



**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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## DECISION OF HEARINGS OFFICER

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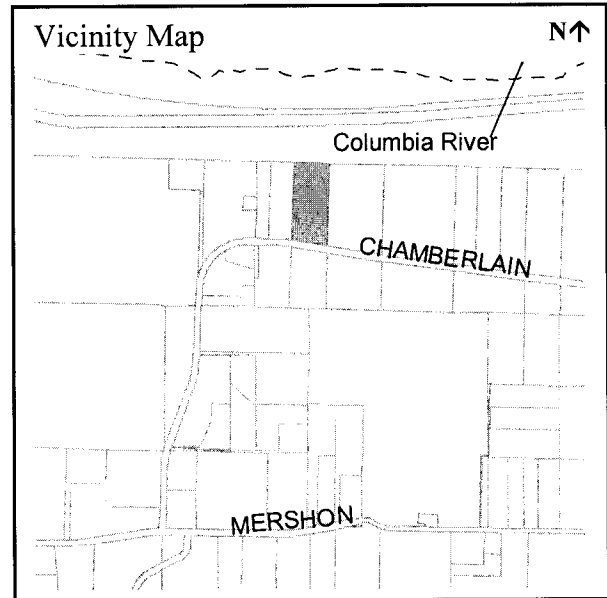
**Case File:** T2-04-007

**Permit:** National Scenic Area

**Location:** NE Chamberlain Road  
TL 1100, Sec 28D, T 1N, R 4E, W.M.  
Tax Account #R94428-0250

**Applicant:** David & Becky Annus  
33501 NE Chamberlain Road  
Corbett, OR 97019

**Owners:** Sylvia Annus  
33401 NE Chamberlain Road  
Corbett, OR 97019  
&  
Bruce McCartney  
12581 SE 127<sup>th</sup> Court  
Clackamas, OR 97015



**Appellant:** Martha J. Bennett, in her capacity as Executive Director of the Columbia River Gorge Commission  
PO Box 730  
White Salmon, WA 98672

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**Summary:** A request for a National Scenic Area (NSA) Site Review to construct a single family dwelling with an attached garage.

**Decision:** Approved with conditions.

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Signed this 8th day of November, 2004.

By: 

Liz Fancher, Hearings Officer

**Opportunity to Appeal:** This decision may be appealed. Please consult the applicable law to determine when and how an appeal must be filed. This decision is final at the close of the appeal period, unless appealed.

**Applicable Approval Criteria:** Multnomah County Code (MCC):

*General Provisions:* MCC 38.0015 Definitions, MCC 38.0045 Review and Conditional Use Applications, MCC 38.0550 Initiation of Action, MCC 38.0560 Code Compliance and Applications, MCC 38.0060 Agricultural Buffer Zones.

*Gorge General Agriculture – 20:* MCC 38.2225(A)(7) Review Uses, GGA-20 – Single Family Dwelling, MCC 38.2260 Dimensional Requirements, MCC 38.2285 Off-Street Parking and Loading, MCC 38.2290 Access.

*General Management Area Review Criteria:* MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 GMA Cultural Resourced Review Criteria, MCC 38.7055 GMA Wetland 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, Landscape Setting: Pastoral

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 37.0690, 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 37.0690 and 37.0700. 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 applicant shall record the first three pages of this Decision as a Notice of Decision and the approved site plans. The Notice of Decision shall run with the land and development must comply with approved plans. 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 record the Notice of Decision within the 30 day period shall cause the decision to become void. [MCC 38.0670]**

2. Prior to issuance of building permits, the existing storage shed shall be removed from the property. The travel trailer shall be removed from the property or not hooked up to any services or utilized for residential or construction purposes. It may be stored on the site provided it is not utilized. [MCC 38.0560]
3. Project applicants shall be responsible for the proper maintenance and survival of any required vegetation. Any required vegetation which is damaged or destroyed by inclement weather or dies or becomes diseased to the extent that it no longer serves its purpose shall be immediately replanted with Douglas Firs or Cedars which are a minimum of 6 ft tall. The required vegetation consists of all trees, shrubs and other plantings other than grass to the north of the subject dwelling. [MCC 38.7035(A)(4)]
4. By November 1, 2004, the Douglas Firs specified on the amended and revised site plans (Exhibit A.28 & A.35) shall be planted in the locations shown on these plans. The Douglas Fir to be planted shall be a minimum 8 to 10 ft high and shall be fertilized and watered regularly in the first 2 years to maximize growth. [MCC 38.7035(B)(26)]
5. 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. All light fixtures on the north and east side of the buildings shall be either Recessed Lighting or Light Fixtures 9044OB, 6051AZ or 6052AZ. [MCC 38.7035(B)(9)]

**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, the applicant shall call the Staff Planner, Lisa Estrin, at (503) 988-3043, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building area are needed for building permits signed off.

**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.

**Appeal by Executive Director of Columbia River Gorge Commission**

**Grounds for Appeal**

***Notice of Appeal by Executive Director***

The grounds for appeal contained in the Notice of Appeal are summarized as follows:

1. MCC 38.7035(A)(2) and (C)(1) require the County to evaluate the size of “existing nearby development” and “development in the vicinity.” The decision does not comply with these requirements as they considered dwellings approximately 1.1 miles from the dwelling while excluding dwellings located within .25 miles of the subject property.
2. The County’s table of building size overstates the size of over half of the dwelling because the County included structures and portions of structures that do not contribute to the visible mass (volume) of the dwelling such as basements and uncovered decks.

3. The County's table of building size does not support the conclusion that the proposed building will be generally consistent with the height and size of existing nearby development. The proposed building is too large. The County failed to require the applicant's building to match the average size of area dwellings and erred in approving a building that is significantly larger than 90% of the existing nearby development and, therefore, violated MCC 38.7035(A)(2) and (C)(1).
4. The decision does not consider the cumulative effects of allowing many large dwellings in the area as required by MCC 38.7035(B)(3). Allowing similar dwellings will change the landscape setting and will adversely affect scenic resources.
5. The decision fails to establish that the house will be visually subordinate to its setting as seen from Key Viewing Areas as the site plan does not contain any internal dimensions or measurements so that the location of the dwelling and trees cannot be ascertained and does not specify the location where screening trees will be planted. Second, the finding of compliance relies on a statement that the site may be visible from KVAs. A more complete analysis of where the development might be visible from is required.

### ***Friends of the Columbia River Gorge Objections***

The Friends filed the following objections:

1. The findings are insufficient to support a conclusion that the development will meet the siting requirements for the protection of scenic resources.
2. The findings are insufficient to support a conclusion that the development will be compatible with existing development in the vicinity. MCC 38.7035(C)(1)(a) requires an analysis of the height, analysis and overall mass of other buildings in the vicinity. The footprint of the building is 3,710 square feet which is larger than all but one of the 20 existing dwellings listed in the decision. The record lacks evidence regarding the height of dwellings as the fact that other dwellings are two-story buildings does not establish the height of the dwelling. The Director fails to evaluate the mass of buildings. Mass is properly defined as "solid volume" – the amount of space measured in cubic units an object occupies.
3. The cumulative effects standard has not been met.
4. The conditions of approval do not adequately identify the location of the required screening trees.

### **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*.

#### **1.00    *General Provisions***

#### **1.01    **Project Description****

**Applicant:** The subject site is a 5.49 acre parcel, legal description, section 28 1N 4E; TL 1100. Tax number R322343, located on the north side of NE Chamberlain Road, Corbett, Oregon. The subject parcel is zoned GGA-20. It is a pastoral, 5.49-acre parcel of land. The parcel extends over the bluff and adjoins Union Pacific Railroad land to the north.

Approximately 4.49 of the 5.49 acres are in pasture with some trees along the edges of the south, west, and north sides of the property lines. Approximately 1.75 of the 4.49 acres is flat. The other 2.75 acres dip to the middle of the field (approximately 10 feet) then rise (approximately 20 feet) to Chamberlain Road. The remaining acre at the north end of the property is severely sloped and covered with trees and heavy brush.

The proposed house site is a relatively flat area. No improvements to the site will be needed for the house to be completed beyond grading for the foundation and septic system. The house is a 3400-3700 square foot, two level, single family dwelling with an attached three car garage. The front of the house would face south. The garage, which is located on the east side of the house, will be angled at 10 degrees toward the northwest. A proposed separate 24 x 34 metal storage shed is to be located SE of the attached garage. The proposed storage shed site is a flat area that will not need improvement to ready the site. The shed is located along the driveway into the property and will require an absolute minimum roadway.

Improvements to the subject site will consist of a roadway, septic system, public utilities (water, electricity, and phone) and cable. A 2 ft. wide by 3 ½ ft. deep trench will be dug for the utilities. Once utilities have been installed, the trench will be back filled. As a result, there will be no need for above ground utility lines or poles. The property owners to the east, Sylvia and Heino Annus, have agreed to grant an easement from their property, allowing access to the subject parcel from their existing driveway. This will dramatically cut down on length of driveway needed for the proposed house and storage shed. Because the proposed driveway is flat, it will require minimal grading for the access road. The only additional improvements required to the site will be the minimal grading needed for the foundation.

## 1.02 Surrounding Land Uses

**Applicant:** The neighborhood consists of single family dwellings on similar or larger sized parcels. Uses include primarily livestock, grazing and hay on the north side of Chamberlain Road, and timberland on the south side of Chamberlain Road. Square footage ranges from approximately 1500-5000 square feet. The house to the immediate east, 33401 NE Chamberlain, is a two level single family dwelling, approximately 3300-3400 square feet. The house to the immediate west is a one level, single family dwelling, approximately 1500 square feet. The area surrounding the subject parcel is residential with agricultural land uses.

## 1.03 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 1300 & 1400 (combined), Section 23A, Township: 2 North, Range: 2 West. Assessment & Taxation records show that the land is owned by Sylvia Annus and Bruce McCartney. The property owners have granted approval for David & Becky Annus to make application for the necessary permits to establish a single family dwelling on the property (Exhibit A.1). *This criterion has been met.*

#### 1.04 On-Site Code Compliance

##### **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.**

**Applicant:** There is a travel trailer and storage shed on the site that will be removed prior to completion of building.

**Staff:** In order for the site to be in complete compliance, the existing storage shed will need to be removed from the property. The travel trailer will need to be stored only and not be utilized for residential purposes on the site. A condition of approval has been included requiring compliance with the above prior to issuance of building permits (see condition #.1). *As conditioned, this criterion has been met.*

#### 1.05 Administrative Procedures

**MCC 38.0530(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 February 10, 2004 (Exhibit A.1). On March 10, 2004,

an Incomplete Letter was mailed requesting additional information (Exhibit C.1). On May 24, 2004, the application was deemed complete (Exhibit C.3) and a 14 Day Opportunity to Comment was mailed to various parties including the Gorge Commission, US Forest Service and the Indian Tribal Governments (Exhibit C.4.). Timely comments were received from the US Forest Service (Exhibit B.5 & B.6), Columbia River Gorge Commission (Exhibit B.2), SHPO (Exhibit B.4) and Friends of the Gorge (Exhibit B.3.). This decision was crafted and will be mailed in accordance with MCC 38.0660.

The following issues were identified in the public comment period:

USFS – Possible Wetland Issues, Cultural Resource Inventory. (Wetland Issue: page 30;

Cultural Resource: page 29)

SHPO – Need for Cultural Resource Survey. (Cultural Resource: page 29)

CRGC – Height of the Building, Size of the Dwelling, Legally Created Parcel, Construction Near the Bluff, and Visual Subordination from KVA, Size and Species of Vegetation Existing and Proposed. (Parcel: page 6&7, Height: page 11& 12, Mass, Bluff & Visual Subordination: page 13 - 29)

Friends – Visual Subordination from KVA's, Ag Buffer Zones, Compliance within 2 Years, Relationship of the Proposed Dwelling to the Landscape Setting, Recording the Decision. (Visual Subordination: page 13 – 29, Ag Buffers: page 9 – 11, Landscape Setting: page 26 – 28, Recordation: page 3)

**Hearings Officer:** The staff decision was appealed. A hearing was held by the County before a land use hearings officer on October 1, 2004. This decision may be appealed to the Columbia River Gorge Commission.

#### 1.06 **MCC 38.0015 Definitions**

**As used in MCC Chapter 38, unless otherwise noted, the following words and their derivations shall have the following meanings:**

##### **(P) (1) 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.**

**Applicant:** A copy of the deed creating the parcel in its current configuration and a copy of the current deed for the property is included in the application.

**Staff:** The applicant has submitted a deed from 1973 which describes the separate parcel in its current configuration (Exhibit A.5, A.6 & A.7). The zoning for this area from 1962 to October 6, 1977 was F-2 which had a minimum 2 acre lot size until 1975. The parcel is 5.49 acres in size

and has approximately 330 feet of road frontage. In 1973, to create a new parcel, the property owner only needed to record a new deed in compliance with the applicable lot size and road frontage. No partition plat was required until 1978. Based upon the above findings, the subject property appears to be a "Parcel" pursuant to MCC 38.0015(P)(1). *This criterion has been met.*

**1.07 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.**

**Applicant:** The two Key Viewing Areas from which the subject parcel may partially be visible are SR14 and the Columbia River. Included in the application is the picture taken from SR14. The subject parcel is not visible from any of the other Key Viewing Areas.

**Staff:** The photo from SR-14 is contained in Exhibit A.8. There are 4 Key Viewing Areas in the vicinity of the parcel – Historic Columbia River Highway, I-84, SR-14 and the Columbia River. It is not feasible to see the subject property from the Historic Highway or I-84 due to terrain separating these roads from the property. That leaves SR-14 and the Columbia River. The proposed dwelling may be visible from these two KVA's.

**1.08 (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.**
- (1) 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.**

**Applicant:** A map of the subject parcel, proposed house, shed, driveway, and existing vegetation is included in this application.

**Staff:** The applicant's amended site plan (Exhibit A.28) shows the direction of North. The plan is scaled 1" = 100' and shows the boundaries, dimensions and size of the subject parcel. The amended site plan (Exhibit A.28) shows the existing vegetation, its species and proposed vegetation. A revised site plan (Exhibit A.35) proposes additional vegetation to screen the house from KVA's. No vegetation is proposed to be removed other than the pasture grass under the dwelling. The plans show the location of the dwelling and attached garage and that the driveway will go east and connect into an existing driveway on the adjacent parcel to the east. An outdoor lighting plan has been included (Exhibit A.31). The dwelling will be connected to Corbett Water District water (Exhibit A.20) and a septic system will be installed to the west of the dwelling (Exhibit A.28). The site does not contain any water bodies, streams or wetlands. No recreational uses are proposed for the site and none exist adjacent to the property.

**(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.**

**Applicant:** There is no river access accessible from the subject parcel. There are no known locations of tribal fishing sites known to the project applicant. There is no river access or any use of the river proposed by the project applicant. The proposed house and storage shed will have no potential effects on Indian treaty rights. Tribal commercial fishing seasons in the project vicinity are not applicable to the proposed structure and project applicant. The proposed house and storage shed will be located on property that is 400 feet above the Columbia River. The nearest tribal commercial fishing is located to 50 miles to the east of subject parcel. None known to the project applicant. Based on the above information, the proposed house and storage shed will have no

effects on Indian treaty rights.

**Staff:** Staff concurs. The site is approximately 650 ft to the floodplain of the Columbia River. The Indian Tribes were notified as part of the Opportunity to Comment. No comments were received.

- 1.09      **(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.**

**Applicant:** A map of the subject parcel, proposed house, shed, driveway, and existing vegetation is included in this application.

**Staff:** No forest practices or mineral resource production is proposed. The proposed use may be visible from 2 KVA's. The required supplemental information has been provided. The proposed use is not located near any cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat or plants.

1.10      **MCC 38.0060 Agricultural Buffer Zones**

**All buildings, as specified, shall satisfy the following setbacks when proposed to be located on a parcel which is adjacent to lands designated GGA- 20 or GGA- 40:**

Type of Agriculture	Type of Buffer		
	Open or fenced	Natural or created vegetation barrier	8 foot berm or terrain barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

**(A) Earth berms may be used to satisfy, in part, the setbacks. The berm shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to appear natural. Shrubs, trees and/or grasses shall be employed on the berm to control erosion and achieve a finished height of 15 feet.**

**(B) The planting of a continuous vegetative screen may be used to satisfy, in part, the**

**setback standards. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.**

**(C) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.**

**(D) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.**

**(E) A variance to buffer setbacks may be granted upon a demonstration that the standards of MCC .0065 have been satisfied.**

**Applicant:** Agriculture use in the area is primarily livestock, grazing, and hay,

The proposed single family dwelling shall satisfy the setback for a livestock, grazing, pasture, haying type of agriculture by using a fence for the buffer on the east, west, and southeast sides of the property. A fence on the west and southeast of the subject parcel already exists. A fence on the east side of the subject parcel will be added.

The property to the immediate east of the subject parcel is a single family dwelling. The property also includes a smaller house, a barn and several outbuildings. This property is used for livestock, grazing and hay.

The property to the west of the subject parcel is approximately seven acres with a single family dwelling.

Properties to the east and west of the subject parcel are primarily residential. Several of the surrounding properties have livestock, cattle, horses, llamas, etc.

The properties to the southeast of the subject parcel are primarily residential on sloped lots in timberland.

**Amended Narrative:** The proposed house will be 105 feet from the property line. The criteria for Agricultural Buffers listed under MCC 38.0060 require a 100 ft buffer from all buildings when an open or fenced buffer is used for livestock grazing agricultural uses. The location of the proposed house meets the criteria for Agricultural Buffer.

**Staff:** The agricultural use in the area is pasture, haying and livestock grazing. It appears this ag use is primarily on this parcel and the parcel to the east. The parcel to the west may have a small area available for livestock use. The properties to the north and south are primarily in forest. The proposed dwelling is located 105 feet from the east property line, 120 feet from the west property line, approximately 150 feet from the north property line and approximately 520 feet from the south property line along Chamberlain Road. *This criterion has been met.*

## 2.00 ***Gorge General Agriculture – 20:***

### 2.01 **MCC 38.2225 Review Uses**

**(A) The following uses may be allowed on lands designated GGA pursuant to the**

**provisions of MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:**

**(7) On lands designated GGA- 20, a single family dwelling on any legally existing parcel.**

**Applicant:** Per the provisions of the Section 8(o) program, the SMA land use ordinances were suspended and the property is now being treated as Gorge General Agriculture-20. A single family dwelling is proposed on this legally existing parcel.

**Staff:** The applicant has submitted floor plans for the proposed single family dwelling. The floor plans (Exhibit A.30c. & A.30d.) show 4 bedrooms, 1 kitchen, 3 bathrooms, a laundry room, a dining room, home office, parlor, great room, a crafts room and bonus room along with an attached 3 car garage. It appears that the structure is a single family dwelling with attached garage. The subject property has been demonstrated to be a legally existing parcel under the finding for MCC 38.0005(P)(1) above. Please see the findings below for MCC 38.7000 through 38.7085 for details. *This criterion has been met.*

## 2.02 MCC 38.2260 Dimensional Requirements

**(A) Except as provided in MCC 38.2230 (A) (16) and (17), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:**

<b>GGA-20</b>	<b>20 acres</b>
<b>GGA-40</b>	<b>40 acres</b>
<b>GSA-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.**

**(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.**

**Applicant:** Included in the application are site plans and rear elevations. The distance from the house to the east property line is 100 ft., to the west property line is 127ft. The height of the house is 31.5 ft, measured from the grade to the highest point of the roof. There are no barns, etc. proposed that would exceed the maximum height requirement.

**Amended Narrative:** The height of the proposed house has been reduced from 31.6 feet to 29.6 feet from grade to the highest point of the roof.

**Staff:** The subject parcel was lawfully established in accordance with the minimum lot size at the time and is 5.49 acres in size. Chamberlain Road has a 60 ft right of way. The subject parcel has 340 feet of road frontage. The area that would accrue to this parcel if the street was vacated is 0.23 of an acre to bring the total lot size to 5.72 acres. The parcel is zoned GGA-20 as the current property owners offered the subject property to the USFS under the Section 8(o) program for the National Scenic Area (Exhibit A.19). The property was not purchased and was rezoned by the USFS to GGA-20. Since no new parcels are being created as part of this application, the minimum lot size does not apply.

The proposed dwelling is located 105 feet from the east property line, 120 feet from the west property line, approximately 150 feet from the north property line and approximately 520 feet from the south property line along Chamberlain Road (Exhibit A.28). The maximum height of the structure is 29.5 ft from grade to highest peak (Exhibit A.33). *The above criteria have been met.*

- 2.03 **(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.**

**(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.**

**Applicant:** There are no barns, etc. that would exceed the maximum height requirement.

**Staff:** Chamberlain Road is designated a local road pursuant to Multnomah County Functional Classification of Trafficways. The minimum right of way width for a local street is 50 ft. No additional right of way is needed at this time. No barns, silos, windmills, antennae, chimneys, or similar structures are proposed at this time (Exhibit A.28). *The above criteria have been met.*

2.04 **MCC 38.2285 Off-Street Parking and Loading**

**Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.**

**Per MCC 38.4205(A)(1), the minimum number of residential parking spaces for a single family dwelling is two.**

**Applicant:** The proposed structure will have an attached garage that will have parking for three cars.

**Staff:** Staff concurs. See Exhibit A.30c. for details. *This criterion has been met.*

2.05 **MCC 38.2290 Access**

**Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.**

**Applicant:** The subject parcel does have safe and convenient access for pedestrians and passenger and emergency vehicles approved by the Corbett Fire District.

Access will be through an easement granted by the property owners to the east of the subject parcel. A short driveway from the easement to the proposed structure has been approved to be safe and convenient for pedestrians and passenger and emergency vehicles. Included in this application is the completed Fire District Review.

**Staff:** The subject site has 340 feet of road frontage along Chamberlain Road (Exhibit A.28). *This criterion has been met.*

3.00 ***Gorge General Management Site Review Criteria:***

3.01 **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 reduce necessary grading to the maximum extent practicable.**

**Applicant:** The topography of the northern most acre is severely sloped. That area of the subject parcel will not be modified for this project. The topography of the southern most 2.75 acres is sloped (south, towards Chamberlain). There is no proposed structure for the south, southwest area. That area of the subject parcel will not be modified. The remaining 1.75 acres where the proposed house is to be located is relatively level. It will provide a minimum grading/ modification to the existing terrain. The proposed house site is located on this flat area of the subject parcel. This flat area is towards the north end of the subject parcel. The only modification to the topography is the minimal grading that will be needed for the driveway and foundation.

(The driveway to the proposed structure will require minimal grading. The easement has dramatically reduced the amount of new road that will be needed to access the proposed house. Because the driveway will branch off a pre-existing paved, private road it will be a shorter road than if it were to come off of Chamberlain Road. The driveway will have no visual impact the any of the Key Viewing Areas.) Included in this application is a topography map of the subject parcel.

**Staff:** The steep slopes of the property begin approximately 85 feet from the north property line. The remainder of the parcel is undulating slightly at an overall 3% slope from the building area to Chamberlain Road (Exhibit A.16). The location of the house is in the flattest portion of the property and will require the smallest amount of grading to construct the dwelling at this location. If the house was moved to the south, the driveway would need to be lengthened disrupting agricultural usage of the pasture and additional grading would be necessary to fit the home to the terrain. The proposed driveway connects into an existing driveway to the east on an adjacent property. The length of the driveway on the subject parcel is only 140 feet with the remainder utilizing approximately 450 feet of existing roadway on the parcel to the east. *This criterion has been met.*

**(2) New buildings shall be generally consistent with the height and size of existing nearby development.**

**Applicant:** The nearby development is residential with single family dwellings on similar size or bigger parcels of land. Many of these family dwellings are two or more levels. There is a wide range for square footage, ranging from approximately 150 sq ft to 5000 sq ft. Many of the houses have a storage shed. Storage sheds in the nearby development vary in materials and size. A few of the sheds match the houses in material and color. Many of the storage sheds are metal with a metal roof. In addition to storage sheds many properties have barns as well.

The proposed house and storage shed will be similar to the nearby development in size, height and color. See attached pictures to illustrate how the proposed house will be generally consistent with the nearby development.

**Staff:** The applicant has submitted photographs (Exhibit A.12) showing the nearby development in the area to show that the proposed house is generally consistent with their height and size. Staff looked at the size and style of dwellings along Chamberlain Road. The benched terrain in the area creates a defined linear barrier when considering the boundaries of the nearby development. Due to this terrain, Staff only considered the dwellings along Chamberlain Road. Staff looked at 20 houses. Ten of the houses were less than 3,000 square feet in size. These homes were chiefly built from 1935 to 1975. Most of the dwellings constructed in the mid 1990's to present have been larger homes with a 6,514 sq. ft dwelling constructed with NSA approval in 2001. Fifty percent of the homes are two – story construction. The following table supports a finding that the proposed dwelling is a similar size and height to development in the area (Exhibit B.7).

Table 1: Single Family Dwelling Size									
Map I.D.	Map, Tax Lot	Year Built	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	Base-ment	Att. Garage	Misc. Imp.*	Total Sq. Footage	One/Two Story
	Proposed Dwelling	N/A	1,699	1,942	0	1,107	970	5,718	2
A	1N4E28C-00100	1949	1489	0	0	0	460	1,949	1
B	1N4E28C-00900	1969	2,020	0	0	742	0	2,762	1
C	1N4E28C-00400	1953	1,830	1,000	700	400	144	4,070	2
D	1N4E28C-00600	1935	857	0	200	0	0	1,057	1
E	1N4E28C-00700	1926	1,648	432	576	0	1305	3,961	2
F	1N4E28D-01000	1931 1st	1,796	1,075	930	0	0	3,801	2
G	1N4E28D-01000	1944 2nd	644	0	0	0	0	644	1
H	1N4E28D-00800	1935 1st	728	0	400	0	0	1,128	1
I	1N4E28D-00800	1975 2nd	1,685	0	0	0	0	1,685	1

J	1N4E27-01200	1987	1,590	1,438	627	768	300	4,723	2
K	1N4E27-00400	1943 1st	924	300	520	0	0	1,744	2
L	1N4E27-00400	2001 2nd	4,956	0	455	618	485	6,514	1
M	1N4E28C-00300	1904	1,384	1,000	700	0	288	3,372	2
N	1N4E28C-00500	1993	1,100	0	0	0	0	1,100	1
O	1N4E33BA-00100	1955	537	0	391	0	0	928	1
		1986	780	416	0	0	388	1,584	2
P	1N4E34B-00300	2000	1,456	734	792	408	763	4,153	2
Q	1N4E34B-00200	1995	1,758	1,325	924	0	140	4,147	2
R	1N4E27-00700	1997	3,103	1,868	0	0	880	5,871	2
S	1N4E33BA-00200	1979	1,716	0	0	1,716	0	3,432	1
Average Size of Existing Dwelling								2931.25	1 Sty: 10
									2 Sty: 10

\*Typically Decks, Covered Decks or Covered Porches

An aerial photo has been modified to show the location of the above dwellings in relation to the subject site (Exhibit B.8). Based upon the above information and the applicant's information in the record (Exhibit A.12) it appears that the proposed development will be generally consistent with the height and size of existing nearby development. *This criterion has been met.*

**Hearings Officer:** The table relied on by the County, above, omits three properties that are within the area studied. These properties are:

Map I.D.	Map, Tax Lot	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	Base-ment	Att. Garage	Carport	Covered Porch	Total Sq. Footage	One/Two Story
21	1N4E28C-00800	1,152	400	0	0	510		2,062	2
35	1N4E28D-00300	1,780	0	0	836	0	590	3,206	1
40	1N4E34B-00300	1,456							1

The appellant claims the area study conducted by County staff does not reflect "nearby development" as they considered dwellings approximately 1.1 miles from the dwelling while excluding dwellings located within .25 miles of the subject property. The term "nearby" is not defined leaving the County to make a purely subjective determination about what is "nearby." The dictionary definition of the word "nearby", according to Webster's New Universal



Unabridged Dictionary, is “close at hand; not far off; adjacent; neighboring.” This definition makes it clear that this approval criterion requires the County to look at development that is close, in terms of distance, to the proposed development. The exclusion of lots within .25 miles of the property and the inclusion of lots almost one mile away in selecting a study area, therefore, was a mistake.

County staff argues that the study area should be revised to exclude lots located outside of the Pastoral landscape setting. The “generally consistent” standard is derived from the part of the Gorge Management Plan that is entitled “Overall Scenic Resources.” The above-listed “generally consistent” code requirement is also listed as GMA Overall Scenic Resources Guideline 2. That guideline implements the Overall Scenic Resources Policy 3. It requires that “[n]ew development shall be compatible with its designated landscape setting (as described in the “Landscape Settings” section of this chapter). The Landscape Setting section GMA Policy 1 states that “[n]ew developments shall be compatible *with their landscape setting* and maintain the integrity of that setting. In the applicable Pastoral landscape setting developments must “be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity.” It appears these guidelines implement the policies that require compatibility with the landscape setting. What is not clear, however, is whether the Design Guidelines and GMA Guidelines are also intended to implement the GMA Overall Scenic Goal to “protect and enhance the scenic resources of the Scenic Area.”

In both cases (the Overall Scenic Provisions and Landscape Setting Provisions), the general policies require consistency and compatibility *with the landscape setting* but the specific guidelines that address consistency and compatibility apply to “existing nearby development” and “the vicinity” without limitation to the landscape setting. This decision errs on the side of caution and looks at all nearby development with the understanding that the point of the exercise is to approve a development that is consistent with the Pastoral Landscape setting. This is particularly appropriate here for the lots that are Rural Residential in Pastoral. In that zone, the Pastoral and Rural guidelines both apply except where it is impracticable to comply with Pastoral guidelines. In this area, the Pastoral guidelines control over the Rural Residential in the event of conflict.

### **Nearby Area – Step 1 Analysis**

The appellant submitted a partial analysis of the size of development on lots within .25 miles of the subject property. The Hearings Officer has reviewed the map of properties and concurs with the appellant that this area sets the outer limits of the area that can be considered to be “nearby.” The hearings officer will address the issue of what properties are nearby in two parts. First, it is clear that lots that are adjacent to the subject property are “nearby” and, therefore, must be included in the study area. The adjoining lots are Lots 23, 24, 25, 26, 27 and a large undeveloped lot on steep slopes to the north of the subject property. The record shows that the large northern lot, Lot 25 and Lot 27 are undeveloped so do not contribute to resolving the question presented by this approval criterion. This leaves Lots 23, 24 and 26 for review.

The appellant’s and County’s analysis of area development fails to discuss all development on a lot – just the size of dwellings and attached garages. This is the same approach to the question taken by County staff. The hearings officer believes that this approach is too narrow. The approval criterion refers to “development” without limiting development to like-kind development.

The applicant argues that the totality of development on other properties, not just the size of an

individual structure should be considered in determining compliance with this criterion. The appellant challenged this reading arguing that the Plan favors detached garages and the division of space into accessory buildings. The appellant's argument is at least partially inconsistent with the Design Guidelines for the Pastoral setting. The guidelines direct developers to cluster accessory structures, outbuildings and access ways. It is also not consistent with the use of the word "development" in the approval criteria. If the Plan intended a building to building comparison, it surely would have required that structures or buildings be consistent with other buildings and structures on other properties. Instead, it referred to the development on the property. All structures on a lot are a part of the "development" of the lot. This factor is relevant as there are a number of accessory buildings in the study area. This decision addresses all development as that is what is required by this approval criterion.

The Hearings Officer agrees with the appellant that decks, covered porches and other such features have less mass. The Hearings Officer also believes that attic space and basement space has a lower visual impact. These spaces may be smaller than typical living space. Without extremely detailed information for each house in the study area, this is difficult to fully assess. While the total square footage of developed area is calculated and considered, the Hearings Officer has considered the actual and, in some cases, likely nature of the space included in the calculations. Where information has not been provided, the Hearings Officer has assumed that these areas are smaller than the square footage alone indicates.

### ***Lot 26 (F&G)***

Applicant David Annus provided detailed evidence to show the state of development of Lot 26. This lot adjoins the east side of the subject property and Chamberlain Road. It is located in the Pastoral landscape setting. It contains development of the type that might logically be expected in a pastoral setting. It contains pasture, accessory farm buildings and two residences.

The property is developed with a large, tall, two-story barn. This barn is, like the residences on the property, a part of the "nearby development." The maximum length and width of the barn complex is about the same as the length and width of the Annus residence (104 feet by 58 feet wide for barn; 99 feet by 60 feet wide for proposed Annus residence). The barn, at about 40 feet in height, is significantly taller than the less than 30' building height proposed by for the Annus residence. The barn occupies all of the area enclosed by these dimensions while the Annus building occupies only a part of the described area.

The barn is made up of three areas. The first floor of the main barn is 2646 square feet. The covered feed area is 1044 square feet and the milk house is 345 square feet. This is a total first floor area of 3991 square feet. The covered feed area is similar to the proposed outdoor porch area of the Annus property in terms of its mass – it contains a roof and roof supports and lacks walls. At 1044 square feet it is slightly larger than the proposed porch (970 square feet). The applicant claims the second story is 2646 square feet. He arrived at this number by doubling the size of the first floor – something he claims the appellant did when analyzing other homes in the area. The record shows the applicant doubled the floor area of the garage to calculate the size of the attic space on the Annus house but this fact does not persuade the Hearings Officer to apply such a fictitious calculation to all structures in the study area or to the barn. The second floor of the barn appears to be only about 1/3 as wide as the first floor. This means that the second floor is about 882 square feet. This brings the size of the barn, with attached structures to 4873 square feet in size.

The record shows that there are two residences on Lot 26. The one closest to the subject property is a 2-story house that includes a detached one-story garage located close to the house. The Assessor's data for this property shows that there are actually two detached garages that serve the larger home. These combine to total 1035 square feet. The Assessor's data shows that the home is 2871 square feet in size on the first and second floors. The first floor level is 1796 square feet and the second floor is 1075 square feet in size. The house also includes a 930 square feet basement. This means that the development clustered near and serving the newer house on this lot is 4836 square feet in size. The lot also includes a second home. This home is 644 square feet on the main level and includes a 360 square foot detached garage for a total of 1004 square feet of development. Together, residential development on this lot totals 5840 square feet. Total development of the lot is 10,713 square feet.

#### ***Lot 23 (A)***

This property is located immediately to the west of the subject property in the Pastoral landscape setting. It is Tax Lot 100 on Assessor's Map 1N4E28C. The appellant's chart of parcels within ¼ mile of the Annus property claims that the house on this lot is 1489 square feet in size and also includes a 460 square foot carport. The carport has less height and volume than the Annus garage. Assessor's records show that the house was built in 1949.

The appellant included a photograph of this home in the record. That photograph shows that there is a window on the second story of the house, indicating that this space is an attic or living space and that the home is probably larger than shown by the Assessor's records.

#### ***Lot 24 (N)***

The northeast corner of Lot 24 adjoins the southwest corner of the subject property. This property is located in the Rural Residential in Pastoral landscape setting. Lot 24 is Tax Lot 500, Assessor's Map 1N4E28C. The Assessor's records show that this property is developed with a 1100-square foot double-wide manufactured home.

### **Outlying Part of Nearby Area – Step 2 of Analysis**

As a second step in establishing the relevant study area, the Hearings Officer must consider whether other lots are "nearby." To determine which lots to include, the Hearings Officer has considered which close by lots form a logical neighborhood. The Hearings Officer finds that lots starting at the beginning of the 90 degree curve in Chamberlain Road (Lots 15 and 20 through Lots 30 and 33) form the neighboring area. The Hearings Officer reached this conclusion for the same reason as County staff – a steep hillside along Chamberlain Road separates lots to the south from the neighborhood of the Annus property.

The lots added by the second step of the analysis are Lots 15, 16, 17, 18, 19, 20, 22, 28, 29, 30 and 33. Of these lots, Lots 15, 22, 28, 29 and 30 do not contain dwellings and do not appear to be developed with structures. This leaves Lots 16, 17, 18, 19, 20 and 33 as the outlying neighborhood. The following is the condition of development on these lots:

#### ***Lot 16 (B)***

This lot is Tax Lot 900, Assessor's Map 1N4E28C. It contains a 2020 square foot single-level, single-family residence that was built in 1969. It also includes a 742 square foot garage. The total

development on this lot is 2762 square feet. The lot is in the Pastoral landscape setting.

***Lot 17 (C)***

This lot is Tax Lot 400, Assessor's Map 1N4E28C. It contains a single-family house that was built in 1953. The house is 1830 square feet on the main level. It also includes a 1000 square foot unfinished attic on the second floor and a 700 square foot basement. The house also includes a 400 square foot attached garage. The property also includes a 144 square foot covered deck and a 560 square foot farm building. The total development of this lot is 4634 square feet. This lot is located in the Pastoral setting.

***Lot 18 (M)***

This lot contains a single family residence constructed in 1904. The main level is 1384 square feet. The home includes a 1000 square foot finished attic and a 200 square foot finished basement. The home also includes a 500 square foot unfinished basement, a 192 square foot covered patio and a 96 square foot deck. The total development area is 3372 square feet. This lot is located in the Pastoral setting.

***Lot 19 (D)***

This lot contains an 857 square foot single-story residence with an unfinished basement of 200 square feet for a total development size of 1057 square feet. This house was built in 1935. This lot is located in the Rural Residential in Pastoral landscape setting.

***Lot 20 (E)***

This lot contains a single-family home that contains 1648 square feet on the main level, 432 square feet in a finished attic, 576 square feet in a finished basement and 1305 square feet of deck. The property also contains a 2475 square foot farm building constructed in 2000. The total size of development on this lot is 6436 square feet. This lot is located in the Rural Residential in Pastoral landscape setting.

***Lot 33 (H & I)***

This lot is Tax Lot 800, Assessor's Map 1NE28D. The property is developed with two residences. One residence has 728 square feet on the first level and 400 square feet in an unfinished basement. This house was built in 1935. The other residence has a 1685 square foot main floor. It is served by a 720 square foot detached garage. There is also a 192 square foot farm building on the lot. This house was built in 1975. The total size of development on this lot is 3725 square feet. This lot appears to be located in the Rural Residential in Coniferous woodlands landscape setting. In this setting, low structures are encouraged.

**Developed Area of Annus Property (Subject Property)**

To provide a fair comparison, the area of development of the Annus property should be measured in the same way as area for development on other lots was measured. County staff determined that the Annus house will be 5718 square feet in size. The applicant's house plans show that the house is 1699 square feet on the first floor, 1569 on the second floor, 373 square feet in the second floor bonus room, 1107 square feet in the garage and 970 square feet in covered porches.

This totals 5775 square feet. This calculation excludes the attic area located over the garage. This is a partial story, under eave attic.

The Assessor's data includes attics. The appellant claims that the attic brings the home to a total of 6563 square feet. This calculation assumes there is 788 square feet of attic space. This accounts for almost every square foot of area above the three car garage. From the site plan drawings it is evident that the attic space is very low in height and, in many places would amount to little more than crawl space. This fact impacts usable square footage and comes into play when calculating the mass of the building.

The record also shows that the applicants propose to construct a 24' x 34' metal storage shed on the property. This adds 816 square feet to the total development of the lot for a total of 7379 square feet.

The Annus dwelling will be a two-story dwelling. At less than 30 feet in height, it is a fairly typical two-story dwelling and will be over 5 feet below the maximum height set for the zone.

### **“Generally Consistent”**

The meaning of the term “generally consistent” must be deciphered. The term “consistent” means “agreeing or accordant; compatible; not self-contradictory. Synonyms for the word are “congruous, consonant, harmonious and conformable.” The term “generally” means “usually, commonly, ordinarily” and “without reference to or disregarding particular persons, things, situations, etc., that may be an exception.”<sup>1</sup>

The term “generally” requires the Hearings Officer to exclude development from the high and low end of the range of development if the development is exceptional. Extremely large dwellings should be excluded from consideration if they do not present an accurate depiction of the nearby area. The same is also true for an extremely small home if all of the area is developed with large homes.

In this case, the manufactured home development of one lot is atypical and might be excluded from consideration. It has been retained, however, as its exclusion is not needed to justify the size of development requested on the Annus property.

The Hearings Officer considered excluding the Lot 26 barn because it is taller than other structures in the area. The barn is not, however, an unusually tall or large barn. It is the type of development expected in a pastoral setting, the landscape setting of the subject property. As a result, it was not excluded as atypical development.

The Hearings Officer considered excluding the Lot 26 development from consideration as it is more extensive than other development. The reason the development is more extensive, however, is because the property has been developed for farm use, a use intended in the applicable zoning district and in the Pastoral landscape setting. As this is intended development for this zone, it would not be reasonable to exclude it because it occupies a large area of land.

The requirement that development be generally consistent with developments that have a wide range of sizes is inherently ambiguous. It could mean that the new development must be

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<sup>1</sup>Source: *Webster's New Universal Unabridged Dictionary*, 1996.

generally consistent with a development that is the median or average size of area development. It could also look at the entire range and require that the development not fall below or above the range. The Hearings Officer finds that the latter is the more likely interpretation given the fact that the term “generally” also implies an approximate rather than precise fit.

### *Height*

The nearby farm building on Lot 26 is significantly taller than the Annus residence. The residence on Lot 26 is approximately the same height as the proposed dwelling. A number of other houses in the study area have second stories. A building height of less than 30 feet in an area where a maximum height of 35 feet is not unusually tall for a two story dwelling with a pitched roof. On this record, the Hearings Officer finds that County staff correctly concluded that a height of less than 30 feet for a two-story dwelling is “generally consistent” with the height of development in the area.

### *Size*

The size of all of the development on the subject property at 7379 is significantly smaller than the size of development on the adjoining property, Lot 26 (10,713 square feet). Area development ranges from 1057 square feet to 10,713. The size of development varies from small to moderately large. No one size is dominant. Developments occur at almost every thousand square feet increment (1000+, 2000+, 3000+, 4000+, 6000+, 7000+ for the applicant’s property). The applicant’s development is one step up over the next largest development but is only one step larger (measured in 1000 square foot increments) and, therefore, is “generally consistent” with the size of development in the area.

The following facts also support the conclusion that the Annus development is “generally consistent” with the size of nearby development. One, the Annus property includes a very high percentage of space that has low mass – in particular, the 788 square foot attic and the 970 square foot “porch” that is essentially a covered patio area. While the Annus garage appears to be large at first look, it is smaller in size than the combined size of the garages on Lot 26.

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

**Applicant:** The proposed roadway will be accessing a private driveway. (The easement granted by the property owners to the immediate east of the subject parcel.)The private driveway accesses Chamberlain Road. Chamberlain Road is not listed on the Scenic Travel Corridor. The roadway will not be accessing any Scenic Travel Corridors.

**Staff:** The subject property will take access from Chamberlain Road. Chamberlain Road is not listed as a Scenic Travel Corridor (STC) under MCC 38.0005(S)(2). The STC’s listed are as follows portions of Interstate 84, m the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141 and 142 located in the Scenic Area. While the applicant has chosen to consolidate access with the parcel to the east, it is not required by this criterion. *This criterion has been met.*

## 3.04 **(4) Project applicants shall be responsible for the proper maintenance and survival of any required vegetation.**

**Applicant:** There will minimal impact on existing vegetation. See attached pictures to illustrate vegetation on the subject parcel.

**Staff:** The applicant has shown existing and proposed vegetation that will be used to help achieve visual subordination from Key Viewing Areas. A condition of approval has been included requiring maintenance of all required vegetation and replacement of any required vegetation that dies (see condition # 2). *As conditioned, this criterion will be met.*

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

**Applicant:** See site map.

**Staff:** The applicant's submittal has demonstrated compliance with the area's landscape setting of pastoral. See additional findings under the landscape setting criteria listed under MCC 38.7035(C)(1) below. *This criterion has been met.*

- 3.06                    **(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.**

**Applicant:** The proposed structure is a single family dwelling with an attached garage and a separate storage shed. These criteria for a quarry are not applicable.

**Staff:** Staff concurs, except the separate storage shed is no longer proposed at this time. *This criterion is not applicable at this time.*

- 3.07                    **(B) All Review Uses and Conditional Uses Visible from Key Viewing Areas:**

**(1) Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.**

**Applicant:** The proposed house has limited views from the property of the Columbia River and SR14. There maybe limited visibility of the site from the Columbia River and SR14. See attached photographs to illustrate the limited visibility. The potential, limited, visual impact from the proposed house will be dramatically reduced by several factors. There are existing trees on the north and northwest part of the subject parcel which will help to limit visibility from the two Key Viewing Areas. These trees are conifers and will provide screening year around. (Firs are approximately 80 ft tall, cedar trees approximately 40 ft tall.) There are other existing conifers to the east of the proposed house that will help with visual subordination.

The house is sited on the subject parcel with the length east to west. The back of the house will face north. This northern direction will dramatically reduce the amount of direct sunlight reflecting off the windows. In addition, the proposed house will have a covered porch on the north side, further reducing the area of window that will be visible on the lower level. Many of the windows on the upper level, north side of the house, will have gables. The gables will extend out over the window. This will further reduce the area of window visible.

The shape of the house is rectangular with the garage having a northwest angle of 10 degrees.

This will make the house look smaller from the two Key Viewing Areas which may have limited viewing of the subject parcel. This will direct any reflectivity west into existing, well established conifers trees. Any reflectivity that may exist would be brief, at sunset, in the summer time. These important factors combined, work together to reduce the visibility of the house.

The height of the proposed house does not break the skyline or ridge line. The attached photograph illustrates the sloped timberland to the south, southeast of the subject parcel. The dark outside color of the house will make the house appear smaller and will create a sense of blending into the surrounding, existing trees, achieving visual subordination to the surrounding area.

Outside lighting along the north side of the house will be opaque, non-reflective and hooded to direct light downward. The covered porch will have recessed lighting and mounted lights on the pillars. See lighting samples to be used.

The roofing material of the proposed house will be a composite material, nonreflective, and will be a charcoal dark brown or black in color, helping the house to blend into its surrounding environment, becoming visually subordinate. The outside material of the house will be L.P. Hardi-Plank. The outside paint will be a flat finish in a dark earth tone color. (see sample house colors). The dark roof color and dark earth tone of the outside of the house will work together with the site, size, and height (see site plan for size and height of proposed house) to become visually subordinate to the two Key Viewing Areas that the house may be partially visible from.

The little amount of reflectivity from the north facing, lower level windows will be dramatically reduced by an eight foot covered porch that extends the length of the house.

**Staff:** The applicant has submitted in a site plan, color samples, site plan, reflectivity ratings for windows, outdoor lighting information, landscaping plan and other information such as photographs to support the finding that the dwelling is visually subordinate to Key Viewing Areas (Exhibits A.4, A.8, A.11, A.16, A.22, A.27, A.28, A.29, A.30, A.31, A.32, A.33 & A.35 ). *This criterion has been met.*

**Additional Staff Response:** The site plan is drawn to scale so internal dimensions are not really necessary. If enforcement is necessary, you would use a scale to determine the exact location of the dwelling and vegetation. This decision is more than the information contained in the findings; it also includes the exhibits submitted by the applicant. Staff's finding under MCC 38.7035(B)(1) specifies that Exhibits A.4, A.8, A.11, A.16, A.22, A.27, A.28, A.29, A.30, A.31, A.32, A.33 & A.35. These exhibits plus Exhibit B.9 (Profile Map and Profiles to KVA's) demonstrate that the dwelling will be visually subordinate to the KVA's.

**The Tree Issue:** The locations of the trees to be planted are based upon the applicant's exhibits which are part of the record (Exhibits A.28 & A.35). Condition No. 3 is a maintenance condition. The condition is specifying that all vegetation north of the dwelling is required vegetation. If a tree, shrub or other planting dies, the replacement tree would go in the same location as the dead tree. If they wanted to move a tree, then we would need to make a new land use decision as we would have to evaluate whether the dwelling would still be visually subordinate with that placement. As for what size tree is best for replacement, staff felt that a six foot tree would be better able to handle the transplanting shock and more rapidly grow and thrive than a 30 ft fir. The root ball on a 6 ft tree can be managed by hand if necessary. The area where the vegetation is to the north has significant grades and getting large machinery onto this slope would be



dangerous and would probably damage more vegetation than it would be worth. Staff was unable to find in the code or management plan that in a replacement situation, you have to immediately replant with the same size trees and that no time would be given for visual subordination to be re-achieved.

**Hearings Officer:** The applicant submitted evidence at the hearing to show that the proposed dwelling, if visible, will be extremely difficult to see and pick out from the landscape. Given the colors selected by the applicant and the considerable distances involved, the Hearings Officer agrees that the house will be visually subordinate to its setting when viewed from the Key Viewing Areas, if discernable. The hearings officer also believes that the staff's decision to require 6' tall replacement trees is consistent with the policies of the Management Plan that seek to protect natural landforms such as the bank that contains the trees that provide screening and is a reasonable approach to replacement of existing trees if they are lost due to fire or other catastrophe. Otherwise, the trees must be retained and maintained by the applicant in order to keep this permit in good standing.

3.08

**(2) The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: 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). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.**

**Applicant:** The potential visual impact the proposed house and storage shed might have on the two Key Viewing Areas from which the property might be visible is limited.

The subject parcel is approximately two miles from SR14 and is visible for approximately one mile along SR14. (see attached photographs showing limited visibility from SR14). The subject parcel is approximately 400 feet above the Columbia River. It is visible from the river at a distance of approximately two miles. The subject parcel is not visible from any of the other 14 Key Viewing Areas. See attached site plan for vegetation screening to further reduce visual impact and to help achieve visual subordination.

The subject parcel is unique in the fact that the 400 foot accent to the building site is covered in vegetation. The house will be a similar, dark, earth tone which will blend into both the sloped, northern area of the property and the sloped property to the south (behind the proposed building site). The upward slope of the property to the south will prevent a break in the skyline. This combined with the dark color and the great distance from the two KVA will make the house look like a shadow to the naked eye, limiting the visual impact the subject parcel might have.

The subject parcel will have no visual impact to the west. Existing trees on the west and northwest area of the subject parcel, a tree covered hill to the west and location of the subject parcel within the Columbia River Gorge (less than 2 miles from the start of the Columbia River Gorge) are factors that will eliminate any visual impact from the west. The proposed house will not be visible from T-84 due to the severe angle from the highway and the setback from the edge.

The subject parcel has limited visual impact to the east from SR14 and the Columbia River for several reasons. As you head east the visual impact lessens due to the greater linear distance from the two KVA. The angle of the garage will create a visual barrier for the main part of the house. Existing cedar arborvitae, to the east of the proposed location of the house will screen and limit any visual impact.

**Staff:** Staff concurs. As supported by the findings below, conditions of approval have been included to ensure that the proposed dwelling is visually subordinate to the Columbia River and SR-14. *As conditioned, this criterion has been met.*

3.09

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

**Applicant:** The neighboring single family dwellings are limited along Chamberlain Road. The land surrounding the proposed house is residential with some agricultural, grazing and hay. The zoning for the area (GGA-20 or GGA-40) will ensure that cumulative effects of proposed development will be minimal.

**Staff:** As seen in the photograph from SR-14, the most of the properties surrounding the site are visually subordinate. With this dwelling achieving visual subordination through the use of terrain, vegetation, colors and materials, no additional impact should occur from the KVAs. *This criterion has been met.*

**Hearings Officer:** The Hearings Officer and County have considered the cumulative visual effects of the proposed development. The cumulative effect of proposed developments was also considered in determining compliance with visual subordination policies. This development is well-screened or, at worst, barely visible from KVAs.

Opponents argue that this cumulative effects test should be applied to the determination of whether a building is generally consistent with the size and height of nearby development and whether it is compatible with development in the vicinity. The Hearings Officer disagrees. The consistency and compatibility tests are designed to assess the potential visual effects of the development or its compliance with visual subordination policies. They are based on size or mass without regard to the appearance of the structure. The appellant takes a similar position when she argues that the appearance of the Annus house is not relevant in determining compliance with the consistency and compatibility tests that are keyed to the mass and height of structures. The hearings officer agrees with that position that appearance is not the issue for those two criteria. As a result, a cumulative impacts test is not required.

The appellant also argues that the decision will set a precedent for the size of dwellings in the area. As a legal matter, the County's decision does not act as a precedent for other County decisions. As the development is significantly smaller in size, scale and height on an adjoining property the adjoining property not the subject property will be the development that influences the maximum size of dwellings when new development is proposed – not the development approved by this application.

3.10

**(4) For all buildings, roads or mining and associated activities proposed on lands**

**visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in MCC 38.0045 (A) (2) and 38.7035 (A) (5) for mining and associated activities:**

**(a) For buildings, 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); and**

**Applicant:** The project applicant proposes a single family dwelling with an attached garage and a separate storage shed. The proposed house will not exceed the 35 maximum height. The proposed house color will be a dark earth tone. (See sample house colors.) The proposed siding is L. P. Hardi Plank. The porch along the north side of the house will help the house stay visually subordinate. All exterior lighting on the north side of the house (see lighting samples to be used) will be opaque, non-reflective material and hooded so that light is directed downward. The porch will have recessed lighting along with hooded, opaque lighting fixtures on the pillars. The landscaping around the house will consist of existing vegetation/topography that will help to blend the house into the surrounding environment.

The proposed storage shed will be approximately 25x35x15. The proposed material for the storage shed is metal. The shed will be one level and will not exceed 18 ft in height. Due to the placement of the shed, it's proposed height and the distance to the severely sloped property to the north, there should be minimal visual impact on the two KVA, SR14 and The Columbia River.

**Amended Narrative:** Screening will be provided by existing vegetation and the planting of two groupings of 6 ft tall Douglas Fir as indicated on the revised site plan. Each grouping will consist of three trees. The trees within each group will be planted in close proximity to each other to create density. The two groupings of Douglas-fir are placed to provide screening from both the Columbia River and SR-14 (See site map for proposed location.) Included in this application are photos showing the panoramic screening from proposed dwelling. Pictures are at 16 ft above the grade level. Note that willow, alder, and a grouping of four Douglas-firs on the sloped portion of the property are all above the line of sight for the Columbia River.

**Staff:** The storage shed has been dropped by the applicant from this NSA application. The applicant has provided detailed information regarding the exterior of the structure (Exhibits A.27, A.29, A.30, A.33 and A.34.) The house will be sided with L.P. HardiPlank siding. The roofing materials will be composition shingles and will be black in color (Exhibit A.27 & A.34). The body of the house will be painted Aegean Olive (a dark olive color) and the trim and windows will be Devonshire Green (medium olive color) (Exhibit A.34). Landscaping is shown on the Amended Site Plan (Exhibit A.28) and Revised Site Plan (Exhibit A.35). The property has existing screening vegetation on about 75% site with additional Douglas Fir and Cedar will be added adjacent to existing willows for winter screening. No information has been supplied regarding the provisions for watering the landscaping. A condition can be placed requiring their maintenance and replacement if lost or destroyed. *This criterion has been met.*

3.11

**(b) Elevation drawings showing the appearance of proposed building(s) when built and surrounding final ground grades, for all buildings over 400 square feet in area.**

**Applicant:** See attached site plan that shows the elevation and surrounding final ground grades of the proposed house and storage shed. Also included: front and rear renderings of proposed house.

**Staff:** The applicant has submitted revised & scaled elevations for the dwelling (Exhibit A.29 & A.33). *This criterion has been met.*

- 3.12           **(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) (5) and subsection (4) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.**

**Applicant:** The applicant proposes a house with an attached garage and separate storage shed. The above mining and associated activities criteria are not applicable.

**Staff:** No mining is proposed as part of this application (Exhibit A.1). *This criterion is not applicable at this time.*

- 3.13           **(6) New buildings or roads 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.**

**Applicant:** The proposed house and storage shed are located in the best possible location on the subject parcel. The location was chosen for several reasons. Minimize grading, maximize pasture, and avoiding a seasonally wet area. The placement of the house takes advantage of the relatively flat portion of the subject parcel, thus creating the least amount of grading and movement of earth. The location of the proposed driveway was placed to the east of the subject parcel to minimize visibility from KVA and grading, taking advantage of an existing private driveway through an easement granted from the landowners to the immediate east of subject parcel. This location will minimize disturbance of existing vegetation and exposure to the two Key Viewing Areas (SR-14 and the Columbia River).

The south area of the subject parcel is sloped. Placement of the house in this sloped area on the property will disturb more natural vegetation, requiring maximum grading and disturbance to the natural topography. In addition to the sloped area, the parcel has (approximate)a 10 ft dip in the 2.75 south section of the parcel. The soil in this area has a seasonal, shallow, pond and a seasonally wet area that is the result of drain fields from properties to the east of the subject parcel. This water drains to the seasonal pond on the west side of the property. The soil type is Quantama loam. Quantama loam is not associated with wetlands in Multnomah County. The property has not been identified as a wetland, however house placement is over 150 feet from the house to the pond.

**Staff:** No wetlands (Exhibit A.25), riparian corridors, sensitive plants or wildlife or cultural resources (Exhibit B.6) exist on the subject site. The subject property has varying terrain. From the north property line for approximately 75 feet, the property is steep. The parcel then flattens into a bench for approximately 250 feet wide then gently slopes downwards at 3% into a valley

and then gently back up to Chamberlain Road. The valley is very wet during the winter months and would require that the homesite be raised or foundation drains and ground water interceptors to allow for the construction of a dry foundation. This valley does not have a defined stream channel, nor does it qualify as wetlands (Exhibit A.25) pursuant to the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*. Due to the valleys wetness and a desire to use it for farm use, the applicant is proposing to place the house 75 feet from the bluff edge (150 ft from the northern property line) on the bench area. Based upon the cross-section (Exhibit A.32) provided by the applicant only the black asphalt shingle roof would be visible over the existing deciduous and evergreen trees between the dwelling and the Columbia River. The applicant is proposing to add 2 clusters of three Douglas Fir trees and 2 individual Douglas Fir trees at the bluff's edge to further screen the dwelling from the Columbia River and SR-14.

The applicant has not indicated a planting size for these trees. Pursuant to MCC 38.7035(B)(26), visual subordination must be achieved within 2 years of the developments approval. Based upon the applicant's cross-section (Exhibit A.32), the vegetation screening line at the top of the bluff would be achieved at 21 ft in height. The dwelling does not need to be completely screened but it must not noticeably contrast with the surrounding landscape as viewed from the KVA. The applicant's choice of dark earth colors (Exhibit A.34) and a black roof (Exhibit A.27) will blend the dwelling into the existing vegetation north of the dwelling and as the newly planted evergreen trees mature. As such, a condition has been included specifying that the Douglas Firs to be planted shall be a minimum 8 to 10 ft high and shall be fertilized and watered regularly in the first 2 years to maximize growth. Based upon the proposed location, terrain, design and materials of the house, existing and proposed landscaping, the visibility of the proposed house has been minimized. *This criterion has been met.*

- 3.14           **(7) In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be prioritized over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.**

**Applicant:** The proposed house may be partially visible from the two Key Viewing Areas, SR 14 and the Columbia River, but will not be visually dominant in relation to the surroundings. Placement of the house on the northeast portion of the property will partially be screened from view by existing conifer trees to the north, northwest and east. Due to existing vegetation that will screen the house, there are no additional plantings of vegetation at this time. In addition to using existing vegetation, the dark earth tones of the house will help the house appear smaller, helping it to blend into the surrounding environment. The existing vegetation and dark color will help to screen it from the two Key Viewing Areas, SR14 and the Columbia River.

**Amended Narrative:** Screening will be provided by existing vegetation and the planting of two groupings of 6 ft tall Douglas Fir as indicated on the revised site plan. Each grouping will consist of three trees. The trees within each group will be planted in close proximity to each other to create density. The two groupings of Douglas-fir are placed to provide screening from both the Columbia River and SR-14 (See site map for proposed location.) Included in this application are photos showing the panoramic screening from proposed dwelling. Pictures are at 16 ft above the grade level. Note that willow, alder, and a grouping of four Douglas-firs on the sloped portion of the property are all above the line of sight for the Columbia River.

**Staff:** The subject property has varying terrain. From the north property line for approximately

75 feet, the property falls away in the direction of the Gorge. The parcel then flattens into a bench for approximately 250 feet wide then gently slopes downwards at 3% into a valley and then gently back up to Chamberlain Road. The valley is very wet during the winter months and would require that the homesite be raised or foundation drains and ground water interceptors to allow for the construction of a dry foundation. This valley does not have a defined stream channel, nor does it qualify as wetlands (Exhibit A.25) pursuant to the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*. Due to the valleys wetness and a desire to use it for farm use, the applicant is proposing to place the house 75 feet from the bluff edge (150 ft from the northern property line) on the bench area. Based upon the cross-section (Exhibit A.32) provided by the applicant only the black asphalt shingle roof would be visible over the existing deciduous and evergreen trees between the dwelling and the Columbia River. The applicant is proposing to add 2 clusters of three Douglas Fir trees and 2 individual Douglas Fir trees at the bluff's edge to further screen the dwelling from the Columbia River and SR-14. The applicant has first used the terrain, existing vegetation and location to bring the proposed dwelling close to achieving visual subordination. The proposed Fir and/or Cedar plantings bring the proposed dwelling into compliance with visual subordination by reducing the visibility from the visible KVAs. *This criterion has been met.*

3.15                    **(8) Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.**

**Applicant:** The proposed house, storage shed and driveway will occupy one of the fairly level portions of the subject site. There will be a minimal grade required to create a ten foot wide driveway from the existing private driveway to the east. The foundation of the house will require a minimum dig to undisturbed soil. The proposed grading will not be viewable from the KVA and will have no visual impact.

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

3.16                    **(9) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.**

**Applicant:** Window reflectivity to the KVA will be minimal due to the backside of the house facing north. The north side of the house will have little or no direct sun.

The windows are a Milgard vinyl with reflectivity rating of 11%. The windows on the lower level will be screened from the two Key Viewing Areas by an eight foot covered porch that extends the length of the north side of the house. The garage is angled 10 degrees northwest. Any reflectivity from the windows on the garage will be angled into the trees on the northwest side of the property. All of the windows on the second level have either gables, or an extended roofline that will help to eliminate window reflectivity. In addition to the covered porch, gables, and extended roofline the northern facing windows have little or no direct sunlight, reducing the amount of possible reflectivity.

The roofing of the proposed house will be of a composite material with little or no known reflectivity. It will be a dark brown, charcoal or black in color. The outdoor paint will be a flat exterior paint from Benj. Moore in a dark earth tone. The flat exterior paint has the least amount

of reflectivity. The dark color will make the house appear smaller and blend into the surrounding environment.

**Staff:** The applicant has submitted window reflectivity ratings for the proposed windows facing the KVAs (Exhibit A.22). The roof material to be utilized will be black composition shingles (Exhibit A.27). The body of the house will be painted with a flat paint in the color of Aegean Olive (a dark olive color) and the trim and windows will be Devonshire Green (medium olive color) (Exhibit A.34). *This criterion has been met.*

- 3.17                    **(10) 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.**

**Applicant:** The exterior lighting of the proposed house will be used to provide lighting for the covered porch on the north side, the front of the garage, and the front porch. All exterior lighting on the north side will be hooded and directed downward. The covered porch will have recessed lighting and the pillars will have fixtures that meet the above requirements. Outdoor lighting on the east and west sides of the house will be at a minimum and will also meet the above requirements. Included in this application are sample lighting fixtures that will meet the criteria for outdoor lighting. Placement of outdoor lighting will be indicated on the front and rear rendering of the house.

**Staff:** The applicant has submitted in an Exterior Lighting Location plan (Exhibit A.31) and Outdoor Lighting Information (A.4). Lighting Fixture 9044OB (Olde Brick) meets the criteria for being hooded and shielded. Light Fixtures 6051AZ (Architectural Bronze) and 6052(AZ) (Architectural Bronze) will meet the above criteria provided that the lens is directed downwards and not out. Lighting Fixture 9022TG (Tuscan Gold) is a questionable fixture as a portion of the glass lens is viewable and would allow light to shine outwards. A condition of approval has been included requiring all light fixtures on the north and east side of the buildings to be either Recessed Lighting or Light Fixtures 9044OB, 6051AZ or 6052AZ. *As conditioned, this criterion has been met.*

- 3.18                    **(11) 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 colors specified in the landscape setting for the subject property.**

**Applicant:** The above criteria are not applicable to applicant. The proposed house and storage shed are new structures.

**Staff:** The storage shed is no longer proposed at this time. Staff concurs that this criterion is not applicable at this time.

- 3.19                    **(12) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination 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.**

**Applicant:** The proposed house and storage shed are new structures. The above criteria are not applicable.

**Staff:** No historically significant structures exist on the subject site (Exhibit B.4 & B.6). *This criterion is not applicable.*

- 3.20           **(13) 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.**

**Applicant:** The proposed house and storage shed will not break the skyline. The property to the south of Chamberlain Road has is steeply sloped upward. The proposed house and storage shed will remain below the ridge line as seen from the KVA.

**Staff:** The terrain along this area of the Columbia River Gorge in Multnomah County is a stepped/benched terrain rising up above Chamberlain to the main bluff and falling down towards the Historic Columbia River Highway. While the house is located approximately 75 feet from the first bluff the terrain after it reaches Chamberlain Road again rises quickly up to another plateau creating a vegetated buffer behind the structure instead of the skyline. The building is below the overall top of the ridge to the south of Chamberlain Road. *This criterion has been met.*

- 3.21           **(14) 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:**
- (a) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and**
  - (b) There is no practicable alternative means of altering the building without increasing the protrusion.**

**Applicant:** The proposed house and storage shed are new structures. The above criteria are not applicable.

**Staff:** No buildings exist on the subject site. *This criterion is not applicable.*

- 3.22           **(15) 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.**



**Applicant:** The proposed location of the utilities (water, phone, electricity, and cable) will be located underground in a 3 1/2 foot trench to be backfilled after utilities are installed.

**Staff:** The applicant states that the utilities for the dwelling will be installed underground. *This criterion has been met.*

3.23                    **(16) – (18) Refer to New communication facilities and Highway Facilities**

**Applicant:** The above criteria are not applicable.

**Staff:** Staff concurs. *This criterion is not applicable at this time.*

3.24                    **(19) 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.**

**Applicant:** The subject parcel is approximately 400 feet above the Columbia River. This puts the subject parcel well above the ordinary high water mark of the Columbia River. The distance between the subject parcel and the Columbia River is well beyond the 100 foot mark established under the above criteria.

**Staff:** The horizontal distance between the north property line and the edge of the 100 year flood plain of the Columbia River is approximately 580 feet as the crow flies. There is an approximate 290 ft change in elevation between the river and the northern property line. *This criterion has been met.*

3.25                    **(20) 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.**

**Applicant:** The site of the proposed building area is relatively flat. There is no slope on the proposed building area.

**Staff:** The terrain in the area of the dwelling has a slope of less than 3 percent based on contour information supplied under Exhibit A.16. *This criterion has been met.*

3.26                    **(21) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between 10 and 30 percent 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:**

**(a) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:**

1. Existing and proposed final grades;
  2. Location of all areas to be graded, with cut banks and fill slopes delineated; and
  3. Estimated dimensions of graded areas.
- (b) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
1. Its purpose;
  2. An estimate of the total volume of material to be moved;
  3. The height of all cut banks and fill slopes;
  4. Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);
  5. A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of plants, size and location, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and
  6. A description of any other interim or permanent erosion control measures to be utilized.

**Applicant:** The proposed building site is not sloped. The above criteria are not applicable.

**Staff:** The two triggers for the requirement of grading information are the movement of over 100 cubic yards of dirt and having a 10 to 30 percent slope. The location of the improvements will occur in an area with less than a 3 percent slope. *This criterion is not applicable at this time.*

- 3.27            **(22) – (25) Are regarding Quarries. If you are doing a quarry, you will need to address them.**

**Applicant:** (22)-(25) criteria are not applicable.

**Staff:** Staff concurs. *This criterion is not applicable at this time.*

- 3.28            **(26) Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), except mining and associated activities, shall occur within a period not to exceed 2 years after the date of development approval.**

**Applicant:** The applicant is not proposing additional landscaping. The subject parcel has existing vegetation that helps the proposed structures to achieve visual subordination.

**Staff:** Timelines have been established for the conditions involved in assisting the property achieve visual subordination. *Through the conditions of approval, this criterion will be met.*

- 3.29            **(C) All Review Uses and Conditional Uses within the following landscape settings:**

**(1) Pastoral**

- (a) New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. Expansion of existing development shall meet this standard to the maximum extent practicable.**

**Applicant:** The subject parcel is rural residential in a pastoral setting. The development in the vicinity is single family dwellings with a range of one level to two plus levels with separate storage sheds and/or barns included. The proposed structures are compatible with existing development in height and square footage. Included in this application are photographs of development in the vicinity.

**Staff:** The landscape setting for the subject site is *Pastoral*. The *Rural Residential* Landscape setting does not apply. As part of the finding for MCC 38.7035(A)(2) above, staff reviewed the general scale of the dwellings in the area. The proposed dwelling is compatible with the existing development in the area. Please see additional information under MCC 38.7035(A)(2) above. *This criterion has been met.*

**Hearings Officer:** This is a Landscape Setting requirement. It requires that all development in be compatible with the general scale of development “in the vicinity.” The general scale of development includes a consideration of the height, dimensions and overall mass of development. Again, this review criterion is keyed to all development on a lot, not to one particular type of development only.

The term “compatible” means to be “capable of existing or living together in harmony.”<sup>2</sup> Compatibility with the “general scale” of development is required. Again, this requires exclusion of the extraordinary. As discussed earlier, none of the development in the “nearby” area was extraordinary and all development was considered.

This criterion focuses on the “vicinity.” The dictionary says that this term means “the area or region near or about a place; surrounding district; neighborhood.” The hearings officer believes that the term “vicinity” is synonymous with the term “nearby development.”

The significant differences between this code requirement and MCC 38.7035(A)(2) are two-fold: (1) this section specifically requires the applicant to address the mass of development in the vicinity; and (2) the section requires that the scale be harmonious with existing development. The latter requirement does not require that the scale be the same. It allows development to be larger provided it is not so large as to be out of harmony with other development. Otherwise, the finding prepared for MCC 38.7035(A)(2) also serve to address the requirements of this code section.

In this case, it is not possible to precisely determine the mass of all area buildings. The total size of the Annus building includes 788 square feet of partial height attic and a covered patio/porch that is a slab of concrete with pillars. Such features are present on other area properties. To allow a fair assessment of approximate bulk the features were categorized as bulky, of low bulky and bulky but not visible (basements). The amount of area dedicated to lower density development is noteworthy in determining mass. Porches, attics and decks on other area properties were also considered as lower intensity uses. The following is a comparison of the development on the various lots, starting with the subject property, categorized by approximate bulk.<sup>3</sup>

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<sup>2</sup> Source: *Webster's New Universal Unabridged Dictionary*, 1996.

<sup>3</sup> A separate category was established for basements as their bulk cannot be readily determined. Also, they are not typically visible. Visibility is not, however, relevant to determining overall mass of a building as an object has mass regardless of whether that mass can be seen.

***Lot 23 (Annus)***

Bulky – 4748 s.f. in residence, 816 s.f. in shed – 5564 square feet

1699 first floor  
1569 second floor  
373 bonus room over garage  
1107 garage  
816 storage shed

Not Bulky – 1758 s.f.

970 covered porches  
788 square feet in attic

***Lot 26 (F&G)***

Bulky -8782 s.f.

2646 square feet on main floor of barn (fully enclosed, apparently taller than first floor of residence)  
345 square foot in milk house (single level with roof)  
882 square feet (approximate) on second floor/loft of barn (enclosed, very tall)  
1035 square feet in two detached garages serving main residence (enclosed with under eave area under roof not counted)  
1795 square feet on main floor of larger residence (enclosed)  
1075 square feet second floor of larger residence (enclosed and roof area above part of second floor bulk)  
644 square feet accessory dwelling (enclosed with roof area part of first floor)  
360 square feet detached garage for accessory dwelling

Bulky But Not Readily Visible (Still Contributes to Overall Mass) – 930 s.f.

930 square feet in basement of large house

Low Bulk – 1044 s.f.

1044 square feet covered feed area

The lot also includes a second home. This home is 644 square feet on the main level and includes a 360 square foot detached garage for a total of 1004 square feet of development. Together, residential development on this lot totals 5840 square feet. Total development of the lot is 10,713 square feet.

***Lot 23 (A)***

Bulky – 1489 s.f.

1489 square feet on first floor of house

Low Bulk – 460 s.f.+

460 square foot carport  
Upper level development above first floor of unknown size

***Lot 24 (N)***

Bulky – 1100 s.f.

1100-square foot double-wide manufactured home

***Lot 16 (B)***

Bulky – 2762 s.f.

2020 square foot single-level, single-family residence  
742 square foot garage

***Lot 17 (C)***

Bulky – 2790 s.f.

1830 square feet on the main level  
560 square foot farm building  
400 square foot attached garage

Not Bulky – 1144 s.f.

1000 square foot unfinished attic on the second floor  
144 square foot covered deck

Bulky But Not Visible – 700 s.f.

700 square foot basement

***Lot 18 (M)***

Bulky – 1384 s.f.

1384 square feet on main level of residence

Not Bulky – 1288 s.f.

1000 square foot finished attic  
192 square foot covered patio  
96 square foot deck

Bulky But Not Visible – 700 s.f.

200 square foot finished basement

500 square foot unfinished basement

***Lot 19 (D)***

Bulky – 857 s.f.

857 square foot first story of single-story residence

Bulky But Not Visible – 200 s.f.

200 square feet unfinished basement

***Lot 20 (E)***

Bulky – 4123 s.f.

1648 square feet on the main level

2475 square foot farm building

Not Bulky – 1737 s.f.

432 square feet in a finished attic

1305 square feet of deck

Bulky/Partially Visible – 576 s.f.

576 square feet in a finished basement

***Lot 33 (H & I)***

Bulky – 3325 s.f.

728 square feet on the first level of residence

1685 square foot first floor second residence

720 square foot detached garage

192 square foot farm building

Bulky But Not Visible -400 s.f.

400 square feet in an unfinished basement

This analysis shows that the Annus development is less massive than the development of the adjoining Lot 26. It also shows that the Annus development is only a bit larger in scale than the Lot 20 development. Other development is of a smaller scale but not so small that the scale of development proposed for the Annus property would be inharmonious or incompatible. The Annus development fits within the range of size, height and mass of development in the vicinity. It is, therefore, compatible with the general scale of development in the vicinity.

3.30

**(b) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures**

**and farm fields.**

**Applicant:** The proposed storage shed is located to the northeast corner of the subject parcel to the furthest extent possible. Driveway access to the shed will be immediately south of driveway to house. Proposed location will maximize availability of pasture. See site plan.

**Staff:** The applicant is no longer proposing the detached accessory structure as part of this application. The proposed driveway leads directly to the attached garage and connects with the neighbor's driveway to the east to limit visibility to the KVA and allow more of the existing site to be used for farm practices. *This criterion has been met.*

3.31 **(c) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development:**

**1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.**

**Applicant:** No trees will be removed for the building of the proposed structures.

**Staff:** All existing trees will be retained. There are no trees in the area of the dwelling, septic or driveway locations (Exhibit A.28 & A.35). *This criterion has been met.*

3.32 **2. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.**

**Applicant:** The vegetative landscaping shall remain "as is" to the extent possible. The proposed structures will be in the northeast area of the subject parcel. All other areas of the subject parcel shall remain in pasture/fields and undisturbed.

**Staff:** The applicant will be supplementing the existing vegetation north of the dwelling to assist in visual subordination for the dwelling (Exhibit A.28 & A.35). Behind the dwelling to the south, the area will remain in pasture or other agricultural pursuits. *This criterion has been met.*

3.33 **3. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, bigleaf maple, and black locust (primarily in the eastern Gorge).**

**Applicant:** The applicant is not proposing the planting of any trees for screening purposes at this time.

**Staff:** The applicant will be planting 2 clumps of three trees each and 2 individual trees of either Douglas Fir or Cedar adjacent to the existing vegetation to the north of the home site (Exhibit A.28 & A.35). This area currently is occupied by Douglas Fir, Cedars, Willows and Maples (Exhibit A.11). *This criterion has been met.*

3.34 **4. At least one-quarter of any trees planted for screening shall be coniferous**

**for winter screening.**

**Applicant:** No proposed conifer tree planting at this time.

**Staff:** All trees planted will be coniferous for winter and summer screening purposes (Exhibit A.28 & A.35). *This criterion has been met.*

- 3.35                    **5. Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by MCC 38.7035 (B)(11) and (12).**

**Applicant:** The exterior of the proposed structures will be an earth tone. Included in this application are samples of colors being considered for the exterior.

**Staff:** The roof of the dwelling and attached garage will be black (Exhibit A.27). The body of the house will be painted with a flat paint in the color of Aegean Olive (a dark olive color) and the trim and windows will be Devonshire Green (medium olive color) (Exhibit A.34). *This criterion has been met.*

- 3.36                    **(d) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature, occurring infrequently in the landscape.**

**Applicant:** The applicant does not propose any recreational activity for the subject parcel beyond those typically associated with single family residential sites.

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

- 3.37                    **(D) All Review Uses and Conditional Uses within scenic travel corridors:**

**(1) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Historic Columbia River Highway and I- 84.**

**(2) All new buildings and alterations to existing buildings, except in a GGRC, shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to MCC 38.0065. All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.**

**(3) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a GGRC, shall comply with subsection (2) above to the maximum extent practicable.**

**(4) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:**  
**(a) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;**  
**(b) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present,**



the project shall comply with applicable standards to protect the resources.

(5) When evaluating which locations to consider undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.

(6) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in MCC 38.7035 (B) (24).

(7) Expansion of existing quarries may be allowed pursuant to MCC 38.7035 (B) (21). Compliance with visual subordination requirements shall be achieved within time frames specified in MCC 38.7035 (B) (23).

**Applicant:** The subject parcel is not in the Scenic Travel Corridor. The above criteria are not applicable.

**Staff:**

(D)(1) Interstate – 84 is designated a *Scenic Travel Corridor* (STC). The above criteria are applicable for properties within a quarter mile (1,320 ft) of the STC. The northern property line of the subject parcel is approximately 441 ft (as the crow flies) from the STC. The criteria for the STC are applicable. *This criterion has been met.*

(D)(2) The dwelling is approximately 590 ft from the edge of the STC. *This criterion has been met.*

(D)(3) No existing parking lots or buildings are being expanded as part of this application. The application is for a single family dwelling with attached garage. *This criterion is not applicable.*

(D)(4) No vegetative management plan for the public right of way is proposed. *This criterion is not applicable.*

(D)(5) The subject property is not owned by a railroad or utility company, *This criterion is not applicable.*

(D)(6) No mineral resources are proposed as part of this project. *This criterion is not applicable.*

(D)(7) No quarry exists on the subject site. *This criterion is not applicable.*

### 3.38 MCC 38.7045 GMA Cultural Resource Review Criteria

**(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 (B).**

**Staff:** SHPO indicated the need for a cultural resource survey for the site. Margaret Dryden of the USFS conducted a Cultural Resource Survey of the proposed development area of the site. She found no prehistoric or early historic resources of any type were located on the subject property (Exhibit B.6). No other substantial comments were received regarding cultural resources. *This criterion has been met.*

**3.39 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, or**

**(6) The proposed use is one of the following uses, and:**

**Staff:** No wetlands have been identified for the subject site on the *National Wetlands Inventory* map. The project site is over 500 feet from the main stem of the Columbia River with a 290 ft elevation change between the River and the subject property. The soils on the subject site identified by the Soil Survey of Multnomah County are 20F (Haplumbrepts, very steep), 37A (Quatama loam, 0 to 3 percent slopes) & 37B (Quatama loam, 3 to 8 percent slopes) and are not hydric soils. During a field visit by the USFS for the Section 8(o) process, a possible wetland feature was identified on the subject site. As part of this review, the applicant hired Forest Hydrologist Richard Wheeler to review the site for a wetland (Exhibit A.25). While there were a few scattered Common Rush, most of the plants were meadow grasses and forbs. Mr. Wheeler found that the 3 factors necessary to classify the possible wetland area were not present and that there is no wetland on the site. *This criterion has been met.*

**3.40 MCC38.7060 GMA Stream, Lake and Riparian Area Review Criteria**

**(A) The following uses are allowed in streams, ponds, lakes, and their buffer zones without Site Review, if they:**

**Staff:** No streams, lakes or riparian areas have been identified on the subject site. *This criterion is not applicable at this time.*

**3.41 MCC 38.7065 GMA Wildlife Review Criteria**

**Wildlife Habitat Site Review shall be required for any project within 1,000 feet of sensitive wildlife areas and sensitive wildlife sites (i.e., sites used by sensitive wildlife species).**

**Staff:** No sensitive wildlife areas or site have been found or identified during the Site Review process. *This criterion has been met.*

3.42 **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:** No sensitive plant sites have been found or identified during the Site Review process. *This criterion has been met.*

3.43 **MCC 38.7080 GMA Recreation Resource Review Criteria**

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

**Staff:** No recreational uses are proposed for the subject site and no recreational uses are located within the immediate vicinity to be protected. *This criterion has been met.*