

**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 & NOTICE OF POTENTIAL HEARING

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

Case File: T2-2012-2612

Permit: Hillside Development Permit

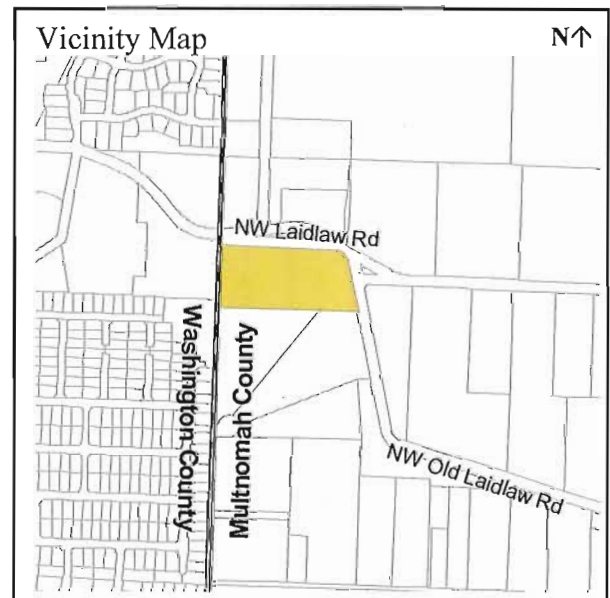
Location: 12440 NW Laidlaw Road
Tax Lot 1700, Section 22C,
Township 1N, Range 1W, W.M.
R090601570

Applicants: Mia Mahedy-Sexton

Owners: Tina and Mike Higgins

Base Zone: Rural Residential

Overlays: Significant Environmental Concern –
Streams (SEC-s); Slope Hazard



Summary: Retroactively permit an estimated 2800 cubic yards of fill placed on the property and in the unimproved road right-of-way to ensure slope stability.

Decision: Approved with Conditions

Unless appealed, this decision is effective Monday, April 1, 2013, at 4:00 PM.

Issued by:

By:


Don Krenholz, Planner

For: Karen Schilling- Planning Director

Date: Monday, March 18, 2013

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.

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 Monday, April 1, 2013 at 4:00 pm.

NOTICE OF APPEAL HEARING

If an appeal of this decision is filed, a public hearing will be held on Friday April 12, 2013. The hearing will begin at 1:00 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 March 25, 2013.

The Hearing shall be regarding a Hillside Development Permit (HDP) to retroactively permit roughly 2800 cubic yards of unpermitted fill placed on the Rural Residential zoned property beginning in 1990 and continuing in subsequent years. Applicable approval criteria are listed below this notice. Any interested party may testify at the hearing or submit written comments on the proposal prior to the hearing. This staff report serves as the staff report available at the hearing pursuant to MCC 37.0620(D).

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) 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 Code (MCC): 37.0560 Code Compliance; 33.0005 Lot of Record; 33.5520 Grading and Erosion Control permit; Multnomah County Road Rules (MCRR): 4.000 Access

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 retroactive land use permit is for the previous fill on the subject property and does not approval any future fill or development.**

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 owner shall obtain an Access Permit from County Right-of-Way [MCRR 4.100] within two years from the date the decision is final.**
2. **The owner shall obtain an Encroachment Permit from County Right-of-Way within two years from the date the decision is final [MCRR 18.100].**

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 applicant is seeking a Hillside Development Permit to retroactively authorize an estimated 2800 cubic yards of unpermitted earth material placed on the property and within an unimproved road right-of-way from the 1990's and into the 2000's.

2.00 Property Description & History:

Staff: The subject property is located in an area known as Bonny Slope on the border of Multnomah County and Washington County at the west end of NW Laidlaw Road. The general area is within the Urban Grown Boundary and contains rolling hills with areas of steep slopes that generally line up with streams crossing the terrain. Generally wooded parcels ranging in size from under an acre to roughly 4 or 5 acres form a patchwork of residential land before entering the urbanized areas of Washington County.

In 1990, a Hillside Development Permit (HDP 02-90) was issued to a previous owner of the subject property for the placement of fill. However, fill continued to be brought in throughout the 1990's after the HDP had expired. Complaints were received at Land Use Planning regarding fill activities and in 1992 a zoning violation was issued to the property (ZV 92-032). In June of 1992, the original HDP permit was revoked due to other materials being dumped on the property and filling beyond the reviewed footprint. As a result of the permit revocation, the fill was considered unpermitted.

In March of 1998 a Stop Work Order was placed on the property as the result of new complaints and what appeared to be new fill. In 2000 a Grading and Erosion Control Permit was applied for (GEC 0-31) by the land owner to correct the previous filling on the property as well as to request additional fill placement. The case planner at the time sent a letter noting that the activity on the property required a Hillside Development Permit and that a new overlay had been added to the property – a Significant Environmental Concern Permit (SEC) for the stream – that would require an additional permit. If the new fill was proposed in the SEC overlay than it could not be approved since the total would exceed 5000 cubic yards, constituting a Large Fill – a use prohibited in the SEC overlay. Based on the requirement for an HDP permit, the GEC was closed out with no action taken.

No further permit applications were submitted after the closing of the GEC permit. The subject application is the Hillside Development Permit required to correct the fill on the property over the last two decades

3.00 Public Comments:

Staff: An Opportunity to Comment was mailed to property owners within 750-feet from the subject lot's property lines as well as to the County recognized neighborhood associations. Two written comments were received:

James Crawford: Mr. Crawford's letter generally supports approval of the application. In addition Mr. Crawford believes the amount of fill is over estimated.

Tim and Laurie Stewart: The Stewart's comments note that they are against a retroactive permit and raised the general concern of property owners being able to fill or perform other development without property approval and not have any consequences. Additionally, the Stewarts believe that future owners of the subject lot should be made aware of the work for full disclosure of the fill and the previous construction debris that was placed on the property.

It should be noted that approval or denial of a land use permit is based solely on the ability to meet approval criteria. Staff does note that retroactive permits are difficult in general, even more so when dealing with fill activities that began over 20 years ago. However, the code must be implemented and staff must use the best available data to decide on the application.

4.00 Code Compliance:

MCC 37.0560 Code Compliance

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County

Staff: As noted earlier, the property has been the subject of past code compliance complaints and actions. The complaints on the property included the unauthorized fill as well as the dumping and burying of construction material, including in or near the creek on site.

The Department of State Lands (DSL) conducted a wetland delineation in August 2000 and issued a letter on September 27, 2000 (Exhibit A.11) noting that the fill did not encroach into the creek or intermittent stream on site. Subsequent DSL inspections indicated construction materials had been removed from the property.

The subject application is to review the past filling operations and ensure that fill remaining on site is clean and stable using best available data, including subsurface borings. Approval of the subject permit would resolve the outstanding code compliance issues.

5.00 Lot of Record:

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. 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.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.
2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

* * *

MCC 33.3170 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;
- (2) July 10, 1958, F-2 zone applied;
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(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.

(C) Except as otherwise provided by MCC 33.3160, 33.3175, and 33.4300 through 33.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

Staff: The subject property is described as Lot 18, Bony Slope. Bonny Slope was a County approved subdivision platted in 1923. At that time there were no zoning requirements. Since the County approved the subdivision, the lot met all land division rules in place at the time. Considering the above, the property met all zoning and land division rules in place at the time it was created.

The property is a lot of record.

6.00 Hillside Development Permit:

Staff: Typically, Hillside Development Permits are reviewed prior to development taking place. The applicable code criteria are structured to elicit responses about how earth disturbance will take place and what efforts and plans are proposed to prevent sedimentation and erosion. The current application is to review fill work that began over two decades ago and has not been disturbed in years. The applicant is not proposing to remove any of the fill, disturb existing fill or add any additional fill as part of this application. The primary focus of the permit is to ensure that the existing fill is 'clean,' compacted, and stable such that it will not create a hazardous situation in the future for residents or the public.

This type of review, a retroactive review of fill placed 10+ years prior, is challenging. Because of the challenge presented, we required the applicant to hire a Geotechnical Engineer who assessed site conditions, mapped the fill extent, and investigated the nature of the sub-surface fill conditions through borings. The Geotechnical Engineer ultimately confirmed the fill operation meets current Hillside Development Permit standards as discussed below.

MCC 33.5515 APPLICATION INFORMATION REQUIRED

An application for development subject to the requirements of this subdistrict shall include the following:

(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.

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

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

(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, and/or replanting.

(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.

(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.

(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.

(4) The Director, at the applicant's expense, may require an evaluation of HDP Form– 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.

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

(A) Design Standards For Grading and Erosion Control

(1) Grading Standards

- (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;**
- (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;**
- (c) Cuts and fills shall not endanger or disturb adjoining property;**
- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;**
- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year de-sign frequency;**

(2) Erosion Control Standards

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

(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;

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

(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;

(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;

(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;

(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;

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

(l) 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 re-duce 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.

(m) Disposed spoil material or stock-piled 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;

(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.

(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.

Staff: The owners of the subject property hired Rapid Soil Solutions to conduct a survey of the site's soil conditions and topography. Mia Mahedy-Sexton, an Oregon Registered Professional Engineer and Geotechnical Engineer, conducted three site visits to the property (September 21 and 26, 2012 and January 24, 2013) and during those visits performed borings into the soils identified in the submitted October 9, 2012 and January 24, 2013 Geotechnical reports (Exhibits A.7 and A.10). In addition, an HDP Form-1 (Exhibit A.9) was submitted as part of the November 13, 2012 application to retroactively permit fill.

According to the HDP Form-1, the area of ground disturbance measured roughly 3750-square feet – beyond that area permitted under the original 1990 HDP permit. The total volume of soil estimated to have been placed on the property by the Geotechnical Engineer was roughly 2,800 cubic yards. Estimates were determined by the slope of the property, depth of borings before hitting native soil over the affected area and historic photographs. The current land owners' supplemental notebooks (Exhibit A.11 and A.12) also provided a bevy of information on which the Geotechnical Engineer was able to draw from.

Borings on the subject site were performed during both the summer (September 2012) and winter (January 2013) to provide analysis of the soils during both the dry and wet seasons. Borings reached down to 18-inches deep during the dry season and to depths of 4-feet, 7.5-feet and 8.5-feet during the winter site visit. As noted by the Geotechnical Engineer, each boring hit native soil after passing through the fill material. This confirmed the Geotechnical Engineer's estimation of the fill area as well as the estimated slopes of the native soil before fill was placed. Each boring displayed clean soil and was absent of organics other than trace roots. The materials pulled indicate that ground was most likely stripped of organics before fill placement. Additionally, the Geotechnical Engineer noted the stiffness of the soil at the end of the borings also indicated the native soil was compacted prior to fill being placed. Lastly, no construction debris was discovered in the test borings indicating that the fill is clean and correlates to the DSL findings.

In conclusion, according to the geotechnical reports and the HDP Form-1, the site is stabilized, vegetated, and safe with no adverse affect on the stability of the slope or to the property in general.

It should be noted that given the amount of time that has passed since fill began in 1990, removal of the soil would require significant vegetation removal, earth disturbance and could cause instability in the now stabilized slope areas. Additionally, the work would be intrusive and could impact Bronson Creek that runs on the property as well as a tributary stream. Staff believes that the primary focus of resolving the past compliance issues is to ensure the past work is now stable and does not present a danger to the public.

Criteria met.

7.00 Significant Environmental Concern Permit:

MCC 33.4510 USES; SEC PERMIT REQUIRED

(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.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

(C) Activities proposed for lands designated as scenic waterways under the Oregon Scenic Waterways System shall be subject to an SEC permit in addition to approval from the Oregon Parks and Recreation Department.

Staff: Since the filling on the property first began, the County adopted a Significant Environmental Concern overlay for select Streams. Bronson Creek, which crosses the property in the Southwest corner, is a protected stream with the SEC-s overlay. However, as seen in the applicant's diagrams and site plans, the fill material does not appear to have encroached into the SEC-s overlay. With no active filling taking place, no original fill in the overlay, and the ground stabilized, no SEC-s permit is required.

8.00 Transportation Standards

MCRR 4.000 Access to County Roads

MCRR 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**

MCRR 18.000 Right-of-Way Use Permits

18.100 County Consent And Or Permit Required: Except where stipulated by an Intergovernmental Agreement between the County and a local jurisdiction, the prior consent of the

County Engineer and/or a permit shall be required for any construction, installation, or the placement of any object or fixture; or the planting or placement of any vegetation within the public right-of-way or for any modification of existing construction or use in the right-of-way except as provided in this Section. A Permit shall not be required for any short-term use of 8 hours or less if the County Engineer determines such use is not a hazard to the public and will have no detrimental impact to the right-of-way.

Staff: The subject property is adjacent to the improved section of NW Laidlaw Road as traveled and undeveloped right of way alignment for both NW Laidlaw Road and Old Laidlaw Road. No access permit is on file for the single family dwelling located on the subject property. A condition of approval will require the owner obtain a access permit for the connection of the driveway to the right-of-way.

Additionally, it appears a small portion of the fill was placed in the unimproved section of NW Laidlaw Road to level out an uneven segment. That work requires an encroachment permit from the Multnomah County Right-of-Way section since the work was in the public's right-of-way. A condition of approval will require the owner to obtain an encroachment permit from Multnomah County Transportation.

Criteria met

9.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Hillside Development Permit to retroactively authorize fill in the Rural Residential zone. This approval is subject to the conditions of approval established in this report.

10.00 Exhibits

‘A’ Applicant’s Exhibits

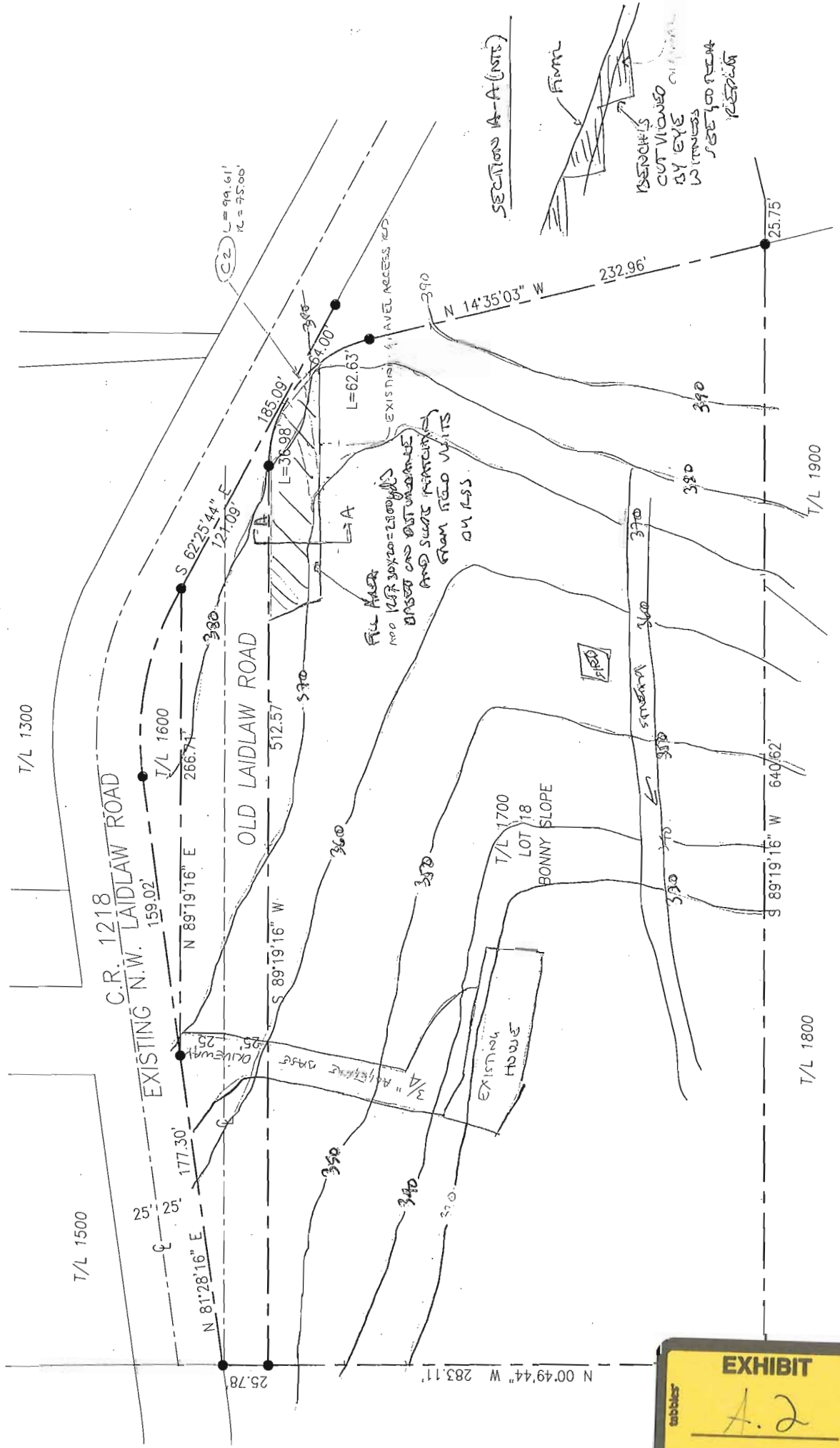
‘B’ Staff Exhibits

‘C’ Comments Received

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 T2-2012-2612 at the Land Use Planning office.

Exhibit #	# of Pages	Applicant’s Exhibits
A.1	1	General Application Form
A.2*	1	November 12, 2012 Site Plan
A.3	1	Orangeview Property Management Resolution of the Board of Directors Resolving Mike and Tina Higgins as Vice Presidents
A.4	1	Letter of Authorization Appointing Mia Mahedy-Sexton as Agent
A.5	1	List of Application Items
A.6	6	November 13, 2012 HDP Worksheet
A.7	13	Geotechnical Report Dated October 9, 2012
A.8	3	Photographs of the Existing Stream
A.9	4	HDP Form-1

A.10	8	January 24, 2013 Supplemental Geotechnical Report and Boring Data
A.11	Many	Applicant's Lot Historical Information Database. Includes Timeline of Actions, Permits, Violations on the Lot; Includes Emails, Letters, Photos and Other Historical Contextual Information.
A.12	Many	Applicant's Second Lot Historical Information Database. Includes November 13 Application Information
'B'	#	Staff Exhibits
B.1	2	A&T Property Information
B.2*	1	A&T Tax Map with Property Highlighted
B.3	1	December 12, 2013 Complete Letter
B.4	5	January 7, 2013 Opportunity to Comment and Mailing List
'C'	#	Comments Received
C.1	2	January 10, 2013 Emailed Comment From James Crawford
C.2	1	January 20, 2013 Emailed Comment From Tim and Laurie Stewart



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EXHIBIT

A.2

PLOT PLAN 12440 NW LAIDLAW ROAD

SCALE: 1" = 50'

