

**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: T2-2012-2429

Permit: Hillside Development Permit

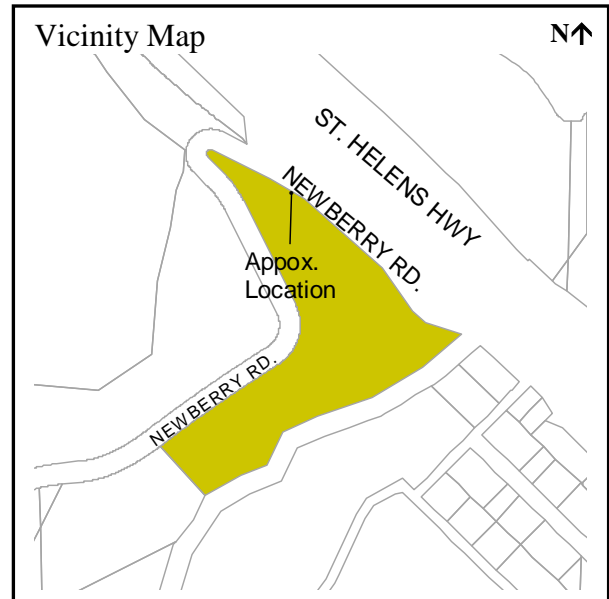
Location: Newberry Road right-of-way and easements for slide repair
12928 NW Newberry Road
Township 2 North, Range 1 West WM
Section 33A, Tax Lot 800

Applicants: Brain Vincent

Owners: Sharon A. Spangle &
Multnomah County (Right-of-Way)

Base Zone: Commercial Forest Use - 2

Overlays: Significant Environmental Concern for
Wildlife Habitat and Scenic Views



Summary: Request for a Hillside Development Permit to repair slope failure caused by landslide along NW Newberry Road.

Decision: Approved with Conditions

Unless appealed, this decision is effective November 2, at 4:00 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, October 19, 2012

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 George 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 November 2, at 4:00 PM.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): MCC 33.2200 et. al: CFU-2 and MCC 33.5500 -33.5525: Hillside Development.

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 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 parenthesis.

1. 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. [MCC 33.5520(A)(2)(b)]
2. The applicant shall seed the disturbed area as soon as practical after the completion of the slide repair. Erosion control measures shall be installed prior to any soil disturbing work, except in areas that will be directly involved in the slide repair such as the ditch in the slide area. An additional check dam not

shown on the plans shall be installed in the ditch below the project area about 30 to 45 feet up hill from the closest ditch check dam. [MCC 33.5520(A)(2)(f), MCC 33.5520(A)(2)(h) and MCC 33.5520 (A)(2)(1)]

3. 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. [MCC 33.5520 (A)(2)(n)]

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

Note: 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. PROJECT DESCRIPTION

Staff: The request is to repair a slope failure that is caused a landslide that is impacting NW Newberry Road. The project is detailed in the application submittal included as Exhibits A.1 through A.9.

2. LOCATION DESCRIPTION

Staff: The project is predominately within the NW Newberry Road right-of-way with minor amount of the project located on the adjacent property (mostly temporary work area). The toe of the landslide is located in the right-of-way and the top of the slide is slightly located on the adjacent property at 12928 NW Newberry Road. The adjacent property will be used for staging some of the work. The County has an easement for the work area on the property at 12928 NW Newberry Road (Exhibit A.9). The project is within the Significant Environmental Concern for Wildlife Habitat and Scenic Views Overlay Zones. The use a landslide repair is exempt from SEC permitting requirements.

3. COMMERCIAL FOREST USE - 2

Allowed Uses

MCC 33.2220 (J) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result.

Staff: The proposed landslide repair is an allow use as a modification of a public road.

4. HILLSIDE DEVELOPMENT PERMIT

4.1. Permits Required

MCC 33.5505 Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as pre-scribed by this subdistrict, unless specifically exempted by MCC 33.5510.

Staff: The slope in the proposed project area is greater than 25 percent, thus *a Hillside Development Permit is required.*

4.2. Information Required

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

* * *

(2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development;

Staff: The applicant submitted a geological report by geotechnical engineer, Travis C. Munson, PE, CH2M HILL (Exhibit A.4) in which he recommends a combination of improved drainage and rock bolting with shotcrete facing as detailed in Exhibit A.8. Mr. Munson states “This alternative is expected to provide adequate long-term stability of this portion of the slope.” *This standard is met.*

4.3. 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 information submitted by the applicant (Exhibit A.1 through A.9) and on findings below and other supporting documents included as Exhibits A.2 through A.8.

4.3.1. 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: Fill areas are identified on the plan. ODOT fill material and compaction specifications will be used for the project. *This standard is met.*

4.3.2. 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 engineering analysis certifies the finished slopes will be safe and erosion measures are specified (Exhibits A.4 and Exhibit A.8). *This standard is met.*

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

Staff: The project is to repair a landslide area with the toe on the right-of-way and the top of the slide on the adjacent property (12928 NW Newberry Road). Down slope of the slide is right-of-way. The project is designed to repair the slide, thus reduce the potential for more impacts to the right-of-way. According to Mr. Munson the project is “...expected to provide adequate long-term stability of this portion of the slope.” *This standard is met.*

4.3.4. 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 proposed project will reroute a minor amount of stormwater at the top of the repair area to the slope adjacent to the slide. The repaired slide area will not be impervious and drainage from that area will remain the same as prior to the repair. A Storm Water Certificate completed by Gregory Kirby, PE was submitted indicating an on-site storm water drainage control system is not required to meet the rate of runoff attributed to the 10-year/24 hour storm. *This standard is met.*

- 4.3.5. 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: A Storm Water Certificate completed by Gregory Kirby, PE was submitted indicating an on-site storm water drainage control system is not required to meet the rate of runoff attributed to the 10-year/24 hour storm. *This standard is met.*

4.4. 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:

- 4.4.1. 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 project is not within the Tualatin River Drainage Basin. *This standard is not applicable.*

- 4.4.2. 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 only area to be cleared of vegetation is the area within the landslide repair area. The soil disturbance is limit to the landslide repair area and that nearby directly related to the landslide repair. This will expose the smallest practical area. *This standard is met through conditions.*

- 4.4.3. 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 proposed repair will conform to the basic topography of the hillside with a minor reduction of the pre-slide slope. *This standard is met.*

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

Staff: Seeding and mulching the project area is not practical during the project because it is the work area. The project area will be seeded with a mix of grasses when the slide repair is complete. *This standard is met.*

4.4.5. 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 limited to the project area. The project is more than 100 feet from a stream or a wetland. *This standard is met.*

4.4.6. 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: The project plan includes seeding the area after the slide repair is complete. *This standard is met through a condition.*

4.4.7. 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 project will not result in increased runoff. *This standard is met.*

4.4.8. 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: Check dams will be placed in the ditch down slope of the project (Exhibit A.6 Sheet GA). An additional check dam not shown on the plans will be required to be installed in the ditch below the project area about 30 to 45 feet uphill from the closest check dam. *This standard is met through a condition.*

4.4.9. 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 applicant states, "The Type 3 Sediment Barrier will protect the slide zone during construction and a permanent drainage berm will protect the repaired slope after construction" (Exhibit A.6, Sheets GA and 3). After the completion of the slope repair, the slope will be seeded for revegetation. *This standard is met.*

4.4.10. 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 drainage in the area will be the same as prior to the project. *This standard is met.*

4.4.11. 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 swales are proposed other than the ditch below the project which will be vegetated. *This standard is met*

4.4.12. 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 work area at the top of the slide area will have a sediment barrier installed to control sediment and drainage from that area. Check dams will be installed in the ditch down slope of the project. A condition will require an additional check dam install in the ditch below the project. *This standard is met through a condition.*

4.4.13. 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: The spoils will be removed from the site. *This standard is met.*

4.4.14. 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. CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Hillside Development Permit to repair a landslide area in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

6. EXHIBITS

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application form	7/24/12
A.2	7	Narrative	7/24/12
A.3	6	Plans	7/24/12
A.4	10	Geotech Report with site photos	8/3/12
A.5	3	Narrative Addendum and Stormwater Cert,	8/24/12
A.6	11	Revised Plans	8/24/12
A.7	7	Narrative Addendum and supporting document	9/11/12
A.8	51	<i>Design Submittal Newberry Road Slope Stabilization</i>	9/18/12
A.9	5	Easement for work on adjacent property	10/18/12
‘B’	#	Staff Exhibits	Date
B.1	2	A&T Property Information	
B.2	1	A&T Tax Map with Property Highlighted	