



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

ADMINISTRATIVE DECISION

Hillside Development and Significant Environmental Concern Permits
Case File No.: HDP 10-97 & SEC 18-97
(August 28, 1997)

WHAT: An application for a Hillside Development Permit for the purposes of placing approximately 80,000 cubic yards of imported silt, sand and gravel over a 3 to 5 year period. The fill embankment is to be returned to grass covered pasture or forest land after the fill is complete. No structures or impervious surface is planned for the area.

WHERE: 23425 NW Moreland Road
Portland, OR.
Township: 2 North, Range: 1 West, Section: 10, Tax lot: '20' & '24'

WHO: *Property Owner/
Applicant:* S. Fred Hall, Jr.
23425 NW Moreland Road
Hillsboro, Oregon 97124-9202

ZONING: Commercial Forest Use (CFU) & Significant Environmental Concern (SEC - h & s)

APPROVAL

CRITERIA: The applicable approval Criteria for this decision include the following:
Multnomah County Zoning Code (MCC): Commercial Forest Use Zoning (MCC 11.15.2048 (A) & (C), 11.15.2054(D)) Hillside Development and Erosion Control (MCC 11.15.6700 - .6735)

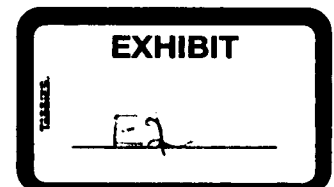
PLANNING DIRECTOR DECISION:

Denial of Hillside Development Permit No. 10-97 and Significant Environmental Concern Permit No. 18-97 for the purposes of filling a 22 acre area with approximately 80,000 cubic yards of imported silt, sand and gravel material.

HDP 10-97/SEC 18-97
Notice Mailed 8-28-97

Notices
Decision Notices
8-28-97
mailed on
by

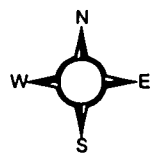
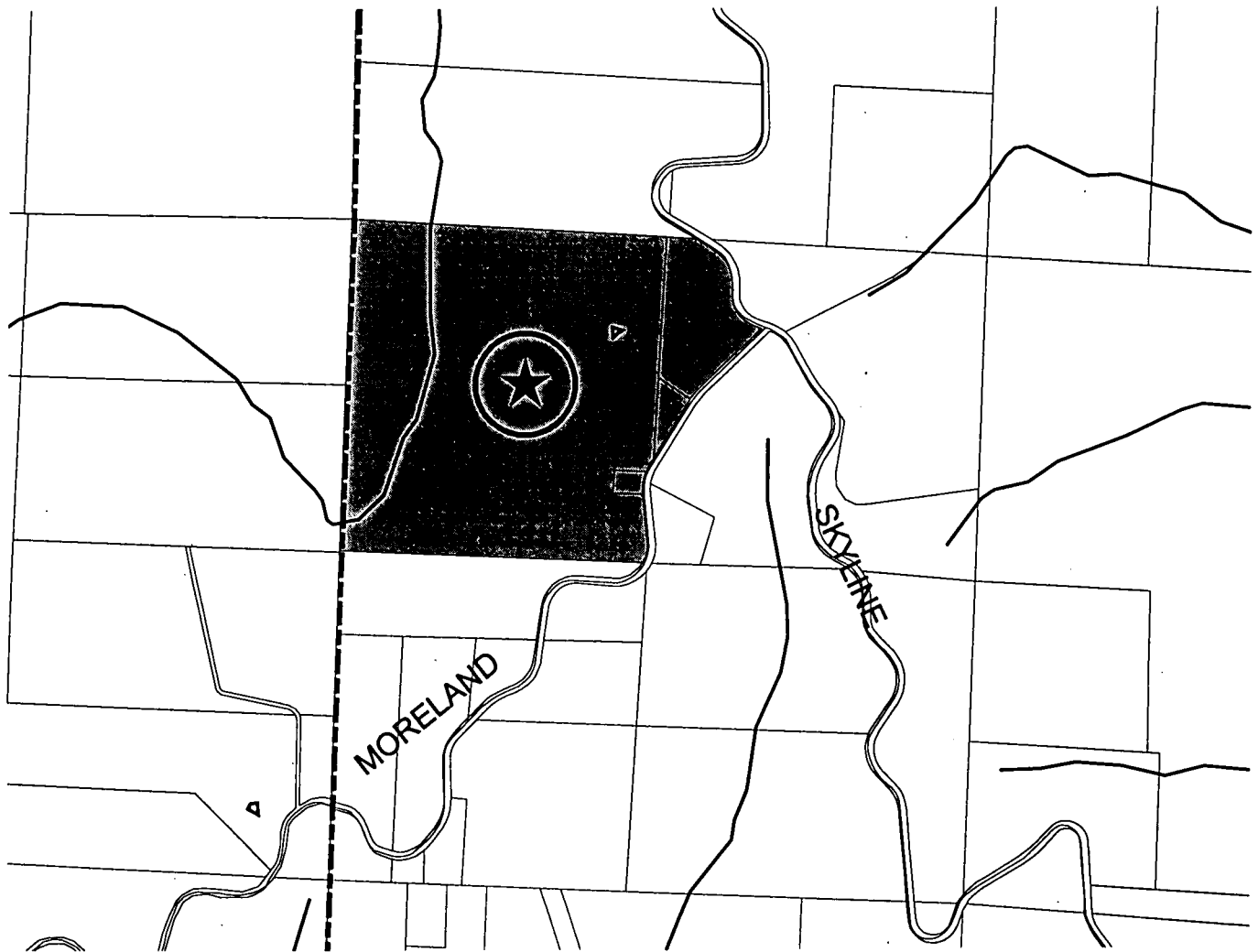
Contact Person: Lisa Estrin
Phone: (503) 248-3043



Proposed 80,000 cubic Yard Fill

23425 NW Moreland Road

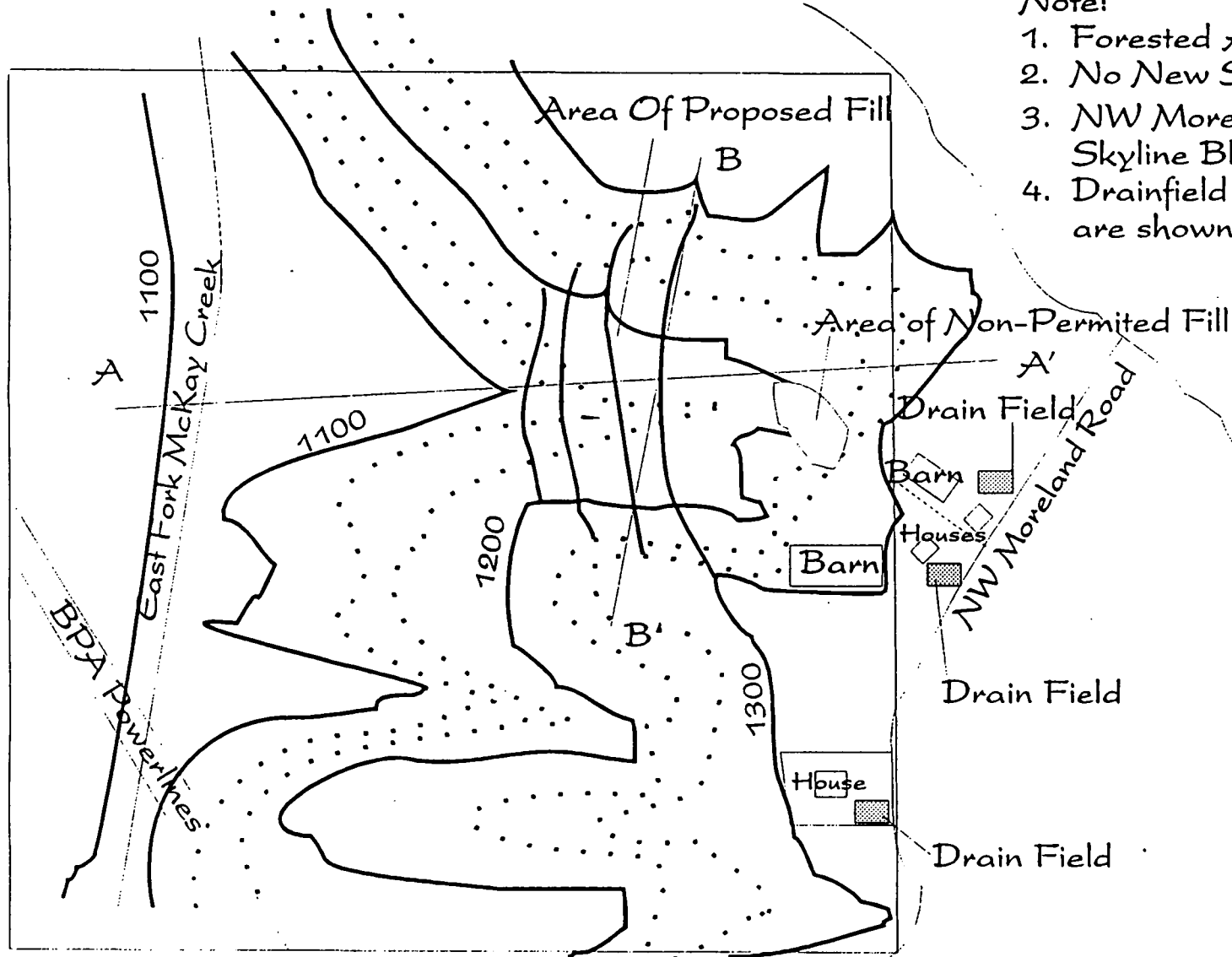
HDP 10-97 & SEC 27-97



0.4 0 0.4 0.8 Miles

Note:

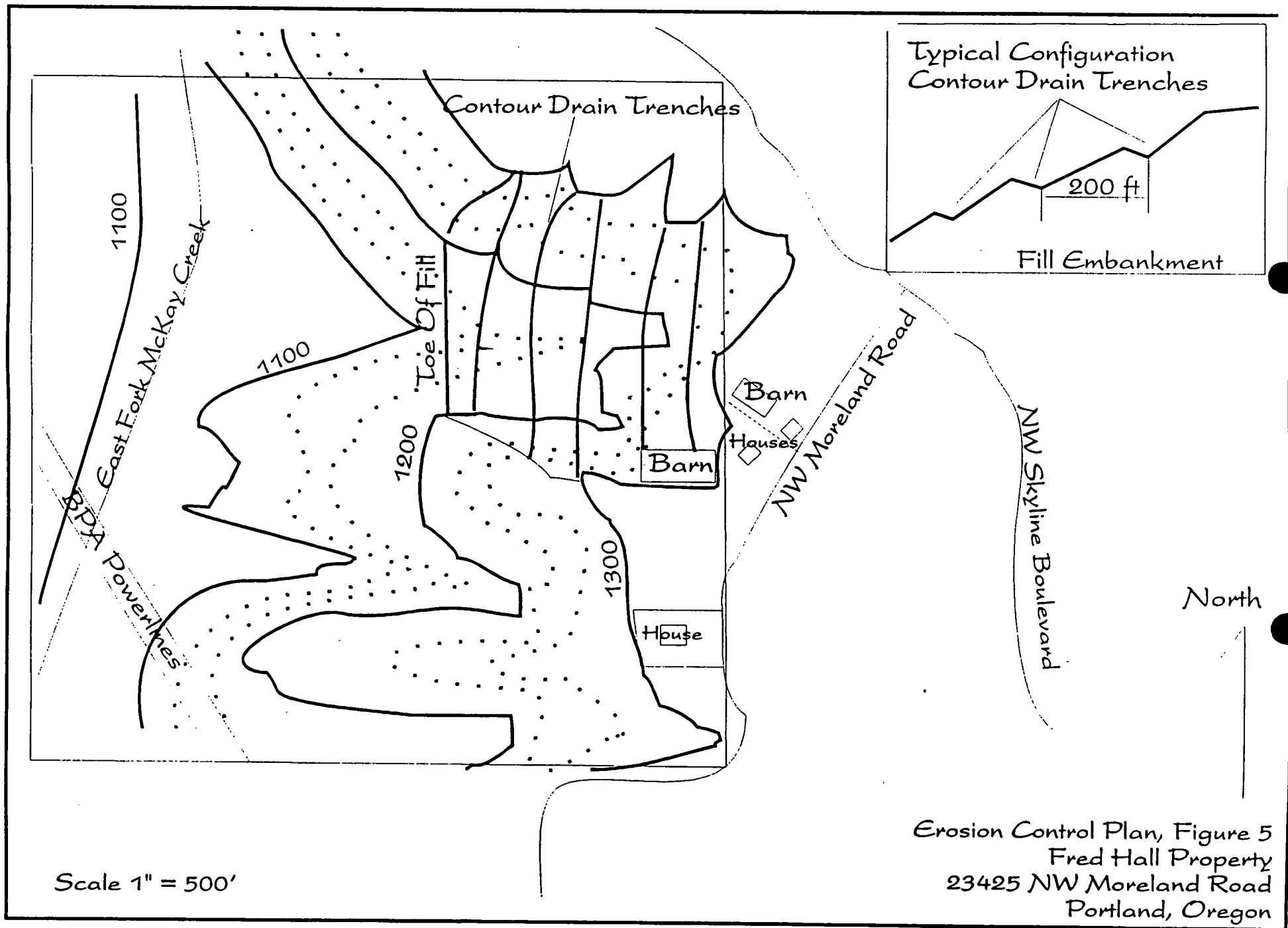
1. Forested Areas are Indicated
2. No New Structures Planned
3. NW Moreland Road & NW Skyline Blvd are public roads.
4. Drainfield for the exiting houses are shown. No drywells exist.

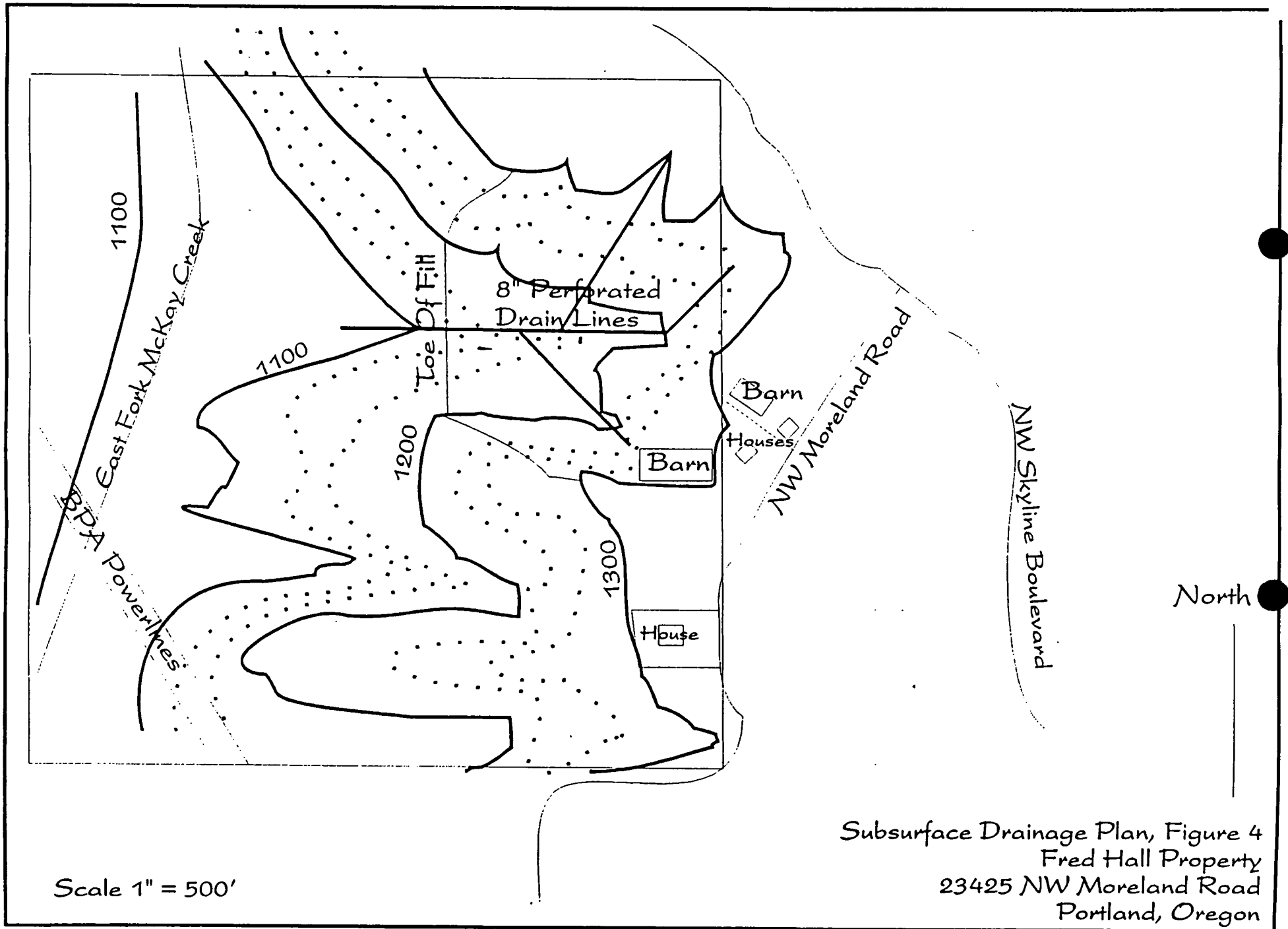


North

Scale 1" = 500'

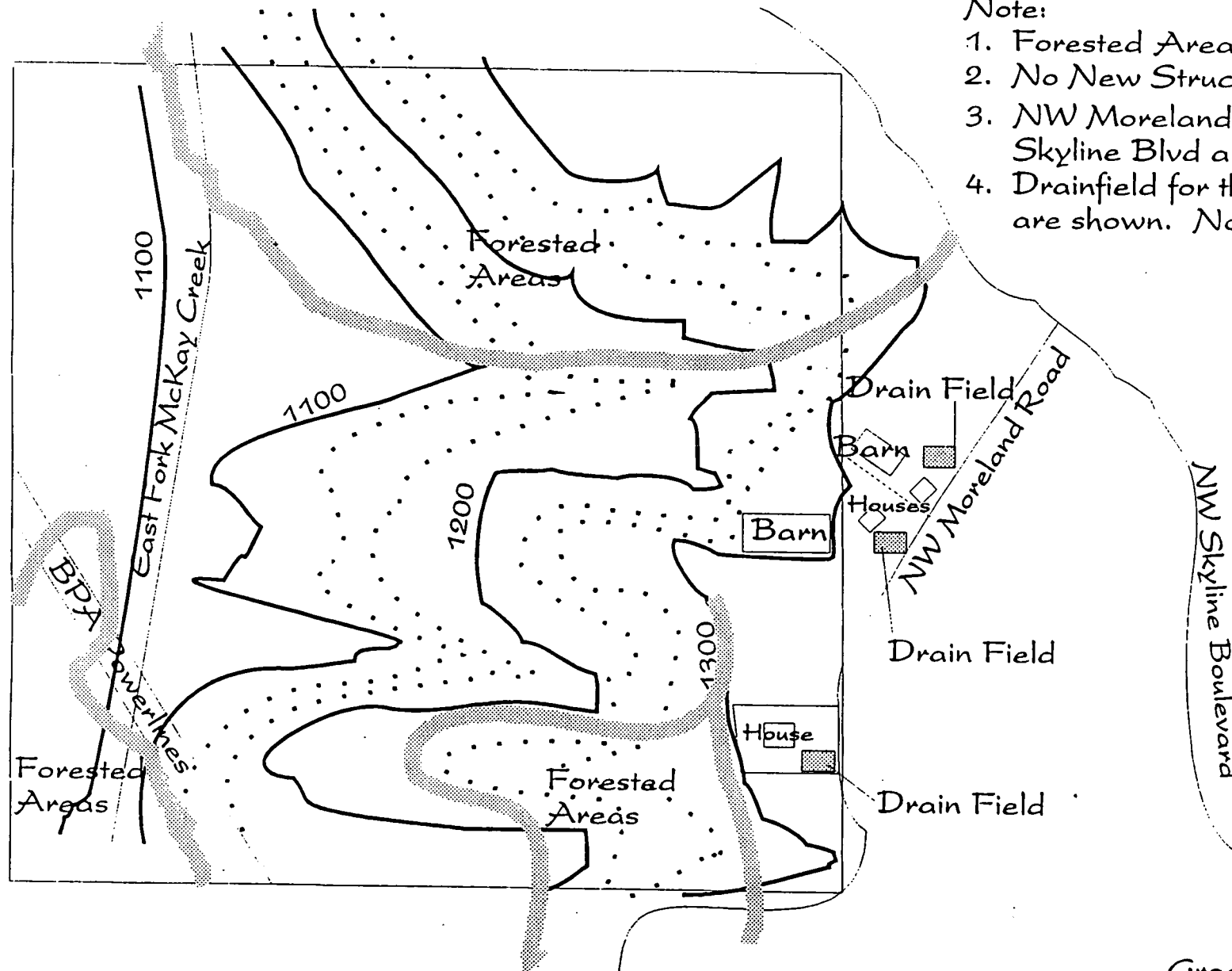
Site Plan, Figure 2
Fred Hall Property
23425 NW Moreland Road
Portland, Oregon





Note:

1. Forested Areas are Indicated
2. No New Structures Planned
3. NW Moreland Road & NW Skyline Blvd are public roads.
4. Drainfield for the exiting houses are shown. No drywells exist.

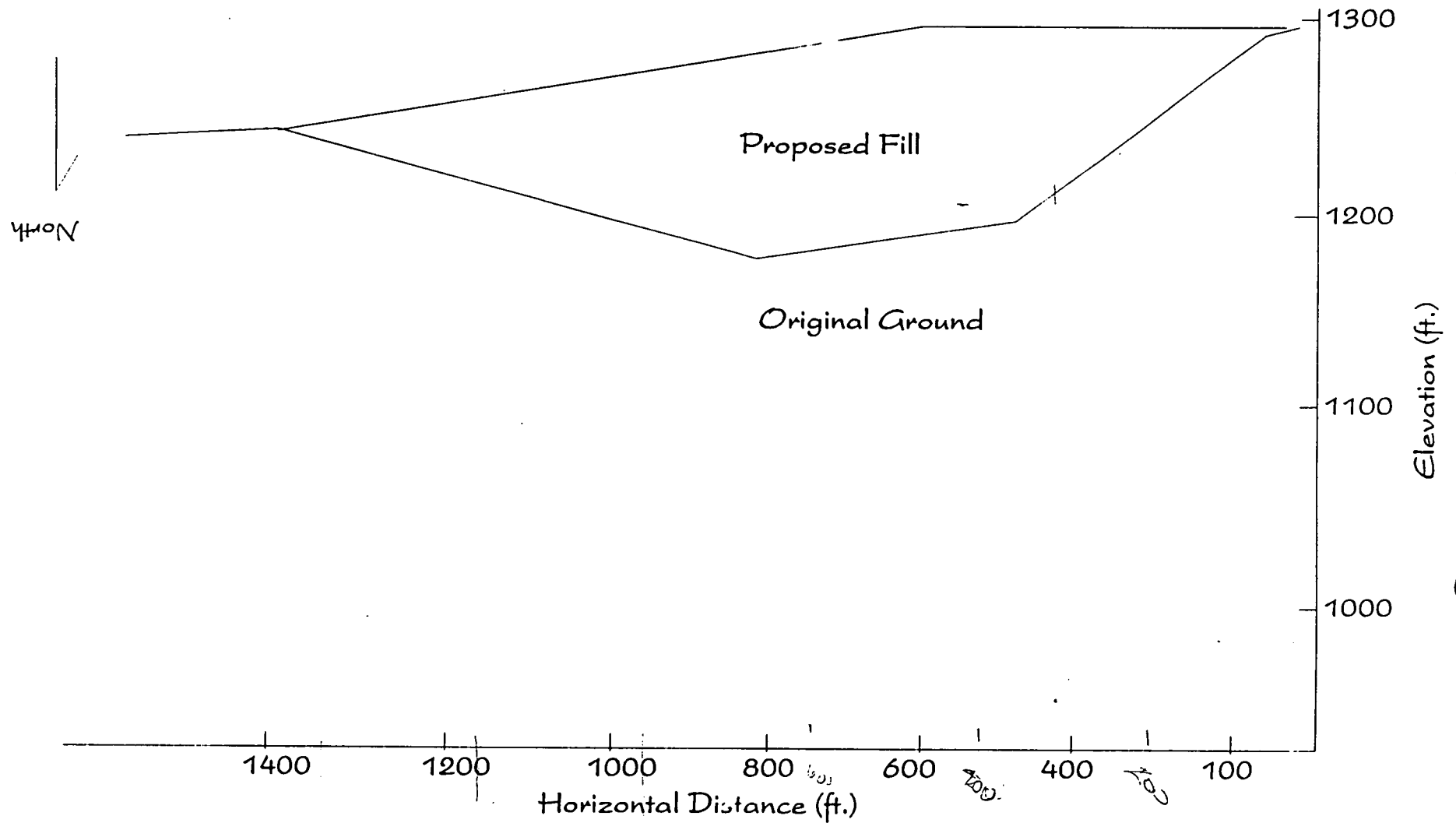


North

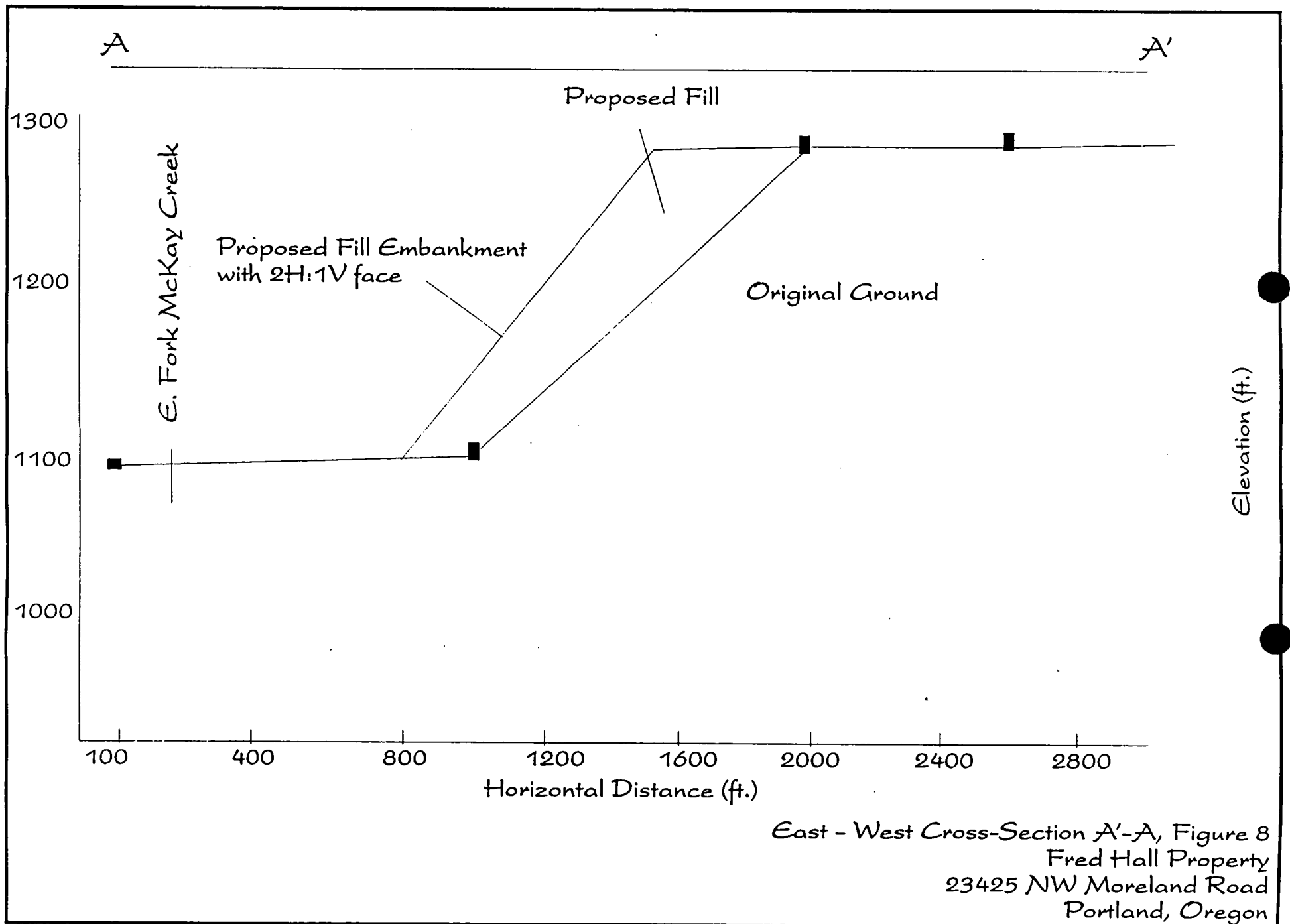
Scale 1" = 500'

Grading Plan, Figure 3
Fred Hall Property
23425 NW Moreland Road
Portland, Oregon

Vicinity Plan, Figure 2
6002 SE Evergreen
B
Vancouver, Washington



North - East Cross-Section B - B', Figure 8
Fred Hall Property
23425 NW Moreland Road
Portland, Oregon



East - West Cross-Section A'-A, Figure 8
Fred Hall Property
23425 NW Moreland Road
Portland, Oregon

FINDINGS:

- A. **Applicant's proposal:** This is an application for a badly needed site for the road and/or Highway department to dispose of the clean fill being created by the recent and on going landslides and construction.
- B. **Applicable County Code and Comprehensive Plan Policies:**

1. ***Commercial Forest Use Zoning District***

MCC 11.15.2048- Uses Permitted Outright in CFU Zone:

(A) The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:

- (1) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;**
 - (2) Temporary on site structures which are auxiliary to and used during the term of a particular forest operation; or**
 - (3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities;**
- (C) Farm use, as defined in ORS 215.203;**

MCC 11.15.2054 Accessory Uses

The following structures or uses may be authorized in this district provided they are customarily accessory or incidental to a permitted use:

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982;**
- (B) Off-street parking and loading as required by MCC .6100 through .6148;**
- (C) Home occupations pursuant to the definition and restrictions of MCC .0010. Home occupations as defined by MCC .0010 do not allow the level of activity defined in ORS 215.448; and**
- (D) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.**

Applicant: This is an application for a badly needed site for the road and/or Highway department to dispose of the clean fill being created by the recent and on going landslides and construction. The proposed fill area is currently grass covered pasture land and some areas of trees or shrubs. No structures or pavements are planned for the filled area. The fill embankment is to returned to grass cover pasture or forest land after fill is complete.

Staff: 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 [staff emphasis added] and vegetative. No forest or farm operations will be occurring in the fill area for the three to five years that is required to place the 80,000 cubic yard of fill materials. The definition of farm contained in ORS 215.203 does not include the placement of fill as a farm activity. The proposed fill operation may be used in either farm or forest practices per the above applicant's statement. Per ORS 459.005(8), the proposed use would be a disposal site (...a site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a collection service;...). Staff has determined that the proposed fill project is an accessory use to the future farm and/or forest practices which may occur in the fill area.

2. *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.

Staff: The applicant is proposing an approximately 80,000 cubic yard fill over a 3-5 year period. The placement of the fill will require that the on-site vegetation in that area be removed and the site benched for placement of the fill. The placement of fill is considered as development under MCC 11.15.0010. The site is located in a hazard area as identified on the "Slope Hazard Map" (Exhibit ?) of Multnomah County and is required to obtain a Hillside Development Permit prior to the placement of any fill materials.

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.**

Staff: The applicant has submitted in a number of site plans, aerial photographs, 2 cross sections and benching details. Unfortunately the information that was submitted has conflicting information and/or are unscaled and do not adequately provide the information necessary to depict the proposed project. Staff is unsure of the exact location of McKay Creek on the subject property and has asked for an aerial photograph showing the location of the proposed fill and the creek bed or a land survey by a licensed surveyor. An aerial photograph was submitted, but the scale noted on the photo is incorrect and staff is unable to find an appropriate scale for the aerial photograph. No trees have been shown for removal, but a large number are located in the fill area. The supplied topographic information is very generalized with a contour interval of 33 -1/2 feet, which is highly irregular. Topographical information is required to have a contour interval not

to exceed 10 ft. The applicant indicated on August 7, 1997 that additional information shall be provided.

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

Staff: Two cross sections and two benching details has been submitted with this application. These cross sections are not to scale and conflict with each other. Cross section A - A' shows the fill will be approximately 200 feet deep. Cross section B -B' shows the fill will be approximately 100 feet deep and the narrative statement state it will be a maximum thickness of approximately 40 feet deep. Staff requested that the applicant modify the site plan to clearly show the boundary area of the proposed fill and to provide 1 cross section per 50 ft of project area. In addition, a profile is needed. Topographical information supplied has established the contour interval at 33-1/2 ft, which is inadequate and does not comply with Code requirement for it not to exceed 10 ft elevation change per contour. The applicant indicated on August 7, 1997 that no additional information shall be provided.

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

Staff: The drainfields are shown on Figure 2 of the Geotechnical Report.

(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.

Staff: The following supplemental information was requested from the applicant in the incomplete notice dated June 26, 1997 and was not supplied or provided an incomplete or conflicting answer:

- 1) Detailed information as to the methods used to place the non-permitted fill, compaction tests demonstrating that the non-permitted fill is currently meeting the 90% compaction level specified in the geotechnical review and any needed remediation necessary to bring the fill into compliance. **Not provided.**
- 2) Detailed specifications for installation of the proposed fill and methods to be utilized to achieve proper compaction. The engineer for this project shall specify the type and size of equipment to be utilized for compaction and the minimum number of passes with that equipment to achieve proper compaction. County policy is that structural fills shall have a compaction density of 95% or greater and a non-structural fill be between the ranges of 85 to 90 percent. Installation specifications shall include how the existing fill is to be incorporated into the proposed project. If specifications for installation require that the fill be placed from the bottom of the fill up, details illustrating how this will be accomplished shall be included. These specifications shall be specific and shall not utilize the words "should" or "may". **No information was provided as to how the existing non-permitted 5000 cubic yards of material will be incorporated into the proposed fill. In addition, no details or methods were specified for delivering materials down to the bottom of the ravine. Dumping of fill**

materials over the side of a ravine has not been proven a reliable method for filling from the bottom up; due to the accumulation of materials onto the side walls.

- 3) Detailed erosion control plans providing for winter rainy season, truck washing, reseeding of areas not being utilized for periods of time, a layered erosion control system, etc. shall be submitted. A single erosion control fence placed at the bottom of the fill will not adequately halt or prevent a large scale movement of material. A detailed re-vegetation plan at the completion of the fill shall also be submitted. **No re-vegetation plan was submitted. No method was included for the washing of the tires for the delivery vehicles, storage of material not placed during the rainy season, or an adequately designed erosion control system for the dry and wet seasons.**
- 4) A hydrological study shall be submitted for the proposed drainage system for the ravine area. This study shall demonstrate the proper size for the drainage equipment. Specifications for maintaining and accessing the system shall be included. **Not provided.**
- 5) Please specify the size of vehicles to be utilized for the delivery of materials for the fill, hours and days of delivery, earth movement activities, etc. **Hours and days of delivery of material was provided. No additional hours for the placement of the fill and compaction was mentioned.**
- 6) Narrative statements need to be revised to agree any modifications to the site plan due to the comments above. The narrative statements need to address the specific criteria in the code. Please modify them to demonstrate compliance with the criteria. In addition, the words "should" or "may" need to be revised to a definitive answer. Example: Silt fencing ~~should~~ shall be installed along the toe of the fill. Narrative statements need to be checked for conflicting statements and/or errors. **Narrative statements for the Hillside Development Permit do not individually address the code criteria.**

Note: Staff has attempted to utilize the Geotechnical Report and Grading and Fill Placement Recommendations to answer the code criteria.

(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 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.

Staff: A Geotechnical Report has been submitted to meet the above requirement.

(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.

Staff: The additional information was requested from the applicant. Please see the response under MCC 11.15.6720(D).

- (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.

Staff: The applicant has placed approximately 5000 cubic yards of materials without a Hillside Development Permit. A Stop Work Order was issued on 1/24/97.

- (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.
- (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.

Staff: The applicant, Mr. Fred Hall has indicated in writing that no additional information will be provided on August 7, 1997. The decisions for the HDP and SEC- h permit will be based upon the August 7, 1997 submittal materials.

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: The proposed fill shall be constructed with imported silty clay, clayey silt, silty sands, and silty gravelly sands. No wood, vegetation, trash, debris, or other compressible material shall be included in the fill embankment. No boulders or concrete greater than 18 inches in diameter shall be placed in the fill embankment. Any fill placed on the site shall be placed in maximum 12 inch loose lifts and compacted to 85 to 90 percent of the ASTM D 698 (AASHTO T-99) laboratory standard. A D-4 bulldozer or dump truck or other heavy equipment shall be used to compact the imported coarse grained fills while a sheepsfoot roller at least 3 feet in diameter shall be used for compacting the fine grained soils. Moisture - density testing shall be completed in every other lift of the embankment fill. If the moisture - density tests indicate compaction is not being [sic] achieved, the fill shall be scarified, moisture conditioned and recompacted.

The fill shall be delivered to the site in conventional street licensed 10 cubic yard dump trucks with ten cubic yard trailers. Fill may be placed at any time of the year. The fill will be delivered 7 days a week, between the hours of 8 AM and 6 PM. However no fill shall be placed or compacted while it is raining.

The fill on this project is not expected to support any building foundations or pavements and therefore shall be considered Non-Structural Fill. Any fill placed on a slope steeper than 5 H: 1 V shall be properly keyed and benched as shown in Figure 6 of this report. Fill shall not be placed atop sod, topsoil or any other vegetation.

Staff: The geotechnical report indicates that the fill shall not be placed atop sod, top soil or any other vegetation. The submitted site plans do not indicate the amount or area of tree/vegetation removal necessary for the proposed fill as required by MCC 11.15.6720(A). In addition, the number of passes with the equipment has not be indicated to achieve the density specified.

(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: Page 3, Conclusions and Recommendations

1. The site is stable under its current configuration and it is suitable for construction of the proposed fill embankment as planned. The stability of the existing slope configuration was analyzed using the computer program XSTABL. The attached analysis indicates the static factor of safety is 1.5.
2. The stability of the proposed completed fill configuration was analyzed using XSTABL. The attached analysis indicates the completed fill embankment will have a static factor of safety of 1.5.

Staff: Cross section A-A', Figure 8 indicates that the proposed fill embankment will have a 2H:1V face. The above statements from the Geotechnical Report indicates a slope stability of 1.5. The analysis of the current site configuration or completed fill configuration which was indicated above in the applicants answer was not attached to the geotechnical report submitted for engineering review. Without this information, staff is unable to verify the above conclusionary statements that the slopes are safe to 1.5 H :1 V.

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

Applicant: The area to be filled shall be located at distances of more than 300 feet from all stream banks, or 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;

Applicant: No increased run off is expected. The proposed fill embankment is expected to remain a permeable surface. No buildings or pavements are planned for embankment surfaces. The filled area will remain forest or pasture land.

Silt fencing shall be installed along the toe of the fill. The base of the fencing shall be embedded in a trench to control run off and erosion. Contour drainage ditches shall be cut in the face of the slope to intercept stormwater runoff. The contour ditches shall be placed at a minimum of 200 foot intervals as shown in Figure 5 or as approved by the project Engineer.

Proposed Subsurface Drainage Piping

1. Eight inch diameter perforated plastic drain pipe be placed at the base of any ravine or swale. The drain lines shall be placed to discharge at the toe of the embankment at least 300 feet from McKay Creek. The perforated pipe is not intended to act as a culvert or carry stormwater. The perforated pipe is intended to temporarily collect subsurface water percolating through the fill embankment and any groundwater seepage that may be present. The drains will remove subsurface water and thereby aid and speed the consolidation of the embankment soil. The consolidation of the fill will require [sic] approximately 3 months after the embankment is completed. In our opinion these temporary drains do not require maintenance or accessibility. If these drains become blocked or crushed we recommend a water hose be used to flush them. These subsurface drains will be expected to carry and discharge a maximum of 10 gallon per minute.

Staff: The proposed approach for the drainage system is to contour ditch the fill at a minimum 200 foot intervals as shown in Figure 5 and install an erosion control fence at the bottom of the fill to prevent the erosion of fill

materials in other areas of the property including the stream. It is assumed by staff, that the fence will remain in place until such time as pasture grass or trees are planted in this area. The contour ditching shown in Figure 5 is in conflict with cross section A-A', Figure 8, which shows the finished fill will not have any contour ditches to slow run off and reduce erosion of the fill embankment. No definitive timeline or landscape plan has been submitted with this application for the permanent re-vegetation of the fill embankment. In addition, a subsurface perforated pipe is proposed to temporarily collect subsurface water. No details as to the method of pipe installation has been included with this submittal. In addition, no specifications have been included for the outfall area of the subsurface pipe. No hydrological study or estimates of run-off has been provided. The applicant has not demonstrated that the proposed drainage system has 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 design frequency.

Applicant: The area to be filled shall be located at distances of more than 300 feet from all stream banks, or property lines.

Staff: The geotechnical report indicates that the property drains to the west through two broad ravines and that the east fork of McKay Creek drains to the south along the western edge of the site. A watercourse is defined in Multnomah County Code as "natural and artificial features which transport surface water. Watercourse includes a river, stream, creek, slough, ditch, canal or drainageway". A drainageway is defined as "any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course".

The applicant is proposing to fill the northern ravine which drains the property to the west towards McKay Creek. No hydrological study has been submitted to determine the amount of water expected to flow through the natural ravine during a 10-year event. It has not been demonstrated that the proposed drainage system has adequate measures to adequately handle the displaced streamflow through the fill area for a storm of 10-year design frequency without erosion of the fill materials and possible failure of the fill.

(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 R 340 is approved for alterations within the buffer area.

Applicant: Silt fencing shall be installed along the toe of the fill. The base of the fencing shall be embedded in a trench to control run off and erosion. Contour drainage ditches shall be cut in the face of the slope to intercept stormwater runoff. The contour ditches shall be placed at a minimum of 200 foot intervals as shown in Figure 5 or as approved by the project Engineer.

The bare surfaces of the fill shall be mulched and reseeded with pasture grass seed in September each year to provide a vegetative cover and erosion control through the winter months. The grass cover shall be stripped off the following summer prior to placing additional fill.

Staff: There appears to be a conflict between the narrative statement for MCC .6730(A)(1) and the above. The engineer indicates that fill may be placed at any time of the year and that the fill shall be not be placed on wood or vegetation. It is unclear as to whether the applicant will be shutting down completely the fill operation during the rainy season or if the site will accept fill but not place it within the ravine. If fill will be accepted all year round, no plans for erosion control or area has be designated for the storage of fill. If the fill will be placed all year round, the mulching and reseeded of the ravine is not possible due to the requirement that there be no vegetation between the fill layers. In addition, there are a number of erosion control measure that can be instituted which have not be planned for or indicated to be used. These include wheel washing facilities, straw bales, gravel construction entrance, etc.

(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.

Staff: The site plan does not indicate which trees are to be removed and no re-vegetation plan has been submitted with the application. No phasing of the removal of vegetation is mentioned. This criteria has not been demonstrated to be met.

(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 proposed project will include filling and raising grades over a time period of 3 to 5 years, in a 22 acre area of the site, with approximately 80,000 cubic yards of imported silt, sand and gravel fill. The maximum thickness of fill will be approximately 40 feet. The proposed fill area is currently grass covered pasture land and some areas of trees and shrubs. No structures or pavements are planned for the filled area. The fill embankment is to returned [sic] to grass cover pasture or forest land after filling is complete.

Staff: The application materials submitted do not appear to accurately depict the proposed fill project. Topographic contours are shown at an interval of 33-1/2 ft and may be an interpretation of the contours, as staff is not aware of any published resource materials that would utilize that interval. The applicant has not indicated that a survey was completed or submitted a copy of a survey by a registered land surveyor or registered engineer. In addition, MCC requires that topographic information be represented on a map with a contour interval not to exceed 10 feet. The cross-sections and narratives do not correspond and call into question the actual depth of the fill. No effort has been made to minimize the fill operation. It is questionable that any fill operation is necessary since the site is currently being used for pasture and forest operations and that is what is proposed for after the fill completion. The applicant has not suggested or discussed what improvements the fill will have on the farm/ forest operation. No structures are proposed. This criteria has not been demonstrated to be met.

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

Applicant: The bare surfaces of the fill shall be mulched and reseeded with pasture grass seed in September each year to provide a vegetative cover and erosion control through the winter months. The grass cover shall be stripped off the following summer prior to placing additional fill.

(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: The area to be filled shall be located at distances of more than 300 feet from all stream banks, or property lines.

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

Applicant: The fill embankment is to returned [*sic*] to grass cover pasture or forest land after filling is complete.

Staff: No permanent planting plan or time schedule has been submitted.

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

Applicant: Silt fencing shall be installed along the toe of the fill. The base of the fencing shall be embedded in a trench to control run off and erosion. Contour drainage ditches shall be cut in the face of the slope to intercept stormwater runoff. The contour ditches shall be placed at a minimum of 200 foot intervals as shown in Figure 5 or as approved by the project Engineer.

Proposed Subsurface Drainage Piping

1. Eight inch diameter perforated plastic drain pipe be placed at the base of any ravine or swale. The drain lines shall be placed to discharge at the toe of the embankment at least 300 feet from McKay Creek. The perforated pipe is not intended to act as a culvert or carry stormwater. The perforated pipe is intended to temporarily collect subsurface water percolating through the fill embankment and any groundwater seepage that may be present. The drains will remove subsurface water and thereby aid and speed the consolidation of the embankment soil. The consolidation of the fill will require approximately 3 months after the embankment is completed. In our opinion these temporary drains do not require maintenance or accessibility. If these drains become blocked or crushed we recommend a water hose be used to flush them. These subsurface drains will be expected to carry and discharge a maximum of 10 gallon per minute.

Staff: The proposed approach for the drainage system is to contour ditch the fill at a minimum 200 foot intervals as shown in Figure 5 and install an erosion control fence at the bottom of the fill to prevent the erosion of fill materials into other areas of the property including the stream, it is assumed by staff until such time as pasture grass or trees are planted in this area. The contour ditching shown in Figure 5 is in conflict with cross section A-A', Figure 8, which shows the finished fill will not have any contour ditches to slow run off and reduce erosion of the fill embankment. No definitive timeline or landscape plan has been submitted with this application for the permanent re-vegetation of the fill embankment. In addition, a subsurface perforated pipe is proposed to temporarily collect subsurface water. No details as to the method of pipe installation has been included with this submittal. In addition, no specifications have been included for the outfall area of the subsurface pipe. No hydrological study or estimates of run-off has been provided. The applicant has not demonstrated that the above can effectively accommodate increased runoff caused by altered soil and surface conditions during and after development.

(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: Silt fencing shall be installed along the toe of the fill. The base of the fencing shall be embedded in a trench to control run off and erosion. Contour drainage ditches shall be cut in the face of the slope to intercept stormwater runoff. The contour ditches shall be placed at a minimum of 200 foot intervals as shown in Figure 5 or as approved by the project Engineer.

Staff: The proposed silt fence at the toe of the fill has been shown to be inadequate in other large scale fill projects. Additional erosion control measure such as those outlined in the Erosion Control Plans Technical Guidance Handbook would strengthen the erosion control system for this project and reduce the chance that the single erosion control fence will be overwhelmed during a hard rainstorm.

(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: Silt fencing shall be installed along the toe of the fill. The base of the fencing shall be embedded in a trench to control run off and erosion. Contour drainage ditches shall be cut in the face of the slope to intercept stormwater runoff. The contour ditches shall be placed at a minimum of 200 foot intervals as shown in Figure 5 or as approved by the project Engineer.

The bare surfaces of the fill shall be mulched and reseeded with pasture grass seed in September each year to provide a vegetative cover and erosion control through the winter months. The grass cover shall be stripped off the following summer prior to placing additional fill.

Staff: The proposed system will allow the surface water normally draining through the ravine to travel down the fill slope in steps. No hydrological study has been submitted to demonstrate the amount of water which will be traveling down the fill during construction and afterwards. Without this base information, it is not possible to determine if the above will adequately protect the fill slope from erosion.

(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: Silt fencing shall be installed along the toe of the fill. The base of the fencing shall be embedded in a trench to control run off and erosion. Contour drainage ditches shall be cut in the face of the slope to intercept stormwater runoff. The contour ditches shall be placed at a minimum of 200 foot intervals as shown in Figure 5 or as approved by the project Engineer.

Proposed Subsurface Drainage Piping

1. Eight inch diameter perforated plastic drain pipe be placed at the base of any ravine or swale. The drain lines shall be placed to discharge at the toe of the embankment at least 300 feet from McKay Creek. The perforated pipe is not intended to act as a culvert or carry stormwater. The perforated pipe is intended to temporarily collect subsurface water percolating through the fill embankment and any groundwater seepage that may be present. The drains will remove subsurface water and thereby aid and speed the consolidation of the embankment soil. The consolidation of the fill will require approximately 3 months after the embankment is completed. In our opinion these temporary drains do not require maintenance or accessibility. If these drains become blocked or crushed we recommend a water hose be used to flush them. These subsurface drains will be expected to carry and discharge a maximum of 10 gallon per minute.

Staff: The proposed approach for the drainage system is to contour ditch the fill at a minimum 200 foot intervals as shown in Figure 5 and install an erosion control fence at the bottom of the fill to prevent the erosion of fill materials into other areas of the property including the stream, it is assumed by staff until such time as pasture grass or trees are planted in this area. The contour ditching shown in Figure 5 is in conflict with cross section A-A', Figure 8, which shows the finished fill will not have any contour ditches to slow run off and reduce erosion of the fill embankment. No definitive timeline or landscape plan has been submitted with this application for the permanent re-vegetation of the fill embankment. In addition, a subsurface perforated pipe is proposed to temporarily collect subsurface water. No details as to the method of pipe installation has been included with this submittal. In addition, no specifications have been included for the outfall area of the subsurface pipe. No hydrological study or estimates of run-off has been provided. The applicant has not demonstrated that the above can adequately carry existing and potential surface runoff to suitable drainageways such as storm drains or natural watercourses.

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

Staff: No landscape plan has been submitted. The Contour drainage ditches are a type of drainage swale. It is unclear as to the type of permanent erosion control measures will be implemented for protection of the ditches.

(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: Proposed Subsurface Drainage Piping

Eight inch diameter perforated plastic drain pipe be placed at the base of any ravine or swale. The drain lines shall be placed to discharge at the toe of the embankment at least 300 feet from McKay Creek. The perforated pipe is not intended to act as a culvert or carry stormwater. The perforated pipe is intended to temporarily collect subsurface water percolating through the fill embankment and any groundwater seepage that may be present. The drains will remove subsurface water and thereby aid and speed the consolidation of the embankment soil. The consolidation of the fill will require approximately 3 months after the embankment is completed. In our opinion these temporary drains do not require maintenance or accessibility. If these drains become blocked or crushed we recommend a water hose be used to flush them. These subsurface drains will be expected to carry and discharge a maximum of 10 gallon per minute.

Staff: A subsurface percolation pipe will be installed at the bottom of the ravine and carry the water out from the fill. No energy absorbing devices or erosion control measure has been indicated. This criteria has not been demonstrated to be met.

(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: The area to be filled shall be located at distances of more than 300 feet from all stream banks, or property lines.

Staff: It is unclear as to whether there will be any stockpiling of materials at this site. No area has been indicated.

(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: The area to be filled shall be located at distances of more than 300 feet from all stream banks, or property lines.

(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.

Staff: The project is not located in the Balch Creek Drainage Basin. The criteria is not applicable.

(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;**
- (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.**

(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 it is not completed by the contractor. 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.**
- (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.**

(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.

3. *Significant Environmental Concern (SEC h & s) Zone:*

MCC 11.15.6404 - 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 .6406, shall be subject to an SEC permit.

Staff: The applicant is proposing to place 80,000 cubic yards of fill material on the subject property. The property owner is indicating that the fill after it is complete will be used for either farm or forest practices on its embankment. As indicated above, the property is zoned CFU, which allows farm and forest practices as an *Uses Permitted Outright* [MCC 11.15.2048(D)]. However, MCC 11.15.0010 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 [staff emphasis added] and vegetative.

MCC 11.15.6408 - Application for SEC Permit: An application for an SEC permit for a use or for the change or alteration of an existing use on lands designated SEC, shall address the applicable criteria for approval, under MCC .6420 through .6428, and shall be filed as follows:

“(C) An application for an SEC permit shall include the following:

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC .6420 through .6426.”

Staff: The applicant has submitted an application with narrative statements addressing overall the criteria.

MCC 11.15.6420 - Criteria for Approval of SEC Permit: The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, cultural areas, and wild and scenic waterways that are designated SEC on the Multnomah County sectional maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:

- (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.

Applicant: No new structures are planned for the property. The site will be preserved and maintained in its current use as forest and farm pasture lands. Filling will be approach [sic] no closer than 300 feet from the ephemeral stream McKay Creek.

(B): Agricultural land and forest land shall be preserved and maintained for farm and forest use.

Applicant: The site will be preserved and maintained in its current use as forest and farm pasture lands.

Staff: The site is not currently in farm or forest deferral. The fill will occur over a three to five year period, in which the fill area will not be available for utilization for farm and forest practices. The remainder of the site will remain available for farm and/or forest practices.

(C): A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.

Applicant: No new structures are planned for the property.

Staff: The act of filling a ravine is considered development per MCC 11.15.0010 and is required to meet the development standards set forth in MCC 11.15.6426 or provide a wildlife mitigation plan.

(D): Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.

Applicant: The site private land that will be preserved and maintained in its current use as forest and farm pasture lands. The property is not available for public recreation and therefore we anticipate that there will not be any impact to the carrying capacity of the land.

(E): The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

Applicant: The protection of public safety and of public and private property are protected from vandalism and trespass by perimeter and interior fencing consistent with the properties use as forest and farm pasture land.

(F): Significant fish and wildlife habitats shall be protected.

Applicant: Significant fish and wildlife habitats shall be protected. No new structures are planned for the property. The site will be preserved and maintained

in its current use as forest and farm pasture lands. Filling will be approach [sic] no closer than 300 feet from the ephemeral stream McKay Creek.

Staff: The proposed fill area does not meet the distance requirements contained in MCC .6724. No wildlife mitigation plan has been submitted as part of this proposal.

(G): The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.

Applicant: The natural vegetation along McKay Creek shall be protected. The site will be preserved and maintained in its current use as forest and farm pasture lands. Filling will be approach no closer than 300 feet from the ephemeral stream McKay Creek.

Staff: The applicant's site plan in figure 4 of the SEC report shows that the perforated drain line will terminate approximately 650 feet from the line marked as the east fork of McKay Creek. Staff is uncertain as to the exact location of the stream bed and has asked the applicant to provide a survey from a licensed surveyor or a current aerial photograph of the site showing the property lines and location of the stream and the location of the proposed/existing fill. The applicant has submitted in an aerial photograph, but the scale indicated for the photo does not correspond with indicated measurements and staff has not been able to find an corresponding engineer scale for the aerial photograph.

(H): Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.

Applicant: Known archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry. There are no known archaeological sites on the property.

(I): Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.

Applicant: Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state. No identified areas of annual flooding, floodplains, frffrffwater [sic] areas, and wetlands will be disturbed as part of the proposed filling.

Staff: The applicant's submittal indicates that "In general the property drains to the west through two broad ravines" (Project and Site Description, page 2). The applicant is proposing to fill one of the ravines with 80,000 cubic yards of earth material. The Geotechnical Report has indicated that the benches should be graded as contoured drain trenches

(Geotechnical Report , Erosion Control Plan, Figure 5). In addition, an erosion control fencing shall be trenched in at the toe of the fill to intercept on-site erosion. An 8" perforated drain line system will be installed temporarily collect subsurface water. Stormwater will be allowed to run down the fill slope during construction of the fill. No other stormwater system is proposed to handle or protect the fill during construction. The ravines natural function and natural state is being altered. No attempt has been made to limit the amount of fill.

(J): Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restrictions on timing of soil disturbing activities.

Applicant: Areas of erosion or potential erosion shall be protected. Silt fencing shall be installed along the toe of the fill. The base of the fencing shall be embedded in a trench to control run off and erosion. The fill slopes shall be mulched and revegetated with grass and trees as soon as possible after filling.

Any fill placed on the site shall be placed in maximum 12 inch loose lifts and compacted to at least 85 to 90 percent of the ASTM D 698 (AASHTO T-99) laboratory standard. If the material is near the optimum moisture content we expect compaction can be achieved by wheel rolling.

No increase run off is expected. The surface water run off that does flow down the ravines will continue to flow along this pathway. The proposed fill embankment will not impede the flow of surface water and will remain a permeable surface. The filled area will remain forest or pasture land.

Staff: The applicant is proposing to install erosion control fencing and contour drainage trenches to reduce potential erosion. Additional measures such as gravel construction entrance, wheel wash for delivery trucks, straw bale sediment barriers, a sediment pond and graveled outlet for the perforated drain pipe, closure of the fill during the rainy season, etc. are Best Management Practices which could be implemented to provide adequate protection of the fill and the surrounding area over the 3-5 year time period expected for the project. In addition, the applicant's reports specifies that "Any fill placed on the site shall be placed in maximum 12 inch loose lifts and compacted to at least 85 to 90 percent of the ASTM D 698 (AASHTO T-99) laboratory standard. If the material is near the optimum moisture content we expect compaction can be achieved by wheel rolling." No additional specifications or engineering procedures have been specified for fill under non-optimum moisture content.

(K): The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.

Applicant: The quality of the air, water, and land resources and ambient noise levels shall be preserved.

Staff: McKay Creek runs along the west side of the property and has been designated an Significant Environmental Concern stream by Multnomah County. The project as proposed has limited erosion control measures which may fail during the rainy season. If a failure of the fill occurs or inadequate erosion control is installed, silt may be allowed to enter the stream causing damage. Staff has not been able to verify the location of the stream and the distance separating it from the fill because of inadequate application materials. A aerial photograph was submitted but the stream channel was not identified and the scale of the photo has been altered.

The ambient noise level of the area will be altered by the use grading equipment and the delivery of materials to the site. The applicant indicates that the fill site will be available for deliveries 7 days a week, between the hours of 8 AM and 6 PM. No hours of compaction and other grading work has not been indicated. Dump trucks with 10 cubic yard trailers will deliver the materials. This type of delivery vehicles have a heavy truck tailgate which swings freely and bangs after the dumping of materials. In addition, back-up beepers may also be utilized. The ambient noise level of the area will be disturbed for at least 10 hours a day. If compaction of the fill will occur beyond the hours of dumping, the ambient noise levels will continue to be disturbed. It is very difficult to prevent or reduce the noise generated by this type of activity. Reasonable, set hours for all work related to the fill with no deliveries occurring on weekends and no grading work on Sundays would greatly reduce the disturbance of the ambient noise levels for the 3 to 5 years of the fill project.

(L): The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.

Applicant: No buildings or structures are proposed for the site and therefore building design, bulk, materials, color and lighting compatibility concerns are not a concern.

Staff: No structures or signage has been requested as part of this application. Signage for the fill operations would not be permitted without an additional SEC permit.

(M): An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of natural vegetation, shall be retained in a natural state to the maximum extent possible.

Applicant: Known fragile or endangered plant habitat shall be preserved.
No known fragile or endangered plant habitat are present on the property.

(N): The applicable Policies of the Comprehensive Plan shall be satisfied.

Applicant: The applicable policy of the Comprehensive Plan shall be followed.

Staff: The applicant has not submitted any narrative statements to address the Comprehensive Plan Policies.

MCC 11.15.6426: Criteria for approval of SEC-h Permit Wildlife Habitat:

(A) In addition to the information required by MCC .6408 (C), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas; For the purposes of this section, a forested area is defined as an area that has at least 75% crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practices Rules of the Oregon Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan;

(2) Location of existing and proposed structures;

(3) Location and width of existing and proposed public roads, private access road, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties entirely or partially within 200 feet of the subject property.

Applicant: See Figure 2.

- (1) Location of forested areas,
- (2) Location of proposed structures,
- (3) Location of public roads,
- (4) Type and location of all fencing,

Staff: The application materials do not indicate the width of the driveway/service corridor for the fill project. An aerial photograph which is unscaled has been submitted indicating the fill access driveway. Turnaround areas and truck routes through the site have not been indicated. The site plans have no service corridor shown.

(B) Development Standards:

(1) Where a parcel contains any non-forested “cleared” areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Applicant: The proposed filling will take place in cleared forest and farm pasture areas that will be returned to forest and farm pasture use after filling. No new access roads are planned.

Staff: A portion of the fill area will occur in currently forested land (Figure 3, SEC report). From the above statement, staff must assume that the trees will be cleared from this area. No boundaries for tree removal have been indicated.

(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Applicant: The proposed filling will take place in cleared forest and farm pasture areas that will be returned to forest and farm pasture use after filling. No new access roads are planned.

Staff: MCC 11.15. 0010 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 [staff emphasis added] and vegetative”. The closest area to be filled is located approximately 250 feet from Moreland Road and will extend approximately 1100 feet into the property with the percolation pipe outfall 400 feet further from the toe of the embankment. This criteria has not been met.

(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

Applicant: The proposed filling will take place in cleared forest and farm pasture areas that will be returned to forest and farm pasture use after filling. No new access roads are planned.

Staff: The application material submitted includes an aerial photograph which indicates the location of the fill access driveway. The photograph is not to scale. No truck route through the property, turnaround area or service

corridor has been indicated on the site plan. This criteria has not been demonstrated to be met.

(4) The access road/driveway shall be located within 100 feet of the property boundary if adjacent property has an access road or driveway within 200 feet of the property boundary.

Applicant: The proposed filling will take place in cleared forest and farm pasture areas that will be returned to forest and farm pasture use after filling. No new access roads are planned.

Staff: The proposed project indicates that the access for the fill site will be from an existing driveway off of Moreland Road.

(5) The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.

Applicant: The proposed filling will take place in cleared forest and farm pasture areas that will be returned to forest and farm pasture use after filling. No new access roads are planned.

(6) Fencing within a required setback from a public road shall meet the following criteria:

(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

Applicant: Fences shall be a maximum of 42 inches high with a 17 inch gap between the ground and the bottom of the fence.

(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.

Applicant: Wood and wire fences will be used. The bottom strand of wire shall be barbless. Fences may be electrified.

(c) Cyclone, woven wire, and chain link fences are prohibited.

Applicant: Cyclone, woven wire, and chain link fences are prohibited.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

Applicant: Fences will have a ratio of solids to voids less than 2:1.

(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a

point 16 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

(7) The nuisance plants listed shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Applicant: The attached list of nuisance plants shall not be planted on the subject property and shall be removed and kept removed from the cleared areas of the property.

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

- (1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or**
- (2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section B and will result in the proposed development having less detrimental impact on forested wildlife habitat than the standards in Section B.**
- (3) The wildlife conservation plan must demonstrate the following:**
 - (a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.**
 - (b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.**
 - (c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing areas used for agricultural purposes.**
 - (d) That revegetation and enhancement of disturbed stream riparian areas occurs along drainage's and streams located on the property occurs.**

Applicant: Wildlife Conservation Plan - A Wildlife Conservation Plan is not necessary because can meet the development standards listed in section (B).

Staff: The proposed project is not consistent with MCC .6726 (B)(1), (2) & (3). No wildlife mitigation plan was submitted for review.

- (4) For Protected Aggregate and Mineral (PAM) subdistrict, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.

6. MULTNOMAH COUNTY COMPREHENSIVE PLAN POLICIES:

Policies in the Comprehensive Plan which are applicable to this Quasi-judicial Decision are addressed as follows:

Policy No. 13, Air, Water and Noise Quality: Multnomah County, ... Supports efforts to improve air and water quality and to reduce noise levels. ... Furthermore, 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.

Applicant: No narrative statement was submitted.

Policy No. 14, Development 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:

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

1. **Applicant:** No narrative statement was submitted.

Policy No. 37, Utilities: The County's policy is to require a finding prior to approval of a legislative hearing or quasi-judicial action that:

WATER DISPOSAL SYSTEM:

- A. The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or
 - B. 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

- C. There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. There is an adequate private water system, and a public sewer with adequate capacity.

DRAINAGE:

- E. There is adequate capacity in the storm water system to handle the increased run-off; or
- F. The water run-off can be handled on the site or adequate provisions can be made; and
- G. The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjacent lands.

ENERGY AND COMMUNICATIONS:

- H. There is an adequate energy supply to handle levels projected by the plan; and
- I. Communications facilities are available.

Applicant: No narrative statement was submitted.

Policy No. 38, Facilities: The County's Policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. The appropriate School District has had an opportunity to review and comment on the proposal.
- 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 comment on the proposal.
- D. The proposal can receive adequate local police protection with the standards of the jurisdiction providing police protection.

Applicant: No narrative statement was submitted.

Policy No. 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:

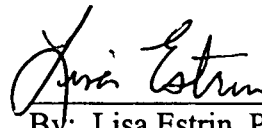
- A. Pedestrian and bicycle path connections to parks, recreation areas and community facilities will be dedicated where appropriate and where designated in the bicycle corridor capital improvements program and map.
- B. Landscaped areas with benches will be provided in commercial, industrial and multiple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

Applicant: No narrative statement was submitted.

CONCLUSIONS:

- A. The applicant has not carried the burden necessary for granting Hillside Development Permit for the purposes of placing 80,000 cubic yards of fill material.
- B. Inaccuracies exist between the submitted cross sections, details and narrative statements such that the application is unable to show compliance with the above criteria for the Hillside Development Permit.
- C. A Wildlife Mitigation Plan is necessary because the proposed fill site does not meet the development standards outlined in MCC .6726(B).

NOTICE: This decision was mailed August 28, 1997 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 August 8, 1997.



By: Lisa Estrin, 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