



**MULTNOMAH COUNTY**  
**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/landuse>

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## NOTICE OF DECISION

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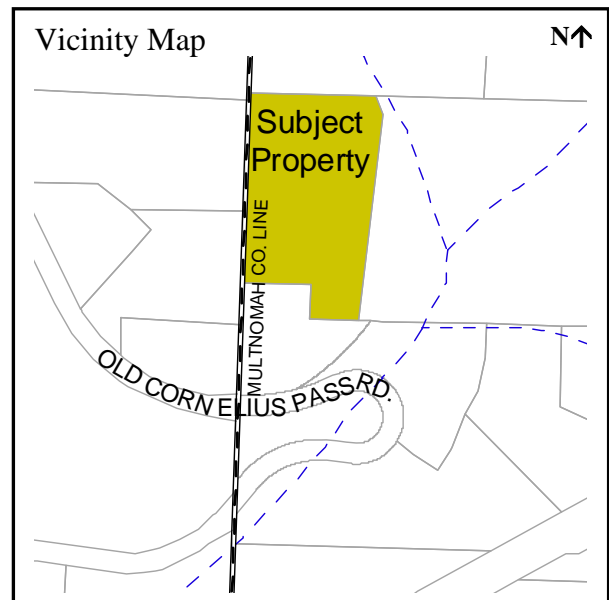
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-07-082

**Permit:** Significant Environment Concern for  
Wildlife Habitat and Streams and  
Hillside Development Permit

**Location:** 10738 Old Cornelius Pass Road  
Tax Lot 1900, Section 06B,  
Township 1 North, Range 1 West, W.M.  
R961060650

**Applicant/  
Owner:** Gregory Prusynski  
10510 SW 53<sup>rd</sup> Ave.  
Portland, OR 97219



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**Summary:** Request to build a single family dwelling with attached garage with the development including driveway, septic system and stormwater system on a property within the Rural Residential Zone District with Significant Environmental Concern for Wildlife Habitat and Streams and Hillside Development Overlay Zone Districts

**Decision:** Approved with Conditions

Unless appealed, this decision is effective May 14, 2008, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, April 30, 2008

**Opportunity to Review the Record:** A copy of the Planning Director's 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 George A. Plummer, Staff Planner at 503-988-3043, ext. 29152.

**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 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 May 14, 2008 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Chapter 37, MCC 33.3100 et. seq: Rural Residential, MCC 33.4500 et. seq: Significant Environmental Concern, and MCC 33.5500 et. seq: Hillside Development

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/landuse>.

### **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. **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 or 37.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

### **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. As recommended by the H. G. Schlicker & Associates Geotechnical Report (Exhibit 1.6) and required MCC 33.5515(F)(3), a review of the final plans and observation of the development work shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer. This review and observation shall be at the owner's expense. The name, address and phone number of the Certified Engineering Geologist or Geotechnical Engineer that will be conducting the observation of the development shall be submitted to the Planning Director prior to zoning review for a building permit.

Prior to zoning review for a building permit the property owner shall submit to the Planning Director confirmation that a Certified Engineering Geologist or Geotechnical Engineer has reviewed the final site plan, erosion control plan and building plans. That confirmation must include the Certified Engineering Geologist or Geotechnical Engineer's profession seal (stamp). The observation of the development activities by the Certified Engineering Geologist or Geotechnical Engineer shall include but is not limited to site prep, foundation work, and confirmation on installation and effectiveness of all erosion and sediment control measures. Prior to building permit final and occupancy the property owner shall submit to the County Land Use Planning Office a report from the observing Certified Engineering Geologist or Geotechnical Engineer which confirms that proper measures were implemented to meet the 13 recommendations of the H. G. Schlicker & Associates Geotechnical Report (Exhibit 1.6) as well as any other recommendations of the Certified Engineering Geologist or Geotechnical Engineer deemed necessary to achieve site suitability for the development. This report shall be signed by the Certified Engineering Geologist or Geotechnical Engineer with their seal (stamp) affixed to the report. [MCC 33.5515 (E)(2), MCC 33.5515(F)(3), and MCC 33.5520]

2. The property owner shall implement the erosion and sediment control measures as shown and listed on the staff amended site plan (Exhibit 2.7), described in the Erosion Control Details and Notes (Exhibit 1.2) and described in the erosion control standard narrative (Exhibit 1.7), unless amended by the observing Certified Engineering Geologist or Geotechnical Engineer to achieve better site suitability for the development and improve erosion and sediment control. The property owner shall hydro-mulch all disturbed areas including cut slopes along the driveway and the cut slope behind (north of) the dwelling site immediately after installation of utilities or grading is completed. The hydro-mulch shall be as described in the Erosion Control Details and Notes (Exhibit 1.2) and contain a grass seed mixture. Organic matting shall be installed under the riprap rock at the storm drain outflow. The stormwater catch basin shall be installed in an early phase of the development so as to catch stormwater runoff from the dwelling site disturbance area during construction. [MCC 33.5520(A)]
3. The property owner shall consistently maintain the erosion and sediment control measures to ensure the measures are in proper working order. The property owner and observing Certified Engineering Geologist or Geotechnical Engineer shall monitor the erosion and sediment control measures to ensure the measures are in proper working order. Additional measures shall be immediately installed to remedy the problem if sediment is determined to be escaping the property. [MCC 33.5520 (A)]
4. Soil disturbing activities within a Stream Conservation Area (within 300 feet of the stream) shall be limited to the period between June 15<sup>th</sup> and September 15<sup>th</sup>. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion and sediment control shall be required within a Stream Conservation Area. [MCC 33.4575(E)(6)]
5. All excavated spoils from the project shall be removed from the property. Spoil materials removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities [MCC 33.5520(A)(2)(m)].
6. The property owner shall ensure that non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters are prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities. On-site disposal of construction debris is not authorized under this permit. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires, etc), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects [MCC 33.5520(A)(2)(n)].

7. The property owner is responsible for removing any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within the adjacent public right-of-way are disturbed, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality. [MCC 33.5520(B)]
8. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts resulting from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion sedimentation effects. [MCC 33.5520(C)].
9. The erosion control permit notice card (provided at plan signoff) is to be posted at the driveway entrance to the property from the easement access road in a clearly visible location (print towards the road) prior to any soil disturbance. This notice is to remain posted until such time as the grading/excavating work is completed and the vegetation has been re-established in disturbed areas. The erosion control permit notice shall be obtained during zoning review of building permit plans. In the event this sign is lost, destroyed, or otherwise removed prior to the completion of the grading work, the applicant shall immediately contact the County Land Use Planning Office to obtain a suitable replacement. [MCC 33.5520].
10. The property owner shall install the stormwater disposal system designed by Thomas J. Sisul, PE include on Exhibit 1.2. This system shall collect and disposed of stormwater from new impervious surfaces and shall properly control the flow for a 10year/24hour storm event with the runoff no greater than that which existed prior to development. [MCC 33.5520(A)(1)(d) and MCC 33.4575(E)(2)]
11. The property owner shall implement the mitigation plan proposed in the Technical Memorandum (Exhibit 1.5) dated December 5, 2007 by Christie Galen, Senior Ecologist, SWCA Environmental Consultants which calls for the removal of nuisance plants and replanting areas where nuisance plants are removed, in other open areas and in disturbed areas along the driveway with native species planted according to the details in the memorandum. The property owner shall annually monitor the site for a period of five years to ensure an 80 percent annual survival rate of required plantings of native species. If the survival rate drops to less than 80 percent the property owner shall replace the non-surviving plants with plants from the list of native species provided in the Mitigation Plan of the Technical Memorandum. No additional trees shall be removed unless absolutely necessary for siting the development or the tree is dead or dying. If any additional trees are removed they shall be replaced with a native species tree planted within the next growing season. [MCC 33.4575 (D) and MCC 33.4570(C)(3)]
12. The property owner shall ensure that any exterior lighting associated with a proposed development be placed, shaded or screened to avoid shining directly into a Stream Conservation Area. Any proposed exterior lighting shall be shown on the building plans and shall be hooded so that the light is directed downward. [MCC 33.4575(E)(3)]
13. 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 [MCC 33.4570(B)(7)]:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle

Scientific Name	Common Name
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock

Scientific Name	Common Name
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Waterweed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil

Scientific Name	Common Name
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

14. The property owners shall obtain a County Right-of-Way driveway access permit is for site access onto Old Cornelius Pass Road. [MCC 33.3185]

**Note:** Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the building permit plans. Please 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 each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 will be required.

**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 AND CONCLUSIONS**

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

**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. At the end of the report, Exhibits are described.

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

**Staff:** The applicant has requested an approval for a Significant Environmental Concern for wildlife Habitat, a Significant Environmental Concern for Streams and a Hillside Development Permit to build a single family dwelling with an attached garage with the development including driveway, septic system and stormwater system on a property within the Rural Residential Zone District with Significant Environmental Concern for Wildlife Habitat (SEC-h) and Streams (SEC-s) and Hillside Development (HD) Overlay Zone Districts. Some of the proposed driveway work will occur within an easement on a neighboring property to the south of the subject property.

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

**Staff:** The subject property is a 5.01 acre parcel located within the Rural Residential (RR) Zone District in the West Hills Rural Plan Area (Exhibit 2.2). The property and off-property development is also entirely within the SEC-h and partially within the SEC-s Overlay Districts. Additional about half the site is within the Hillside Development (HD) Overlay District (Exhibit 2.3). The property is accessed via a driveway off an easement accessing Old Cornelius Pass Road. The driveway on the property includes a series of switchbacks due to steep slopes (Exhibit 1.2). The driveway predominately follows an existing logging road but will need to be altered in some areas to comply with maximum slope requirements for fire district emergency access. The property rises about 110 feet from the driveway entrance to the dwelling site about 600 feet to the northeast. While there are some slopes about 45 percent and some small areas of shallower slopes, about 10 percent, the average slope across the property is about 18 percent. The proposed dwelling site is the only area of an appropriate size that has relatively shallow slopes of about 10 to 15 percent. The property is predominately forested (Exhibit 2.4) though there is an existing cleared area where the dwelling is proposed that was doubled in size through a forest practice.

The property has a fairly large pocket of RR Zoning surrounding it on all sides within Multnomah County (Exhibit 2.2). The west property line is the Multnomah and Washington County Line. The adjacent properties in Washington County are large acreage residentially developed properties. The dwelling is proposed in an area clustered near two other dwellings across the County Line (Exhibit 2.4).

### **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 owner as Gregory J. Prusynski (Exhibit 2.1). Mr. Prusynski signed the applicant form providing the necessary authorization to process the application (Exhibit 1.1).

#### **4. TYPE II CASE PROCEDURES**

- 4.1. MCC 37.0530 (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 Director's decision shall become final at the close of business on the 14<sup>th</sup> 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:** The Type II process was applied to this case. An opportunity to comment was mailed to property owners within 750-feet of the property lines on May 21, 2007. One email with comments was received from Jim Emerson, president of the Forest Park Neighborhood Association (Exhibit 3.1). Mr. Emerson expressed a neighborhood interest in protection of streams and development practices on steep slopes, urging the County to “adhere closely to its policies” for the proposed development. This decision review will include findings detailing how the proposed development meets the Code requirements which enact the County Comprehensive Plan and West Hills Rural Area Plan policies.

Mr. Emerson expressed concern that contour elevations may have been incorrectly labeled for elevation above sea level. While for some types of reviews that information may be useful, for this type of review the contour elevation labels (the height above sea level) are not important. For this type of review we need to know the incremental gain in elevation across the development areas, not the height above sea level. What is important is that we have a contour map by a qualified professional that accurately represents the gain in elevation using contour lines at set increments (one foot in this case) indicating the steepness of the slopes on the property and that shows the proposed changes in the grade resulting from grading or excavation work. The applicant has submitted plans stamped and signed by Thomas J. Sisul, PE (Registered Professional Engineer) which includes one foot contour detail and proposed grade changes for the proposed development areas of the site.

Mr. Emerson expressed concern that the County will follow-up during and after construction to ensure adherence to conditions of approval. Conditions of approval will require that a Certified Engineering Geologist or Geotechnical Engineer observe the development including the site prep, foundation work and erosion control monitoring. Prior to building permit final and occupancy the property owner will be required to submit to the County Land Use Planning Office a report from the observing Certified Engineering Geologist or Geotechnical Engineer which confirms that proper measures were implemented to meet the 13 recommendations of geotechnical report as well as any other recommendations of geotechnical engineer deemed necessary to achieve site

suitability for the development. Additionally, an erosion control inspection by County staff will be required in an early phase of the development and the final phase.

Mr. Emerson expressed concern about the septic system being upslope from an existing well on a neighboring property. In a phone conversation, staff informed Mr. Emerson that septic systems are not reviewed under this permit and that the City of Portland Environmental Program reviews septic systems and issues permit for these systems. Staff suggested that he may want to contact the Environmental Program staff to further discuss this issue.

## **5. RURAL RESIDENTIAL ZONE DISTRICT**

### **5.1. Allowed Uses:**

**MCC 33.3120(C) (C) Residential use consisting of a single family dwelling constructed on a Lot of Record.**

**Staff:** The proposed development is a single family dwelling with an attached garage which is an allowed use (Exhibit 1.1).

### **5.2. Dimensional Requirements**

**MCC 33.3155 (C) Minimum Yard Dimensions – Feet**

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>30</b>	<b>10</b>	<b>30</b>	<b>30</b>

**Maximum Structure Height – 35 feet**

**Staff:** The proposed dwelling is located several hundred feet from the front property line, 148 feet from the rear property line, 11 feet from the west side-yard property line and more than 200 feet from the east side-yard property line. The proposed development meets the minimum yard requirements based on the site plan (Exhibit 1.2). The maximum height requirement will be reviewed at zoning review building permit sign off.

### **5.3. Lot of Record**

**MCC 33.0005(L)(13) Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**

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

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

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

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

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or



4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

**MCC 33.3170 (B)** A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 33.3185, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

**Staff:** The land division that created the property was approved through Case LD-19-85. That case reviewed the land division to confirm applicable zoning laws and land division were met. A survey was filed with County Survey Office on July 7, 1988 which created the property (Exhibit 2.6). The property met land division laws and is a lot of record.

5.4. **Access**

**MCC 33.3185:** All lots and parcels in this district shall abut a street, or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles, except as provided for Lots of Record at MCC 33.3170(B).

**Staff:** The subject property was approved through Case LD-19-85. That case reviewed the land division to confirm applicable zoning laws and land division were met including the access. The applicant has submitted recorded easements for that access. In a memorandum submitted by Aruna Reddi, County Transportation Planning Specialist stated that County Transportation, “does not object to this proposal provide that measure outlined below is included as a condition of approval.” That measure is a requirement that a driveway permit is acquired for site access onto Old Cornelius Pass Road.

6. **SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW**

6.1. **SEC 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.

**Finding:** The proposed development is within the Significant Environmental Concern for Wildlife Habitat (SEC-h) and Significant Environmental Concern for Streams (SEC-s) Overlay Zone Districts (Exhibit 2.2). An SEC-h and SEC-s Permit is required for the proposed dwelling and related development.

## **6.2. Application for SEC Permit**

**An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 33.4560 through 33.4575.**

**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 33.4560 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.**

**Finding:** The required information was submitted (Exhibit 1.2 - 1.7).

## **6.3. SEC-h Development standards**

**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;**
- (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.**

**Staff:** The required information has been submitted (Exhibit 1.2).

### **6.3.1 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:** *The subject property contains non-forested "cleared" areas. Development will be contained in existing cleared areas, this standard is met.*

**Staff:** The development will be located in a previously existing cleared area (Exhibit 2.4) and within an area cleared through a Forest Practice Act Notification of Operation with the Oregon Department of Forestry (ODF). This area is not required to be reforested according to a letter from John Kruse, Steward Forester with the Oregon Department of Forestry (Exhibit 1.14). The dwelling will be mostly located in the previously existing cleared area and a portion of the dwelling as well as the septic system and the driveway will be in the area cleared through the Notification with ODF (Exhibit 1.2). This standard is met.

**6.3.2. 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:** *Development can not occur within 200 feet of a public road due to the topography of the site and adjacent lands. The distance between the proposed development (homesite) and the nearest public road is approximately 610 ft. The proposed homesite requires the least environmental disturbance because no additional tree removal will be necessary and the relatively flat area on the top of the hill allows for the least amount of excavation and grading. The proposed home site is also clustered with adjacent residences and will prevent impacts to wildlife travel corridors. If the homesite were developed within 200 feet of Old Cornelius Pass Road, it would be located on steeper slopes and require more excavation and grading. It would also be located within a Stream Conservation Area and potentially cause stream impacts and interruptions to wildlife corridors.*

**Staff:** The proposed building is not within 200 feet of Old Cornelius Pass Road, a public road (Exhibit 1.2). The standard is not met thus a Wildlife Conservation Plan will be required an option allowed under MCC 33.4570.

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

**Applicant:** *The proposed driveway exceeds 500 feet in order to reach the cleared and flattest area at the top of the property. The proposed driveway will be approximately 842 feet long but it is located in an existing logging road which is already cleared and graded and additional road improvements to meet minimum clearance standards for fire safety will be minimal and will not include additional tree removal.*

**Staff:** The proposed driveway exceeds 500 feet in length (Exhibit 1.2). The standard is not met thus a Wildlife Conservation Plan will be required an option allowed under MCC 33.4570.

**6.3.4. MCC 33.2105(B) (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**

- (a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line;**  
**or**
- (b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.**

**Applicant :** *The proposed access road to the site driveway is a pre-existing shared access (vacated Old Cornelius Pass Road) and this access is located within 50 feet of an existing driveway on the opposite side of Old Cornelius Pass Road; this standard is met.*

**Staff:** The adjacent property to the east has a driveway within 200 feet of the side property line (Exhibit 2.4). The proposed driveway is located within 100 feet of the side property line (Exhibit 1.2). This standard is met.

**6.3.5. 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:** *Development already exists within 300 feet of a side property line (refer to aerial), this standard is met.*

**Staff:** Developments on the properties to the west are within 200 feet of the property boundary. The proposed dwelling is 11 feet from the yard property line (Exhibit 1.2). This standard is met.

**6.3.6. MCC 33.4570(B) (6) Fencing within a required setback from a public road shall meet the following criteria:**

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
- (c) Cyclone, woven wire, and chain link fences are prohibited.**
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.**

**Applicant:** *No fencing is proposed for this development; this standard is met*

**Staff:** No fencing is proposed.

**6.3.7. 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: Plants list Under MCC 33.4570(B)(7).**

**Applicant:** *Nuisance Plants will not be planted on the subject property and existing nuisance plants shall be removed from cleared areas The only nuisance plant species located in cleared areas on the property are a few scattered thistles and Himalayan blackberry sprouts located in the homesite location, thistles and blackberry will be removed during home construction If any thistles have sprouted in adjacent areas, they will be pulled out and rosettes will be spot sprayed with herbicide. If blackberry colonizes adjacent areas, they will be hand-dug or cut and their regrowth will be target sprayed with herbicide.*

*Nuisance Plants will not be planted on the subject property and existing nuisance plants shall be removed from cleared areas and it is recommended that they are removed from forest habitat to promote native vegetation. Existing nuisance plants include: poison oak, Himalayan blackberry, English ivy, red hawthorn, and thistle. Poison oak is a native plant that is common throughout the forest on the project site; it will need to be controlled carefully to avoid injuring native wild flowers and shrubs. Himalayan blackberry and English ivy form a large patch located near the southeastern corner of the property boundary (refer to attached figure). Himalayan blackberry and ivy can be effectively controlled by cutting their stems and spraying with herbicide; again it is essential to use herbicide carefully to avoid impacting native vegetation. English ivy can be sprayed with herbicide during the winter time when wild flowers are dormant to avoid impacting*

*them; however, native sword fern and shrubs are susceptible to herbicide and ivy must be cleared away from these natives prior to an herbicide application. Blackberry can also be hand dug and ivy can be hand cleared effectively but not as quickly. There are also a few thistles located north of the homesite location; rosettes can be spot-sprayed with herbicide or hand dug Native groundcover species should regenerate without assistance in some portions of the site but most likely replanting will be required in areas where invasives are currently dense and in areas where grading is required (e.g. road improvements). In these areas native shrubs and groundcover could be planted to supplement existing vegetation and improve food and cover for a variety of wildlife species. Seed exposed bare soils with a native seed mix as soon as grading is completed and plant native shrubs in clusters of the same species; planting native species will improve cover and food resources for wildlife (e.g. deer, and avian species). This standard is met*

**Staff:** A condition of approval will require continual removal of the listed nuisance plants. This standard is met through a condition.

**6.4. 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 applicant cannot meet development standards due to the site's location and characteristics unique to the property: the distance of the proposed development from a public road exceeds 200 ft. and the driveway exceeds 500 feet. The proposed homesite was chosen because it is the flattest area on the project site and because it was already cleared and surrounded by rural residential development; development in this area requires the least environmental disturbance because no additional tree removal will be necessary, the relatively flat area allows for less grading, and wildlife travel corridors will not be impacted*

*The length of the driveway exceeds 500 ft because of fire department safety requirements which limit the amount of elevation gain per lineal foot The driveway is planned to follow the route of an existing logging road with minimal improvements to meet fire department grade and width requirements Since the applicant cannot meet these standards, a Wildlife Conservation Plan was developed. It results in the minimum departure from the standards required in order to allow the proposed use.*

**Staff:** The applicant claims that they can not meet the development standards due to the physical characteristics of the property, the steep topography. Given the contour information provided on the site plan it appears that due to steep slopes development in any other area other than the proposed development area, would have been more difficult due to the steep topography of the property (Exhibit 1.2). Additionally the area within 200 feet of the road is within SEC-s Overlay area and would result increased impacts to the stream riparian area.

However during a site visit, staff observed a location where the second curve in the drive is that has relatively shallow slope and was outside the SEC-s overlay. While this site was not investigated for the dwelling site by the Geotechnical Engineer, it may have been possible for the development site. Thus staff finds that standard “minimum departure from the standards required in order to allow the use” in subsection (1) was not met due the information provided is not being conclusive enough to make a finding that standard is met.

However under subsection (2), developing the proposed site would also have a less detrimental impact on forested wildlife due to the proposed dwelling being clustered near existing dwellings on neighboring properties (Exhibit 1.4), being located in an existing cleared area and the development area having less potential for erosion due to shallower slopes. Additionally the site is further from the stream thus making it more likely that sediment will not make it into the stream if sediment does get suspended in stormwater runoff. This application qualifies for the Wildlife Conservation Plan under subsection (2) above. This standard is met.

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

**6.4.1.1. MCC 33.4570(C)(3)(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:** *No new clearing is proposed, all proposed development is located in cleared areas. The Wildlife Conservation Plan minimizes impacts to forested areas. The proposed residence will be constructed in an existing clearing which will minimize tree impact. No new land clearing is proposed.*

*Forest habitat will be protected by installing a colorful silt fence or construction fencing between the construction area and the protection area The protective fencing will be erected to keep construction vehicles a safe distance away from the root zones of trees where they could be impacted by grading and construction Inside the tree protection zone there will be no stacking, storage, or handling of materials, or any driving, loading or parking of construction vehicles.*

**Staff:** No trees are proposed to be removed. The proposed development is located in existing cleared areas. The proposed development is clustered near existing residential development and uses the existing logging road will be used for the driveway access (with some modifications) reducing the need for additional disturbance and tree removal. By clustering the development nearby existing dwellings there will be less impact on the forested habitat nearer the stream. This standard is met with a condition.

**6.4.1.2. MCC 33.4570(C)(3)(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:** *No new clearing is proposed, all proposed development is located in cleared areas. The Wildlife Conservation Plan minimizes impacts to forested areas. The proposed residence will be constructed in an existing clearing which will minimize tree impacts No new land clearing is proposed. No permanent fencing will be built and existing fences or remainders of fences will be removed.*

**Staff:** No new clearing is proposed. This standard is met.

- 6.4.1.3. MCC 33.4570(C)(3)(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 will be built and existing fencing on the property will be removed.*

**Staff:** No new fencing is proposed. This standard is met.

- 6.4.1.4. MCC 33.4570(C)(3)(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:** *Since no additional clearing is proposed, no revegetation is required. The proposed development will not require the removal of any trees at this time. If trees (>6" in diameter) are impacted for the construction of a well or other utilities, they will be mitigated by planting native tree species whose combined caliper is equivalent to that of the trees removed.*

**Staff:** No clearing is proposed. This standard is not applicable.

- 6.4.1.5. MCC 33.4570(C)(3)(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.**

**Applicant:** *There are no streams or riparian areas located on the property, consequently, no revegetation and enhancement of stream riparian areas is required.*

**Staff:** There is no stream located on the property although a stream flows just east and south of the property. There will be some driveway improvement within the SEC-s Overlay. This includes changing the configuration of the driveway entrance to the property about 150 feet from a stream (Exhibit 1.2). It will include grading a short stretch of about 50 feet but will not require any tree removal. A condition of approval will require revegetation of disturbed areas outside the driveway as described in the Technical Memorandum dated December 5, 2007 by Christie Galen, Senior Ecologist, SWCA Environmental Consultants.

## **6.5. SEC-s Development standards**

- 6.5.1. MCC 33.4575(C) In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:**

- 6.5.1.1. MCC 33.4575(C) (1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;**

**Applicant:** *Please refer to the attached site plans which show all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site.*

**Staff:** The Stream Conservation Area boundary is shown on Site Plan (Exhibit 1.2). The applicant has submitted the required materials.

- 6.5.1.2. MCC 33.4575(C) (2) A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;**

**Applicant:** *The lower, southern end of the existing logging road/driveway is located in a Stream Conservation Area (within 300 feet) of a tributary to Rock Creek; the tributary is designated as a "3-C" stream. The tributary to Rock Creek originates approximately 0.5 to 1 mile north northeast of the property in the Tualatin Mountains. The tributary flows through forests and cleared rural lands. Its confluence with Rock Creek is approximately 0.5 mile to 1 mile southeast of the project site. Fish use of the tributary have not been documented but ODFW have observed cutthroat trout and reticulate sculpin in Upper Rock Creek. Wildlife in the vicinity are rich with diversity including deer, elk, neotropical migrants, and a variety of amphibian, reptilian, avian, and mammalian resident species. Wildlife most likely utilize the stream for refreshment and can use it as a travel corridor.*

**Staff:** The applicant has submitted a map of the Stream Conservation Area including the portion to be affected by the proposed development. The applicant has submitted an assessment of the Stream Conservation Area's functional characteristics of the water sources and a description of the vegetation types and fish and wildlife habitat prepared by Christie Galen, Senior Ecologist, SWCA Environmental Consultants. This standard is met.

- 6.5.1.3. MCC 33.4575(C) (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;**

**Applicant:** *Site soils have been mapped by USDA Soil Conservation Service in the Soil Survey of Multnomah County, Oregon as well-drained Saum silt loam. The soil survey warns that all season roads need a base of rock and construction of water bars and immediate seeding of cuts and fills can alleviate potential erosion problems. The Survey also recommends plantings drought tolerant plants due to the quick draining features and droughty conditions presented by site soils that could limit plant establishment.*

**Staff:** The applicant has provided the information required.

- 6.5.1.4. MCC 33.4575(C) (4) A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by (E) (5) below;**

**Applicant:** *The project site is situated on a hill far from potential flood hazards and direct impacts to the stream. Erosion is the biggest potential threat that could harm the stream. Multnomah County requires that soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15 and that disturbed areas be planted no later than October 15. All bare soil areas will be stabilized with native groundcover as soon as practicable after the disturbance. Driveway improvements and*



*revegetation will be conducted during this time period, By following best management practices for erosion control as stated in erosion control standards (MCC 33 5520), the creek should not be impacted,*

**Staff:** The applicant has submitted a geotechnical report that addresses the applicable hazards listed in this standard (Exhibit 1.6). The applicant has submitted an erosion control plan and Erosion Control Details and Notes. The applicant's submittal along with the staff has amended erosion control plan these address these hazards. Geologic hazard and erosion standards were will be addressed in findings in Section 7 and conditions of this decision. This standard has been met.

**6.5.1.5. MCC 33.4575(C) (5) A detailed Mitigation Plan as described in subsection (D), if required; and**

**Staff:** See the findings in the following Section 6.4.2 address this standard.

**6.5.1.6. MCC 33.4575(C) (6) A description of how the proposal meets the approval criteria listed in subsection (D) below.**

**Staff:** See the findings in the following Section 6.4.2.

**6.5.2. MCC 33.4575 (D) For stream resources designated "3-C" the applicant shall demonstrate that the proposal:**

- (1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:**
  - (a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by MCC 33.4575 (C);**
  - (b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;**
  - (c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in MCC 33.4575 (D) (1);**
  - (d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.**

**Applicant:** *The proposed project was designed to have the least impact to wildlife habitat (forest) and the desire to protect natural resources. The driveway is located in an existing logging road and will need minimal improvements to meet fire safety standards. The proposed homesite is located in a cleared area. No additional trees will be removed and the existing forest should not be impacted if construction protection measures are followed. To mitigate for not meeting development standards, a Wildlife Conservation Plan has been developed. As part of a Wildlife Conservation Plan, nuisance species will be removed from cleared areas and the large patch of Himalayan blackberry and English ivy located near the eastern property boundary will be controlled. Additional native trees, shrubs and groundcover will be seeded/planted in that area to prevent blackberry and ivy from returning to the site and to provide improved food and cover for wildlife.*

*Native species recommended for planting include trees and shrubs that are present on the project site and tolerant to the droughty soil conditions. Tree species include: Douglas fir, western red cedar (in shady areas), and Oregon white oak (in rocky openings). Shrub species include shade tolerant species to be planted in areas where blackberry is cleared beneath forest cover: vine maple, snowberry, low Oregon grape, salal, red huckleberry, Indian plum, and baldhip rose, and sun tolerant species to be planted in openings along the driveway that are graded and along the forest edge include oceanspray, thimbleberry, tall Oregon grape, and red flowering currant. Graded areas should be seeded with an erosion control mix of native upland species if possible; the seedmix could include California brome, blue wildrye, sterile wheat (for erosion control quick germination), and yarrow (seed mix of 45% bluewild-rye at 9 lbs PLS/acre, 50% California brome at 10 lbs PLS I acre, and 5% western yarrow at 1 lbs PLS I acre plus Regreen, a sterile wheat, at 4 lbs/acre); and could be hydro-seeded with a tackifier to help the seed mix bind to the soil. Vegetation enhancement should help stabilize soils and provide additional food, cover and nesting opportunities for wildlife. Once invasive blackberry and ivy have been controlled, additional wildflowers and native herbaceous plants could be planted in bare openings (if present); herbaceous plants that do well in the shade include sword fern, trillium, wild ginger, fairy lanterns, false Solomon's seal, and fringe cup. Sword fern provides excellent structure for ground-nesting songbirds like spotted towhee. Plantings may require irrigation during the first season due to droughty soil conditions. We recommend plantings trees and shrubs in the late fall, at the start of the rainy season, or bareroot plants in January to reduce the need for irrigation.*

**Staff:** The applicant has submitted a map of the Stream Conservation Area including the portion to be affected by the proposed development (Exhibit 1.2). The applicant has submitted an assessment of the Stream Conservation Area's functional characteristics in a *Technical Memorandum* dated December 5, 2007 by Christie Galen, Senior Ecologist, SWCA Environmental Consultants (Exhibit 1.5). The memorandum includes a description of the water source and a description of the existing vegetation types and fish and wildlife habitat. The impacts to the Stream conservation corridor are minimal. They involve improving a previously existing driveway more than 100 feet from the stream and with no tree removal involved. Ms. Galen's memorandum includes a mitigation plan of removal of nuisance plants and planting areas in areas where nuisance plants are removed, other open areas and disturbed areas along the driveway with native species described in the memorandum. The proposed mitigation plan will enhance and retain of the values the fish and wildlife resources, water quality and visual amenities characteristic of the stream corridor in its pre-development state in areas other than where the driveway is located. Improving shoreline anchoring and flood storage are not applicable to the proposed development because the stream is more than a 100 feet from the development and is not on the property and development does not impact these resources. This standard is met through a condition that the mitigation plan be implemented.

## **6.6. SEC-s Design Specifications**

**The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:**

**Staff:** Finding for the design specifications standard are in the following sections of this decision.

### **6.6.1. MCC 33.4575 (E) (1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the minimum width necessary to allow passage of peak winter flows shall be utilized for any crossing of a protected streams.**

**Applicant:** *No crossing of protected streams is proposed.*

**Staff:** No stream crossing is proposed. This standard is met.

**6.6.2. MCC 33.4575 (E) (2) All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.**

**Applicant:** *Stormwater generated by the development will be collected and treated on-site in an infiltration swale located between the driveway and the proposed house; the outfall will be released over an erosion protection riprap pad, and released over the natural ground during extreme events. No additional mitigation is required. These measures should protect site soils and prevent surface water quality impacts to offsite waters.*

**Staff:** The applicant has submitted a stormwater disposal system design, by Thomas J. Sisul, PE. Mr. Sisul has indicated on the Storm Water Certificate that the proposed system will control the flow from 10year/24hour storm event with the runoff from the site no greater than that which existed prior to development. This standard has been met.

**6.6.3. MCC 33.4575 (E) (3) Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area.**

**Staff:** The applicant has not submitted a design for the proposed lights. A condition of approval will require this standard to be met and the lighting to be shown on the building plans.

**6.6.4. MCC 33.4575 (E) (4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.**

**Staff:** No tree removal is proposed for the area within the SEC-s overlay. This standard is met.

**6.6.5. MCC 33.4575 (E) (5) Satisfaction of the erosion control standards of MCC 33.5520.**

**Staff:** The standards of MCC 33.5520 are addressed in findings in Section 7 of this decision.

**6.6.6. MCC 33.4575 (E) (6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.**

**Staff:** A condition of approval will require soil disturbing activities within a Stream Conservation Area to be limited to the period between June 15 and September 15. Revegetation/soil stabilization shall be accomplished no later than October 15. A condition of approval will require Best Management Practices related to erosion control.

**6.6.7. MCC 33.4575 (E) (7) Demonstration of compliance with all applicable state and federal permit requirements.**

**Staff:** There are no applicable state or federal permits required for the proposed development other than those required for a single family dwelling at the proposed site.

## **7. HILLSIDE DEVELOPMENT PERMIT**

### **7.1. Application Information Required**

- 7.1.1. MCC 33.5515 (A) 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.**

**MCC 33.5515 (B) An estimate of depths and the extent and location of all proposed cuts and fills.**

**MCC 33.5515 (C) The location of planned and existing sanitary drainfields and drywells.**

**MCC 33.5515 (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**

**Staff:** The applicant has submitted a geotechnical report (Exhibit 1.6) and narrative (Exhibit 1.7) addressing compliance with MCC 33.5520 (A) which is reviewed in the findings under Section 7.2 of this decision. These documents address depths and the extent and location of all proposed cuts and fills. The applicant has submitted a plan showing the required features in the development area. These requirements have been met.

- 7.1.2. 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.**

**Staff:** The applicant submitted a geotechnical report (Exhibit 1.6) prepared by J. Douglas Gless, MSc, RG, CEG, LHG, President/Principal Engineering Geologist of H. G. Schlicker & Associates, Inc. Mr. Gless states in the report that the "...preparation of this report of our findings, conclusions and recommendations for construction of the house..." The report included recommendations for the proposed development to make the site suitable stating the "following recommendations should be adhered to during the design and construction of the house. Criterion under subsection (2) is met by the submitted geotechnical report.

### 7.1.3. MCC 33.5515 (F) Geotechnical Report Requirements

(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.

(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.

(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.

**Staff:** The applicant submitted a geotechnical report (Exhibit 1.4) prepared by J. Douglas Gless, MSc, RG, CEEG, LHG, President/Principal Engineering Geologist of H. G. Schlicker & Associates, Inc. for the proposed development. The geotechnical report includes recommendations to be followed in developing the property for a dwelling. It also recommends that a qualified geotechnical engineer, "should be provided an opportunity to review all site development, paving drainage, grading plans prior to construction to assure conformance with the intent of our recommendations." A condition will require review and observation of the plans and work by a qualified Certified Engineering Geologist or Geotechnical Engineer. This standard is met though conditions.

### 7.2. Grading and Erosion Control Standards

7.2.1. MCC 33.5520(A)(1)(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:** *Fill materials and Compaction method, shall be in accordance with the Geotechnical Engineer's recommendation reports dated October 17, 2006 and January 17, 2008 included with this application. The report was prepared by HG Schlicker & Associates*

*At this time, the proposed building is not proposed to be located in a fill area, but rather on natural grade or in a cut situation if structural fill is needed, the recommendations are for it to be placed in 8" lifts and compacted to at least 90 percent of maximum dry density In all structural fill areas, a representative from H G Schlicker must be present for observation.*

**Staff:** The proposed dwelling is not proposed to be located in a fill area, but rather on natural grade or in a cut situation if structural fill is needed the applicant has provided specifications for the fill needed for the development. This work will be reviewed by the geotechnical engineer as a condition. This standard is met though conditions.

**7.2.2. MCC 33.5520(A)(1)(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 applicant is proposing cut and fill slopes to be at 2:1 slopes. The attached Geotechnical Report indicates that "Permanent unsupported cut and fill slopes should be construction no steeper than 2H 1V"*

**Staff:** Cut and fill slopes steeper than 3(H):1(V) are proposed. A condition of approval will require that the final plans submitted for building permit zoning review show all cuts and/or fill slopes that are steeper than 3:1. A condition will require the plans to be reviewed and certified as suitable by a Certified Engineering Geologist or Geotechnical Engineer that the slopes are safe. The plans shall include erosion control measures specified for these slopes. As conditioned, this standard is met.

**7.2.3. MCC 33.5520(A)(1)(c) Cuts and fills shall not endanger or disturb adjoining property;**

**Applicant:** *All proposed cut and fill areas are not anticipated to have an affect on any neighboring property The closet grading operation to an adjacent property is located at the northwest comer of the proposed house location if it is determined that this grading area will have some affect on the neighboring property after the house is constructed, there are measures to alleviate the impact, such as the construction of a retaining wall*

**Staff:** This standard is met though conditions for the observation of construction by a Certified Engineering Geologist or Geotechnical Engineer.

**7.2.4. MCC 33.5520(A)(1)(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 property in located at the top of an existing hill, therefore it is not anticipated to experience a significant amount of off-site drainage, The high point, and peak of the existing hill, is located at the northwest comer of the development site The proposed house is located at approximately 149' south of the north property line. The Applicant will likely incorporate installing a slot drain, or perforated French Drain, to capture any runoff coming from the north before it reaches the proposed house.*

**Staff:** The applicant has submitted a Storm Water Certificate stamped and signed by Thomas J Sisul, PE. This certificate states that the project meets this requirement with on-site storm water drainage (Exhibit 1.6) with a stormwater detention/infiltration pond.

A condition will require that the final design for the stormwater system be reviewed and system installation be monitored by a Certified Engineering Geologist or Geotechnical Engineer. A condition will required that system shall be adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency. This standard is met though conditions.

**7.2.5. 33.5520(A)(1)(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 project site is located near a tributary of Rock Creek, which flows under Old Cornelius Pass road, and runs somewhat parallel with the property. The southeast corner of the site is approximately 209 feet to the west of the tributary, its closet point The proposed building location will be at approximately 760-feet from the tributary The attached site plans indicate the existing Sensitive Environmental Concerns (SEC) boundary as shown on the County's GIS syste. The SEC does impact the lower southeast corner of the property, however the majority of the driveway construction and the proposed house construction are located outside of this boundary.*

*It is not anticipated that any fills, as a result of this development, will encroach the natural watercourse of the existing tributary of Rock Creek.*

**Staff:** No fill is proposed to encroach on a natural watercourse or constructed channel as part of this project. This standard is met.

- 7.2.6. MCC 33.5520(A)(2)(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 application includes a proposed Grading and Erosion Control plan (See Sheets 1 and 4 of the Preliminary Plans) Erosion Control measures will most include sediment fences and ground cover of exposed cut areas. The property is located beyond 200-feet of the nearest natural watercourse.*

**Staff:** The subject property is within the Tualatin River Drainage Basin. The applicant has submitted erosion control plans that addresses BMPs outline in these manuals (Exhibit 1.2) including but not limited to silt fencing with specifications, hydro-mulching for disturbed areas and wet weather measures. Staff has amended the silt fencing locations on the erosion control plan to extend some fencing, relocated some fencing closer to the disturbance areas and eliminated some that was not necessary (Exhibit 2.7). Staff has also added a requirement for installation of organic matting under the riprap pad at the storm drain outflow to reduce erosions of fine soil particles below the riprap. A condition of approval will required the property owner to be responsible for implementing the staff amended erosion control measures to meet the required BMPs. A condition will require that the installation of erosion control BMP practices to be verified and be monitored for effectiveness by a Certified Engineering Geologist or Geotechnical Engineer.

- 7.2.7. MCC 33.5520(A)(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;**

**Applicant:** *Stripping of vegetation will be conducted as recommended by the report prepared by H G Schlicker & Associates for this development All organics and soft soils are recommended to be removed at an approximate depth of 0.5-2 5feet in most development areas.*

**Staff:** This standard is met though conditions.

**7.2.8. MCC 33.5520(A)(2)(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:** *The current driveway layout and design attempts to follow the original grade as much as possible, while considering the design criteria 0.1 Tualatin Valley Fire and Rescue regulations for driveway access.*

**Staff:** The proposed development plans include a number of relatively cuts for the driveway and dwelling. The development plan was created following the original topography as much as possible, however the driveway slope needs to be altered in spots to meet Fire code for driveway slopes thus resulting in some several cuts. The dwelling will require some cutting but is designed with a daylight basement to reduce the need for more cut slopes. The cuts proposed are the minimum necessary to site the proposed dwelling and driveway. This standard is met.

**7.2.9. MCC 33.5520(A)(2)(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;**

**Applicant:** *Erosion Control measures will include Seeding/Mulching of all grading and exposed area" See sheet 5/5 for seeding and mulching notes*

**Staff:** A condition of approval will require mulching and reseeding of any disturbed areas related to the development. This standard is met.

**7.2.10. MCC 33.5520(A)(2)(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:** *This site is located beyond 200 feet from the Rock Creek tributary. Any proposed buffers would be located off-site of this development and not applicable to this development.*

**Staff:** No natural vegetation within 100 feet of a stream is proposed to be removed as part of this project. This standard is met.

**7.2.11. MCC 33.5520(A)(2)(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;**



**Applicant:** *All erosion control measures will be installed prior to any major construction activities The Applicant is proposing the combination use of sediment fencing and seeding to minimize the effects of erosion*

**Staff:** A condition of approval will require this standard be met.

**7.2.12. MCC 33.5520(A)(2)(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:** *The applicant is proposing that the proposed driveway is a replacement for the existing driveway and cleared areas. The character of the existing conditions of the driveway will not significantly be altered. For the house and roof drain runoff, there is a proposed infiltration swale located at the southeast corner of the proposed house location. A Storm Water Certificate and storm calculations is included with the application to demonstrate this proposal.*

**Staff:** Silt fencing and mulch will be used during construction to address stormwater erosion control. A stormwater control system required for the runoff from increased impervious surface area will be installed in the early phase of the development and will serve as a catch basin/swale for stormwater runoff from most of the dwelling site disturbance area. This standard is met through conditions.

**7.2.13 MCC 33.5520(A)(2)(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:** *The applicant is proposing stabilizing the disturbed areas with ground cover as soon as possible when the ground is exposed Additional traps and debris basins will not be necessary for this development.*

**Staff:** The applicant will install silt fences to trap sediment. A stormwater control system required for the runoff from increased impervious surface area will be installed in the early phase of the development and will serve as a catch basin for stormwater runoff from most of the dwelling site disturbance area A condition will require installation of the silt fence prior to soil disturbing activities and the installation of the stormwater pond prior to other excavation for the dwelling. This standard is met through a condition.

**7.2.14. MCC 33.5520(A)(2)(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:** *All areas that are exposed by grading operations will be covered with seeding/mulching practices See Sheet 4 of the Preliminary Plans for notes and details.*

**Staff:** Mulch will be used during construction to address stormwater erosion control. The disturbed areas will be required to be reseeded after construction. This standard is met through conditions.

**7.2.15. MCC 33.5520(A)(2)(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:** *The proposed run off from the new house construction will be collect in an infiltration swale proposed for the southeast corner of the building. The swale is designed to accommodate the 10-year, 24 hour storm event. An overflow system is proposed in the event that the swale can not handle the 10-year event. The overflow system includes area drain and culvert, to be outlet to the east, to be released over the natural grade.*

**Staff:** The applicant has submitted a Storm Water Certificate stamped and signed by Thomas J. Sisul PE. This certificate states that the project meets this requirement with a on-site storm water drainage system for which a design is included on the plans (Exhibit 1.6). A condition of approval will require the system to be installed. This standard is met though conditions.

**7.2.16. MCC 33.5520(A)(2)(k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;**

**Applicant:** *Drainage Swales are not used for the purpose of diverting stormwater runoff. The proposed infiltration swale will be planted with natural grasses.*

**Staff:** Due to the location of the proposed swale, stormwater from the dwelling development site will be running in the swale. This standard is met though conditions.

**7.2.17. MCC 33.5520(A)(2)(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.**

**Applicant:** *The primary action of storm water removal will be the use of an infiltration system for the roof drains of the proposed house. The outlet flow will include a riprap pad to dissipate the energy from runoff in the event that the infiltration pond overflows. Once the water passes the riprap pad, the water will naturally dissipate over its natural course to the stream. The driveway is proposed to be constructed with base rock gravel, currently constructed.*

**Staff:** The applicant proposes using mulching for the disturbed soil area and silt fencing down slope of the project. This standard is met through conditions.

**7.2.18. MCC 33.5520(A)(2)(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:** *If stockpiles are necessary, proper measures such as ground cover and additional sediment fences will be used to minimize erosion.*

**Staff:** Spoil materials are not proposed to be stored on site. A condition will require spoils be removed from the property. This standard is met through conditions.

- 7.2.19. MCC 33.5520(A)(2)(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 will be disposed of in a proper fashion front the job site during construction.*

**Staff:** A condition of approval will require this standard be met.

- 7.2.20. MCC 33.5520(A)(2)(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:** *This development is not located in Balch Creek Drainage Basin.*

**Staff:** The property is not in Balch Creek Drainage Basin. This standard is not applicable to this project.

## **8. CONCLUSION**

The applicant has demonstrated the criteria for the Significant Environmental Concern for Wildlife Habitat and Streams Permit have been met or can be met through conditions of approval for the proposed development. The applicant has demonstrated that the standards for a Hillside Development Permit have been met or can be met through conditions of approval.

## **8. EXHIBITS**

### **8.1. Exhibits Submitted by the Applicant:**

- Exhibit 1.1: Application form (1 page)
- Exhibit 1.2: Site Plans including Erosion Control Details and Notes (4 oversized pages)
- Exhibit 1.3: SEC-h application form with narrative (10 pages)
- Exhibit 1.4: Narrative addressing SEC criteria (6 pages)
- Exhibit 1.5: *Technical Memorandum* dated December 5, 2007 by Christie Galen, Senior Ecologist, SWCA Environmental Consultants (8 pages)
- Exhibit 1.6: H. G. Schlicker & Associates Geotechnical Report (25 pages)
- Exhibit 1.7: Narrative addressing Grading and Erosion Control Standards (5 pages)
- Exhibit 1.8: Storm Water Certificate stamped and signed by Thomas J. Sisul PE. (10 pages)
- Exhibit 1.9: Certificate of On-site Sewage Disposal (5 pages)
- Exhibit 1.10: Certification of Water Service (3 pages)
- Exhibit 1.11: Fire District Review Fire Flow Review (6 pages)
- Exhibit 1.12: Fire District Access Review (4 pages)

Exhibit 1.13: Easement documents (26 pages)

Exhibit 1.14: Letter from John Kruse, Stewardship Forester, Oregon Department of Forestry (1 page)

**8.2. Exhibits Provided by the County:**

Exhibit 2.1: County Assessment Record and map for the subject property (2 pages)

Exhibit 2.2: Current County Zoning Map with subject property labeled (1 page)

Exhibit 2.3: GIS map showing zoning including SEC-s and HD Overlay Districts (1 page)

Exhibit 2.4: 2004 Aerial photo of the property (1 page)

Exhibit 2.5: Memorandum from J. Michael Lynch, County Transportation Planning Specialist (1 page)

Exhibit 2.6: Type II Land Division including subject property (1 page)

Exhibit 2.7: Staff amended Erosion Control Plan (1 oversized page)

Exhibit 2.8: Memorandum from Aruna Reddi, County Transportation Planning Specialist (1 page)

**8.2. Exhibits Provided by Others:**

Exhibit 3.1: Letter of comment submitted by Jim Emersion, FPNA President