

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1009

Amending Multnomah County Zoning Code Chapter 33 West Hills Rural Plan Area to Clarify the Criteria Applicable to Development in Areas Designated as Significant Environmental Concern – Wildlife Habitat, Scenic Views, and Streams

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County Code Chapter 33 West Hills Significant Environmental Concern (SEC) needs to be amended to clarify the applicable criteria to ensure that applicants are not required to demonstrate compliance with approval criteria which were not intended to apply to development in areas designated as containing wildlife habitat, scenic views, and streams.
- b. The partial transcript of the staff report on September 12, 1994 that explains how the SEC overlay zone would be restructured under amendments proposed at that time, together with the exhibit which consisted of the overlay zone code showing the proposed amendments, is clear evidence of the legislative intent to not apply the “general” criteria in MCC 33.4555 to areas designated as containing wildlife habitat, scenic views, and streams.
- c. The general criteria in MCC 33.4555 were first adopted in 1977 under Ord. 148 to protect areas then designated as significant resources, and there are no areas within the West Hills Rural Plan area that were protected under this and subsequent protection programs that utilized the general criteria in MCC 33.4555.
- d. The Multnomah County Planning Commission recommended to the Board a proposal to clarify the applicable criteria by amending the language in MCC 33.4525 and by deleting the general criteria in 33.4555 as the approach which is most consistent with the resource protection program for the West Hills Plan area.

(Language ~~stricken~~ is deleted; double- underlined language is new.)

Multnomah County Ordains as follows:

Section 1. MCC § 33.4525 is amended as follows:

§ 33.4525 Applicable Approval Criteria

~~(A) The approval criteria in MCC 33.4555 shall apply to those areas designated SEC on the Multnomah County zoning maps.~~

(~~BA~~) The approval criteria that apply to uses in areas designated SEC-w, SEC-v, SEC-h and SEC-s on Multnomah County zoning maps shall be based on the type of protected resources on the property, as indicated by the subscript letter in the zoning designation, as follows:

Zoning Designation	Approval Criteria (MCC#)
SEC-w (wetlands)	33.4560
SEC-v (scenic views)	33.4565
SEC-h (wildlife habitat)	33.4570
SEC-s (streams)	33.4575

The zoning maps used to designate the SEC-s zoning subdistrict were created digitally by interpreting various data sources including the hand drawn maps contained in the Goal 5 ESEE report. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. For those areas included in Ordinance 830 (West Hills Rural Area Plan), the Stream Conservation Area designated on the zoning maps as SEC-s is an area extending 300 feet from the nearest point on the centerline on both sides of the protected stream. In the event of a mapping inconsistency, the SEC-s zoning subdistrict shall be interpreted to be the defined Stream Conservation Area.

(~~CB~~) An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

(~~DC~~) For Goal 5 resources designated "2A" or "3A", a proposed development must comply with the approval criteria in order to be approved.

(~~ED~~) For Goal 5 resources designated "3C", the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property.

Section 2. MCC § 33.4555 is deleted as follows:

~~§ 33.4555 — Criteria for Approval of SEC Permit~~

~~The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, cultural areas, and wild and scenic waterways that are designated SEC on Multnomah~~

~~County sectional zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:~~

~~(A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.~~

~~(B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.~~

~~(C) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.~~

~~(D) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.~~

~~(E) The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.~~

~~(F) Significant fish and wildlife habitats shall be protected.~~

~~(G) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.~~

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

~~(I) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.~~

~~(J) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.~~

~~(K) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.~~

~~(L) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.~~

~~(M) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.~~

~~(N) The applicable policies of the Comprehensive Plan shall be satisfied.~~

Section 3. MCC §§ 33.4520, 33.4530 and 33.4550 are amended to correct references as follows:

§ 33.4520 Application for SEC Permit

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 33.4555 ~~4560~~ through 33.4575.

(A) An application for an SEC permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 33.4555 ~~4560~~ through 33.4575.

(2) A map of the property showing:

(a) Boundaries, dimensions, and size of the subject parcel;

(b) Location and size of existing and proposed structures;

(c) Contour lines and topographic features such as ravines or ridges;

(d) Proposed fill, grading, site contouring or other landform changes;

(e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

§ 33.4530 SEC Permit - Required Findings

A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC district and with the applicable criteria for approval specified in MCC 33.4555 ~~4560~~ through 33.4575.

§ 33.4550 Scope of Conditions

(A) Conditions of approval of an SEC permit, if any, shall be designed to bring the application into conformance with the applicable criteria of MCC 33.4555-4560 through 33.4575 and any other requirements specified in the Goal 5 protection program for the affected resource. Said conditions may relate to the locations, design, and maintenance of existing and proposed improvements, including but not limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, and lighting, timing of construction and related activities.

(B) Approval of an SEC permit shall be deemed to authorize associated public utilities, including energy and communication facilities.

FIRST READING: March 20, 2003

SECOND READING AND ADOPTION: April 3, 2003



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, ACTING COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Sandra N. Duffy*
Sandra N. Duffy, Deputy County Attorney