



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

ADMINISTRATIVE DECISION

Hillside Development Permit

Case File No.: HDP 1-98

June 16, 1998

WHAT: An application for a Hillside Development Permit (HDP) for the purposes of filling and grading a maximum of 200 cubic yards of earth material. The applicant proposes to place a dwelling unit with an attached garage (4300 sq. ft.) and a workshop (2400 sq. ft.) on the subject parcel. The applicant has applied for a National Scenic Area permit, NSA 7-98, for the proposed on-site structures.

APPLICANT: Chris Heuker
61711 NE Tumalt Road
Dodson, OR 97014

PROPERTY OWNER: Heuker Properties
HC 66 Box 492
Cascade Locks, OR 97014

LOCATION: 61685 NE Tumalt Road
2N 6E Section 35 Tax Lot 20
R# 95635-0200
See attached map.

ZONING: General Management Area (GMA), Gorge General Residential (GGR-2).

APPROVAL CRITERIA: The applicable approval criteria for this decision include the following:
Multnomah County Zoning Code (MCC): Gorge General Residential (MCC 11.15.3670), Hillside Development and Erosion Control (MCC 11.15.6700 - .6735)

PLANNING DIRECTOR DECISION:

Approval of HDP 1-98 for the purposes of cutting, filling and grading a maximum of 200 cubic yards of material in conjunction with a proposed request for a National Scenic Area permit, NSA 7-98, for a dwelling unit with an attached garage and a workshop (total 6700 square feet). The NSA decision will be issued as a separate document.

CONDITIONS OF APPROVAL:

1. The applicant shall maintain Best Management Practices for erosion control. The applicant shall comply with all proposed erosion control measures described in the submitted narrative and site plan information: silt fence and straw hay bales to be installed on site, mulching on slopes, reseeding of all exposed areas. Prior to any grading on-site, silt fences, hay bales, and other erosion control measures shall be installed on the subject parcel. Please call (503)-248-3043 for a site inspection once the erosion control measures have been established on-site.
2. Prior to sign-off for building permits review and plan check, the appeal periods for NSA 7-98 and HDP 1-98 shall be completed.
3. The location of the proposed cut and fill areas is shown on Exhibit #2 attached to this document. This condition establishes that the applicant comply with the cut and fill information provided to Staff in the narrative and on the site plans submitted to Staff regarding the proposed cut and fill on the subject parcel. Within one (1) month of occupancy of the dwelling, the applicant shall provide documentation from an engineer certifying that all the work completed on-site complies with HDP 1-98 [MCC 11.15.6725 (F)(3)].
4. Landscaping shall be installed within one (1) month of occupancy (see NSA 7-98) or by a date certain established by the Staff [MCC 11.15.6730 (A)(2)(f)].
5. Any exposed areas of the site shall be reseeded or mulched through winter as necessary [MCC 11.15.6730 (A)(2)(d)].
6. No grading of the site shall occur between October 1, 1998 and May 1, 1999 for water quality concerns [MCC 11.15.6730 (A)(2)(i) and (m)].
7. All Conditions of Approval for NSA 7-98 are applicable.
8. The applicant shall make an appointment with the Staff Planner, Tricia R. Sears, at (503)-248-3043 when ready for building permit sign-off. The applicant shall provide four (4) sets of building plans to the County for sign-off prior to submittal of the building permits to the City of Gresham.
9. Except as otherwise specified in these conditions, this approval is based on the applicant's submitted evidence, written testimony, site and development plans, and substantiating documents. The applicant shall be responsible for accomplishing the proposed cutting, filling, and grading, in accordance with the design, size, and location shown and described in the application materials submitted by the applicant. Additional submittals may be required of the applicant as noted in these Conditions of Approval. Any changes to the application may be subject to additional review or land use applications.
10. No additional land use action and/ or permit requests (including building permits and plan check) shall be accepted, relating to the subject application, until such time as all required fees for the said application has been paid in full.

FINDINGS:

A. Applicant: (from Shannon & Wilson, Inc. Geotechnical and Environmental Consultants)

The lot referenced above is located on the north side of Interstate 84 near Dodson, Oregon. The lot does not have an address at this time, but the legal description is shown above. A site plan showing the property in relation to local landmarks is shown in Figure 1. The property is located on NE Tumalt Road just west of the residence at 61711 NE Tumalt Road. It is bounded on the north and south by the Columbia River and a Union Pacific Railroad embankment, respectively.

The site slopes gently from the railroad embankment toward the river. There is a steep riverbank located approximately 270 feet from the railroad embankment. This riverbank is between 9 and 10 vertical feet high and slopes at approximately 1 Horizontal to 1 Vertical (1H:1V). This riverbank appears to be at the high water level of the river. At the time of our site visit, there was approximately 130 feet of beach extending north of the riverbank. The average slope of this beach was approximately 6 degrees from horizontal. South of the riverbank, the lot slopes up at approximately 1.5 degrees from horizontal until it intercepts the railroad embankment. The railroad embankment is between 10 and 15 feet high, measured vertically. The side slopes of the railroad embankment vary from approximately 35 to 25 degrees from horizontal.

B. Staff:

The applicant previously submitted a National Scenic Area (NSA) permit application, NSA 31-97, to Multnomah County. Staff denied the application on March 2, 1998. Subsequently, the applicant submitted another NSA application, NSA 7-98, for a dwelling with an attached garage (4300 sq. ft.) and workshop (2400 sq. ft.) totalling 6700 square feet on the subject parcel. The applicant submitted house plans April 13, 1998. Multnomah County Code Section 11.05.400 provides, "If a quasi-judicial plan revision application is denied either initially by the board or by the action of the courts, no new application for the same or substantially similar revision shall be accepted within six months from the date of the final action denying the application." The final day of action for NSA 31-97 was March 16, 1998 as NSA applications include a 14 day appeal period from the day of the Staff decision. The application materials provided by the applicant for NSA 7-98 are substantially different from the materials submitted by the applicant for NSA 31-97. The applicant is required to submit the Hillside Development Permit (HDP) because the subject parcel is identified on the Multnomah County Slope Hazard Map, as described in Section .6710 (A); the HDP criteria are included below. The applicant has requested approval through this application for a Hillside Development Permit, HDP 1-98, to fill and grade a maximum of 200 cubic yards of earth material on the subject parcel. The applicant has provided three plans of the proposed work: a Site Plan that Staff has labeled Exhibit #1, a Cut and Fill Site Plan that Staff has labeled Exhibit #2, and a Cross Sections Cut and Fill plan that Staff has labeled Exhibit #3. Exhibit #4 is the Longitudinal Section/ Viewing Cross Section and Exhibit #5 is the Revised Landscape Plan, both items were submitted as part of application materials for NSA 7-98 and are used here to further illustrate the applicant and Staff comments. The Exhibits are attached to this decision document. Please see the Staff response to Code provisions included below.

Applicable County Code and Comprehensive Plan Policies:

Gorge General Residential

11.15.3682 Dimensional Requirements

(A) Except as provided in MCC . 3680 (A) (8), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:

GGR-2	2 acres
GGR-5	5 acres
GGR-10	10 acres

GSR

The size of all contiguous, individually owned parcels, as of November 17, 1986.

Applicant: None.

Staff: The applicant parcel is 2.06 acres. A September 1977 Multnomah County zoning and land use map shows the subject parcel with the same lot configuration and size as its current configuration and size. On October 6, 1977, by Ordinance 148, the parcel was zoned MUF-20. The National Scenic Area (NSA) zoning designation, including GGR-2, became effective June 23, 1993 by Ordinance 748. The applicant parcel meets the 2 acre minimum lot size requirement. The application meets the criteria.

(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.

Applicant: None.

Staff: The applicant site plan, Exhibit #1, indicates the proposed dwelling and accessory structure meet the required front, rear, and side yard setbacks of the GGR-2 zoning designation. The application meets the requirement.

Hillside Development Permit

MCC 11.15.6710(A) - Permits Required: 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.

Applicant: None.

Staff: The applicant is proposing a maximum of 200 cubic yards of cut and fill. Exhibit #2, the Cut and Fill Site Plan, shows the proposed cut area in the southeast corner of the property. Exhibit #2 shows the location of the two proposed fill areas in the northwest and northeast parts of the property. A Hillside Development Permit is necessary for the proposed project. The site is located in a hazard area as identified on the Slope Hazard Map of Multnomah County, thus the applicant is required to obtain a Hillside Development Permit prior to the placement of any fill materials on-site and prior to removal of any on-site vegetation.

MCC 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.

Applicant: Please see the attached site plan.

Staff: A site map, Exhibit #1, showing the property line locations, roads, structures, and trees was submitted with the application materials. The applicant site plan shows the existing vegetation, drainfield location, proposed new driveway, proposed location of the dwelling with an attached garage and the workshop, and the location of the Columbia River. The application meets the criteria.

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

Applicant: Please see the attached Cut and Fill Site Plan and Cross Sections Cut and Fill for the locations of the cut and fill sections. It is proposed that the excavated material will be used as fill material in the landscape areas only. (The following is from the Heuker letter received by Staff May 19, 1998.) A *maximum* of 200 cubic yards of fill will be used in landscape areas (as shown on the Cut and Fill Site Plan). It is estimated that 80 percent of the material will be placed in the northwest corner with the remaining 20 percent in the northeast corner. The native material (cut from another location on the site) will be used in the areas planned for new landscaping as shown on the Landscape Plan.

Staff: Exhibit #2 is the applicant's Cut and Fill Site Plan. Exhibit #2 shows the location of the proposed cut area in the southeast corner of the property. The two proposed fill areas are located on the northeast and northwest portions of the property, on either side of the location of the proposed residence, as shown in Exhibit #2. Exhibit #3 is the applicant's Cross Sections Cut and Fill plan, the plan indicates the depth and extent of the proposed cut and the two proposed fill areas. The Landscape Plan is attached as Exhibit #5. The application meets the criteria.

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

Applicant: See (A) above.

Staff: The applicant site plan, Exhibit #1, shows the location of the "approved drainfield". The application meets the criteria.

(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.

Applicant: The proposed grading and/or fill associated with the proposed development will total approximately 200 cubic yards in the locations designated on the Cut and Fill Site Plan. As indicated in (B) above, the native material excavated will be used as fill material in landscape areas only.

Staff: The applicant has submitted a Cut and Fill Site Plan, it is attached to this document as Exhibit #2 and shows the location of the proposed cut area and the location of the proposed two fill areas. The applicant has submitted a Cross Sections Cut and Fill map, Exhibit #3, that shows a cross section of the cut area and the two fill areas proposed by the applicant. The applicant site

plan, Exhibit #1, shows the location of existing vegetation and erosion control measures proposed for the development. The applicant has submitted materials required under Section .6730 (A) and those items are further described below. Note the applicant response in (B), including the applicant statement in the letter from Heuker to the Staff, received May 19, 1998. The application meets the criteria.

11.15.6725

(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.**

Applicant: See previously submitted geotechnical report and note that the average slopes are less than 5 percent. All work will be accomplished in accordance with MCC 11.15.6730.

Staff: The applicant acknowledges that no cut or fills are proposed in excess of 6 feet in depth. The geotechnical report (HDP Form-1) submitted by Shannon & Wilson, Inc. Geotechnical and Environmental Consultants states that the average slopes are "1.5 degrees" and the highest slope on the parcel is "45 degrees" along the "Riverbank". The HDP Form 1 includes the following statement by the engineer, "No signs of instability within 100 feet. Site is located on an alluvial fan formed by and subject to debris flows originating in the cliffs located approximately 1 mile south of the property. Refer to the letter Mr. Heuker, dated January 23, 1998, for additional information." Christopher Robertson of Shannon & Wilson completed the Hillside Development Permit Application: Geotechnical Reconnaissance and Stability Preliminary Study (HDP Form-1). Gerry Heslin and Christopher Robertson of Shannon & Wilson provided a supplemental report entitled, "Geotechnical Site Evaluation" (addressed to Heuker and dated January 23, 1998) for the subject parcel. Robertson is a State of Oregon Registered Professional Engineer. The "Summary Hazard" portion of the Shannon & Wilson, Inc. report states the following regarding the proposed development on the subject parcel. "In our opinion, debris flows pose a hazard to the proposed development. It is difficult to quantify the risk due to the relatively short recorded history of the area. Risk from being affected by debris flows decreases with distance from the source area. The proposed residence is located as far as possible from the source area by being on the shore of the Columbia River. In addition, the embankments for Interstate 84 and the Burlington Northern Railroad would act as dikes, providing limited protection from debris flows for the proposed residence." The report does not indicate that development should be prohibited on the site. After review of the Dodson/ Warrrendale Debris Flows Report, the Geotechnical Report for the Heuker site, and the HDP Form-1, all of which were completed by Shannon & Wilson, Inc., the application meets the criteria identified in (E).

(F) Geotechnical Report Requirements

- (1) A geotechnical investigation in preparation of a Report required by MCC .6725(A)(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.**

Applicant: None.

Staff: The applicant has submitted a HDP Form-1 completed by a State of Oregon Registered Professional Engineer. The applicant also submitted the certified engineer's "Geotechnical Site Evaluation". Please note the Staff response in Section .6725 (E). The application meets the criteria.

- (G) 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.**

Applicant: None.

Staff: See the Staff responses below.

MCC 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;**

Applicant: Please see the attached Cut and Fill Site Plan and Cross Sections Cut and Fill for the locations of the cut and fill sections. It is proposed that the excavated material will be used as fill material in landscape areas only, and all work will be accomplished in accordance with the grading standards in MCC 11.15.6730 (A)(1).

Staff: The applicant's narrative states that the excavated material will be used as fill in landscape areas, excavated material will not be used to support the proposed dwelling and the proposed workshop. The applicant's submitted Cut and Fill Site Plan, Exhibit #2, shows the location of the proposed cut and the location of the two proposed fill areas on the subject parcel. Both areas will have silt fences established as erosion control measures. The application meets the criteria.

(b): Cut and fill slopes shall not be greater than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

Applicant: None.

Staff: The cut and fill slopes are not greater than 3:1 according to the material submitted by the applicant as the Cross Sections Cut and Fill plan and attached to this document as Exhibit #3. Erosion control measures proposed by the applicant include silt fencing and straw bales. The applicant also proposes to re-seed exposed soils. Exhibit #2 shows the location of the silt fencing proposed for the subject parcel. The application meets the criteria.

(c): Cuts and fills shall not endanger or disturb adjoining property;

Applicant: None.

Staff: The applicant does not make a statement regarding this criteria. With the reports completed by a State of Oregon Registered Profession Engineer and submitted by the applicant and the proposed erosion control measures established by the applicant, the applicant has made an effort to minimize the danger and disturbance of the proposed cut and fills to adjoining property. The applicant meets the criteria.

(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;

Applicant: As stated in my letter dated April 1, 1998, future stormwater runoff from buildings will be tight-lined from the gutters to a curtain drain. A 4-inch pipe should be sufficient to handle runoff.

Staff: The applicant has submitted a site plan showing the cut and fill areas, included as Exhibit #2 in this report. The drainage system is shown on Exhibit #1, the applicant site plan. The applicant states that a 4-inch pipe will be used to accommodate the run-off. The application meets the criteria.

(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.

Applicant: There is no existing drain system of the site. There are no natural watercourses or constructed channels on the site, as can be seen from the previously submitted site plan.

Staff: The applicant states no drain system exists on the site. Exhibit #1 shows the location of the proposed drainfield. The site abuts the Columbia River and is identified on Federal Emergency Management Agency (FEMA) maps as part of the 100 year floodplain. The applicant has provided an Elevation Certificate, completed by a State of Oregon registered Land Surveyor, that indicates the proposed structures will not be constructed within the

floodplain. The location of the two proposed fill areas is to the west side and to the east side of the proposed residence, along the bank line. The Cut and Fill Site Plan, Exhibit #2, shows the location of the cut and fill areas. The applicant stated, in a May 22, 1998 letter to Staff, a willingness to move the residence back from the river. The Viewing Cross Section submitted by the applicant is attached as Exhibit #4, this shows the proposed residence is approximately 120 feet from the ordinary high water mark of the Columbia River. The structure is required to be 100 feet back from the ordinary high water mark under Section .3814 (B)(19). The applicant proposes erosion control measures on the site. The proposed fill areas are for landscaped areas, as described by the applicant. The application meets the criteria.

(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 bank of stream, or the ordinary high water mark (line of vegetation) of a water body, or with 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.**

Applicant: None.

Staff: The project is not located in the Tualatin Basin.

- (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 practicable area at any one time during construction.**

Applicant: There is limited vegetation on the site, however, any necessary vegetation removal, grading and other soil disturbance will be done to expose the smallest practical area and in such a way as to stabilize soil as quickly as practicable.

Staff: The applicant states that the smallest area practicable of soil disturbance will be exposed, and that the soil will be stabilized quickly. The applicant Cut and Fill Site Plan, Exhibit #2, shows the location of the cut and fill areas proposed on the subject parcel. The applicant will use silt fencing and straw hay bales as erosion control measures, see also Section .6730 (A)(1)(b). The applicant will reseed exposed soils. Staff stated a concern about the amount and extent of the existing site vegetation in NSA 31-97 and remains concerned that on-site vegetation may have been removed prior to the submittal of land use applications to Multnomah County (NSA 31-98, NSA 7-98, HDP 1-98). However, the applicant states repeatedly in the narrative submittals for both NSA 7-98 and HDP 1-98 that the amount of vegetation to be removed is minimal, that the amount of soil to be cut, filled, and exposed is likely to be less than the 200 cubic yards requested in the HDP application, and that erosion control measures such as silt fencing and straw hay bales will be installed on the site. The Exhibits included in this application and the NSA 7-98 document provide additional information regarding the applicant’s stated intent. The application meets the criteria.

(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.

Applicant: The cut and fill operations will not significantly change existing topography, and due to the relatively level site (less than five percent gradient), additional surface runoff will be negligible from the cut and fill operations.

Staff: The Cross Sections Cut and Fill plan, attached as Exhibit #3, shows the cross sections of the cut areas and the fill areas proposed on the subject parcel. The average slope of the parcel is 1.5 degrees according to the geotechnical report completed by Shannon & Wilson, Inc. In addition, the highest slope of the subject parcel is along the "Riverbank" according to Shannon & Wilson, Inc. The applicant proposes erosion control measures for the cut and fill areas, silt fencing and straw hay bales. The applicant site plan, Exhibit #1, shows the location of the drainfield on the subject parcel. The application meets the criteria.

(d): Temporary vegetation/and or mulching may be required if protection is required on exposed critical areas during development.

Applicant: As stated in my letter of April 1, 1998, erosion will be minimized by employing straw bales and/or temporary silt fencing around all cut and fill areas. All exposed slopes will be reseeded upon completion of cut and fill construction. Temporary placement of mulching materials will be utilized on slopes.

Staff: The applicant proposes silt fencing and straw hay bales as erosion control measures. The applicant will reseed exposed slopes. The application meets the criteria.

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

- (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;**
- (ii) The buffer requirement 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 Tualatin River Drainage Basin in OAR 340;**

Applicant: Limited vegetation exists on the site. Existing trees will remain in place. Grass and/or brushy areas will be replanted as soon as possible. Please see the attached Landscaping Plan for additional vegetation which will be placed on the site. All proposed development is setback 100 feet from the ordinary high water mark. No disturbance of buffer is planned.

Staff: As stated in .6730 (A)(2)(b), Staff has concerns about the existing vegetation. Staff is concerned vegetation may have been removed prior to the submittal of land use applications (NSA 31-97, NSA 7-98, HDP 1-98) to Multnomah County. The applicant submitted a revised Viewing Cross Section (received May 27, 1998), Exhibit #5, that indicates the proposed residence will be 120 feet from the ordinary high water mark of the Columbia

River. The development is required to be 100 feet away from the ordinary high water mark by Section .3814 (B)(19). The subject parcel is not with the Tualatin River Drainage Basin. The application meets the criteria.

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

Applicant: As stated in my letter of April 1, 1998, all cut and fill areas will be reseeded as soon as practical. In addition, installation of permanent landscaping (as outlined in the landscaping plan) will be completed as soon as possible.

Staff: The applicant plans to reseed all exposed areas. The Landscape Plan is attached as Exhibit #5. The applicant site plan, Exhibit #1, shows the location of the drainfield. The applicant states that erosion control measures such as silt fencing and straw hay bales will be installed on the subject parcel. In addition, the applicant states that "stormwater runoff from buildings will be tight-lined from the gutters to a curtain drain" (letter from Heuker to Staff, received May 27, 1998). The application meets the criteria.

(g): Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development.

Applicant: Increased runoff should be minimized by the existing topography on the site. However, as indicated in my letter of April 1, 1998, erosion control measures will be placed and future stormwater runoff after completion of construction will be tight-lined to a curtain drain. Please see paragraph (f) above for replanting plans.

Staff: See also (f) above for Staff comments. The applicant will establish erosion control measures on the subject parcel. The application meets the criteria.

(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.

Applicant: Straw hay bales and/ or temporary silt fencing will be placed to reduce possible sedimentation from any runoff water.

Staff: The applicant will establish straw hay bales and/ or silt fencing on the subject parcel to prevent sedimentation from runoff.

(i): Provisions shall be made to prevent surface water from damaging the sloping surfaces 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.

Applicant: See (d) above.

Staff: Applicant is proposing erosion control measures of straw hay bales and silt fencing. The applicant also proposes mulching to be placed on slopes. See also (d) for applicant and Staff comments. The application meets the criteria.

(j): All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains or natural watercourses.

Applicant: See (A)(1)(d) above.

Staff: See (A)(1)(d) above for applicant and Staff comments. The applicant site plan, Exhibit #1, shows the location of the proposed drainfield on the subject parcel. The application meets the criteria.

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

Applicant: Drainage swales are not planned at this time.

Staff: The applicant does not plan to create drainage swales on the subject parcel. The criteria is not applicable.

(l): Erosion and sediment control devices shall be required where necessary to prevent polluting discharge from occurring. Control devices and measures which may be required include, but are not limited to:

- (i) Energy absorbing devices to reduce runoff 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.**

Applicant: As stated in my letter of April 1, 1998, erosion will be minimized by employing straw hay bales and/ or temporary silt fencing around all cut and fill areas and reseeding all exposed soils upon completion of operation. Future stormwater runoff from buildings will be tight-lined from the gutters to a curtain drain and dispersed over undisturbed landscaping areas.

Staff: The applicant will install erosion control measures such as straw hay bales and silt fencing on the subject parcel. The applicant will reseed exposed areas. The applicant will install a drainfield, the location is shown in Exhibit #1. The applicant proposes to tight-line the runoff from the gutters to a curtain drain. The application meets the criteria.

(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;

Applicant: It is proposed that all cut materials will be used in landscaped areas. However, any stockpiled material will be mulched or otherwise protected and placed in a location away from existing drainage ways.

Staff: The applicant proposes to mulch on slopes and to reseed areas of exposed soil. Erosion control measures will be installed on the subject parcel. The application meets the criteria.

(n): Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewater's shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

Applicant: Extreme care and caution will be utilized to prevent non-erosion pollution as outlined in (A)(2)(n).

Staff: The applicant states an intent to comply with (A)(2)(n). The application meets the criteria.

- (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 of the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first of the same year the development was begun.**

Applicant: None.

Staff: The subject parcel is not located in the Balch Creek Basin.

(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;**

Applicant: I have read and understand the responsibility for removing any sedimentation by the proposed operation.

- (2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to original or equal condition.**

Applicant: No changes to existing communal watercourses (i.e. the Columbia River) are planned. No other such watercourse, floodplain, or right-of-way thereof exists. Any inadvertent actions will be repaired and the site returned to its original or equal condition.

(C) Implementation

- (1) Performance Bond - A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if the contractor does not complete it. The bond shall be released upon determination that the control measures have or can be expected to perform satisfactorily. The bond may be waived if the Director determines the scale and duration of the project and the potential problems arising therefrom will be minor.**

Applicant: I understand the conditions of MCC 11.15.6730(C)(1).

- (2) **Inspection and Enforcement.** The requirements of this subdistrict shall be enforced by the Planning Director. If inspection by County Staff reveals erosive conditions which exceed those prescribed by the Hillside Development Permit, work may be stopped until appropriate conditions are completed.

Applicant: I understand the conditions of MCC 11.15.6730(C)(2).

- (D) **Final Approvals:** A certificate of Occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

Applicant: I have read and understand the conditions of MCC 11.15.6730 (D).

CONCLUSIONS:

- A. Multnomah County Code defines *Development* as “Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative modifications.”
- B. The applicant has carried the burden necessary for granting a Hillside Development Permit for the purposes of cutting and filling a maximum of 200 cubic yards of material.
- C. The applicant shall comply with all Conditions of Approval noted within this decision document.

NOTICE: This decision was mailed June 16, 1998 in the manner required by ORS 197.763. Opportunity to appeal this decision and have the application considered at a public hearing will be provided until the close of business on June 25, 1998 at 4:30 PM. In the event of an appeal to this administrative decision, additional notice will be provided for the public hearing.

IN THE MATTER OF HDP 1-98:

By: Tricia R. Sears, Land Use Planner
For: Kathy Busse, Planning Director
Department of Environmental Services

NOTICE:

The Administrative Decision detailed above will become final unless an appeal is filed within the 10-day appeal period, which starts the day after the notice is mailed. If the 10th day falls on a Saturday, Sunday, or a legal holiday, the appeal period extends through the next full business-day. 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 file, complete an Appeal of Administrative Decision for, and submit to the County Planning Division 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. To review the application file(s), obtain appeal forms, or other instructions, call the Multnomah County Planning Division at (503) 248-3043, or visit our offices at 2115 SE Morrison Street, Portland, Oregon, 97214 [hours: 8:00 a.m.-4:30 p.m.; M-F].

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.