



Department of Environmental Services
Land Use Planning Division
1600 SE 190th Avenue
Portland, OR 97233
Phone: (503) 248-3043

NOTICE OF DECISION

GRADING AND EROSION CONTROL PERMIT

Case File No.: GEC 30-99

August 5, 1999

- PROPOSAL:** A retroactive application for a Grading and Erosion Control (GEC) Permit for filling within a 100-foot buffer of a wetland on the site [29.305(A)(2)(e)(1)]. The applicant site plan illustrates the location of the disturbance and the narrative describes 42 cubic yards placed within the 100-foot buffer. The applicant has a Zoning Violation case file, ZV 99-27, with Multnomah County. Site plans are attached to this decision document.
- LOCATION:** 19330 and 19490 NW Gillihan Road
Tax Lot 100, Section 14, T2N, R1W, WM.
R#97114-0080.
See attached map.
- APPLICANT:** Pennie Trumbull
19490 NW Gillihan Road
Portland, OR 97231-1530
- OWNER:** Lyman Trumbull
19330 NW Gillihan Road
Portland, OR 97231-1530
- ZONING:** Exclusive Farm Use (EFU).
- APPROVAL CRITERIA:** The applicable approval Criteria for this decision includes the following: Grading and Erosion Control; Chapter 29.300, Multnomah County Code.
- DECISION:** **APPROVED WITH CONDITIONS**, a Grading and Erosion Control (GEC) permit for the retroactive request to fill 42 cubic yards of earth material on the subject parcel as described in the Proposal section above. In accordance with the report from the Department of State Lands (DSL), the applicant is required to install upland plants on the site where the grading took place. The report from DSL is attached to this decision document.

Staff Findings:

GEC 30-99
Decision Mailed: August 5, 1999

Staff Planner: Tricia R. Sears
Phone: (503) 248-3043

The applicant, Pennie Trumbull, was cited under ZV 99-27 for a violation of the Multnomah County Code under Section 29.305 (A)(2)(e)(1). The Code section states, "Whenever feasible, natural vegetation shall be retained, protected, and supplemented. A 100-foot undisturbed buffer shall be retained from the top of bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or *within 100 feet of a wetland*" (emphasis added).

David Dickens of the Northwest Oregon Resource Conservation and Development office has provided a response, on behalf of the applicant, to the July 15, 1999 letter from Staff to the applicant. Dickens states, "In a previous permit that allowed Ms. Trumbull to build her house she was allowed to place the house within 30 feet of the wetland area and it would require moving the house if we were to maintain the 100 foot buffer as required in Section 29.305 (A)(2)(e)(1)."

Staff notes the property owner of the property, Lyman Trumbull, received approval for single-family dwelling on January 19, 1995 under the land use application case PRE 10-94. The applicant site plan submitted with the GEC 30-99 materials, illustrates that the house location is approximately 45 feet from the line marked on the north side with "grass – existing" and on the south side "rototilled ground, planted with grass". The submitted site plan illustrates the house is located within 100 feet of a wetland. The Code requires the natural vegetation be retained, protected, and supplemented when feasible. Photographs in case file ZV 99-27 show the area of the grading on the site. These photographs also show that the applicant installed (6/18/99 photos) straw on the site and had made attempts to reestablish vegetation on the site.

Lisa Hemeseth of the Department of State Lands (DSL) visited the site on July 27, 1999 and met with David Dickens and the applicant. Hemeseth provided a report to Multnomah County, dated July 29, 1999 and it is attached to this decision document. Hemeseth stated, "No fill material was placed in wetlands. Area where grading took place is uplands and should be planted with upland plants." Staff has issued the decision on GEC 30-99 as an approval with conditions. The conditions include the requirement for planting of upland plants on the site. Please see the Limitations/ Scope of Approval contained herein.

LIMITATIONS/ SCOPE OF APPROVAL:

1. No additional cutting, filling, or stockpiling or other grading activity, except the modifications specified by this grading permit, shall occur on the subject parcel without review of a grading and erosion control permit.
2. Pursuant to the report provided by the Department of State Lands, dated 7/29/99, the applicant shall replant the area where the grading occurred. According to Hemesath at DSL, the "area where grading took place is uplands and shall be planted with upland plants." Replanting and/ or reseeding of all areas disturbed by the grading activity (42 cubic yards of material), as outlined by the applicant's submitted material, shall occur within **one (1) month** of the issuance of this decision for GEC 30-99. The applicant shall contact the Multnomah County Land Use Planning Division at (503)-248-3043 for a site inspection; or provide written or photographic verification the plants have been installed as required.
3. All work shall be performed in accordance with the Guidelines prescribed in the "Erosion Control Plans Technical Guidance Handbook" and "Surface Water Quality Facilities Technical Guidance Handbook". In the event of a conflict between the applicant's proposal and the "Erosion Control Plans Technical Guidance Handbook" and "Surface Water Quality Facilities Technical Guidance Handbook", those in the handbooks shall be required.

4. Except as otherwise specified in the above conditions, this approval for **GEC 30-99** is based upon the applicant's submitted written testimony, site and development plans, and substantiating documents. The applicant shall be responsible for implementing the development plan as presented and approved.
5. No additional land use action and/ or permit requests shall be accepted, relating to the subject application, until such time as all required fees for the said application have been **paid in full**.

IN THE MATTER OF GEC 30-99:

Signed: Tricia R. Sears, *Land Use Planner*
For: Kathy Busse, *Planning Director*