

*7/7/22*  
 Date  
 July 7, 2022  
 Date

McGlynn variance application criteria response revisions  
October 31, 2022

A VARIANCE shall be granted, according to the procedures set forth in Section 8.020, if the applicant adequately demonstrates that the proposed VARIANCE satisfies all of the following criteria:

- 1. Circumstances attributable either to the dimensional, topographic, or hazardous characteristics of a legally existing lot, or to the placement of structures thereupon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met. Such circumstances may not be self-created.**

The property is the legally existing Lot 57 within Unit Two of the Sahhali Shores development in Neskowin. It is Tax Lot 2900 at the north end of Haystack Drive. Please refer to the Vicinity Plan shown on page 2 of the enclosed graphics. Article III of the Tillamook County land use ordinance establishes the property belongs to the Neskowin Rural Residential Zone (NeskRRR). Section 3.320 confirms this land is suitable for homesites while maintaining the rural character of the community. The proposed development of a single-family house is permitted outright by 3.322(a).

The property is trapezoidal in shape with the narrowest dimension, approximately 60 feet, along the road frontage. This is an unusually narrow lot, legally platted but quite a bit smaller in width than the 100-foot minimum established by 3.324(d). The parcel extends down the hill to the northwest for roughly 200 feet reaching a maximum width of about 155 feet. The total area of the lot is approximately 20,800 square feet. Refer to the enclosed Site Survey by Kellow Land Surveying. Water service is available at the street and wastewater will be discharged to the community STEP system as required by the Sahhali Shores Consolidated Owners Association (COA).

The slope averages 50% as it falls nearly 100' down from the road, but the steepest slopes, about 75%, occur at the top of the slope immediately adjacent to Haystack Drive. Setbacks, as established by 3.324(h-j) are 20 feet at the front and rear yards and 5 feet at the east side yard adjacent to protected open space. Sahhali Shores COA regulations establish a more restrictive setback of 15 feet on the west side yard adjacent to tax lot 2800, further restricting the narrow lot. Per Section 4.117, roof overhangs may extend into the required setback two feet if the eaves are part of an energy efficiency measure providing shading to the windows and the walls below. As energy efficiency is an important goal of the owner, the proposed roof includes large projecting eaves as part of a holistic sustainable design solution.

From the outset of design, the primary goal is to create a house that harmonizes with the beautiful landscape, preserving as many trees as possible, limiting the disturbance of the environment that comes from grading and construction, and minimizing the impact of the house on views from neighboring properties. The extreme slopes at the top of the lot immediately adjacent to Haystack Drive create significant access challenges that impact the configuration and construction of the driveway and the garage (a requirement of all houses in Sahhali Shores as noted in Sahhali Covenants, Conditions and Restrictions (CCR) 9.7). The upper portion of the lot is the steepest in all Sahhali Shores and has the least street frontage of any lot on Haystack Drive. See the Neighborhood Topo Plan on page 3. These dimensional and topographic conditions create significant challenges to the development of the property as a single-family residence.

The maximum building height per Section 3.324(l) is 35 feet from the existing natural grade to any point of the structure. The property is not an ocean-front lot per Tillamook County zoning map. The Vicinity Plan on page 2 depicts this condition. CCR 9.3.2(e) establishes a different limit on building height. The maximum allowable height is 30 feet, measured from the average existing contour on the uphill side of the house. While more restrictive on the uphill side of the house, this regulation is actually more accommodating of the impacts of steep sites on building geometry.

Due to its location, orientation and downward slope, the lot is well secluded from neighboring properties. The two houses across the street are positioned on much higher ground, with grade at the base of the house on tax lot 100 approximately 38 feet above and lot 200 about 54 feet above the highest grade at the house location on the subject property. Views of the coastline from these houses will remain. Furthermore, the design of both houses places the primary living spaces on the second floors where site lines are even more advantageous. See the Neighborhood Site Plan on page 4 and the Neighborhood Section Diagram on page 5 for illustrations of this relationship.

The orientation of these houses has also been considered in our design proposal. The house on lot 100 is oriented to enjoy primary views due north over the protected open space. Photographs on page 6 show the large windows on the north façade. It also enjoys views to the west, although this vantage is over lot 2800 and nearly unaffected by the subject property. Mindful that this site line crosses the southwest corner of the McGlynn lot, we have positioned the house as far northeast as possible and stepped the plan of the house to minimize any possible encroachment on this view. See the Neighborhood Site Plan on page 4.

The house on lot 200 is oriented to face northwest and positioned as far to the rear of the lot as possible to gain the most height possible. As described above this allows views of the coastline over the roofs of the houses across the street. The primary view from this house to the coastline extends northwest over lot 2800 and the McGlynn lot. Due to the relatively flatter grade however the base elevation of any future house developed on lot 2800 is about 8 feet higher than the McGlynn lot. Again, the strategy of positioning the proposed house as far northeast as possible and stepping the plan minimizes the presence of the McGlynn house in the views from lot 200.

Any house developed on lot 2800 will enjoy unimpeded views up and down the coastline, unaffected by the proposed house on lot 2900. The topography transitions around a subtle ridge from a west-northwest slope on lot 2800 to the more northerly slope of the McGlynn lot. This serves to further remove the proposed McGlynn house from any possible field of view from lot 2800.

The Beach Vegetation Line is about 1000 feet to the northwest of the proposed house and about 120 vertical feet below. The intervening land is a spruce-dominant coastal forest, including alders and an understory of ferns and salal, sloping down to the wetlands at the south end of Daley Lake and the property occupied by Winema Camp. The impact to these adjacent properties from development of the proposed house is negligible. This includes the beach itself, from which the proposed McGlynn house will be barely visible due to distance and forest density.

The overall layout of the house is organized as two rectangular volumes placed nearly perpendicular to the fall line of the slope to minimize grading impacts and maximize preservation of the natural conditions of the site. The two zones of the house each contain two levels of living space and are offset in plan to minimize impact to view corridors for the two houses located across Haystack Drive as described above. Page 7 of the enclosed graphics shows the overall Site Plan. The site design strategy achieves favorable views to the north from the primary rooms of the house while it expands the southern exposure, allowing more sunlight to penetrate the house, a precious resource in the dreary climate of the Oregon coast. This is an important part of the holistic energy efficiency strategy as the solar exposure provides a passive boost in the heating dominant climate.

The stepped plan reduces the bulk of the house in general and achieves compliance with the lot coverage standard established by NeskRR 3.324(k)(2). The two volumes are also stepped in section in response to the hillside with the northern portion of the house one story below the southern. The total area of living space is approximately 2,800 square feet, exclusive of the garage, in compliance with the 1,800-sf minimum established by CCR 9.3.2(c).

The Geologic Hazard Report (enclosed for reference) states: "Due to the steep slope, the garage should be set as close to the roadway as possible in order to reduce grading." Our design analysis confirms the wisdom of this recommendation. The grade along the buildable frontage at the front yard setback line ranges from 13 feet to 23 feet below the elevation of the road with slopes in excess of 75%. This requires the driveway to be

built on an elevated concrete structure supported on walls and columns. The proposed design slopes the driveway down from the road at 25% slope, the maximum recommended by consulting civil engineer Jason Morgan, with allowances for flatter transition zones to avoid cars bottoming out. This very steep driveway sets the floor level of the garage at elevation 147'. With a square footprint approximately 20 feet on a side to accommodate the required two vehicle parking spaces, the base of the rear wall of the garage is 28 feet above grade. With a standard 8' wall height and an 18" thick roof construction the height reaches 37'-6" above grade before even factoring in an allowance for a sloped roof. The land slopes down much more steeply than the driveway can (75% versus 25%), therefore positioning the garage as close to the road as possible helps keep the height of the walls lower. The further the garage is placed from the road the taller the structure must be. For every foot of horizontal distance from the road, the vertical height of the garage above grade grows by 6". Page 12 includes a Cross Section through the driveway and the garage.

Due to the narrowness of the lot, the buildable space adjacent to the garage is not sufficient to accommodate the primary living spaces of the house. This is the logical arrangement of the house found on lot 2700, two properties to the south, a design made possible by a lot that is 75% wider. The necessary solution proposed for the McGlynn's is to place the primary living spaces behind and below the garage, taking advantage of the widening dimensions of the lot and the space created by the topography, which is falling away at approximately 50% slope in this region. Adjacent to the garage, the upper level of the proposed design accommodates only the entrance, a coat closet, a small mudroom, and the stair to get down into the main part of the house. This keeps the footprint of the upper volume, the only level of the house visible from the street, as small as possible with only 327 square feet of living space adjacent to the garage. See pages 8-10 for the proposed floor plans and page 13 for an elevation of the street-facing facade.

If all development standards were met, this property cannot be developed as a single-family house with a garage due to the dimensional and topographic conditions. Therefore, the request is for consideration of two variances: a reduction of the minimum 20 feet front yard setback and an increase to the 35 feet maximum allowable height. The two are interrelated since the position of the house on the site determines the height of the structure above the slope. The height variance is only necessary on the downhill side of the house because the proposed design complies on the uphill, street-facing side, and even meets the more restrictive Sahhali CCR limit of 30 feet.

The request is to reduce the setback by two feet, to a minimum of 18 feet from the property line. To minimize the perceived impact of the house positioned slightly closer to the road, the plan is carefully stepped to respect the angular geometry of the setback line. The resulting design only encroaches into the setback zone at two locations that total about 40% of the width of the street-facing facade. The remaining portion exceeds the 20 feet setback minimum. See the Site Plan on page 7 for the proposed layout.

The design of the house incorporates generous eaves that protect the walls and windows of the house with roof overhangs that range from 2 feet to 7 feet. The roof not only improves the durability of the walls, it also increases energy performance of the house by shading the windows and the walls from summer solar heat gain. The largest overhangs create covered outdoor spaces that offer protection from the rain. One of these forms a covered entry for both the front door to the house and the garage door. It is similar to a porch, although the floor surface is necessarily flush with the driveway and the roof is cantilevered, and creates a weather-protected entrance, a necessity in this climate and a feature of all houses in the neighborhood.

To accommodate this roof overhang, we request an adjustment to the allowable eave encroachment standard from two feet to nine feet. Again, due to the geometry of the plan, only the southeast corner of the roof would encroach into this zone. Without this adjustment, the garage and the house would have to be positioned further from the road resulting in a structure that is approximately 3'-6" taller than proposed, as described above.

To construct a single-family house on this unique site, based on the proposed setback variance, we request an adjustment of five feet to the maximum allowable height. This would only apply to the walls on the downhill side of the house accommodating the ridge of the sloped roof that reaches a maximum of 40 feet above grade. The proposed design remains well below the Sahhali CCR limit of 30 feet on the uphill, street-facing side

of the house. The drawing on page 11 depicts the proposed Roof Heights Above Grade while Elevation Diagrams are shown on page 14 and 15.

**2. A VARIANCE is necessary to accommodate a use or accessory use on the parcel which can be reasonably expected to occur within the zone or vicinity.**

The proposed single-family dwelling is an expected use of the property explicitly allowed under Section 3.322 of the Land Use Ordinance. To reasonably accommodate this use on this unique property, variances are necessary. As described above, the modest footprint of the upper level, only containing the required garage and the house entry space placed as low as possible with the steepest recommended driveway exceeds the standard for allowable height in Section 3.324(l). A height variance is necessary. The proposal includes a front setback variance request to minimize the amount of the necessary height variance. The design solution proposed is thoughtfully considered to minimize the overall presence and impact of the house on this site and from the neighboring houses. If all setback standards were met, the house would be approximately 3.5 feet taller since the ground is sloping down at a much steeper rate than the driveway. The taller house set further from the road would have greater impact on neighboring properties, a larger carbon footprint, an increased risk from wind and seismic forces not to mention an ungainly bulk, out of proportion for a single-family house. It would also require the removal of one of the largest Sitka spruce trees on the property.

**3. The proposed VARIANCE will comply with the purposes of relevant development standards as enumerated in Section 4.005 and will preserve the right of adjoining property owners to use and enjoy their land for legal purposes.**

Granting the requested variances to construct a single-family residence will comply with the development standards as enumerated in 4.005 as described below.

**4.005 (1) To ensure the availability of private open space;**

Approval of the requested variances is essential to create private open space on this land for enjoyment of the surrounding natural environment. Granting the variances does not infringe on the right of neighboring property owners to enjoy private open space on their land.

**4.005 (2) To ensure that adequate light and air are available to residential and commercial structures;**

Adequate light and air to residential structures will be preserved even by the granting of the requested variances. The design proposal for the dwelling is specifically arranged to capture sunlight from the southern side of the house. Since the property is a north-facing slope without adjacent private properties on the shadowed side of the house, the proposed design will cause no loss of sunlight to structures, including any likely to be built in the future. The nearest existing house is approximately 115 feet away, so the proposal has no impact on access to air. The proposed house remains 15 feet at the nearest point and 26 feet on average from the only adjacent common property line. This exceeds the 5 feet side setback standard and results in adequate air and light for any future structure developed on that lot.

**4.005 (3) To adequately separate structures for emergency access;**

As described in the previous response, the proposed dwelling maintains ample distance between structures. Granting of the requested variances will not constrain emergency access and, in fact the positioning of the house closer to the street, if approved, would improve emergency access to this property. The structure would be more accessible to emergency vehicles on Haystack Drive and more easily reached by emergency personnel, via the shorter driveway or by traversing the slope around the perimeter of the house.

**4.005 (4) To enhance privacy for occupants of residences;**

The proposed house has been designed to maximize privacy for all property owners. The primary living spaces are arranged to take advantage of the landscape views through ample windows to the west, north and east.

The property has the favorable condition at the end of the buildable lots on Haystack Drive with protected open space bordering the property on two sides (northwest and northeast). The windows facing south, toward the neighboring houses, are protected by the steep topography. Aside from a modest street facing window associated with the entrance, the south windows in the proposed design are located at the middle level of the house, one level below the entrance, and therefore look into the steep hillside preserving privacy for all.

**4.005 (5) To ensure that all private land uses that can be reasonably expected to occur on private land can be entirely accommodated on private land, including but not limited to dwellings, shops, garages, driveways, parking, areas for maneuvering vehicles for safe access to common roads, alternative energy facilities, and private open spaces;**

The proposed house will be constructed entirely on private land. This includes the two-car garage, the driveway which connects safely to Haystack Drive and the outdoor private decks and porches.

**4.005 (6) To ensure that driver visibility on adjacent roads will not be obstructed;**

Approval of the requested variance to allow construction of the proposed design will not alter driver visibility on Haystack Drive. The property abuts a cul-de-sac that terminates the common road, the safety and visibility of which is unaffected by the proposed variances. No obstructions for drivers are created by this proposal.

**4.005 (7) To ensure safe access to and from common roads;**

The proposed dwelling includes a short, sloping driveway built on a concrete structure above the very steep terrain including safety guardrails engineered to withstand vehicle loads. The granting of the requested variance to reduce the front setback will reduce the length and vertical distance it descends to the garage, increasing safety of the access to Haystack Drive by making it easier to maneuver a vehicle in and out of the property. Pedestrians will also use the sloping driveway though a series of shallow steps are planned to ease movement.

**4.005 (8) To ensure that pleasing views are neither unreasonably obstructed nor obtained;**

The views from the adjacent properties on the west side of Haystack Drive are not obstructed by the proposed design with requested variances. In fact, the granting of a setback variance improves the sightline to favorable views from the adjacent undeveloped lot south of the subject property. Views from the houses across the street will be preserved in such a way that does not preclude the project site from rightfully enjoying similar views. Care has been taken with the proposed design to minimize its presence in the views from the two houses across Haystack Drive. The house at 5310 (lot 100) is oriented and designed to capture views due north and due west. These primary viewsheds have minimal engagement with the subject property and the proposed house is positioned as far northeast on the lot as practicable and stepped in plan and in height to maintain the favorable view corridors from this house. See Site Plan on page 4.

The house at 5320 (lot 200) is oriented toward views of the coastline to the northwest. The primary viewshed lies to the southwest of the subject property, passing over lot 2800. Again, with consideration of this view corridor, the positioning of the proposed house to the northeast, the stepping of the plan, and the stepping down of the heights of the house volumes all benefit the views from lot 200 and minimize the presence of the proposed house.

The design of the roof slopes of the house has also been developed with sensitivity to the view corridors from both neighboring houses. Since these view corridors intersect with the subject property at glancing angles on the east and west sides of the proposed design, the roof is intentionally sloped down toward these locations. The resulting arrangement of gable rooflines positions the lowest eaves on the east and west ends where the mass of the house approaches the neighbor's viewsheds minimizing obstruction of views in all instances. The high points of the roof, along the ridges, are located near the center of the proposed house where they create the least possible impact on views. To further minimize the height of the ridges, the roof slope is proposed at 2.5:12, the lowest pitch we can recommend in this climate and on this forested property. Additionally, the proposed roof design minimizes the presence of the house from the street. The highest point of the roof above grade on the uphill, street-facing side is 25 feet, substantially lower than the county-permitted standard of 35 feet and still five feet below the Sahlali Shores allowable height of 30 feet. The highest point of the roof of the



proposed design is only 7 feet above the level of Haystack Drive. This house is nestled deep into the hill with the least impact on the neighborhood possible. See page 13 for an illustration of the street façade.

It should also be noted that the two houses across the street sit on substantially higher ground, 38 feet and 54 feet above the base elevation of the proposed house, as detailed above. Page 5 shows this relationship for Lot 200. From these advantageous positions, favorable views of the ocean, the trees and the horizon will remain over the top of the proposed house.

The need for a height variance is not the result of designing a tall house with soaring interior volumes and floor levels positioned to achieve a more advantageous view. The height is just the result of the back wall of the garage reaching down to the ground. In fact, we would prefer to position the house lower on the hill with a shorter crawl space, but the need for access to the garage, both from the street and from the house like every other home in Sakhali, determines the height of the structure.

**4.005 (9) To separate potentially incompatible land uses;**

The proposed development of the property as a single-family house is permitted outright within the NeskRR zone. No incompatible land uses are proposed.

**4.005 (10) To ensure access to solar radiation for the purpose of alternative energy production.**

As the northernmost property within the Sakhali Shores community, this lot has no impact on the availability of solar radiation on any of the neighboring buildable parcels. The property to the north, the direction of potential solar shading, is protected open space and not suitable for energy production.

**4. There are no reasonable alternatives requiring either a lesser or no VARIANCE.**

Due to the extreme slope, the property cannot be developed as a single-family residence with a garage and a sloped roof within the development standards. There are no reasonable alternatives to the requested variances that do not impinge on the Sakhali development criteria. Denial would deprive the property owners of their substantial right to enjoy the same pleasures of living in the beautiful Oregon coastal environment as their neighbors, including favorable views from their developed land. This property is unique among the lots in the Sakhali Shores. It is the steepest lot with the shortest frontage and requires favorable consideration of the requested variances to construct a single-family house. Denial of the requested variances would substantially harm the property owners, who have a significant financial investment in this legally platted property valued as a buildable lot within the Sakhali Shores neighborhood, a planned community approved for single-family houses by Tillamook County.

To understand the impact of the steep slope, it is helpful to compare it to the adjacent, undeveloped lot (TL 2800). If the same design as proposed for the McGlynn's property were placed on the adjacent lot, the height would be 23 feet less on the downhill side because the slope is not nearly as steep. The height of the house on the uphill, street-facing side would be the same. The variance requests are not aimed to fulfill a desire for a tall house or to achieve more favorable views. They are just the geometric reality of building *any* house on such a steep site. The walls must extend down to reach the ground.

As detailed above, the location of the house significantly determines the resulting height above grade. The design optimizes this relationship by balancing a reasonably closer position to the road with a reasonable increase in height on the downhill side. If the setback variance were denied or a lesser variance were approved, the magnitude of the necessary height variance would increase. With careful consideration of all the variables and with particular attention to minimizing any potential impact on the views from neighboring properties, the proposed design resolves the complex challenge of developing a single-family house on this site in compliance with all other development standards and in keeping with the guidelines and intentions of Sakhali CCRs.

The following parameters determine the dimensions of the structure:

Garage: Although Tillamook County does not require a garage, Sakhali CCRs mandate a two-car garage. Mindful of the relationship of the garage footprint to the building height, the proposed design includes the absolute minimum dimensions for the garage (20'x20'). It would not be unreasonable to propose a larger garage, (it is very likely that most homes in Sakhali have a larger one) but it is not possible to make the garage

smaller and meet the CCR requirements. The plate height of the garage walls (top of wall where the roof framing sits) is set at 8 feet. This is a standard wall height, and it allows for a structural header above the 7 feet high garage door. More generous heights are advantageous, as they provide the possibility of additional storage space and accommodate taller vehicles, but this proposal is for the minimum. It cannot be lower.

**Topography:** This property is so steeply raked that the ground 40' from the front property line (20' setback plus 20' garage) is 35' below the level of the street. At 66% slope, no other property in Sahhali has this extreme topography downward from the road.

**Driveway Slope:** The proposed driveway is sloped downward at 25%. This is the maximum slope we can recommend before the driveway becomes dangerous and uncomfortable for drivers and pedestrians. The driveway does not accommodate vehicles turning around, so backing in or backing out is a necessity. Steeper driveways create visibility problems when entering or exiting the street and do not meet the intent of CCR 9.12, protecting sightlines. Steeper driveways are a slip hazard for pedestrians and vehicles, a condition made worse by the wet climate. Steeper driveways, and those without proper slope transitions, also create the risk of vehicles bottoming out. A driveway with a gentler slope would be preferred, as it would be more comfortable and easier to navigate, but it is not possible to make it steeper.

**Driveway Length:** Sahhali CCR 9.14 requires parking of all vehicles for owners and guests within the property. No parking is permitted in the street. The proposed design includes an 18' deep driveway measured from the garage to the nearest approach to the property line. Two cars can be accommodated in the driveway. If the driveway were made shorter by placing the house closer to the road (presuming a larger setback variance could be approved by the County and by Sahhali), it would reduce the available parking area, requiring encroachment into the right-of-way. We cannot recommend reducing the length of the driveway as it would make maneuvering a vehicle on the steep slope around another parked car and onto the driveway apron, whose width is limited to 15 feet by 3.324(g), very difficult.

**Roof Pitch:** The proposed design includes a shallow gable roof with a 2.5:12 pitch. This is the minimum roof slope we can recommend on this property. To keep the profile of the roof to a minimum, we have selected a metal roof, a more durable product with lower surface friction that can be used at shallower slopes than the asphalt shingles commonly used in Sahhali. A roof even flatter than 2.5:12 compromises durability as it would be more likely to collect spruce needles and other airborne debris that impede its water shedding capacity. Sahhali regulations codify this principal in CCR 9.3.2(f) in requiring structures to "properly withstand the unique coastal conditions." We would prefer a steeper roof for its superior performance, and in fact the original design included a 3.5:12 pitch, but we cannot go lower than 2.5:12 on this forested coastal site.

**Roof Orientation:** The proposed design utilizes a gable roof form that harmonizes with the Sahhali neighborhood. This roof design has been carefully studied to minimize the presence of the house from the street and from the neighboring properties. Among the alternatives we studied, is a shed roof configuration parallel to the ground slope. While this keeps the roof height on the downhill side of the garage slightly lower, it results in a much higher roof on the uphill side. The flat lines of the high side of a broad shed roof facing the street and interfering with the neighbor's views are among the reasons we favor the proposed gable roof. The shed roof would still require a height variance to 38'-9" on the downhill side and its blocky massing would have a much greater impact on scenic views of the coastal landscape from the neighboring properties because its average height is 3'-6" taller. See diagram on page 13a. The lower eave heights on the east and west ends of the proposed gable roof create a more pleasing arrangement of forms and reduce the mass of house on the most critical, uphill facade facing Haystack Drive.

These are the factors at the core of the design problem. Alternatives were explored as a normal part of a thorough design process, but different arrangements of the plan on the property and different roof configurations produced downsides to solar access, energy efficiency, grading impacts, tree preservation, and most significantly, the presence of the mass of the house within the view corridors of neighboring properties.

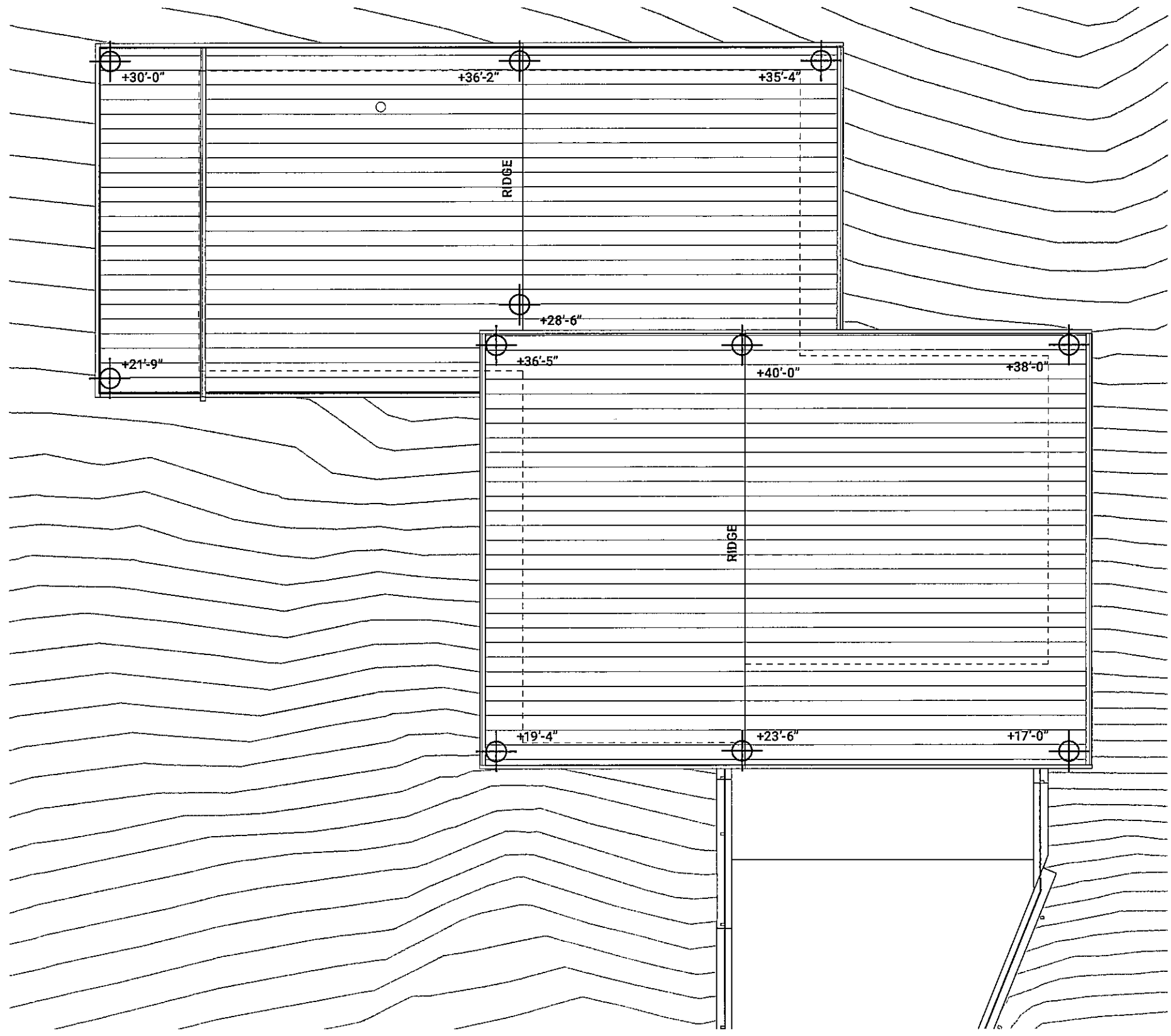
In analyzing each item, we have endeavored to minimize the visibility and bulk of the house. We have proposed the smallest possible garage with the lowest wall height, the steepest and shortest driveway, and the lowest

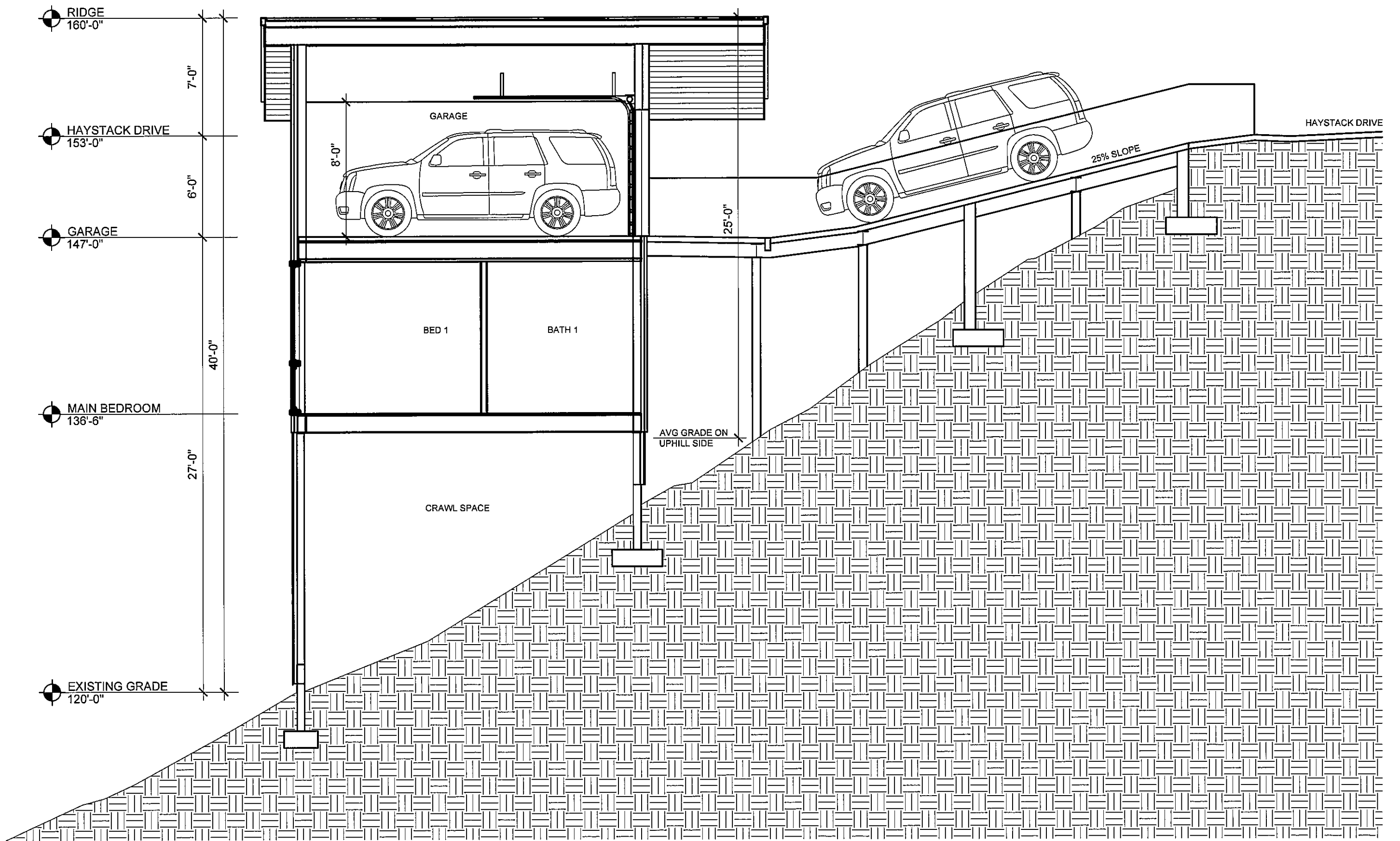
slope roof oriented to have the least impact on views. The proposed design is fully compliant with the allowable height established by the Sahhali CCRs to govern development in this neighborhood. In fact, the proposed design is five feet below the 30 feet maximum height allowed outright. The intent of the regulations is to produce a harmonious environment without encroaching on neighbors' enjoyment of sunlight and views. The proposed design meets that intent.

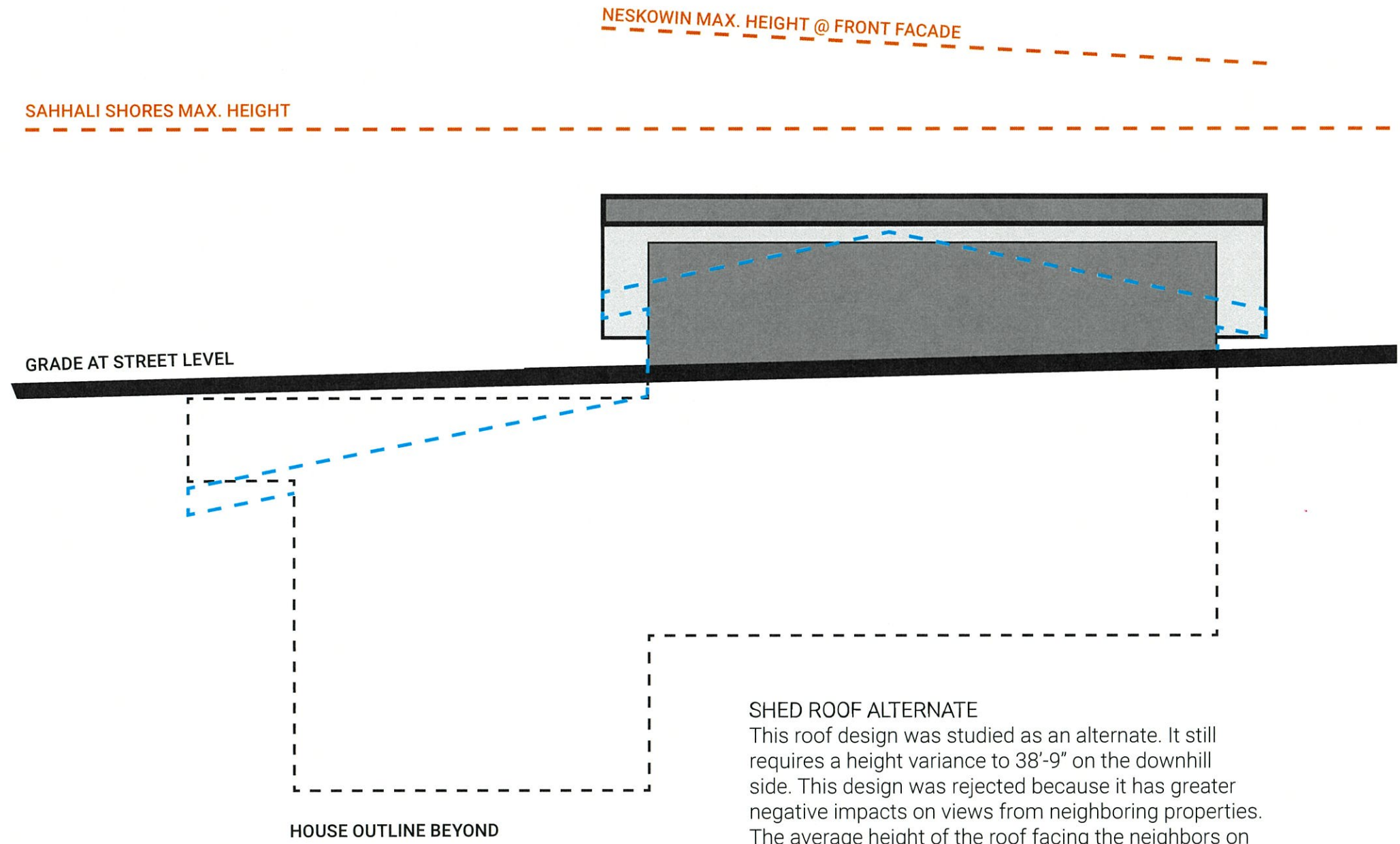
The requested height variance to 40 feet only pertains to County regulations and is only needed on the north side of the structure facing away from the neighborhood. This side of the house will not be visible from any other lot in Sahhali. Granting of this variance does not establish a precedent for other property at Sahhali, because none has as steep of a slope at the access side of the lot.

The reduced setback is proposed to minimize disturbance of the natural environment, is consistent with recommendations in the geohazard report, and serves to keep the overall height a little lower. If we located the house further down the hill in compliance with the 20' building setback (County and Sahhali) the height variance would need to be 41 feet. A 5 feet adjustment for the eave encroachment in the southeast corner would still be proposed.

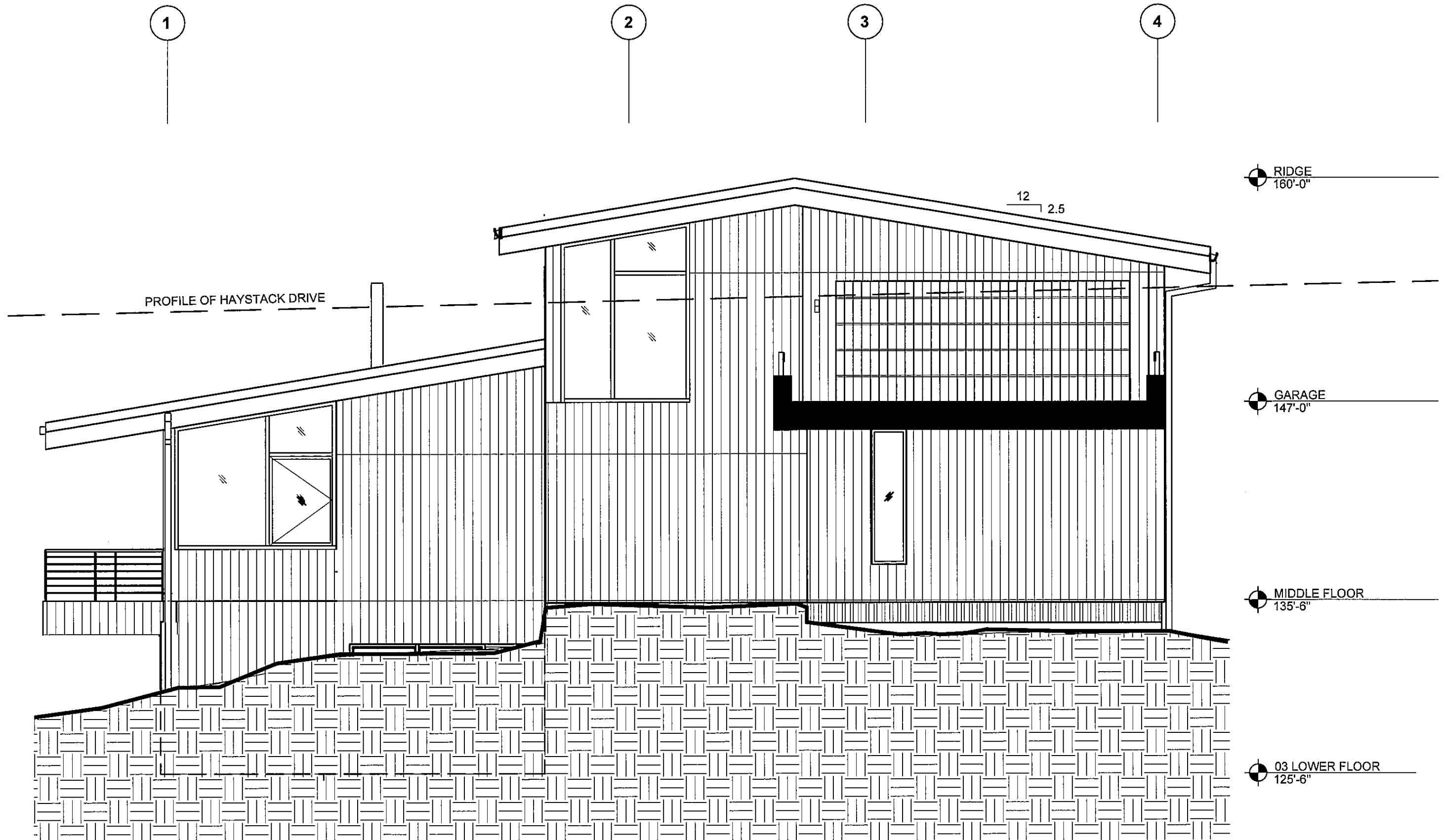
However, the proposed design, with the requested variances to front setbacks and downhill building heights, is the optimal solution for this challenging property.







**SHED ROOF ALTERNATE**  
 This roof design was studied as an alternate. It still requires a height variance to 38'-9" on the downhill side. This design was rejected because it has greater negative impacts on views from neighboring properties. The average height of the roof facing the neighbors on Haystack Drive is 3'-6" taller than the proposed gabled roof option (shown in dashed blue line).



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July 8, 2022

**Melissa Jenck**

Tillamook County  
Community Development  
1510-B Third Street  
Tillamook, OR 97141

RE: McGlynn Residence Variance Request

Dear Ms. Jenck:

Enclosed please find an application for a variance from the minimum front yard setback and maximum height on behalf of our clients Rob and Sarah McGlynn. The topographic and dimensional constraints of their property on Haystack Drive in Neskowin create a hardship for the development of the property as a residence for their family.

This application includes the following documents:

1. Tillamook County Type II Planning Application
2. Memorandum in response to the applicable criteria
3. Drawing set documenting site conditions and proposed design
4. Topographic survey by Kellow Land Surveying
5. Geologic Hazard Report by R. Warren Krager and Morgan Civil Engineering

Thank you for your consideration of this application. If additional information is required, please let me know.

Sincerely,

Bora Architects

A handwritten signature in black ink, appearing to read "Stephen Weeks".

Stephen Weeks, AIA, Principal



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A VARIANCE shall be granted, according to the procedures set forth in Section 8.020, if the applicant adequately demonstrates that the proposed VARIANCE satisfies all of the following criteria:

- 1. Circumstances attributable either to the dimensional, topographic, or hazardous characteristics of a legally existing lot, or to the placement of structures thereupon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met. Such circumstances may not be self-created.***

The property is the legally existing Lot 57 within Unit Two of the Sahhali Shores development in Neskowin. It is Tax Lot 2900 at the north end of Haystack Drive. Please refer to the Vicinity Plan shown on page 2 of the enclosed graphics. Article III of the Tillamook County land use ordinance establishes the property belongs to the Neskowin Rural Residential Zone (NeskRR). Section 3.320 confirms this land is suitable for homesites while maintaining the rural character of the community. The proposed development of a single-family house is permitted outright by 3.322(a).

The property is trapezoidal in shape with the narrowest dimension, approximately 60 feet, along the road frontage. This is an unusually narrow lot, legally platted but quite a bit smaller in width than the 100-foot minimum established by 3.324(d). The parcel extends down the hill to the northwest for roughly 200 feet reaching a maximum width of about 155 feet. The total area of the lot is approximately 20,800 square feet. Refer to the enclosed Site Survey by Kellow Land Surveying. Water service is available at the street and wastewater will be discharged to the community STEP system as required by the Sahhali Shores Consolidated Owners Association (COA).

The slope averages 50% as it falls nearly 100' down from the road, but the steepest slopes, about 75%, occur at the top of the slope immediately adjacent to Haystack Drive. Setbacks, as established by 3.324(h-j) are 20 feet at the front and rear yards and 5 feet at the east side yard adjacent to protected open space. Sahhali Shores COA regulations establish a more restrictive setback of 15 feet on the west side yard adjacent to tax lot 2800, further restricting the narrow lot. Per Section 4.117, roof overhangs may extend into the required setback two feet if the eaves are part of an energy efficiency measure providing shading to the windows and the walls below. As energy efficiency is an important goal of the owner, the proposed roof includes large projecting eaves as part of a holistic sustainable design solution.

This lot is the steepest in all of Sahhali Shores and has the least street frontage of any lot on Haystack Drive. See the Neighborhood Topo Plan on page 3. These dimensional and topographic conditions create significant challenges to the development of the property as a single-family residence. From the outset of design, the primary goal is to create a house that harmonizes with the beautiful landscape, preserving as many trees as possible, limiting the disturbance of the environment that comes from grading and construction, and minimizing the impact of the house on views from neighboring properties.

The maximum building height per Section 3.324(l) is 35 feet from the existing natural grade to any point of the structure. The property is not an ocean-front lot per Tillamook County zoning map. The Vicinity Plan on page 2 depicts this condition. Sahhali Covenants, Conditions and Restrictions (CCR) 9.3.2(e) establishes a different limit on building

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height. The maximum allowable height is 30 feet, measured from the average existing contour on the uphill side of the house. While more restrictive on the uphill side of the house, this regulation is actually more accommodating of the impacts of steep sites on building geometry.

Due to its location, orientation and downward slope, the lot is well secluded from neighboring properties. The two houses across the street are positioned on much higher ground, with grade at the base of the house on tax lot 100 approximately 38 feet above and lot 200 about 54 feet above the highest grade at the house location on the subject property. Views of the coastline from these houses will remain. Furthermore, the design of both of these houses places the primary living spaces on the second floors where site lines are even more advantageous. See the Neighborhood Site Plan on page 4 and the Neighborhood Section Diagram on page 5 for illustrations of this relationship.

The orientation of these houses has also been considered in our design proposal. The house on lot 100 is oriented to enjoy primary views due north over the protected open space. Photographs on page 6 show the large windows on the north façade. It also enjoys views to the west, although this vantage is over lot 2800 and nearly unaffected by the subject property. Mindful that this site line crosses the southwest corner of the McGlynn lot, we have positioned the house as far northeast as possible and stepped the plan of the house to minimize any possible encroachment on this view. See the Neighborhood Site Plan on page 4.

The house on lot 200 is oriented to face northwest and positioned as far to the rear of the lot as possible to gain the most height possible. As described above this allows views of the coastline over the roofs of the houses across the street. The primary view from this house to the coastline extends northwest over lot 2800 and the McGlynn lot. Due to the relatively flatter grade however the base elevation of any future house developed on lot 2800 is about 8 feet higher than the McGlynn lot. Again, the strategy of positioning the proposed house as far northeast as possible and stepping the plan minimizes the presence of the McGlynn house in the views from lot 200.

Any house developed on lot 2800 will enjoy unimpeded views up and down the coastline, unaffected by the proposed house on lot 2900. The topography transitions around a subtle ridge from a west-northwest slope on lot 2800 to the more northerly slope of the McGlynn lot. This serves to further remove the proposed McGlynn house from any possible field of view from lot 2800.

The Beach Vegetation Line is about 1000 feet to the northwest of the proposed house and about 120 vertical feet below. The intervening land is a spruce-dominant coastal forest, including alders and an understory of ferns and salal, sloping down to the wetlands at the south end of Daley Lake and the property occupied by Winema Camp. The impact to these adjacent properties from development of the proposed house is negligible. This includes the beach itself, from which the proposed McGlynn house will be barely visible due to distance and forest density.

The overall layout of the house is organized as two rectangular volumes placed nearly perpendicular to the fall line of the slope to minimize grading impacts and maximize preservation of the natural conditions of the site. The two zones of the house each contain two levels of living space and are offset in plan to minimize impact to view corridors for the two houses located across Haystack Drive as described above. Page 7 of the enclosed graphics shows the overall Site Plan. The site design strategy achieves favorable views to the north from the primary rooms of the house while it expands the southern exposure, allowing more sunlight to penetrate the house, a precious resource in the dreary climate of the Oregon coast. This is an important part of the holistic energy efficiency strategy as the solar exposure provides a passive boost in the heating dominant climate.

The stepped plan reduces the bulk of the house in general and achieves compliance with the lot coverage standard established by NeskRR 3.324(k)(2). The two volumes are also stepped in section in response to the hillside with the

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northern portion of the house one story below the southern. The total area of living space is approximately 2,800 square feet, exclusive of the garage, in compliance with the 1,800 sf minimum established by CCR 9.3.2(c). Article 9.7 requires a two-car garage.

The Geologic Hazard Report (enclosed for reference) states: "Due to the steep slope, the garage should be set as close to the roadway as possible in order to reduce grading." Our design analysis confirms the wisdom of this recommendation. The grade along the buildable frontage at the front yard setback line ranges from 13 feet to 23 feet below the elevation of the road with slopes in excess of 75%. This requires the driveway to be built on an elevated concrete structure supported on walls and columns. The proposed design slopes the driveway down from the road at 25% slope, the maximum recommended by consulting civil engineer Jason Morgan, with allowances for flatter transition zones to avoid cars bottoming out. This very steep driveway sets the floor level of the garage at elevation 147'. With a square footprint approximately 21 feet on a side to accommodate the required two vehicle parking spaces, the base of the rear wall of the garage is 28 feet above grade. With a 9 feet clear space inside the garage to reasonably accommodate the family's vehicles with rooftop equipment racks plus an 18" thick roof construction the height reaches 38'-6" above grade before even factoring in an allowance for a sloped roof. The simple realization that the land slopes down much more steeply than the driveway can (75% versus 25%), supports the positioning of the garage as close to the road as possible. The further the garage is placed from the road the taller the structure must be. In simple terms, the 50% delta in slopes means that for every foot of horizontal distance from the road, the vertical height of the garage above grade grows by 6". Page 12 includes a Cross Section through the driveway and the garage.

Due to the narrowness of the lot, the buildable space adjacent to the garage is not sufficient to accommodate the primary living spaces of the house. This is the logical arrangement of the house found on lot 2700, two properties to the south, a design made possible by a lot that is 75% wider. The necessary solution proposed for the McGlynns is to place the primary living spaces behind and below the garage, taking advantage of the widening dimensions of the lot and the space created by the topography, which is falling away at approximately 50% slope in this region. Adjacent to the garage, the upper level of the proposed design accommodates only the entrance, a coat closet, a small mudroom and the stair to get down into the main part of the house. This keeps the footprint of the upper volume, the only level of the house visible from the street, as small as possible with only 327 square feet of living space adjacent to the garage. See pages 8-10 for the proposed floor plans and page 13 for an elevation of the street-facing facade.

If all development standards were met, this property cannot be developed as a single-family house with a garage due to the dimensional and topographic conditions. Therefore, the request is for consideration of two variances: a reduction of the minimum 20 feet front yard setback and an increase to the 35 feet maximum allowable height. The two are interrelated since the position of the house on the site determines the height of the structure above the slope. The height variance is only necessary on the downhill side of the house because the proposed design complies on the uphill, street-facing side, and even meets the more restrictive Sahhali CCR limit of 30 feet.

The request is to reduce the setback by two feet, to a minimum of 18 feet from the property line. To minimize the perceived impact of the house positioned slightly closer to the road, the plan is carefully stepped to respect the angular geometry of the setback line. The resulting design only encroaches into the setback zone at two locations that total about 40% of the width of the street-facing facade. The remaining portion exceeds the 20 feet setback minimum. See the Site Plan on page 7 for the proposed layout.

The design of the house incorporates generous eaves that protect the walls and windows of the house with roof overhangs that range from 2 feet to 7 feet. The roof not only improves the durability of the walls, it also increases energy performance of the house by shading the windows and the walls from summer solar heat gain. The largest overhangs create covered outdoor spaces that offer protection from the rain. One of these forms a covered entry for

both the front door to the house and the garage door. It is similar to a porch, although the floor surface is necessarily flush with the driveway and the roof is cantilevered, and creates a weather-protected entrance, a necessity in this climate and a feature of all houses in the neighborhood.

To accommodate this roof overhang, we request an adjustment to the allowable eave encroachment standard from two feet to nine feet. Again, due to the geometry of the plan, only the southeast corner of the roof would encroach into this zone. Without this adjustment, the garage and the house would have to be positioned further from the road resulting in a structure that is approximately 3'-6" taller than proposed, as described above.

To construct a single-family house on this unique site, based on the proposed setback variance, we request an adjustment of six feet to the maximum allowable height. This would only apply to the walls on the downhill side of the house accommodating the ridge of the sloped roof that reaches a maximum of 41 feet above grade. The proposed design remains below the Sahhali CCR limit of 30 feet on the uphill, street-facing side of the house. The drawing on page 11 depicts the proposed Roof Heights Above Grade while Elevation Diagrams are shown on page 14 and 15.

***2. A VARIANCE is necessary to accommodate a use or accessory use on the parcel which can be reasonably expected to occur within the zone or vicinity.***

The proposed single-family dwelling is an expected use of the property explicitly allowed under Section 3.322 of the Land Use Ordinance. To reasonably accommodate this use on this unique property, variances are necessary. As described above, the modest footprint of the upper level, only containing the required garage and the house entry space placed as low as possible with the steepest recommended driveway exceeds the standard for allowable height in Section 3.324(l). A height variance is necessary. The proposal includes a front setback variance request in order to minimize the amount of the necessary height variance. The design solution proposed is thoughtfully considered to minimize the overall presence and impact of the house on this site and from the neighboring houses. If all setback standards were met, the house would be approximately 3.5 feet taller due to the fact that the ground is sloping down at a much steeper rate than the driveway. The taller house set further from the road would have greater impact on neighboring properties, a larger carbon footprint, an increased risk from wind and seismic forces not to mention an ungainly bulk, out of proportion for a single-family house. It would also require the removal of one of the largest Sitka spruce trees on the property.

***3. The proposed VARIANCE will comply with the purposes of relevant development standards as enumerated in Section 4.005 and will preserve the right of adjoining property owners to use and enjoy their land for legal purposes.***

Granting the requested variances to construct a single-family residence will comply with the development standards as enumerated in 4.005 as described below.

**4.005 (1) To ensure the availability of private open space;**

Approval of the requested variances is essential to create private open space on this land for enjoyment of the surrounding natural environment. Granting the variances does not infringe on the right of neighboring property owners to enjoy private open space on their land.

**4.005 (2) To ensure that adequate light and air are available to residential and commercial structures;**

Adequate light and air to residential structures will be preserved even by the granting of the requested variances. The design proposal for the dwelling is specifically arranged to capture sunlight from the southern side of the house. Since the property is a north-facing slope without adjacent private properties on the shadowed side of the house, the proposed design will cause no loss of sunlight to structures, including any likely to be built in the future. The nearest existing house is approximately 115 feet away, so the proposal has no impact on access to air. The proposed house remains 15 feet at the nearest point and 26 feet on average from the only adjacent common property line. This exceeds the 5 feet side setback standard and results in adequate air and light for any future structure developed on that lot.

**4.005 (3) To adequately separate structures for emergency access;**

As described in the previous response, the proposed dwelling maintains ample distance between structures. Granting of the requested variances will not constrain emergency access and, in fact the positioning of the house closer to the street, if approved, would improve emergency access to this property. The structure would be more accessible to emergency vehicles on Haystack Drive and more easily reached by emergency personnel, via the shorter driveway or by traversing the slope around the perimeter of the house.

**4.005 (4) To enhance privacy for occupants of residences;**

The proposed house has been designed to maximize privacy for all property owners. The primary living spaces are arranged to take advantage of the landscape views through ample windows to the west, north and east. The property has the favorable condition at the end of the buildable lots on Haystack Drive with protected open space bordering the property on two sides (northwest and northeast). The windows facing south, toward the neighboring houses, are protected by the steep topography. Aside from a modest street facing window associated with the entrance, the south windows in the proposed design are located at the middle level of the house, one level below the entrance, and therefore look into the steep hillside preserving privacy for all.

**4.005 (5) To ensure that all private land uses that can be reasonably expected to occur on private land can be entirely accommodated on private land, including but not limited to dwellings, shops, garages, driveways, parking, areas for maneuvering vehicles for safe access to common roads, alternative energy facilities, and private open spaces;**

The proposed house will be constructed entirely on private land. This includes the two-car garage, the driveway which connects safely to Haystack Drive and the outdoor private decks and porches.

**4.005 (6) To ensure that driver visibility on adjacent roads will not be obstructed;**

Approval of the requested variance to allow construction of the proposed design will not alter driver visibility on Haystack Drive. The property abuts a cul-de-sac that terminates the common road, the safety and visibility of which is unaffected by the proposed variances. No obstructions for drivers are created by this proposal.

**4.005 (7) To ensure safe access to and from common roads;**

The proposed dwelling includes a short, sloping driveway built on a concrete structure above the very steep terrain including safety guardrails engineered to withstand vehicle loads. The granting of the requested variance to reduce the front setback will reduce the length and vertical distance it descends to the garage, increasing safety of the access to Haystack Drive by making it easier to maneuver a vehicle in and out of the property. Pedestrians will also use the sloping driveway though a series of shallow steps are planned to ease movement.

**4.005 (8) To ensure that pleasing views are neither unreasonably obstructed nor obtained;**

The views from the adjacent properties on the west side of Haystack Drive are not obstructed by the proposed design with requested variances. In fact, the granting of a setback variance improves the sightline to favorable views from the adjacent undeveloped lot south of the subject property. Views from the houses across the street will be preserved in

such a way that does not preclude the project site from rightfully enjoying similar views. Care has been taken with the proposed design to minimize its presence in the views from the two houses across Haystack Drive. The house at 5310 (lot 100) is oriented and designed to capture views due north and due west. These primary viewsheds have minimal engagement with the subject property and the proposed house is positioned as far northeast on the lot as practicable and stepped in plan and in height to maintain the favorable view corridors from this house. See Site Plan on page 4.

The house at 5320 (lot 200) is oriented toward views of the coastline to the northwest. The primary viewshed lies to the southwest of the subject property, passing over lot 2800. Again, with consideration of this view corridor, the positioning of the proposed house to the northeast, the stepping of the plan, and the stepping down of the heights of the house volumes all benefit the views from lot 200 and minimize the presence of the proposed house.

The design of the roof slopes of the house has also been developed with sensitivity to the view corridors from both of these neighboring houses. Since these view corridors intersect with the subject property at glancing angles on the east and west sides of the proposed design, the roof is intentionally sloped down toward these locations. The resulting arrangement of gable rooflines positions the lowest eaves on the east and west ends where the mass of the house approaches the neighbor's viewsheds minimizing obstruction of views in all instances. The high points of the roof, along the ridges, are located near the center of the proposed house where they create the least possible impact on views. To further minimize the height of the ridges, the roof slope is proposed at 2.5:12, the lowest pitch we can recommend in this climate and on this forested property. Additionally, the proposed roof design minimizes the presence of the house from the street. The average height of the roof above grade on the uphill, street-facing side is about 20 feet, substantially lower than the county-permitted standard of 35 feet and even the more restrictive Sahhali Shores limit of 30 feet. See page 13 for an illustration of the street façade.

It should also be noted that the two houses across the street sit on substantially higher ground, 38 feet and 54 feet above the base elevation of the proposed house, as detailed above. Page 5 shows this relationship for Lot 200. From these advantageous positions, favorable views of the ocean, the trees and the horizon will remain unobstructed over the top of the proposed house.

**4.005 (9) To separate potentially incompatible land uses;**

The proposed development of the property as a single-family house is permitted outright within the NeskRR zone. No incompatible land uses are proposed.

**4.005 (10) To ensure access to solar radiation for the purpose of alternative energy production.**

As the northernmost property within the Sahhali Shores community, this lot has no impact on the availability of solar radiation on any of the neighboring buildable parcels. The property to the north, the direction of potential solar shading, is protected open space and not suitable for energy production.

**4. *There are no reasonable alternatives requiring either a lesser or no VARIANCE.***

Due to the extreme slope, the property cannot be developed as a single-family residence without approval of the requested variances. There are no reasonable alternatives. Denial would deprive the property owners of their substantial right to enjoy the same pleasures of living in the beautiful Oregon coastal environment as their neighbors, including favorable views from their developed land. This property is unique among the lots in the Sahhali Shores. It is the steepest lot with the shortest frontage and requires favorable consideration of the requested variances to construct a single-family house. Denial of the requested variances would substantially harm the property owners, who have a

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significant financial investment in this legally platted property valued as a buildable lot within the Sahhali Shores neighborhood, a planned community approved for single-family houses by Tillamook County.

To understand the impact of the steep slope, it is helpful to compare it to the adjacent, undeveloped lot (TL 2800). If the same design as proposed for the McGlynn's property were placed on the adjacent lot, the height would be 24 feet less on the downhill side because the slope is not nearly as steep. The height of the house on the uphill, street-facing side would be the same. The variance requests are not aimed to fulfill a desire for a tall house or to achieve more favorable views. They are just the geometric reality of building *any* house on such a steep site.

As detailed above, the location of the house significantly determines the resulting height above grade. The design optimizes this relationship by balancing a reasonably closer position to the road with a reasonable increase in height on the downhill side. If the setback variance were denied or a lesser variance were approved, the magnitude of the necessary height variance would increase. With careful consideration of all the variables and with particular attention to minimizing any potential impact on the views from neighboring properties, the proposed design resolves the complex challenge of developing a single-family house on this site in compliance with all other development standards.

Alternatives were explored as a normal part of a thorough design process, but different arrangements of the plan on the property and different roof configurations produced downsides to solar access, energy efficiency, grading impacts, tree preservation, and most significantly, the presence of the mass of the house within the view corridors of neighboring properties. The proposed design, with the requested variances to front setbacks and downhill building heights, is the optimal solution grounded in the Tillamook County Development Standards and the Sahhali Shores CCRs.





*R. Warren Krager, R.G., C.E.G.  
Consulting Engineering Geologist  
Oregon CEG #E957*

October 5, 2021

Robert McGlynn  
In care of Jason Morgan, P.E.  
Morgan Civil Engineering, Inc.

**Re:           Engineering Geologic Site Reconnaissance  
              and Geologic Hazard Report  
              Proposed McGlynn Home, Lot 57, Haystack Drive,  
              Sahhali Shores Subdivision, Map 5S 11W 13DB, Tax Lot 2900  
              Tillamook County, Oregon**

Dear Mr. McGlynn and Mr. Morgan,

As requested, I am pleased to submit my engineering geologic reconnaissance and geologic hazard report for the above referenced property and proposed residential development.

#### **Introduction**

This geologic hazard report has been prepared in general accordance with the Tillamook County Land Use Ordinance (TCLUO) Section 4.130, Development Requirements for Geologic Hazard Areas. The subject lot is mapped by the Oregon Department of Geology and Mineral Industries in a zone of 10 to 24 percent slopes. Actual slope on the subject lot exceeds 85 percent.

R. Warren Krager, R.G., C.E.G. (Oregon Licensed Engineering Geologist E-957) conducted the surficial reconnaissance of Tax Lot 2900 on Monday May 17, 2021, with Mr. Jason Morgan, P.E. of Morgan Civil Engineering, Inc. Approximately one hour was spent on site and in the vicinity of the property. We observed existing site conditions including vegetation, natural slopes and graded topography, drainage conditions, exposed surface soils and bedrock in the area. We also noted and discussed the general age and condition of mature trees, roadway, utilities, existing nearby homes, and the occurrences of hard sandstone bedrock in outcrops and excavations in the project area.

The conclusions and recommendations of this report are based on observation of surface soil and slope conditions, limited subsurface exploration using a hand auger, observation of local surrounding area for soils, geologic exposures and obvious evidence of earth movement, a background geologic literature and mapping review, and general familiarity with engineering geologic conditions of the area.

In preparing this report, available geologic hazard maps and reports, various site plans, design sketches and available topographic data were reviewed for detailed information pertinent to the subject site and local vicinity. The following information were reviewed and used in preparation this report:

- Environmental Geology of the Coastal Region of Tillamook and Clatsop Counties, Oregon, Oregon Department of Geology and Mineral Industries (DOGAMI), Bulletin 74, 1972.
- Preliminary Geologic Map of the Nestucca Bay Quadrangle, Tillamook County, Oregon, United States Geological Survey, Open File Report 90-202, 1990.
- United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), Web Soil Survey: <http://websoilsurvey.nrcs.usda.gov/> accessed June 10, 2019.
- Google Earth website aerial photographs of the Sahhali Shores area, photo dates: May 5, 1994, August 15, 2000, June 28, 2005, April 22, 2011, July 30, 2014, August 23, 2016, and June 22, 2017.
- Lidar Topographic tax lot map of Tax Lot 2900 and vicinity, prepared by Morgan Civil Engineering, Inc.
- Plan and section design architectural concepts sketches for McGlynn House, prepared by Bora Architects.
- Tillamook County Land Use Ordinance (TCLUO) Section 4.130, Development Requirements for Geologic Hazard Areas.
- The Oregon Map GIS Viewer, <http://www.ormap.net/flexviewer/index.html>.
- DOGAMI Lidar Viewer, Oregon Lidar Consortium <http://www.oregongeology.org/lidar/dataviewer/>.

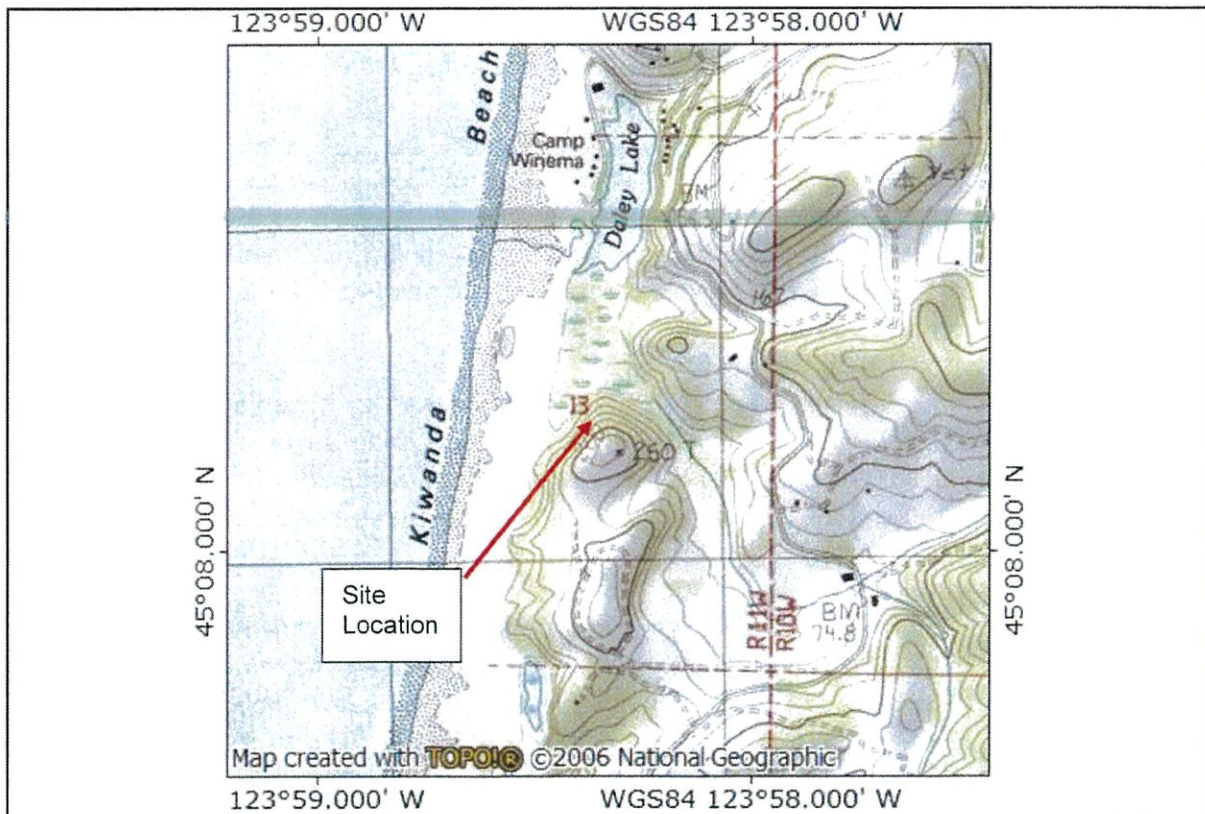


Figure 1- Site Location Plan

### Site Location and Description

The general location of the Sahhali Shores Subdivision is about 1.8 miles south of the mouth of Nestucca Bay, and a similar distance north of the town of Neskowin, beside Kiwanda Beach in Tillamook County, Oregon, as shown in Figure 1. The subdivision is an isolated hill and summit upland area, generally surrounded by coastal lowlands, wetlands, dunes, and beach.

The subject property consists of Lot 57 of Sahhali Shores of Neskowin, Unit One Subdivision on Tillamook County Tax Map 5S 11W 13DB, and Tax Lot 2900, Figure 2. The vacant building lot is located on the north end of the Haystack Drive cul-de-sac at the far north end of the subdivision.

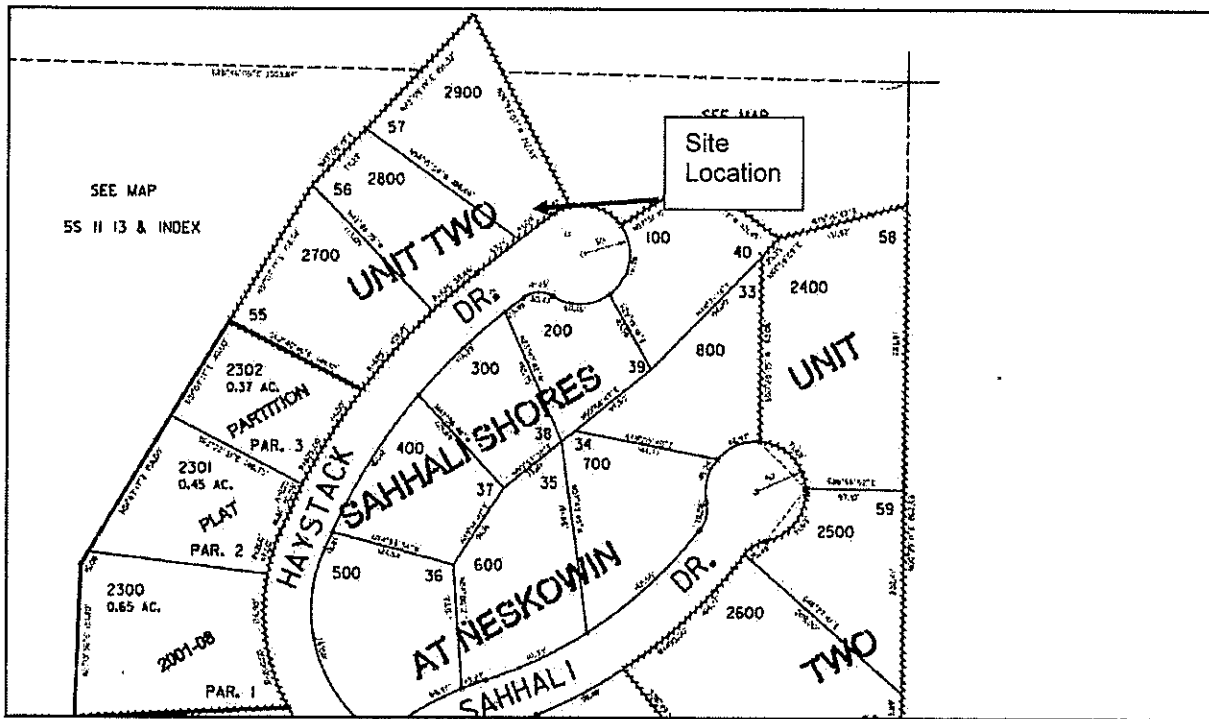


Figure 2- Portion of Tillamook County Tax Map 5S 11W 13DB.

The property is naturally vegetated with shore pine, Sitka spruce and native understory brush of salal, wild berry vines and other native shrubs. The lot does not appear to have been previously cleared or graded. In the upper 40 some feet of site elevation traversed on foot from the cul-de-sac, we did not observe signs of flowing surface drainages, wet areas or signs of groundwater seepage. Photo 1 shows an oblique south view of the slope aspect of Tax Lot 2900.



**Photo 1-** Oblique south view. Google Earth air photo date June 22, 2017.



**Photo 2 –** View to east at north edge of Haystack Drive cul-de-sac. Lot 2900 is off left side of photo.

Tax Lot 2900 slopes steeply downward to the northwest from the northern shoulder of the Haystack Drive cul-de-sac. Figure 3 shows detailed, slope topography prepared from Lidar aerial imaging obtained by a consortium of public and private stakeholders between 2008 and 2009. Based on these elevation contours, the property lies between elevations of about 245 feet to 145 feet above mean sea level. Slope exceeds 60 percent in the upper elevations of the lot where the proposed home site is planned off the north edge of the cul-de-sac. Lower elevation slopes on the property are no less than about 37 percent. Similar slopes to lower elevation extend several hundred feet to the west and north from Tax Lot 2900. The slope at this location is long, wide and generally uniform. I do not discern slide scarps, slope failure, or irregular topography on Tax Lot 2900. The obviously steeper slope below the north edge of the cul-de-sac is interpreted to have experienced soil creep or settlement that appear to have affected roadbed support at the pavement edge.

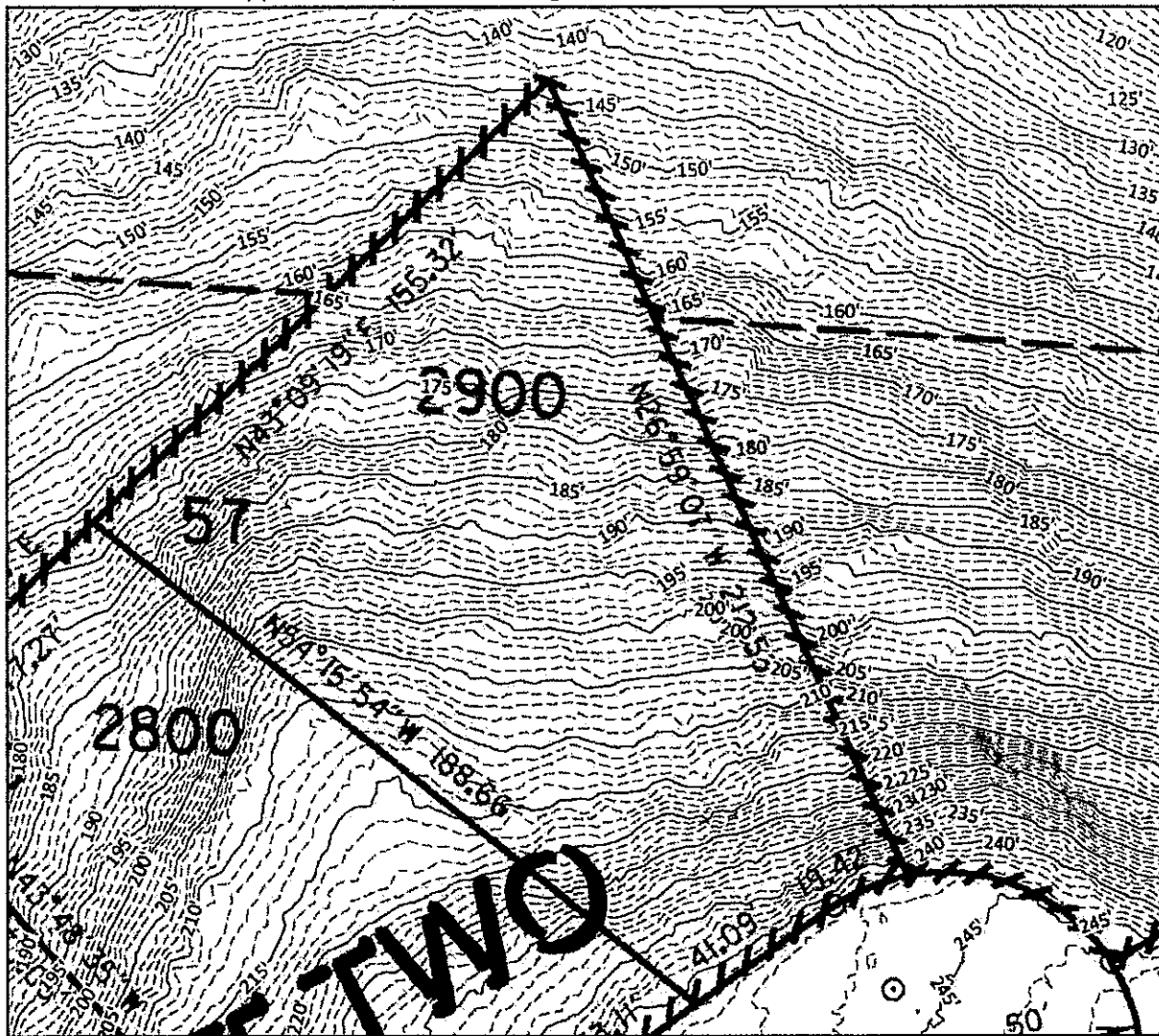
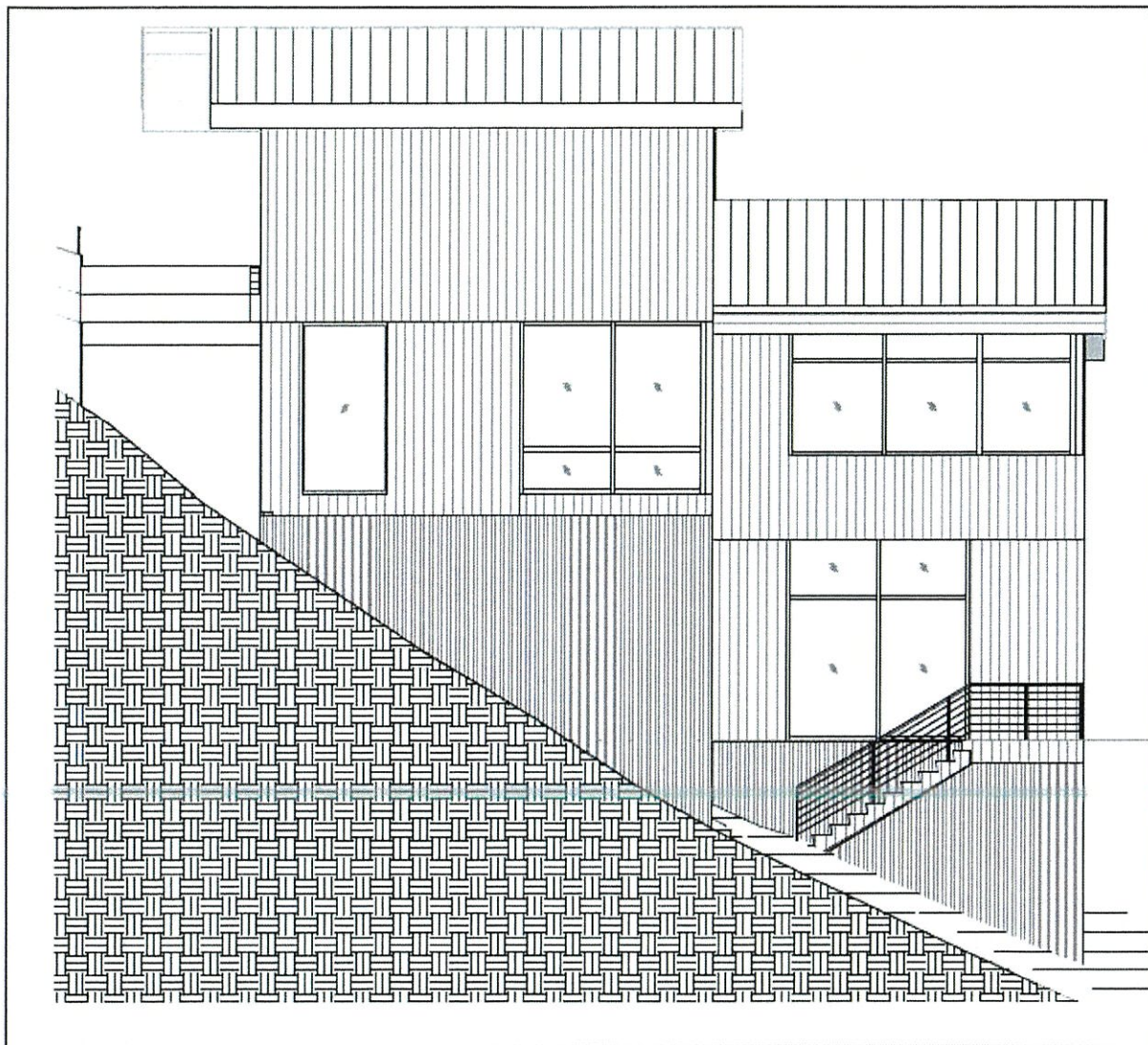


Figure 3 – Lidar based topography for Lot 57, Sahalli Shores Subdivision, Prepared by Morgan Civil Engineering, Inc.

### Proposed Construction

Figure 4 shows the preliminary architectural design concept east-elevation sketch of the proposed home relative to the cul-de-sac and the descending slope through the upper elevations of TL 2900.



**Figure 4** – East-Elevation architectural concept sketch for proposed McGlynn House.

Because of excessively steep slope and difficulty of excavation and backfill for proper slope embedment of conventional shallow foundation, it is expected that the home will be supported on reinforced foundation built directly upon excavated bedrock benches, or on structural beam supported by piles or piers drilled or driven into bedrock. The proposed driveway will be a bridge structure extend from the edge of the cul-de-sac to the upper-level garage. The driveway structure may also use pier or pile foundation embedded or bolted to bedrock. Retaining walls and possible additional filling and grading may be planned for the driveway at the north edge of the cul-de-sac. With a structural driveway bridge to the home, utilities may be supported within the bridge structure, and little additional site excavation or trenching would be needed. Septic

waste may be pumped to a sewer inlet in the street. Storm water runoff from roof and driveway is expected to be released on the slope below or beside the home in a diffuse manner.

### Mapped Soils and Geology

Surface soils in the project area are mapped by the USDA NRCS Web Soil Survey of Tillamook County, Oregon as Neotsu-Salander medial loams, 5 to 30 percent slopes. These soils form on the upper mountain and hill slopes from colluvium and residuum derived from igneous rock. The USDA describes the typical medial loam soil profile transitioning to cobbly medial loam at depths of 20 inches to 32 inches, and weathered bedrock at 32 inches to 42 inches below the ground surface.

The presence of significant exposures of black sandstone bedrock in the lot vicinity within the subdivision, and on-site slope and topographic expression, suggest weathered volcanic sandstone bedrock may be present in the proposed building area on Tax Lot 2900. The hand auger boring in the approximate building area terminated at refusal to advance at less than 4 feet depth, on what is interpreted as the upper surface of dense sandstone bedrock.

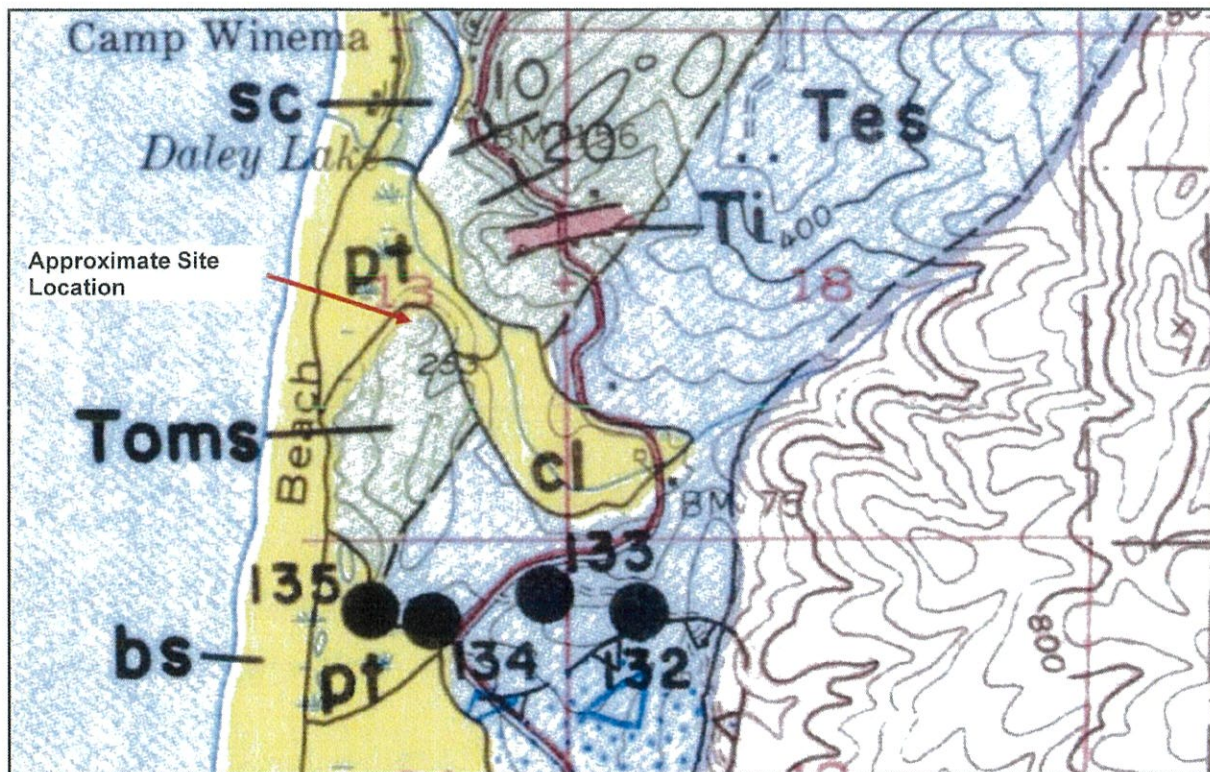


Figure 5- Portion of Geologic Map of Hebo Quadrangle, DOGAMI Bulletin 74 (1972)

According to geologic mapping of DOGAMI Bulletin 74 (Figure 5), geologic bedrock of the project area consists mostly of Tertiary Oligocene to Miocene age sedimentary rocks of tuffaceous siltstone, sandstone and claystone (map unit **Toms**). The **Toms** bedrock is abutted on the west and north by younger Quaternary to Holocene age deposits that include areas of

peat and clay soils (map units **pt**, **cl**). The project area has several northeast trending inactive faults mapped with uncertain surface traces. Isolated Tertiary igneous or volcanic intrusions are mapped in the area. The project area is not subject to active faulting or volcanism.

Detailed geologic mapping by the USGS in Figure 6 shows a body of Tertiary age basaltic sandstone of the Alsea Formation (map unit **Talbs**) in the project area. This unit is described as massive, to thick-bedded and trough cross-bedded basaltic grit to fine-grained concretionary sandstone with minor pebble conglomerate and siltstone. This unit is assigned to Lower Oligocene age of approximately 25 to 35 million years before present. This unit is considered age equivalent to the Tertiary Oligocene to Miocene age sedimentary rocks mapped by DOGAMI in the early 1970s.

Naturally outcropping cliffs or ledges of sandstone bedrock may be observed in parts of the subdivision. Deep excavation beyond the upper surface of bedrock is expected to be difficult and potentially costly based on the relative strength of the bedrock represented in outcrops and rock exposures in the subdivision.

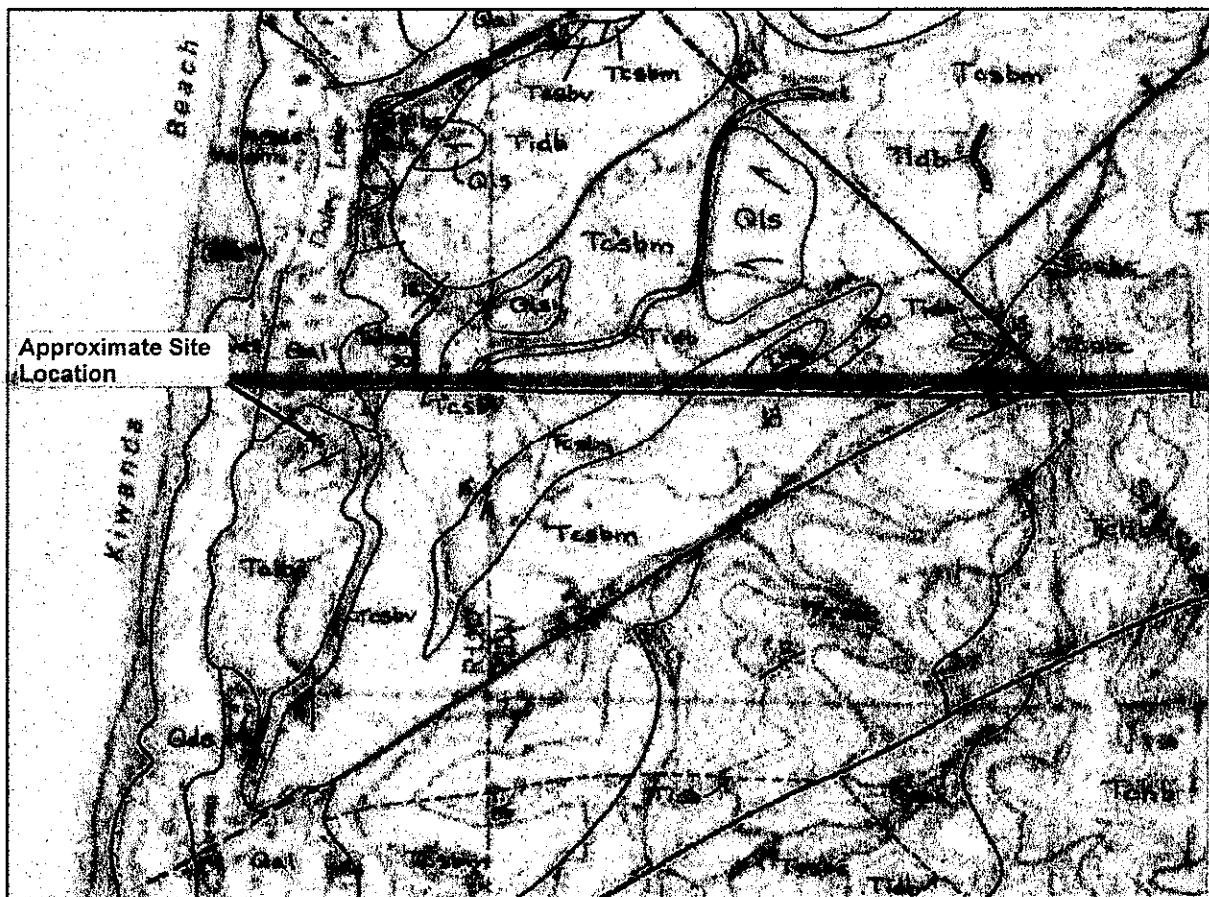


Figure 6- Portion of Preliminary Geologic Map of Nestucca Bay Quadrangle, Tillamook County Oregon, USGS Open File Report 90-202, 1990.



## **Seismic Setting and Hazard Discussion**

The principal seismic geologic hazard concern at the coast and throughout western Oregon is the Cascadia Subduction Zone, CSZ. This is an active thrust fault zone of tectonic plate convergence located in the sea floor about 50 to 60 miles off the northern Oregon coast. This fault interface between the tectonic plates is considered locked up and building increasing pressure and strain. A strong earthquake can result when this locked CSZ fault ruptures or shifts and simultaneously releases the accumulated energy.

The CSZ can produce massive, global-scale earthquakes that will cause violent ground shaking and destruction region wide. Geologic and geophysical research over the past few decades has established that the CSZ has repeatedly produced large earthquakes on an approximately 300-year to 700-year recurrence interval with some lesser or greater time intervals. Historic Japanese tsunami records and modern tree ring dating techniques have established that the most recent CSZ earthquake occurred in January of 1700 AD. The next CSZ earthquake is widely expected to occur within many of our lifetimes. Scientists and engineers generally agree that the potential intensity of the next CSZ earthquake could potentially exceed magnitude 8.5 to 9.5. The duration of strong ground shaking could exceed several minutes and may be followed by days or weeks of strong aftershocks.

During a CSZ earthquake, the subject property will likely experience a few minutes of very intense ground shaking. The undersea thrust fault displacement will cause an ocean tsunami that will arrive at the Oregon coast about 15 to 20 minutes after the strong earthquake strikes. The proposed home site is higher than about 200 feet above mean sea level and above the maximum expected tsunami inundation zone. Tsunami inundation, scour and erosion may be expected in the unconsolidated Quaternary to Holocene age deposits at lower elevations. In my opinion Lot 2900 has no concern for tsunami induced scour and only minor concern for seismically induced slope instability.

The primary seismic concerns for the subject property and proposed home would be strong earthquake ground shaking. Structure foundations drilled, bolted or dowelled into sandstone bedrock would be expected to perform satisfactorily during a CSZ design earthquake. Manmade fills or thick surface soil on excessively steep slopes would be expected fail by slide or shallow debris flow during active seismic ground shaking. Seismically induced ground failure effects such as soil liquefaction, ground surface rupture, lateral spreading, and broad areas of coastal subsidence would not impact areas underlain by shallow bedrock.

Other earthquake sources occur in this region besides the CSZ. These include fault ruptures deep within the subducting oceanic plates and within the overlying continental crustal tectonic plate. However, the CSZ thrust fault earthquake is considered the greatest seismic hazard to the region and that which dictates design requirements for engineered structures. None of the faults shown on the geologic maps of the project area are considered active or capable of producing earthquakes. The mapped faults do not displace Quaternary or younger deposits.

## **Conclusions and Recommendations**

There are no apparent landslide, slope instability or problematic soil issues with this lot other than physical challenges of foundation construction on the very steep slope. The building area is thought to be underlain by shallow basaltic sandstone bedrock based on limited hand auger exploration. The possible shallow bedrock is expected to benefit slope stability and secure foundation construction options to address slope. From an engineering geologic standpoint, it is my opinion that the subject property is generally suitable for residential construction as discussed herein. In my opinion, construction of the home and driveway directly on excavated or drilled bedrock is not expected to influence or increase geologic hazard risk to the subject property or adjacent properties.

Geotechnical subsurface exploration of known foundation or building area was not conducted as part of this geologic hazards review. It is not possible to describe or accurately predict thickness of soil or depth and condition of bedrock. I recommend versatile foundation elements such as drilled pier shafts or grouted piles, or anchor bolts installed to refusal or minimum specified depth in expected underlying bedrock. I expect some foundation elements will need to be structurally grouted into bedrock to provide uplift resistance to wind and seismic forces. Some reinforced concrete foundation elements may be cast upon or affixed directly to excavated bedrock benches. It is advisable to engage a specialty geotechnical foundation contractor with drilled/grouted anchor and grouted pier foundation construction experience to evaluate site access and assist in considering foundation options.

It is recommended that an Engineer or Engineering Geologist be retained to review foundation plans and provide construction inspection and documentation of representative foundation installation or testing. This report may not present full geotechnical engineering information and foundation design recommendations. I would be happy to discuss site and foundation options with project design and construction team members.

## **Limitations**

The engineering geologic reconnaissance and geologic hazard review services performed for this project have been conducted with that level of care and skill ordinarily exercised by members of the profession currently practicing in this discipline and area under similar budget, time, and work scope constraints. No warranty, expressed or implied, is made regarding the interpretations of subsurface conditions and conclusions of this report.

This report may be used only by the client and their authorized agents for the purposes stated, within a reasonable time from its issuance. Land use, site conditions (both on- and off-site), or other factors may change over time and could materially affect our findings. Therefore, this report should not be relied upon after 24 months from its date of issue. If the project is delayed by more than 24 months from the date of this report, I would be happy to review site and design conditions and revise this report if appropriate.

If you have any questions regarding the information presented in this report, please do not hesitate to contact me at 360-903-4861 or warrenkrager@gmail.com.

Sincerely,



R. Warren Krager, R.G., C.E.G.  
Oregon Licensed Engineering Geologist E-957



# MORGAN CIVIL ENGINEERING, INC.

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October 20, 2021

Robert McGlynn  
1322 SW Upland Drive  
Portland, OR 97221

[mcglynnr@ehnpc.com](mailto:mcglynnr@ehnpc.com)

**Re:    *Engineering Portion of Geologic Hazard Report for Tax Lot 2900, Map 5S 11W 13DB,  
Lot 57 of UNIT 2 OF SAHHALI SHORES, Neskowin, Tillamook County Oregon  
(Haystack Drive)  
Project #21-05-McG***

Dear Mr. McGlynn:

At your request, we have completed the site investigation of your property, referenced above. Available maps and previous reports of nearby properties were utilized in this investigation. This investigation also included a site inspection of the subject property with Warren Krager, Certified Engineering Geologist. Mr. Krager investigated the geologic conditions of the site and has addressed them in his report. Morgan Civil Engineering, Inc. (MCE) has then developed the engineering recommendations related to construction on the site. The two reports combined constitute the required Geologic Hazards Investigation required by Tillamook County. This engineering portion of the report is prepared for your use in the construction of a single-family home on the property. The standards set forth herein should be incorporated into the development plans for that project.

Site elevations noted in this report are based on topographic information obtained from the Oregon Department of Geology and Mineral Industries (DOGAMI) LIDAR project. The elevations are based on the NAVD88 datum, which is approximately sea level.

Preliminary plans from Bora Architects, Inc., received September 27, 2021, were provided for our use. The recommendations herein are based on those plans.

After the final development plans are prepared, a further addendum to this report should be completed in order to allow for a review of the final site plans and building design. This review is designed to ensure that the lot improvements and building have been designed in accordance with the requirements noted in this, and other applicable reports.

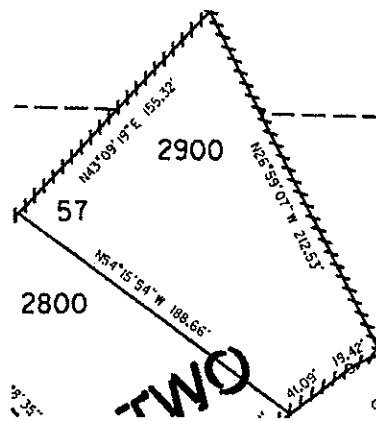
GHR for Lot 57

UNIT TWO OF SAHHALI SHORES

Neskowin, Tillamook County, OR

## Site Conditions

The site and its geologic conditions are generally as described by the geologist in his report. Mr. Krager has investigated the geologic hazards on the site and included those hazards to you in his report. Mr. Krager's 11-page report, dated October 5, 2021, is attached for your use. The property is a roughly triangular lot that widens to the northwest. The lot fronts Haystack Drive to the southeast for about 60 feet and extends roughly 200 feet to the northwest. The property gradually widens to a width of about 155 feet. See the attached portion of the assessor's map for property orientation and dimensions.



The property is undeveloped, as are the nearby properties. To the north and west is undeveloped Open Space. Haystack Drive is a paved dead-end roadway. The property fronts on the cul-de-sac at the end of the road. Typical utilities are located in the right-of-way.

The property generally appears undisturbed. The front 30 feet of the lot is over-steepened. This is likely from fill placed for the roadway. The roadway in this area is cracked, which is likely from the fill shifting on the steep slope.

Elevations on the property vary from 240 feet at the roadway to 145 feet at the northern property corner. The property falls from Haystack Drive. This is an average of 50 percent slope. The front 30 feet falls to the northwest at roughly 65 percent, while the remainder falls to the north at about 40 percent.

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The property is densely vegetated with spruce trees, fir trees, salal, blackberries and other species common to coastal forests.

The geologist notes that hard sandstone bedrock is located about 3 to 4 feet below the surface.

The site is in a 135 miles per hour basic wind gust speed zone, unprotected from the ocean winds (Exposure 'D' as per the 2021 State of Oregon Residential Specialty Code (ORSC)); therefore, the building must be designed in order to withstand the minimum required lateral wind gust loads. In general, one- and two-story wood frame construction designed in order to withstand 135 miles per hour Exposure 'D' wind loading will also withstand even severe earthquake loads. According to the International Building Code (IBC) and ORSC, structures in Exposure 'D' are typically required to have an engineering analysis calculation of lateral wind loads. Such calculations must be submitted with the building permit application.

### **Findings and Hazards Analysis**

The primary relevant geologic hazards on this site relate to: 1) steep slope; 2) hard shallow rock; 3) soft surface soil; and 4) regional seismic hazards.

Mitigation of these hazards is discussed in the Development Standards addressed herein and in the detailed recommendations set forth in the report prepared by the geologist.

The North Oregon Coast is defined by the 2017 ORSC as lying within a D<sub>2</sub> Seismic Design Category. As such, structures built in this area must, at a minimum, comply with the structural requirements for the D<sub>2</sub> Seismic Design Category. Strong seismic acceleration will likely result in widespread landsliding, and no slope can be considered immune from failure under these conditions.

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## **Mandatory Development Standards**

In addition to the required standards of Section 4.130 (2) of the Tillamook County Land Use Ordinance, the following site-specific standards should also be required:

**A. Development Density** – This property should be developed for uses consistent with current zoning (outright or conditional uses). All development should take place in conformance with all other requirements of the Tillamook County Land Use Ordinance, or approved variances, as applicable.

All development will also be required to meet the conditions of the subdivision CC&Rs. The property is located in the Neskowin Rural Residential (NeskR-R) Zone. See Section 3.320 of the Tillamook Land Use Ordinance for further information.

**B. Structure Foundation and Road Location** – No site-specific setbacks were recommended by the geologist in his report. Due to the steep slope, the garage should be set as close to the roadway as possible in order to reduce grading.

The building foundations should be designed in accordance with Development Standard "E", noted below. Site access should take place from Haystack Drive.

The house structure should be placed upon this lot in accordance with County setback standards, or approved variances. Footing design and the depth of all footings should be in accordance with Development Standard E, noted below.

**C. Land Grading Practices** – Grading on this site will be minimal. Hard rock was found approximately 4 feet below the surface. All excavations for driveway and house foundation construction should be done during reasonably dry weather (while it is not raining hard).

Exposed native soil should be protected from exposure to rainfall. Protect all cleared areas by covering them with crushed rock or straw according to use; cover driveway and foundation areas with crushed rock and cover landscaping areas with straw. This is not required for exposed bedrock.

No excavated material should be placed in any sidehill fill. All excavated material should be disposed of by hauling it off the site. Do not dispose of excavated soil downslope. Do not stockpile soil on the site.

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Any cuts into bedrock are exposed to be self-supporting. Grade the soil at the top of temporary cuts to 1.5V:1H in order to reduce sloughing. No grading of the remaining slope, beyond that required for construction, should take place.

The area around the house should be graded in order to direct surface drainage away from the building.

**D. Vegetation Removal and Revegetation** – Natural vegetation should remain on all areas of the property that are not required for construction. All areas that are disturbed by construction should be promptly revegetated in order to reduce the potential for erosion. The Oregon Fish and Wildlife Department’s recommended revegetation program for sites such as this is as follows:

Seed disturbed areas with the following grass mixture. Application rate is 12 to 14 pounds per acre.

<i>Species</i>	<i>Percentage of Mixture</i>
Annual Ryegrass	26%
Potomac Orchardgrass	25%
New Zealand White Clover	20%
Perennial Ryegrass	15%
Annual Crimson Clover	14%

Use a 16-20-0 fertilizer in order to speed the establishment of the cover material. In order to further contribute to the stability of the disturbed areas, jute matting, straw cover, or another stabilization product such as SoilGuard®, should be placed over the soil in order to help protect against erosion before the seeds are allowed to germinate. In addition, planting shrubs and trees, such as salal, red elderberry, barberry, beach pine, escallonia, cistus, ceanothus, etc., will further contribute to the long-term stability of the site.



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Prior to planting, I recommend spreading organic topsoil over the disturbed areas in order to improve the likelihood of long-term vegetation growth. Use topsoil from the site that was stockpiled before excavation, or import topsoil from a nearby site.

Vegetation on the slopes should be monitored and replaced, as necessary. Ground cover is important to stabilizing any disturbed slope and prevents future sloughing.

**E. Foundations** – The foundation should consist of a reinforced foundation building directly upon excavated benches in the bedrock or on structural beams supported by piers drilled into the bedrock. Regardless, minimize cuts into the sandstone bedrock described by the geologist.

The house should be supported on horizontal concrete beams set on the bedrock. The house can then consist of joists supported on concrete stem walls or cripple walls. If needed, sloped beams can be constructed on the bedrock to tie the horizontal beam together.

Interior footings should be integral with the continuous perimeter footings. The first-floor joists should then be supported either with conventional posts and beams, or pressure treated pony walls on continuous strip footings tied together with the continuous perimeter footings.

Alternatively, piers can be drilled into the bedrock in order to resist the uplift loads. Drill into the bedrock and install a threaded rod and secure it with thin cementitious grout. For design, use an assumed resistance of 100 pounds per square foot of embedded surface for each pier. This loading can be tested after the grout has cured. Epoxy can also be used for securing the piers in the bedrock. The piers would then be connected with concrete grade beams or an alternative method.

Regardless of depth, the bottom of all footings and pads should be excavated to below any organic material to rest on hard sandstone bedrock. There is a potential for isolated pockets of organic material that extend deeper into the bearing material than in other locations. Regardless of depth, all organic debris and topsoil should be removed from below the footings and grade beams.

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When excavation takes place, it is recommended that a representative of MCE, or an equivalent geotechnical specialist or engineer, be consulted in order to determine whether the appropriate materials have been exposed for foundations. I believe that such an inspection is extremely important and, therefore, I recommend that inspection of the foundation excavation prior to footing construction be a **mandatory requirement for construction**.

Soil bearing pressures at the bottom of all footings should not exceed 4000 pounds per square foot (psf) on sandstone. All footings should be at least 16 inches in width.

For footings bearing on compacted crushed rock fill, the soil bearing pressure should not exceed 2000 psf. This would only apply near the cul-de-sac, on road fill.

Retaining walls are expected to support crushed rock backfill. Therefore, any retaining walls should be designed according to the following criteria:

Allowable Soil Bearing Pressure, psf (on sandstone)	4,000
Lateral Soil Bearing Pressure on Unrestrained retaining walls with level backfill, pcf/ft of depth, equivalent fluid weight (Active pressure excluding surcharge effects)	29
Lateral Soil Bearing Pressure on Restrained retaining walls with level backfill, pcf/ft of depth, equivalent fluid weight (Active pressure excluding surcharge effects)	39
Lateral Soil Bearing Pressure (Passive), pcf/ft of depth	504
Friction Angle, degrees	38°
Maximum unit weight, pcf	120
Coefficient of Friction	0.35

Backfill behind all retaining walls should be clean, well-drained, imported, select granular backfill. Native material for backfill behind retaining walls will not be acceptable. All retaining walls require foundation drains, as described in Section H below.

The retaining wall designer should determine whether a retaining wall is restrained or not.

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**F. Driveway Location and Design** – The driveway should be constructed such that the roadbed is on engineered fill material or a bridge deck. Access should be from Haystack Drive. Any location along the front the property is acceptable. Driveway design standards should include pit-run base rock as needed for grade and a 3-inch-thick layer of 3/4"-minus crushed rock surfacing. Asphalt surfacing on the driveway is recommended.

Fill should be placed over firm inorganic soil or bedrock in order to avoid settlement.

Grading of the driveway should be included in the detailed site plan for the property. Any necessary retaining walls should also be shown.

**G. Stormwater Management, Runoff and Drainage** – All roof drainage should be collected with eave gutters and downspouts and then piped in order to discharge into the vegetation downslope of the house. Accumulated surface drainage should also be collected and discharged downslope. The complete roof drainage system, including roof gutters and downspouts, should be installed immediately after the roof sheathing in order to protect the ground from erosion during construction. When the surface is not protected from roof run-off, the surface soil will continue to erode.

The vegetated areas of the property downslope of the actual home construction should be protected from erosion and siltation due to runoff from the construction site by using silt fencing or "bio-bags" during construction. Specifically, silt fencing should be placed along the downslope side of the of the disturbed surface area and "bio-bags" (or hay bales) should be placed at locations of visible discharge. These temporary measures should be left in place and properly maintained until all surface revegetation is established. Driveway surface drainage should be collected and transmitted with the roof drains to downslope of the house.

Discharge the collected water onto the slope into vegetation in order to avoid erosion. I recommend multiple discharge points, and discharge the water using a level tee and perforated caps. If needed, a mat of pit-run rock can be added to further protect the surface soil.

A rock entrance pad should be installed prior to beginning building excavation or grading work on the site.

During construction, the excavated building area should be graded and maintained in order to avoid standing water.

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**I. Foundation Drains** – Foundation drains should be installed on the uphill side of all continuous concrete retaining walls and foundation footings. The use of a fabric covered, perforated drainage pipe, such as ADS DrainGuard®, or an equivalent alternative, is recommended. The backfill around and above the foundation drains should be clean, washed drain rock or angular ballast rock in order to ensure good drainage. All foundation drains should discharge toward the lowest point along the wall.

All roof and surface area drainage piping should be separated from the foundation drainage piping. Discharge the water collected by the foundation drains at a separate location from the stormwater system.

**L. Site Plan** – I recommend that the topographic information be used in order to develop a site-specific development plan. The development of a detailed site plan should include all grading, driveway slopes, house location, drainage pipes, and any retaining walls. Development of a detailed site plan prior to construction will reduce costs, unexpected costs, and delays. A house foundation designed specifically for this property will likely reduce the amount of excavation.

### **Summary Findings and Conclusions**

1. The proposed use is currently single-family residential. Final development plans are not available for review. There are no immediate adverse effects on adjacent properties from future house construction. Future development may result in increased stormwater runoff or decreased runoff quality on adjacent properties. Future development proposals should be further evaluated in the context of the recommendations of this report at the time of issuance of a building permit.
2. Hazards to life, public and private property, and the natural environment, which may be caused by the proposed use, are discussed herein and addressed in each of the Development Standards.
3. The methods for protecting the surrounding area from the adverse effects of the proposed development are set forth in each of the Development Standards.
4. The maintenance of new and existing vegetation, and temporary and permanent stabilization programs, are discussed in Development Standard "D".

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5. The proposed development of this lot, according to the Mandatory Standards set out herein, will result in the new parcels and future developments being adequately protected from the above described reasonably foreseeable ordinary hazards, although not necessarily from major earthquake, the possibility of which is discussed herein.
6. The proposed development of this lot, according to the recommended standards, is designed in order to minimize adverse environmental effects.
7. Periodic monitoring is necessary to ensure that the recommended development standards are implemented for the long-term success of the development.

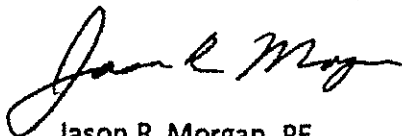
### Limitation

The engineering portion of this report is based on a site inspection of the subject property and vicinity, as well as a review of the site topography. The engineering conclusions and recommendations in this engineering portion of the report are based upon the conclusions presented in the geologic report prepared by Warren Krager, CEG. The engineering conclusions and recommendations presented herein are believed to represent the site and are offered as professional opinions derived according to current standards of professional practice for a report of this nature. No warranty is expressed or implied. This report has been prepared for the timely use of the above addressee and parties to the pending development of the subject property, and it does not extend to the activities of unidentified future owners or occupants of the property for which the writer bears no responsibility.

Should you have any questions regarding my investigation or this report, please contact me.

Sincerely,

**MORGAN CIVIL ENGINEERING, INC.**



Jason R. Morgan, PE  
Professional Engineer



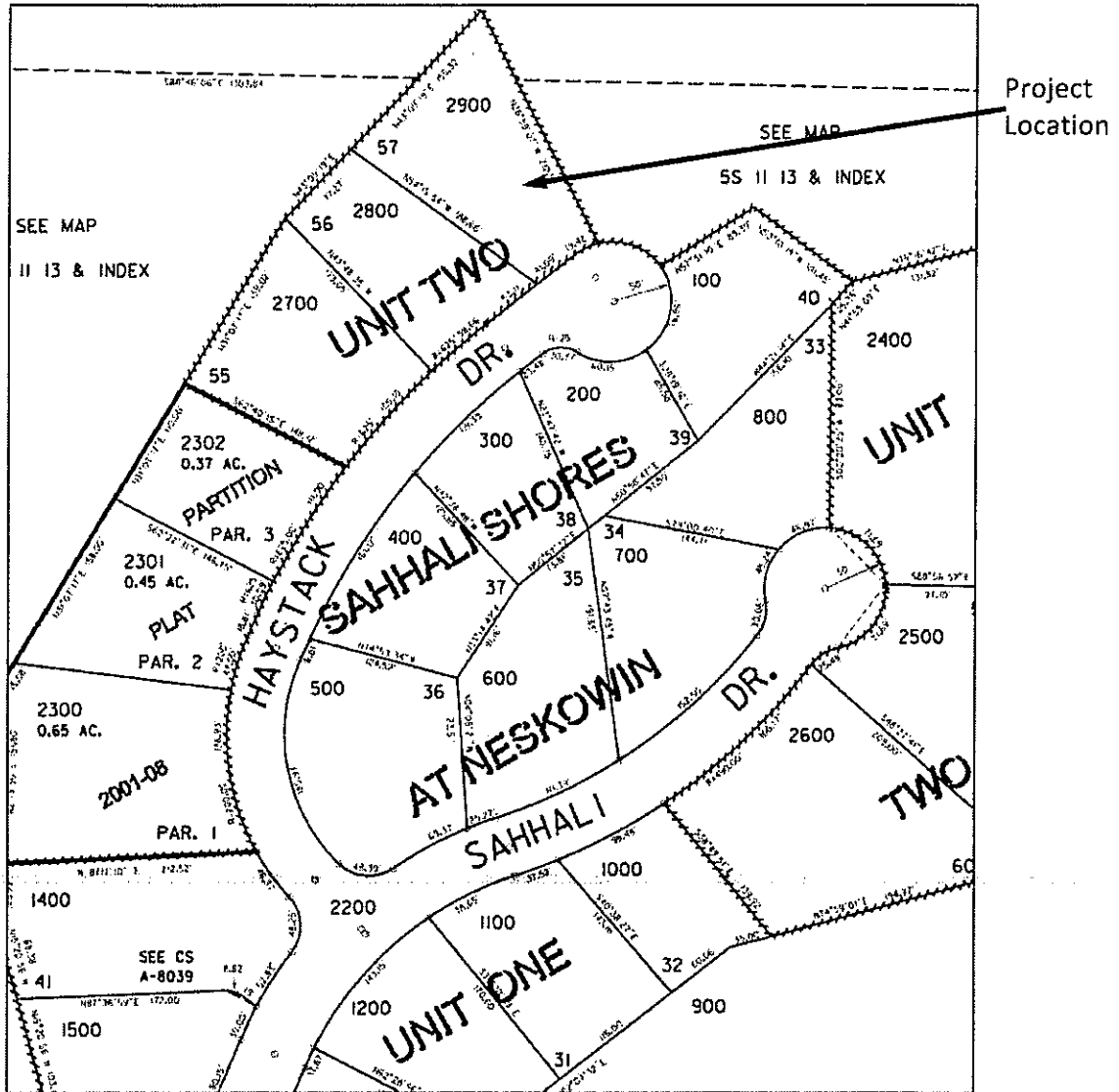
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UNIT TWO OF SAHHALI SHORES

Neskowin, Tillamook County, OR



**Tax Lot 2900, Map 5S 11W 13DB  
 Lot 57 of UNIT 2 OF SAHHALI SHORES  
 Neskowin, Tillamook County Oregon  
 (Haystack Drive)**

OWNER: SARAH & ROB McGLYNN

1322 SW UPLAND DR  
PORTLAND, OR 97221

TAX LOT: 5S 11W 13DB LOT 2900 (LOT 5Z, SAHHALL SHORES)

STREET ADDRESS: HAYSTACK DRIVE, TILLAMOOK COUNTY, OR, 97149

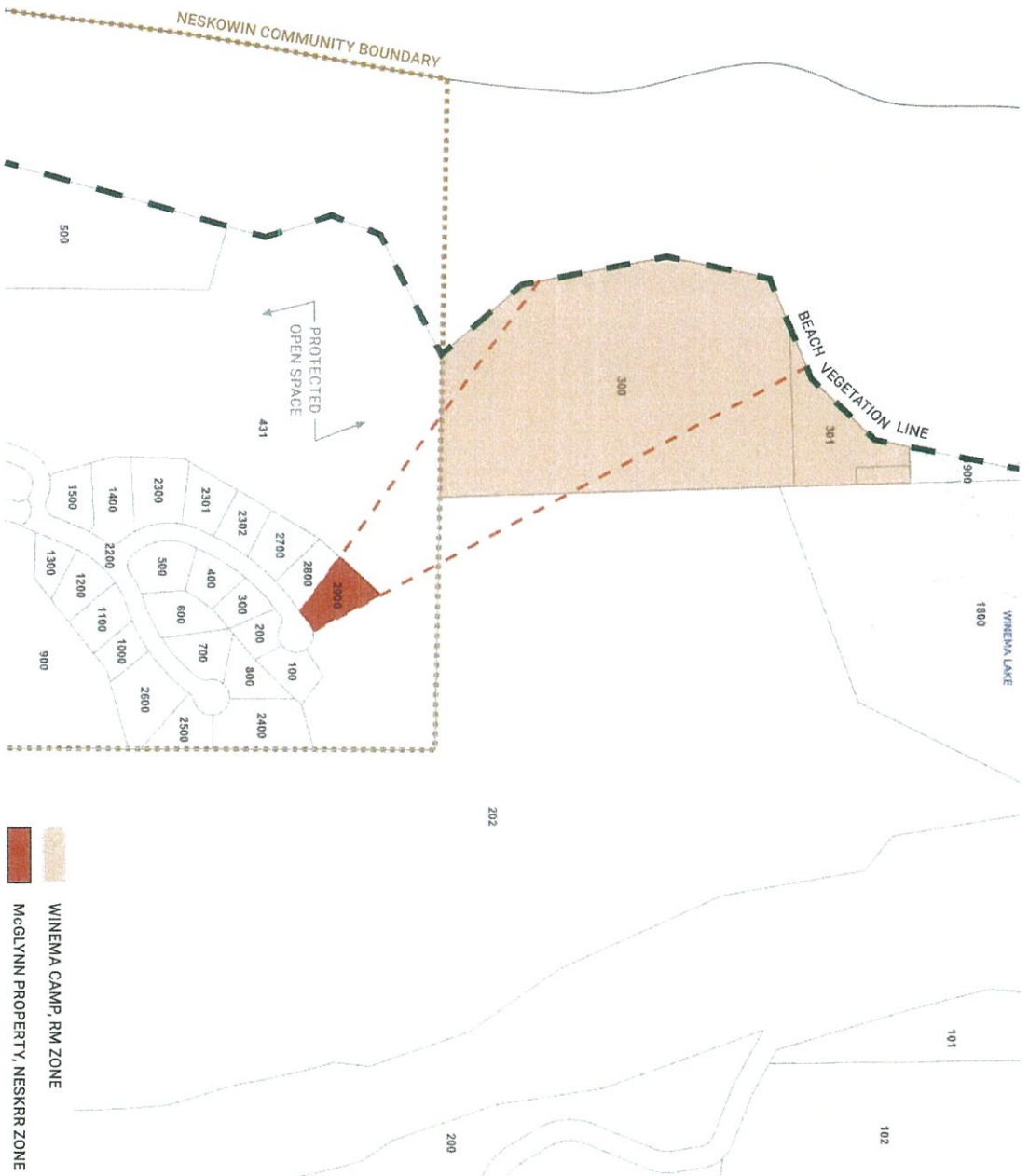
ZONING: NESK RR - NESKOWIN RURAL RESIDENTIAL

SETBACKS:  
FRONT - 20'  
REAR - 20'  
SIDE - 5'

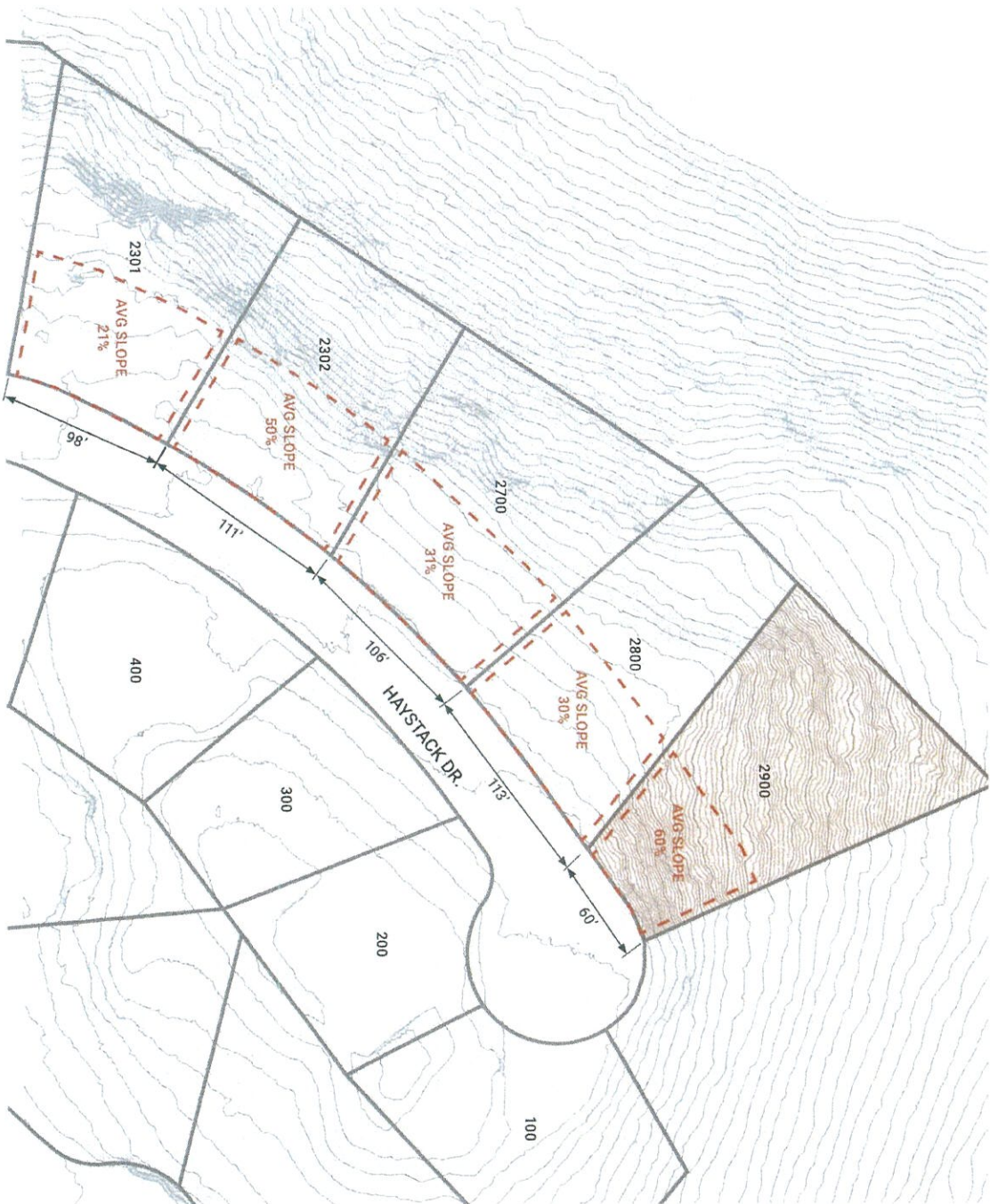
MAX HEIGHT: 35' FROM EXISTING GRADE AT ALL POINTS

SAHHALL SHORES COCS: SETBACKS:  
FRONT - 20'  
INTERIOR LOT LINE - 15'

MAX HEIGHT: 30' FROM EXISTING GRADE AT UPHILL SIDE





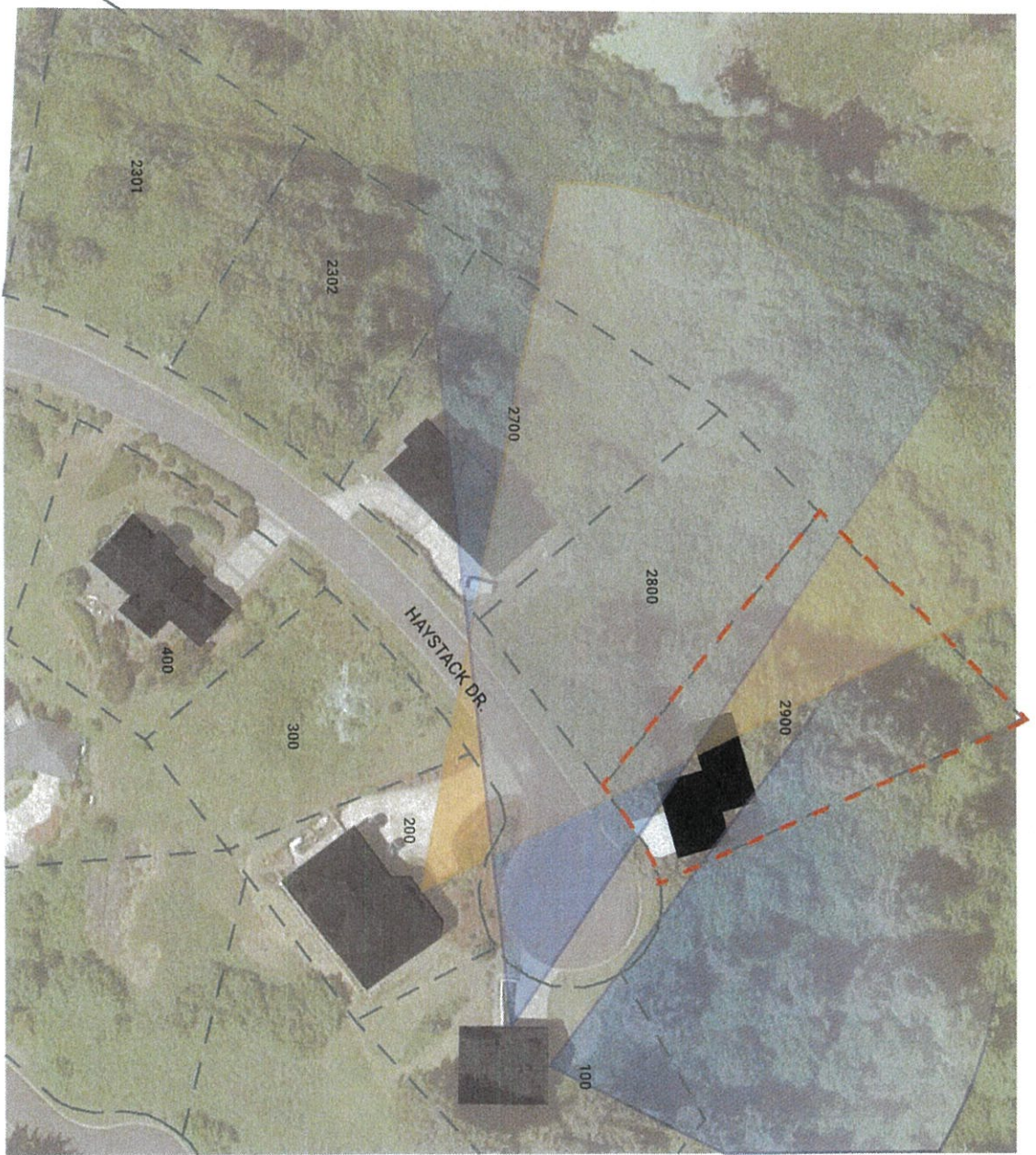


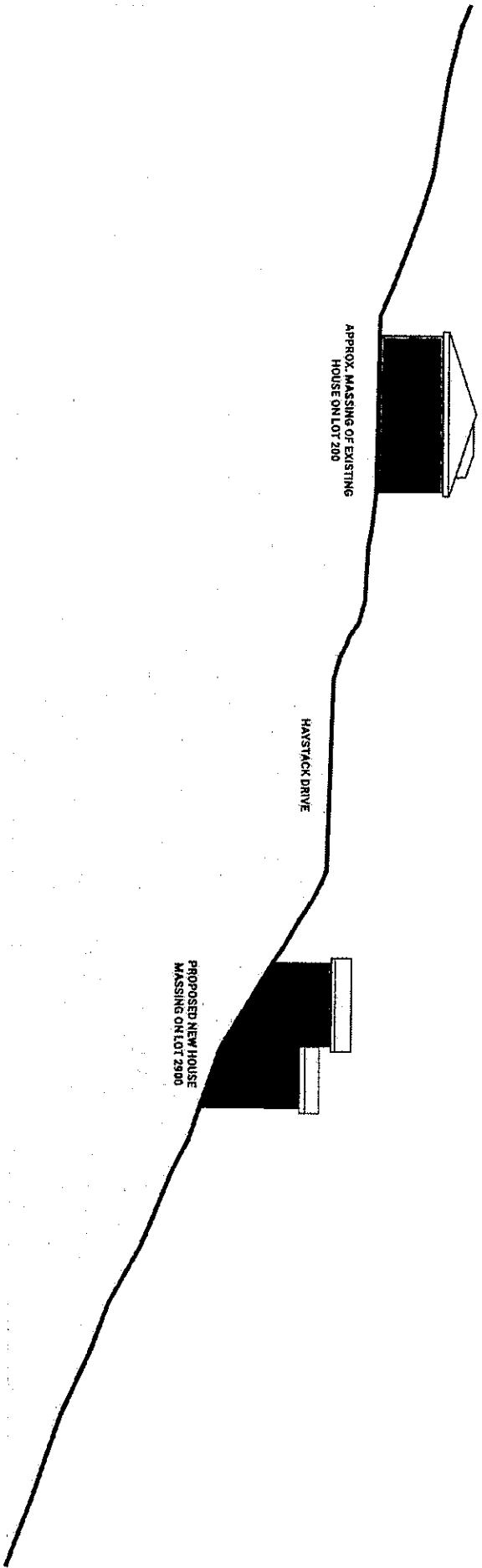
# BORA

McGLYNN RESIDENCE NESKOWIN, OR VARIANCE SUBMITTAL JULY 7, 2022

⊕ 1"=60' NEIGHBORHOOD SITE PLAN 4

- McGLYNN PROPERTY, NESKRR ZONE
- PROPOSED HOUSE FOOTPRINT
- EXISTING HOUSE FOOTPRINT
- LOT 100 VIEWS
- LOT 200 VIEWS





BORA

MAGLYNN RESIDENCE NESKOWIN, OR VARIANCE SUBMITTAL JULY 7, 2022

1/32" = 1'-0"

NEIGHBORHOOD SECTION DIAGRAM 5



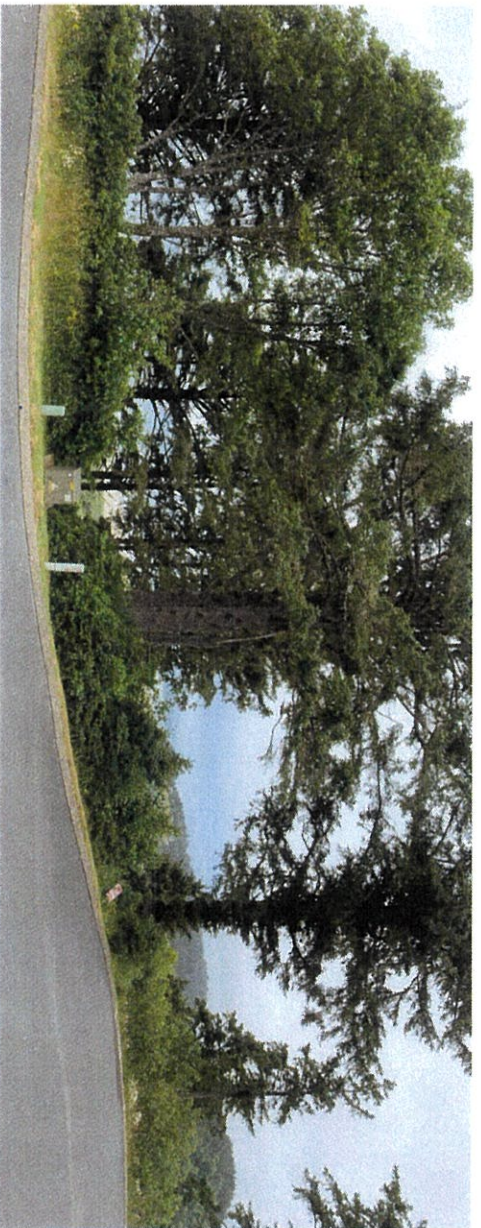
LOT 100



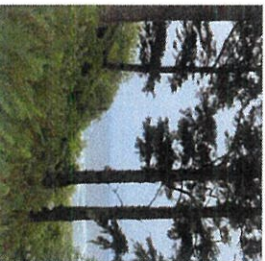
LOT 200



LOT 2700



VIEW OF SITE FROM HAYSTACK DRIVE LOOKING WEST



VIEW FROM SITE LOOKING SW



VIEW FROM SITE LOOKING WEST



SITE SLOPING FROM HAYSTACK DRIVE



VIEW FROM SITE LOOKING NORTH

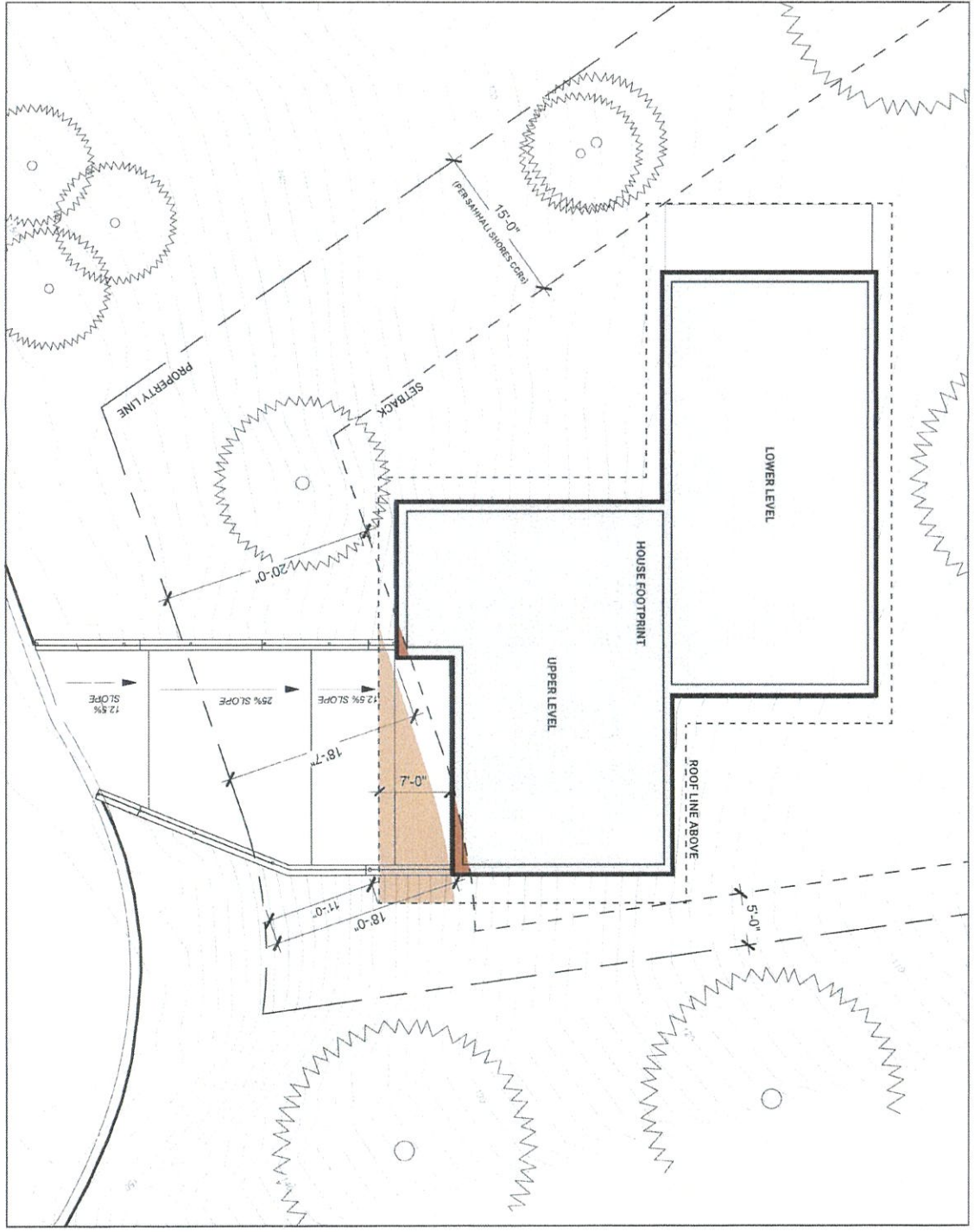


VIEW FROM SITE TOWARD HAYSTACK DRIVE

# BORA

McGLYNN RESIDENCE NESKOWIN, OR VARIANCE SUBMITTAL JULY 7, 2022

- SETBACK REQUEST
- EAVE OVERHANG REQUEST

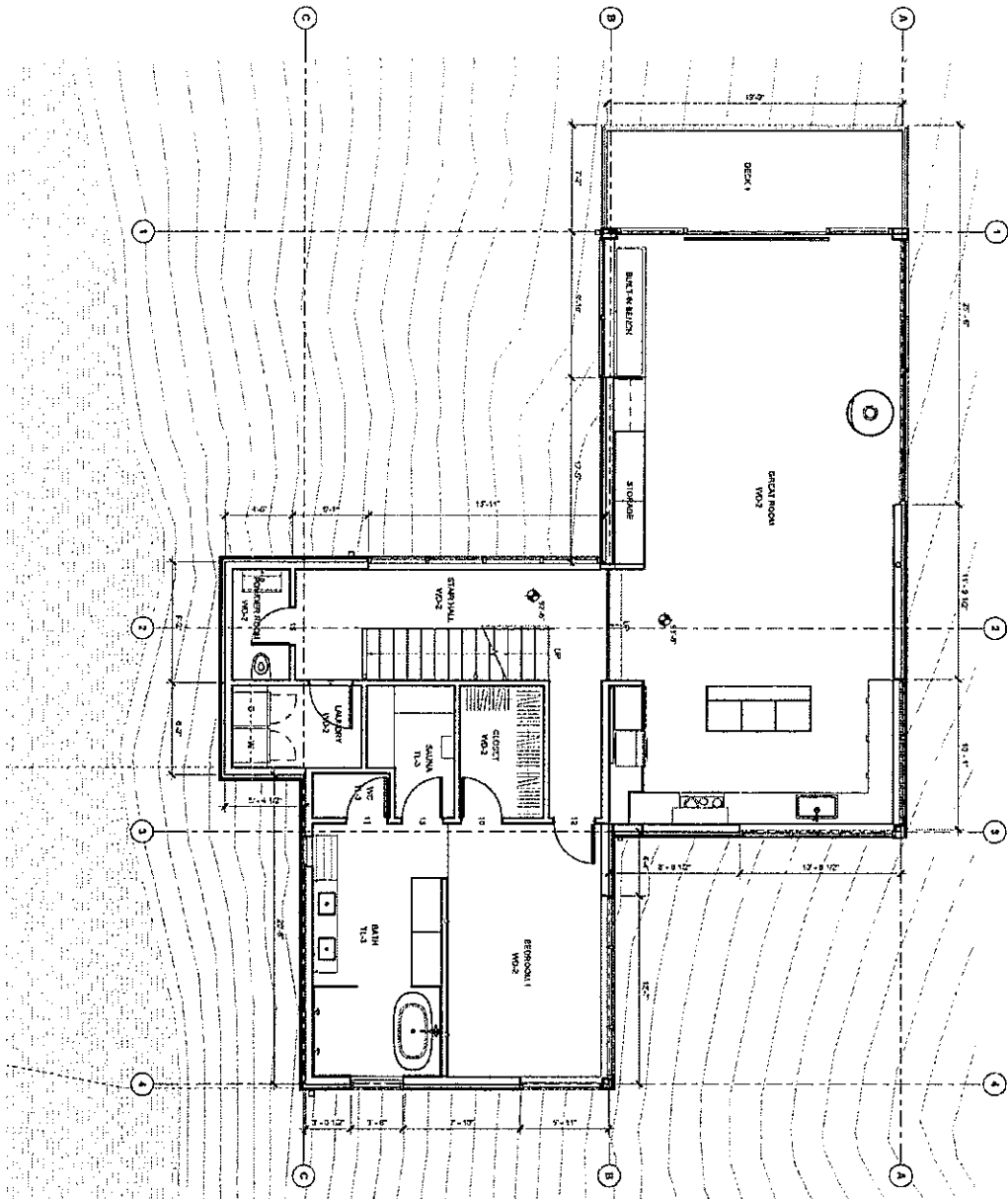


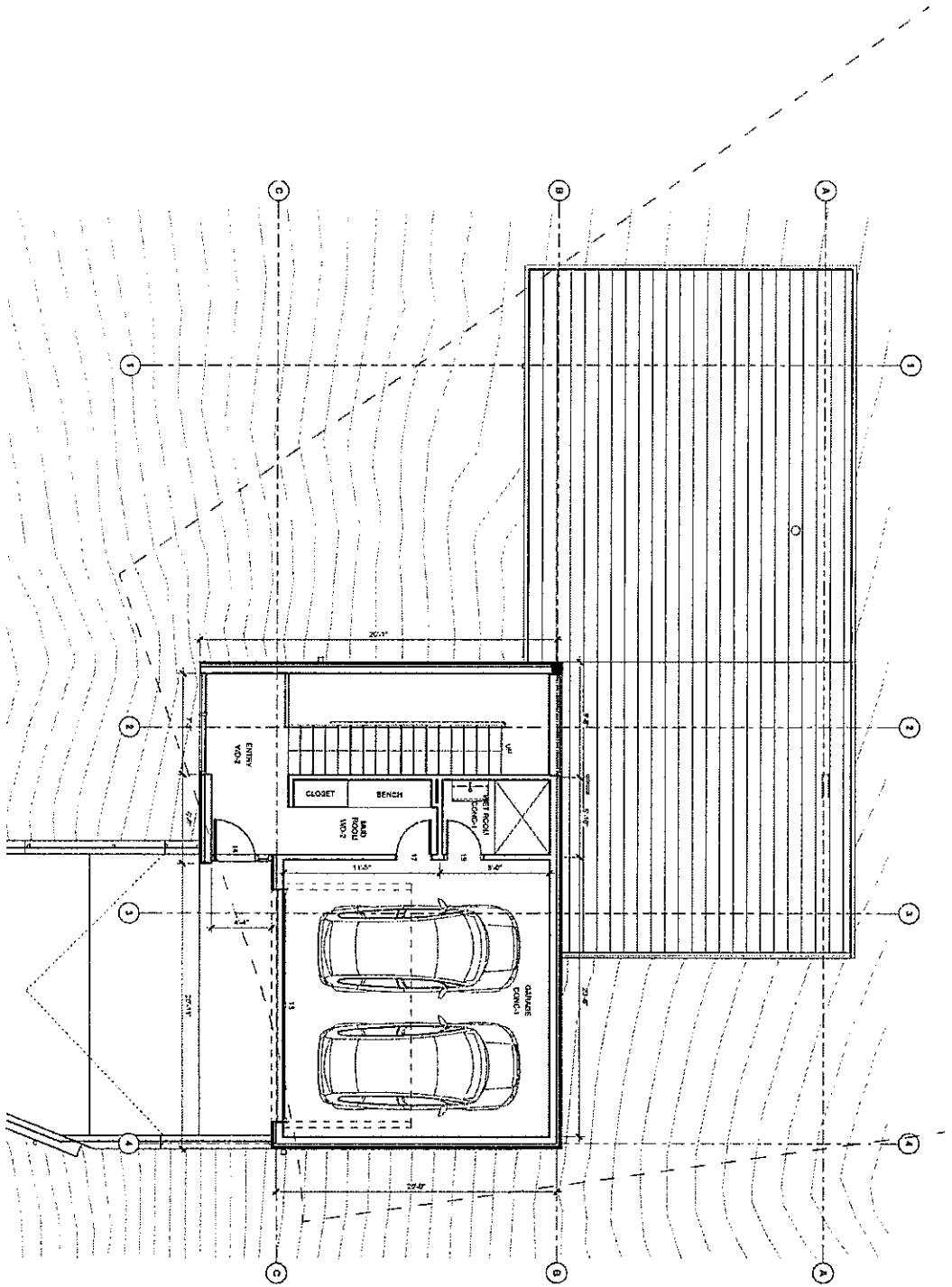




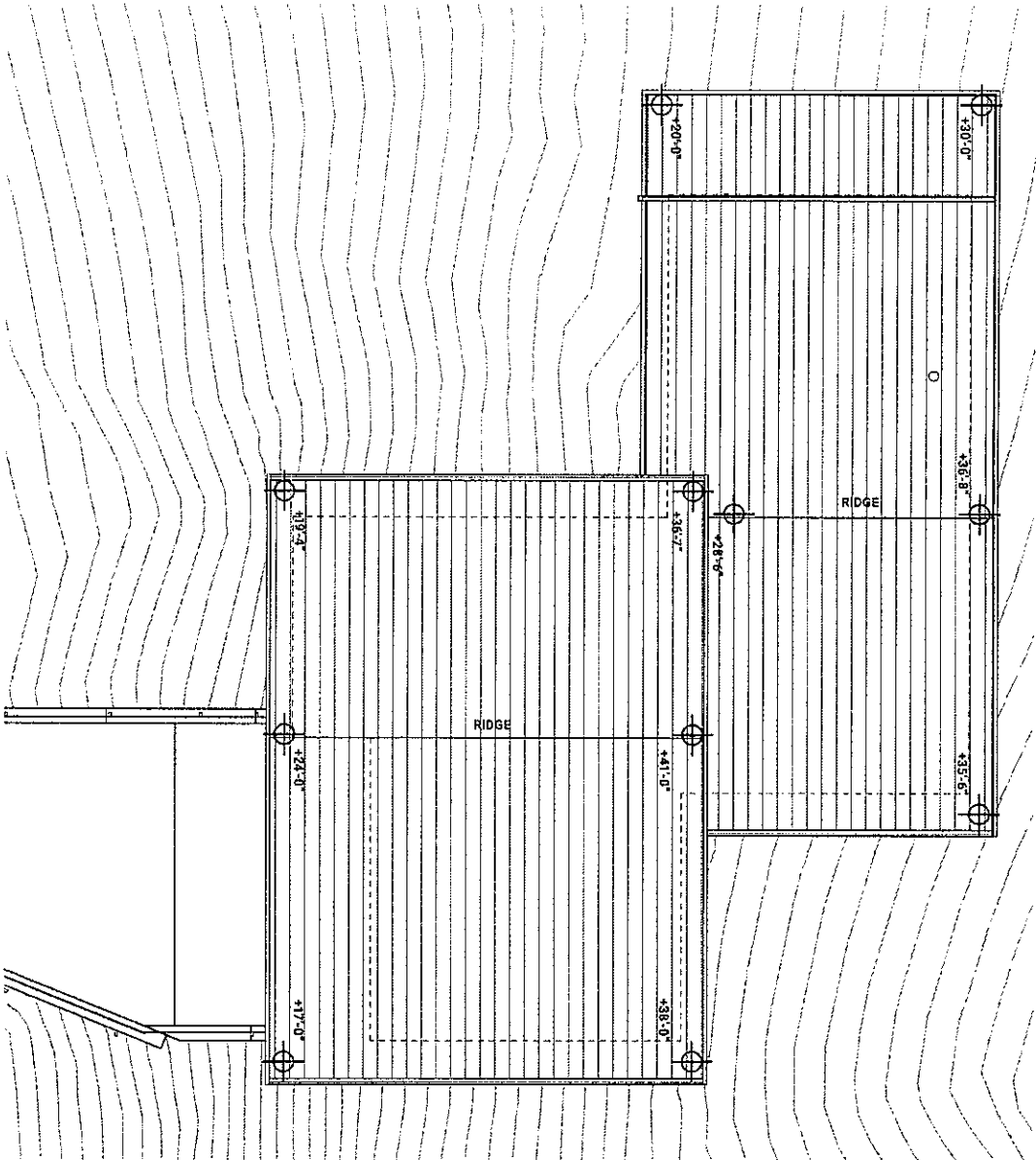
1/8" = 1'-0"

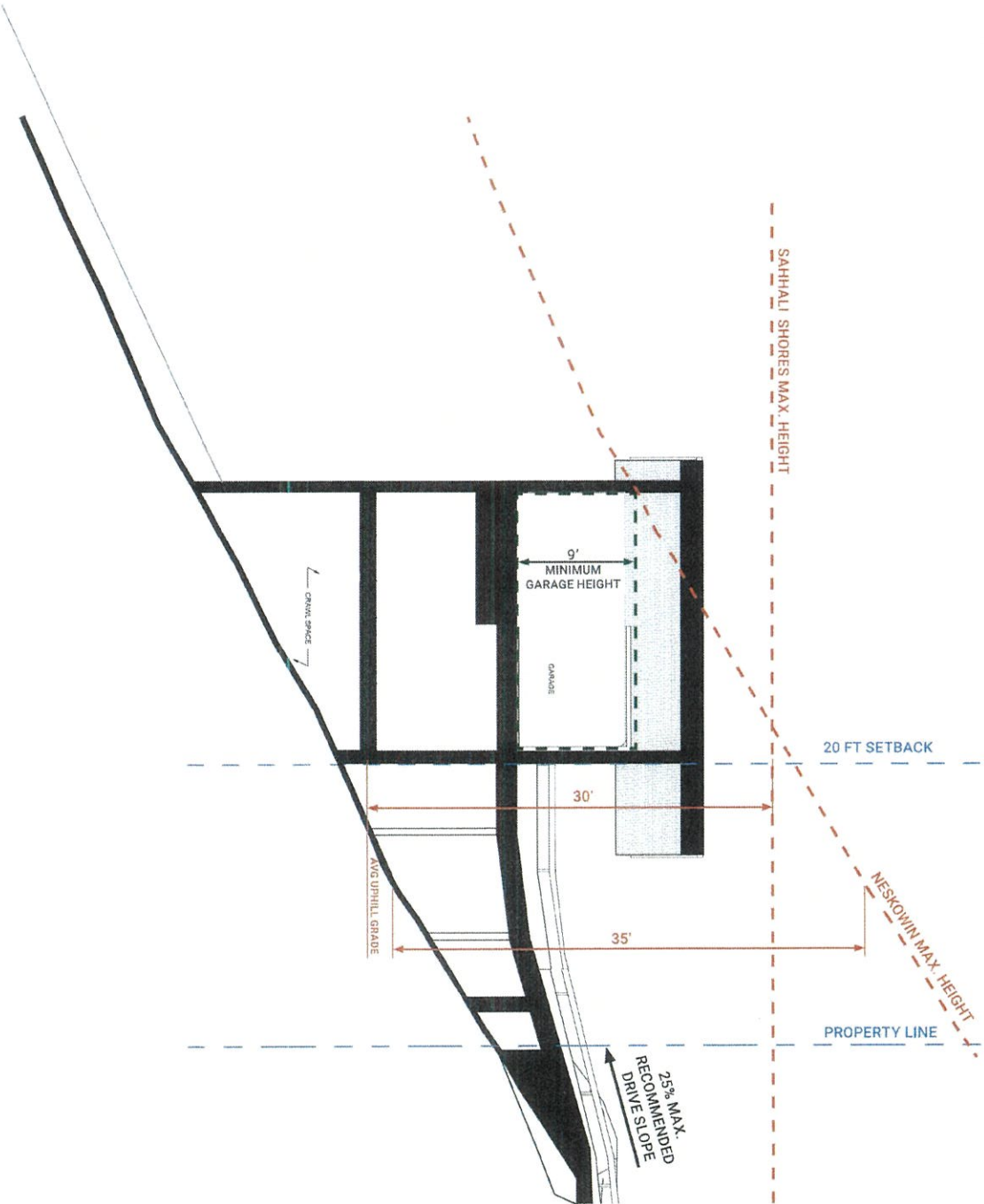
MID LEVEL FLOOR PLAN 9

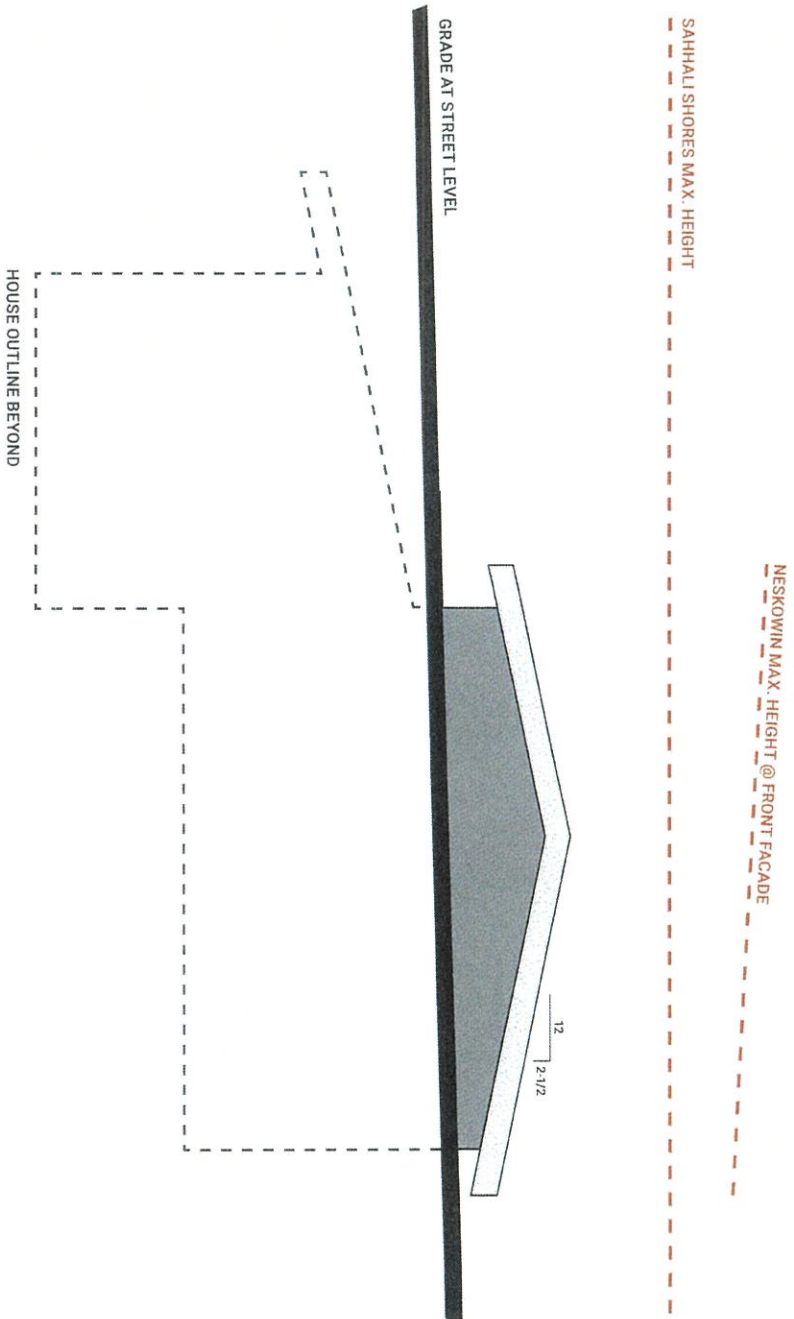


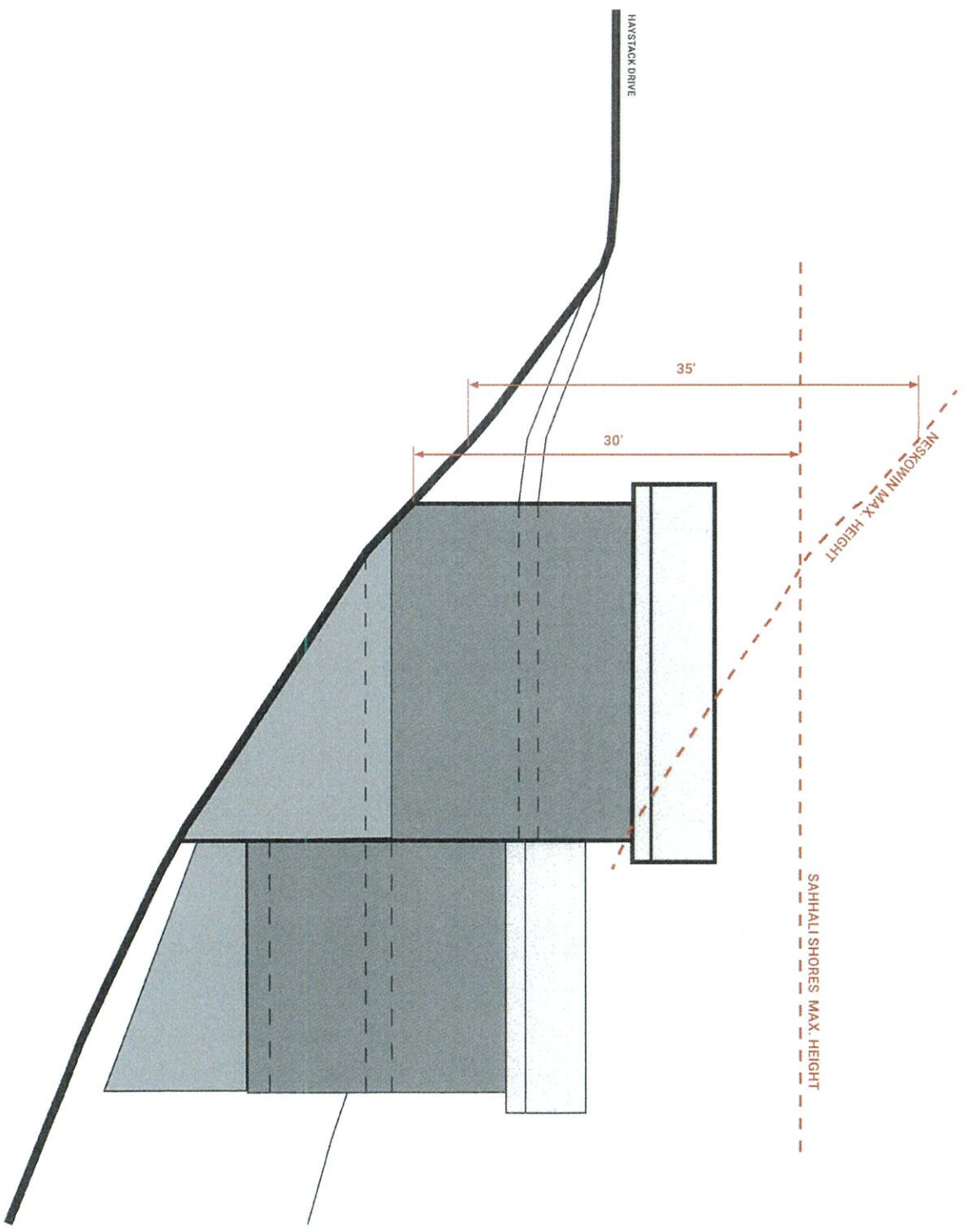










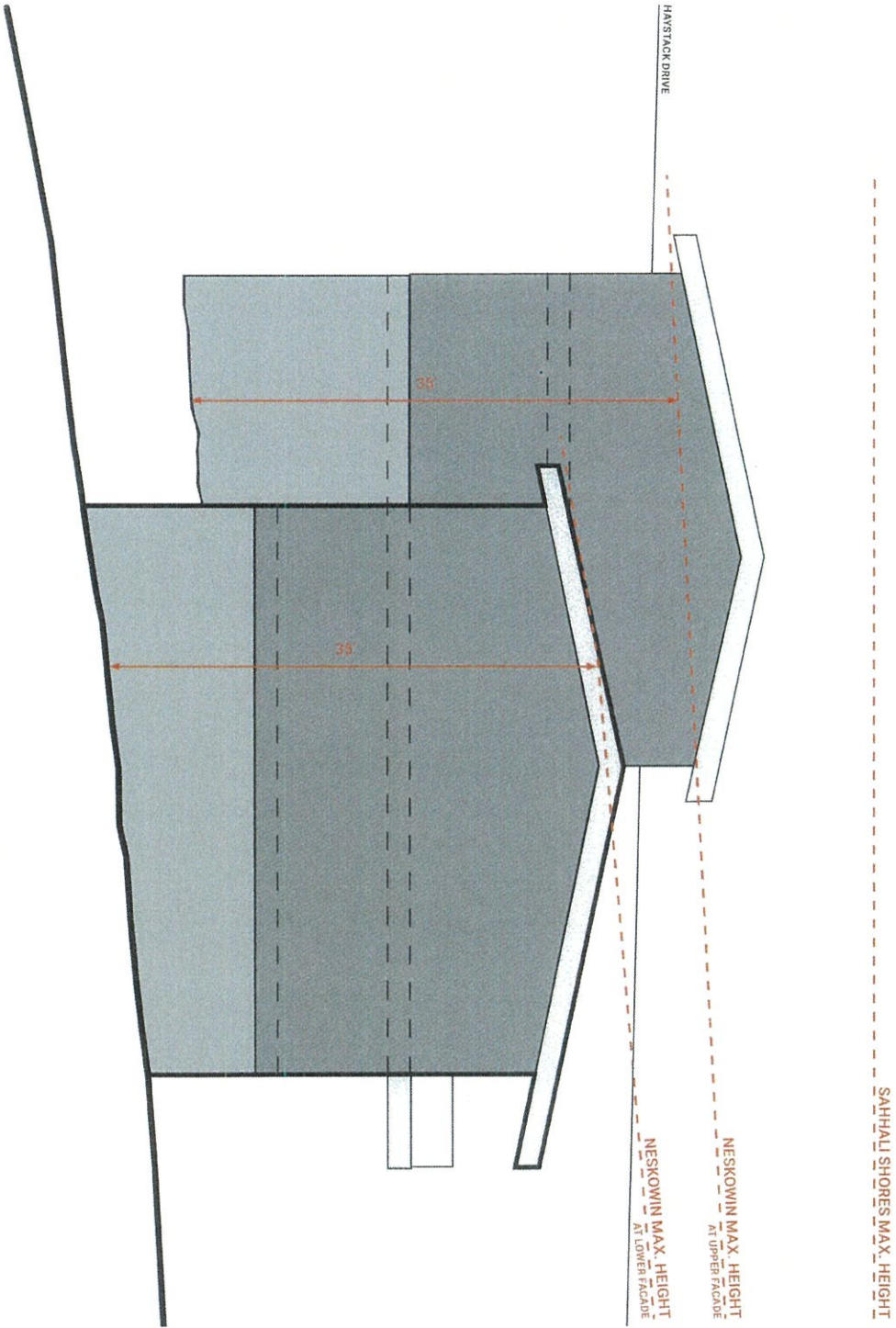


# BORA

McGLYNN RESIDENCE NESKOWIN, OR VARIANCE SUBMITTAL JULY 7, 2022

1/8" = 1'-0"

NORTH ELEVATION DIAGRAM 15

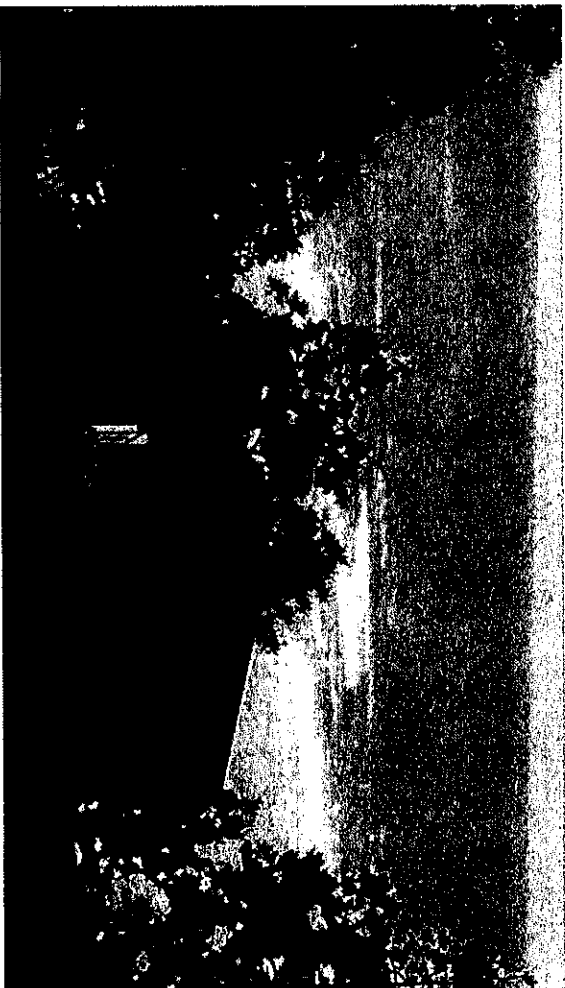


# BORA

McGLYNN RESIDENCE    NESKOWIN, OR    VARIANCE SUBMITTAL    JULY 7, 2022



VIEW NORTHWEST FROM NEAR HAYSTACK DRIVE



VIEW WEST ACROSS HAYSTACK DRIVE FROM NEAR LOT 200



SCALE: 1" = 10'

NOTE: THE ELEVATION DATUM FOR THIS SURVEY WAS BASED UPON AN ASSUMED ELEVATION OF 150.00 AT THE SOUTHEAST CORNER OF THE SUBJECT TRACT.

**TOPOGRAPHIC SURVEY FOR LAWRENCE WALKER**  
 LOT 57, SAHAMI SHORES OF NEKOWAN, IN THE NW1/4 SE 1/4 SEC. 13, T. 5 S., R. 11 W. W.M.,  
 TILLAMOOK COUNTY, OREGON

SURVEY & MAP BY: KELLOW LAND SURVEYING LLP  
 P.O. BOX 315  
 PACIFIC CITY, OR 97135-0315  
 (503)950-4864

DATE: FEBRUARY 16, 2005

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
*Douglas M. Kellow*  
 OREGON  
 DIVISION OF  
 GEOLOGY & LAND SURVEYING  
 365  
 EAST BROADWAY  
 PORTLAND, OREGON 97232

HALF SIZE PRINT

# EXHIBIT C





***Sahhali Shores at Neskowin COA***

44495 Sahhali Drive

Neskowin, OR 97149

Website: [www.sahhalishores.org](http://www.sahhalishores.org)

October 26, 2022

Ms. Sarah Absher

Director/Building Official

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141

Re: Variance Request # 851-22-000267 PLNG: McGlynn

Dear Ms. Absher

Thank you for sending the Variance Request referenced above to the Sahhali Shores COA. This letter is to inform you that the owner has not submitted any documents for consideration to the COA, but that it appears that the proposal would violate the COA's CC&R's, and that any variance would also require approval of the COA.

If you have any questions, please feel free to reach out to me directly ([president@sahhalishores.org](mailto:president@sahhalishores.org)) or 917-446-1621.

*Maria Veltre*

Maria Veltre

President, Sahhali Shores at Neskowin COA

Cc: Deb Dixon ([ddixon@co.tillamook.or.us](mailto:ddixon@co.tillamook.or.us))

Copy to be provided to Robert McGlynn, Owner of Lot 57 Sahhali Shores

*Date:*

November 3, 2022

*From:*

The KBC LLLP Sahhali Shores 05S11W13DB Lots 2800, 700, 2500

and

Robert Gritski and Karen Kronner Sahhali Shores 05S11W13DB Lot 200  
5320 Haystack Drive  
Neskowin, Oregon 97149

*To:*

Melissa Jenck  
Tillamook County Department of Community Development  
1510 B-Third Street  
Tillamook, Oregon 97141

*Subject:*

Response to VARIANCE REQUEST #851-22-000267-PLNG: McGLYNN

Melissa,

Thank You for the opportunity to review and respond to the Request for Variance 851-22-000267. We appreciate the applicant's desire to "to create a house that harmonizes with the beautiful landscape, preserving as many trees as possible, limiting the disturbance of the environment that comes from grading and construction, and minimizing the impact of the house on views from neighboring properties.". We have reviewed the variance criteria and standards to address and have studied the applicable County Articles. It is our understanding the applicant has not submitted home and site plans to the Sahhali Shores Consolidated Owner's Association for determination of compliance with the 1999 county recorded Amended Declaration of Covenants, Conditions and Restrictions (CCR) and amendments, and for Sahhali Shores Architectural Review Board (ARB) determination of building compliance and compliance with other guidelines.

Our responses to your review criteria and applicable text prepared by Bora Architects is provided.

Sincerely,

*Robert Gritski*

Robert Gritski, General Partner, The KBC Limited Liability Limited Partnership  
Owner Lots 2800, 700, 2500  
and

*Karen Kronner*

Karen Kronner  
Owner Lot 200

CC: Steve Corey, Corey, Byler, Rew and Hojem, L.L.P.

**November 3, 2022**

**Comments on Variance Request #851-22-000267-PLNG:McGlynn**

**ARTICLE VIII - VARIANCE PROCEDURES AND CRITERIA**

**SECTION 8.030: REVIEW CRITERIA:** A VARIANCE shall be granted, according to the procedures set forth in Section 8.020, if the applicant adequately demonstrates that the proposed VARIANCE satisfies all of the following criteria:

- (1) *Circumstances attributable either to the dimensional, topographic, or hazardous characteristics of a legally existing lot, or to the placement of structures there upon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met. Such circumstances may not be self-created.*
- (2) *A VARIANCE is necessary to accommodate a use or accessory use on the parcel which can be reasonably expected to occur within the zone or vicinity.*

*Comment:* A smaller home might result in no need for variances. Without the approval of the requested variances, the use of Lot 2900 can still take place. "Section 8.0.3.0 (1) Such circumstances may not be self-created."

- (3) *The proposed VARIANCE will comply with the purposes of relevant development standards as enumerated in Section 4.005 and will preserve the right of adjoining property owners to use and enjoy their land for legal purposes.*

*See comments*

- (4) *There are no reasonable alternatives requiring either a lesser or no VARIANCE.*

*Comment:* Adjoining and surrounding property owners invested in property in Tillamook County and this development/neighborhood with the understanding that the County standards in place would be adhered to (as well as the county-recorded Sahhali Shores Covenants, Conditions, and Restrictions, CCRs) on any future builds on adjacent lots.

We suggest that the county should request supporting data that a smaller home (less sq. ft., not taller) on this lot would still require one or more a variances. The approval or denial decision process should take into consideration the direct and indirect effects of that variance on surrounding property owners.

As stated by the applicant, the plans as presently provided do not meet the standards. However, a smaller home than 2800 ft., down to 1800 sq ft (CCR minimum) is allowed on this lot and thus reasonable alternatives are or may be available.

**SECTION 4.005: RESIDENTIAL AND COMMERCIAL ZONE STANDARDS**

In all RESIDENTIAL AND COMMERCIAL ZONES, the purpose of land use standards is the following:

- (1) *To ensure the availability of private open space;*

*Comment:* By allowing encroachment of the front setback it does not provide availability of private open space of neighborhood lot owners and common area along roads as was originally intended by the County standards. The distance between homes already built or to be built could be encroached unfairly. The lot next to 2900 (our lot, 2800) was purchased taking into consideration the County and Sahhali Shores COA

CCR designated setbacks and we invested knowing those homebuilder requirements. Any lesser setback to the standards may diminish the aesthetic/privacy value of Lot 2800.

*(4) To enhance privacy for occupants of residences;*

*Comment:* Any variance to lessen the setback from the community-owned common area along the road will impact privacy for neighbors, not enhance privacy for them. If the setback distance is adhered to, depending on the final design the home will be further down the hill away from the road and at a lower line-of-sight than as proposed. This would result in more privacy and a better view of the ocean for surrounding land and homeowners as well as community members enjoying the private road for walking, etc.

July 8<sup>th</sup> letter

*Applicant:* The topographic and dimensional constraints of their property on Haystack Drive in Neskowin create a hardship for the development of the property as a residence for their family.

*Comment:* We would argue that it's not the topo and dimensional constraints but the design and size of the home that creates any "hardship". The home is designed at 2800 +/- square feet. The minimum allowed for the development is 1800 sq. ft. Perhaps reducing the size below the 2800 sq ft home to a smaller size might eliminate the need for variances.

A VARIANCE shall be granted, according to the procedures set forth in Section 8.020, if the applicant adequately demonstrates that the proposed VARIANCE satisfies all of the following criteria:

- 1. Circumstances attributable either to the dimensional, topographic, or hazardous characteristics of a legally existing lot, or to the placement of structures thereupon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met. Such circumstances may not be self-created***

*Applicant:* The parcel extends down the hill to the northwest for roughly 200 feet reaching a maximum width of about 155 feet.

*Comment:* As described and as illustrated on the applicant's figures, there is 200 feet to go west/northwest. There appears to be sufficient space to design a home to be further down the slope and avoid the front setback variance request.

*Applicant:* The slope averages 50% as it falls nearly 100' down from the road, but the steepest slopes, about 75%, occur at the top of the slope immediately adjacent to Haystack Drive.

It is not clear on how the calculations were conducted because the Lot 2900 property line does not start at the road (it is not "immediately adjacent to Haystack Drive"). Calculations for slope and fall should begin at the property line, not inclusive of the common property outside of the property that is between the Haystack Drive (road) and the property line (approx. 14 +/- ft.). The community common area between the property line and the road is slightly sloped.

*Applicant:* Sakhali Shores COA regulations establish a more restrictive setback of 15 feet on the west side yard adjacent to tax lot 2800, further restricting the narrow lot

*Comment:* The COA's January 1999 CCR's have been in place for awhile. The setbacks were established to protect adjacent lot (home) owner's privacy and community open space.

*Applicant:* Setbacks, as established by 3.324(h-j) are 20 feet at the front and rear yards and 5 feet at the east side yard adjacent to protected open space

*Comment:* east side yard is adjacent to federal Nestucca National Wildlife Refuge.

*Applicant:* This lot is the steepest in all of Sakhali Shores and has the least street frontage of any lot on Haystack Drive. See the Neighborhood Topo Plan on page 3.

*Comment:* Does the writer mean most steep in the upper half of the lot or most steep overall? Is there data provided to confirm this? There are many steep lots in Sakhali Shores and homes have been built on some of them or home plans successfully designed.

Lot 2900 might have the least frontage of lots on Haystack Dr. (a small part of Sakhali Shores) but there are 15 other single family home lots in the Sakhali Shores that are more narrow in the front. Some are less than half the width as Lot 2900.

*Applicant:* From the outset of design, the primary goal is to create a house that harmonizes with the beautiful landscape, preserving as many trees as possible limiting the disturbance of the environment that comes from grading and construction, and minimizing the impact of the house on views from neighboring properties.

*Comment:* While we appreciate the harmonizing effort, we are not clear about the "preserving as many trees as possible" (no data has been provided). For "limiting the disturbance of the environment", can the applicant show which of the old spruce trees will be preserved during and after construction? In regards to the natural environment and as most everyone at Sakhali Shores knows, a long-term traditional bald eagle roost/perching site exists on Lot 2900, the subject site consisting of large spruce trees. Will home site design "limit the disturbance of the environment", in particular the natural mature tree land cover? The large trees serve as windbreaks to adjacent lot trees and the neighborhood (homes and vegetation) during high winds, gusts, gales and other challenging weather events.

*Applicant:* The maximum building height per Section 3.324(1) is 35 feet from the existing natural grade to any point of the structure. The property is not an ocean-front lot per Tillamook County zoning map. The Vicinity Plan on page 2 depicts this condition. Sakhali Covenants, Conditions and Restrictions (CCR) 9.3.2(e) establishes a different limit on building. The maximum allowable height is 30 feet, measured from the average existing contour on the uphill side of the house. While more restrictive on the uphill side of the house, this regulation is actually more accommodating of the impacts of steep sites on building geometry.

*Comment:* We are confused about the sentences about the CCRs and applicability to this County variance request.

*Applicant:* Due to its location, orientation and downward slope, the lot is well secluded from neighboring properties.

*Comment:* What is meant by "properties" – each lot or each home present now? What about future homes (some will likely be two story)? Without knowing the vegetation to remain (for screening, more privacy for

neighbors), we do not know what well-secluded is and its meaning for adjacent or nearby lot potential future homes.

*Applicant:* Views of the coastline from these houses will remain.

*Comment:* Views of the coastline remain but could be less, depending on final design.

*Applicant:* Furthermore, the design of both of these houses across the street places the primary living spaces on the second floors where site lines are even more advantageous

*Comment:* The higher up in elevation (second floor), the more of the Lot 2900 house will be seen instead of the natural environment. "Primary living spaces" is defined in the application by the applicant, not the homeowners who live in the homes. The homeowners use upstairs and downstairs throughout the day, sometimes downstairs more than upstairs. For our home on Lot 200 sometimes we are downstairs on the outside patio when weather conditions deter other outside areas from use. For one of the homes the primary living space is the bottom floor, not the highest area.

*Applicant:* The orientation of these houses has also been considered in our design proposal. The house on lot 7 00 is oriented to enjoy primary views due north over the protected open space. Photographs on page 6 show the large windows on the north facade. It also enjoys views to the west, although this vantage is over lot 2800 and nearly unaffected by the subject property.

*Comment:* Confused about 'Lot 7 00'. What is that?

Our lot 200 (with home) and 2800 (undeveloped) were bought under the conditions that any adjacent and nearby building would conform to the County standards and the Consolidated Owner's Association's CCRs and Architectural Review Board standards.

*Applicant:* The site design strategy achieves favorable views to the north from the primary rooms of the house while it expands the southern exposure, **allowing more sunlight to penetrate the house, a precious resource in the dreary climate of the Oregon coast.** This is an important part of the holistic energy efficiency strategy as the solar exposure provides a passive boost in the heating dominant climate.

*Comment:* Confused. The Applicant's statement "**allowing more sunlight to penetrate the house**", is confusing. On pg 3 it states, "generous eaves that protect the walls and windows of the house with roof overhangs that range from 2 feet to 7 feet. The roof not only improves the durability of the walls, it also increases energy performance of the house by **shading the windows and the walls from summer solar heat gain.**"

*Applicant:* To accommodate this roof overhang, we request an adjustment to the allowable eave encroachment standard from two feet to nine feet

*Comment:* We couldn't find the request for variance for this.

*Applicant:* If all development standards were met, this property cannot be developed as a single-family house with a garage due to the dimensional and topographic conditions. Therefore, the request is for consideration of two variances: a reduction of the minimum 20 feet front yard setback and an increase to the 35 feet maximum allowable height. The two are interrelated since the position of the house on the site determines the height of the structure above the slope

*Comment:* A smaller home should be considered and would better fit on the lot, and might eliminate the need for variances.

*Applicant:* The height variance is only necessary on the downhill side of the house because the proposed design complies on the uphill, street-facing side, and even meets the more restrictive Sakhali CCR limit of 30 feet

*Comment:* We have assumed that if a height variance is issued by the County, it should only be approved with conditions. The condition that it only applies to one half of the structure on the downhill side of the property, not to the uphill side of the structure.

*Applicant:* To accommodate this roof overhang, we request an adjustment to the allowable eave encroachment standard from two feet to nine feet

*Comment:* Where in the application does it address this variance request?  
How much is in the setbacks? Is it shown on Site Plan Page 7?

*Applicant:* To construct a single-family house on this unique site, based on the proposed setback variance, we request an adjustment of six feet to the maximum allowable height. This would only apply to the walls on the downhill side of the house accommodating the ridge of the sloped roof that reaches a maximum of 41 feet above grade.

*Comment:* As long as 50% of the uphill side stays under 30 feet and the property meets the standards. A variance should not be issued for an increased height for the whole building, just the downhill side.

*Applicant:* The proposed single-family dwelling is an expected use of the property explicitly allowed under Section 3.322 of the Land Use Ordinance. To reasonably accommodate this use on this unique property, variances are necessary. As described above, the modest footprint of the upper level, only containing the required garage and the house entry space placed as low as possible with the steepest recommended driveway exceeds the standard for allowable height in Section 3.324(1).

*Comment:* This statement may not be true if a smaller home is designed.

*Applicant:* The taller house set further from the road would have greater impact on neighboring properties, a larger carbon footprint, an increased risk from wind and seismic forces not to mention an ungainly bulk, out of proportion for a single-family house. It would also require the removal of one of the largest Sitka spruce trees on the property.

*Comment:* None of this would be true if a smaller square foot home is considered. Which spruce tree? Can the applicant identify and map for the neighborhood which large trees will remain on all sides of the home? They serve as a wind break during high winds for the adjacent lots' large trees and other vegetation as well as the homes.

*Applicant:* The house at 5320 (lot 200) is oriented toward views of the coastline to the northwest. The primary viewshed lies to the southwest of the subject property, passing over lot 2800. Again, with consideration of this view corridor, the positioning of the proposed house to the northeast, the stepping of the plan, and the stepping down of the heights of the house volumes all benefit the views from lot 200 and minimize the presence of the proposed house.

*Comment:* What is the applicant's definition of primary viewshed? Perhaps the viewer is the one that should specify what their viewshed is. Some of the coast and ocean are further away than when looking directly west and northwest but *primary* has no bearing on this subject. From some west-facing windows & door upstairs, the primary view is looking directly over 2900, not 2800.

Whether sitting in an easy chair in the living room sipping coffee, sitting at the dining room table enjoying dinner, lying in bed enjoying the beautiful sites of the ocean or sitting on the front porch enjoying a

beautiful sunset these are all primary and important views to the home owner throughout any time of the day, time of year, various wind and other weather conditions, etc.

*Applicant:* This property is unique among the lots in the Sahlali Shores. It is the steepest lot with the shortest frontage and requires favorable consideration of the requested variances to construct a single-family house

*Comment:* There are 15 other lots in Sahlali Shores with narrower frontages, some with homes and some steep and are smaller in size than 2900.

In the Site Photos:

*Comment:* Does "Site" mean the subject property, Lot 2900? "the site sloping from Haystack Drive" is showing *mostly* Lot 2800 (southwest side of 2900), not the subject site which is the far upper right quarter of the photo and some is shown in the far distance to the left.

**In summary,** the County should consider that the size of the house is likely too large for the site and/or the placement of it (encroaching into the front setback), might be too far uphill. Placed lower downhill (north) but not taller, would also result in the home being more harmonized with the environment, less visible, and follow County standards. Lower elevation placement also might result in fewer of the large trees in the upper half/third (more narrow part of lot) needing to be cut down.





**U.S. AIR FORCE**

**Steven R. Rich**

Ch, Lt Colonel, USAF Ret.  
5310 Haystack Drive  
Neskowin, OR 97149  
steven.rich.usaf@gmail.com

Sarah Absher  
Department of Community Development  
1510 B Third Street  
Tillamook, OR 97131

3 November 2022

Subject: Variance Request Notice

Dear Ms. Absher:

I recently received your notice regarding the application for variances #851-22-000267- PLNG-McGlynn Lot 57 of Sahhali Shores. As the owner of the property directly across the street- Lot 41) I am most affected by variances of the subject property. The second primary stakeholder that shares the property line of Lot 41 and Lot 57, is the Federal lands of the National Wildlife Refuge. Lot 57 has 3 American Bald Eagles that are currently nesting in a grove of ancient Sitkas and protected by law by the National Wildlife Refuge. Any tree cutting required to build on lot 57 will endanger them and will have an adverse impact on the nesting wetlands below. Any building activity adversely affects them and the views that homeowners have invested to own and preserve for generations to come.

In as much as two adjacent stakeholders bear the greatest impact of any deviation decision, I am raising 6 significant objections to the factual accuracy and misrepresentations stated in this proposal and the inherent adverse impact misinformed decisions could have upon adjacent lands and property owners.

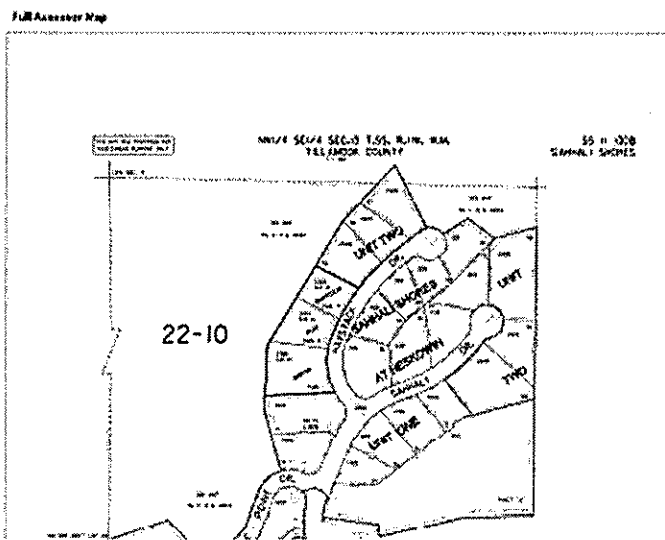
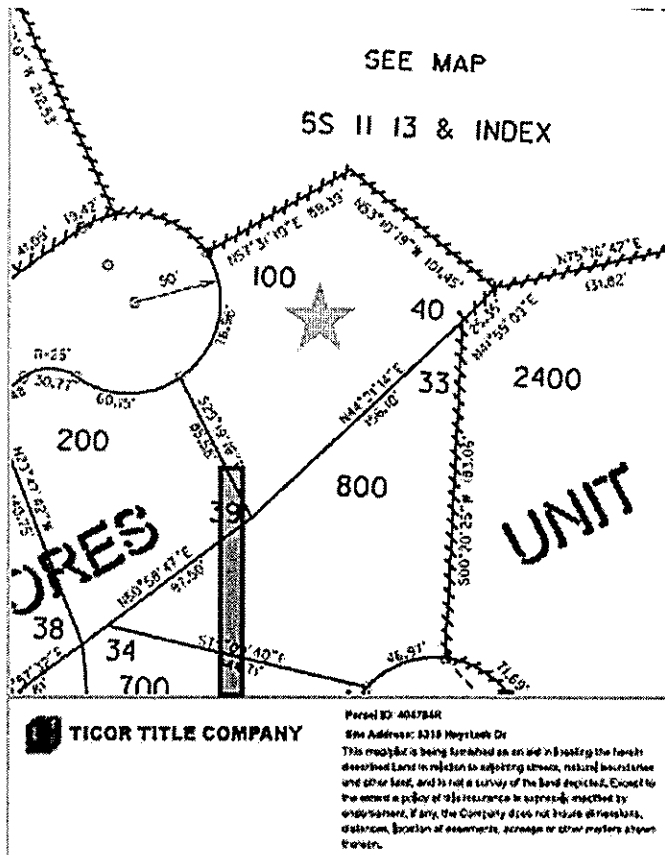
1. **First, the variance request to exceed the 35 foot height maximum for lot 57 is misleading.** As ocean front properties all homes on the west side of Haystack drive are bound by more stringent county height restrictions. the maximum prescribed building height for ocean front property is 24 foot NOT 35 feet . Lot 57 like all properties on the west side of Haystack drive are defined by Tillamook County as "ocean front properties"
2. **According to statutes set forth by Tillamook County Art 3.320 and Art 11.030, The request to increase the variance is presented as a slight deviation- 6 feet. This is misleading- it's almost 3 times that- 17 feet – This is a 71% increase and excessive and not in keeping with the intent of Sect 4.005:8 Tillamook County ordinance- to "not obstruct views."**
3. **The Proposed home will tower above all other ocean front homes on Haystack drive and obscure views for residents.** All homes on the Westside of Haystack Drive (ocean front properties) in compliance with CCRs and Tillamook county ordinances have foundations 10 to 25

feet below street level. The subject property seeks to move the foundation up the hill and closer to the road than any home on Haystack drive. This move will result in the foundation being raised at street level and consequently imposing a 42' + building obstructing Pacific views for all neighboring home owners.

4. **The proposed construction parameters of this home will obstruct the primary reason I bought my home.- 360 degree views. It will be significantly reduced and obstructed.**
  - a. I currently have a 15 foot bank of windows facing the west with panaroma views of Pacific Ocean and 10 foot bank of windows on the north side viewing the beach below. The proposed home variance will block the views in the front entirely. My primary living space is 11 feet above the street level. In simple math terms, 41ft less 11 is a 30 foot wall barricade that reduces the most valuable asset of my home – views will be gone.
5. **The proposed construction necessitates the removal of ancient Sitkas that are the nesting area for 3 American Bald Eagles and numerous Hawks.** The federal lands below are nesting areas of waterfowl whose nesting area is threatened by erosion. At minimum, the cognizant federal and state agencies need to assess and report to the public, the environmental impact that will be incurred by any modification and building activity
6. **Wind Tunnel Affect**
  - a. Tree removal will compromise the only wind buffer this hill has against Pacific Storms.
  - b. Due to the unique geological configuration of this area as the highest point north of Cascade head, 258 ft above sea level, a vortex tunnel affect heightens Pacific Wind storms creating gusts often exceeding 80 mph.
  - c. The Sitkas that are 100-300 years old with stupendous height and diameter, act as a wind buffer. The building of a new home on this siite, will necessitate tree removal and expose 3 million dollar homes to excessive wind damage. At minimum an civil engineering report should be made available to homeowners so we can assess the cost to protect our property.

Respectfully,

Steven R. Rich  
Property Owner  
425-583-2875  
Lot 41



## Lynn Tone

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**From:** S VK <svkocoeanview@embarqmail.com>  
**Sent:** Tuesday, November 1, 2022 3:01 PM  
**To:** Lynn Tone  
**Subject:** EXTERNAL: Comments re Variance request in Sahhali Shores

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Dear Lynn Tone & Department of Community Development,

We received a copy of the variance request for 851-22-000267-PLNG: McGlynn which involves Lot 57 of Sahhali Shores where we live full-time.

If the County were to approve the height variance request to exceed the 35-foot maximum by 6 feet to 41 feet, we feel that it would be setting a troublesome precedent for all new builds, particularly in coastal communities.

Residents of Sahhali Shores have historically had to abide by the 35 foot height maximum in order to ensure the best ocean views for all neighboring homes.

My husband and I had to have our house plans redrawn and re-submitted several times before the height restriction was met. We understood when we bought the property that it came with certain building restrictions in place. This information was public and available for potential buyers to review during their "due diligence" period. It meant we could not have the house we originally had in mind; rather we had to change our plans in order to best fit the lot and abide by the requirements. Folks who have built homes here expect that neighboring builds must meet the same standards that they themselves did.

Setbacks are another extremely important issue for members of a community, and are expected to be upheld when a neighboring lot wants to place a home next door. Reducing the 20 foot setback to 11 feet is a BIG deal. Eliminating 9 feet of space is quite an encroachment.

Perhaps the architect himself has created these issues by the design of the house? Seems a pretty large house to try and fit on a challenging lot. Perhaps one should first consider the lot and its unique parameters and then design the house that fits the lot (not the other way around). Are there other possibilities for home design that would comply with the established parameters? Any "reasonable alternatives requiring either a lesser or no variance"?

Height restrictions and Setback requirements are very important in a community setting, and are generally available for review before deciding whether or not to buy a property.

We hope the County will carefully consider the ramifications of what making these big allowances would mean for establishing precedent and for future builds in our coastal and rural communities.

Respectfully submitted, Susan and Gary Koehnen

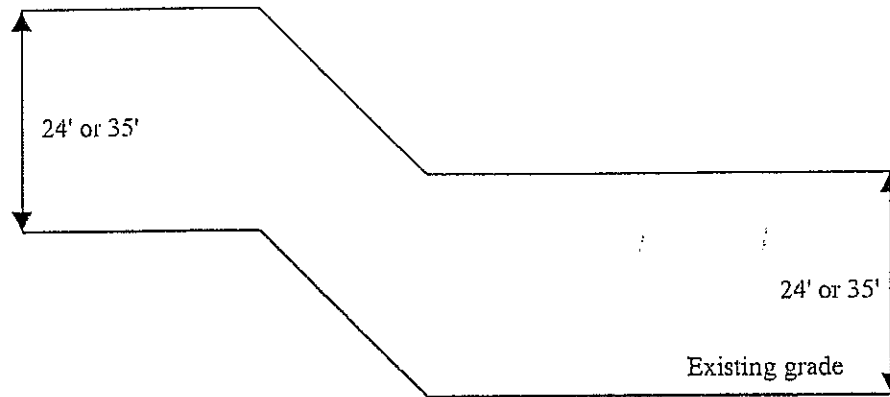
# EXHIBIT D

# Determining Maximum Heights Within the Neskowin Unincorporated Community Boundary

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**Step 1.** Determine if your parcel is an oceanfront parcel. Oceanfront parcels have a 24-foot height limit. All other parcels have a 35-foot height limit.

**Step 2.** Determine the building envelope. In Neskowin, a plane located exactly 24 or 35 feet above the existing grade of the parcel determines the maximum height of the structure.



**Step 3.** Determine if your proposed structure will pierce the plane. Some building projections such as chimneys do not count toward the height restriction. If the building is planned to be within 3 feet of the limit, a height affidavit must be signed by the property owner.

