

**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: T2-2012-2330

Permit: Hillside Development

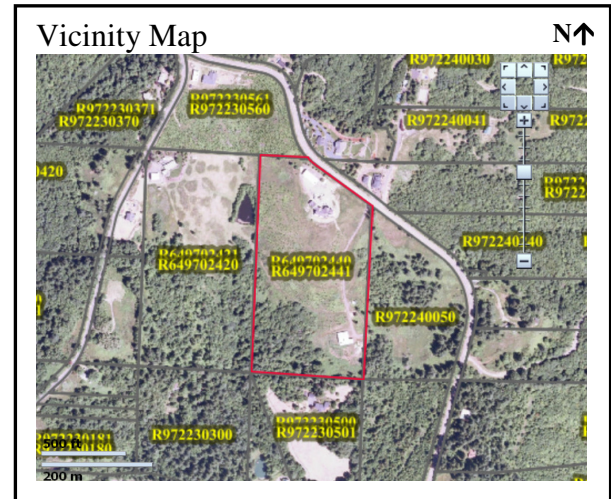
Location: 17005 NW Skyline Blvd.
Tax Lot 1000, Section 23A,
Township 2 North, Range 2 West, W.M.
R649702440

Applicants: David Spangler and Susan Spangler

Owners: Susan Spangler

Base Zone: Commercial Forest Use – 2 (CFU-2)

Overlays: Slope Hazard/Hillside Development
(HD); Significant Environmental
Concern for Wildlife Habitat (SEC-h);
Significant Environmental Concern for
Streams (SEC-s).



Summary: Hillside Development Permit to address previously placed unpermitted fill adjacent to the existing dwelling. The proposal includes the installation of a new sanitation drain-field.

Decision: Approved with Conditions

Unless appealed, this decision is effective October 5, at 4:00 PM.

Issued by:

By: _____
Kevin C. Cook, Planner

For: Karen Schilling- Planning Director

Date: Friday, September 21, 2012

Instrument Number for Recording Purposes: #2006106487

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 Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

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 October 5, 2012 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): Multnomah County Code (MCC): 33.5500 through 33.5525, Hillside Development; 33.2200 through 33.2310, Commercial Forest Use zone; Chapter 37 Administration and Procedures.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) 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> or <http://web.multco.us/transportation-planning>.

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 pursuant to MCC 37.0690(C) 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 parenthesis.

1. The corrective actions recommended in the Geotechnical Report by Stephen P. Palmer, Ph.D., C.E.G. and Charlie Clough, C.E.G. (Exhibit A.5) shall commence as soon as practicable in order to correct the unpermitted fill and fix the septic system. The property owner shall ensure that the proposed development work is observed by a Certified Geotechnical Engineer. This observation shall be at the owner's expense. The name, address and phone number of the Geotechnical Engineer that will be

conducting the observation of the development shall be submitted to the Planning Director prior to commencing the work. The observation of the development activities by the Geotechnical Engineer shall include but is not limited to foundation work, confirmation on installation and effectiveness of all erosion and sediment control measures, and a final observation at the completion of the project. [MCC 33.5515(E)]

2. At commencement of the project, the property owner shall submit to the County Land Use Planning Office a report from the observing Certified Geotechnical Engineer which confirms that proper measures are being implemented to meet the recommendations of the of the Geotechnical Report by Stephen P. Palmer, Ph.D., C.E.G. and Charlie Clough, C.E.G. (Exhibit A.5) as well as any other recommendations of the Geotechnical Engineer deemed necessary to achieve site suitability for the development. This report shall be signed by the Certified Geotechnical Engineer with their seal (stamp) affixed to the report. [MCC 33.5515, 33.5520]
3. The recommendations of Report by Stephen P. Palmer, Ph.D., C.E.G. and Charlie Clough, C.E.G. (Exhibit A.5) shall be implemented during all stages of the development. If a recommendation contained with this report conflicts with any of the Conditions of Approval outlined above, said Conditions shall supersede those contained within the report. [MCC 33.5515, 33.5520]
4. The property owner shall implement the erosion and sediment control measures described in the Geotechnical Report (ExhibitA.5), 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. [MCC 33.5520]
5. Once the project is complete, a final report from the observing Certified Geotechnical Engineer which confirms that proper measures were implemented to meet recommendations of the of the Geotechnical Report by Stephen P. Palmer, Ph.D., C.E.G. and Charlie Clough, C.E.G. (Exhibit A.5). [MCC 33.5520]
6. 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 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 development area. [MCC 33.5520]
7. 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. Any stockpiles of top soil to be used for fill shall be covered with plastic sheeting anchored to prevent disruption from wind. [MCC 33.5520(A)(2)(m)]
8. 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)]
9. 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 (A)(2)(1)]

10. The erosion control permit notice card (provided at plan signoff) shall be posted at the location of the driveway entrance to the property 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 prior to commencing the project. 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.
11. 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 will expose the smallest practical area at any one time during construction. [MCC 33.5520(A)(2)(b)]

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to commence work, the applicant shall call the Staff Planner, Kevin Cook, at (503) 988-3043 ext. 26782, for an appointment for review and approval of the conditions and issue the erosion control card. Please note an erosion control inspection fee of \$77.00 may 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 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:

The application is in response to a code violation regarding the placement of a large amount of fill (approximately 5,000 cubic yards) on the property without a permit. The application for a Hillside Development permit is submitted by the applicant in order to implement corrective actions regarding the placement of the fill. The fill extends a level yard area adjacent to and south of the existing dwelling. The Geotechnical Report by Stephen P. Palmer, Ph.D., C.E.G. and Charlie Clough, C.E.G. recommends a redesign that includes the removal of existing fill and the replacement with clean fill using a buttress/key design with perforated pipe for proper groundwater dispersal. The project also includes a replacement sanitary drain field because the original drain-field was buried by the fill.

2.00 Property Description & History:

The property is a 13.92 acre CFU-2 zoned property. The existing dwelling was approved in 2006 through file T3-05-010 and was subsequently constructed in 2008. The fill that is the subject of this permit was placed in 2011.

3.00 Base Zone Criteria:

The grading and/or importation of fill is customarily accessory to the dwelling use of the property. The CFU zone does not allow large fills, defined as material of 5,000 cubic yards or more. The proposed redesign in the Geotechnical report will result in less than 5,000 cubic yards of material.

4.00 Hillside Development Permit:

4.1. Information Required

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

* * *

(3) An HDP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.

(a) If the HDP Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form– 1, a geotechnical report as specified by the Director shall be prepared and submitted.

Staff: The applicant submitted a HDP-1 form completed and stamped by Charles M. Clough, C.E.G. (Exhibit A.4) as well as a Geotechnical Report prepared by Charles M. Clough, C.E.G. and Stephen P. Palmer, Ph.D., C.E.G. (Exhibit A.5). *This standard is met.*

4.2. Grading Standards

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

Staff: This approval is based on findings below.

- 4.2.1. 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;**

Staff: The structural and general fill standards are addressed in the Geotechnical report. *This standard is met.*

- 4.2.2. 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;**

Staff: The Geotechnical Report (Exhibit A.5 – Page 7 – Construction Considerations) indicates that finished slopes will be 2.5:1. *This standard is met.*

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

Staff: According to the Geotechnical Report (Exhibit A.5) the fill will be stable. *This standard is met.*

- 4.2.4. 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;**

Staff: The Geotechnical Report includes stormwater management practices including 4 inch diameter perforated drain pipe at the buttress key. *This standard is met.*

- 4.2.5. MCC 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;**

Staff: No fill is proposed and there is no watercourse nearby, with the nearest stream down over 300 feet to the southwest. *This standard is met.*

4.3. Erosion Control Standards

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

- 4.3.1. 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.**

Staff: The property is located within the Tualatin River Drainage Basin. This approval requires implementing the project per the recommendations in the Geotechnical Report (Exhibit A.5) including the requirement for careful monitoring of any work conducted during the wet weather period. The nearest down slope stream located about 300 feet to the west. *This standard is met through a condition.*

- 4.3.2. 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;**

Staff: The disturbed area will be kept to a minimum necessary during the project. Erosion and sedimentation should not be a problem if the recommendations of the Geotechnical Report (Exhibit A.5) are followed. *This standard is met through conditions.*

- 4.3.3. 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;**

Staff: The corrected fill project will conform to the exiting topography with minimum required cuts and fills needed to construct the buttress/key system. *This standard is met.*

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

Staff: Construction of the project requires implementing the recommendations of the Geotechnical Report (Exhibit A.5) as monitored by an engineer. Best management practices may include temporary vegetation and mulching or may include measures that exceed these best management practices as needed. Erosion control measures recommended in the geotechnical report are required as a condition of approval. *This standard is met through a condition.*

- 4.3.5. 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;**

Staff: The area disturbed will be minimal (less than one acre) around the dwelling and only as much as necessary to site place add yard area and replace septic system drain-lines. The nearest stream is over 300 feet away. *This standard is met.*

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

Staff: No plantings other than grass are needed. Mulching or alternative best management practices will be required to be installed for any soil disturbance during the rainy season. The disturbed soil will be required to be reseeded within two weeks of completion the project. *This standard is met a condition.*

- 4.3.7. 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;**

Staff: The Geotechnical report includes perforated drainpipe as part of the buttress/key design. *This standard is met.*

- 4.3.8. 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;**

Staff: The geotechnical report recommends the use of best management practices and monitoring for any portion of the project conducted during the wet weather season. *This standard is met through a condition.*

- 4.3.9. 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;**

Staff: The geotechnical report includes recommendations for the type and depth of the fill layers above the drainage system. *This standard is met.*

- 4.3.10. 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;**

Staff: The geotechnical report includes recommendations for the type and depth of the fill layers above the drainage system. *This standard is met.*

- 4.3.11. 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;**

Staff: No drainage swale is proposed. *This standard is met*

- 4.3.12. 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.**

Staff: The geotechnical report includes erosion control best management practices such as silt fencing down slope of the project. *This standard is met through a condition.*

4.3.13. 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;

Staff: A condition of approval requires spoils to be moved offsite to an approved facility. *This standard is met through a condition.*

4.3.14. 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.

Staff: A condition will require these items to be disposed of properly if any result for the project. *This standard is met through a condition.*

5.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of the Hillside Development Permit for grading and fill adjacent to the existing single family dwelling in the Commercial Forest Use - 2 Zone. This approval is subject to the conditions of approval established in this report.

6.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits are available for review in Case File T2-2012-2330 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	05/30/2012
A.2	1	Property Vicinity Map	05/30/2012
A.3	1	Email between staff and GeoDesign staff dated 05/25/2012	05/30/2012
A.4	4	HDP Form 1: prepared by Charles M. Clough, C.E.G.	05/22/2012
A.5	41	Geotechnical Engineering Report prepared by Charles M. Clough, C.E.G. and Stephen P. Palmer, Ph.D., C.E.G. A.5.1: Vicinity Map A.5.2: Site Topography A.5.3: Site Plan A.5.4: Typical Buttress Detail A.5.5: Field Exploration Data	05/22/2012

		A.5.6: Results of Global Stability Analysis	
A.6	1	General Application Form – signed by property owner	07/13/2012
A.7	4	Supplemental memo from Stephen P. Palmer, Ph.D., C.E.G. and Charlie Clough, C.E.G.	07/13/2012
A.8	6	Certificate of Onsite Sewage Disposal	07/24/2012
‘B’	#	Staff Exhibits	Date
B.1	4	DART Property Information	06/01/2012
B.2	4	Site photographs from staff site visit of 10/24/2011	06/01/2012
B.3	1	Copy of existing right of way permit for existing driveway	06/01/2012
‘C’	#	Administration & Procedures	Date
C.1	2	Incomplete Letter	06/28/2012
C.2	1	Applicant’s Acceptance of 180 Day Clock	07/13/2012
C.3	1	2 nd Incomplete Letter	07/16/2012
C.4	1	Complete Letter (Day 1)	07/26/2012
C.5	2	Opportunity to Comment and mailing list	08/06/2012