



DEPARTMENT OF ENVIRONMENTAL SERVICES
LAND USE PLANNING DIVISION
1600 SE 190TH AVE.
PORTLAND, OREGON 97233
(503) 248-3043 FAX: (503) 248-3389

DECISION OF THE PLANNING DIRECTOR

Hillside Development Permit

Case File: HDP 14-99

Date Decision Issued: August 20, 1999

Proposal: Construction of a replacement dwelling.

Location: 16061 NW McNamee Rd.
Lot 2 Block 2 McNamee Ridge View Ac. 2N1W Section 19.
Tax Acct #R55360-0250

**Applicant/
Owner:** Samuel F. and Christine L. Sugura
16061 NW McNamee Rd.
Portland, OR 97231

Zoning: RR, SEC, h,v.

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

Decision: Approve, subject to the conditions below, the site work proposed for the replacement dwelling, based on the following findings and conclusions and subject to the conditions below.

Conditions of Approval

1. This approval is based on the submitted written narrative(s), and erosion control plan with required amendments. No excavation or fill shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
2. The property owner shall maintain best erosion control practices through all phases of development. Erosion control measures are to be located as illustrated on the erosion control plan, and are to include the installation of sediment fences/barriers at the toe of disturbed areas and post construction re-establishment of ground cover. Straw mulch or 6-mil plastic sheeting shall be used as a wet weather measure to provide erosion protection for exposed soils.

Replanting of exposed areas shall be accomplished within thirty (30) days of project completion or sooner as required by this permit. **No land disturbing activities are to be conducted until the erosion control measures are in place.**

3. Mulching of exposed areas on this site will be necessary for areas which have not established a thick stand of grass by November 1. Seeding and mulching shall occur by September 1 as recommended in section 3.3.6 of the "Handbook," or other measures necessary to control erosion during wet weather.
4. Fill materials shall be clean and non-toxic. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires), petroleum based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects.
5. The property owner is responsible for removing any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within adjacent public right-of-way are disturbed, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality.
6. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts result from on-site grading work. The Portland Building Bureau (Special Inspections Section), the East Multnomah County Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects.

Note: No additional land use action and/or permit requests relating to this application shall be accepted until such time as all required fees for processing this decision have been paid in full.

The Planning Director's policy is for the case planner to provide zoning approval of the final Building Plans on an appointment basis. Please contact Chuck Beasley at 248-3043 to set a time for Building Permit sign-off.

STAFF REPORT FORMAT

This staff report addresses one requested action, approval of a Hillside Development (HDP) permit. The Applicant's response to an approval criterion is indicated by the notation "Applicant." Planning staff comments and analysis follow the applicant's responses to the criterion. Additional planning staff comments are added where supplemental information is needed or where staff may not concur with the applicant's statements. If no staff remarks are indicated, staff concurs with the applicant. Findings are included by staff as necessary to address ordinance requirements.

Findings of Fact

1. Project Background and Description:

The applicant is proposing to replace the existing manufactured dwelling with a site built home at a location approved under prior land use action, SEC 19-96. The new dwelling is currently under construction on a ridge northwest of the existing dwelling site. The property is also cited as Zoning Violation ZV 99-03 because of grading and fill which was initiated without a permit. The main issue with the violation is the fill area north of the driveway as shown on the applicant's site plan.

The application was originally filed as GEC 7-99, but has been changed due to the fill which has occurred within a ravine north of the dwelling site on slopes greater than 25%. The area of the replacement dwelling does not appear to be within a designated slope hazard area, however the ravine does. The applicant has retained an engineer for geotechnical services, who has also provided a narrative description and plan of how the proposed development meets the Hillside Development and Grading standards of the ordinance. The ravine fill is to be removed and used as compacted fill in the immediate vicinity of the dwelling as shown on the "site sketch". This information is included as Exhibit A of this report.

2. Site and Vicinity Characteristics:

The subject property is roughly 4.6 acres in size, and extends toward the west from McNamee Road. The area is primarily forested, with residences arranged along the road which follows the ridgetop in this area. The property contains a manufactured dwelling, accessory building near the road, and the new dwelling further to the west.

3. Hillside Development Permit Required

Per MCC 11.15.6710(A) Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC .6715.

Staff: The development area of subject property is not identified as being within a hazard area on the "Slope Hazard Maps," however the ravine has an average slope of greater than 25%, as do small areas within the project fill area. This, coupled with the proposed fill volume of over 200 cubic yards and finish slopes of up to 33%, makes the proposed development subject to the HDP permit requirements.

4. Compliance With MCC 11.15.6720, (Hillside Development Permit) Application Information Required:

Per MCC 11.15.6720, An application for development subject to the requirements of this subdistrict shall include the following:

- (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.**

Applicant: A sketch of the immediate area in question has been developed showing the topography and the general area around the new home. The home's immediate area is only a portion of the property owned by the homeowner.

Staff: The map is in Exhibit A.

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

Applicant: The proposed structural compacted fill area will range in depth from 0 to 6 feet and will be located on the right (north) side of the new home. See Site Plan and Cross-Sections.

Staff: The fill volume has not been calculated, however the site plan adequately describes the depth extent and location of the proposed fill. Staff estimates that approximately 200 cubic yards of fill will be used to complete the finish slope as shown.

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

Applicant: The location of the planned sanitary drainfield is shown on the enclosed Site Plan.

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

Applicant: A narrative and map are provided in the body of this report demonstrating compliance with MCC6730.

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

* * *

- (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.**

* * *

Applicant: Please find enclosed HDP Form 1.

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

Applicant: The proposed grading will be performed to the Grading and Erosion Control Standards 11.15.6730.

Conclusion: The applicant has provided enough of the information required pursuant to MCC 11.15.6720 to allow a conditional approval of the permit.

5. Compliance With MCC 11.15.6730, Grading and Erosion Control Standards:

- A. **MCC .6730(A)(1)(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 fill material will consist of the rocky clayey silt previously placed in an uncontrolled fill that is located in the head of the ravine to the right of the new house. The material will be excavated, placed in the new proposed structural compacted fill area shown on the enclosed Site Map. The material will be spread in lifts (12 inch maximum) and compacted to 92% Standard Proctor.

- B. **MCC .6730(A)(1)(b), Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified.**

Applicant: All cut and fill slopes will be constructed not to be steeper than 3:1 and revegetated to prevent erosion. An erosion control fence will be placed at the toe of all fill areas while the fill is being placed.

- C. **MCC .6730(A)(1)(c), Cuts and fills shall not endanger or disturb adjoining property.**

Applicant: All cuts and fills are well within the owner's property so they will not endanger or disturb adjoining properties.

- D. **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;**

Applicant: The proposed drainage system will be designed to discharge over the owner's property (large vegetated area) and will not affect natural drainage (ravines) in the area.

- E. **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.**

Applicant: The fills will not encroach on natural water courses.

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

Applicant: This site is not within the Tualatin River Drainage Basin.

- G. **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.

Applicant: Filter fences will be placed around (downslope) of any areas where structural fill will be placed or any area not vegetated or rocked to prevent erosion.

- H. **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.**

Applicant: The present plans will minimize erosion and will accommodate the surface runoff.

- I. **MCC .6730(A)(2)(d), Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.**

Applicant: The areas within the construction area will be vegetated shortly after completion.

- J. **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 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 required in (i) may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the “Erosion Control Plans Technical Guidance Handbook” and the “Surface Water Quality Facilities Technical Guidance Handbook” and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;**

Applicant: The natural vegetation will not be disturbed beyond the immediate house area.

Staff: There are no streams within 100’ of the project area.

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

Applicant: Permanent landscaping will be done upon completion of all disturbed newly graded areas.

- L. **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. The rate of surface water runoff shall be structurally retarded where necessary.

Applicant: Provisions have been outlined and will be made to control surface water runoff.

- M. **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.**

Applicant: Sediment in the runoff water will be controlled by the placement of filter fences downgradient of all construction activity.

- N. **MCC .6730(A)(2)(I), Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding.**

Applicant: Mulching or seeding of all exposed cut faces or sloping surfaces of fills will be undertaken as soon as they are completed.

- O. **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, natural watercourses, drainage swales, or an approved drywell system.**

Applicant: All drainage provisions have been designed to adequately carry potential surface runoff water.

Staff: The project engineer has designed a drainage trench system to control the stormwater from the dwelling roof.

- P. **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.**

Applicant: No drainage swales are being constructed. Natural drainage swales (ravines) exist on the property.

- Q. **MCC .6730(A)(2)(l), Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:**

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

Applicant: No special erosion or sediment control devices will be required for the prevention of pollution control discharges.

- R. **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.**

Staff: The project is in the final stages of completion. Any stockpiles will need to be covered if they remain on site at the onset of rainy weather.

- S. **MCC .6730(A)(2)(n), Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.**

Staff: Compliance with this standard is a condition of approval.

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

Staff: This property is not located within the Balch Creek Drainage Basin.

- U. **MCC .6730(B)(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.**

Staff: This requirement has been addressed with a condition of approval attached herein.

- V. **MCC .6730(B)(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 its original or equal condition.**

Staff: The ravine is being returned to its original ground configuration as part of the work authorized by this permit. Re-vegetation with native plant

material/ground cover is required in SEC areas designated as containing significant wildlife habitat.

- W. **MCC .6730(C)(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 not completed by the contractor. The bond shall be released upon determination 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.**

Staff: The scale and duration of the project and the potential problems arising therefrom are minor and therefore do not require a Performance Bond.

- X. **MCC .6730(C)(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, work may be stopped until appropriate correction measures are completed.**

Staff: This requirement has been addressed with a condition of approval attached herein.

- Y. **MCC .6730(D), 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.**

Staff: This requirement has been addressed with a condition of approval attached herein.

Conclusion

Considering the findings and other information provided herein, this application for approval of grading activities associated with the construction of the proposed dwelling, as conditioned, satisfies the applicable Multnomah County Hillside Development Ordinance requirements.

Exhibits

All materials submitted by the applicant, prepared by county staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be found as part of the permanent record for this application.

1. Applicant's submittals.
 - A. June 29, 1999 Site Reconnaissance by Braun Intertec.

In the matter of: HDP 14-99

Multnomah County Department of Environmental Services

Land Use Planning Division

By: _____
Chuck Beasley, Planner

For: Kathy Busse – Planning Director

This decision filed with the Director of the Department of
Environmental Services on August 20, 1999.

NOTICE:

State law in ORS 197.195 requires a public notice (by mail) to the property owner and to any persons who received and submitted comment in response to the Opportunity to Comment which was mailed prior to this decision. The notice must describe the method to challenge the staff decision; and, if appealed, the County must hold a public hearing to consider the merits of the application. ORS 197.763, ORS 215.416(11)

The Administrative Decision(s) 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 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 form, and submit to the County Planning Division Office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. To review the application file(s), obtain appeal forms, or other instruction, call the Multnomah County Planning Division at (503) 248-3043, or visit our offices at 1600 SE 190th Ave., Portland, Oregon, [hours: 8:30 a.m. – 4:30 p.m.; M—F].

The appeal period ends August 30, 1999 at 4:30 p.m.