

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

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

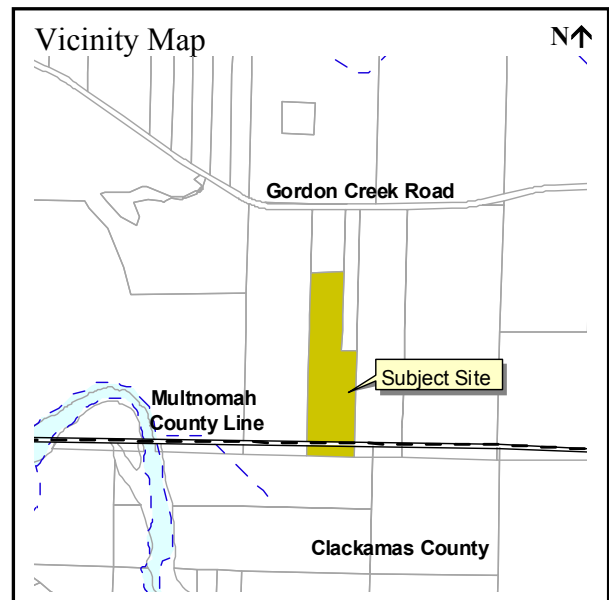
Case File: T2-04-095

Permit: Modification To a Hillside Development Permit

Location: 39420 SE Gordon Creek Road
TL 600, Sec 24, T1S, R4E, W.M.
Tax Account #R99424-0170

Applicant: Heiner Fruehauf
39420 SE Gordon Creek Road
Corbett, OR 97019

Owner: Heinrich and Sharon Fruehauf
39420 SE Gordon Creek Road
Corbett, OR 97019



Summary: A request to modify a previous Hillside Development Permit to adjust for minor adjustments in the final grade levels for the dwelling and alter some of the retaining wall heights. The modification is a limited review.

Decision: Approved with conditions.

Unless appealed, this decision is effective Monday, April 18, 2004, at 4:30 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Monday, April 04, 2005

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 Don Kienholz, Staff 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 Monday, April 18, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 35.5515 Application Information Required and MCC 33.5520 Grading and Erosion Control Standards.

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.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two 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. **Earthwork shall be in accordance with the recommendations outlined in the Geotechnical Report dated August, 2004 prepared by David E. Reich, Certified Engineering Geologist.**
2. **All sediment fencing shall be properly maintained by owner during the project's duration. This includes regular inspections to ensure all erosion controls are properly toed in and functioning. Within 24 hours after a storm event, applicant shall conduct a thorough**

inspection of all erosion control measures and repair those that are not properly functioning or installed.

- 3. Upon completion of the project, all disturbed areas shall be reseeded and vegetated within 30-days pursuant to the geotechnical engineers recommendations as outlined in evaluation dated August, 2004.**
- 4. During the project, exposed soil shall be covered by mulch or plastic covering to reduce erosion pursuant to the engineers' report and applicants' narrative.**

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

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

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Project Description**

Staff: To alter the final grade of the dwelling from what was approved in case #T2-01-081 to accommodate incorrect schematics of the original ground grade. The inaccuracies changed the need for retaining walls, the required amount of grading, and final grades. As a result of the new reconnaissance, some retaining walls were eliminated due to being unnecessary and there is a one to two foot difference in the final grades for the dwelling and foundation from the original permit. The grade alterations and removal of the retaining walls do not alter the location of the dwelling, nor do they significantly alter the required grading, cutting or filling required for construction. The drainage plan for the dwelling remains the same and will accommodate the 10-year/24-hour storm event. For applicants' narrative, please see the case file.

2. **Site Characteristics**

Staff: The subject property is zoned Commercial Forest Use-4 and is located east of the Sandy River with the southern property line bordering Clackamas County. The majority of the property is located in an identified slope hazard area with slopes averaging over 25%. The majority of the property is forested except where the dwelling site is located.

3. **Public Comment**

MCC 37.0530(B) Type II Decisions

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

Staff: An opportunity to comment was mailed to property owners within 750-feet of the property lines on December 28, 2004. No comments were received regarding the application.

Procedures met.

4. **Proof of Ownership**

MCC 37.0550 Initiation Of Action.

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. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: Multnomah County Assessment and Taxation records shows Heinrich and Sheron Fruehauf as owners of the subject lot (Exhibit 1). Heinrich Fruehauf signed the General Application Form (Exhibit 2) and thus authorized action on the property.

Criterion met.

5. **The Proposed Modifications Meet the HDP Grading and Erosion Control Standards**

MCC 35 35.5520 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:

A. (A) Design Standards For Grading and Erosion Control

(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;

(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;

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

(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;

(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;

Staff: The applicant's reconnaissance survey, narrative, HDP Form-1, drainage information all meet or exceed the listed requirements. Most of the work was previously done under the approval of T2-01-081. The proposed alterations are new final grades for the dwelling and the foundation and to remove an unnecessary retaining wall. The new final grades measure roughly one to two feet difference than the originals in some places.

B. (2) Erosion Control Standards

1. **(a) 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)".**

Staff: The applicant will be using on-site native vegetation, silt fencing, grading to alter slope steepness, and other erosion and sediment control devices on site during construction, which is mostly completed under the original permit. The devices shall be regularly changed to maintain their efficiency.

Criterion met.

2. **(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;**

Staff: Most of the work has already been conducted. Regardless, the Geotech has stated the disturbed areas shall be flagged to ensure there will be no encroachment into areas that are not necessary to be disturbed for the alterations to the original permit. The flags shall be maintained through the duration of the project. This will reduce the amount of soil disturbance during construction. Additionally, the owner/applicant will reseed and plant the disturbed areas within 30-days of disturbance.

Criterion met.

3. **(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;**

Staff: The proposed modifications reduce the need for retaining walls and backfill on a number of the cross sections of the building area. This will result in a more gradual sloping topography and help reduce the velocity of runoff.

Criterion met.

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

Staff: The applicant states exposed soils will be mulched with straw or bark chips or jute-matting or another stabilizing product. Visqueen will be utilized wherever there are exposed stockpiled soils. The applicant also indicates that proper controls, such as silt fencing and straw mulching, shall be used to ensure sediment and sediment-laden water do not enter the drainage system.

Criterion met.

5. **(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;

Staff: The area of the changes has already been cleared and no additional vegetation will be removed. There are no known streams on the property. Part of the area of disturbance will be planted with lawn grass.

Criterion met.

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

Staff: As the applicant indicates, the majority of disturbed areas will be covered by the residence and landscaped area. Any exposed soils will be reseeded and vegetated. Mulching straw and bark chips will also be used to mitigate potential erosion.

Criterion met.

7. **(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;**

Staff: A geotechnical engineer has certified that the additional runoff caused by new impervious surfaces will be handled on site. The changes in base ground level from the previous permit to this one will not affect the runoff levels that were previously approved.

Criterion met.

8. **(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;**

Staff: The changes in the original and finished grades from the previous Hillside Development Permit do not require any additional erosion control devices. The applicant will still use natural vegetation, straw mulching, bark chips, and erosion control fencing to prevent sedimentation in runoff water.

Criterion met.

9. **(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;**

Staff: The geotechnical engineer has stated all surface runoff will be appropriately conveyed to natural slopes around the new dwelling. The release points will be at least 25-feet from structures and 5 to 10 feet from the toe of any fill slope. Such distances should prevent any damage to slopes or exposed soils.

Criterion met.

10. **(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;**

Staff: The geotechnical engineer has certified all additional storm water will be handled on site for up to a 10-year, 24-hour storm event, which is the County standard.

Criterion met.

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

Staff: No drainage swales are planned or needed as part of the alterations. Slope is being reduced as part of the changes so velocity of any runoff will decrease.

Criterion met.

12. **(1) 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.

Staff: The applicant has already completed the vast majority of the work approved in T2-01-081. The modification in the permit that is being requested will not impact the need to more erosion control devices. Nonetheless, the applicant is proposing silt fencing, re-vegetation, mulch and other measures to control polluting discharges from occurring.

Criterion met.

13. **(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;

Staff: There are no identified streams on site. The applicant has proposed several methods of containing stockpiled earth materials and preventing them from entering drainageways or streams as indicated in the narrative. The changes from the previously approved HDP permit will not affect proposed stockpile areas.

Criterion met.

- 14. (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.**

Staff: No pesticides or chemicals are proposed to be used as part of the modification of the previous permit.

Criterion met.

Conclusion:

Staff: Based on the findings and other information provided above, this application for a Modification to a Previous Approved Hillside Development Permit satisfies, with appropriate conditions, the applicable Multnomah County Zoning Code requirements.

Exhibits

1. Multnomah County Assessment and Taxation Forms Showing Ownership
2. General Application Form
3. Site Plans and Elevations