



**MULTNOMAH COUNTY OREGON**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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## NOTICE OF DECISION

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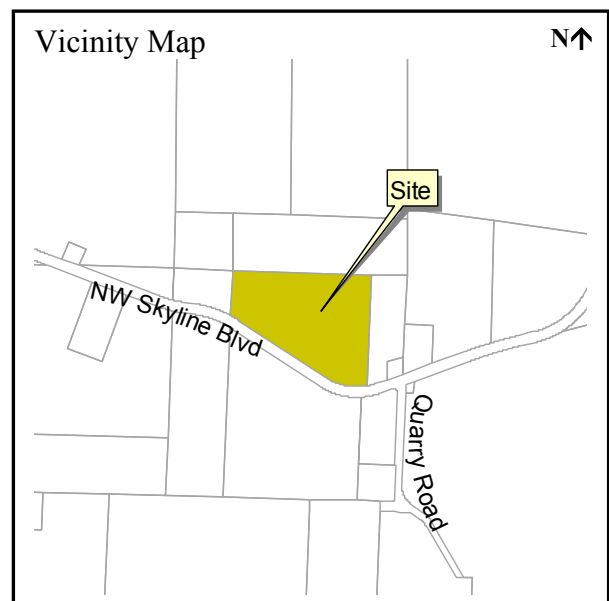
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-04-032

**Permits:** Significant Environmental Concern -  
Wildlife Habitat Permit &  
Hillside Development Permit

**Location:** 11410 NW Skyline Boulevard  
Tax Lot Map 1N1W Sect. 6 TL 300  
Alt. Acct. No. R961060590

**Applicant/** Phil & Amy Werner  
**Owner:** 4032 SE Ozark Court  
Hillsboro, OR 97123



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**Summary:** SEC-h Permit and HDP request for new Single Family Residence in CFU-2.

**Decision:** Approved.

Unless appealed, this decision is effective July 15, 2004, at 4:30 PM.

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Issued by:

Chuck Beasley, Planner

For: Karen Schilling- Planning Director

Date: July 1, 2004

**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Chuck Beasley, Senior Planner, at 503-988-3043.

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is July 15, 2004, at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): 33.4570, Significant Environmental Concern-Wildlife Habitat (SEC-h) Permit, and MCC 33.5515-5520, Hillside Development and Erosion Control Permit (HDP).

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use).

### **SCOPE OF APPROVAL**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s) listed under "Exhibits". No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires four years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

### **CONDITIONS OF APPROVAL**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. The nuisance plants listed in Exhibit 11 shall not be planted on the property and shall be removed from cleared areas of the property. MCC 33.4570(B)(7).
2. Prior to zoning approval of the building permit, the applicant will need to submit a plan that shows which areas will be planted with native tree and understory species to meet the revegetation requirement. Replanting will need to cover an area of at least ½ acre, and must be

completed by March of 2005. This condition is necessary to meet the Wildlife Conservation Plan requirements of MCC 33.4570(C)(3)(d).

3. The Cover Sheet in Exhibit 1 shows the property line locations, roads and driveways, existing structures, drainages, and the location of the proposed development, septic system, and well. Note 4 on the Cover Sheet indicates that a turnaround is not feasible, however Exhibit A.7 (sheets 6, 7, and 8) of the dwelling approval (T3-04-001) contains a plan revised to provide a fire turn-around. The applicant will need to amend the note and plans to include the approved turn around prior to zoning approval of the building permit. MCC 33.5515.
4. The owner shall provide a report prepared by Foster Gambee Geotechnical, or other approved Geotechnical Engineer, that certifies that the property was developed consistent with the geotechnical reports of April 16, 2004 and August 21, 1997. This report must be submitted to the Planning Director prior to issue of a final building inspection or occupancy.
5. All disturbed areas are to be protected with permanent plantings within thirty (30) days of the date grading activities are concluded.
6. The property owner shall maintain best erosion control practices through all phases of development. Erosion control measures are to be consistent with and implemented as prescribed in the current edition of the *Erosion Prevention and Sediment Control Plans Technical Guidance Handbook* as indicated on the Grading and Erosion Control Plan. The property owner shall install all erosion control measures prior to initiating grading activities.
7. Within 30 days of this decision becoming final, or prior to building permit sign-off whichever occurs first, the applicant shall record the Notice of Decision (pages 1-4 of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording or a copy of the recorded document shall be submitted to the Land Use Planning Division prior to zoning approval of the building permit. Recording shall be at the applicant's expense. **Failure to sign and record the Notice of Decision within the 30 day time period shall void the decision as provided for in MCC 37.0670.**
8. Except as otherwise specified in the above conditions, this approval is based on the applicant's submitted testimony, site plan, and findings contained in the Staff Report. It is the applicant's responsibility to ensure that the final site development and building plans that are submitted for zoning approval are consistent with both T3-04-001 and this decision, T2-04-032. The applicant shall be responsible for implementing the development plan as presented and approved.

**Note: Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five (5) sets of the site plan and building plans must be submitted to the Land Use Planning Division building permit sign off. Please contact Chuck Beasley, Case Planner, at (503) 988-3043 to set up an appointment for zoning approval of the building permit.**

<b>Notice to Mortgagee, Lien Holder, Vendor, or Seller:</b> ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.
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## **FINDINGS AND CONCLUSIONS**

This decision is based on the findings and conclusions in the following section.

**Staff Report Formatting Note:** To address Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold** font. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings follow the **Staff** label. Staff conclusions follow the findings and are labeled **Conclusion**. At the end of the report, Exhibits are described. The applicant's submittal is included and made part of this decision as exhibits.

### **1. DESCRIPTION OF THE PROPOSAL**

**Applicant:** *The owners are now requesting approval of a SEC-h and HDP Permits for a single-family residence and attached garage on the subject property. The proposed house footprint is illustrated on the attached site plan (Exhibit 1). The existing driveway, which will provide access to the proposed house from NW Skyline Boulevard, will be improved to meet fire marshal standards as indicated on the attached site plan (Exhibit 1).*

**Staff:** The applicant is requesting SEC-h Permit and HDP for a single family dwelling with attached garage and driveway. The proposed site plan is shown on Exhibit 1.

### **2. SITE AND VICINITY CHARACTERISTICS**

**Applicant:** *The subject property is an estimated 9.29 acres in size and is situated on the north side of NW Skyline Boulevard approximately 180 feet west of NW Quarry Road. The site contains severe slopes and a mixture of cleared and wooded/brushy areas. A 14-foot wide private access drive, which is situated within a 50-foot side easement, crosses the western half of the parcel. The easement serves as a logging access road to the properties to the north.*

*The property is located within a Commercial Forest Use (CFU-2) zone and is identified by Multnomah County as a Significant Environmental Concern for Wildlife Habitat (SEC-h). The majority of the subject property is within areas designated as Slope Hazard by Multnomah County.*

**Staff:** As described by the applicant, most of the subject property has severe slopes and is forested. The property was harvested for timber in 1993 to 1994 and, except for the 1/4-acre development area, was reforested with Douglas Fir trees in 1994. The development area is relatively level and remains clear except for grasses and small plants. An existing logging road runs from Skyline Boulevard in a northwesterly direction across the property, providing access to the proposed development area and properties to the north. Photographs of the proposed development site and access road are shown in Exhibit 8.

### **3. OWNERSHIP**

**MCC 37.0550:** Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser.

**Staff:** County Assessment records show the property owners as Phil and Amy Werner. An application form signed by Amy Werner is provided in Exhibit 9.

**4. TYPE II CASE PROCEDURES**

**Staff:** The application was processed according to the Type II procedures in MCC 37.0530. The application was submitted April 16, 2004 and was deemed complete on May 16, 2004. On June 7, 2004, an Opportunity to Comment notice was mailed to all owners of properties within 750 feet of the subject property for a 14-day review period. No comments were received.

**5. COMMERCIAL FOREST USE - 2**

**Staff:** The provisions for dwellings in the CFU-2 district, dimensional requirements, and Lot of Record requirements were met for this project in a prior decision (T3-04-001) which was approved by Multnomah County on April 30, 2004. A copy of this decision is attached as Exhibit 10.

**6. SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW**

**6.1 Significant Environmental Concern for Wildlife Habitat Permit Required**

**MCC 33.4510(A)** All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC 33.4515, shall be subject to an SEC permit.

**Staff:** The subject property is within the Significant Environmental Concern overlay zone for Wildlife Habitat (SEC-h).

**6.2. Application Materials**

**MCC 33.4520(A)** An application for an SEC permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 33.4555 through 33.4575.

(2) A map of the property showing:

- (a) Boundaries, dimensions, and size of the subject parcel;
- (b) Location and size of existing and proposed structures;
- (c) Contour lines and topographic features such as ravines or ridges;
- (d) Proposed fill, grading, site contouring or other landform changes;
- (e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
- (f) Location and width of existing and proposed roads, driveways, and service corridors.

**Applicant:** *The owners are now requesting approval of a SEC-h and HDP Permits for a single-family residence and attached garage on the subject property. The proposed house footprint is illustrated on the attached site plan (Exhibit 1). The existing driveway, which will provide access to the proposed house from NW Skyline Boulevard, will be improved to meet fire marshal standards as indicated on the attached site plan (Exhibit 1). This report and attached information provide documentation demonstrating compliance with the applicable code requirements.*

*See attached site plan with (with topo), grading plan, landscape plan and cut and fill grid that provide the information requested for this application.*

**Staff:** The narrative and exhibits submitted by the applicant provide sufficient information for staff to make an informed evaluation of the compliance of the proposed development with the applicable approval criteria. Exhibit 1 shows the boundaries, dimensions, and size of the subject parcel, the location and size of the proposed structure, contour lines and topographic features, and the location and width of the driveway; Exhibit 4 shows the proposed areas of grading.

### **6.3 Criteria for Approval of SEC-h Permit - Wildlife Habitat**

**MCC 33.4570(A)** In addition to the information required by MCC 33.4520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

**(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;**

**For the purposes of this section, a *forested area* is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A *non-forested "cleared"* area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.**

**(2) Location of existing and proposed structures;**

**(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;**

**(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.**

**Applicant:** *A vicinity map (Exhibit 2), indicating all the applicable information, is attached to this report. No fencing is proposed or existing.*

**Staff:** The aerial photograph in Exhibit 12 shows the existing forested and non-forested areas. The site plan (Exhibit 1) shows the existing and proposed structures, the location and width of Skyline Boulevard and Quarry Road, the existing dirt access driveway, and the proposed access

driveway. Other driveways within 200 feet of the subject parcel's boundaries are shown on the aerial photo in Exhibit 12. The site plan shows no existing fencing and none is proposed.

**MCC 33.4570(B)(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.**

**Applicant:** *Attached site plan (Exhibit 1) and aerial photograph (Exhibit 2) indicate the forested and non-forested areas on the property. The proposed development is located within a non-forested "cleared" area. The only vegetation removal necessary for the proposed construction is the removal of brush and small plants. No large diameter trees will be removed.*

**Staff:** Staff notes that applicant's Exhibit 2 is listed as a vicinity map rather than an aerial photo. Staff has included a copy of a portion of the 2002 aerial photo that was in the record of the forest dwelling approval T3-04-001 as Exhibit 12 of this decision.

Staff agrees that the dwelling location is in a "cleared" area in compliance with this criterion.

**MCC 33.4570(B)(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

**Applicant:** *The proposed home site is approximately 102.60 feet from Skyline Boulevard, in compliance with the above standard.*

**Staff:** Agrees. This standard is met.

**MCC 33.4570(B)(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

**Applicant:** *The access road/driveway is approximately 437.12 feet in length (from Skyline Boulevard to the home site), in compliance with the above standard.*

**Staff:** Agrees. This standard is met.

**MCC 33.4570(B)(4) The access road/driveway shall be located within 100 feet of the property boundary if adjacent property has an access road or driveway within 200 feet of the property boundary.**

**Applicant:** *As previously noted, the driveway to the subject home site from Skyline Boulevard will utilize an existing access road. This access road provides access to the adjacent property to the north, as well as the subject site. The adjacent property to the east does not currently have a driveway/access road. The adjacent property to the west has a driveway/access road approximately 180 feet west of the site's western property line. The property to the south, across Skyline Boulevard, contains two driveway access points near the southwest corner of the site that is situated within 100 feet of the south property boundary for the majority of its length across the site, and then is situated within 100 feet of the west property line (past the home site). However, the existing access point to Skyline Boulevard is more than 100 feet from the west property line. This access point cannot be relocated due to the severe slopes on the property. The existing access point is the most suitable location as it is the most level and meets the*

*elevation of Skyline Boulevard. The existing access road appears to meet the intent of the above standard as it is located in the vicinity of other access roads, thereby minimizing impacts to wildlife habitat.*

**Staff:** The location of the driveway on the subject parcel is more than 100 feet from the common property line with the property to the west that has a driveway within 200 feet of the common property line. Therefore, this criterion is not met.

**MCC 33.4570(B)(5) The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.**

**Applicant:** *Adjacent properties to the south (Tax Lot 1) and west (Tax Lot 2) are developed with structures within 200 feet of the subject property. The proposed home site is located within 300 feet of the south and west property boundaries in compliance with this standard (See Exhibit 1).*

**Staff:** Agrees. This standard is met.

**MCC 33.4570(B)(6) Fencing within a required setback from a public road shall meet the following criteria:** [The fencing standards are available for reference in MCC 33.4570(B)(6) of the Multnomah County Land Use Code.]

**Applicant:** *No fencing is proposed.*

**Staff:** This criterion does not apply because no fencing is proposed.

**MCC 33.4570(B)(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:** [The nuisance plant list presented in Exhibit 11.]

**Applicant:** *Future landscaping will not include any plants from the nuisance plant list. Nuisance plants that occur on the property will be removed and kept clear from the areas on the site that remain clear.*

**Staff:** The applicant is not proposing to plant nuisance plants. This criterion requires removal of any of the nuisance plants listed, and maintenance of the property free of such plants in the cleared areas. This standard can be satisfied by a condition of approval.

**MCC 33.4570(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.**

**(1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or**

**(2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).**



**Applicant:** *The driveways to the proposed home site meets the intent of that particular SEC-h standard since the driveway is located in the vicinity of other access roads and, thereby, minimizes impact to wildlife habitat.*

*The adjacent property to the west has a driveway/access road approximately 180 feet west of the west boundary line of the site. The access point for the driveway to the proposed home site on Skyline Boulevard is approximately 470 feet east of the west property line. This access point cannot be relocated due to the severe slopes on the property. The existing access point is the most suitable location as it is the most level and meets the elevation of Skyline Boulevard. Additionally, the majority of the site is mapped as Slope Hazard area. The existing access point is located within an area outside of the slope hazard area. Also of note, the access point is situated within the boundaries of an existing 50-foot wide easement. An old barn foundation exists on the property directly west of the access point. The access point cannot be moved further west due to the physical characteristics unique to the property, including the severe slopes and the slope hazard areas present on the site. The access point is located as close as possible to the west property line given the topographical limitations on the subject property and the need to provide for an adequate curve radius and sufficient grades to allow for the access of fire fighting equipment to the home site.*

*The following discussion relates to the wildlife conservation plan and applies to this project only in the event that County staff finds that a wildlife conservation plan is required.*

**Staff:** The applicant appears to be providing evidence that **MCC 33.4570(C)(1)** applies with this application. Staff agrees that the standards of **MCC 33.4570(B)(4)** cannot be met on this property. The proposed development site was the only site approved in the Conditional Use Permit that allowed a new Template Dwelling on the site (T3-04-001). The driveway location cannot be moved significantly further west due to the existing easement and site topography.

**MCC 33.4570(C)(3) The wildlife conservation plan must demonstrate the following:**

**(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.**

**Applicant** *As discussed above, the proposed development plan includes measures to reduce impacts to forested areas by siting the development within the existing cleared area. The only vegetation removal will be required is the removal of brush and small plants. No large diameter trees will be removed. Therefore, disturbance of the existing forest canopy cover will be minimized.*

**Staff:** Staff agrees that the development plan minimizes the amount of land that is converted from forested to cleared area due to the location of the dwelling on the south portion of the ridge, closest to the road. No additional trees that provide forest canopy cover are proposed to be removed.

**(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.**

**Applicant:** *The proposed development is situated within an existing cleared area, so vegetation removal will be minimized. The amount of clearing associated with the proposed development will not exceed one acre. The proposed development area is approximately ¼ acre in size.*

**(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.**

**Applicant:** *No fencing exists or is proposed on the subject site.*

**(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.**

**Applicant:** *If required by County staff, revegetation of existing cleared areas will occur on the subject property at a 2:1 ratio.*

**(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.**

**Applicant:** *No disturbance of the riparian areas along the drainage channel in the northeast portion of the site will occur. The proposed development is sited approximately 251.03 feet west of the seasonal drainage/stream channel.*

**Staff:** The amount of forested land cleared for the development has been limited to approximately ¼ acre according to the applicant. In order to meet the revegetation ratio of 2:1 required in (d) above, the applicant will need to revegetate ½ acre of cleared areas on the property. Potential revegetation areas are the old barn location, the original septic system area, or cleared areas around the dwelling site. Prior to zoning approval of the building permit, the applicant will need to submit a plan that shows which areas will be planted with native tree and understory species to meet the revegetation requirement. Replanting will need to be completed by March of 2005. The Wildlife Conservation Plan requirements are met with the condition requiring revegetation at a 2:1 ratio.

#### **6.4 Conclusion**

The SEC-h permit requirements are met subject to a condition that the applicant provide a revegetation plan as discussed above.

## **7. HILLSIDE DEVELOPMENT PERMIT REVIEW**

### **7.1 MCC 33.5505 Permits Required**

**Hillside Development Permit:** All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC 33.5510.

**Applicant:** *The subject property is located within an area identified on the "Slope Hazard Map" as containing slope hazards. Therefore, a Hillside Development Permit is required for the proposed development. The applicable standards for a Hillside Development Permit are addressed below.*

**Staff:** The property is identified on the Slope Hazard Map. The property is not exempt under MCC 33.5510 because the volume of materials to be filled is greater than 50 cubic yards. The applicant estimates that 66 cubic yards of material will be cut and 118 cubic yards will be filled.

### **7.2 MCC 33.5515 Application Information Required**

**An application for development subject to the requirements of this sub-district shall include the following:**

**(A) map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.**

**(B) An estimate of depths and the extent and location of all proposed cuts and fills.**

**(C) The location of planned and existing sanitary drainfields and drywells.**

**(D) Narrative, map or plan information necessary to demonstrate compliance with MCC 33.5520(A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.**

**Applicant:** *A development plan (See Exhibit 1) and a vicinity map (See Exhibit 2), which indicate the information required by Section 33.5515(A) through (C), as applicable to the subject property, are attached to this report. The proposed development is situated in an area already cleared of trees, so tree removal will not be necessitated by this development (Refer to Exhibit 1). The only vegetation removal proposed is the removal of brush and small plants. The proposed location and extent of the cuts and fills associated with the grading for the proposed home site and driveway improvement are indicated on the development plan (See Exhibit 1). The planned location of the sanitary drainfield is also indicated on the attached development plan. The standards of MCC 33.5520(A) are addressed below. This report serves*

*as the narrative required by Section 33.5515. Additionally, the applicant's geotechnical engineer, Kevin Foster, has prepared an HDP-1 and a geotechnical report. Copies of these items are attached to this report in Exhibit 4.*

**Staff:** The narrative and exhibits submitted by the applicant provide the information required by MCC 33.5515(A) - (D). The Cover Sheet in Exhibit 1 shows the property line locations, roads and driveways, existing structures, drainages, and the location of the proposed development, septic system, and well. Note 4 on the Cover Sheet indicates that a turnaround is not feasible, however Exhibit A.7 (sheets 6, 7, and 8) of the dwelling approval (T3-04-001) contains a plan revised to improve a fire turn-around. The applicant will need to amend the note and plans to include the approved turn around prior to zoning approval of the building permit. Exhibit 4 contains the Geotechnical Report along with a map (sheet 5) which shows the extent and location of all proposed cuts and fills. In addition, Exhibits 5, 6, and 7 submitted by the applicant include a Geotechnical Report, a Drainage and Sizing Report/Stormwater Detention Calculations, House Plans, and a Septic System Site Evaluation Report, respectively, to support the applicant's narrative. The application submittal requirements are met with the correction for the fire turnout discussed above.

**MCC 33.5515(E) A Hillside Development permit may be approved by the Director only after the applicant provides:**

- (1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or**
- (2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,**
- (3) An HDP Form-1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.**
  - (a) If the HDP Form-1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form-1, a geotechnical report as specified by the Director shall be prepared and submitted.**

**Applicant:** *An HDP Form-1 is completed, signed and certified by Kevin Foster is attached to this report as Exhibit 4. The engineer's stamp and signature are affixed to the last page of the HDP Form-1. Additionally, Kevin Foster has prepared a certified geotechnical report, which is also attached as Exhibit 4. The geotechnical report indicates that the site is suitable for the proposed development, subject to the recommendations listed on Pages 3 and 4 of the geotechnical report. The attached development plans (Exhibit 1) have been designed in accordance to the recommendations in the geotechnical report.*

**Staff:** A geotechnical report prepared by Foster Gambie Geotechnical and dated April 16, 2004, is provided in Exhibit A-4. It includes the previously prepared geotechnical evaluation, by Foster Geotechnical in August 21, 1997 and is stamped and signed by a Certified Engineering Geologist, Kevin M. Foster, P.G., C.E.G., P.E. The report concludes that the

findings of the earlier study remain valid; development of the site with a single-family residence is feasible from a geologic and geotechnical standpoint subject to the recommendations listed in the August 21, 1997 report and additional slope stability recommendations provided in the April 16, 2004 report. These criteria are met.

### **MCC 33.5515(F) Geotechnical Report Requirements**

**MCC 33.5515(F)(1) A geotechnical investigation in preparation of a Report required by MCC 33.5515(E)(3)(a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.**

**Applicant:** *As noted above, a geotechnical report has been prepared by certified geotechnical engineering, Kevin Foster. A copy of this report is attached as Exhibit 4.*

**Staff:** The County is relying on the recommendations and conclusions of the Certified Engineering Geologist for protection of the project from earth movement hazards. The geotechnical report (Exhibit 4) concludes that development of the site with a single-family residence is feasible from a geologic and geotechnical standpoint subject to the recommendations listed in the August 21, 1997 report and additional slope stability recommendations provided in the April 16, 2004 report. This criterion is met.

**MCC 33.5515(F)(2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.**

**Applicant:** *Any corrections recommended by the geotechnical engineer will be implemented (See Exhibit 4).*

**Staff:** Staff understands that the easement road that extends from Skyline Blvd. to near the dwelling site was improved under prior permit HDP 16-97. No other "development related manipulation of the site prior to the issuance of a permit" is known to have occurred. Any site work that was done outside of an approved HDP permit is subject to correction.

**MCC 33.5515(F)(3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.**

**Applicant:** *Any observation of work required by the geotechnical report will be conducted by a certified engineering geologist or geotechnical engineer at the applicant's expense. This observation is likely to be conducted by Kevin Foster. If any changes in the project's geotechnical engineer occurs, the Planning Director will be notified.*

**Staff:** As noted in the findings under **MCC 33.5515(F)(1)**, the geotechnical report certifies that the site is suitable for the proposed development when the project is constructed consistent with the recommendations listed in the geotechnical reports dated April 16, 2004 and August 21, 1997.

The observation of work requirement of **MCC 33.5515(F)(3)** can be met by a condition of approval which requires that Foster Gambee Geotechnical provide a report certifying that the property was developed consistent with the geotechnical reports of April 16, 2004 and August 21, 1997. This report must be submitted to the Director prior to issue of a final building inspection.

**MCC 33.5515(F)(4) The Director, at the applicant's expense, may require an evaluation of HDP Form- 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.**

**Applicant:** *The applicants are aware that the Planning Director can request evaluation of the geotechnical report/HDP Form-1 by another certified engineering geologist/geotechnical engineer.*

**Staff:** The Planning Director has not required an evaluation of the report by another engineer.

**MCC 33.5515(G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 33.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.**

**Applicant:** *The attached development plans are consistent with the Design Standards for Grading and Erosion Control in MCC 33.5520(A) through (D) as discussed in the following section of the report.*

**Staff:** The necessary conditions of approval are listed at the front of this decision. This criterion is met.

### **7.3 MCC 33.5520 Grading and Erosion Control Standards**

**Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:**

#### **MCC 33.5520(A) Design Standards For Grading and Erosion Control**

##### **MCC 33.5520(A)(1) Grading Standards**

**(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;**

**Applicant:** *The attached development plan identifies the location and extent of cuts and fills necessary for grading the proposed home site and driveway improvements (Exhibit 1). It is estimated that 66 cubic yards of material will be cut and 118 cubic yards will be filled. As noted above, a geotechnical report is attached as Exhibit 4.*

**Staff:** The geotechnical report and supporting materials are attached as Exhibit 4.

**(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;**

**Applicant:** *The attached development plan identifies the location and extent of cuts and fills necessary for grading the proposed home site and driveway improvements (Exhibit 1). It is estimated that 66 cubic yards of material will be cut and 118 cubic yards will be filled. The attached development plan (Exhibit 1) details proposed methods for dealing with site drainage and erosion control. Site drainage from the road and proposed house will be directed away from the cut slopes, which will also be revegetated.*

**(c) Cuts and fills shall not endanger or disturb adjoining property;**

**Applicant:** *The geotechnical report indicates that the proposed development will not endanger or disturb adjoining properties, as long as the recommendations in the geotechnical report are followed. The attached development plan, (Refer to Exhibit 1), have been designed in accordance with these recommendations.*

**Staff:** The geotechnical report and supporting materials are attached as Exhibit 4.

**(d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;**

**Applicant:** *The proposed development will have adequate drainage as specified on the attached drainage calculation worksheet (See Exhibit 5).*

**Staff:** The drainage calculations are found in Exhibit 5.

**(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;**

**Applicant:** *The attached development plan identifies the location and extent of cuts and fills necessary for grading the proposed home site and driveway improvements (Exhibit 1). Proposed areas of development on the subject site are situated more than 200 feet from the drainage channel crossing the northeast portion of the site. Fill areas will not encroach on natural watercourses or constructed channels on the site.*

#### **MCC 33.5520(A)(2) Erosion Control Standards**

**(a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)". Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or**

**within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.**

**Applicant:** *The attached development plan (Exhibit 1) has been designated in compliance with the requirements of OAR 340. The proposed development is located more than 200 feet from the naturally occurring seasonal drainage/stream channel with traverses the northeast portion of the site as evidenced by the attached development plan. No wetlands are present on this site.*

**(b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;**

**Applicant:** *The driveway and home site are situated within the area cleared of trees. The only vegetation removal necessary is the removal of brush and small plants. The driveway road cut exists from Skyline Boulevard to the north property line. The attached development plan identifies the location and extent of cuts and fills necessary for grading of the proposed home site and driveway improvement (Exhibit 1). It is estimated that 66 cubic yards of material will be cut and 118 cubic yards will be filled. According to the Geotechnical Report (See Exhibit 4), the slopes associated with the road cut appear stable and future stability will depend on property management of site drainage and revegetation of the slopes. The proposed development will be established and maintained in compliance with the engineer's recommendations and as specified on the attached development plan (See Exhibits 1 and 4).*

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

**Applicant:** *As noted previously, the driveway road cut exists from Skyline Boulevard to the north property line. The attached development plan identifies the location and extent of cuts and fills necessary for grading the proposed home site and driveway improvement (See Exhibit 1). It is estimated that 66 cubic yards of material will be cut and 118 cubic yards will be filled. According to the Geotechnical Report (See Exhibit 4), the slopes associated with the road cut appear stable and future stability will depend on property management of site drainage and revegetation of the slopes. The proposed development will be established and maintained in compliance with the geotechnical engineer's recommendations and as specified on the attached development plan.*

**(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;**

**Applicant:** *Exposed critical areas will be protected during development with temporary vegetation and/or mulching as needed.*

**(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;**

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



**2. The buffer required in 1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;**

**Applicant:** *As noted previously, the subject site was logged a few years ago. The proposed home site and driveway are situated within cleared areas. No vegetation removal is required, aside from brush and small plant removal within the proposed development areas. All existing natural vegetation along property lines and the drainage channel in the northeast portion of the site will be retained and protected. As noted, above, the proposed development is situated more than 200 feet from the drainage channel. Any additional vegetation to be planted on the site in the future will be native.*

**(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;**

**Applicant:** *Any permanent plantings and/or any required structural erosion control and drainage measures will be installed as soon as feasible following the building permit approval.*

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

**Applicant:** *Provisions will be made to effectively accommodate increased runoff caused by altered soil and surface conditions during development as specified on the attached development plan (Exhibit 1).*

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

**Applicant:** *Measures will be taken to trap sediment in the runoff water until areas of soil disturbance are stabilized as specified on the attached development plan (Exhibit 1).*

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

**Applicant:** *Provisions will be made to prevent surface water from damaging the existing cut face as specified [in the] development plan (Exhibit 1).*

**(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;**

**Applicant:** *All drainage provisions proposed on the attached development plan are designed to adequately carry existing and potential runoff to the natural drainage channel which crosses the northeast portion of the site.*

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

**Applicant:** *As previously noted, existing natural vegetation along the drainage channel will be protected.*

**(l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:**

- 1. Energy absorbing devices to reduce runoff water velocity;**
- 2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;**
- 3. Dispersal of water runoff from developed areas over large undisturbed areas.**

**Applicant:** *Erosion and sediment control devices will be provided, if required, as specified on the attached development plan (Exhibit 1).*

**(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;**

**Applicant:** *No disposed material or stockpiled topsoil is located o[r] planned to be located on the site.*

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

**Applicant:** *Non-erosion pollution associated with construction will be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.*

**(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious**

**surfaces must be completely vegetated by December first the same year the development was begun.**

**Applicant:** *The subject site is not situated within the Balch Creek Drainage Basin. Therefore, this standard does not apply to this requirement.*

#### **7.4 MCC 33.5520(B) Responsibility**

**(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;**

**Applicant:** *The applicants realize that whenever sedimentation is caused by stripping vegetation, reg[ra]ding, or other development, it is the responsibility of the party causing the sedimentation to remove it from the adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals on the project.*

**(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.**

**Applicant:** *This project does not involve an act on or across a communal stream watercourse or swale, [or] upon a floodplain or right-of-way thereof.*

#### **7.5 MCC 33.5520(C) Implementation**

**(1) Performance Bond – A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the Director determines the scale and duration of the project and the potential problems arising therefrom will be minor.**

**Applicant:** *If required by Multnomah County, the applicants will execute a performance bond.*

**(2) Inspection and Enforcement. The requirements of this subdistrict shall be enforced by the Planning Director. If inspection by County staff reveals erosive conditions which exceed those prescribed by the Hillside Development, work may be stopped until appropriate correction measures are completed.**

**Applicant:** *The applicants are aware that a certification of occupancy or other final approval will only be granted upon the satisfactory completion of all applicable requirements detailed within this report and as the conditions of approval of the HDP Permit.*

#### **7.6 MCC 33.5520(D) Final Approvals**

**A certificate of Occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.**

**Applicant:** *The applicants are aware that a Certificate of Occupancy o[r] other final approval will only be granted upon satisfactory completion of all applicable requirements detailed within this report and as the conditions of approval of the HDP Permit.*

## **7.7 Conclusion**

Considering the findings and other information provided herein, staff concludes that the applicant has demonstrated substantial compliance with all Hillside Development Permit requirements, or that compliance can be achieved when the Conditions of Approval listed in this Decision are met.

## **7.8 Exhibits**

### **Exhibits Submitted by the Applicant**

Applicants Statement for SEC-h and HDP Permits, narrative date stamped April 16, 2004.

- Exhibit 1 Cover Sheet and Erosion Control Plan (Sheet 4)
- Exhibit 2 Vicinity Map
- Exhibit 3 Multnomah County Wildlife Habitat Map
- Exhibit 4 Geotechnical Report
- Exhibit 5 Drainage and Sizing Report/Stormwater Detention Calculations
- Exhibit 6 Preliminary House Plans
- Exhibit 7 Septic System Site Evaluation Report

### **Exhibits Provided by the County**

- Exhibit 8 Site Photographs
- Exhibit 9 Signed Application Form
- Exhibit 10 Conditional Use Permit (T3-04-001) Decision
- Exhibit 11 Nuisance Plants – List of Plants To Not Be Planted and/or To Be Removed
- Exhibit 12 2002 Aerial Photo