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DEPARTMENT OF COMMUNITY SERVICES  
LAND USE PLANNING DIVISION  
1600 SE 190TH AVENUE  
PORTLAND OREGON 97233

RETURN SERVICE REQUESTED

## NOTICE OF NSA DECISION

**Case File:** T2-2020-13781

**Permit:** National Scenic Area Review

**Applicant:** Aaron Eddy

**Owner:** Philip Dearixon & Holly Elvins-  
Dearixon

**Location:** 1252 Northeast Evans Rd., Corbett  
Tax Lot 01000, Section 35, Township 1 North, Range 4 East, W.M.  
Alternate Account #R944351210 Property ID #R322798

**Zoning:** GGRC – General Management Area (Residential)

**Key Viewing Areas:** Larch Sherrard, Historical Columbia River Hwy, Larch Mtn. Rd.

**Landscape Setting:** Village

**Recreation Intensity:** Recreation Class 4

**Proposal Summary:** The applicant is requesting a National Scenic Area Review to construct an 8.04 kW accessory photovoltaic system on an existing accessory building.

**Decision:** **Approved with Conditions**

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is **Thursday, July 29, 2021 at 4:00 pm.**

**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.rodriguez@multco.us](mailto:aldo.rodriguez@multco.us). Copies of all documents are available at the rate of \$0.35/per page.

**Opportunity to Appeal:** 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 office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

**Issued By:**   
Digitally signed by Aldo Rodriguez DN: cn=Aldo Rodriguez  
o=Multnomah County cu=Land Use Planning Division  
email=[aldo.rodriguez@multco.us](mailto:aldo.rodriguez@multco.us) c=US  
Aldo Rodriguez, Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:** July 15, 2021

Instrument Number for Recording  
Purposes: #94049019

## Vicinity Map

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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):

General Provisions: MCC 38.0560 Code Compliance and Applications, MCC 38.0015 Definitions – Parcel, MCC 38.0045 Submittal Requirements

GGRC Zone: MCC 38.2425(Q) Review Use, MCC 38.2460 Dimensional Requirements

NSA Site Review: NSA Site Review: MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 GMA Cultural Resource, Review Criteria, MCC 38.7055 GMA Wetland Review Criteria, MCC 38.7060 GMA Stream, Lake and Riparian Area Review Criteria, MCC 38.7065 GMA Wildlife Review Criteria, MCC 38.7070 GMA Rare Plant Review Criteria, MCC 38.7080 GMA Recreation Resource Review Criteria

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**

### **Conditions of Approval**

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. 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 brackets.

1. Permit Expiration – This land use permit shall **expire** as follows:

- a. Two (2) years of the date of the final decision, when construction has not commenced. [MCC 38.0690(B)(1)]
  - i. For purposes of Condition #1.a., 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, 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.
  - ii. Notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. [MCC 38.0690(B)(3)]
- b. When the structure has not been completed within two (2) years of the date of commencement of construction. [MCC 37.0690(B)(2)]
  - i. For purposes of Condition #1.b, 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 38.0690(B)(4)]

**Note:** Expiration of the permit is automatic. Failure to give notice of expiration shall not affect the expiration of this approval. The property owner may request one (1) 12-month extension to the timeframe within which this permit is valid, as provided under MCC 38.0700, as applicable. The request for a permit extension must be submitted **prior to** the expiration of the approval period. [MCC 38.0700]

2. Within 30 days after the decision becomes final, the applicant(s), owner(s), or their representative(s) shall:
  - a. Record pages 1 through 5 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 38.0670] Note: The Planning Director may grant reasonable extensions for required recording, not to exceed an additional 30 days, in cases of practical difficulty. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision. [MCC 38.0670]
3. The color of the racking and modules of the solar panels shall be black [MCC 38.7035(B)(12)].

**Note:** Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “Prior to land use sign-off for building plan check...” Be ready to demonstrate compliance with the conditions.
2. Contact Staff Planner, Aldo Rodriguez, at 503-988-4159 or aldo.rodriguez@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning may collect additional fees.

The above must be completed before the applicant can obtain building permits from the City of Gresham. Two (2) sets each of the site plan and building plans are needed for building permit sign off or digital set of plans that can be printed on a 11x17 or 8.5x11 sheet of paper. At the time of building permit review, a fee may be collected and an erosion control inspection fee may be required.

<p><b>Notice to Mortgagee, Lien Holder, Vendor, or Seller:</b> ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.</p>
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## **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 & Property Description:**

- 1.1 Staff:** The applicant is seeking approval to add a 7,680 kW photovoltaic system to an existing accessory building on the property identified as 1N4E35DA -00100-U1 (the “subject property”). The property has an existing dwelling and existing detached garage. There is an existing photovoltaic system on the existing detached garage that was approved in 2011 via T2-2011-1962.

The subject property is rectangular in shape and 1.15 acres in size. It is located in the Columbia River Gorge National Scenic Area, zoned GGRC (Rural Center), and is situated within several Key Viewing Areas (Larch Sherrard, Historical Columbia River Highway, and Larch Mountain Rd.). Property frontage is along NE Evans Rd.

Multnomah County Department of Assessment, Records, and Taxation (DART) indicates the subject property is owned by Philip J. Dearixon and Holly P. Elvins-Dearixon.

### **2.0 Public Comment:**

- 2.1 Staff:** 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.6. Staff received one comment during the 14-day comment period.

Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge, provided an email with an attached letter on April 12, 2021. (Exhibit D.2). The letter restated sections of MCC Chapter 38, Columbia River Gorge National Scenic Area, intended to identify application requirements and resource standards, to provide recommendations to the permitting agency and the public regarding legal requirements, and to establish standing.

### **3.0 General Provision Criteria:**

- 3.1 MCC 38.0015 Definitions – 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:** The subject property has undergone County review several times, notably through permits: SEC 16-90, CU 24-91, NSA 13-98, T2-07-102, and T2-2011-1962. The subject property also had an application reviewed by the Columbia River Gorge Commission – case C 90-0147-M-G-11. Through these permits the parcel has proven it met the standards for the definition of Parcel. *Criteria Met.*

### **3.2 MCC 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 compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more

recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does *not* mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 38.0560.

For purposes of the current application, staff is not aware of any open compliance cases on the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *Criteria met.*

### **3.3 MCC 38.0045 Review and Conditional Use Applications – Submittal Requirements**

The following additional information shall be submitted for all review and conditional uses:

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**Staff:** The applicant submitted the required information as Exhibits A.1 – A.11. *Criteria met.*

## **4.0 GGRC ZONE Criteria:**

### **4.1 MCC 38.2425 REVIEW USES**

**The following uses may be allowed on lands designated GGRC, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:**

**(Q) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that:**

**A. (1) For all systems:**

- 1. (a) They are not a commercial power generating facility such as a utility;**
- 2. b) The system meets all overlay zone requirements;**
- 3. (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;**
  - (b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;**

**(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;**

**Staff:** The proposed photovoltaic system is an Accessory Energy Production system as defined in MCC 38.0015 and shown below. There is a current 3 kW system that was approved in 2011. As indicated in Exhibit A.3 the proposed system will be 8.04 kW. This would bring the rating capacity to 11.04 kW, which is below the 12kW total capacity.

*Accessory Alternative Energy System -- A system accessory to a primary structure or use that converts energy into a usable form such as electricity, and conveys that energy to uses allowed on the same parcel. Accessory Alternative Energy Systems typically convert mechanical energy into electrical energy. An Accessory Alternative Energy System is a solar, photovoltaic or wind turbine structure, or is composed of multiple structures, that individually or together have a total installed rating capacity of up to 12kW.*

There are no overlay zones on the subject property. There are standards regarding the KVA layer in MCC 38.7035 that it will need to meet.

The proposed PV system will be on an accessory building and it will be mounted. The racking system mount detail is shown in Exhibit A.9 on pg. 4 of 7.

Based on the materials (Exhibit A.3) submitted the proposed system will not exceed the peak of the roof on which is mounted on. *Criteria Met.*

**4.2 MCC 38.2160 Dimensional Requirements**

- (A) The minimum lot size for a single family dwelling shall be one acre.**
- (B) The minimum lot size for a duplex dwelling shall be two acres.**
- (C) The minimum lot size for a conditional use permitted pursuant to MCC 38.2430, shall be based upon:
  - (1) The site size needs of the proposed use;**
  - (2) The nature of the proposed use in relation to the impacts on nearby properties; and (3) Consideration of the purposes of this district.****
- (D) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**
- (E) Minimum Yard Dimensions – Feet Maximum Structure Height – 35 feet  
Minimum Front Lot Line Length – 50 feet.**

Front	Side	Street Side	Rear
30	10	30	30

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**Staff:** Based on the site plan and elevations (Exhibit A.3) the dimensional requirements are met. *Criteria met.*

## 5.0 National Scenic Area (NSA) Site Review Criteria:

### 5.1 MCC 38.7035 GMA SCENIC REVIEW CRITERIA

**The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:**

**(A) All Review Uses and Conditional Uses:**

- (1) New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.**

**Staff:** The proposed solar system is roof mounted and will not require grading. *Criteria Met.*

- 5.2 (2) New buildings shall be compatible with the general scale (height, dimensions and visible mass) of similar buildings that exist nearby (e.g. dwellings to dwellings). Expansion of existing development shall comply with this guideline to the maximum extent practicable. For purposes of applying this standard, the term nearby generally means buildings within ¼ mile of the parcel on which development is proposed.**

**Staff:** The proposed solar panel is not defined as a new building. Regardless, it has complied with the guidelines to the maximum extent practicable. The criteria requires the system to not surpass the peak height of the existing building. The proposed photovoltaic system will be mounted flush to the roof. In addition, it contains low reflectivity panels and all black finish in order to meet the requirement to be visually subordinate. *Criteria Met*

- 5.3 (3) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation required where feasible.**

**Staff:** No new vehicular access points are proposed with this project. Transportation Planning has approved the site plan. See exhibit A.8. *Criterion Not Applicable.*

- 5.4 (4) Property owners shall be responsible for the proper maintenance and survival of any required vegetation.**

**Staff:** No vegetation is required by this project. *Criterion Not Applicable.*

- 5.5 (5) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.**

**Staff:** After reviewing the site plan, staff finds that the addition of roof-mounted photovoltaic system is compatible with residential development and compatible with the Village landscape setting as indicate in [MCC 38.7035(C)(6)]. *Criterion Met.*

- 5.6 (6) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable.**

**Staff:** Not applicable. *Criterion Met.*

**5.7 (B) All Review Uses and Conditional Uses topographically visible from Key Viewing Areas:**

**(1) Each development shall be visually subordinate to its setting as seen from Key Viewing Areas.**

**Staff:** The development is visually subordinate. The photovoltaic system is below the building peak, the solar panels have a low reflective material, and the racking system will be a black finish. *Criterion Met.*

**5.8 (2) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its potential visual impacts as seen from Key Viewing Areas. Decisions shall include written findings addressing the factors influencing potential visual impact including but not limited to: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas it is visible from, the number of Key Viewing Areas it is visible from, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to siting (location of development on the subject property, build-ing orientation, and other elements); retention of existing vegetation; design (color, reflectivity, size, shape, height, architectural and design details and other elements); and new landscaping.**

**Staff:** Any conditions shall be proportional to the impact of the use and its potential visual impact.

**5.9 (3) Determination of potential visual effects and compliance with visual subordnance policies shall include consideration of the cumulative effects of proposed developments.**

**Staff:** The panels will essentially be within the existing bulk of the garage and will not cause an increase in visible mass, bulk, or ground coverage. There will be no cumulative impact to visual subordnance policies. *Criterion Met.*

**5.10 (4) In addition to the site plan requirements in MCC 38.0045 (A) applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).**

**Staff:** The applicant included a sufficient description of the materials. *Criterion Met.*

**5.11 (5) For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to MCC 38.7035 (A) (6) and subsection (4) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.**

**Staff:** No mining activities are proposed. *Criterion Not Applicable.*

- 5.12 (6) New development shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable.**

**Staff:** The proposed development is to be located on an existing garage and the side of the garage that has the least impact on Key Viewing Areas. *Criterion Met.*

- 5.13 (7) New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.**

**Staff:** The project consists of adding a photovoltaic system on top of an existing garage. Therefore, the proposed development will not require altering existing topography nor the vegetation. It will use the existing topography and vegetation to achieve visual subordination from the key viewing areas. *Criterion Met.*

- 5.14 (8) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in MCC 38.7035(C).**

**Staff:** No tree cover will be removed. *Criterion Met.*

- 5.15 (9) Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.**

**Staff:** The proposal involves adding a photovoltaic system installation on an existing accessory building. No grading, cut banks or fill slopes are proposed as part for the project. *Criterion Not Applicable.*

- 5.16 (10) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features. The Scenic Resources Implementation Handbook includes a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this code, including those that meet recommended thresholds in the “visibility and Reflectivity Matrices” in the Implementation Handbook. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces are provided for guidance in the Implementation Handbook**

**Staff:** The photovoltaic system will be mounted on the southern portion of the roof below the ridge line which screen the panels from the key view areas. The racking will be black anodized covered by low-reflective black solar panels. The solar panels have a reflectivity rating of 3.12%. *Criterion Met.*

- 5.17 (11) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.**

**Staff:** No lights are proposed as part of this project. *Criterion Not Applicable.*

- 5.18 (12) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.**

**Staff:** The color of structures shall be black proposed by the applicant. *Criterion Met.*

- 5.19 (13) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.**

**Staff:** No square footage is being added to the accessory building. *Criterion Not Applicable.*

- 5.20 (14) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual sub-ordinance requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to such historic structures shall be consistent with National Park Service regulations for historic structures.**

**Staff:** The garage on which the photovoltaic system is proposed to be mounted is not considered a historic structure. *Criterion Met.*

- 5.21 (15) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances may be granted if application of this standard would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the standard have been made.**

**Staff:** As shown on the elevation plans Exhibit A.3 the photovoltaic system will be located below the peak of the building and as flush as possible. This will allow the proposed panels to remain below the bluff, cliff or ridge. *Criterion Met.*

- 5.22 (16) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Areas, may itself protrude above the skyline if:**

**The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and there is no practicable alternative means of altering the building without increasing the protrusion.**

**Staff:** The proposal does not include an alteration to a building constructed prior to November 17, 1986. *Criteria Not Applicable*

**5.23 (17) The following standards shall apply to new landscaping used to screen development from key viewing areas:**

**(a) New landscaping (including new earth berms) shall be required only when there is no other means to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.**

**(b) If new landscaping is required, it shall be used to supplement other techniques for achieving visual subordination.**

**(c) Vegetation planted for screening purposes shall be of sufficient size to make the development visually subordinate within five years or less of commencement of construction.**

**(d) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicant. The property owner(s), and their successor(s) in interest are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.**

**(e) The Scenic Resources Implementation Handbook includes recommended species for each landscape setting consistent with MCC 38.7035(C) and the minimum recommended sizes for tree plantings (based on average growth rates expected for recommended species).**

**Staff:** No new landscaping is proposed for the proposed development. *Criteria met*

**5.24 (18) Conditions regarding new landscaping or retention of existing vegetation for new developments on land designated GMA Forest shall meet both scenic guidelines and the fuel break requirements of MCC 38.7305(A).**

**Staff:** The subject property is designated as GMA Residential. In addition, Landscaping is not required to render the solar panels visually subordinate. *Criterion Met.*

**5.25 (19) New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.**

**Staff:** No new main lines or are proposed as part of the proposal. *Criterion Not Applicable.*

**5.26 (20) New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.**

**Staff:** No new communication facilities or are proposed as part of the proposal. *Criterion Not Applicable.*

- 5.27 (21) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:**  
**(a) The facility is necessary for public service;**  
**(b) The break in the skyline is seen only in the background; and**  
**(c) The break in the skyline is the minimum necessary to provide the service.**

**Staff:** No communication facilities are proposed as part of the proposal. *Criteria Not Applicable.*

- 5.28 (22) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:**  
**(a) The facility is necessary for public service;**  
**(b) The break in the skyline is the minimum necessary to provide the service.**

**Staff:** No signs, road or highway facilities are part of the proposal. *Criterion Not Applicable*

- 5.29 (23) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.**

**Staff:** The development is located more than 100 feet from the Columbia River. *Criterion Met.*

- 5.30 (24) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this standard. In determining the slope, the average percent slope of the proposed building site shall be utilized.**

**Staff:** The slopes on the subject property are less than 30 percent. *Criterion Not Applicable.*

- 5.31 (25) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas shall include submittal of a grading plan. This plan shall be reviewed by the Planning Director for compliance with Key Viewing Area policies. The grading plan shall include the following:**

**Staff:** No grading is proposed as part of the application. *Criterion Not Applicable.*

- 5.32 (26) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:**

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**Staff:** No new quarries or alterations of any quarries are proposed as part of the project. *Criterion Not Applicable.*

- 5.33 (27) Unless addressed by subsection (26) above, new production and/or development of mineral resources may be allowed upon a demonstration that:**

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**Staff:** No new quarries or alterations of any quarries are proposed as part of the project.  
*Criterion Not Applicable.*

- 5.34 (28) An interim time period to achieve compliance with visual sub-ordinance requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.**

**Staff:** No new quarries or alterations of any quarries are proposed as part of the project.  
*Criterion Not Applicable.*

- 5.35 (29) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).**

**Staff:** No new quarries or alterations of any quarries are proposed as part of the project.  
*Criterion Not Applicable.*

- 5.36 (C) All Review Uses and Conditional Uses within the following landscape settings, regardless of visibility from KVAs:**

**(6) Village**

**(a) New development in this setting is exempt from the color and siting requirements of MCC 38.7035(B).**

**Staff:** The proposed photovoltaic system racking system will be have black anodized finished with low reflective black solar panels. The location will be such that it will be concealed from the KVA's. Although it is exempt for the color and siting requirements of MCC 38.7035 (B), the photovoltaic system meets those development standards. *Criterion Met.*

- 5.37 (b) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 and 1/2 stories or less.**

**Staff:** No new buildings are proposed. *Criterion Not Applicable.*

- 5.38 (c) For new commercial, institutional (churches, schools, government buildings) or multi-family residential uses on parcels fronting a Scenic Travel Corridor (the Historic**

**Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.**

**Staff:** No new buildings or parking areas are proposed. *Criterion Not Applicable.*

- 5.39 (d) New vehicular access points to the scenic travel corridors shall be limited to the maximum extent practicable, and access consolidation shall be required where feasible.**

**Staff:** No new vehicular access points are proposed. *Criterion Not Applicable.*

- 5.40 (e) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly-shared landscaped open areas, etc.**

**Staff:** The proposal to install the new photovoltaic system contains a very limited scope that does not impact to the surrounding area. It does not reach the level of intensity as a subdivision or a planned unit development (PUD) where it is encouraged to follow the PUD approaches to development and access. *Criterion Met.*

- 5.41 (f) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements: 1. Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway. 2. The landscape strip required in subsection (f) 1. above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.**

**Staff:** No commercial, institutional, or multi-family development is proposed. *Criterion Not Applicable.*

- 5.42 (g) The use of building materials reinforcing the Village Setting's character, such as wood, logs or stone, and reflective of community desires, should be encouraged.**

**Staff:** Due to the limitation of materials that are available for the photovoltaic systems it cannot be made of wood, log, or stone as encouraged in the Village Setting. That said, the materials and location will assure the characteristic of the Village Setting will not be affected. *Criterion Met.*

- 5.43 (h) Architectural styles characteristic of the area (such as 1½ story dormer roof styles in Corbett), and reflective of community desires, should be encouraged. Entry signs should be consistent with such architectural styles.**

**Staff:** No new buildings or dwellings are proposed as part of the application. Solar panels on the roof of the existing accessory structure will not alter the architectural styles of the community. *Criterion Met.*

- 5.44 (i) Design features which create a "pedestrian friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc. should be encouraged.

**Staff:** No commercial buildings are included with the proposal. *Criterion Met.*

- 5.45 (j) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

**Staff:** The proposed development does not included or trigger pedestrian walkways or bicycle path. *Criterion Not Applicable.*

- 5.46 (k) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

**Staff:** No vegetation will be removed in order to place the solar panels on the roof of the garage. *Criterion Not Applicable.*

- 5.47 (l) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

**Staff:** No recreational uses are proposed. *Criterion Not Applicable.*

5.48 MCC 38.7045 GMA CULTURAL RESOURCE REVIEW CRITERIA

(A) Cultural Resource Reconnaissance Surveys

- (1) A cultural reconnaissance survey shall be required for all proposed uses, except:

(a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

\*\*\*

**Staff:** The subject project consists of a modification of an existing structure, and is therefore exempt. In addition, a letter from the US Forest Service (USFS) indicated no reconnaissance survey is necessary for this proposal (see Exhibit D.1). *Criterion Met.*

(B) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7045 (L) and (M), if:

- (1) The project is exempted by MCC 38.7045(A) (1), no cultural resources are known to exist in the project area, and no substantiated comment is received during the comment period provided in MCC 38.0530

\*\*\*

**Staff:** The project proposal was submitted to the State Historic Preservation Office (SHPO) for comment (Exhibit B.3). No comment was received from SHPO. In addition, no reconnaissance survey was required by the USFS indicating no potential cultural resources. *Criterion Met.*

**5.49 MCC 38.7055 GMA Wetland Review Criteria**

**(A) The wetland review criteria shall be deemed satisfied if:**

- (1) The project site is not identified as a wetland on the National Wetlands Inventory (U.S. Fish and Wildlife Service, 1987);**
- (2) The soils of the project site are not identified by the Soil Survey of Multnomah County, Oregon (U.S.D.A. Soil Conservation Service, 1983) as hydric soils;**
- (3) The project site is adjacent to the main stem of the Columbia River.**
- (4) The project site is not within a wetland buffer zone; and**
- (5) Wetlands are not identified on the project site during site review.**

**Staff:** The proposed solar panels do not trigger a wetland review since they are to be located on an existing structure and no ground disturbance will occur. *Criteria Met.*

**5.50 MCC 38.7060 GMA STREAM, LAKE AND RIPARIAN AREA REVIEW CRITERIA**

**(A) The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant to the provisions of MCC 38.0045, MCC 38.7060 (C), and reviewed under the applicable provisions of MCC 38.7035 through 38.7085:**

**Staff:** The subject site is not within a stream, lake or riparian area according to the zoning maps and Gorge maps on file with the County. *Criterion Not Applicable.*

**5.51 MCC 38.7070 GMA RARE PLANT REVIEW CRITERIA**

**Rare Plant Site Review shall be required for any project within 1,000 feet of endemic plants and sensitive plant species.**

**Staff:** There are no known rare plants within 1,000-feet of the subject property as seen on the county's NSA maps provided by the Columbia River Gorge Commission. *Criterion Not Applicable.*

**5.50 MCC 38.7080 GMA RECREATION RESOURCE REVIEW CRITERIA**

**The following uses are allowed, subject to compliance with MCC 38.7080 (E) and (F).**

**Staff:** The proposed development does not include any recreational use or recreational zone property. *Criterion Not Applicable.*

## 6.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the NSA Site Review to establish a 8.04 kW solar panel installation in the GGRC zone. This approval is subject to the conditions of approval established in this report.

## 7.0 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 T2-2020-13781 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	NSA Application Form	9.22.2020
A.2	4	Technical Report - SunPower Solar Module Glare and Reflectance	9.22.2020
A.3	7	Site Plan, Elevations, and Details	9.22.2020
A.4	16	Land Use Narrative	9.22.2020
A.5	2	Solar Panel Spec Sheet	9.22.2020
A.6	1	NSA Application Form – Digital Signature	9.22.2020
A.7	1	Copy of Applicant Check	9.22.2020
A.8	11	Updated Sign NSA Application – including fire, transportation review form and current deed.	11.20.2020
A.9	7	Updated Site Plan and Elevations	12.30.2020
A.10	8	Energy Consumption Narrative	12.30.2020
A.11	3	Enlighten Production Information	1.16.2021
<b>'B'</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for < R322798> (Alt Acct# R944351210)	9.22.2020
B.2	21	Copy of case T2-2011-1962	4.19.2021
B.3	2	Project proposal to SHPO for comment	11.10.2020
<b>'C'</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	1	Agency Review Submission	10.19.2020

C.2	3	Incomplete Letter	8.21.2020
C.3	2	Second Incomplete	12.30.2020
C.4	1	Applicant's Acceptance of 180 Day Clock	10.21.2020
C.5	1	Complete Letter (Day 1)	2.12.2021
C.6	3	Opportunity to Comment and mailing list	4.12.2021
C.7		Administrative Decision and mailing list	
<b>'D'</b>	<b>#</b>	<b>Comments Received</b>	<b>Date</b>
D.1	2	Email with letter from Chris Donnermeyer, Heritage Resources Program Manager, US Forest Service Columbia River Gorge National Scenic Area.	11.2.2020
D.2	5	Email with letter from Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge.	4.12.2021