MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
http://www.multco.us/landuse

NOTICE OF DECISION

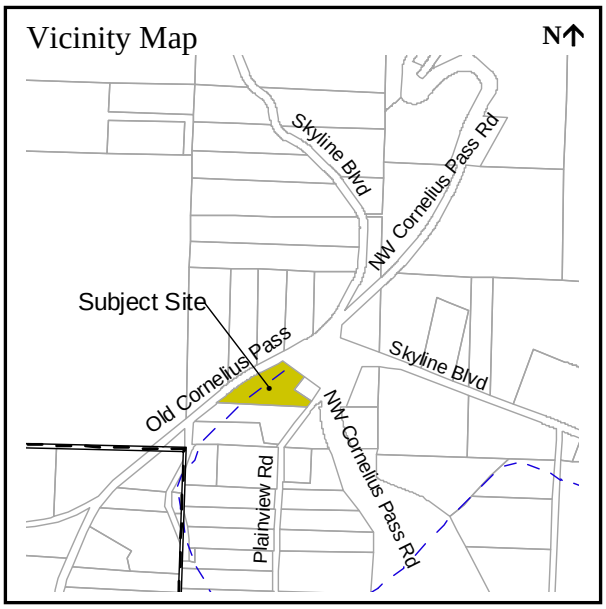
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2011-1500

Permit: Road Rules Variance

Location: 11611 NW Plainview Road
Tax Lot 2200, Section 31C,
Township 2N, Range 1W, W.M.
R661101010

Applicants/ Owners: Paul and Judy Keppler



Summary: Approval of a Road Rules Variance to retroactively permit an existing second access to the property off of Old Cornelius Pass Road. The access would be a limited access for property maintenance purposes and restricted to the general public by a locked gate.

Decision: Approved With Conditions

Unless appealed, this decision is effective Friday, July 1, 2011, at 4:00 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling – Planning Director
Brian Vincent – County Engineer

Date: Friday, June 17, 2011

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 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, ext. 29270.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, July 1, 2011 at 4:30 pm.

NOTICE OF APPEAL HEARING

If an appeal of this decision is filed, a public hearing will be held on **Friday July 8, 2011. The hearing will begin at 2:30 PM** or soon thereafter.

The hearing will take place in Room 103 at the Land Use Planning and Transportation Program office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-5050 option '0' to inquire on the status of the hearing after July 1, 2011.

The Hearing shall be regarding an addition to an existing single family dwelling in the GGF-40 zoning district. This staff report serves as the staff report available at the hearing pursuant to MCC 38.0620(D).

Any issue that is intended to provide a basis for an appeal to the Columbia River Gorge Commission must be raised prior the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

A public hearing to consider any appeal will be conducted before one of the following County Hearings Officer's:

Joan Chambers
Liz Fancher

Applicable Approval Criteria: Multnomah County Road Rules (MCRR): 4.000 and 16.000

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at http://www.multco.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 pursuant to MCC 37.0690(A) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, 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 brackets.

1. **The access onto NW Old Cornelius Pass Road shall be limited to use by the property owners. The property owners shall maintain a locked gate over the access point to limit use by the general public [MCRR 5.000].**

2. **The property owner shall acquire an access permit for the access onto NW Old Cornelius Pass Road. Please contact Alan Young at (503)988-3582 to obtain an access permit [MCRR 4.000].**

3. **The applicant shall maintain the existing sight distance for the second access point on NW Old Cornelius Pass Road by ensuring that vegetation is maintained and trimmed, and that the addition of vegetation is located in such a manner that it doesn't obstruct the sight distance [MCRR 4.500].**

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 of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.00 Project Description

Staff: The applicants are seeking approval of a Road Rules Variance to retroactively permit an existing second access to the property off of Old Cornelius Pass Road. The access point was the driveway to the original house on the property. When the current owners replaced that dwelling with a new dwelling on another part of the property, they changed the primary access to NW Plainview Road. The original driveway was never discontinued and was utilized on a limited basis for property maintenance purposes and is required to be permitted.

2.00 Road Rules Standards

A. **MCRR 4.000 Access to County Roads**

4.100 *Required Information:* Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

A. Site Plan;

B. Traffic Study-completed by a registered traffic engineer;

C. Access Analysis-completed by a registered traffic engineer;

D. Sight Distance Certification from a registered traffic engineer; and

E. Other site-specific information requested by the County Engineer

Staff: The requested second access is off of NW Old Cornelius Pass Road, which is a Rural Local road under County Jurisdiction. The road is classified as Rural Local. The new access is shown on the applicant's site plan (Exhibit A.1). All required information has been submitted.

Criterion met.

B. **4.200 *Number:* Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.**

Staff: The subject property is currently served by two driveways. This request will authorize use of both of them. Northwest Plainview Drive is classified as a Local Access Road, while NW Old Cornelius Pass is classified as a Rural Local road. The Local Access classification is the lower classification street. An existing access off of NW Plainview Drive provides access to the existing single family dwelling.

C. **4.300 *Location:* All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.**

Staff: For a road classified as Rural Local, the spacing standard is 50-feet for non-residential uses. There are no spacing standards for residential uses. Although, there are no minimum spacing standards for residential uses, the applicant has demonstrated that the minimum 50 foot standard is met. The minimum distance is applied to both driveways on the same side of the street as well as driveways opposite to the site. As seen on the applicant's submitted driveway location plan (Exhibit A.4), the driveway accessing Old Cornelius Pass Road is 60-feet from the driveway to the south west and 115-feet from the driveway to the northeast. The spacing standards are met and therefore the Location standard is met.

Criterion meet.

D. **4.400 *Width:* Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.**

Staff: For a single family residential use, a new or reconfigured driveway must be between 12 and 25-feet wide. The proposed second driveway will be 25- feet wide as seen on the driveway spacing site plan (Exhibit A.4) and the applicant's photos.

Criterion met.

E. **4.500 *Sight Distance:* All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.**

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's *A Policy on Geometric Design of Highway and Streets.*

Multnomah County Transportation staff reviewed the application, conducted a site visit and determined that there were no sight distance issues associated with the second driveway. The applicant is required as an ongoing condition of approval to maintain the existing sight distance by ensuring that vegetation is maintained and trimmed, and that the addition of vegetation is located in such a manner that it doesn't obstruct the sight distance.

Criterion met.

F. **5.000 Transportation Impact**

5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or

B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

5.200 The County Engineer will use the information obtained pursuant to sub-section 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

Staff: The Multnomah County Road Rules defines a Transportation Impact as the affect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

According to the ITE Manual, 8th Edition, a single family residence generates 10 trips per day. The property is currently used for a single family dwelling and the second driveway is proposed to be limited to personal access for maintenance purposes. The applicant's have placed a locked gate over the access to ensure the general public does not utilize the access point. Therefore, no transportation impact will be caused by the proposed secondary access since trips generated by the site will not be increased. A condition of approval will require the property owners maintain the access as a limited personal access.

Criterion met.

G. **6.000 Improvement Requirements**

6.100 Site Development: The owner of the site or the applicant for a proposed development, which is found to cause a Transportation Impact will be responsible for improvements to the right-of-way as follows:

A. Dedication Requirement

B. Frontage Improvement Requirements

Staff: No transportation impact will occur as a result of the second access therefore no improvements need to be required.

Criterion met.

3.00 Road Rules Variance Standards

A. **16.200 *General Variance Criteria:* In order to be granted a variance, the applicant must demonstrate that:**

1. **A. Special circumstances or conditions apply to the property or intended use that do not apply to other property in the same area. The circumstances or conditions may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses;**

   Staff: The applicant has requested a variance to the number of access points allowed. Per the applicant, the access to Old Cornelius Pass was in place before the property was purchased by the applicant. The original home was located on the property along Old Cornelius Pass Road. The access point to the original home was located at the corner of Skyline Blvd and Cornelius Pass. The location of this access was moved to the current location when Old Cornelius Pass and Skyline was raised to level with Cornelius Pass Road. The current home accesses from NW Old Plainview Drive, however the applicant states that the second access is needed in order to continue accessing the back portion of their lot. Natural features and existing physical improvements on site restrict access. There is an existing natural drainage path that bisects the property and the location of the septic system limits the property owner from being able to access the back portion of the lot internally. Further, due to the location of the home and the shape of the lot, access from NW Plainview Drive is limited due to the narrow side yard setbacks. The applicant has demonstrated that special circumstances or conditions apply to the property that do not apply to other property in same area.

   Criterion met.

2. **B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards;**

   Staff: The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards. As indicated by the applicant, the second access is needed to be able to access and continue to be able to use the back portion of their lot. Without this access, substantial ground disturbance would be required for the owner to bring maintenance equipment to the north side of the property. That would result in impact to the drainage that bisects the subject property and also would impact the existing physical improvements on the site, which includes the existing septic system.

   Criterion met.

3. **C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties;**

   Staff: The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties. No comments were received from property owners in the vicinity as part of the issued opportunity to comment. The access will be limited, and as stated in the application, the requested access is used approximately 2-3 times a year, and is secured by locked gates. The limited use access meets this criterion.

Criterion met.

4. **D. The circumstances of any hardship are not of the applicant's making.**

Staff: The special circumstances of the site are not of the applicant's making. The applicant notes that the property's configuration near NW Plainview where the primary access is located is so narrow that there is only room for the dwelling. A driveway leading to the rear of the property could not be accommodated. Additionally, the property's topography to the behind the home is so steep with a stream at the bottom of the slope that a vehicle could not reasonably travel to the rear of the property. Staff concurs that these physical characteristics of the site are not within the applicant's control. The proposed variance minimizes ground disturbance and grading, and impact to drainage features and existing physical developments on the site.

Criterion met.

4.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Road Rules Variance to establish a second access in the Rural Residential zone. This approval is subject to the conditions of approval established in this report.

5.00 Exhibits

'A' Applicant's Exhibits
'B' Staff Exhibits

Exhibits with a "*"after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2011-1500 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit
A.1*	1	Property Site Plan
A.2	1	General Application Form
A.3	6	March 9, 2011 Applicant Narrative
A.4*	1	Driveway Location and Spacing Site Plan
A.5	1	Survey Of Property, House Location, And Driveway Apron
'B'	#	Staff Exhibits
B.1	1	A&T Property Information
B.2	1	Tax Lot Map Showing Property Location
B.3	1	Completeness Letter
B.4	9	Opportunity To Comment
B.5	3	Email from Joanna Valencia, Transportation Specialist, With Transportation Comments On Road Rules Requirements
B.6	2	Email From Brian Vincent, County Engineer, Approving the Road Rules Variance