

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2017-7880

Permits: 1. Significant Environmental Concern
2. Hillside Development

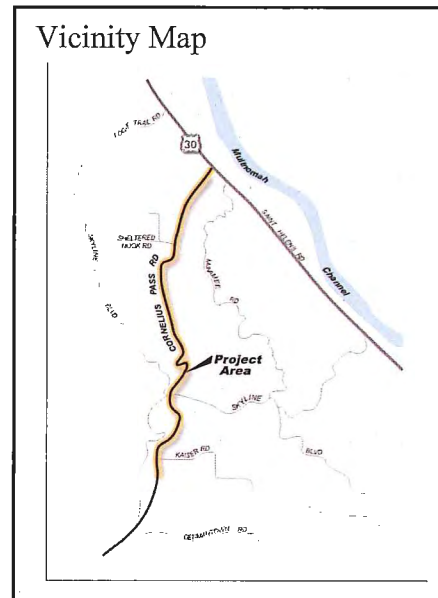
Location: The entire length of NW Cornelius Pass Rd. within Multnomah County beginning at the Multnomah/Washington county line (just south of NW Kaiser Rd.) to the intersection with U.S. Highway 30.

Culvert replacement and in-stream work is also anticipated to occur on the following property:
15124 NW Cornelius Pass Rd.
Tax Lot 600, Section 30BB
Township 2 North, Range 1 West, W.M.
Alt. Acct # R971300100

Applicants: Multnomah County Transportation Div.
C/O Carrie Warren, PE

Base Zone: Commercial Forest Use – 1 (CFU-1), Commercial Forest Use – 2 (CFU-2), Exclusive Farm Use (EFU), Multiple Use Agriculture-20 (MUA-20), Rural Residential (RR), Burlington Rural Center (BRC).

Overlays: Significant Environmental Concern (SEC), Hillside Development (HD).



Summary: The project consists of the following list of core improvements:

1. Curve at NW 8th Avenue Intersection (MP 1.5) – Minor curve realignment with 30 mpg design speed, shoulder widening and culvert replacement to address fish passage concerns.
2. "S" Curves (MP 2.8-3.3) – Reconstruction and realignment between curves 6 and 7.
3. Curves south of Plainview Rd. (MP 3.8) – Shoulder widening.
4. Kaiser Road Intersection (MP 4.6) – Clearing and minor shoulder widening.


5. Corridor-wide Improvements:

- o Comprehensive signing upgrades
- o A total of four vehicle pullouts
- o Guardrail and barrier upgrades (approx. 3 miles)
- o Reduce pavement drop-offs with gravel shoulder wedge

Decision: Approved with Conditions

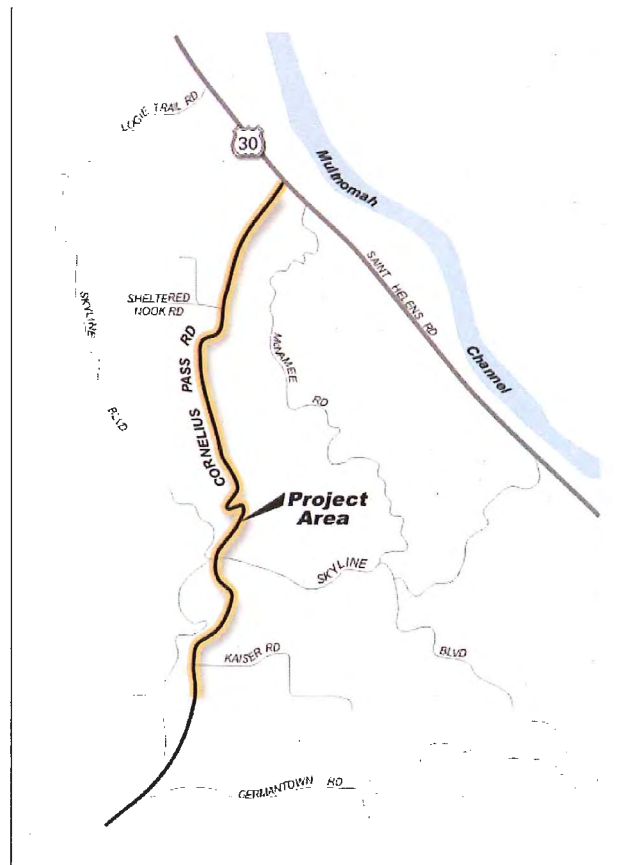
Unless appealed, this decision is effective August 16, 2017 at 4:00 PM.

Issued by:

By: 
Kevin Cook, Senior Planner

For: Michael Cerbone, AICP
Planning Director

Date: Wednesday, August 2, 2017



Project Vicinity

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Kevin Cook at 503-988-0188.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Oregon Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is August 16, 2017 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 33.2020, CFU-1 Allowed Uses; 33.2220, CFU-2 Allowed Uses; 33.2620, EFU Allowed Uses; 33.2820, MUA-20 Allowed Uses; 33.3120, RR Allowed Uses; 33.3320, BRC Allowed Uses; 33.4500 – 33.4575, Significant Environmental Concern; 33.5500 – 33.5525, Hillside Development; 33.0570, Dark Sky Lighting Standards; Chapter 37, Administration and Procedures. Multnomah County Road Rules (MCRR): 1.000 – 22.000.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.multco.us/landuse>

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires pursuant to MCC 37.0690 as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

3. DEQ NPDES 1200-CN PERMIT

Projects disturbing over 5-acres are not eligible for automatic coverage under the DEQ 1200-CN program and are subject to additional permitting requirements under the DEQ 1200-C program.

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Building permits may be required for structural components of the project. Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call Kevin Cook, at (503) 988-0188, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.
2. The applicant's shall implement the mitigation plan proposed in the submitted plans (Exhibit A.7). The planting quantities and species shall be as shown in Exhibit A.7.
3. New tree and shrub plantings may occur during appropriate planting season within a year of ground disturbing activities. Each tree and shrub planting shall be tagged to facilitate identification and monitoring. [MCC 33.4575 (Mitigation Plan)]
4. The plantings shall be monitored for 5 years for survival with the criteria for success being 80% survival for all planted trees and shrubs. Each plant shall be inspected during the month of June to determine its health. If remedial actions are required (i.e. if there is less than 80% survival) it shall be a one to one replacement for each lost plant. If plant mortality is due to animal herbivory, protective barriers shall be installed around each of the plants or groups of plants. Invasive vegetation will be properly controlled via methods recommended by the Soil and Water Conservation District during the appropriate time of year. [MCC 33.4575 (Mitigation Plan)]
5. The applicant shall maintain best erosion control practices through all phases of development. Erosion control measures shall include sediment barriers on the down slope of all disturbed areas in accordance with the submitted application materials of this permit. Reseeding at a rate of 100 pounds per acre shall be accomplished as soon as ground disturbing activities have been completed. If hydromulch will be employed it shall be installed at a rate of 2,000 pounds per acre. All erosion control measures are to be implemented as prescribed in the current edition of the Erosion Prevention Sediment Control Plans Technical Guidance Handbook or as otherwise amended by the observing Certified Engineering Geologist or Geotechnical Engineer to achieve equal or better results. [MCC 33.5520(A)(2)]
6. The applicants shall install the stormwater system as shown on the site plan/erosion control plan (Exhibit A.8) unless amended by the observing Certified Engineering Geologist or Geotechnical Engineer to achieve better site suitability. This system shall collect and dispose of stormwater from new impervious surfaces and shall properly control the rate of flow for a 10year/24hour storm event with the runoff no greater than that which existed prior to development. [MCC 29.333(C)]

7. Any exterior street lighting shall be placed, shaded or screened to avoid shining directly outside of the right of way unless such lighting cannot comply with both federal, state, or local law or rule and the standards in MCC 33.0570.
8. The applicants shall implement the erosion and sediment control measures as shown and listed on the erosion control plan (Exhibit A.8) and described in the Geotechnical Report (Exhibit A.5), unless amended by the observing Certified Engineering Geologist or Geotechnical Engineer to achieve better site suitability for the development and improve erosion and sediment control. [MCC 33.5515]
9. Soil disturbing activities within a Stream Conservation Area (within 300 feet of the stream(s)) shall be limited to the period between June 15th and September 15th. Revegetation/soil stabilization must be installed as soon as practical and accomplished no later than October 15. Best Management Practices related to erosion and sediment control shall be required within a Stream Conservation Area. [MCC 33.4575(E)(6)]
10. All excavated spoils from the project shall be removed from the property. Spoil materials removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities. Any stockpiles of top soil to be used for fill shall be covered with plastic sheeting anchored to prevent disruption from wind. [MCC 33.5520]
11. The applicants shall ensure that non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters are prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities. On-site disposal of construction debris is not authorized under this permit. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires, etc), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects. [MCC 33.5520]
12. The applicants are responsible for removing any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within the 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. [MCC 33.5520]
13. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts resulting from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion or sedimentation effects.
14. The applicants shall ensure that the proposed development work is observed by a Certified Engineering Geologist or Geotechnical Engineer. This observation shall be at the owner's expense. The name, address and phone number of the Certified Engineering Geologist or Geotechnical Engineer that will be conducting the observation of the development shall be submitted to the Planning Director prior to zoning review for a building permit. The observation of the development activities by the Certified Engineering Geologist or Geotechnical Engineer shall include but is not limited to foundation work, confirmation on installation and effectiveness of all erosion and sediment control measures, and a final observation prior to the final building permit inspection. [MCC 33.5520]

15. Prior to building permit final and occupancy the applicants shall submit to the County Land Use Planning Office a report from the observing Certified Engineering Geologist or Geotechnical Engineer which confirms that proper measures were implemented to meet recommendations of the of the Geotechnical Report (Exhibit A.5) as well as any other recommendations of the Certified Engineering Geologist or Geotechnical Engineer deemed necessary to achieve site suitability for the development. This report shall be signed by the Certified Engineering Geologist or Geotechnical Engineer with their seal (stamp) affixed to the report. [MCC 33.5520]
16. The recommendations listed in the Geotechnical Report prepared by GRI, shall be implemented during all stages of the development. If a recommendation contained with this report conflicts with any of the Conditions of Approval outlined above, said Conditions shall supersede those contained within the report. Additional measures shall be immediately installed to remedy the problem if sediment is determined to be escaping the development area. [MCC 33.5520]
17. Prior obtaining a building permit and/or commencing any work outside of the public right of way, the applicant shall provide proof that the property owner has given written consent to conduct the work or the that the property (or an easement) has been legally obtained by Multnomah County or the State of Oregon.
18. Prior to commencing work on the culvert replacement project, the applicant shall submit evidence of final approvals from state and federal agencies that have regulatory authority for the project.
19. 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.
20. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.00 Project Description:

The project consists of the following list of core improvements:

1. Curve at NW 8th Avenue Intersection (MP 1.5) – Minor curve realignment with 30 mpg design speed, shoulder widening and culvert replacement to address fish passage concerns.
2. “S” Curves (MP 2.8-3.3) – Reconstruction and realignment between curves 6 and 7.
3. Curves south of Plainview Rd. (MP 3.8) – Shoulder widening.
4. Kaiser Road Intersection (MP 4.6) – Clearing and minor shoulder widening.
5. Corridor-wide Improvements:
 - Comprehensive signing upgrades
 - A total of four vehicle pullouts
 - Guardrail and barrier upgrades (approx. 3 miles)
 - Reduce pavement drop-offs with gravel shoulder wedge

The project passes through several zone districts including Commercial Forest Use – 1 (CFU-1), Commercial Forest Use – 2 (CFU-2), Exclusive Farm Use (EFU), Multiple Use Agriculture-20 (MUA-20), Rural Residential (RR), Burlington Rural Center (BRC). The project also passes through the Hillside Development overlay, and Significant Environmental Concern overlays.

A portion of the project will occur outside of the right of way for NW Cornelius Pass Road, which consists of a culvert replacement and partial stream channel realignment on property identified as 15124 NW Cornelius Pass Rd. (Tax Lot 600, Section 30BB, Township 2 North, Range 1 West, W.M. - Alt. Acct # R971300100).

MCC 37.0550 (Initiation of Action) states, “*Except as provided in MCC 37.0702, 33.7785, 34.7785, 35.7785, and 36.7785, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser, or by a government agency that has the power of eminent domain. PC (legislative) actions may only be initiated by the Board, Planning Commission, or Planning Director.*” Condition of approval 17 requires the applicant to either secure the property within the project limits or otherwise obtain property owner permission prior to commencing work outside of the county right of way.

2.00 Comments Received:

Two comments were received during the 14-day comment period (Exhibits D.1 and D.2). The comments are summarized below:

1. Lauren Wiener (Email) (Exhibit D.1):
 - Question about project timing and relationship to the ongoing NW Newberry Road closure.
 - Reply from County staff indicating that the design teams are coordinating on a solution that will minimize the impact to the public. Websites for both projects are available at <https://multco.us/roads/webform/newberry-road-slide-repair> and <https://multco.us/roads/cornelius-pass-road-safety-improvements>

- Additional comments from Lauren Wiener regarding less than optimal alternate routes and request to be added to project mailing list for the NW Cornelius Pass Road project.
 - Reply from County staff confirming addition to the above referenced mailing list.
 - Additional question from Lauren Wiener regarding whether ODOT is taking over responsibility of NW Cornelius Pass Road.
 - Reply from County staff that ODOT is planning to take responsibility at some point, but that the details are not yet determined.
2. Letter from Allen and Debbie Watson (Exhibit D.2). Comments objecting to the project based on the claim that their property extends to the pavement edge of Cornelius Pass Road.

Staff: The county right of way extends at least 20 feet beyond the pavement edge on both sides of NW Cornelius Pass Road in the vicinity of the property in question. Condition 17 requires property owner consent and/or property acquisition (or easement) prior to any work outside of the existing right of way.

3.00 Base Zone Criteria: Commercial Forest Use-1 (CFU-1):

3.01:

§ 33.2020 ALLOWED USES

...

(J) 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.

Staff: Portions of the project are located within the Commercial Forest Use – 1 (CFU-1) district. The project is an allowed use in the CFU-1 district because it is a modification of a public road that does not include the addition of vehicular travel lanes, will not result in the removal or displacement of buildings and will not result in the creation of new parcels.

3.02:

§ 33.2056 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Table 1

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)

...

Fences and Retaining Walls	N/A	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.	N/A
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Staff: Fire Safety Zone requirements are not applicable to the new guardrails that will be located within portions of the CFU-1 district. The guard rails will not exceed six feet in height.

4.00 Base Zone Criteria: Commercial Forest Use-2 (CFU-2):

4.01:

§ 33.2220 ALLOWED USES

...

(J) 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.

Staff: Portions of the project are located within the Commercial Forest Use – 1 (CFU-2) district. The project is an allowed use in the CFU-2 district because it is a modification of a public road that does not include the addition of vehicular travel lanes, will not result in the removal or displacement of buildings and will not result in the creation of new parcels.

4.02:

§ 33.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Table 1

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)

...

Fences and Retaining Walls	N/A	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.	N/A
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Staff: Fire Safety Zone requirements are not applicable to the new guardrails that will be located within portions of the CFU-2 district. The guard rails will not exceed six feet in height.

5.00 Base Zone Criteria: Exclusive Farm Use (EFU):

5.01:

§ 33.2620 ALLOWED USES

...

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result.

Staff: Portions of the project are located within the Exclusive Farm Use (EFU) district. The project is an allowed use in the EFU district because it is a modification of a public road that does not include the addition of vehicular travel lanes, will not result in the removal or displacement of buildings and will not result in the creation of new parcels.

6.00 Base Zone Criteria: Multiple Use Agriculture – 20 (MUA-20):

6.01:

§ 33.2820 ALLOWED USES

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

Staff: Portions of the project are located within the MUA-20 district. The project is an allowed use in the MUA-20 district because it consists of improvements to an existing transportation facility serving the local needs of the traveling public. Cornelius Pass Road is classified as a Rural Arterial in the *Multnomah County Functional Classification of Trafficways Findings and Recommendations Technical Report* (Exhibit B.1).

7.00 Base Zone Criteria: Rural Residential (RR):

7.01:

§ 33.3120 ALLOWED USES

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

Staff: Portions of the project are located within the RR district. The project is an allowed use in the RR district because it consists of improvements to an existing county transportation facility serving the local needs of the traveling public. Cornelius Pass Road is classified as a Rural Arterial in the *Multnomah County Functional Classification of Trafficways Findings and Recommendations Technical Report* (Exhibit B.1).

8.00 Base Zone Criteria: Burlington Rural Center (BRC):

8.01:

§ 33.3320 ALLOWED USES

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

Staff: Portions of the project are located within the BRC district. The project is an allowed use in the BRC district because it consists of improvements to an existing county transportation facility serving the local needs of the traveling public. Cornelius Pass Road is classified as a Rural Arterial in the *Multnomah County Functional Classification of Trafficways Findings and Recommendations Technical Report* (Exhibit B.1).

9.00 Significant Environmental Concern

9.01:

SIGNIFICANT ENVIRONMENTAL CONCERN

§ 33.4505 AREA AFFECTED

Except as otherwise provided in MCC 33.4510 or MCC 33.4515, this subsection shall apply to those lands designated SEC on the Multnomah County Zoning Map.

§ 33.4510 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 33.4515, shall be subject to an SEC permit.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

(C) Activities proposed for lands designated as scenic waterways under the Oregon Scenic Waterways System shall be subject to an SEC permit in addition to approval from the Oregon Parks and Recreation Department.

§ 33.4515 EXCEPTIONS

(A) Except as specified in (B) below, a SEC permit shall not be required for the following:

(1) Farm use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695 (9) or on upland areas;

(2) The propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;

(3) Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905 (6);

- (4) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;**
- (5) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;**
- (6) The expansion of capacity, or the re-placement, of existing communication or energy distribution and transmission systems, except substations;**
- (7) The maintenance and repair of existing flood control facilities;**
- (8) With respect to a structure lawfully established on or before January 7, 2010; alteration or expansion of such structure that:**
 - (a) For the SEC, SEC-w, and SEC-v overlays, do not require any alteration or expansion of the exterior of the structure;**
 - (b) For the SEC-h and SEC-s overlays, result in the alteration or expansion of 400 square feet or less of the structure's ground coverage. With respect to expansion, this exception does not apply on a project-by-project basis, but rather extends only to a maximum of 400 square feet of additional ground coverage as compared to the structure's ground coverage on the date above; and**
 - (c) For the SEC-h overlay, alteration or expansion of 400 square feet or less of a driveway.**
- (9) All type A Home Occupations;**
- (10) Alteration, repair, or replacement of septic system drainfields due to system failure;**
- (11) Single utility poles necessary to provide service to the local area;**
- (12) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width; and**
- (13) Stream enhancement or restoration projects limited to removal by hand of invasive vegetation and planting of any native vegetation on the Metro Native Plant List;**
- (14) Enhancement or restoration of the riparian corridor for water quality or quantity benefits, or for improvement of fish and wildlife habitat, pursuant to a plan that does not include placement of buildings or structures and does not entail grading in an amount greater than 10 cubic yards. This exemption is applicable to plans that are approved by Soil and Water Conservation District, the Natural Resources Conservation District, or the Oregon Department of Fish and Wildlife under the provisions for a Wildlife and Habitat Conservation Plan, and submitted to the County.**
- (15) In the SEC-v district, a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building is allowed in the general zone district when:**

(a) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed;

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and

(c) Uses materials that are designated as anti-reflective or has a reflectivity rating of eleven percent or less.

(16) Routine repair and maintenance of structures, roadways, driveways, utility facilities, and landscaped areas that were in existence prior to the effective date of this ordinance.

(B) Within Metro's 2009 jurisdictional boundary, an SEC-s permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses, except that agricultural fences shall not require an SEC-s permit.

Staff: The entire project is located within the Significant Environmental Concern for wildlife habitat (SEC-h) overlay zone, and portions of the project are located within the Significant Environmental Concern for streams (SEC-s) overlay and the Significant Environmental Concern for scenic views (SEC-v) overlay. The portion of the project consisting of new culvert replacement located near the NW 8th Avenue / NW Cornelius Pass intersection is subject the SEC-h and SEC-s permit standards. The remainder of the project, does not qualify for SEC review because the work such as adding pavement, signs and guardrails satisfies the exceptions listed in MCC 33.4515 (A) (4) and/or (16) because the project includes the placing by a public agency, of signs, markers, aids, etc to serve the public and/or the consists of routine repair and maintenance of structures and roadways that were in existence prior to the effective date of the SEC ordinance (Cornelius Pass Road pre-dates Ordinance 801 –effective 10/18/1994).

9.02:

§ 33.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS

At the time of submittal, the applicant shall provide the application materials listed in MCC 33.4520(A) and 33.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 33.4570 may be submitted.

Staff: The culvert replacement project does not qualify for review under MCC 33.4567 because the project will include tree removal and therefore cannot meet MCC 33.4570(B)(1), which requires the development to be located within a non-forested "cleared" area. The project is subject to the standards of MCC 33.4570.

9.03:

§ 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(A) In addition to the information required by MCC 33.4520 (A), 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 percent 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.

Staff: One tree will be removed for the culvert replacement project. The applicant's tree planting plan (Exhibit A.7) indicates 9 trees and 305 shrubs will be planted in the stream's riparian zone.

9.04:

(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.

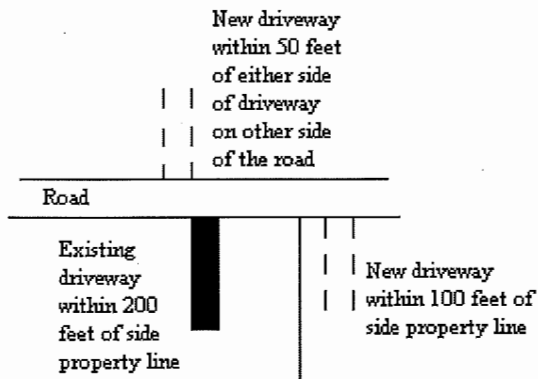
(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County "Design and Construction Manual," adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

1. The modification shall be the minimum necessary to allow safe access onto the public road.

2. The County Road Official shall provide written findings supporting the modification.

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

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

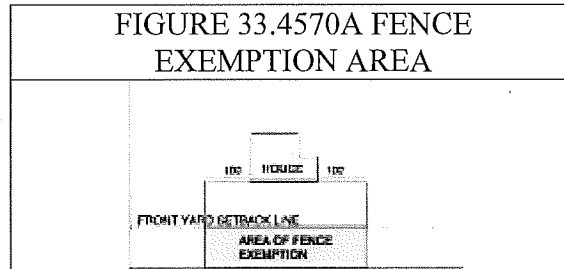
(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

(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.



(f) Fencing standards do not apply where needed for security of utility facilities.

(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 seppium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except 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 Water-weed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy

Scientific Name	Common Name
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil

Staff: The project qualifies under subsection (C) below.

9.05:

(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 a less detrimental impact on forested wildlife habitat than the standards in Section (B).**

Staff: The project qualifies under (C)(1) because the applicant cannot meet the standards in Section (B) because the project will not be located in an existing clearing due to tree removal. While the project includes modification of the stream channel and some tree removal, these changes are the minimum necessary in order to accomplish the placement of the new culvert. The proposed wildlife conservation plan will improve fish passage under NW Cornelius Pass Rd. and will result in a net gain of 8 trees.

9.06:

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), 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.**

Staff: The project will include the removal of one tree in order to accomplish the stream channel realignment but will include the addition of 9 trees and 305 shrubs resulting in a net gain in the amount of canopy. Tree removal is limited to those trees that necessarily need to be removed in order to complete the culvert project.

9.07:

(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.

Staff: The total area associated with the removal of one tree is less than one acre.

9.08:

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

Staff: No permanent fencing will be included within the culvert project area. Erosion control fencing is required as necessary in order to contain sediment during all phases of the project until vegetation is reestablished.

9.09:

(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

Staff: One tree will be removed and 9 trees will be added which will exceed the 2:1 ratio.

9.10:

(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.

Staff: The applicants site plan (Exhibit A.7) includes a revegetated and enhanced stream riparian area. The net increase in tree canopy and the elimination of nuisance plants results in the appropriate stream enhancement.

9.11:

(4) For a property meeting (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).

(d) For non-forested “cleared” areas that require nuisance plant removal pursuant to MCC 33.4570(B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

9.12:

Staff: Not applicable. The project does not include an addition.

(5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, 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 cleared areas used for agricultural purposes. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table

Size of tree to be re-moved (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and
3 shrubs	
13 to 18	3 trees and

6 shrubs	
19 to 24	5 trees and
12 shrubs	
25 to 30	7 trees and
18 shrubs	
over 30	10 trees and 30 shrubs

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs: for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.6 so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) **Location of mitigation area.** All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) **Prior to development,** all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked throughout all phases of development.

(g) **Trees shall not be used as anchors for stabilizing construction equipment.**

(h) **Native soils disturbed during development shall be conserved on the property.**

(i) **An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.330 through MCC 29.348.**

(j) **Plant size.** Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) **Plant spacing.** Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on-center. When planting near

existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) **Nuisance plants.** Any nuisance plants listed in (B)(7) above shall be removed within the mitigation area prior to planting.

(n) **Planting schedule.** The planting date shall occur within one year following the approval of the application.

(o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

Staff: Not applicable. The wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) above; therefore these criteria do not apply.

9.13:

(6) **For Protected Aggregate and Mineral (PAM) resources within a 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.**

Staff: Not applicable. The project site is located outside of any Protected Aggregate Mineral subdistrict.

9.14:

§ 33.4575 CRITERIA FOR APPROVAL OF SEC-S PERMIT -STREAMS

(C) In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:

(1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;

(2) A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;

(3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;

(4) A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by (E) (5) below;

(5) A detailed Mitigation Plan as described in subsection (D), if required; and

(6) A description of how the proposal meets the approval criteria listed in subsection (D) below.

(D) For the protected stream resources, the applicant shall demonstrate that the proposal:

(1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:

(a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by MCC 33.4575 (C);

(b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;

Staff: As noted in Exhibit A.6, page 7, the applicant has submitted applications for review by the U.S. Army Corps of Engineers, Federal Highway Administration, Oregon Dept. of State Lands, Oregon Fish and Wildlife, Oregon Dept. of Environmental Quality, Oregon Historic Preservation Office, and the National Marine Fisheries Service.

9.15:

(c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in MCC 33.4575 (D) (1);

(d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.

Staff: As stated in Exhibit A.6, the applicant has committed to the 80 percent annual survival rate. Condition 4 requires annual monitoring for the five year period.

9.16:

(E) Design Specifications

The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:

(1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the minimum width necessary to allow passage of peak winter flows shall be utilized for any crossing of a protected streams.

Staff: The intent of the standard is to improve fish passage at stream crossings. The proposed culvert will incorporate the streambed and 'fish-rocks' within the structure as shown on Sheet GF on Exhibit A.7. The culvert is sized to accommodate peak winter flows as demonstrated in the Hydraulic Analysis (Exhibit A.9). The proposed culvert design is more appropriate than an arched culvert due to the concern over uneven settling that could compromise the integrity of the culvert.

9.17:

(2) All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.

Staff: Storm water will be directed to a water detention swale as noted in Exhibit A.7.

9.18:

(3) Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area.

Staff: Per the applicant, no new lighting is proposed.

9.19:

(4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.

Staff: One cedar tree will be removed as part of the culvert replacement project. There will be nine trees planted.

9.20:

(5) Satisfaction of the erosion control standards of MCC 33.5520.

Staff: The erosion control standards of MCC 33.5520 are addressed in Section 10.00 of this staff report.

9.21:

(6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.

Staff: Condition 9 requires soil disturbing activities only occur between June 15 and September 15. Conditions 5, 9, 8 through 16, and 19 and 20 are erosion control related conditions.

9.22:

(7) Demonstration of compliance with all applicable state and federal permit requirements.

Staff: As noted in Exhibit A.6, page 7, the applicant has submitted applications for review by the U.S. Army Corps of Engineers, Federal Highway Administration, Oregon Dept. of State Lands, Oregon Fish and Wildlife, Oregon Dept. of Environmental Quality, Oregon Historic Preservation Office, and the National Marine Fisheries Service. Condition 18 requires the applicant to submit a copy of final approvals prior to commencing work.

9.23:

(F) For those Stream Conservation Areas located within Metro's jurisdictional boundaries, the following requirements apply in addition to (C) through (E) above:

(1) The planting of any invasive non-native or noxious vegetation as listed in MCC 33.4570(B)(7) and MCC 33.4570(A)(4) is prohibited. A list of native plants can be found in the latest edition of the Metro Native Plant List.

(2) Outside storage of hazardous materials as determined by DEQ is prohibited, unless such storage began before the effective date of this ordinance; or, unless such storage is contained and approved during development review.

Staff: Not applicable. The entire project area is located outside of Metro's jurisdictional boundary.

9.24:

(G) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the Mitigation Plan must comply only with measures identified in the Goal 5 protection program that has been designated for the site.

Staff: Not applicable. The entire project area is located outside of the PAM overlay districts.

10.00 Hillside Development and Erosion Control

10.01:

HILLSIDE DEVELOPMENT AND EROSION CONTROL - HD

§ 33.5505 PERMITS REQUIRED

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 33.5510.

§ 33.5510 EXEMPT LAND USES AND ACTIVITIES

The following are exempt from the provisions of this Chapter:

(A) Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site-specific requirements applicable herein.

(B) General Exemptions – Outside the Tualatin River and Balch Creek Drainage Basins, all land-disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :

- (1) Natural and finished slopes will be less than 25 percent; and,
- (2) The disturbed or filled area is 20,000 square feet or less; and,
- (3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,
- (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,
- (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,
- (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

(C) Categorical Exemptions – Notwithstanding MCC 33.5510 (A) and (B) (1) through (6), the following activities are exempt from the permit requirements, except that in the Tualatin River Drainage Basin, activities which effect water quality shall require a Permit pursuant to OAR 340-41-455 (3):

- (1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.
- (2) Cemetery graves, but not cemetery soil disposal sites.
- (3) Excavations for wells, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455 (3).
- (4) Mineral extraction activities as regulated by MCC 33.6500 through 33.6535, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455 (3).

(5) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.

(6) Routine agricultural crop management practices.

(7) Residential gardening and landscape maintenance at least 100-feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.

(8) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

(9) Forest practices as defined by ORS 527 (The State Forest Practices Act) and approved by the Oregon Department of Forestry.

Staff: Approximately 3.1 miles of NW Cornelius Pass Road is located within the Hillside Development (HD) Overlay. Development activities within the HD overlay are subject to the HD permit standards.

10.02:

§ 33.5520 GRADING AND EROSION CONTROL STANDARDS

Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the 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;

Staff: This information is provided in pages 7-9 of the Geotechnical Report (Exhibit A.5).

10.03:

(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;

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

Staff: Per the Geotechnical Report (Exhibit A.5), cuts and fills will either be engineered (i.e. retaining walls) or otherwise safe. Erosion control measures are specified in the plans (Exhibit A.7) and summarized in the Conclusions and Recommendations section of the Geotechnical Report (Exhibit A.5).

10.04:

(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;

Staff: The applicant has provided a Storm Water Certificate indicating that in the 10-year/24hour event the on-site drainage systems will discharge at a rate no greater than existed prior to new development (Exhibit A.5).

10.05:

(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;

Staff: The proposed culvert replacement is located outside of a mapped floodplain, but is designed to the 100 year flood, per Table 2, of the Hydraulic Analysis (Exhibit A.9). The alteration to the watercourse is addressed separately in the Flood Development permit (case number T1-2017-7881).

10.06:

(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 currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)". 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.

Staff: Areas of the project located South of Skyline Blvd. is are in the Tualatin River Drainage Basin and include areas in the vicinity of existing streams. Sheet GA-26 of Exhibit A.8 includes sediment fencing, orange plastic fencing denoting no-work areas, and sediment barriers; these BMPs are intended to maintain water quality in the nearby stream areas.

10.07:

(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;

Staff: Condition of approval 19 requires adherence to this criterion.

10.08:

(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;

Staff: Changes to topography are the minimum necessary to achieve safety improvements to NW Cornelius Pass Road. The project employs grading and erosion control best management practices as noted in the erosion control plans in Exhibit A.8.

10.09:

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

Staff: Condition of approval 5 requires adherence to this criterion.

10.10:

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

1. 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;

2. The buffer required in 1. 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 currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

Staff: The erosion control plans included in Exhibit A.8 indicate sediment fencing, orange plastic fencing denoting no-work areas, and sediment barriers; these BMPs are intended to maintain water quality in the nearby stream areas.

10.11:

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

Staff: As required in conditions 2 through 4, all plantings indicated in the plans shall be installed as soon as practical.

10.12:

(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;

Staff: The project will not result in increased runoff.

10.13:

(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;

Staff: The erosion control plans included in Exhibit A.8 indicate sediment fencing, orange plastic fencing denoting no-work areas, and sediment barriers; these BMPs are intended to maintain water quality in the nearby stream areas.

10.14:

(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;

Staff: The erosion control plans included in Exhibit A.8 indicate sediment fencing, orange plastic fencing denoting no-work areas, and sediment barriers; these BMPs are intended to maintain water quality in the nearby stream areas.

10.15:

(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;

Staff: The drainage volume will meet the 10 year, 24 hour storm standard as indicated in the Storm Water Certificate included in Exhibit A.5.

10.16:

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

(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:

1. Energy absorbing devices to reduce runoff water velocity;

2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

3. Dispersal of water runoff from developed areas over large undisturbed areas.

Staff: The work area will have sediment fencing, orange plastic fencing denoting no-work areas, and sediment barriers as indicated in Exhibit A.5; these BMPs are intended to maintain water quality and reduce sediment in nearby drainages. Condition 20 requires plantings in drainage swales or equivalent protections.

10.17:

(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: Condition 10 requires the proper handling and removal of all spoils from the project site.

10.18:

(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: Condition 10 will require these items to be disposed of properly if any result for the project.

10.19:

(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 Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". 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: Not applicable. The project area is located entirely outside of the Balch Creek Drainage Basin.

10.20:

(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 its original or equal condition.

Staff: Condition 19 requires adherence to criterion (1) above. The culvert replacement project and related stream corridor enhancements will result improved stream flow and fish habitat resulting in an improved condition of the watercourse. The culvert replacement will insure the continued use of the NW Cornelius Pass Road right of way as transportation facility for the traveling public.

11.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern permit and the Hillside Development permit to establish a road safety improvements to NW Cornelius Pass Road. This approval is subject to the conditions of approval established in this report.

12.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Comments Received

Exhibits are available for review in Case File T2-2017-7880 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	06/13/2017
A.2	1	General Description Application	06/13/2017
A.3	6	Hillside Development Permit (HDP) Work Sheet	06/13/2017
A.4	1	Attachment to Hillside Development Permit Worksheet	06/13/2017
A.5	55	Geotechnical Report by GRI dated June 1, 2017 – stamped and signed by George A. Freitag, CEG and Michael J. Zimmerman, PE, GE, CEG.	06/13/2017
A.6	57	Significant Environmental Concern-Stream Permit Narrative	06/13/2017
A.7	21	Plan Sheets for Culvert Replacement at McCarthy Creek and Stream 1	06/13/2017
A.8	51	Plan Sheets for Grading, Paving, Striping, Signing, Signals, \$ Roadside Development	06/13/2017
A.9	10	Hydraulic Analysis Report	06/13/2017

'B'	#	Staff Exhibits	Date
B.1	1	Road classification map from the <i>Multnomah County Functional Classification of Trafficways Findings and Recommendations Technical Report</i>	07/11/2017
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	06/28/2017
C.2	3	Opportunity to Comment	06/30/2017
'D'	#	Comments Received	Date
D.1	7	Correspondence between Lauren Wiener and County Staff	07/06/2017 through 07/17/2017
D.2	4	Letter from Allen and Debbie Watson	07/14/2017