



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION & LAND USE PLANNING DIVISION  
2115 S.E. MORRISON STREET  
PORTLAND, OREGON 97214  
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS  
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## Multnomah County Hearings Officer Decision

Attached please find a copy of the Hearings Officer's decision in the matter of CU 9-95. A copy of the Hearings Officer's decision is being mailed to those persons entitled to be mailed notice under MCC 11.15.8220(C) and to other persons who have requested the same.

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An appeal requires a completed *Notice of Review* form and a fee of \$500.00 plus a \$3.50-per-minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)]. Instructions and forms are available at the County Planning and Development Office at 2115 SE Morrison Street, Portland, Oregon.

Failure to raise an issue by the close of the record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond, precludes appeal to LUBA on that issue.

To appeal the Hearings Officer decision, a *Notice of Review* form and fee must be submitted to the County Planning Director. For further information call the Multnomah County Planning and Development Division at 248-3043

Signed by the Hearings Officer:	April 22, 1996
Decision Mailed to Parties:	April 29 1996
Decision Submitted to Board Clerk:	April 25, 1996
Last day to Appeal Decision:	May 8, 1996
Reported to Board of County Commissioners:	May 9, 1996



BEFORE THE HEARINGS OFFICER  
FOR MULTNOMAH COUNTY, OREGON

RECEIVED

APR 23 1996

Multnomah County  
Zoning Division

Regarding an application by Paul J. and Bonnie A. )  
Gill regarding conditional use approval for a non- )  
farm related single family residence in the Exclusive )  
Farm Use (EFU and SEC-h Wildlife Habitat) zones )  
located at 11410 N.W. Skyline Boulevard in )  
unincorporated Multnomah County, Oregon. )

FINAL ORDER  
CU 9-95  
(Gill)

I. HEARING AND RECORD

A public hearing was held concerning this matter on March 20, 1996. The hearing and written record were closed on the same date.

The following exhibits were received and made part of the record by the Hearings Officer:

1. Application
2. Application Packet
3. Completeness Letter
4. Correspondence from Michael Robinson RE: Lot of Record status
5. Vicinity Ownerships
6. Lot of Record documentation
- 7a-b. Air photo of property
8. Deed to Gills
9. Contract creating parcel
10. Property agreements (spring)
11. 50' access Easement granted to Kent Gambee
12. Letter from applicant's attorney requesting rescheduling hearing and waiving 120-day provision of ORS
13. Letter from M. Robinson
14. Letter from Paul & Bonnie Gill requesting rescheduling and waiving 120-day provision of ORS
15. Revised Site Plan
16. Geotechnical Evaluation (HDP Form-1)
17. Site Plan w/Topo: Geotech "Exhibit A"
18. Revised Site Plan w/air photo
19. Staff Report

## II. FINDINGS

The Hearings Officer adopts and incorporates by reference the findings and conclusions contained within the Staff Report dated March 20, 1996 (attached), except to the extent expressly modified or supplemented below.

## III. DISCUSSION

### A. Applicability of SEC Overlay

A question was raised at the hearing concerning whether or not provisions of the SEC overlay apply to this application. The evidence indicates that Ordinance 832, which adopted the SEC Overlay and applied it to this site was enacted on September 7, 1995 and became effective 30 days thereafter on October 7, 1995. The evidence further indicates that this application was received on October 20, 1995. Therefore, since the application was received after the effective date of Ordinance 832, the SEC overlay applies to this application.

### B. Effect of Proposed Development on the Cost of Accepted Farm or Forest Practices on Surrounding Lands

The evidence indicates that the logging road which currently provides access to the primary building site is a private easement. This easement provides access to other interior parcels that are used for forest practices. Also, the evidence indicates that the proposed primary building site has historically been used as a log staging area. Based on the evidence and testimony in the record, the Hearings Officer finds that even if a residence is built on what had been a log staging area at the location of the proposed primary site, other log staging areas exist off-site, within the other interior parcels. Apparently, the staging area located on-site was used to gather and store logs harvested from this property only. Therefore, the loss of this staging area would not increase the cost of accepted forest practices on surrounding lands, because the surrounding forest lands have their own staging areas. As long as the easement is not blocked, so that log trucks and other forest related vehicles can continue to use it, the cost of accepted forest practices on surrounding lands will not be compromised by the construction of this proposed residence.

### C. Secondary Building Location

The applicant has identified a secondary building site in their proposed site plan. The Hearings Officer finds that appropriate geotechnical and other analysis has not been performed for this secondary building site and that the site is therefore not approvable based upon the evidence in the record. The conditions of approval have been amended to eliminate any reference to the secondary building site.

D. Fire Protection

The evidence indicates that the Tualatin Valley Fire and Rescue District has had an opportunity to review and comment on the proposal. The District has noted that fire fighting water supply and access to the proposed structure will be provided as required by TVFRD Ordinance 92-01. Furthermore, plans showing hydrants and access complying with Ordinance 92-01 will be required to be submitted to TVFRD for review and approval prior to construction. These requirements have been added as conditions of approval to this land use decision.

The Hearings Officer notes that as shown in the proposed site plan, the logging road easement does not contain an area where fire trucks can turn around. The Exclusive Farm Use zone does not contain development regulations for private roads as is the case in MCC .2074(D) which provides detailed regulations for private roads within the Commercial Forest Use (CFU) zone. The CFU standards for private roads require turnarounds with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length. If this property were located in the CFU zone, the applicant would be required to demonstrate that it is possible to construct a turnaround with a radius of 48 feet at points where the access exceeds 150 feet in length.

However, since this property is zoned EFU, not CFU, the same turnaround regulations do not apply. Instead, access and fire protection standards contained within the EFU are more permissive. The Hearings Officer finds that it is not appropriate to add additional conditions of approval concerning the construction of specific turnarounds. Nonetheless, the Hearings Officer will direct Tualatin Valley Fire and Rescue District to pay particular attention to the needs of their fire, life and safety apparatus so that they are able to safely turn around on site.

IV. CONCLUSION

Based upon the above findings, the Hearings Officer concludes that CU 9-95 should be approved because it does or can meet the applicable approval criteria, subject to the conditions of approval set forth below.

V. DECISION

CU 9-95 is hereby approved subject to the following conditions:

1. Approval of this Conditional Use shall expire two years from the date of the Board Order unless substantial construction has taken place in accordance with MCC 11.15.7110 (C).

2. The dwelling shall be sited in the "primary" location indicated on the attached site plan and shall be located so that it does not conflict with or encroach upon the 50 foot access easement located on the property.

3. Prior to approval of any other residential-related permits, the owner shall disqualify the subject property from farm use taxation and meet all of the conditions set forth in this criterion by paying any additional taxes and penalties as determined by Multnomah County.

4. Prior to the issuance of a building permit for a dwelling, the property owner shall provide to the Division of Planning and Development a copy of the recorded restrictions acknowledging the rights of nearby properties to conduct farm and forest practices. A prepared form is available at the Planning Offices.

5. Prior to obtaining a building permit for a dwelling, the property owner shall demonstrate that the project meets the standards for fire protection as determined by the Tualatin Valley Fire and Rescue District. TVFRD should pay particular attention to a site plan which does not indicate a turnaround for fire and rescue vehicles. The County's land use approval criteria do not require a turnaround in this case. If the District's regulations require such a turnaround, appropriate geotechnical analysis should be performed prior to approving any proposed turnaround, given the extreme slopes located on-site.

6. Prior to the issuance of a building permit for a dwelling, submit a copy of the well report. At that time, persons entitled to notice will again be notified that the water service part of the approval criteria is being reviewed and there is the opportunity for, comment and appeal of this finding.

7. Prior to issuance of a building permit for a dwelling, apply for and demonstrate compliance with the Hillside Development and Erosion Control ordinance, MCC 11.15.6700-.6735. This permit must include a detailed site plan depicting the location of the proposed dwelling, septic system, existing and proposed driveway(s), access easement, and existing and proposed topography.

8. Prior to issuance of a building permit for a dwelling, apply for and demonstrate compliance with the Significant Environmental Concern ordinance, MCC 11.15.6400-.6428.

9. Any dwelling on this site shall comply with Uniform Building Code, be attached to a foundation for which a building permit has been obtained, and have a minimum floor area of 600 square feet.

It is so ordered this 22 day of April, 1996.



Phillip E. Grillo  
Hearings Officer  
Multnomah County