



DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION AND LAND USE PLANNING DIVISION
2115 SE Morrison Street
Portland, OR 97214 (503) 248-3043

DECISION OF THE PLANNING DIRECTOR

Floodplain Development Permit

Case File: FD 1-98

Date Decision Prepared: Friday, May 29, 1998

Proposal: A request to cut and fill 311 cubic yards of soil below base flood elevation of the 100 year floodplain. Cut and fill activities are attributed to the construction of a new private driveway.

Related Case: Grading and Erosion Control Permit (GEC) 9-98, for all grading activities associated with the private driveway.

Location: 29233 SE Stark Street
Tax Lot 6, Section 6, T1S, R4E, W.M. (R-99406-0060)

Applicant/Owner: Gerry & Donna Waage
29233 SE Stark Street
Troutdale, Oregon 97060

Site Size: 2.45 acres

Present Zoning: Rural Residential (RR) & Flood Hazard (FH)

Approval Criteria: Multnomah County Code (MCC): MCC 11.15.6301, Flood Hazard; Comprehensive Plan Policies 13, 14, 22, 37, 38, & 40.

Decision: **Approve, subject to the conditions below, 311 cubic yards of cut and fill activity below the base flood elevation of the 100 year floodplain. This approval is based on the following findings and conclusions.**

Conditions of Approval

1. This approval is based on the submitted written narrative(s), and site plan. No excavation or fill shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
2. All grading activities shall be conducted in compliance with an approved Grading and Erosion Control Permit.
3. Land disturbing activities within a 100 year floodplain and seasonal stream, as described herein, may be subject to Federal or State permitting requirements such as those administered by the Army Corps of Engineers and Division of State Lands. The applicant is responsible for obtaining and complying with such permits, as required.

Findings of Fact

(Formatting Note: Staff as necessary to address Multnomah County ordinance requirements provides Findings referenced herein. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. The notation “Staff” precedes Planning staff comments and analysis.)

1. Project Description:

The applicant’s property is approximately 2.45 acres in size, and is bounded by Stark Street to the south, and The Sandy River to the north. An intermittent stream cuts through the property, entering from the southwest and exiting into the river at the northeast corner of the site. Portions of this drainage are within the 100 floodplain of the Sandy River. The applicant is proposing to construct a new private driveway. The driveway crosses the stream, providing vehicular access to both portions of the parcel split by the drainage. Approximately 1200 cubic yards of fill and 750 cubic yards of excavation are anticipated for the entire project. Of this, 311 cubic yards each of fill and excavation are to occur within the 100 year floodplain. An 80 foot, 72” culvert is to be installed to channel stream flows through the proposed road crossing. Access from Stark Street, to that portion of the site west of the drainage is currently available via an easement through the parcel to the south. No structural improvements exist on-site.

2. Floodplain Development Permit Required

MCC 11.15.6303 establishes that the provisions of MCC .6301 - .6323 shall apply to all areas within the 100-year flood boundary as identified on the Flood Boundary and Floodway Maps and the Flood Insurance Rate Maps as published by the Federal Emergency Management Agency (FEMA).

Per MCC 11.15.6307(A), No structure or manufactured home shall be erected, located, altered, improved or enlarged and no other new development including but not limited to grading, mining, excavation and filling shall occur on lands within the 100-year flood boundary unless a Floodplain Development Permit specifically authorizing the proposal has been obtained from Multnomah County.

Staff: Floodplain Development Permits are required where development activities are proposed within the 100-year flood boundary. Of the approximately 1200 cubic yards of fill and 750 cubic yards of excavation proposed with this development, 311 cubic yards each of fill and excavation is to occur within the 100 year floodplain. Therefore, consistent with MCC 6307(A), a Floodplain Development Permit is required. Shaded areas on the attached survey represent those portions of the site that lie within 100 year floodplain (elev. 48.6 ft.). The boundary of the floodplain, as illustrated, is consistent with what is represented on Panel #238 of the Federal Emergency Management Agency Flood Insurance Rate Maps for Multnomah County, dated June 15, 1982.

3. Compliance with Floodplain Development Permit Approval Criteria

- A. **Per MCC 11.15.6315(I), land may be exempted from the requirements of MCC .6315 upon review and approval by the Director of an acceptable elevation survey, certified by a State of Oregon Registered Professional Engineer or Land Surveyor, which demonstrates that the subject land is at least one foot above the base flood level.**

Staff: An elevation survey has been submitted by Kent Cox, a Professional Land Surveyor Registered in the State of Oregon. The survey and its attached profile demonstrate that the finished grade of the driveway, where it crosses the 100 year floodplain, will be more than one (1) foot above a base flood elevation of 48.6 feet. Therefore, consistent with MCC 11.15.6315(I), this request is exempted from all other requirements under MCC .6315.

- B. **Per MCC 11.15.6319(A), prior to approving any relocation or substantial alteration of a watercourse, the Director shall provide mailed notice of the proposal to adjoining communities and to the Department of Land Conservation and Development Floodplain Coordinator. Copies of such notice shall also be provided to the Federal Insurance Administration.**

Staff: No communities adjoin the subject property. Notice of this application was mailed to Jim Kennedy, Flood Project Coordinator, Department of Land Conservation and Development and Mark Eberlein, Federal Emergency Management Agency (No contact available for Federal Insurance Administration, therefore, their copy was sent to FEMA). Notices were issued Monday, May 11, 1998. Responses were requested no later than Tuesday, May 26, 1998. Neither party provided comment on this application.

- C. **Per MCC 11.15.6319(B), no relocation or substantial alteration of a watercourse shall be permitted unless a detailed hydraulic analysis, certified by a Registered Professional Engineer, is provided which demonstrates that:**

- (1) The flood carrying capacity for the altered or relocated portion of the watercourse will be maintained;**
- (2) The area subject to inundation by the base flood discharge will not be increased;**
- (3) The alteration or relocation will cause no measurable increase in base flood levels.**

Staff: A hydraulic analysis, prepared by Craig Christensen, a Registered Professional

Engineer in the State of Oregon, demonstrates that proposed development meets the criteria enumerated under MCC 6319(B) for the 100 year storm event. As discussed in the analysis, 311 cubic yards of soil is to be removed immediately downstream of the proposed road crossing to compensate for an equivalent amount of fill. Downstream impacts on the base flood elevation appear to be negligible.

4. Compliance with Applicable Comprehensive Plan Policies

Staff: The following Multnomah County Comprehensive Plan Policies require that, for all quasi-judicial actions, findings be made demonstrating that proposed activities comply with the Policy objectives. A Floodplain Development Permit is a quasi-judicial land use action, therefore, the following findings have been prepared:

A. **Policy 13: Air, Water And Noise Quality:**

It is the county's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to air quality, water quality, and noise levels.

Staff: Water quality concerns related to this development will be addressed with a Grading and Erosion Control Permit, an application for which is currently being reviewed by the County (GEC 9-98).

B. **Policy 14: Developmental Limitations**

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- **Slopes exceeding 20%;**
- **Severe soil erosion potential;**
- **Land within the 100 year flood plain;**
- **A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;**
- **A fragipan less than 30 inches from the surface;**
- **Land subject to slumping, earth slides or movement.**

Staff: Mitigation of development impacts on lands within the 100 year floodplain is addressed with this permit. A grading and erosion control permit will address soil erosion concerns related to this proposal. None of the other listed development limitations appear to exist within the subject property.

C. **Policy 22: Energy Conservation**

The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner. In addition, it is the policy of Multnomah County to reduce dependency on non-renewable energy resources and to support greater utilization of renewable energy resources. The county shall require a finding prior to the approval of legislative or quasi-judicial action that the following factors have been considered:

- **The development of energy-efficient land uses and practices;**
- **Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreational centers;**
- **An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;**
- **Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage.**
- **Finally, the county will allow greater flexibility in the development and use of renewable energy resources.**

Staff: The factors listed under this policy have been considered in the review of this application. These factors are tailored to address energy resource issues related to urban development and, therefore, are not applicable to this request.

D. **Policy 37: Utilities:**

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- **The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or**
- **The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- **There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- **There is an adequate private water system, and a public sewer with adequate capacity.**

- **There is adequate capacity in the storm water system to handle the run-off; or**
- **The water run-off can be handled on the site or adequate provisions can be made; and**
- **The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**
- **There is an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**
- **Communications facilities are available.**

Furthermore, the County's policy is to continue cooperation with DEQ, for the development and implementation of a groundwater quality plan to meet the needs of the county.

Staff: Greg Kirby, a Multnomah County Civil Engineer, confirmed in writing that the proposed culvert is adequately sized to handle anticipated stormwater run-off (see permanent case file). Water quality impacts from the development will be addressed with a Grading and Erosion Control Permit. None of the other elements of this plan policy are applicable to this request.

E. Policy 38: Facilities:

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- **The appropriate school district has had an opportunity to review and comment on the proposal.**
- **There is adequate water pressure and flow for fire fighting purposes; and**
- **The appropriate fire district has had an opportunity to review and comment on the proposal.**
- **The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.**

Staff: Proposed grading activities relate to the construction of a private driveway. No structural improvements are proposed with this application. Therefore, staff finds that police, fire, and school services will not be impacted by this application.

F. Policy 40: Development Requirements:

The county's policy is to encourage a connected park and recreation system and to provide for small private recreation areas by requiring a finding prior to approval of legislative or quasi-judicial action that:

- **Pedestrian and bicycle path connections to parks, recreation areas and community facilities will be dedicated where appropriate and where designated in the bicycle corridor capital improvements program and map.**
- **Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.**
- **Areas for bicycle parking facilities will be required in development proposals, where appropriate.**

Staff: This proposal does not impact any existing or planned park and recreation areas or bicycle facilities.

Conclusion

Considering the findings and other information provided herein, this application for approval of grading activities involving 311 cubic yards of cut and fill activity below the base flood elevation of the 100 year floodplain, as conditioned, satisfies applicable Comprehensive Framework Plan policies and Multnomah County Zoning Ordinance requirements.

Exhibits

All materials submitted by the applicant, prepared by county staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be found as part of the permanent record for this application.

In the matter of: FD 1-98

Multnomah County Department of Environmental Services
Transportation and Land Use Planning Division

By: _____
Derrick I. Tokos, AICP – Planner

For: Kathy Busse – Planning Director

This decision filed with the Director of the Department of
Environmental Services on Friday, May 29, 1998

NOTICE

This decision may be appealed within 10 days of the above date, pursuant to the provisions of MCC 11.15.8290. An appeal requires a \$100.00 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 2115 SE Morrison Street (Phone: 248-3043).

The appeal period ends Monday, June 8, 1998 at 4:30 p.m.