

NOTICE OF DECISION

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

Case File: T2-2018-10007

Permit: Administrative Decision by the Planning Director

Location: Milepost 0.5 along NW Newberry Road on and adjacent to Tax Lot 600, Section 33A, Township 2 North, Range 1 West, W.M. and Tax Lot 1600, Section 33A, Township 2 North, Range 1 West, W.M.
Tax Account #R971330150 and R971330280 Property ID #R325446 and R325456

Applicants: Multnomah County Transportation Division

Base Zone: Commercial Forest Use – 2 (CFU-2)

Overlays: Significant Environmental Concern for Scenic Views (SEC-v)
Significant Environmental Concern for Wildlife Habitat (SEC-h)
Hillside Development and Erosion Control (HD)

Summary: Applicant is requesting a permit in response to a disaster event to reconstruct a portion of NW Newberry Road after a landslide occurred at milepost 0.5.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, September 10, 2018 at 4:00 pm.

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. For further information on this case, contact Rithy Khut, Staff Planner at 503-988-0176 or at rithy.khut@multco.us.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered. 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 Land Use Board of Appeals until all local appeals are exhausted.

Issued by:


Rithy Khut, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Monday, August 27, 2018



For this application to be approved, the proposal will need to meet the applicable approval criteria below:

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0560 Code Compliance and Applications, MCC 33.0005 Definitions

Commercial Forest Use CFU-2: MCC 33.2225 Review Uses, MCC 33.2250 Building Height Requirements

Permits and Certificates: MCC 33.0535 Responses to an Emergency/Disaster Event

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

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. 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 shall expire when construction has not commenced within two years of the date of the final decision pursuant to MCC 37.0690(B) as applicable. Commencement of construction shall mean actual construction of the foundation or frame of the approved

structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway. Alternatively, this land use permit shall expire when the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval. [MCC 37.0690(B)]

Note: 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. Prior to and during construction, the property owner or their representative shall ensure that:
 - a) Flag, fence, or otherwise mark, the project area as described in applicant narrative and Erosion Control Plan. These measures shall remain undisturbed except as otherwise allowed by this district. Such flagging, fencing, and/or markings shall be maintained until construction is complete. [MCC 33.0535(A)(1)]
4. As an on-going condition, the property owner shall:
 - a) Not deposit spoils resulting from grading or excavation activities into a wetland, stream, pond, lake, or riparian area within Multnomah County as a part of an emergency/disaster response action. [MCC 33.0535(A)(4)]
 - b) Remove spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action from Multnomah County or deposited at a site within the Multnomah County where such deposition is, or can be, allowed. Alternatively, the spoil material associated with grading, excavation and slide debris removal activities shall be contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape. [MCC 33.0535(E)(3)]
5. The following procedures shall be in effect if any Cultural Resources and/or Archaeological Resources are located or discovered on the tax lots or within the project area, including finding any evidence of historic campsites, old burial grounds, implements, or artifacts:
 - a) Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
 - b) Notification – The project applicant shall notify the County Planning Director and the State Historic Preservation Office (SHPO) within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.
 - c) Survey and Evaluation – The applicant shall follow any and all procedures outlines by SHPO and if necessary obtain the appropriate permits (see ORS 273.705 and ORS 358.905 to 358.955).
 - d) All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- a. Construction activities may recommence when SHPO requirements are satisfied. [MCC 33.0535(E)(4)]
6. The following procedures shall be in effect if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):
 - b. Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - c. Notification – Local law enforcement officials, the Multnomah County Planning Director, State Historic Preservation Office and the Indian tribal governments shall be contacted immediately.
 - d. Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
 - e. Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and this protection process may conclude.
 - f. Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760. [MCC 33.0535(E)(4)]
7. At the completion of the proposed development and construction activities, the applicant(s), owner(s) or their representatives shall:
 - a) Remove structures or development installed or erected for a temporary within one year following the conclusion of construction activities. If it can be demonstrated that the continued use of these devices is necessary to protect life, property, public services or the environment, an extension of no more than two years may be granted by the Planning Director. [MCC 33.0535(A)(2)]
 - b) Revegetate with native plant species areas denuded of vegetation as a result of emergency/disaster response actions. The restoration of the affected areas shall return those areas to their pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after completion of the construction activities. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension of up to one year. [MCC 33.0535(E)(2) and MCC 33.0535(E)(6)]
8. Ensure that 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. [MCC 33.0535(E)(6)]

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

Scientific Name	Common Name
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed

Scientific Name	Common Name
<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
<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

Scientific Name	Common Name
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portuguese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
various genera	Bamboo sp.

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.

INDEX OF SHEETS

No.	DESCRIPTION
G-1	TITLE SHEET
G-2	LEGEND
G-3	TYPICAL ROADWAY SECTIONS
G-4, G-5	DETAILS
R-1	PLAN & PROFILE
EC-1	EROSION CONTROL
S-1	WALL 1 PLAN AND ELEVATION
S-2	GENERAL NOTES AND DETAILS
S-3	FOUNDATION DATA

STANDARD DRAWINGS
 RD1000 TYPICAL MANHOLE
 RD1001 STANDARD STORM SEWER MANHOLE
 RD1002 STANDARD MANHOLE DETAILS
 RD1003 PIPE TO STRUCTURE CONNECTIONS
 RD1004 STRUCTURE TO PIPE CONNECTION
 RD1005 PIPE TO MANHOLE CONNECTIONS
 RD1006 MANHOLE COVERS AND FRAMES
 RD1007 DITCH INLET TYPE D
 RD1008 CONCRETE PIPE
 RD1009 GUARDRAIL AND METAL MEDIAN BARRIER PARTS
 RD1010 GUARDRAIL AND METAL MEDIAN BARRIER PARTS
 RD1011 GRADING FOR GUARDRAIL TERMINALS
 RD1012 GUARDRAIL AND METAL MEDIAN BARRIER
 RD1013 31" GUARDRAIL AND METAL MEDIAN BARRIER
 RD1014 CHECK DAMS TYPE 1, 3 AND 4
 RD1015 DITCH INLET TYPE 4
 RD1016 SEDIMENT BARRIER
 RD1017 SEDIMENT FENCE
 TM650 PAVEMENT MARKING STANDARD DETAIL BLOCKS

NOTICE TO EXCAVATORS
 ATTENTION: OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE OREGON UTILITY NOTIFICATION CENTER IS 503-232-1987

POTENTIAL UNDERGROUND FACILITY OWNERS
Dig Safely
 CALL THE OREGON ONE-CALL CENTER
 1-800-332-2344

EMERGENCY TELEPHONE NUMBERS
 PGE 503-464-7777
 COMCAST 971-801-5723

MULTNOMAH COUNTY

DEPARTMENT OF COMMUNITY SERVICES

TRANSPORTATION PROGRAM

NEWBERRY ROAD AT MP 0.5

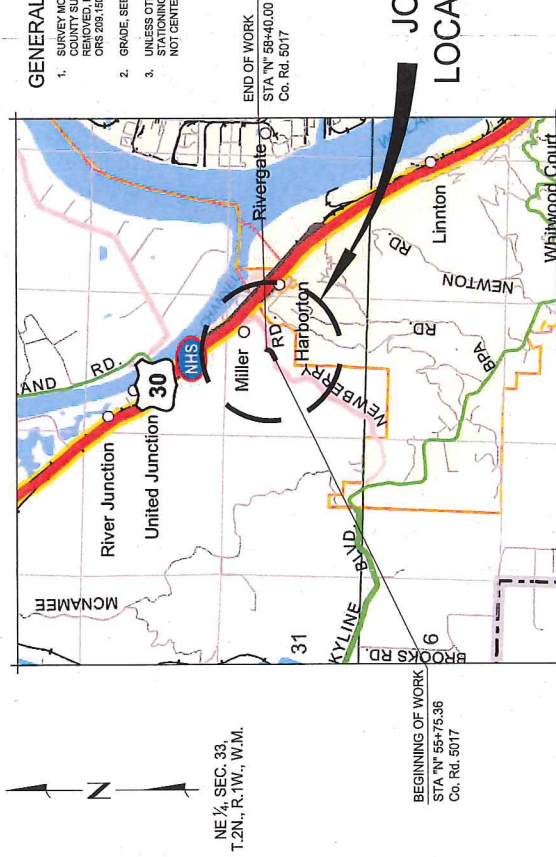
NEWBERRY ROAD

GRADING, DRAINAGE, STRUCTURES, PAVING

LANDSLIDE REPAIR

COUNTY ROAD NO. 5017

JULY 2018



GENERAL NOTES:

1. SURVEY MONUMENTS OF RECORD IN THE OFFICE OF THE COUNTY SURVEYOR OR THE COUNTY CLERK THAT ARE REMOVED, DESTROYED OR DISTURBED MUST COMPLY WITH ORS 209.150 AND/OR ORS 206.150 IF APPLICABLE.
2. GRADE, SEED AND MULCH ALL DISTURBED SLOPES.
3. UNLESS OTHERWISE NOTED, ALL NEWBERRY ROAD PROJECTS SHALL BE CONSTRUCTED TO THE CENTERLINE AND NOT CENTERLINE OF RIGHT-OF-WAY.



DAVID EVANS
 AND ASSOCIATES INC.
 5300 NE Highway 101, Suite 605
 Salem, OR 97301
 Phone: 503.361.8855

RENEWALS:

TITLE SHEET
 NEWBERRY ROAD AT MP 0.5
 LANDSLIDE REPAIR
 DATE: MARCH 2018 | PROJECT No.: ROADPC0435

MULTNOMAH COUNTY
 DEPARTMENT OF COMMUNITY SERVICES
 TRANSPORTATION DIVISION
 1620 S.E. 190th AVE. PORTLAND, ORE. 97233-5999
 COUNTY ENGINEER
 IAN B. CANNON P.E.

DESIGNED BY:
 AMB
 DRAFTED BY:
 DIA
 CHECKED BY:
 GMP

REVISIONS	No.	DATE

Sheet No. G-1

CONSTRUCTION NOTES:

- STA. "N" 55+75.35 TO STA. "N" 56+28.93
CONST. 3" TYPE 2A GUARDRAIL - 25'
CONST. 3" TYPE 2A GUARDRAIL - 25'
INST. 12" CONC. CULVERT - 25'
5' DEPTH
S= 0.020/FI
I.E. - 335.15 (12" IN)
I.E. - 335.15 (12" OUT)
INST. DITCH DAM
(SEE SHT. G-4 AND G-5 FOR DETAILS)
(SEE DRGS. NOS. RD300, RD336, RD370 & RD386)
- CONST. RETAINING WALL
REMOVE EXIST. 12" CONC. CULVERT
CONST. TYPE D, MODIFIED CONC. INLET
RIM EL. 357.59
5' DEPTH
I.E. - 354.59 (24" OUT)
INST. DITCH DAM
(SEE SHT. G-4 AND G-5 FOR DETAILS)
(SEE DRGS. NOS. RD300, RD336, RD370 & RD386)
- STA. "N" 56+06.07, 20' RT.
REMOVE EXIST. 12" CONC. CULVERT
CONST. TYPE D, MODIFIED CONC. INLET
RIM EL. 357.59
5' DEPTH
I.E. - 354.59 (24" OUT)
INST. DITCH DAM
(SEE SHT. G-4 AND G-5 FOR DETAILS)
(SEE DRGS. NOS. RD300, RD336, RD370 & RD386)
- STA. "N" 56+20.00, 10' RT.
CONST. CONC. MANHOLE
RIM EL. - 356.53
20' DEPTH
I.E. - 354.13 (24" IN)
I.E. - 353.20 (24" OUT)
S= 0.020/FI
(SEE DRGS. NOS. RD335, RD336, RD344, RD345 & RD356)
- CONST. DRAINAGE CHANNEL - 5'
(SEE SHT. G-4 FOR DETAILS)
- INST. PERMANENT CHECK DAM - 6'
(FOR DETAILS, SEE SHT. G-4)

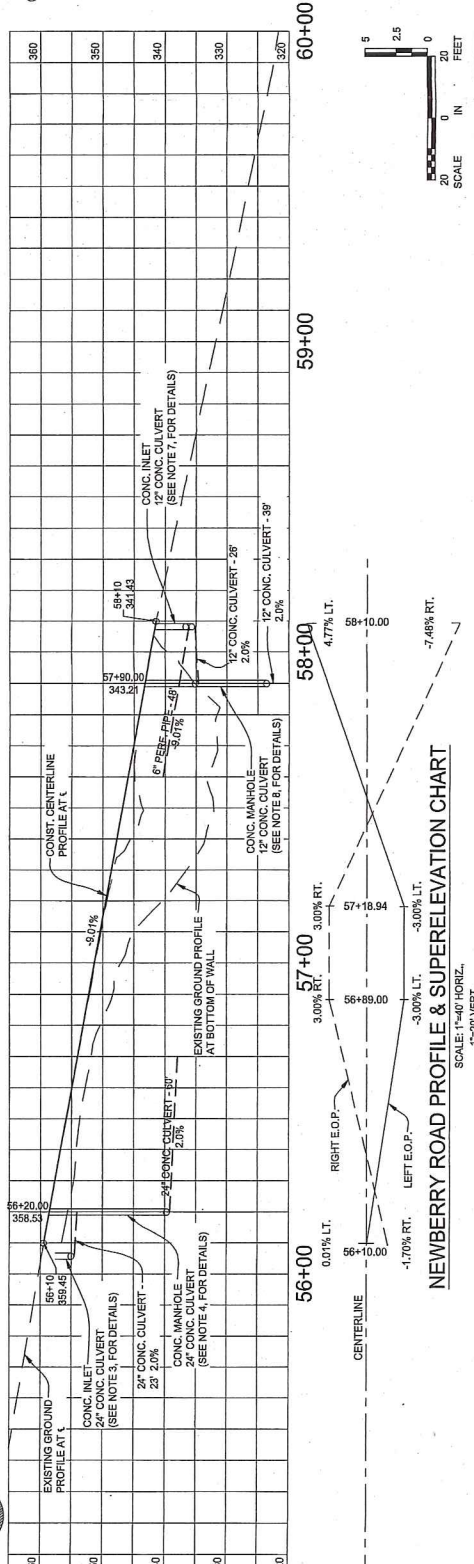
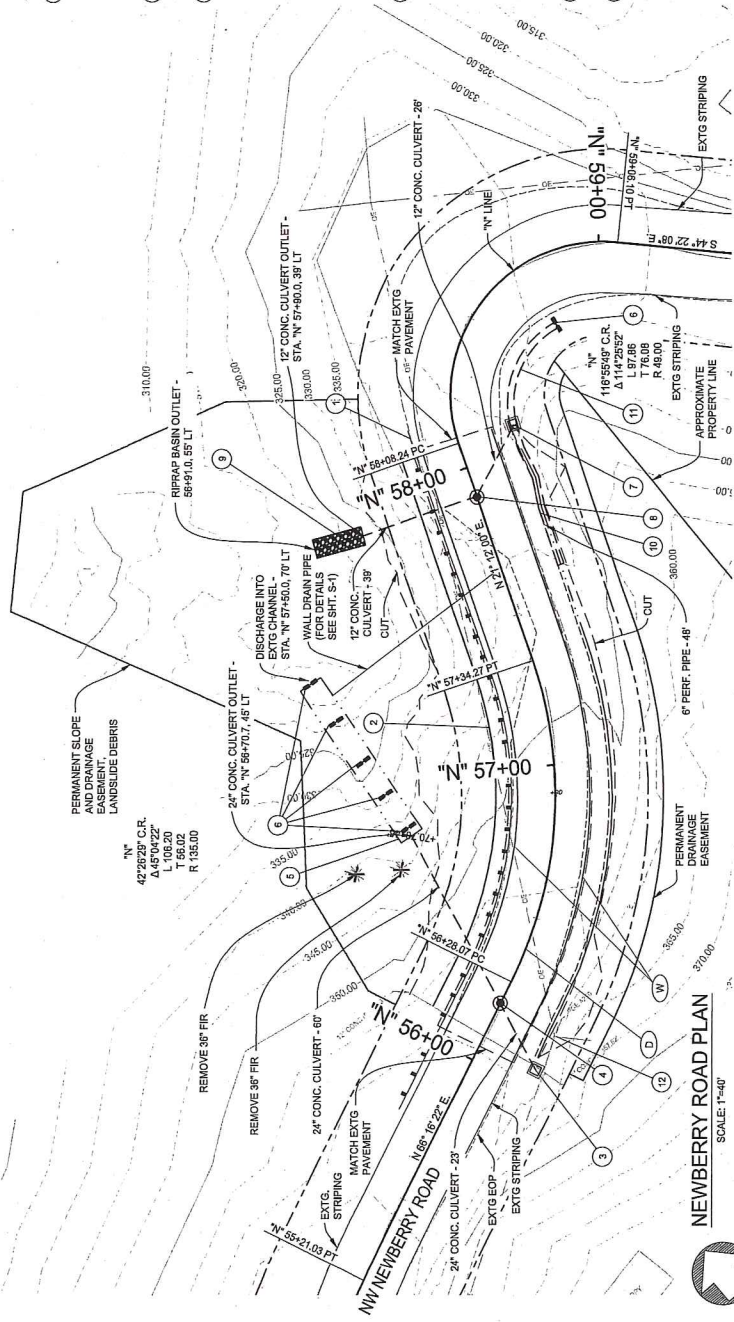
STRIPING NOTES:

- INSTALL 4" WHITE LINE - 410'
- INSTALL DOUBLE NO-PASS - 254'
- (SEE DRG. NO. TM500)
- (SEE DRG. NO. TM500)

NOTE:
MAINTAIN AND PROTECT LANDSIDE DEBRIS
OUTSIDE OF THE GRADING, DRAINAGE
DITCH LIMITS, WALL DRAIN PIPE AND RIPRAP
BASIN.
TOP 18" OF MATERIAL WITHIN GRADING, NOT
LOCATED BENEATH EXISTING PAVEMENT IS
CONTAMINATED, DISPOSE OF ACCORDING
TO SP SECTION 00394.
MATCH EXIST. STRIPING ON EACH END.



RENEWS:



CONSTRUCTION NOTES:

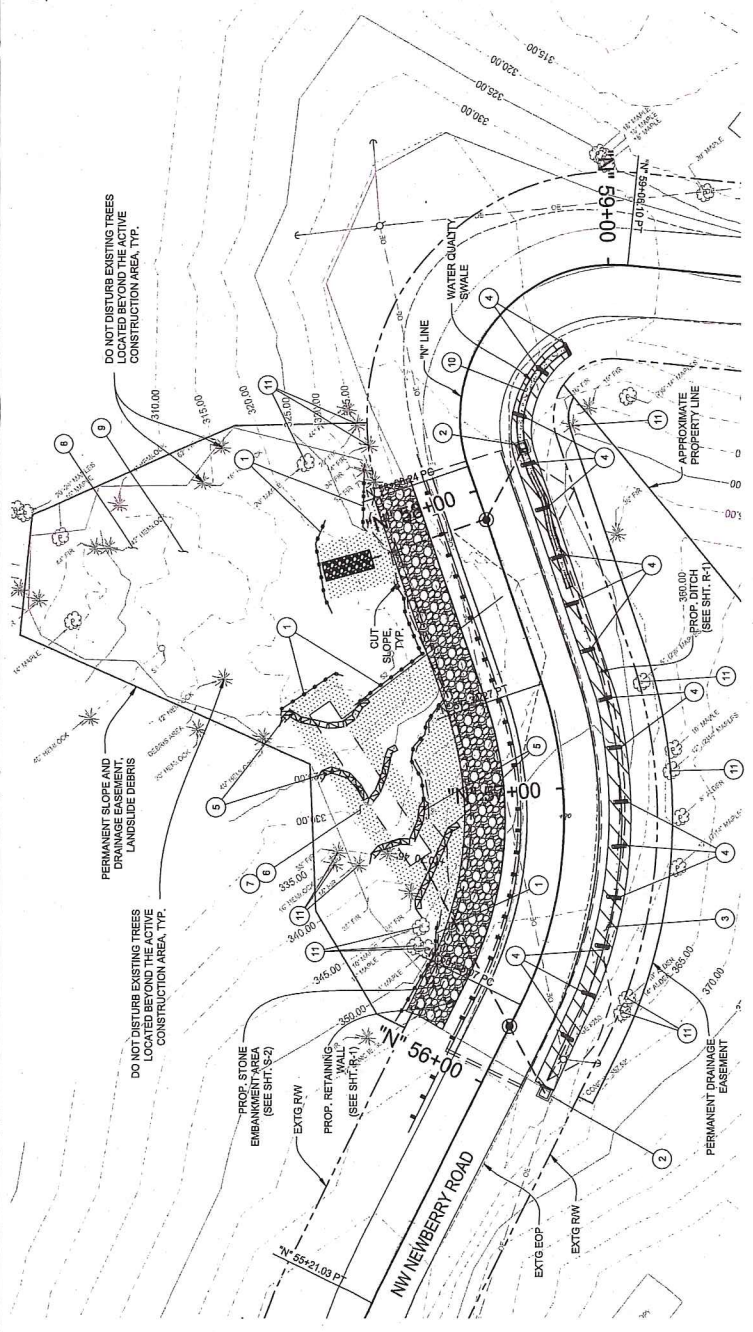
1. INST. SEDIMENT FENCE, TYPE 1 OR 2 - 207 (SEE DRG. NO. RD1040)
2. INST. INLET PROTECTION, TYPE 4 - 2 (SEE DRG. NO. RD1016)
3. INST. TEMPORARY MULCHING, STRAW TO DISTURBED SOILS - 0.04 ACRE
4. INST. CHECK DAM, TYPE 3 - 16 (SEE DRG. NO. RD1035)
5. INST. SEDIMENT BARRIER, TYPE 3 - 135 (SEE DRG. NO. RD1030)
6. INST. COMPOST EROSION BLANKET, 14 CUD
7. INST. PERMANENT SEEDING, MIX NO. 1 - 0.05 ACRE IN CONJUNCTION WITH COMPOST EROSION BLANKET (SEE SPECIAL PROVISIONS, 01030.48)
8. PERFORM WEED CONTROL IN PERMANENT SLOPE AND DRAINAGE EASEMENT (SEE SPECIFICATIONS, 01030.44)
9. INST. PERMANENT SEEDING, MIX NO. 1 TO SOILS DISTURBED BY WEED CONTROL ACTIVITIES (SEE SPECIAL PROVISIONS, 01030.48)
10. INST. PERMANENT SEEDING, MIX NO. 2 - 170 SFT IN WATER QUALITY SWALE (SEE SPECIAL PROVISIONS, 01030.48)
11. PROTECT EXISTING TREE TO REMAIN WITHIN PERMANENT EASEMENT

LEGEND:

- SEDIMENT FENCE, TYPE 1 or 2
- TEMPORARY INLET PROTECTION, TYPE 4 (BIOFILTER BAG)
- TEMPORARY MULCHING, STRAW
- TEMPORARY CHECK DAM, TYPE 3 (BIOFILTER BAG)
- SEDIMENT BARRIER, TYPE 3 (STRAW WATTLE)
- COMPOST EROSION BLANKET AND PERMANENT SEEDING MIX NO. 1



RENEWS:



NEWBERRY EROSION CONTROL PLAN

SCALE: 1" = 40'

EROSION CONTROL GENERAL NOTES:
THE EROSION CONTROL PLAN IS A PRELIMINARY PLAN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, CONSTRUCTION, MAINTENANCE, REPLACEMENT AND UPGRADING OF THESE FACILITIES. THE RESPONSIBILITY OF THE CONTRACTOR UNTIL ALL CONSTRUCTION IS COMPLETED AND APPROVED.
DEVELOP A REVISED PLAN OF THE EROSION CONTROL FACILITIES SHOWN IN ACCORDANCE WITH THE EROSION CONTROL PLAN. THE EROSION CONTROL PLAN SHALL BE THE BASIS FOR THE CONSTRUCTION OF THE EROSION CONTROL FACILITIES. THE EROSION CONTROL PLAN SHALL BE CONSTRUCTED IN SUCH A MANNER AS TO INSURE THAT SEDIMENT AND GRADED LADEN WATER DOES NOT ENTER THE DRAINAGE SYSTEM, ROADWAY, OR VIOLATE APPLICABLE WATER STANDARDS. CONSTRUCT CONTROLS IN SEGMENTS APPLICABLE TO EACH STAGING PHASE.
THE EROSION CONTROL FACILITIES SHOWN ON THIS PLAN ARE THE MINIMUM REQUIREMENTS FOR ANTICIPATED SITE CONDITIONS. DURING THE CONSTRUCTION PERIOD, THESE FACILITIES SHALL BE UPGRADED FOR UNEXPECTED STORM EVENTS AND TO INSURE THAT SEDIMENT AND SEDIMENT-LADEN WATER DO NOT LEAVE THE SITE.

EROSION CONTROL PLAN NOTES:
THE MULCHING SHALL BE LIMITED TO THE AREA SHOWN ON THIS PLAN. INSTALL TEMPORARY MULCHING TO ALL RED SOILS EXPOSED BY CONSTRUCTION AND WEED CONTROL ACTIVITIES ACCORDING TO THE SPECIFICATIONS, SECTION 0280.42.
INSTALL PERIMETER CONTROLS, INCLUDING SEDIMENT FENCE AND INLET PROTECTION ON EXISTING INLETS, PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES.
INSTALL RUNOFF CONTROLS, INCLUDING TEMPORARY CHECK DAMS AND SEDIMENT BARRIERS, AFTER COMPLETION OF MASS GRADING.
INSTALL COMPOST EROSION BLANKET AFTER WEED CONTROL AND MASS GRADING ACTIVITIES COMPLETE, AS SOON AS PRACTICABLE, ON ACCORDING TO THE SPECIFICATIONS, SECTION 0280.42.
INSTALL PERMANENT SEEDING ACCORDING TO THE PROJECT SCHEDULE, AND IN COMPLIANCE WITH THE DATES SPECIFIED IN THE SPECIFICATIONS, SECTION 01030.43.

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*.

1.0 Project Description:

Staff: The applicant is requesting a permit in response to a disaster event to reconstruct a portion of NW Newberry Road after a landslide occurred at milepost 0.5.

2.0 Property Description & History:

Staff: The proposed reconstruction of a portion of NW Newberry Road will occur on a west-facing slope to the west of a hairpin curve located at milepost 0.5 or approximately 3,000 linear feet from Highway 30. The reconstruction is in response to a landside that occurred on January 2017 after heavy snow and rainfall.

3.0 Administration and Procedures Criteria:

3.1 § 37.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public.

Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: There are no active code compliance cases associated with the properties where the proposed work will occur. There is not enough information to determine whether they are or are not Lots of Record, therefore both properties are not in full compliance with all applicable provisions of Multnomah County Land Use Code.

However, this land use application is necessary to protect public safety. The road, NW Newberry Road is a local roadway that is a critical component within the County's

infrastructure inventory and if the roadway is not fixed, the slide area could endanger life and the safety of public. The proposed work is also located within a valid easement. Due to these factors, the County has the authority to issue this land use decision for properties not in full compliance without resolving the Lot of Record status of those properties. *These criteria are met.*

4.0 Review Uses Criteria:

4.1 § 33.2225 REVIEW USES

(H) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

Staff: The applicant has applied for a permit in response to a disaster event to reconstruct a portion of NW Newberry Road after a landslide occurred at milepost 0.5. The proposed work will require an Administrative Decision by the Planning Director. They have met the approval criteria are described in this Decision. A few criteria will require additional action by the applicant to demonstrate compliance with the applicable approval criteria.

4.2 § 33.2250 BUILDING HEIGHT REQUIREMENTS

(A) Maximum structure height – 35 feet.

(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

Staff: The applicant is proposing to construct a retaining wall on the west side of NW Newberry Road. At the tallest point of the wall, the structure will be 19.93 feet in height from the bottom of the wall to the top of the wall (Exhibit A.34: Sheet S-1). *This criterion is met.*

5.0 Permits and Certificates Criteria

5.1 § 33.0535 RESPONSES TO AN EMERGENCY/DISASTER EVENT

Responses to an emergency/disaster event are allowed in all zoning districts when in compliance with the following standards:

(A) General standards for all response activities.

(1) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

Staff: The applicant is currently utilizing Best Management Practices (BMPs) in initial response activities and is proposing to continue those BMPs as construction and rebuilding of the road occurs. The BMPs, as shown in the Erosion Control Plan EC-1, proposed during the reconstruction of the road include check dams, inlet protection, and sediment barriers/fencing (Exhibit A.34). These measures will prevent sedimentation and provide erosion control. *This criterion is met.*

(2) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life, property, public services or the environment, an extension of no more than two years may be granted by the Planning Director.

Staff: The applicant is currently utilizing a concrete barrier to prevent motor vehicle passage along NW Newberry Road. These barriers will be in place until completion of the project. During the reconstruction, the BMPs, as shown in the Erosion Control Plan EC-1 will also be in place through the duration of the project (Exhibit A.34). Therefore, a condition is required that any structures or development installed or erected for a temporary use shall be removed within one year following the conclusion of the emergency event. *As conditioned, this criterion is met.*

(3) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

Staff: The project in response to an emergency event does not contain any new exploration, development (extraction or excavation), and production of mineral resources. This project is for the reconstruction and repair of a road that was subject to a landslide. *This criterion is met.*

(4) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake, or riparian area within Multnomah County as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

Staff: The initial stabilization of the road did not deposit any spoils into a wetland, stream, pond, lake, or riparian area. As stated in the applicant's narrative, the proposed reconstruction of the road will require grading and excavation (Exhibit A.18 and Exhibit A.30). Any spoils resulting from those activities will be the responsibility of the construction contractor to dispose off-site. Therefore, to ensure that this requirement is met, a condition will be required. *As conditioned, this criterion is met.*

(B) Notification Requirements.

(1) Actions taken in response to an emergency/disaster event, as defined in MCC 33.0005, are allowed in all land use designations, subject to the following notification requirements.

(a) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(b) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(c) At a minimum, the following information shall be required at the time of notification:

1. Nature of emergency/disaster event.

2. Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).

3. Location of emergency/disaster response activities.

4. Estimated start and duration of emergency/disaster response activities.

5. Contact person and phone number for the parties conducting emergency/disaster response actions.

(d) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

Staff: Riad Alharithi, County Engineer notified this office in writing on January 9, 2018 that actions were being taken in response to an emergency/disaster event (Exhibit A.5). The major slide at mile point 0.5 occurred on January 2017. Emergency design services and evaluation commenced in early 2017 to understand the extent of the damage and study alternatives to correct the situation. By mid-November of 2017 design of the slide repair was substantially completed and commencement of a response action initiated. The notification letter contained all of the information required above. *These criteria are met.*

(2) Upon notification of an emergency/disaster response action, the Planning Director shall, as soon as possible:

(a) Review their natural resource inventory data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites, and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

(b) Notify applicable agencies of all emergency/disaster response activities.

Staff: At receipt of the notification, Planning Staff notified the Transportation Division that the project is located the Significant Environmental Concern for Wildlife Habitat (SEC-h), Significant Environmental Concern for Scenic Views (SEC-v), and Hillside Development and Erosion Control (HD) overlays (Exhibit A.6). Planning Staff also sent notice to Bureau of

Development Services On-site Wastewater Program, West Multnomah Soil and Water Conservation District, Tualatin Valley Fire and Rescue and Oregon Department of Transportation (Exhibit B.4). *These criteria are met.*

(3) Upon response from applicable agencies, the applicant shall take necessary measures based on the recommendations of the applicable agencies to minimize impacts to resources from emergency/disaster response actions. If the recommendations of the applicable agencies conflict with those of the County or other jurisdictions, the recommendations of the County shall prevail for the purposes of this section.

Staff: No responses were received from the applicable agencies. *This criterion is met.*

(C) Post-Emergency/Disaster Response Application Requirements.

(1) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and no more than two (2) extensions shall be granted.

Staff: Riad Alharithi, County Engineer notified this office in writing on January 9, 2018 that actions were being taken in response to an emergency/disaster event (Exhibit A.5). The application was submitted on February 7, 2018. *This criterion is met.*

(2) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

Staff: The applicant has submitted a narrative and plans detailing the development activities conducted and proposed to be conducted in response to the emergency/disaster (Exhibit A.4, A.29, and A.34). The development activities proposed are the construction of a retaining wall and installation of drainage improvements. Temporary development includes the installation of erosion control measures. *This criterion is met.*

(4) Applications shall include the following information:

- (a) Applicant's name and address.**
- (b) Location of emergency/disaster response.**

- (c) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.
- (d) A map of the project area drawn to scale, at a scale of 1"=200' or a scale providing greater detail. The map shall include:
 - 1. North arrow and scale.
 - 2. Boundaries, dimensions and size of subject parcel(s).
 - 3. Topography at a contour interval sufficient to describe the terrain of the project site.
 - 4. Bodies of water, watercourses, and significant landforms.
 - 5. Existing roads and structures.
 - 6. New structures placed and any vegetation removal, excavation or grading resulting from the response actions.
- (e) An exception to the scale requirements of subsection (4)(d) may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1"=200' or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

Staff: The applicant has submitted a narrative and plans detailing the development activities conducted and proposed to be conducted in response to the emergency/disaster (Exhibit A.4, A.29, and A.34). *This criterion is met.*

(E) Post-Emergency/Disaster Response Approval Criteria.

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

- (1) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.**

Staff: The narrative and plans indicate that the area will be seeded to provide vegetative cover for disturbed areas and areas of replanting. The area downslope of the development will be maintained with vegetation. The newly planted seeding and remaining trees will screen the structural development (Exhibit A.4, A.29, and A.34). *This criterion is met.*

- (2) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension of up to one year.**

Staff: The narrative and plans indicate that the area will be seeded with a mixture of native plant species including but not limited to vine maple, Oregon grape, salal, and sword fern (Exhibit A.4, A.29, and A.34). The seeding of the area will be done at the conclusion of development activities. To ensure that the revegetation occurs, a condition will be required that

revegetation occur as soon as practicable after the conclusion of development activities to reconstruct the roadway. *As conditioned this criterion is met.*

(3) Spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall either be:

(a) Removed from Multnomah County or deposited at a site within the Multnomah County where such deposition is, or can be, allowed, or

(b) Contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

Staff: The narrative indicates that any spoil materials associated with grading, excavation, and slide debris removal will become the responsibility of the repair construction contractor (Exhibit A.4 and A.29). To ensure that the spoil materials are removed from the County or deposited at an appropriate site within the County, a condition will be required.

The site plan and construction documents indicate that a retaining wall is required to support the road (Exhibit A.34). The retaining wall will alter the topography of the immediate area closest to the road. However, no additional contouring will be required downslope outside what is practical to of backfill the retaining wall. *As conditioned this criterion is met.*

(4) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall immediately cease work and contact the Planning Director and the State Historic Preservation Office (SHPO).

Staff: A condition will be required that if cultural resources are discovered within the area disturbed by emergency response actions, the project shall immediately cease work and follow the protocols as outlined by the State Historic Preservation Office (SHPO). *As conditioned this criterion is met.*

(5) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

Staff: The narrative and plans indicate that the area will be returned to the condition prior to the landslide (Exhibit A.4, A.29, and A.34). The construction of a retaining wall will ensure that another slide does not occur. An additional culvert and drainage channel will be installed to minimize the potential for downstream erosion. At the conclusion of the construction the area will be seeded with a mixture of native plant species including but not limited to vine maple, Oregon grape, salal, and sword fern. These actions shall limit any potential impacts to natural resources. *This criterion is met.*

(6) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be maintained to the maximum extent practicable.

(a) When emergency/disaster response activities occur within wetlands, streams, ponds, lakes, riparian areas, or the buffer

zones of these areas, the applicant shall demonstrate the following:

1. All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes, or riparian areas.
2. Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(b) Impacts to wetlands, streams, ponds, lakes, and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(c) If the Planning Director determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision.

(d) Unless addressed through (C) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the following:

1. Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
2. Planting plans shall be included that specify native plant species to be used, specimen quantities, and plant locations.
3. The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

Staff: The project is located within one natural resource overlay. The project is located in a Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay. The site does not contain wetlands, streams, ponds, lakes, or riparian areas. The site does contain sensitive wildlife resources. The applicant submitted an SEC-h worksheet to address potential impacts and mitigation strategies. The worksheet indicates that nuisance plants; blackberry and Robert geranium will be removed from the project area (Exhibit A.27 and A.35). Additionally, to ensure that potential downstream effects are minimized and mitigated, the applicant is proposing the construction of a retaining wall that will ensure that another slide does not occur.

Additionally, a culvert and drainage channel will be installed to minimize the potential for downstream erosion. At the conclusion of the construction, the area will be seeded with a mixture of native plant species including but not limited to vine maple, Oregon grape, salal, and sword fern. To ensure that these actions occur a condition will be required that invasive removal and reseedling occur. *As conditioned, these criteria are met.*

7.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for an Administrative Decision by the Planning Director to permit a response (reconstruction of NW Newberry Road and construction of a retaining wall) to an emergency/disaster event in the Commercial Forest Use – 2 (CFU-2) zone. This approval is subject to the conditions of approval established in this report.

8.0 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2018-10007 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	02/07/2018
A.2	1	Cover Letter	02/07/2018
A.3	2	Cover Page and Table of Contents	02/07/2018
A.4	18	Narrative	02/07/2018
A.5	3	Emergency Notification	02/07/2018
A.6	3	Receipt of Emergency Notification by Multnomah County Land Use Planning Division	02/07/2018
A.7	7	Pre-File Conference Summary Notes	02/07/2018
A.8	4	Right of Way authorization for acquisition of Real Property – Resolution No. 2017-104	02/07/2018
A.9	14	Title Report for 2N1W33A -00600 (R971330150)	02/07/2018
A.10	2	Warranty Deed recorded as 2011-138576 on December 9, 2011	02/07/2018
A.11	1	Certificate of Death for Christine Ann Lightcap issued on July 15, 1994	02/07/2018
A.12	4	Trust Deed recorded as 2013-063412 on May 9, 2013	02/07/2018
A.13	2	Boundary Line Agreement recorded in Book 460, Page 775-776 on January 26, 1966	02/07/2018
A.14	4	Declaration of Deed Restriction recorded in Book 2171, Page 1010-1013 on January 17, 1989	02/07/2018
A.15	3	Access Road Easement recorded in Book 1900, Page 202-204 on June 2, 1958	02/07/2018
A.16	5	Transmission Line Easement recorded in Book 578, Page 82-84 on December 2, 1940	02/07/2018
A.17	3	Electric Transmission Line Easement recorded in Book 771, Page 285-287 on February 3, 1971	02/07/2018
A.18	5	Easement recorded as 98026110 on February 20, 1998	02/07/2018

A.19	17	Title Report for 2N1W33A -01600 (R971330280)	02/07/2018
A.20	3	Bargain and Sale Deed recorded as 2001-066451 on May 7, 2001	02/07/2018
A.21	19	Deed of Trust recorded as 2011-113386 on October 13, 2011	02/07/2018
A.22	2	Boundary Line Agreement recorded in Book 460, Page 775-776 on January 26, 1966	02/07/2018
A.23	1	Transmission Line Easement recorded in Book 578, Page 94-95	02/07/2018
A.24	1	Electric Transmission Line Easement recorded in Book 794, Page 1522 on June 18, 1971	02/07/2018
A.25	9	Plans (reduced to 8.5" x 11") <ul style="list-style-type: none"> • Cover sheet • Sheet No. G-1: Title Sheet • Sheet No. G-2: Legend • Sheet No. G-3: Typical Roadway Sections • Sheet No. G-4: Details • Sheet No. R-1: Newberry Road-Road Plan & Profile • Sheet No. S-1: Wall 1 Plan and Elevations • Sheet No. S-2: General Notes and Details • Sheet No. S-3: Foundation Data 	02/07/2018
A.26	2	Site Drainage (reduced to 8.5" x 11")	02/07/2018
A.27	11	SEC-h Worksheet and Figure	02/07/2018
A.28	13	SEC-v Worksheet and Figures	02/07/2018
A.29	1	Cover Letter addressing Incomplete Letter items	04/04/2018
A.30	6	Updated narrative pages 2, 4, 8, 14, and 17 and Sheet No. EC-1: Erosion Control	04/04/2018
A.31	3	Updated Title Report for 2N1W33A -00600 (R971330150)	04/04/2018
A.32	2	Updated Title Report for 2N1W33A -01600 (R971330280)	04/04/2018
A.33	2	Deed of Reconveyance recorded as 2018-0002878 on January 9, 2018	04/04/2018

A.34*	12	Updated Plans <ul style="list-style-type: none"> • Cover sheet • *Sheet No. G-1: Title Sheet • Sheet No. G-2: Legend • Sheet No. G-3: Typical Roadway Sections • Sheet No. G-4: Details • Sheet No. G-5: Details • *Sheet No. R-1: Road Plan & Profile • *Sheet No. EC-1: Erosion Control • Sheet No. S-1: Wall 1 Plan and Elevations • Sheet No. S-2: General Notes and Details • Sheet No. S-3: Foundation Data 	04/04/2018
A.35	8	Updated SEC-h Worksheet and Figure	04/04/2018
A.36	5	Updated SEC-v Worksheet and Figures	04/04/2018
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W33A -00600 (R971330150)	02/07/2018
B.2	3	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W33A -01600 (R971330280)	02/07/2018
B.3	1	Department of Assessment, Records and Taxation (DART): Map with 2N1W33A -00600 (R971330150) and 2N1W33A - 01600 (R971330280) highlighted	02/07/2018
B.4	1	Post-Emergency Response Notification to Agency Partners	01/10/2018
B.5	4	Post-Emergency Response Application Submission Notification	02/07/2018
B.6	1	Post-Emergency Response Application Payment Authorization	02/15/2018
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	03/06/2018
C.2	1	Applicant's acceptance of 180 day clock	03/08/2018
C.3	1	Complete letter (day 1)	05/03/2018
C.4	8	Opportunity to comment & mailing list	08/08/2018
C.5	1	Extension of the 150-day deadline	08/16/2018
C.6		Administrative decision & mailing list	