



Department of Environmental Services
Land Use Planning Division
1600 SE 190th Avenue, Portland, OR 97233
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<http://www.multnomah.lib.or.us/lup/home/welcome.html>

DECISION OF THE PLANNING DIRECTOR

Hillside Development Permit

Case File No.: HDP 0-3

April 25, 2000

Proposal: Request for Hillside Development Permit for a new single family dwelling.

Location: 39958 SE Loudon Rd.
Tax Lot 11, Sec. 12, T1S, R4E, W.M.
Tax Acct #R99412-0110

Applicant/Owner: Jeffrey and Cindy Smith
1836 SE O'Regan Road
Corbett, OR 97019

Site Size: 5.29 acres

Present Zoning: Rural Residential (RR)

Approval Criteria: Multnomah County Code (MCC): MCC 11.15.6700, Hillside Development and Erosion Control;

Decision: **Approve, subject to conditions, grading and filling for new single family home and driveway.**

CONDITIONS OF APPROVAL

On-going restrictions:

1. This approval is based on the submitted written narrative(s), construction and erosion control plan dated 4/13/00. 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 conditions of approval.
2. The applicant shall maintain best erosion control practices through all phases of development. All erosion control measures are to be implemented as prescribed in the multi-jurisdictional "*Erosion Control Plans Technical Guidance Handbook*" dated February 1994.
3. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts result from on-site grading work.

4. Applicant shall ensure that cuts along the driveway are adequately protected from erosion until permanently stabilized.
5. Sediment fencing shall also be installed on the downhill side of the driveway, unless the adjacent slopes have been stabilized with vegetation.

Prior to any land disturbing activities:

1. Prior to obtaining building permit sign-off, applicant shall show a revised site plan which illustrates the location of the water line.
2. No land disturbing activities are to be conducted until the erosion control measures are in place.
3. Applicant shall contact the case planner for an inspection of the installed erosion control measures.

Follow up requirements after grading:

1. All graded, disturbed, and bare soil areas are to be seeded or planted, immediately following the completion of grading activities. These areas should also be mulched to protect the soil and control erosion while vegetation is maturing.
2. If planting above is temporary, permanent planting shall be accomplished within 30 days after final grading or no later than November 15 of the year grading occurs.
3. The property owner shall contact the case planner at the Land Use Planning Division at 988-3043, to arrange for a **site inspection** after the project is complete.
4. Prior to expiration of this permit, the owner shall submit to the Planning Division a letter from the Geotechnical Engineer that certifies that construction has occurred consistent with the approved construction plan.
5. Grading and erosion control activities described and approved under this permit shall be completed within two (2) years from the date of this approval.

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 said application have been paid in full.

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. Written responses by the applicant, demonstrating compliance with code criteria, are *italicized*. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation "Staff" precedes such comments.)

1. **Project Background and Description:**

Application is for a hillside development permit in order to cut and fill property in preparation of constructing a single family home and parking area on the site.

2. Site and Vicinity Characteristics:

The subject site is located off of Loudon Road. Access is from an existing shared driveway and then onto a logging road which crosses private property before reaching the subject lot. The site is steeply sloped. The house is proposed to be located near the top of the hill where it levels off. The parcel has been recently logged so no trees remain in the area to be developed. The area surrounding this lot is primarily forested with several single family homes located nearby. Commercial Forest Use zoned land is located to the south and west. A stream runs through the parcel east to west. Soil is Mershon silt loam which has many limitations due to drainage, slumping, high water table and steepness.

3. Multnomah County Code

RURAL RESIDENTIAL

11.15.2208 Primary Uses

C. Residential use consisting of a single family dwelling constructed on a lot; and

Staff: Applicant is proposing a single family dwelling on a lot.

11.15.2218 Dimensional Requirements

A. Except as provided in [MCC .2220](#), [.2222](#), [.2224](#) and [.7720](#), the minimum lot size shall be five acres.

Staff: The subject lot is 5.29 acres.

B. That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

C. Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

**Maximum Structure Height - 35 feet.
Minimum Front Lot Line Length - 50 feet.**

Staff: The front property line for a flag lot is the line closest to and most parallel to the street serving the parcel. Thus the front lot line is the north property line (687.55'). The house is over 250 feet from the front lot line, over 100 feet from the west side lot line, and about 330 feet from the east side line lot. The house is proposed to be 30 feet from the rear lot line.

11.15.6710 Permits Required

A. 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 prescribed by this subdistrict, unless specifically exempted by MCC .6715.

Staff: The subject property has slopes ranging from 50 to 16 percent. Average slope within the development area is approximately 26%. The requested development is not a land use activity exempted under MCC .6715. Therefore, a HDP permit is required.

11.15.6720 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.**

Exhibit A provides this information.

- B. An estimate of depths and the extent and location of all proposed cuts and fills.**

Exhibits A, B, and D are applicable here. Exhibit A provides a topographical overview of cut and fill areas (via dashed 'new' contour lines) while Exhibit B provides a crosscut view of the plot plan with appropriate cut (max depth 8') and fill areas noted.

Staff: Applicant states in a letter dated April 11, 2000, that there will be approximately 150 cubic yards of material to be cut and that material will all be used on site as fill.

- C. The location of planned and existing sanitary drainfields and drywells.**

Drainfield and stormwater disposal detention system (as per Lavielle Stormwater Report) locations are included on Exhibit A.

- D. Narrative, map or plan information necessary to demonstrate compliance with [MCC .6730\(A\)](#). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.**

This is reported below in MCC .6730(A).

- 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.**

HDP Form-1 was completed by our geotechnical engineer and is included as Exhibit D. Mr. LaVielle did not recommend further geotechnical studies on our site.

- F. **Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC .6730(A) through (D). Conditions of approval may be imposed to assure the design meets those standards.**

11.15.6730, Grading and Erosion Control 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.**

Fill material will be fine sandy silt as indicated on HDP Form-1 (Exhibit D, Question 4). We plan no fill areas intended to support structures, that is we will be able to place the entire foundation on native soil as is identified on Exhibits A and B.

- (b) **Cut and fill slopes shall not be steeper than 3V:1H unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified.**

The geotechnical engineer reported on HDP Form-1 that there are no instability problems related to cuts or fills on the property; furthermore, cuts/fills in excess of 3:1 are not planned for the development area.

- (c) **Cuts and fills shall not endanger or disturb adjoining property.**

HDP Form-1 indicated that the development on the proposed site will not endanger or disturb property.

Staff: The grading will occur well away from the property lines.

- (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;**

The geotechnical engineering storm water disposal system report indicated that the preferred system for stormwater management should be designed as follows (see also page 2 of Exhibit C): it is recommended that the stormwater from the house and garage combined be drained from the roof and piped to a 2-foot diameter, 12.5 foot long PVC detention tank. The tank's discharge point should be at the base of the slope. This system is a low maintenance system that can be put into service with a minimum of

disturbance to the site slopes and vegetation. This was found after consultation of the engineer with Mr. Greg Kirby of Multnomah County Transportation. We also plan to include a footing/foundation drainage system as per code. At the terminus of the system we will have the drainage from these drains disburse over riprap.

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced stream flow for a storm of 10-year design frequency.

The home site, which rests on a lot of 5.3 acres, will be on a southwest sloping hillside of approximately 6H:1V mean grade. The site is not located near any SEC streams. An intermittent tributary stream runs through a small portion of our property at a distance of approximately 290' from our proposed site. An existing roadway is present at the site as indicated on the Exhibit A. This roadway resulted from logging activities that occurred on the property. Our roadway drainage, which now drains as a sheet and infiltrates into the surrounding vegetation (not into drainage ways or ditches) will remain unchanged. This appears to be appropriate, as there is 265' of heavily vegetated ground between the driveway and the aforementioned intermittent stream. No constructed channels are located on the property in question.

(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 “Erosion Control Plans Technical Guidance Handbook” and the “Surface Water Quality Facilities Technical Guidance Handbook”. 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.

The property is not located within the Tualatin River Drainage Basin and thus this criteria does not apply to this application.

(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.

Temporary sediment fences or straw bale sediment barriers will be placed immediately down slope of all areas to receive fill and below cut areas. These materials will meet specifications as defined in the “Erosion Control Plans and Technical Guidance Handbook”. Permanent vegetative groundcover and structural erosion control and drainage measures will be established as soon as possible after grading and/or construction has been completed. Temporary grasses may be used until permanent landscape vegetation can be established. If necessary, straw mulch will be used for temporary erosion control.

Staff: Sediment fencing shall also be installed on the downhill side of the driveway where it is not stabilized or further grading is required.

(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.

We have designed our home (with basement garage) and the aspect of the footprint on the property to minimize our cut and fill operations and to create the least erosion potential. Please review Exhibits A and B.

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

Permanent vegetative groundcover and structural erosion control and drainage measures will be established as soon as possible after grading and/or construction has been completed. Temporary grasses may be used until permanent landscape vegetation can be established. If necessary, straw mulch will be used for temporary erosion control.

(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

We will minimize land disturbing activities to the greatest extent possible to maintain natural vegetation.

(i) 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;

As mentioned before, there are no SEC streams on the property and the home site is at a distance of approximately 325' from an existing intermittent tributary stream. Thus a buffer of greater than 100' exists and will remain undisturbed. For more information, please review our comments under MCC .6730(H)(1)(e).

(ii) The buffer required in (i) 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 “Erosion Control Plans Technical Guidance Handbook” and the “Surface Water Quality Facilities Technical Guidance Handbook” and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

No plan to work related to this development within this buffer.

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

Our plan is to have permanent plantings and any required structural erosion control and drainage measures 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.

We have completed a storm water disposal evaluation on our property and it is included as Exhibit C.

(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.

In order to protect our topsoil, appropriate measures (as defined by the "Erosion Control Plans Technical Guidance Handbook" and the "Surface Water Quality Facilities Technical Guidance Handbook") to trap sediment will be included in down slope areas of the development site.

(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.

We plan to prevent surface water from damaging cut face of excavations or sloping surface of fills by use of stabilization measures such as mulching or seeding; or, if required by the Land Use Division, other suitable measures as prescribed.

Staff: Cut faces and exposed slopes could be a problem along the proposed driveway. Applicant shall ensure that cuts along the driveway are adequately protected from erosion until permanently stabilized.

(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.

We have conducted appropriate surface water runoff studies (Exhibit C) and plan to implement his recommendations to manage surface runoff. Runoff will infiltrate naturally into the area surrounding the site. Our roadway drainage, which now drains as a sheet and infiltrates into surrounding vegetation (not into drainage ways or ditches) will remain unchanged. This appears to be appropriate as there is approximately 300' of heavily vegetated ground between the driveway and an intermittent tributary stream. No constructed channels are located on the property in question.

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

Drainage swales will not be used to divert surface waters.

(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:

i) Energy absorbing devices to reduce runoff water velocity;

- ii) **Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule:**
- iii) **Dispersal of water runoff from developed areas over large undisturbed areas.**

Water runoff from developed areas will be dispersed over the ample undisturbed acreage we have at the site. If required, we will implement additional Land Use Staff recommendations.

(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.

The aforementioned stockpiled soil and spoil material will be prevented from eroding into streams or drainageways by storing the materials within an area protected by sediment fencing or straw bale barriers down slope from stockpiles. Additionally, these stockpiles are located at a distance much greater than 100' from any stream or tributary.

(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.

Non erosion pollution associated with construction will be managed through continuous monitoring and proper 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 Control Plans Technical Guidance Handbook* (January, 1991). 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.

This property is not located within the Balch Creek Drainage Basin and thus this criteria does [not] apply to this application.

(B) Responsibility

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project.

We understand the responsibilities defined in MCC .6730(B)(1) and (2) related to this permit and implementation and final approval conditions as defined in MCC .6730(B)(1) and (2) and MCC .6730(D) respectively.

Policy 37 - Utilities

Water and Disposal Systems

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or
- B. Shall 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
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. Shall have an adequate private water system, and a public sewer with adequate capacity.

Staff: Applicant has submitted a Land Feasibility study and a service provider form signed by the Sanitarian which identifies the location for the drainfield. There is a 6 inch water line in Loudon Road to provide water from the Corbett Water District. Applicant has not shown the location of the proposed water line to the site. Prior to obtaining building permit sign-off, applicant shall show a revised site plan which illustrates the location of the water line.

Drainage

- A. Shall have adequate capacity in the storm water system to handle the run-off; or
- B. The water run-off shall be handled on the site or adequate provisions shall be made; and
- C. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.

Staff: Drainage has been addressed under the HDP criteria above.

Energy and Communications

- A. There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and
- B. Communications facilities are available.

Staff: Telephone and electricity is available in the area.

Policy 38: Facilities

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

School

- A. The appropriate school district has had an opportunity to review and comment on the proposal.

Fire Protection

- B. There is adequate water pressure and flow for fire fighting purposes; and
- C. The appropriate fire district has had an opportunity to review and comments on the proposal.

Police Protection

- D. The proposal can receive adequate local Police protection in accordance with the standards of the jurisdiction providing police protection.

Staff: A service provider form has been submitted signed by Multnomah County RFPD #14 fire chief. Applicant is required to construct a driveway capable of carrying 52,000 pounds and install signage for the new dwelling. Police and school are not applicable.

Conclusion

Considering the findings and other information provided, this application for a Hillside Development Permit, as conditioned, satisfies applicable Comprehensive Framework Plan policies and Multnomah County Zoning Ordinance requirements.

By: _____
Virginia Dodson, Planner
For Kathy Busse, Planning Director
Multnomah County Department of Environmental Services
Land Use Planning Division

Date _____

NOTICE:

State law requires a public notice (by mail) to nearby property owners and to any recognized Neighborhood Association, of a Planning Director decision which applies discretionary or subjective standards or criteria to land use or development applications. The notice must describe the method to appeal the decision and, if appealed, the County must hold a public hearing to consider the merits of the application. A person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830 [ORS 197.763, ORS 215.416(11)].

The Decision of the Planning Director detailed above will not become final until the 12-day appeal period for filing an appeal has expired. The 12-day appeal period that starts the day after the notice is mailed. If the 12th day falls on a Saturday, Sunday, or a legal holiday, the appeal period extends through the next full business day. Any person who is adversely affected or aggrieved by the decision, or who is entitled to written notice as described above, may appeal this decision. To file an appeal, complete an Appeal of Administrative Decision form and submit it to the Multnomah County Land Use Planning office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. If an appeal is filed, a public hearing will be scheduled before a County Hearings Officer pursuant to Multnomah County Code section 11.15.8290 and in compliance with ORS 197.763. To review the application file(s), obtain appeal forms, or other instructions, call Multnomah County Land Use Planning office at (503) 988-3043, or visit our offices at 1600 SE 190th Avenue, Portland, Oregon, 97233 [hours: 8:00 a.m.-4:30 p.m.; M-F].

The appeal period ends Monday, May 8, 2000, at 4:30pm. If there is no appeal, this decision becomes final on that date.

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.