



## MULTNOMAH COUNTY OREGON

### LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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## NOTICE OF DECISION

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

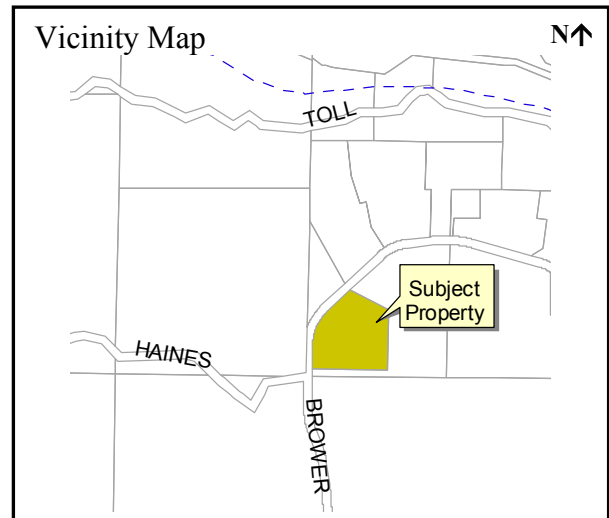
**Case File:** T2-03-060

**Permit:** National Scenic Area

**Location:** 1550 NE Brower Rd  
TL 1000, Sec 27, T 1N, R 5E, W.M.  
Tax Account #R94527-0360

**Applicant:** Dale Burkholder  
P.O. Box 305  
Corbett, OR 97019

**Owner:** Phillip & Judy DuFresne  
31815 E. Historic Columbia River Hwy  
Troutdale, OR 97060



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**Summary:** Request to construct a 30 ft by 36 ft accessory structure and to approve an existing porch addition to a single family dwelling without National Scenic Area review.

**NOTE:** No evidence has been provided to suggest that building permits were obtained for the remodel and expansion of the dwelling that occurred in the Fall and Winter of 2000. The City of Gresham provides building permitting services for this portion of the County, and they have been informed of the situation. This issue is not resolved with this land use decision. If owners of the property wish to obtain building permits for this work, they should contact the City of Gresham Building Department to discuss permitting options, if any, that are available.

**Decision:** Approved with conditions.

Unless appealed, this decision is effective Wednesday, March 3, 2004, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, February 18, 2004

**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. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-3043.

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 38.0640. 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 (LUBA) until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, March 3, 2004 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): 38.0015(P)(1) Definitions - Parcel, 38.0030(A) Existing Uses, 38.0045 Review and Conditional Use Application, 38.0085 Approval Criteria for Fire Protection in Forest Zones, 38.0550 Initiation of Action, 38.2060 Dimensional Requirements, 38.7040 SMA Scenic Review Criteria, 38.7050 SMA Cultural Resource Review Criteria, 38.7075 SMA Natural Resource Review Criteria, 38.7085 SMA Recreational Resource Review Criteria.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use).

### **Scope of Approval**

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. **Pursuant to MCC 38.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 38.0690 and 38.0700. Such a request must be made prior to the expiration date of the permit.**

### **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. Within 30 days of this decision becoming final, the property owner shall record the Notice of Decision (pages 1 through 4) and the amended Site Plan required under Condition No. 6 below. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and the proof shall be filed with the Land Use Planning Division. Recording shall be at the applicant's

expense. Failure to sign and record the Notice of Decision within the 30 day period shall void the decision. [MCC 38.0670]

4. Prior to building permit plan check for the accessory structure, the property owner shall amend the site plan and building plans to show that the proposed accessory structure meets the fire protection standards outlined in MCC 38.0085, specifically the structure shall be moved 18 ft to the east so that the building is surrounded by a 60 ft maintained fuel break on all sides. [MCC 38.0085(A) & 38.0095(A)]

5. Prior to building permit plan check for the accessory structure, the property owner shall demonstrate that the on-site well can provide 20 gallons per minute and is hooked up to a separate electrical service from the dwelling or provide a tank or sump on site with storage of not less than 1,000 gallons. If a tank or sump is utilized, the site plan shall be modified to show these improvements prior to building plan check. [MCC 38.0085(C)]

6. Prior to building permit plan check for the accessory structure, the property owner shall amend the site plan to show the existing driveway between Brower Road and the proposed accessory structure in its new location to comply with the fire protection standards outlined in MCC 38.0085. [MCC 38.0085(D)]

7. The roofing material for the accessory structure shall be painted metal. [MCC 38.0085(G)]

8. The eaves on the accessory structure shall be built with fire resistant materials equivalent to that specified in the Uniform Building Code (UBC). Prior to building permit plan check for the accessory building, the property owner shall provide details for the construction of the eaves consistent with the UBC. [MCC 38.0085(I)]

9. Any chimney or stovepipe for use with a woodstove or fireplace installed in the accessory structure at the time of construction or later shall be screened with no coarser than 1¼ inch mesh metal screen that is noncombustible and corrosion resistant and shall be equipped with a spark arrestor. A note shall be placed on the building plans of this requirement. [MCC 38.0085(H)]

10. Any attic openings, soffit vents, foundation louvers or other ventilation openings on the proposed accessory structure at the time of construction or later shall be screened with no coarser than 1¼ inch mesh metal screen that is noncombustible and corrosion resistant. A note shall be placed on the building plans of this requirement. [MCC 38.0085(J)]

11. Should any cultural resources be found on the property during the construction of the detached garage, the property owner(s) shall cease construction and shall contact Land Use Planning, the US Forest Service and the Gorge Commission immediately. [MCC 38.7050 SMA Cultural Resource Review Criteria]

12. Any exterior lighting on the detached garage shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. [MCC 38.7040(A)(6)]

13. Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration on the detached garage and covered porch addition. [MCC 38.7040(A)(7)]

14. The existing woodland vegetation shown on the site plan and in the 2002 air photo shall be maintained on site in its present condition to reduce reflectivity of the metal roofs on the covered porch and detached garage and to retain the overall appearance of the Coniferous Woodlands landscape setting. If the vegetation dies or is removed, it shall be replaced within the first growing season on a one to one

basis with native coniferous trees that are a minimum of 8 feet in height. If non-native species are used they shall have native appearing characteristics. [MCC 38.7040(A)(8) & MCC 38.7040(D)(2)]

15. The proposed detached garage shall have a dark green metal roof (Amazon, Sa09A) with siding painted a dark brown (Stone Crop 392(4)). The height of the structure shall not exceed be approximately 14 feet. [MCC 38.7040(A)(2)]

**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 criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### 1.0 **General**

#### 1.01 **Description of Proposal:**

**Applicant:** Application to approve a covered deck on an existing single family home and construct a detached garage on a 5.36 acre site, zoned GSF-40. Please see exhibits attached, including building evaluations & plans for detached garage.

#### 1.02 **Proof of Ownership**

##### **MCC 38.0550 Initiation of Action**

**Except as provided in MCC 38.0760, Type I – IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.**

**Staff:** The proposed project is located on Tax Lot 1000, Section 27C, Township: 1 North, Range: 5 East. Assessment & Taxation records show that the land is owned by Judy & Phillip DuFresne. The property owners have granted approval for Dale Burkholder to make application for the necessary permits to obtain approval for the non-permitted addition to an existing dwelling and to construct a garage on the property (Exhibit A.1.). *This criterion has been met.*

#### 1.03 **MCC 38.0560 CODE COMPLIANCE AND APPLICATIONS.**

**The County shall not approve any application for a permit or other approval, including building permit applications, 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 permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.**

**Staff:** Towards the end of December 2000, Multnomah County received a complaint regarding the remodel and addition to an existing single family dwelling on this subject property. An inspection was made to the site in February 2001 and it was found that an extensive exterior remodel including alteration to the roofline, a new metal roof, residing the existing dwelling, adding or changing out of windows and a new porch had been completed on the structure without permits. Interior modifications were also made to the floor plan, electrical and plumbing. The property owner now wishes to obtain the needed land use permits to correct this situation and to obtain an approval for a new accessory structure to be built. With the approval of this permit, the land use violations on this property will be corrected.

2.0 **NSA Code Criteria**

2.01 **MCC 38.0015(P)(1) Definitions - Parcel:**

**(a) Any unit of land, satisfying all applicable land division and zoning regulations in effect on the date of creation, created and separately described by a lawful sales contract, deed, partition map or plat, or subdivision plat;**

**(b) 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 applicant has submitted a Sale Contract between two former owners creating the subject property in August 1975. From 1958 to October 1977, the property was zoned F-2. The minimum lot size in the F-2 zoning district until December 1975 was 2 acres. The subject property is 5.36 acres and met the minimum lot size at the time of creation. Until October 1978, County land division regulations did not require a property to be partitioned through a formal process but by recording a new legal description through a deed. The subject property met all applicable land division and zoning regulations in effect on the date of creation.

*This criterion has been met.*

2.02 **MCC 38.0045 REVIEW AND CONDITIONAL USE APPLICATIONS**

**(A) The following additional information shall be submitted for all review and conditional uses:**

**(1) A list of Key Viewing Areas from which the proposed use would be visible.**

**Staff:** The applicant has indicated that the subject site is not visible from any Key Viewing Areas. National Scenic Area maps for Key Viewing Areas identify that this site may be visible from Key Viewing Areas. County topographic information indicates that the site would not be visible. In addition, the subject property has significant vegetation to screen the proposed accessory and existing dwelling from the Columbia River, SR-14 and other Key Viewing Areas.

2.03 **(2) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the reviewing agency to determine the location and extent of the proposed use and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail. If a parcel is very large, the map does not have to show the entire parcel. Rather, it may show only those portions of the**

**parcel affected by the proposed use. The map shall include the following elements:**

- (a) North arrow;**
- (b) Map scale;**
- (c) Boundaries, dimensions, and size of the subject parcel;**
- (d) Significant terrain features or landforms;**
- (e) Groupings and species of trees and other vegetation on the parcel;**
- (f) Location and species of vegetation that would be removed or planted;**
- (g) Bodies of water and watercourses;**
- (h) Location and width of existing and proposed roads, driveways, and trails;**
- (i) Location and size of existing and proposed structures;**
- (j) Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting; and**
- (k) Location and depth of all proposed grading and ditching.**
- (l) Proposed uses in streams, ponds, lakes, and their buffer zones shall include the exact boundary of the ordinary high water-mark or normal pool elevation and the prescribed buffer zone; and a description of actions that would alter or destroy the stream, pond, lake, or riparian area.**
- (m) Proposed uses in wetlands or wetlands buffer zones shall include the exact boundary of the wetland and the wetlands buffer zone; and a description of actions that would alter or destroy the wetland.**
- (n) Proposed uses on parcels contiguous to established recreation sites shall provide a buffer between the proposed use and recreation site sufficient to insure that the proposed use will not detract from the use or enjoyment of the recreation site.**
- (o) New uses located in, or providing recreation river access to, the Columbia River or its fish bearing tributaries shall include the following supplemental information:**
  - 1. The site plan shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.**
  - 2. The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:**
    - a. Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.**
    - b. List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.**
    - c. List tribal ceremonial fishing seasons in the project**

vicinity.

**d. Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.**

**Staff:** The applicant's site plan shows a north arrow, scale of 1" = 100', the boundaries and dimensions of the subject site. The site plan includes contour information, existing vegetation existing and proposed buildings and additions, and the location of the existing driveway and right of way for Brower Road. No vegetation is shown to be added or removed for the two proposals. No bodies of water, wetlands or streams exist on the subject site. The site plan shows the location of the existing wellhouse and septic system. No proposed grading is shown or appears to be required for the proposed accessory building. No grading is required or identified for the single family dwelling addition. No outdoor lighting is shown to exist or be proposed. No recreation sites are adjacent to the property.

*These criteria have been met.*

2.04 **(B) Supplemental information will be required for:**

**(1) Forest practices in the Special Management Area,**

**(2) Production and development of mineral resources in the General Management Area,**

**(3) Proposed uses visible from Key Viewing Areas, and**

**(4) Proposed uses located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat, and sensitive plant sites.**

**Staff:** No forest practices, mineral resource development or construction near a sensitive resource are proposed as part of this project. The proposed building sites are not visible from key viewing areas.

2.05 **MCC 38.0085 APPROVAL CRITERIA FOR FIRE PROTECTION IN FOREST ZONES**

**(A) All buildings shall be surrounded by a maintained fuel break of 60 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.**

**Applicant:** 10/30/03 Narrative: The existing dwelling has some fir trees within the 60 ft radius of the home and will have the limb canopy pruned up to maintain open space of at least 35 ft from any structure. The balance is lawn or graveled parking space.

**Staff:** The addition to the existing dwelling does not need to comply with the above requirement pursuant to MCC 38.0030. The addition only needs to demonstrate that it has minimized adverse effects on scenic, cultural, natural and recreational resources as specified



under the code provisions listed in MCC 38.7000 through 38.7085. The proposed accessory building must meet the fuel break requirements. As shown the accessory structure has a 42 ft setback from the western property line, a 110 ft setback from the northern property line, 470 ft setback from the eastern property line and a 370 ft setback from the southern property line. The accessory building will either need to be shift 18 ft to the east so that the western fuel break has 60 feet or a fire break easement of 18 ft be obtained from the property to the north (1N5E27C – 00900). A condition of approval has been included requiring through revision of the site plan.

*As conditioned, this criterion has been met.*

- 2.06 **(B) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure.**

**Applicant:** 10/30/03 Narrative: See location on attached plat for stand pipe.

**Staff:** The applicant's site plan (Exhibit A.27) shows a stand pipe approximately 80 feet from the proposed accessory structure.

*This criterion has been met.*

- 2.07 **(C) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.**

**Applicant:** 10/30/03 Narrative: The dwelling is served with water from a domestic well providing 13 gpm. The site is between two streams that may be utilized by the local fire department from drafting if required. The streams are capable of providing more than 20 gpm.

**Staff:** The above standards deal with water sources that are on the site or immediately adjacent with easement provided to them. The above mentioned streams are approximately 1 mile or more from the subject site. These streams do not meet the requirement for the water source. The applicant has indicated 2 different volumes available from the on-site well. Above, he states that the well generates approximately 13 gallons per minute. On the Certification of Water Service (Exhibit A.5), he indicates that the well produces approximately 25 gallons per minute. No information has been provided regarding the electrical service to the well. Based upon this conflicting and lacking information, a condition of approval has been included requiring that the applicant document compliance with the above criterion.

*As conditioned, this criterion has been met.*

- 2.08 **(D) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road standards may be made only after consultation with the local rural fire district and the Oregon Department of Forestry.**

**Applicant:** 10/30/03 Narrative: See the service provider form signed by the local fire chief approving the access corridor with no conditions.

**Staff:** The applicant's various site plans show a driveway between 20 to 30 feet. The final site plan submitted that was drawn to scale is missing the portion of the driveway between the

accessory structure and Brower Road. From the contour information provided, it appears that the driveway would meet the 12 percent grade requirements. The fire chief has indicated on the Fire District Review form that the access is adequate (Exhibit A.11). A condition of approval has been included requiring that the missing portion of the driveway be added to the site plan.

*As conditioned, this criterion has been met.*

- 2.09        **(E) Within one year of the occupancy of a dwelling, the Planning Director shall conduct a review of the development to assure compliance with these standards.**

**Applicant:** 10/30/03 Narrative: None

**Staff:** Conditions of approval will implement these criteria and review will occur as part of the building permit construction project.

- 2.10        **(F) Telephone and power supply systems shall be underground whenever possible.**

**Applicant:** 10/30/03 Narrative: Utilities are underground.

**Staff:** *This criterion has been met.*

- 2.11        **(G) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.**

**Applicant:** 10/30/03 Narrative: The existing roof of the dwelling is metal. The proposed garage composition.

**Staff:** The applicant's elevations for the accessory structure show 2 types of roofing material – painted metal and shingle. A condition of approval has been included clarifying that the roof material for the accessory structure be painted metal as specified on the plans.

*As conditioned, this criterion has been met.*

- 2.12        **(H) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1¼ inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.**

**Applicant:** 10/30/03 Narrative: The heating system of the existing dwelling is propane. The chimney is fitted with an approved cap.

**Staff:** The accessory structure elevations (Exhibit A.23) does not show any chimney or stovepipe for the structure. A condition of approval has been included that would require any chimney or stovepipe installed on the accessory structure meet the above criteria.

*As conditioned, this criterion has been met.*

- 2.13        **(I) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.**

**Applicant:** 10/30/03 Narrative: The dwelling is constructed with a metal roof. There is nothing that projects from outside the main structure.

**Staff:** The proposed accessory structure does not have any attached balconies, decks or roof gables (dormers). The roof has 1 foot eaves on the east and west side. A condition of approval has been included requiring that the eaves be built with fire resistant materials.

*As conditioned, this criterion has been met.*

- 2.14 **(J) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1¼ inch mesh metal screen that is noncombustible and corrosion resistant.**

**Applicant:** 10/30/03 Narrative: Currently existing.

**Staff:** The elevations submitted for the accessory structure does not show any openings. A condition of approval has been included provided the above listed openings are required as part of the building code.

*As conditioned, this criterion has been met.*

- 2.15 **MCC 38.0095 APPROVAL CRITERIA FOR SITING OF DWELLINGS ON FOREST LAND**

**The approval of new dwellings and accessory structures on forest lands shall comply with the following standards:**

**(A) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties unless locating the proposed development closer to existing development on adjacent lands would minimize impacts on nearby or adjacent forest operations;**

**Applicant:** 10/30/03 Narrative: The sighting of the garage/shop will be near the existing development to minimize any impact on the adjacent land owners and operations.

**Staff:** The application includes a new accessory structure which must comply with this criterion. The proposed accessory structure is 42 feet from the western property line. At its present location, the structure does not meet the 60 ft fuel break. If the property owners want to maintain the structure at its present location, they would need to obtain an 18 ft fuel break easement pursuant to MCC 38.0085(A) to meet the minimum fuel break of 60 ft around the building. The other option would be for the property owner to move the building 18 ft to the east so that the fuel break would be completely on the subject property.

The use of adjacent forest land for a fuel break through an easement would not have the least impact on adjoining forest operations. As such, the property owner will need to shift the building 18 ft to the east to minimize disruption on adjoining properties. A condition of approval has been included requiring that the building be shift, 18 ft to the east to meet this criterion.

*As conditioned, this criterion has been met.*

- 2.16 **(B) The amount of forest land used to site dwellings, structures, access roads and**

**service corridors shall be minimized. The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (A), above; and**

**Applicant:** 10/30/03 Narrative: The proposed site for the garage/shop is in an area cleared and out of production and close to the existing driveway to minimize expanding the access from graveled drive.

**Staff:** The accessory structure needs to be shifted 18 ft to the east to meet the Fire Protection Requirements of MCC 38.0085. This shift will place the structure adjacent to the driveway on the eastern edge. This area is currently in field and will not require the conversion of forest land to another use.

*As conditioned, this criterion has been met.*

- 2.17 **(C) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.**

**Applicant:** 10/30/03 Narrative: See the attached plat showing the location of the garage/shop. The area has less than a 1% grade and is adjacent to the existing gravel driveway.

**Staff:** The structure being reviewed under this criteria is the accessory structure. This criterion does not list structures. *This criterion is not applicable to the dwelling addition, nor the accessory structure.*

- 2.18 **(D) A variance to the siting standards of this subsection may be granted pursuant to the provisions of MCC 38.0065.**

**Applicant:** 10/30/03 Narrative: N/A

**Staff:** The applicant has not requested a variance to any of the siting standards. *This criterion is not applicable at this time.*

- 2.19 **MCC 38.0030 EXISTING USES**

**Except as otherwise provided below, existing uses may continue, notwithstanding the provisions of MCC 38.0000 through 38.0110, 38.2000 through 38.3295, and 38.7000 through 38.7085.**

**(A) Any use or structure existing on February 6, 1993 may continue so long as it is used in the same manner and for the same purpose as on that date.**

**Applicant:** 9/29/03 Narrative: On 1/10/75 a building permit was issued for a 1 ½ story single family residence. There were other permits issued for additional structures later including an old camper used as a tool shed permit #751780 and on 3/02/1978 a permit for a barn for livestock permit #780465. It is unclear if the barn was ever completed as planned by the looks of the structure that exists today. The property has been occupied by the owners in title since permits were issued. On 10/20/1977 it was finalised certification of occupancy was indicated not to be required.

On 10/10/1975 a building permit was issued permit #751825. On 12/08/75 a septic permits was issued LFS#122-75. The granting of these permits would indicate compliance of the current land use established at that time. The property was zoned F-2. See attached copies.

10/30/03 Narrative: On 10/10/1975 a building permit was approved. The records division produced a copy of the permit card#751825. The person at the counter indicated that there was no copy of the back side of the permit card showing inspection sign offs but said that was not unusual for that period as many homes did not have the sign off side on file for this period of time as county record keeping was poor. However permit #788465 dated 3/2/78 shows the approval for the sanitation system to the home. The permit is for a barn for livestock but a note under special conditions refer to the permit #751825 for the home. It also shows a sign off for a building approval. It is implied that this barn permit was conditioned upon the completion of the dwelling and the final on the sanitation system. It unclear why assessment and Taxation records show a mobile home when the property tax statement sent to the owner shows an “R” # and refers to the improvement as a structure. See attached property tax statement.

**Staff:** MCC 38.0005(E)(7) defines an *Existing Use or Structure* as “A legally established use that existed before February 6, 1993. “*Legally-established*” means established in accordance with the law in effect at the time of establishment.

The applicant has submitted in a number of exhibits to demonstrate that the single family dwelling was a lawful existing use as of February 6, 1993. The following table highlights those exhibits:

Exhibit #	Description
A.6	1975 Site Plan for Home and Septic (BP #751825)
A.8	1975 Elevations (BP#751825)
A.17	Residential Building Permit Application for Dwelling – Issued 10/10/75 (BP # 751825)
A.18	Copy of Building Permit for Barn for Livestock – Issued 3/2/78 (BP #780465)
A.19	Site Plan for Barn – Approved 3/2/78 (BP #780465)
A.20	Ag Building Declaration for 1978 Barn
A.21	Significant Environmental Concern Permit for Accessory Building (Barn)
A.24	Copy of Tax Bill for 1550 NE Brower Rd
A.25	Affidavit of Margaret A. Clay & Edward Clay

In addition to these exhibits, staff has added the following exhibits to support the finding:

Exhibit #	Description
B.1	Multnomah County Building Permit

	Card
B.2	Land Use/Old Camper as Tool Shed
B.3.	Report of Plumbing Inspection – Septic Permit
B.4	Air Photo – September 1977
B.5.	Air Photo – 1986
B.6	Air Photo – 1998
B.7	Air Photo – 2002
B.8	Assessment & Taxation Property Records
B.10	Appraiser card (BP # 77865)

In October 1975, the zoning on the property was F-2 (Agricultural District) which allowed as a use *dwelling or dwellings for owner, operator and/or help required to carry out grazing, agriculture, horticulture or the growing of timber*. The property owner, Edward Clay obtained a land use/building permit for the use of an old camper as a tool shed on October 7, 1975 (Exhibit B.2). A few days later, a building permit was issued for the construction of a dwelling on October 10, 1975 as evidenced by Exhibit A.6, A.8, A.17 & B.1. In December 1975 a septic permit was issued for the construction of a septic system for the dwelling. In July, 1976 the septic permit was finalled. On October 20, 1977 the tool shed was finalled (Exhibit B.2). The building permit card (Exhibit B.1) that is in the County's record indicates that a *Tough Love* letter was sent on April 26, 1983. In July 1987, an inspector wrote *Plumbing permit not issued – do not located at site – indications are that it wasn't built*.

The air photo from September 1977 (Exhibit B.4) does not show the roof line for the dwelling. The air photo in the region of the house is heavily treed. The roof of the dwelling is clearly visible in the air photo from 1986 (Exhibit B.5). The air photos for 1998 and 2002 (Exhibits B.6 & B.7) clearly delineate the roof line of the dwelling. The Assessment & Taxation Property Records (Exhibit B.8) from September 29, 2003, which is the date of application, indicates that the property dwelling is a 1964 mobile home. Because of this anomaly, staff reviewed the Assessment & Taxation Appraisal card for the property (Exhibit B.10) this also states that in 1980 there was a 1964 mobile home with 490 square feet on the property. There was no mention of the recently constructed dwelling on the site.

The applicant has submitted in affidavits from Edward and Margaret Clay (Exhibit A.25) which indicates that they moved into the home on March 1978. Despite the anomalies in the records, we know that the existing house was granted a building permit and the septic system was installed and finalled. The Clays indicate that they moved into the dwelling in 1978 and remained living there until they sold in August, 1998. The air photos from 1986, 1998 and 2002 show the roofline of the structure. Based upon this information, staff concludes that the dwelling was lawfully established in accordance with the zoning regulations at the time and that the structure continues to exist as a single family dwelling.

In December 2000, the County received a complaint regarding non-permitted work occurring on the subject property. In February 2001, a code enforcement planner visited the site and documented that work was done that required National Scenic Area review. The addition of the porch and room required National Scenic Area review. In September 2003, the current property owners, Phillip & Judy DuFresne made application to the Land Use Planning Section to correct the land use violations. Specifically, a non-permitted porch and attached storage

room was added to the single family dwelling. In addition, it became evident during the application process that the existing single family dwelling underwent a major remodel including the modification of the roof line, changes to the floor plan, addition/replacement of windows, electrical and plumbing renovations to the interior of the dwelling were also completed. No building, electrical, plumbing, mechanical permits or inspections by the County's Building Department (City of Gresham) were completed during this renovation. Gresham has been informed of the work that has been completed without permits. They inspected the dwelling on January 30, 2004. At present, our Building Department has indicated that no permits will be issued by them to bring the dwelling into compliance with the State of Oregon's One & Two Family Code.

*This criterion has been met.*

- 2.20                    **(2) Replacement of an existing use or structure by the same type of use or structure in a different location or with a different size shall be subject to MCC 38.7000 through .38.7085 to minimize adverse effects on scenic, cultural, natural, and recreation resources.**

**Staff:** The property owners in the year 2000 began to remodel the existing dwelling and added an attached room and covered porch to the dwelling. The interior and exterior remodel was extensive. The enlarged dwelling remains in its same location but has had approximately 1004 square feet added to the structure. Since the dwelling was not technically replaced, but significantly remodeled, only the portion of the dwelling added to it will be reviewed for adverse effects on scenic, cultural, natural and recreation resources.

2.21                    **MCC 38.2025 REVIEW USES**

**(B) The following uses may be allowed on lands designated GSF pursuant to MCC 38.0530 (B) when the use or development will be sited to minimize the loss of land suitable for the production of forest products and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:**

**(1) Any use listed in MCC 38.2225 (B).**

**MCC 38.2225 Review Uses**

**(B) The following uses may be allowed on lands designated GSA– 40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:**

**(3) Accessory structures, greater than 60 square feet.**

**Staff:** The applicant is proposing to construct a 30 ft wide by 36 ft long (1,080 sq. ft) detached garage (Exhibit A.27). The existing dwelling with its attached porch and new room is 37.5 ft wide by 59.25 ft long for a total square footage of approximately 2,221 sq ft (Exhibit A.27). The detached garage will be accessory to the primary use of the property with a single family dwelling. The proposed accessory structure has met the NSA Site Review standards listed in MCC 38.7000 through 38.7085 as proposed and through various conditions of

approval.

*Based upon the information supplied by the applicant, this criterion has been met.*

2.22 **MCC 38.2060 DIMENSIONAL REQUIREMENTS**

**(A) Except as provided in subsections MCC 38.2030 (A) (3) and (4), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:**

<b>GGF-20</b>	<b>20 acres</b>
<b>GGF-40</b>	<b>40 acres</b>
<b>GGF-80</b>	<b>80 acres</b>
<b>GSF-40</b>	<b>Not Applicable</b>

**(B) 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.**

**Applicant:** 9/29/03 Narrative: The property was developed under the provisions allowed in the F-2 zone at the time. Dimensional requirements exceeded those minimums at that time. See attached plat.

**Staff:** The subject property is a legally created parcel as discussed under the finding of MCC 38.0005(P)(1). The minimum lot size is not applicable at this time.

*This criterion has been met.*

2.23 **(C) Minimum Yard Dimensions - Feet**

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>30</b>	<b>10</b>	<b>30</b>	<b>30</b>

**Maximum Structure Height – 35 feet**

**Minimum Front Lot Line Length – 50 feet.**

**(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.**

**Applicant:** 10/30/03 Narrative: The lot has over 1000 ft of frontage on Brower Rd. It is not clear where the Brower Road boundary meets the property as the road is not using the entire right of way. The well house may be more than 30 ft from the right of way. It would be unreasonable for the applicant to have to survey for an exact distance. The well was installed in 1977. See attached report. The well house was also built as an accessory structure and is less than 60 sq ft in size and less than 18 ft in height. And is allowed under MCC3822A4. It would seem that the well drilling contractor would not have installed the well in that location if it did not meet required setbacks prevailing at that time.

**Staff:** The applicant has revisited the site and determined the location of the front, sides and



rear property lines in relation to the existing and proposed buildings. The applicant's amended site plan shows the following setbacks for the existing and proposed structures:

Structure	Front Setback	Rear Setback	Western Side Setback	Eastern Side Setback
Well House	33 ft	480 ft	470 ft	115 ft
Barn	160 ft	170 ft	110 ft	378 ft
Dwelling	330 ft	155 ft	320 ft	77 ft
Proposed Garage	108 ft	370 ft	470 ft	42 ft

The proposed garage location will need to be shifted approximately 18 ft to the west to meet the required fuel break standards. Even with this shift the structure will meet all required setback requirements.

The modified roofline of the existing dwelling is approximately 15 ft as the house is only a single story. The proposed garage is approximately 14 ft in height. Both structures meet the maximum height requirement of 35 ft.

*These criteria have been met.*

- 2.24 **(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

**Staff:** This criterion is not applicable at this time as the proposed structure is a single story garage.

2.25 **MCC 38.7040 SMA SCENIC REVIEW CRITERIA**

**The following scenic review standards shall apply to all Review and Conditional Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:**

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

**(1) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.**

**Applicant:** 9/29/03 Narrative: The existing structure is not in any KVA and is sited on a westerly slope surrounded by mature Doug firs and deciduous trees of several kinds. See attached photos.

10/30/03 Narrative: The site size is 5.44 ac and is a north westerly sloped property. The proposed garage is at the lower elevation of the property detached from the dwelling. Its is screened from Brower Rd by natural vegetation on the property and is not visible from any known KVA.

**Staff:** The topography of the property and the surrounding area to the north and northwest slopes downward towards the Columbia River and the Key Viewing Areas. The rear of the

property is at 1640. The front of the property along Brower Road is at 1560. Approximately 800 feet to the northwest the elevation is 1510 and 1800 feet northwest the elevation is at 1430 ft. The subject property is approximately half a mile from the bluff leading down to the Columbia River. The addition to the dwelling and the proposed detached garage are approximately 15 feet in height and will not protrude above the bluff line as seen from Key Viewing Areas (KVA's).

*This criterion has been met.*

2.26

**(2) Size, scale, shape, color, texture, siting, height, building materials, lighting, or other features of a proposed structure shall be visually subordinate in the landscape and have low contrast in the landscape.**

**Applicant:** 9/29/03 Narrative: The existing home is apx 1100 sq ft with apx 945 sq ft of covered deck the peak of the roof is apx 15 ft high. With cedar and pine exterior stained natural color and an approved forest green metal roof. The windows are white vinyl with low reflective glass. The exterior lighting is shielded. The landscape is in a natural setting making use of native plants and existing trees. See attached pictures.

10/30/03 Narrative: The size, shape and scale will be consistent with that of other structures in the area. The siting will be where it will least impact the site and eliminate the need for any tree or shrub removal. The structure will be constructed of wood with a metal or asphalt roof. Doors will be metal or vinyl. Colors will be those approved for the NSA. Lighting will be shielded and will meet the requirements of the building code. See garage plan attached.

**Staff:** The property is located in the Coniferous Forest landscape setting. The property has significant wooded areas with cleared areas around the dwelling and proposed location of the garage. The addition to the house is an approximately 940 square ft covered porch with railings and a small 8 ft by 8 ft exterior room attached to the dwelling (Exhibit A.26) for a total of 1004 square feet addition to an existing 1,198.5 square feet dwelling. The porch connects in to the existing roofline and does not increase the height of the structure, which appears to be approximately 18 feet in height. The existing house and porch has exterior lighting adjacent to the front door and at various intervals under the covered roofline of the porch. Additional wall sconces exist tucked under the covered porch near exterior doors. The existing and proposed shape of the structure is a rectangle of 37.6 ft wide by 59.25 ft long. The applicant has submitted in photographs of the porch and room as the addition has already been completed on the dwelling (Exhibit A.7). The photographs show that the covered porch has a metal medium green roof the railings are a natural peeled wood color. The room is sided with a vertical wood siding which is also a natural wood color. The existing dwelling has this siding on it. The existing house is tucked behind a small swath of existing trees in a south central location of the on the property (Exhibit A.27). The green roof on the addition fits well within the landscape setting. The natural wood shade on the porch and room addition blends with the surrounding forest land and soil colors on the property.

The proposed 30 ft by 36 ft rectangular detached garage will have a dark green metal roof (Amazon, Sa09A) with Duratemp siding painted a dark brown (Stone Crop 392(4)). The height of the structure will be approximately 13.5 feet. No lighting is shown on the site plan or exterior elevations. The proposed coloring of the structure will be visually subordinate in the landscape as the applicant has chosen low contrasting colors.

*This criterion has been met.*

2.27

**(3) Colors shall be used in a manner so that developments are visually subordinate to the natural and cultural patterns in the landscape setting. Colors for structures and signs should be slightly darker than the surrounding background.**

**Applicant:** 9/29/03 Narrative: The exterior colors meets those approved from the color selection charts with the Gorge Commission and Multnomah County. However this property is preexisting and may not be subject to meeting all requirements of the SMA.

10/30/03 Narrative: See the attached color reference.

**Staff:** The colors of the addition to the existing house matches the existing materials on the structure. The colors on the proposed detached garage are dark brown (Stone Crop) for the body and dark green (Amazon) for the roof (Exhibit A.23). These are very dark earth tones and are slightly darker than the surrounding background shades as demonstrated in the photographs submitted by the application (Exhibit A.7 & A.14).

*This criterion has been met.*

2.28

**(4) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that compliance with this standard is not feasible considering the function of the structure.**

**Applicant:** 9/29/03 Narrative: The structure does not exceed the average tree height. The structure is preexisting since apx 1975. Minimal landscape has been removed except for fire break and an area for yard. See attached pictures.

10/30/03 Narrative: The structure will not exceed 18 ft in height and will remain well below the average tree canopy.

**Staff:** The proposed height of the detached garage is 13.5 feet (Exhibit A.23). Trees in the vicinity of the structure are a mixture of woodland at various heights. The proposed height is below the average tree canopy height as demonstrated in the applicant's photos (Exhibit A.7 & A.14).

*This criterion has been met.*

2.29

**(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.**

**Applicant:** This property is preexisting and is not new development. This standard does not apply.

10/30/03 Narrative: The area proposed for the garage is a cleared area. Minimal grading will be required as the site is relatively flat. The existing trees and under brush will provide screening as view from Brower Rd.

**Staff:** The proposed location of the addition to the dwelling is set as it is to an existing dwelling. The location of the detached garage is within a cleared pasture area with approximately 10 percent slope in the area (Exhibit A.27). The location of the garage will be screened by existing vegetation from Brower Road and adjacent properties by existing vegetation.

*This criterion has been met.*

- 2.30                   **(6) Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.**

**Applicant:** 9/29/03 Narrative: The property is not in any KVA. The existing exterior lighting however is shielded.

10/30/03 Narrative: Lighting shall be shielded and minimized to that required by building code. The site is not visible from any known KVA. And is not in any known site of a KVA.

**Staff:** The lighting on the dwelling addition is shielded by the covered porch (Exhibit A.7). The detached garage elevations do not show any proposed lighting at this time. The subject property is approximately 1.5 miles from the Columbia River. The location of the proposed garage is behind a vegetative screen. A condition of approval has been included that if the property owner adds lighting to the structure that it shall meet this criterion.

*As conditioned, this criterion has been met.*

- 2.31                   **(7) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.**

**Applicant:** 9/29/03 Narrative: The seasonal lighting shall not exceed the time allowed.

10/30/03 Narrative: Applicant acknowledges this condition of seasonal lighting.

**Staff:** A condition of approval has been included with this decision to remind the property owner of this limitation

- 2.32                   **(8) Reflectivity of structures and site improvements shall be minimized.**

**Applicant:** 9/29/03 Narrative: The structure has natural wood siding nonreflective windows and a dark metal roof shaded by the canopy of the trees to prevent any potential reflection. However this property is not in a KVA.

10/30/03 Narrative: See attached color selections and elevations.

**Staff:** While metal roofing can be highly reflective, the existing coniferous woodlands on site will reduce its reflectivity by keeping the structures in shade for extended periods of time hence minimizing its reflectivity. A condition of approval has been included requiring that the existing woodlands be maintained on site for as long as the roofs on the covered porch and detached garage are metal.

*As conditioned, this criterion has been met.*

- 2.33                   **(9) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as seen from Key Viewing Areas. Roadside vegetation management should enhance views out from the highway (vista clearing, planting, etc.).**

**Applicant:** 9/29/03 Narrative: The property sets back from the right of way and is not noticeable with out being positioned in at the entrance of the driveway. The Property is not in any KVA.

10/30/03 Narrative: The development will not require any removal of existing vegetation and no new access is required.

**Staff:** No vegetation has been proposed to be removed in the right of way.

*This criterion is not applicable at this time.*

- 2.34                   **(10) Encourage existing and require new road maintenance warehouse and stockpile areas to be screened from view from Key Viewing Areas.**

**Applicant:** 9/29/03 Narrative & 10/30/03 Narrative: N/A

**Staff:** No new road maintenance warehouses or stockpile areas are proposed at this time for this project.

*This criterion is not applicable at this time.*

- 2.35                   **(B) New developments and land uses shall be evaluated to ensure that scenic resources are not adversely affected, including cumulative effects, based on visibility from Key Viewing Areas.**

**Applicant:** 9/29/03 Narrative: This is not new development and the structures are not in a KVA.

10/30/03 Narrative: This is not a new development and not in any known KVA.

**Staff:** The KVA's in the area that the property may be viewable from are Cape Horn, Bridal Veil and the Columbia River. The subject property is approximately 1.5 miles from the Columbia River and Bridal Veil with a significant change in elevation along a ridge line approximately half a mile from the site (Exhibit B.11). It is not feasible to identify the property from Cape Horn due to vegetative cover. The property is heavily treed (Exhibit A.27 & B.7). The location of the proposed addition to the dwelling is behind a band of existing vegetation which screens the site from the KVA's (Exhibit A.27). The proposed location of the detached garage is also behind a band of woodlands and the proposed colors for the structure are dark earth tones to reduce any off-site effects that the structure may have (Exhibit A.27 & A.23). With the existence of the woodlands of the site, it does not appear that there would be an cumulative effect of the KVA's in the area.

*This criterion has been met.*

- 2.36                   **(C) All new developments and land uses immediately adjacent to the Historic Columbia River Highway, Interstate 84, and Larch Mountain Road shall be in conformance with state or county scenic route standards.**

**Applicant:** 9/29/03 Narrative & 10/30/03 Narrative: N/A

**Staff:** The subject site is adjacent to Brower Road.

*This criterion are not applicable.*

2.37 **(D) New land uses or developments shall comply with the following:**

**(2) Coniferous Woodlands and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous and Oak/Pine Woodland landscape.**

**Applicant:** 9/29/03 Narrative: This is not new development.

10/30/03 Narrative: The site is mostly wooded with Douglas fir, white fir and alder, some maple and cherry is scattered thought out. The under growth is vine maple, cascara, salmon berry and other bush type plants native to the area.

The site is surrounded by this native growth and provides the cover and visual subordination for the dwelling and the proposed garage. No easement is required for off site vegetation as the site provides it own.

**Staff:** The subject property is located in the Coniferous Woodlands landscape setting. The property owner has not proposed to remove any trees for the construction of the dwelling addition or detached garage. The materials utilized for the covered porch are natural wood. The detached garage will be painted dark brown (Stone Crop) with a dark green roof (Amazon). Since the overall woodland setting on the property will be maintained, the overall character of the Coniferous Woodland setting will be retained.

*This criterion has been met.*

2.38 **(a) New developments and land uses in lands designated Federal Forest or Open Space shall meet the VQO of retention; all other land use designations shall meet the VQO of partial retention as seen from Key Viewing Areas.**

**Applicant:** 9/29/03 Narrative & 10/30/03 Narrative: N/A

**Staff:** The property is zoned Gorge Special Forest – 40. The new development is required to meet the VQO standard of partial retention as seen from the KVA's. *Partial Retention* is defined in MCC 38.0005(P)(2) as "A visual quality objective that provides for management activities which may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape but changes in their qualities of size, amount, intensity, direction, pattern, etc., shall remain visually subordinate to the characteristic landscape." The proposed detached garage will be constructed on dark earth tone colors (Exhibit A.23) with the surrounding woodlands maintained to keep the structure visually subordinate to the characteristic landscape setting.

*This criterion has been met.*

- 2.39 **(b) Forest practices on National Forest lands included in the Mt. Hood National Forest Plans shall meet the VQO identified for those lands in those plans.**

**Applicant:** 9/29/03 Narrative & 10/30/03 Narrative: N/A

**Staff:** The subject site is not located within the National Forest lands included in the Mt. Hood National Forest Plan.

*This criterion is not applicable.*

- 2.40 **(c) Buildings in the coniferous landscape setting shall be encouraged to have a vertical overall appearance and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.**

**Applicant:** 9/29/03 Narrative: N/A

10/30/03 Narrative: See attached plans and pictures of existing dwelling.

**Staff:** The proposed detached garage will be 30 feet wide by 36 feet long by 13.5 feet high. The Duratemp siding utilizes a vertical line to help the building achieve a vertical overall appearance to the best of its ability while serving the needs of the property owner (Exhibit A.23).

*This criterion has been met.*

- 2.41 **(d) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics.**

**Applicant:** 9/29/03 Narrative: The landscape is native.

10/30/03 Narrative: The application request does not require any additional landscape.

**Staff:** The project is not proposing to add any new vegetation to the site. It will maintain the mixture of woodland plants and evergreen trees on site.

*This criterion has been met.*

- 2.42 **(e) Exterior colors of structures in Coniferous Woodland landscape setting shall be dark earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.**

**Applicant:** 9/29/03 Narrative: N/A

10/30/03 Narrative: See attached color selections from the approved lists of colors.

**Staff:** The proposed colors for the detached garage are a dark brown (Stone Crop) for the body and a dark green (Amazon) for the roof. These colors are classified as dark earth tones and will provide low contrast with the surrounding landscape. The proposed addition to the existing dwelling is located behind a significant buffer of evergreen trees and should not be

viewable from any KVA provided the tree cover is maintained. The colors proposed for the addition are the same colors utilized on the existing dwelling. The covered porch utilizes a natural wood color for the railings and eaves. The roof is a forest green (Exhibit A.7). Provided the trees are maintained, these lighter colors should have not be viewable from the KVAs. A condition of approval has been included requiring that existing vegetation shown on the site plan (Exhibit A.27) and the 2002 air photo (Exhibit B.7) be maintained.

*As conditioned, this criterion has been met.*

- 2.43 **(f) Exterior colors of structures in Oak-Pine Woodland landscape setting shall be earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.**

**Applicant:** 9/29/03 Narrative: N/A

**Staff:** The subject site is located in the Coniferous Woodland setting. *This criterion are not applicable at this time.*

2.44 **MCC 38.7050 SMA CULTURAL RESOURCE REVIEW CRITERIA**

**(A) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7050 (H), if the Forest Service or Planning Director does not require a cultural resource survey and no comment is received during the comment period provided in MCC 38.7025 (B).**

**Staff:** The US Forest Service has reviewed the subject site and has found no historic or cultural resources (Exhibit C.1). They indicated that no additional review is required. The Planning Director concurs with their opinion, but has included a condition of approval that requires that the applicant notify the US Forest Service and Multnomah County should any cultural resources be found in the area during construction of the garage.

*As conditioned, this criterion has been met.*

2.45 **MCC 38.7075 SMA NATURAL RESOURCE REVIEW CRITERIA**

**All new developments and land uses shall be evaluated to ensure that the natural resources on a site, or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, are protected from adverse effects. The Forest Service will provide the analysis and evaluation for all projects except those sponsored by non-Forest Service federal and state agencies.**

**Staff:** No natural resources other than trees exist on the subject site based upon the County's NSA Wetlands, Sensitive Wildlife and Sensitive Plant maps. No comments were received from the US Forest Service regarding the natural resources in the area. The location of the detached garage is in an existing cleared area. The dwelling addition is attached to an existing structure.

*This criterion has been met.*

2.46 **MCC 38.7085 SMA RECREATION RESOURCE REVIEW CRITERIA**

**(A) The following shall apply to all new developments and land uses:**



**(1) New developments and land uses shall be natural resource-based and not displace existing recreational use.**

**Staff:** The proposed development is an addition to an existing dwelling and a 30 ft by 36 ft detached garage. No recreational uses exist on the property and the proposed uses will not displace any existing recreational use.

*This criterion has been met.*

### 3.0 **Administration and Procedures**

**MCC38.0530(B): Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are typically assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses, and it's relationship to scenic, natural, cultural and recreational resources of the area. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the Gorge Commission; the U.S. Forest Service; the Indian tribal governments; the State Historic Preservation Office; the Cultural Advisory Committee; and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed, except for comments regarding Cultural Resources, which will be accepted for 20 days after the notice is mailed. The Planning Directors decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to the Columbia River Gorge Commission within 30 days after the decision is final. The decision is final the day the decision is signed by the Hearings Officer.**

**Staff:** This application was submitted on September 29, 2003 (Exhibit A.1). On October 27, 2003, an Incomplete Letter was generated requesting additional information (Exhibit B.12.). On November 20, 2003, the application was deemed complete (Exhibit B.13.) and a 14 Day Opportunity to Comment was generated and mailed to various parties including the Gorge Commission, US Forest Service and the Indian Tribal Governments on November 28, 2003 (Exhibit B.14.). Timely comments were received from the US Forest Service (Exhibit C.1) and Glen Fullilove, Friends of the Gorge (Exhibit C.3.) and neighbor Collyn Baldwin (Exhibit C.2). This decision was crafted and will be mailed in accordance with MCC 38.0660 on January 21, 2004 (Day 63).

#### 3.01 **Comments Received**

USDA Forest Service Heritage Resource Inventory Report was provided by Margaret Dryden and her comments were utilized for the finding under MCC 38.7050 to find consistency with the Cultural Review Resource criteria (Exhibit C.1).

The comments received from Collin Baldwin expressed concern regarding the after the fact permitting of projects in general, though she had no objections on the addition to the existing single family dwelling or detached. She did indicate that the Dufrense's did an excellent job

on the remodel and felt that it seemed to be in compliance with the SMA requirements (Exhibit C.2).

The Friends of the Columbia Gorge provided comment in the following areas:

- Existing Use (MCC 38.0030)
- Legally Established Use (MCC 38.0015(E)(7))
- Continuous Use
- Code Compliance and Applications (MCC 38.0560)
- SMA Site Review, Natural Resource Review and Cultural Review criteria (MCC 38.7040, 38.7050, 38.7075 & 38.7085)

Their main concern was that the applicant must demonstrate that the dwelling is legally established and then continuously used. Staff addressed these concerns under the MCC 38.0030 criteria. The evidence utilized was supplied by the applicant and some was provided by staff. In addition, they were very concerned that the violation be corrected completely prior to the permitting of the detached garage. Planning staff has included a condition of approval requiring that the property owners obtain building, mechanical, electrical, plumbing and any other permit to bring the house into full compliance with the County codes prior to issuance for the garage.

#### 4.0 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary to legalize the construction of a covered porch addition to an existing single family dwelling and to construct a 30 ft by 36 ft detached garage in the GSF-40 zoning district. This approval is subject to the conditions of approval established in this report.

#### Exhibit List

‘A’ – Applicant’s Exhibits

‘B’ – Staff’s Exhibits

‘C’ – Comments Received from Agencies and Parties

A	Description	Date Received
A.1	NSA Application Form	9/29/03
A.2	Project Description	9/29/03
A.3	Narrative Statements	9/29/03
A.4	Site Plan	9/29/03
A.5	Certification of Water Service	9/29/03
A.6	1975 Site Plan for Home and Septic (BP#751825)	9/29/03
A.7	Exterior Photos of Dwelling and Porch	9/29/03
A.8	1975 Elevations (BP#751825)	9/29/03
A.9	Contract of Sale – August 1975	9/29/03
A.10	Foundation & Truss Details for Garage	9/29/03
A.11	Fire District Review	10/3/03
A.12	Revised Site Plan #1	10/3/03
A.13	Revised Site Plan #2	10/23/03
A.14	Photos of Remodeled	10/30/03
A.15	Acknowledgement Letter	10/30/03
A.16	Amended Narrative Statements	10/30/03
A.17	Copy of Residential Building Permit Application for Dwelling – Issued	10/30/03

10/10/75 (BP#751825)

A.18	Copy of Building Permit for Barn for Livestock – Issued 3/2/78 (BP#780465)	10/30/03
A.19	Site Plan for Barn – Approved 3/2/78 (BP#780465)	10/30/03
A.20	Ag Building Declaration for 1978 Barn	10/30/03
A.21	Significant Environmental Concern Permit for Accessory Building (Barn)	10/30/03
A.22	Revised Site Plan #3	11/4/03
A.23	Elevations for Proposed Accessory Structure	11/4/03
A.24	Copy of Tax Bill for 1550 NE Brower Rd for 2003	11/4/03
A.25	Affidavit of Margaret A. Clay & Edward Clay regarding Property	11/12/03
A.26	Floor Plan for Existing Dwelling and Porch	11/14/03
A.27	Revised Site Plan #4	11/20/03

'B'	Description	Date Received or Submitted
B.1	Multnomah County Building Permit Card for Residence with Attached Garage	10/10/1975
B.2	Land Use/Old Camper as Tool Shed	10/7/1975
B.3	Report of Plumbing Inspection – Septic Permit	12/8/1975
B.4	Air Photo – September 1977	9/1977
B.5	Air Photo – 1986	1986
B.6	Air Photo 1998	1998
B.7	Air Photo 2002	2002
B.8	Assessment & Taxation Property Records	9/29/03
B.9	-----	-----
B.10	Appraiser Card (BP#77865)	8/31/79
B.11	Contour Information for 1550 Brower Road and Surrounding Area	
B.12	Incomplete Letter	10/27/03
B.13	Complete Letter	11/25/03
B.14	14 Day Opportunity To Comment	11/28/03
B.15	Administrative Decision	

'C'	Description	Date Received
C.1	USDA Forest Service Heritage Resource Inventory Report	10/10/03
C.2	Letter from Collyn Baldwin Supporting Application	12/2/03
C.3	Friends of the Columbia Gorge Comments	12/12/03