



DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING DIVISION  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214-2865  
(503) 248-3043 FAX: (503) 248-3389

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## NOTICE OF PLANNING DIRECTOR DECISION

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### HILLSIDE DEVELOPMENT PERMIT

Case File No.: HDP 10-98

and

### SIGNIFICANT ENVIRONMENTAL CONCERN PERMIT

Case File No.: SEC 33-98

December 15, 1998

**WHAT:** An application for a Hillside Development Permit to replace a collapsed culvert and stabilize a small slide area at the intersection of Cornelius Pass Road and Sheltered Nook Road. A Significant Environmental Concern Permit for development in areas designated as containing significant Wildlife Habitat and Significant Scenic Views.

**WHERE:** 15446 NW Cornelius Pass Road  
2N-1W Section 19, Lot 40 Sheltered Nook

**WHO:** *Property Owner:* Steven Bach and Laurie Voss  
15446 NW Cornelius Pass Rd.  
Portland, OR 97231

*Applicant:* Multnomah County Transportation  
1620 SE 190<sup>th</sup> Ave.  
Portland, OR 97233

**ZONING:** CFU, Commercial Forest Use  
SECh,v,s Significant Environmental Concern

### PLANNING DIRECTOR DECISION:

**APPROVE,** subject to the conditions of approval below, a Hillside Development Permit and SEC permit for work associated with replacement of an existing culvert and slide stabilization.

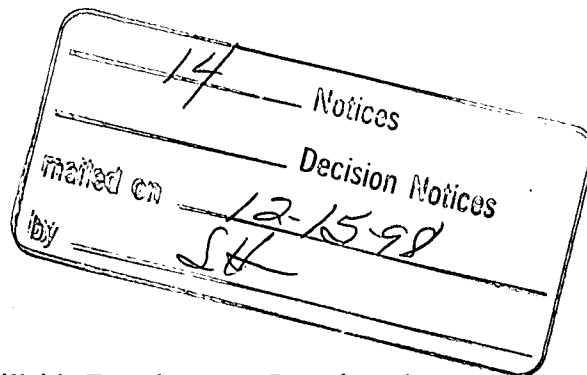


EXHIBIT "A"

NW SHELTERED NOOK RD.

ACCT. NO. R-76420-3910  
K.V.S. LIMITED LICENSED CORP  
3818 FAIRHAVEN DR.  
WEST LINN, OR. 97068

NW CORNELIUS PASS RD.

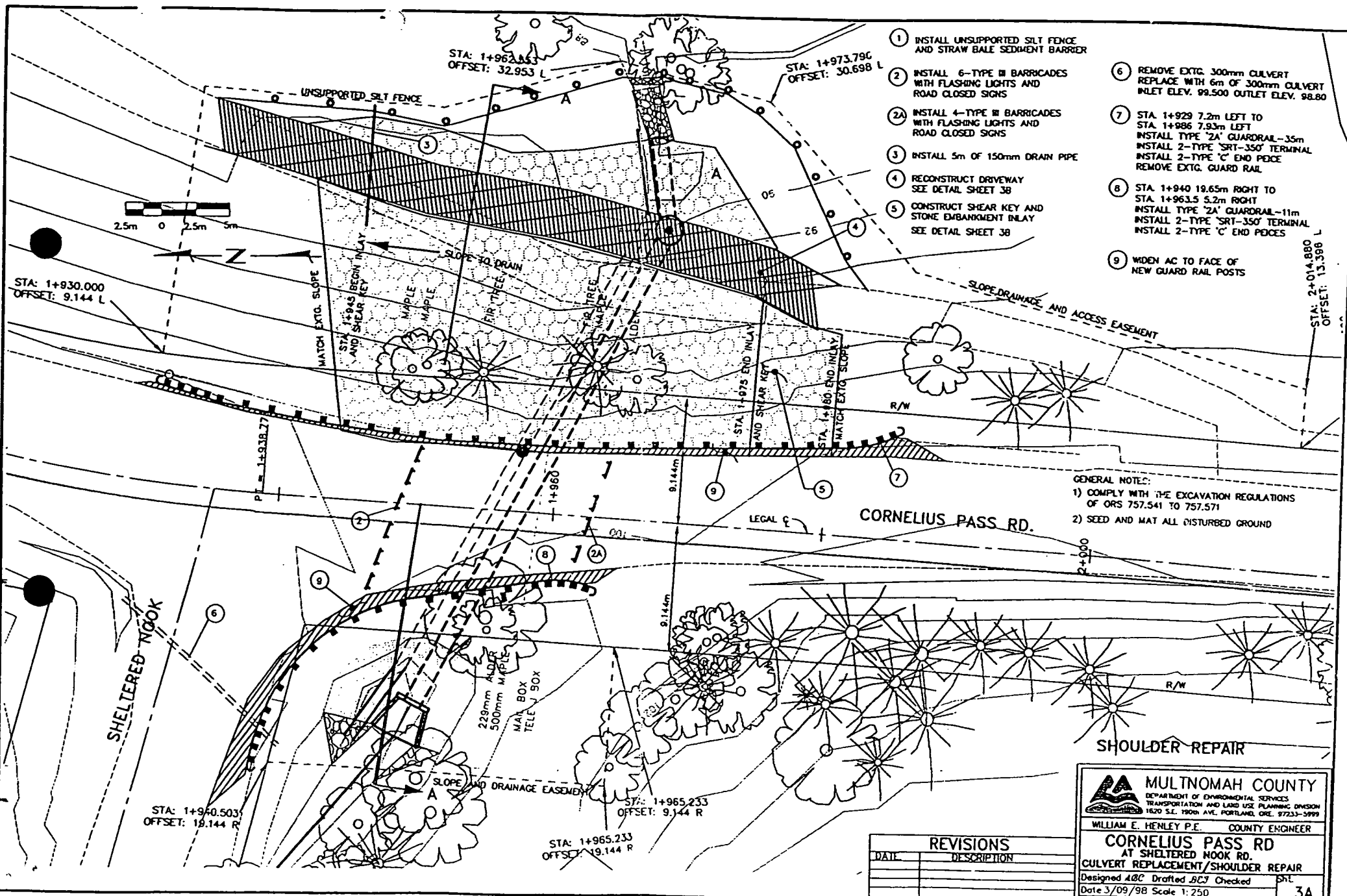
EASEMENT

PROJECT AREA  
HDP 10-98  
Sec 33-92



NO SCALE

SW 1/4 SEC. 19  
T2N, R1W, W.M.




- 1 INSTALL UNSUPPORTED SILT FENCE AND STRAW BALE SEDIMENT BARRIER
- 2 INSTALL 6-TYPE III BARRICADES WITH FLASHING LIGHTS AND ROAD CLOSED SIGNS
- 2A INSTALL 4-TYPE III BARRICADES WITH FLASHING LIGHTS AND ROAD CLOSED SIGNS
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- 4 RECONSTRUCT DRIVEWAY SEE DETAIL SHEET 38
- 5 CONSTRUCT SHEAR KEY AND STONE EMBANKMENT INLAY SEE DETAIL SHEET 38
- 6 REMOVE EXTG. 300mm CULVERT REPLACE WITH 6m OF 300mm CULVERT INLET ELEV. 99.500 OUTLET ELEV. 98.80
- 7 STA. 1+929 7.2m LEFT TO STA. 1+986 7.93m LEFT INSTALL TYPE "2A" GUARDRAIL-35m INSTALL 2-TYPE "SRT-350" TERMINAL INSTALL 2-TYPE "C" END PECE REMOVE EXTG. GUARD RAIL
- 8 STA. 1+940 19.65m RIGHT TO STA. 1+963.5 5.2m RIGHT INSTALL TYPE "2A" GUARDRAIL-11m INSTALL 2-TYPE "SRT-350" TERMINAL INSTALL 2-TYPE "C" END PECEES
- 9 WIDEN AC. TO FACE OF NEW GUARD RAIL POSTS

GENERAL NOTES:  
1) COMPLY WITH THE EXCAVATION REGULATIONS OF ORS 757.541 TO 757.571  
2) SEED AND MAT ALL DISTURBED GROUND

CORNELIUS PASS RD.

SHOULDER REPAIR

 **MULTNOMAH COUNTY**  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION AND LAND USE PLANNING DIVISION  
1620 S.E. 100th AVE. PORTLAND, ORE. 97233-3999  
WILLIAM E. HENLEY P.E. COUNTY ENGINEER

**CORNELIUS PASS RD  
AT SHELTERED NOOK RD.  
CULVERT REPLACEMENT/SOULDER REPAIR**  
Designed ABC Drafted BCJ Checked SHT  
Date 3/09/98 Scale 1:250

REVISIONS	
DATE	DESCRIPTION

## **I. CONDITIONS OF APPROVAL**

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***For questions about Conditions of Approval and Building Permit Sign-off, contact Chuck Beasley, at 248-3043.***

### **Approval Criteria:**

1. MCC 11.15.2048 Uses Permitted Outright provides for road reconstruction in the CFU zone.
2. MCC 11.15.6700 - Hillside Development (HDP), contains the requirements for a Hillside Development Permit and for necessary Grading and Erosion Control measures.
3. MCC 11.15.6400 through .6428 contains the criteria for application of the Significant Environmental Concern (SEC) Zone. The sections which contain the majority of the criteria applicable to the request are those which contain the application requirements under MCC .6408, the general SEC criteria of MCC.6420, the criteria for areas with Significant Views in MCC .6424, and the criteria for areas designated as Wildlife Habitat in MCC .6426. These criteria are addressed in part IV. of this report.

4. Comprehensive Framework Plan Policies: 13, 22, 37, 38, and 40, apply to all quasi-judicial decisions in the county. In addition, Policy 14 Developmental Limitations, applies to all or a portion of the property.

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**The appeal period for HDP 10-98 and SEC 33-98 ends December 28, 1998 at 4:30 p.m.**

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14	Notices
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mailed on	12-15-98
by	SL

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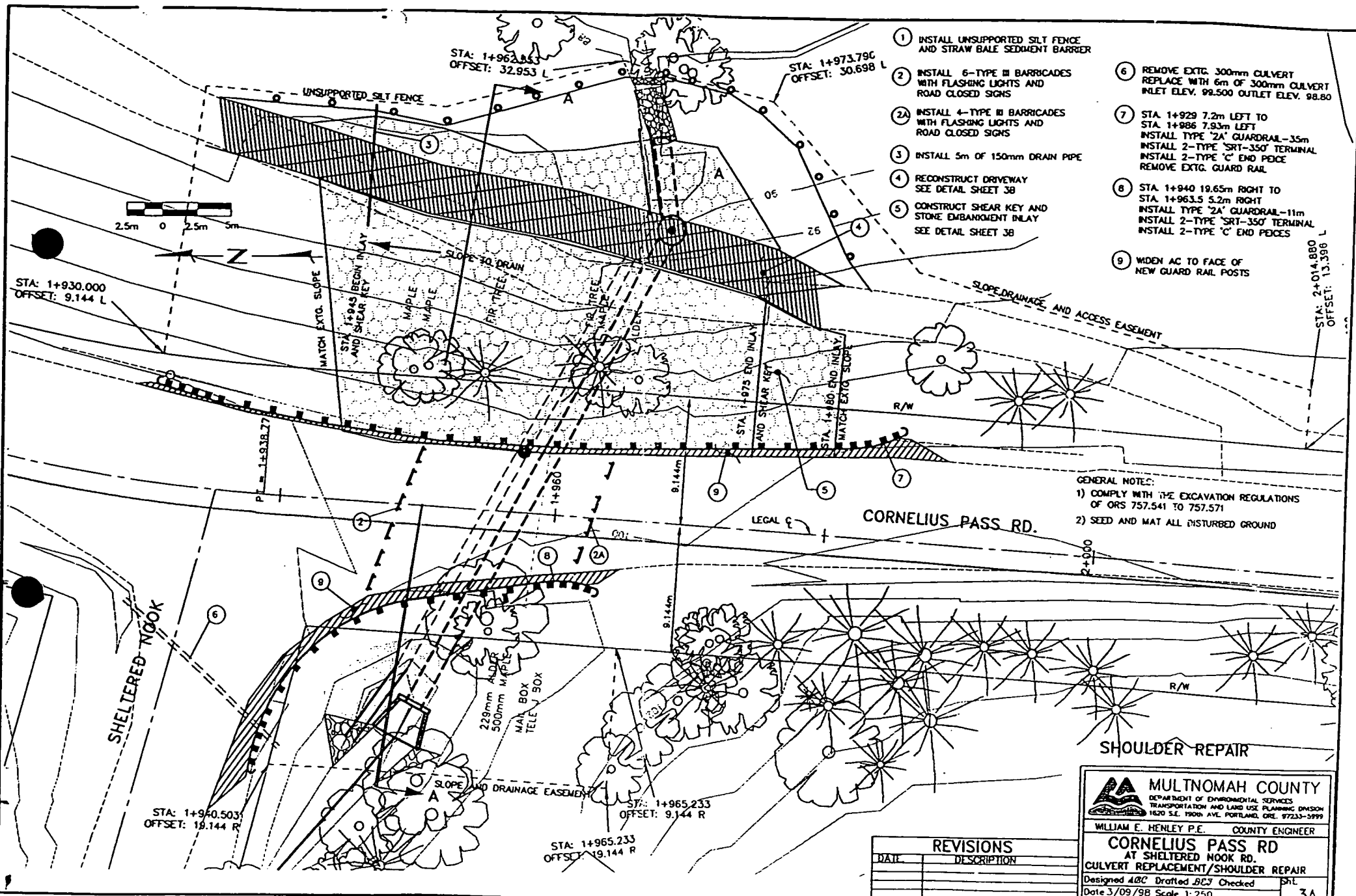
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PROJECT AREA  
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NO SCALE

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WILLIAM E. HENLEY P.E. COUNTY ENGINEER

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 AT SHELTERED NOOK RD.  
 CULVERT REPLACEMENT/SOULDER REPAIR**

Designed ABC Drafted BCS Checked DFL  
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3A

REVISIONS	
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## ADMINISTRATIVE DECISION

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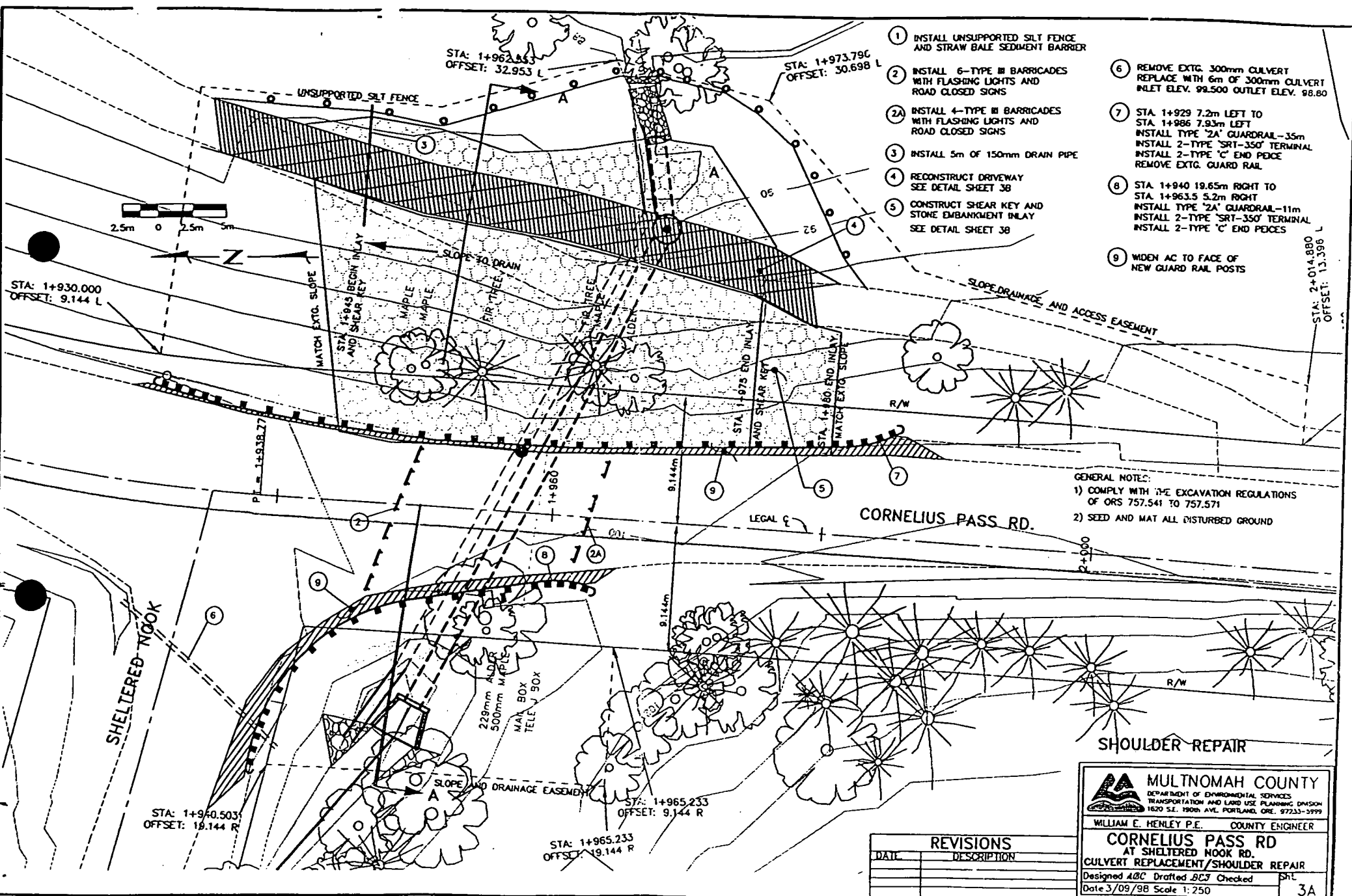
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**STAFF REPORT FORMAT:** This staff report addresses two requested actions, the Hillside Development Permit including Grading and Erosion Control Plan, and the Significant Environmental Concern review. Findings by staff are included under each approval criterion or standard.

## **FINDINGS**

### **APPROVAL CRITERIA:**

1. MCC 11.15.2048 Uses Permitted Outright provides for road reconstruction in the CFU zone.
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### **A. Commercial Forest Use (CFU) Zone:**

#### **MCC 11.15.2048 Uses Permitted Outright**

\* \* \*

- (K) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result;

**Findings:** The reconstruction of this portion of Cornelius Pass Road needed to proceed soon after discovery of the slope and culvert failures last January, and has been completed at this time. The project included replacement of a culvert and reconstruction of road fill side slopes of a public road. No displacement of buildings has occurred and no new land parcels have been created.

### **B. Hillside Development Permit**

#### **1. MCC 11.15.6725 - Hillside Development Permit process and Standards:**

- (A) A Hillside Development permit may be approved by the Director only after the applicant provides:

- (1) Additional topographical 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.**

**Findings:** Compliance with the Hillside Development ordinance is required for this project by the provisions of MCC .6710. The road intersection is within a hazard area indicated on the Multnomah County Slope Hazard Map and has some slope areas of greater than 25%. The applicant, the Multnomah County Engineer, submitted the list of documents identified at the end of this report as Exhibit A1, in support of the application. The HDP Form-1 produced by Landslide Technology concludes that no investigation in addition to the Geotechnical evaluation already completed is necessary for the project.

**2. MCC 11.15.6730 - Grading and Erosion Control Permit Standards:**

**MCC .6730 (A)(1)(a)- Grading Standards:** 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;

**Findings:** The slide area was filled with a mechanically compacted stone embankment, and areas that support structures (the road bed and culvert) were excavated to rock. A cross-section of reconstructed side slope areas is included on Sheet 3B of the County Engineer's plan.

**MCC .6730 (A)(1)(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;

**Findings:** The slope has been constructed at 1.5 to 1. The erosion control measures consisted of seeding with grass and installation of erosion control mesh blanket. The slope angles are shown on the plans produced by the County Engineer.

**MCC .6730 (A)(1)(c):** Cuts and fills shall not endanger or disturb adjoining property;

**Findings:** The applicant indicates that the project will not change the drainage of the area. The work to repair the road embankment entails activity on adjacent private property, and the applicant has obtained easements for this purpose. The approach to the road fill reconstruction was to re-build the roadbed from bearing rock consistent with the engineering report by Landslide Technology in order to ensure that it will stay in place.

**MCC .6730 (A)(1)(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;



**Findings:** The 10/1/98 submittal contains culvert sizing calculations to address this standard. The applicant states that the new culvert has adequate capacity.

**MCC .6730 (A)(1)(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.

**Findings:** The applicants' response is the same as for (A)(1)(d) above.

**MCC .6730 (A)(2)(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 within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.

**Findings:** The subject project area is not within the Tualatin Basin.

**MCC .6730(A)(2)(b):** Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

**Findings:** The applicant states that the project tried to minimize soil erosion and stabilize soil as quickly as possible. Staff noted during the 11/16/98 site inspection that soil surfaces were stabilized with a mesh blanket and grass.

**MCC .6730 (A)(2)(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.

**Findings:** The applicant notes that operations were minimized.

**MCC .6730 (A)(2)(d):** Temporary vegetation/and or mulching may be required if protection is required on exposed critical areas during development.

**Findings:** Temporary mulching and plastic sheeting was used to minimize erosion during construction.

**MCC .6730 (A)(2)(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 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;

**Findings:** The applicant states in the 8/6/98 submittal that the pre-existing vegetation consisted of primarily blackberries five to eight feet tall. Removal of these blackberries will give native vegetation a chance to establish itself. One oak tree in the right of way was removed. Five trees at the east edge of the right of way were also removed. One of these trees was already dead and the other four had been topped at 25 feet by PGE. About a dozen small trees and seedlings, mostly cedar, were saved and replanted down on the flat area near the outflow of the culvert. The trees will be checked in December for survival and replaced if needed as per agreement with the property owner. All trees actually providing shade for the water were saved.

Staff notes that Cornelius Pass Road is within approximately 90' of McCarthy Creek, and the culvert replacement occurs within a tributary stream. Existing vegetation which was removed as shown on the site plan includes an Alder and Maple tree on the west side of the road, and an Alder, two Fir, and three Maple trees on the east (McCarthy Creek) side of the road. In addition, the Permit of Entry indicates 30 fir trees were to be removed and replaced as part of the project. On the 11/13/98 site inspection, staff noted no replanted trees in the area west of the road. A group of seven cedar tree seedlings are near McCarthy Creek on the east side of the road, and six did not survive.

The applicant intends to plant fir trees 10' on center in the road embankment, in addition to re-planting the Cedar trees which did not survive as noted above. The proposed tree planting also addresses the stream vegetation enhancement part of the SEC approval criterion in MCC 11.15.6420(G).

**MCC .6730 (A)(2)(f): Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical.**

**Findings:** The applicant notes that permanent planting was done at the end of the project. Staff notes that a sediment control fence is in place along the east edge of the project area adjacent to McCarthy creek. Additional structural erosion control includes the mesh blanket which covers the rebuilt road sideslopes. The exposed areas which are mesh covered were also seeded with grass, however only a thin stand of grass is

established. The areas which are covered with mesh should be re-seeded as soon as practicable in order to establish enough grass plants to reduce soil erosion.

**MCC .6730 (A)(2)(g):** Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development.

**Findings:** The applicant states that no increased runoff has been caused by this project.

**MCC .6730 (A)(2)(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.

**Findings:** The applicant notes that a straw bale sediment trap was used. As noted above, the sediment fence remains in place along McCarthy Creek.

**MCC .6730 (A)(2)(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.

**Findings:** The applicant notes that plastic sheeting was used to cover portions of this project. In addition, staff notes the mesh blanked and grass seeding measures which were implemented on the embankment areas.

**MCC .6730 (A)(2)(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.

**Findings:** Drainage system is adequately sized. Staff notes that any drainage from road surfaces appears to runoff as "sheet flow" down to the watercourses.

**MCC .6730 (A)(2)(k):** Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion.

**Findings:** No drainage swales are used.

**MCC .6730 (A)(2)(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.**

**Findings:** The applicant states that a rip rap basin was installed at the outlet of the culvert. Staff notes that the bottom of the culvert contains baffles with rip rap behind each, and that rip rap was placed on the lower side slopes adjacent to the culvert inlet on the west side of the highway.

**MCC .6730 (A)(2)(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;

**Findings:** Spoil materials were immediately hauled off and not stockpiled on site.

**MCC .6730 (A)(2)(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.

**Findings:** No non-erosion pollution left the construction site.

**MCC .6730 (A)(2)(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.

**Findings:** The site is not within the Balch Creek Drainage System.

**MCC .6730 (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.

**MCC .6730 (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 or Grading and erosion Control Permit, work may be stopped until appropriate conditions are completed.

**MCC .6730 (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.

**CONCLUSIONS for HDP Permit:**

1. The applicant has met the Geotechnical requirements necessary for granting the Hillside Development Permit with the Geotechnical Report and plans included as part of this report.
2. The applicable Grading and Erosion Control requirements will be satisfied when the conditions of approval are satisfied. These conditions are needed in order to meet the requirements of .6730(A)(2)(e) and .6730(A)(2)(f), for re-establishment of vegetation. In order to meet these two code requirements, the applicant will need to re-apply grass seed in the areas which are covered by mesh, and to replace the six Western Red Cedar trees adjacent to McCarthy Creek.

**C. Significant Environmental Concern Permit**

**MCC 11.15.6404 Uses – SEC Permit Required**

**MCC .6404(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.

**Findings:** The use, reconstruction of a public road, is allowed in the CFU zone. The project entails replacement and enlargement of an existing culvert, reconstruction of a pre-existing logging road, and re-contouring and stabilization of the road bed and sideslopes. The project is not exempt under the provisions of MCC .6406. The project does take place within the Stream Conservation Area which extends for 300' on both sides of McCarthy Creek, which is the receiving waters of the tributary which is getting the new culvert. However, the SECs provisions of MCC .6428(4) lists maintenance of existing developments (in this case the two road segments and culvert) which occur in Stream Conservation Areas as exempt from the SECs requirements. However, the project must meet the general SEC criteria, and the standards for areas designated as containing significant views and wildlife habitat. The analysis below first considers the general SEC criteria.

#### **1. MCC 11.15.6420 General 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 Multnomah County sectional zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:

**MCC .6420(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.

**Findings:** The project itself requires work within a tributary of McCarthy Creek. The tributary is not designated as a Significant Stream in the County's Goal 5 inventory, but does contribute to a Significant Stream. The end of the project is approximately 25' from McCarthy Creek, where the culvert outlet is located. The culvert gradient, coupled with the length needed to cross the road and embankment areas, dictates the end point.

**MCC .6420(B):** Agricultural land and forest land shall be preserved and maintained for farm and forest use.

**Findings:** The project results in a rebuilt road which accesses forest resource land.

**MCC .6420(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.

**Findings:** The portions of the project which occur on a lot are the sideslope easement areas and culvert openings. As noted above, the entire project is within the Stream Conservation Area of McCarthy Creek, and this is an area of environmental significance. The loss of environmental values in the project area is primarily the loss of trees which were removed in order to stabilize the road sideslopes. Given the need to replace the culvert and rebuild the road sideslopes, and given the need to minimize the culvert gradient, the project balances disturbance to the riparian area along McCarthy

Creek.

**MCC .6420(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.

**Findings:** The project has no associated recreational needs.

**MCC .6420(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.

**Findings:** The project results in enhanced highway safety by eliminating the potential for saturation of the road fill and the associated road failure. This increases the protection of private property by stabilizing the embankment.

**MCC .6420(F):** Significant fish and wildlife habitats shall be protected.

**Findings:** As noted above, McCarthy Creek is designated as Significant Habitat. Measures were implemented to protect water quality during re-construction of the culvert and embankment as described in the HDP permit request.

**MCC .6420(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.

**Findings:** The applicant notes under MCC .6730 (A)(2)(e) of this report, that all trees which provided shade to McCarthy Creek were retained. In addition, approximately 8 Cedar tree seedlings were planted near the creek, although only 2 survive. Additional trees were proposed to be planted on the embankment east of the road, however these trees do not appear to have been planted.

Staff notes that the re-constructed road embankment on both west and east sides of the road appears to be a potential seed bed for re-establishment of nuisance plants such as Himalayan blackberry which grows adjacent to the work area on the east side of the road. Himalayan blackberry is a non-native specie. The thin stand of grass which has been established will do nothing to discourage invasion of these species. Relatively large areas which have been taken over by Himalayan blackberry are less scenic than forested areas that contain native forest species. The blackberry plants do not grow well in deep shade, therefore re-establishment of evergreen trees can inhibit their spread. Establishment of evergreen trees will require periodic control of the blackberry vines since they typically spread faster than the trees will grow.

**MCC .6420(H):** Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.

**Findings:** No archaeological areas are identified in the project area.

**MCC .6420(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.

**Findings:** The hydrology of McCarthy creek does not appear to have been altered by the project. The new enlarged culvert which contains baffles improves the potential for

the small tributary to be used by fish, and slows the movement of water through the pipe. This is an improvement over the old smooth concrete pipe it replaces.

**MCC .6420(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 restriction on timing of soil disturbing activities.

**Findings:** The erosion measures are described in the HDP permit.

**MCC .6420(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.

**Findings:** Water and land resources are the applicable elements under this application. The findings under (G) and (J) above apply here as well. Water quality was preserved during development due to the erosion control measures and placement of rip rap on embankment side slopes. Land and water quality from both a scenic and habitat standpoint can be preserved by planting to re-establish evergreen trees and discourage growth of nuisance plants, primarily Himalayan blackberry.

**MCC .6420(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.

**Findings:** The project hard structures appear to be compatible with the visual quality of the area. Very little change appears to have occurred during this project.

**MCC .6420(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 the natural vegetation, shall be retained in a natural state to the maximum extent possible.

**Findings:** The area is not recognized as containing fragile or endangered plant habitat.

**MCC .6420(N):** The applicable policies of the Comprehensive Plan shall be satisfied.

**Findings:** The Framework Plan contains policies for which a finding must be made for all quasi-judicial decisions. These are policies 13 Air, Water and Noise Quality; 22 Energy Conservation; 37 Utilities; 38 Facilities; and 40 Development Requirements. In addition, Policy 14 Development Limitations applies due to the slopes and soil types in the area. Policies 13(water quality) and 14 are met through the Hillside Development Permit process which requires measures to protect water quality and to minimize future roadbed failures. The other policies do not apply to this project primarily because no increases to impervious surfaces or habitable structures are involved.

## **2. 11.15.6424 Criteria for Approval of SEC-v Permit Significant Scenic Views**

***Significant scenic resources*** consist of those areas designated SEC-v on Multnomah County sectional zoning maps.

***Identified Viewing Areas*** are public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. Identified Viewing Areas are:



Bybee-Howell House  
Virginia Lakes  
Sauvie Island Wildlife Refuge  
Kelley Point Park  
Smith and Bybee Lakes  
Highway 30  
The Multnomah Channel  
The Willamette River  
Public roads on Sauvie Island

*Visually subordinate* means development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.

**MCC .6424(A):** In addition to the information required by MCC .6408(C), an application for development in an area designated SEC-v shall include:

- (1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;
- (2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;
- (3) A list of identified viewing areas from which the proposed use would be visible; and
- (4) A written description and drawings demonstrating how the proposed development will be *visually subordinate* as required by (B) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.

**MCC .6424(B):** Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be *visually subordinate*. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:

**Findings:** All of the information required under (A) above is on the site plan. This portion of Cornelius Pass Road is not visible from any Identified Viewing Areas.

### 3. 11.15.6426 Criteria for Approval of SEC-h Permit Wildlife Habitat

**MCC .6426(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 Practice Rules of the 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 roads, 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 and on properties entirely or partially within 200 feet of the subject property.

**MCC .6426(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.
- (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.
- (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.
- (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.
- (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.
- (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.
  - (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.
  - (c) Cyclone, woven wire, and chain link fences are prohibited.
  - (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

- (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 100 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 following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus</i> sp. except <i>C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Waterweed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telmateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium robertianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquifolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion

<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
various genera	Bamboo sp.

**Findings:** All of the information required in (A) above is on the site plan. Staff estimates that a majority of the project area fits the definition of a "cleared area." The development locational standards of (B) do not fit this project well because the standards assume that choices of development locations exist. In this case, reconstruction of the road side slopes and culvert location must occur in the same location. In addition, this project does not require driveways, services, or fencing. The project is not inconsistent with or meets the standards of (B)(1), (2), (3), (4), (5), and (6).

The nuisance plant provisions of (7) do however apply because the road side slopes are "cleared areas" in the project area. The embankment areas on the east side of the road contained Himalayan Blackberry prior to start of construction, and is currently free of nuisance plants because the stabilization of side slopes required a new ground surface and soil substrate to be established. However adjacent properties contain Himalayan Blackberry, which will quickly re-establish itself in the project area unless measures are taken to inhibit its spread. The best method to inhibit the spread of the blackberry vines appears to be pursuit of a maintenance program to clear blackberry vines at regular intervals, and to re-establish enough native plant material to provide enough competition for nutrients and light so that the blackberries do not re-establish themselves. Given the location of the project within a Stream Conservation Area, the preferred method, and perhaps the most economic over time, is to plant the site with enough native plant material to inhibit blackberry growth. Chemical control for a period of time long enough to allow the native plants to grow to a size which will inhibit nuisance plant growth may also be a management option. Staff estimates that this will require at least two treatments which are spread out far enough to allow the plants to reach a size when they will be safe from being covered by blackberry vines.

### **CONCLUSIONS for SEC Permit:**

1. The general SEC approval standards either do not apply (.6420(D),(H), (M), are demonstrated to have been met by the information presented, .6420(A), (B), (C), (E), (F), (I), (K), (L), and (N), or can be met when conditions of approval have been met. Conditions of approval are needed to ensure that the vegetation enhancement required in .6420(G) occurs. The third condition of approval which requires re-planting of Cedar trees which were relocated to near McCarthy Creek but did not survive to be replanted in order to enhance the riparian area.
2. The fourth condition of approval also contributes to enhancement of the riparian area by establishing Douglas fir trees along the re-built embankment. These plantings also address the natural vegetation supplementation/retention requirement of the HDP standard in .6730(A)(2)(e).

3. A condition of approval is necessary to ensure that the erosion control standard of .6420(J) is met. This SEC standard is addressed for purposes of this application through the Grading and Erosion Control standards of the HDP permit. The needed condition is number two, and is described on page 10 of this report.
4. The provisions of the SEC-v ordinance are essentially not applicable because the road is not visible from any of the Identified Viewing Areas.
5. The development standards for areas designated as containing significant wildlife habitat beginning at .6426(B) generally do not shape this road project because it does not entail choices of development area, nor does it include most of the features described in the standards. The nuisance plant standard of .6426(B)(7) does however, affect the project area because it is by definition a "cleared area", and because Himalayan blackberry is present on the east side of the road. Measures should be taken to both inhibit re-growth of this nuisance plant on the east side of the road, and to not allow it to spread to the west side. This can be accomplished by careful spraying of individual blackberry plants on the east side of the road at reasonable intervals, and by planting evergreen plants, including low growing native plants such as salal or swordfern on the west side if needed to maintain sight distance.

#### **Exhibits:**

A1. Applicant's submittals for HDP permit.

6/17/98: narrative, plan, HDP Form 1, slope easement.  
8/6/98: supplemental narrative, HDP Form 1, site plan.  
10/1/98: culvert size calculations, HDP Form 1, site plan.  
10/5/98: Landslide Technology report dated 1/26/98.

A2. Applicant submittals for SEC permit.

November 14, 1997 letter G2 Assoc. to staff.  
Revised Stakeout/Erosion Control Plan with Proposed Drywells.

**In the matter of : HDP 10-98 and SEC 33-98**

Multnomah County Department of Environmental Services  
Land Use Planning Division

By: *Chuck Beasley*  
Chuck Beasley, *Planner*

For: Kathy Busse, *Planning Director*

This decision was filed with the Director of the Department of Environmental Services on December 15, 1998.