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Applicable Approval Criteria:

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

Multnomah County Code (MCC): MCC 38.0560 Code Compliance and Applications, MCC 38.0015 Definitions, Parcel.

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link

Chapter 38: Columbia River Gorge National Scenic Area

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application are available for review by contacting Aldo Rodriguez, Staff Planner at 503-988-4159 or aldo.rodriquez@multco.us. Copies of all documents are available at the rate of \$0.35/per page

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*.

1.0 Project Description:

- 1.1 Staff:** The applicants request a determination that the area of land known as tax lot 1N5E31B-00700 (subject property) is a "Parcel" as defined in MCC 38.0015 Definitions.

2.0 Property Description & History:

- 2.1 Staff:** The subject property is located in rural East Multnomah County in the Columbia River Gorge National Scenic Area. The zoning district is Gorge General Agricultural -40 (GGA-40). The subject property is rectangular shaped. According to Assessment & Taxation records, the subject property is vacant.

3.0 Public Comment:

Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 38.0530 as Exhibited in C.7 - Staff did received a comment during the 14-day comment period.

- 3.1** Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge, provided an email with an attached letter on March 31, 2021. (Exhibit D.1)

Staff: Their comment restated the Parcel definition of the Chapter 38 Columbia River Gorge National Scenic Area Zoning Code. Their comments identified the application requirements for a Parcel Determination application.

4.0 Administrative Procedures Criteria:

- 4.1 § 38.0560 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: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This application is a request for a Parcel Determination, which does not require the County to approve development, a land division, a property line adjustment, or a building permit. *Therefore, this standard is not applicable.*

MCC 38.0015 DEFINITIONS

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Parcel:

(a) Any unit of land legally created by a short division, partition, or subdivision, that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, or sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the U.S. Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because it:

- 1. Is a unit of land created solely to establish a separate tax account;**
- 2. Lies in different counties;**
- 3. Lies in different sections or government lots;**
- 4. Lies in different zoning designations; or**
- 5. Is dissected by a public or private road.**

Staff: To qualify as a “Parcel” pursuant to MCC 38.0015 Definitions, the subject property, when created or reconfigured, must have (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

The applicant provided a 1973 sales contract in recordable form (Exhibit A.5) that contains a legal description that matches the current legal description for the subject property (A.7). The subject property was zoned F-2 in 1973 per the historic County Zoning Maps (B.2 & B.4). In 1973, the F-2 zone had minimum lot size requirement of 2 acres. The subject property is 2.75 +/- acres and it has not change configuration since 1973 (Exhibit A.5). The F-2 zone did not have other dimension standards or access requirements. *Based on the above, the subject property satisfied the applicable zoning laws of the F-2 zone in 1973.*

In 1973, the process to divide a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to November 17, 1986. As evidenced by the Sales Contract, it was in recordable form in 1973 (Exhibit A.5). The applicable land division laws were satisfied at the time the subject property was created. *The subject property satisfied all applicable land division laws in 1973.*

Based upon the findings above, the subject property known as tax lot IN5E31B - 00700 met the Parcel requirements as defined in MCC 38.0015 Definitions.

5.0 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits
- 'D' Comments Received

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2020-13721 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	9.8.2020
A.2	1	Authorization Letter	9.8.2020
A.3	2	Certificate of Death of Bartholomew Daniel Witka	9.8.2020
A.4	3	Tax Parcel Record for Tax Lot 400	3.1.2021
A.5	2	1973 Sales Contract	3.1.2021
A.6	2	1989 Recorded Sales Contract and Deed in Book 2224 Page 1038	3.1.2021
A.7	1	2006 Bargain and Sale Deed as Instrument Number: 2006-076736	3.1.2021
A.8	12	Miscellaneous Documents	3.1.2021
A.9	3	Parcel Record Card for Tax Lot 700	3.1.2021
'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for < R323107 > (Alt Acct# R945310470)	9.8.2020
B.2	1	1962 Historic Zoning Map for zoning of 1N5E31B	3.1.2021
B.3	49	Residential Zoning Ordinance – Adopted May 21, 1968	3.1.2021
B.4	1	Historic October 5, 1977 Zoning Map for 1N5E31B	3.1.2021
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	9.28.2020
C.2	3	Applicant's Acceptance of 180 Day Clock	9.28.2020
C.3	1	Second Incomplete Letter	10.4.2020
C.4	1	Third Incomplete Letter	12.23.2020
C.5	4	Email – Incomplete Letters to Applicant	3.1.2021
C.6	1	Complete Letter (Day 1)	3.1.2021
C.7	5	Opportunity to Comment and mailing list	3.18.2021
C.8		Administrative Decision and mailing list	

'D'	#	Comments Received	Date
D.1	2	Email with letter from Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge.	3.31.2021