

MULTNOMAH COUNTY
LAND USE PLANNING DIVISION
1600 SE 190TH Avenue Portland, OR 97233
(503) 988-3043 FAX: (503) 988-3389

**BEFORE THE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON
FINAL ORDER**

This Decision consists of Conditions, Findings of Fact and Conclusions.

January 31, 2005

T2-04-051 Appeal of an approval of an NSA Site Approval filed by Martha J. Bennett in her capacity as the Executive Director of the Columbia River Gorge Commission

Location: 32880 NE Chamberlain Road

Map Description: Tax Lot 700, Section 28C, Township 1 North, Range 4 East, Willamette Meridian

Applicant: William Whitney
210 N. Main Ave.
Gresham, OR 97030

Owners: Gerald and Kate Moseley
32880 NE Chamberlain Road
Corbett, OR 97019

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

PROCEDURAL ISSUES

1. Impartiality of the Hearings Officer

- A. No ex parte contacts. I did not have any ex parte contacts prior to the hearing of this matter. I did not make a site visit.
- B. No conflicting personal, financial or family interest. I have no financial interest in the outcome of this proceeding. I have no family or financial relationship with any of the parties.

2. Jurisdictional Issues

At the commencement of the hearing I asked the participants to indicate if they had any objections to jurisdiction. The participants did not allege any jurisdictional or procedural violations regarding the conduct of the hearing.

3. Testimony and Evidence Presented / Status of the Record

- A. The hearing in this matter was originally scheduled for December 10, 2004. However, the Appellant was not given notice of the original hearing date. Accordingly, the hearing was rescheduled for January 12, 2005 at 9:00 a.m.
- B. George A. Plummer, gave the staff report for the County, and summarized the Planning Director's Notice of Decision that was on appeal herein.
- C. Jeff Litwak, attorney, spoke for Martha Bennett, Executive Director of the Columbia River Gorge Commission, in support of the appeal.
- D. William Whitney, applicant and architect, spoke in support of the application.
- E. John Graham spoke in support of the application.
- F. Kate Moseley, the property owner, explained the reason for the proposed addition and spoke in support of the application.
- G. Dr. Charles Herndon, a neighbor, spoke in support of the application.
- H. At the hearing on January 12, 2005, the following exhibits were received:
 - H-1. Sign-in sheet;
 - H-2. Landscape settings;
 - H-3. Vicinity map;

- H-4. NSA boundary aerial map
 - H-5. Decision of Hearings Officer T2-04-007
 - H-6. Letter from Nathan Baker
 - H-7. Cover sheet and floor plans
 - H-8. How the Scenic Resources Standard Work
 - H-9. Parcels within 1/4 mile
 - H-10. Hood River Ordinance
 - H-11. Applicant's response to appeal
 - H-12. Article from Oregonian newspaper
- J. The record was kept open for fourteen days for the parties to submit additional information. Initially the participants had seven days to submit new evidence responsive to evidence submitted during the hearing. That initial period ended on January 19, 2005, at 4:00 p.m. Thereafter, participants and staff had an additional seven days to respond to the new evidence submitted during the initial period of time that the record was kept open. On January 19, 2005, a settlement agreement and modified design was submitted by the applicant. No additional evidence was submitted between January 19, 2004 and January 26, 2005. Therefore, the record was closed on January 26, 2005 at 4:00 p.m.

DECISION

I find that the applicant and the appellant have entered into a settlement agreement in this matter, which I find reasonable and which appears to resolve the outstanding issues in the appeal. In accordance with the stipulated submittal supplementing the record, I do approve the proposed addition, as modified by the revised design submitted with the settlement agreement. Since the parties have, in essence, resolved the appeal, I will make no findings herein inconsistent with any of the findings made by the County Planning staff in its original decision. A copy of the settlement agreement referenced herein is attached hereto as Exhibit "A", and is incorporated by this reference herein. A copy of the staff decision related to the subject application is attached hereto as Exhibit "B". The staff decision will be adopted in support of this decision, subject to a change in the third condition of approval. The third condition of approval is modified to read as follows:

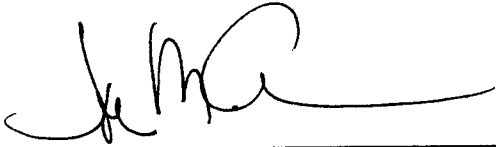
3. The addition shall be built and maintained using materials as described in the letter from William Whitney, directed to Jeffrey B. Litwak, Counsel for the Columbia River Gorge Commission, dated January 18, 2005, which is attached hereto in Exhibit "B", and is incorporated by this reference herein.

As described by William Whitney, the new carport previously proposed in the application will be eliminated and the addition itself will be reduced 230 sq. feet in size. Except as modified herein, the prior decision of the Multnomah County Planning Director is adopted in support of the approval of the modified design proposed by the applicant and agreed to by the appellant.

CONCLUSION

The decision of the Planning Director is affirmed, as modified herein.

IT IS SO ORDERED, this 31st day of January, 2001.

A handwritten signature in black ink, appearing to read 'JMC', is written over a horizontal line.

JOAN M. CHAMBERS, Hearings Officer



MULTNOMAH COUNTY OREGON
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

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

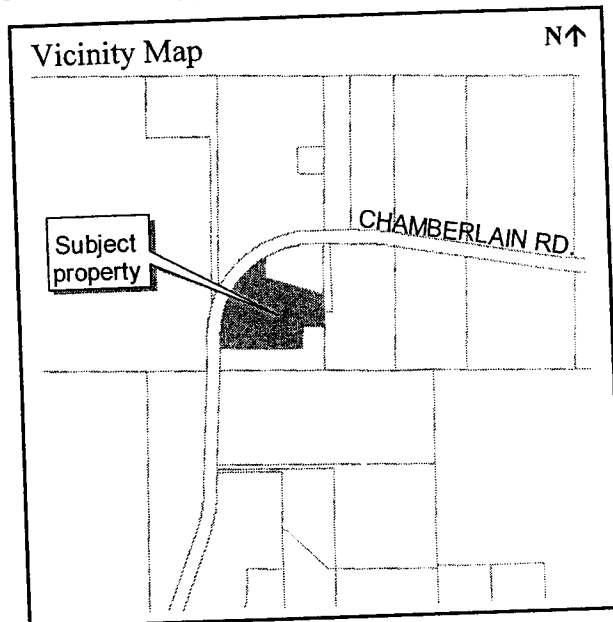
Case File: T2-04-051

Permit: NSA Site Review for an addition and an attached carport.

Location: 32880 NE Chamberlain Road
TL 700, Sec 28C, T1N, R4E, W.M.
Alternative Account #R944280050

Applicant: William Whitney
320 N. Main Ave
Gresham, OR 97030

Owner: Gerald & Kate Moseley
32880 NE Chamberlain Rd.
Corbett, OR 97019



Summary: NSA Site Review for a 1300 square foot single level addition and carport attached to south-end of the existing single family dwelling in the Gorge General Residential – 10 (GGR-10) Zone District.

Decision: Approved with Conditions

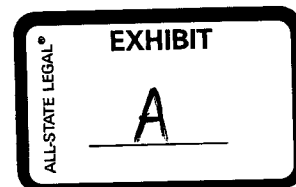
Unless appealed, this decision is effective , November 11, 2004 at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Thursday, October 28, 2004



Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George A. Plummer, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Columbia River Gorge Commission until all local appeals are exhausted (MCC 38.0530(B)).

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is November 11, 2004 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Multnomah County Code (MCC): MCC 38.0510 et. al: Part 3 Administration and Procedures, MCC 38.3000 et. al: Gorge General Residential and MCC 38.7000 et. al: Site Review

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.

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 and prior to building permit sign-off, the applicant shall record the Notice of Decision including the Conditions of Approval**

(pages 1-4) of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with Multnomah County Land Use Planning. Recording shall be at the applicant's expense. Failure to record the Notice of Decision within the prescribed time period shall void the decision (MCC 38.0670).

2. The trees that are located along the stream and road to the northwest of the dwelling providing screening of the addition from the Columbia River (KVA) shall be maintained in a living condition and shall not be removed (Exhibits 2.4 and 2.11). The oak tree and pine tree, shown on the site plan, adjacent to the proposed addition shall be maintained in a living condition and protected with fencing during construction phase. If any of these trees discussed in this condition die or destroyed by nature causes or removed by any manner they shall be replaced so that the dwelling is visually subordinate from the KVAs. The property owner shall plant and maintain a continuous row of evergreen shrubs along the west wall of the addition adjacent to the dwelling. These shrubs shall of a sufficient size that they provide a minimum of four foot high coverage of the new addition (measured from the bottom of the uncovered foundation wall) within a two year period. The property owner shall plant and maintain two, six foot coniferous trees between the addition and the driveway. One of these tree shall be a native species (MCC 387035(B)(1)).
3. The addition shall be built and maintained using materials as described in the applicant's submittal.
4. If any Cultural Resources and/or Archaeological Resources are located on the property during this project. This includes finding any evidence of historic campsites, old burial grounds, food/medicine plants. If any are found, property shall implement the procedures under Multnomah County Code 38.7045 (L)).
5. The procedures of Multnomah County Code 38.7045 (M) shall be implemented if human remains are discovered during excavation or construction [human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

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, George Plummer, 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. Four (4) sets each of the site plan and building area are needed for building permit sign 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.

Note: Staff as necessary to address Multnomah County ordinance requirements provides Findings referenced herein. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant, addressing compliance with code criteria, are *italicized*. The notation Applicant precedes these responses. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes such comments.

1. **PROJECT DESCRIPTION**

Applicant: We propose to expand the house with a one story addition at the south end. It will include two bedrooms, one bathroom, a recreation room and study. It will be approximately 1,300 s. f. (Site Plan, Floor Plan and Elevation drawings are attached.) The purpose of the expansion is to provide space for the owners mother to live with them. A second carport will be added attached to the addition at the South. The addition was designed to harmoniously fit the existing house in color, material and form and character. It will be located to avoid modification to the topography, landscape, or driveway. Some of the existing south deck and adjacent shrubs will have to be removed.

2. **SITE AND VICINITY CHARACTERISTICS**

Applicant: *There are no wetlands mapped on this property or on surrounding properties according to the National Wetlands Inventory map.*

The existing house was remodeled in 1974 and an addition was added in 2000. Even with the recent addition, the house is rather simple and plain. Its architectural character has little in common with other more notable houses built in the 1920s

Staff: The subject property is located along Chamberlain Road at the 90 degree bend in the road. The landscape along Chamberlain changes substantially at the bend in the road. The east-west stretch of the road runs along the bottom of a bluff along the southern edge of a relatively flat bench area.

This area is made up of a couple of bluffs with relatively flat bench areas above the bluffs. The steep sloped bluff faces are usually heavily vegetated with trees. The flatter bench areas are often open pasturelands or cropland. There are several ravines cut into the bluffs at various distances. To the north of Chamberlain Road is a bluff that rises up about 300 feet from the Columbia River bottomlands with a relatively flat bench area about 800 to 1000 feet wide at its top. The road runs along the south edge of the bench. The topography rises to south of Chamberlain about 150 feet to another bench that has smaller flat areas. There are more ravines which have cut into this bluff face thus there is less flat bench area at the top. The subject property is located at the lower end or the mouth of a prominent ravine. The road turns from east-west orientation to a north-south direction at the mouth of this ravine and makes its way up the ravine to the benched area at the top.

The Columbia River Gorge Commission Landscape Setting Map designates the subject property as in the Rural Residential in Pastoral Landscape Setting (Exhibit 2.5 and 2.6). In reality the subject property is located in a transitional area in relation to landscape. The property shares more similarities to the woodland landscape settings.

The properties adjacent to the east of subject property and properties to the south are in the Rural Residential in Pastoral Landscape Setting, however most are predominately sloped woodlands. These properties are located in the lower reaches of the ravine. Further to the south, along the upper reach of the ravine, the properties tend to be somewhat flatter with more open land and show more pastoral characteristics.

The subject property borders the Pastoral Landscape Setting across the road (Exhibit 2.5 and 2.6). The Pastoral landscape continues to the east along the north side of Chamberlain Road. This area is a relatively flat bench between the two bluffs. These properties tend to be a little larger in size than the subject property with more open space, pastoral landscape. The properties to the east along the south side of Chamberlain Road are designated Coniferous Woodland Landscape Setting (Exhibit 2.5 and 2.6).

The subject property located at the mouth of the ravine shares some of both types of landforms. The small lower portion of the property is a relatively flat, open area with an intermittent stream on the west of that area hugging the side of the road, with several trees along the stream. The property has a gentle slope up to existing dwelling which is sitting in a flat area, likely graded in the past. The overall lay of the property is a gentle slope getting steeper to the east side of the property which is heavily wooded. The property forms the toe of the bluff that runs in an east-west orientation.

3. INITIATION OF ACTION BY PROPERTY OWNER

MCC 38.0550: Except as provided in MCC 38.0760, Type I - III 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: Multnomah County Assessor's records shows Gerald A Moseley TR as the property owners (Exhibit 2.1). Kate Moseley signed the application form (Exhibit 1.1). Mr. Moseley signed a statement that states the Kate Moseley has authority to sign for the trust (Exhibit 1.15). The applicant is William Whitney. This requirement is met.

4. ADMINISTRATIVE PROCEDURES

4.1 Administrative Procedures for a Type II Case

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 decision is a review of the proposed dwelling pursuant to MCC 38.0530(B). The application was submitted on June 10, 2004 (Exhibit 1.1) A Completeness Review notice was send to interested agencies and Indian tribes. The application was deemed incomplete July 7, 2004. Additional information was submitted on July 30, 2004, August 18, 2004 and August 19, 2004. A 14 Day Opportunity to Comment notice was mailed by staff on August 20, 2004 to property owners within 750 feet of the subject tract Gorge Commission, US Forest Service and the Indian Tribal Governments and other interested parties. The comment period ended September 3, 2004. Three comment letters were received addressing the proposal and each is summarized below. This decision was drafted and will be mailed in accordance with MCC 38.0660.

The following parties submitted comments: Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service on July 13, 2004 (Exhibit 3.1), Karen Mirande, Planner, The Columbia River Gorge Commission submitted comments on September 1, 2004 (Exhibit 3.2) and Glen Fullilove, Land Use Legal Assistant, Friends of the Columbia Gorge, submitted a four page fax according to the cover sheet on September 3, 2004 of which only two pages were received (Exhibit 3.3). Mr. Fullilove's full three page letter arrived by mail on September 7, 2004 (Exhibit 3.4).

Ms. Dryden, USFS, submitted information pertaining to a Cultural Resource Survey Determination. Findings for Cultural Resources can be found in Section 7 of this decision

Ms. Mirande's comments pertained to the proposed development meeting MCC 38.7035(A) (2) and (5). Findings for these Code Sections can be found in Section 6 of this decision.

Mr. Fullilove raised concerns that the proposed addition may convert a single family dwelling into a multi-family dwelling which is not allowed in the zone. Mr. Fullove's letter highlighted various components of scenic resource protection for properties visible from Key Viewing Areas. Findings addressing scenic review can be found under Section 6 of this decision. Mr. Fullilove's letter also addresses criteria for landscape setting for which findings are under Subsection 6.3 of this decision. He continues addressing cultural resources for which findings are under Section 7 of this decision.

5. **NATIONAL SCENIC AREA SITE REVIEW REQUIRED**

5.1 **Applicability**

MCC 38.7010: With the exception of Primary Uses, no building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in the Columbia River Gorge National Scenic Area except when approved pursuant to MCC 38.0530 (B) or (C) or 38.7090.

* * *

MCC 38.7015: An application for NSA Site Review shall address the applicable criteria for approval, under MCC 38.7035 through 38.7090.

* * *

MCC 38.7020: A decision on an application for NSA Site Review shall be based upon findings of consistency with the criteria for approval specified in MCC 38.7035 through 38.7085 or 38.7090 as applicable.

Staff: The proposed use is listed as a review use in the GGR-10 zoning district (Exhibit 2.2). Therefore, a National Scenic Area Site Review is required. MCC 38.0530 requires this application to go through a Type II permitting process. This application request has been processed as a Type II Decision. The application addresses applicable criteria for approval, under MCC 38.7035 through 38.7085. Findings of consistency have been made for the applicable criteria, under MCC 38.7035 through 38.7085.

5.2. **Use Is Allowed As a Review Use In The GGR-10 Zoning District**

MCC 38.3025(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) One single-family dwelling per legally created parcel.

(a) If the subject parcel is located adjacent to lands designated GGA or GGF, the use shall comply with the buffer requirements of MCC 38.0060; and

Staff: The proposal is an addition on an existing single-family dwelling with an attached carport within the GGR-10 Zone District. An addition to a single family dwelling must meet Site Review standards of MCC 38.7000 through 38.7085.

The subject property is adjacent to (across Chamberlain Road) properties that are designated GGA (Exhibit 2.2). MCC 38.3025(A)(1)(a) requires a buffer that complies with MCC 38.0060. MCC 38.0060 states that the buffer setback shall be satisfied when the property is "adjacent to lands designated GGA- 20 or GGA- 40." The adjacent land is GGA-40 and is in pasture and haying use, thus requires 100 foot buffer under MCC 38.0060. This proposed addition is located in excess of 200 feet from the properties in the GGA District. This standard is met.

5.3 The Proposal Meets the GGR Dimensional Requirements

5.3.1 MCC 38.3060(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The proposed front yard will be more than 150 feet, the side yard property line will be more than 100 feet from the addition and the rear yard exceeds 100 feet (Exhibit 1.3). The proposed addition is less than the maximum height (Exhibit 1.4). These requirements are met by the proposed development.

6. THE PROPOSAL MEETS NSA GMA SITE REVIEW FOR SCENIC REVIEW CRITERIA

6.1 GMA Scenic Review Standards

MCC 38.7035(A) 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:

Staff: The subject property is in the General Management Area of the Columbia River Gorge National Scenic Area.

6.1.1 MCC 38.7035(A)(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 new addition will expand the existing daylight basement with minimal excavation. A small portion of the new foundation will "stair-step" the existing bank adjacent to the driveway. Foundations will penetrate the bank approx. 3' max. It is located on a relatively level open area that is currently covered by the attached deck.*

Applicant's Addendum: *Houses in the neighborhood range in size from 537 s. f to 2,871 s. f with at least six houses on adjacent lots 1,400 s. f or larger. Most lots are three acres or larger so houses are very spread out. The proposed addition is 1,300 s. f. but will be built at the basement level of the existing house. The basement is currently 576 s. f at the existing house and proposed additions are approx. 200 feet from N. E. Chamberlain Road, 200 feet or greater from houses on adjacent lots. The addition will be one story high (17 '); far lower than the existing house (29'-6"). See enclosed photos of neighboring residences and summary of neighborhood house sizes, lot sizes.*

Staff: The proposed addition is designed to use the existing topography as described in the applicant's narrative (Exhibit 2.10). The addition will be built in predominately flat area with the western side stepped down the existing slope about five feet. Criterion is met.

6.1.2. MCC 38.7035(A)(2) New buildings shall be generally consistent with the height and size of existing nearby development.

Applicant: *The new one story addition will not increase the buildings maximum height and will be in keeping with neighboring houses of one to one and a half stories.*

Applicant's Addendum: The attached information on adjacent properties of similar or larger size should be helpful in addressing concerns about the Moseley 's home being 'out of scale'. There are good examples on N. E. Chamberlain N. E. Hurt, N. E. Mershon and Columbia River Highway and others all within 3/4 mile. Many of these properties are more exposed to key viewing areas because they are in open pastures, closer to the river or higher in elevation. The list includes home size, addresses and distance. Please note that basements on properties along the north side of Chamberlain may be visible the on the river in which case they should be included as part of the effective area of the houses.

Homes located in the Vicinity of the Moseley Residence:

<i>Address</i>	<i>House Size</i>	<i>Distance/Moseley</i>
1. 31031 N. E. Lampert Rd.	13,424 s.f.	.75 mi.
2. 35701 N. E. Chamberlain Rd.	6,635 s.f.	.85 mi.
3. 342 15 N. E. Chamberlain Rd.	4,423 s.f.	.65 mi.
4. 34550 N. E. Chamberlain Rd.	4,007 s.f.	.7 mi.
5. 32905 N. E. Chamberlain Rd.	3,926 s.f.	.1 mi.
6. 30485 N. E. Hurt Rd.	5,831 s.f.	1 mi.
7. 34931 E. Historic Columbia River Hwy.	4,971 s.f.	.75 mi.
8. 135 N. E. Lucas Rd.	4,928 s.f.	.75 mi.
9. 400 N. E. Lucas	4,785 s.f.	.6 mi.
10. 34251 N. E. Mershon Rd.	4,312 s.f.	.5 mi.
11. 31424 N. E. Hurt Rd.	3,760 s.f.	.75 mi.
12. 31377 N. E. Hurt Rd.	3,716 s.f.	.8 mi.
13 33000 N. E. Mershon Rd.	3,684 s.f.	.75 mi.
14. 31403 N. E. Hurt Rd.	3,681 s.f.	.75 mi.
15. 33401 N. E. Chamberlain	3,515 s.f.	.25 mi.
16. 36131 N. E. Chamberlain	3,300 s.f.	1 mi.

Staff: This criterion we are comparing the dwelling with the proposed addition to determine general consistency with the height and size of other existing development. We will compare the dwelling with the range of dwelling sizes to determine if the proposed dwelling size fits into the range of dwelling sizes of nearby development.

The applicant has submitted an analysis of total square foot area of some of the dwelling along Chamberlain (Exhibit 1.8) and an addendum that focused on larger dwellings within a mile of the subject property (Exhibit 1.8 and 1.14). Thus the applicant defined the nearby vicinity as a one mile radius.

This Code section requires an analysis of nearby development. The Management Plan for the Columbia River Gorge National Scenic Area under GMA Policy Number 3 (page I-4)

appears to guide the designation of the area of analysis of nearby to properties in the same landscape setting as the subject property or sharing similar landscape characteristics as the landscape setting. The Columbia River Gorge Commission Landscape Setting Map designates the subject property as in the Rural Residential in Pastoral Landscape Setting (Exhibits 2.5 and 2.6). In reality the subject property is located in a transitional area in relation to both landscape and development style. While the subject property has a small amount open area, nearly half of the property is heavily wooded. The property is located at the mouth of a ravine; it rises up from the stream at the edge of Chamberlain Road to a small benched area at the toe of the bluff where the dwelling is located. Behind the dwelling the property continues to rise with a relatively steep wooded slope. This landscape is very similar to most the properties to the east that are south of Chamberlain in the Coniferous Landscape Setting.

The properties adjacent to the east and properties to the south are in the Rural Residential in Pastoral Landscape Setting but are in reality predominately sloping woodlands. These properties are located in the lower reaches a ravine that cuts into the bluff. Further to the south along the north-south stretch of Chamberlain Road, along the upper reach of the ravine, the properties tend to be somewhat flatter with more open land and show more pastoral characteristics.

The subject property borders the Pastoral Landscape Setting across the road. The Pastoral landscape continues to the east along the north side of Chamberlain Road on the bench area between the bluffs. These properties tend to be a bit larger in size with more open space pastoral landscape in the flat area. The properties to the east along the south side of Chamberlain Road are designated Coniferous Woodland Landscape Setting. These properties are very similar to the subject property. They rise up from Chamberlain along the toe of the bluff, with dwellings located on small benched areas generally created through grading. These properties are heavily wooded as is much of the subject property.

The subject property really has more in common with the properties to the east along Chamberlain than the properties to the south. The properties to the south tend to be smaller older homes on properties with views limited to the nearby surrounding area. The subject property and the properties to the east along Chamberlain generally have distant views through a wooded setting of the areas to the north, including the Columbia River, the Gorge, and distant views of Washington State. Many of these properties have newer and larger homes than the properties the south. The majority of these properties are of similar sizes as the Rural Residential Pastoral Landscape properties to the south. A little more than a mile to the east the settlement pattern changes becoming denser with smaller lots in Rural Residential Landscape Setting.

Due to the reasons listed above, we have decided to include the properties located along Chamberlain east of the subject property for a little more than a mile in our analysis of general consistency. Thus our analysis area of nearby properties includes properties to the south along Chamberlain Road with the same landscape setting and properties located along Chamberlain Road to the east a little more than a mile from the subject property that share the similar landscape features and development style with the subject property. Following you will find table presenting the area information from County Assessment data sheets (Exhibit 2.8) for dwellings in the defined vicinity:

PROPOSED DWELLING COMPARED TO EXISTING NEARBY DEVELOPMENT

<i>Account Number</i>	<i>Main Floor</i>	<i>2nd Floor</i>	<i>Finished Basement</i>	<i>Attached Garage</i>	<i>Carport</i>	<i>Covered Deck^a</i>	<i>Total Without Basement</i>	<i>Total</i>
Existing Dwelling	1648	432	576				2080	2656
Proposed Dwelling	2948	432	576		324		3704	4280
1. R322595	1500		1000	672			2172	3172
2. R322507	1659			480			2139	2139
3. R322506	1386						1386	1386
4. R322590	2139			594			2733	2733
5. R322525	840						840	840
6. R322524	1716						1716	1716
7. R322554	1452		600				1452	2052
8. R322574	1050		800	500			1550	2350
9. R322577	1292		1040	572			1864	2904
10. R322568	1083	1222		576			2881	2881
11. R322720	1260						1260	1260
12. R322564	2433		1314	528			2961	4275
13. R322544	537						537	537
14. R322544 ^b	780	416				388	1584	1584
15. R322342	2020			742			2762	2762
16. R322337	1830	1000		400		144	3374	3374
17. R322341	1384	1000	200			192	2576	2776
18. R322340	857						857	857
19. R322327	1152	400			510		2062	2062
20. R322345	1489				450		1939	1939
21. R322338	1100						1100	1100
22. R322328	1796	1075					2871	2871
23. R322328 ^b	644						644	644
24. R322339	728						728	728
25. R322339 ^b	1685						1685	1685
26. R322347	1780		864	836	216		2860	3724
27. R322346	1188						1188	1188
28. R322320	1590	1438		768			3796	3796
29. R322683	1456						1456	1456
30. R322684	1456	734	408			679	2869	3277
31. R322688	1758	1325					3083	3083
32. R237507	3103	1868				880	5851	5851
33. R322308	924	300					1224	1224
34. R322308 ^b	4956			618		485	6059	6059
AVERAGE							2178	2361

^a Includes covered patios.

^b Second dwelling on property.

The applicant is proposing an addition to an existing dwelling. The proposal is to add 1300 square feet of living area and a 324 square foot carport to the existing 2676 square

foot dwelling a total area of 4280 square feet. The proposed addition will be less than 20 feet in height.

The nearby dwellings range from 537 to 6059 square feet. There are two dwellings that are larger than the proposed structure. There is one dwelling that is five square feet less than the proposed structure. Additionally there are a couple dwellings in the upper 3000 square foot range. The applicant has shown there are several dwellings within a mile radius of the subject property that are larger than the proposed dwelling. Some of these dwelling are in our defined vicinity, many are not, however, the applicant's analysis does show that the proposed dwelling size not unusual in the general area.

Additionally because the dwelling is built into the slope with significant vegetation it appears smaller than the square foot measurements indicate when compared to some of the dwellings nearby. This setting tends to give a low profile appearance to the existing dwelling. There are nearby dwellings of a similar size as the existing dwelling that are not built into a slope, with minor amounts of vegetation, that appear larger to the eyes than the existing subject dwelling; such as Number 22 at 33401 NE Chamberlain (Exhibit 1.14 and 2.8).

Given the size and height of the proposed addition and carport, together with the location on the property and vegetation the proposed development is generally consistent with the height and size of existing nearby development. This criterion has been met.

6.1.3 MCC 38.7035(A)(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: *Not applicable. No new driveway or access point will be added.*

Staff: The site is accessed by a private driveway off of Chamberlain Road, which is not listed as a Scenic Travel Corridor under MCC 38.0005(S)(2). The criterion has been met.

6.1.4 MCC 38.7035(A)(4) Project applicant shall be responsible for the proper maintenance and survival of any required vegetation.

Applicant: *The project will minimally impact existing vegetation. No trees will be removed. The owner has a vested interest in maintaining new and existing landscaping. The large existing oak tree (west side) is important in providing shade and visual screening and will be protected from damage during construction.*

Staff: The applicant has stated existing and proposed vegetation 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. This requirement can be met through a condition of approval.

6.1.5. MCC 38.7035(A)(5) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

Applicant's Addendum: *The Moseley's home is well screened from much of the adjacent Columbia River, especially directly North and East. Unlike many adjacent properties it is built into the side of a knoll and has considerable vegetation around it. (See color photo attached).*

Staff: The applicant has submitted plans showing the proposed development, showing existing vegetation, proposed landscaping and topography. The determination of compatibility has been based on the information submitted. This standard is met.

6.2 All GMA Review Uses visible from Key Viewing Areas:

6.2.1. MCC 38.7035 (B) (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 site is only visible from the Columbia River at a distance of 2 miles or more. It is located on a plateau above the river and is nestled against hills shielding views from the East, West and South and partially from the north. The new and existing roof will have forest green standing-seam metal roofing, which will blend the house into its setting. Gray (approved color paint) lap siding will also lessen the visual impact. Height of the addition will not exceed the existing house. Siting the addition at the base of the hill obscured by the existing house and next to a grove of trees will also help. Simple gable roof forms with 8:12 pitch, walls with varying window orientations will assist with visual subordination as well. The house is screened from potential Gorge Key Viewing Areas to the east and west by forested hills. The site lines to the river are toward the northwest but the site is so high above the river (390' approx.) that visibility to and from the river/gorge is limited to a lengthy distance (2 miles +/-).*

Applicants Addendum: *Glass will be vinyl windows by Milgard with reflective rating of 10 less than the max. permissible 13. Glass is the Cardinal low E 178 /clear. (See attached letter*

Staff: The only Key View Area from which the proposed addition could be seen is the Columbia River. The Columbia River in this area is divided by the NSA along the County Line shown on Exhibit 2.13. The area of proposed addition has a limited view of the Columbia River to the northwest at a distance of about a mile and a half away to about three miles at the greatest distance (Exhibit 2.13). Given the distance and the existing vegetation the proposed addition will be minimally visible from the portion Columbia River that is within the NSA. The visual impact from the proposed house will be reduced by existing vegetation, measures proposed by the applicant and through conditions of approval.

The applicant is proposing a one story addition with a vaulted ceiling for a portion of the addition. The applicant plans to paint the addition a medium dark gray color that matches the existing dwelling color as allowed under MCC 38.7035(B)(11) (see Section 6.2.10 of

this decision). The applicant is proposing to use a dark green and black speckled asphalt shingle roofing (Exhibit 1.13), and is proposing using low reflective windows with a 10 percent reflectivity rating (Exhibit 1.9). The applicant is proposing new landscaping located adjacent to the dwelling as shown on the landscape plan (Exhibit 1.7). The plants listed on the landscape plan are predominately of an evergreen nature. We find that while the existing and proposed vegetation provide substance screening, the addition of two six foot conifer trees planted between the addition and the driveway will provide additional screening in an area where it is needed. Given the distance to the KVA, the existing vegetation and the proposed building materials as well as additional landscaping, including evergreen bushes planted adjacent to the dwelling and a couple of six foot conifer trees plant on the same side of the driveway as the dwelling, the proposed addition can meet the visual subordination requirement. Condition of approval will require applicant follow submitted plans.

6.2.2 MCC 38.7035 (B)(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 site is approx. .65 mile from the Columbia River highway and 2 miles from the East Historic Columbia River Highway and is approx 390 ft. above the Columbia River. It is only visible from the river at a distance of approximately two miles.*

Staff: The only Key View Area from which the proposed addition could be seen is the Columbia River. The Columbia River in this area is divided by the National Scenic Area boundary which runs along the County and state line as shown on Exhibit 2.7 and 2.13. The area of proposed addition has a limited view of the Columbia River to the northwest at a distance of about a mile and a half away to about three miles at the greatest distance (Exhibit 2.13). To understand the potential view of the addition site from the river, see the attached staff photographs taken August 8, 2004 looking to the northwest showing a view of the Columbia River from the proposed addition site (Exhibits 1.2 and 2.9). The photographs illustrate the limited visibility of the river from the site, however much of the river in these photos is north of the NSA boundary thus not included a Key Viewing Area. It appears there is a linear distance along the visible KVA of about the length of a mile and a half. From the north the dwelling is fully screened by dense vegetation. The addition will be to the south of the dwelling.

The visibility of the site from the Columbia River is limited by on-site vegetation including an oak tree, and bushes both deciduous and evergreen. There is one clear opening in the vegetation. The applicant proposes additional landscaping to be planted between the addition and the KVA which includes variety three types of shrubs. The plans do not specify the type of vegetation; however the applicant has stated that it will be of an

evergreen nature. A combination of the proposed building materials, discussed in the previous finding and evergreen bushes along with two six foot conifer trees planted adjacent on west side of the addition will provide additional screening necessary to obtain visual subordination. Conditions of approval requiring a dark colored roofing material, low reflective glass and landscape plantings to achieve visual subordination would be proportionate to its potential visual impacts as seen from Key Viewing Areas.

6.2.3 MCC 38.7035 (B)(3) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

Applicant: *Surrounding houses are few and far between. (See aerial photo). Rolling hills with some limited agricultural use and grazing area are lightly developed. Cumulative effects of development should be minimal over time in the GGR-10 zone because so much land is required for each dwelling unit and in this case the proposed addition is proportionally small to the heavily vegetated space around it.*

Staff: The KVA for this property is the stretch of the Columbia River shown on the photograph included as Exhibit 1.2 and 2.9. Due to the amount of vegetation and the topography of the area surrounding the project there are minimal potential visual effects. The view from the subject a KVA of river of this vicinity is predominately of wooded slopes. It appears that subject dwelling is the only structure that may be possibly seen through the vegetation in this area from the subject KVA. With the proposed addition achieving visual subordination through the use of existing vegetation, proposed additional, colors and materials, no additional impact should occur from the KVAs.

6.2.4 MCC 38.7035 (B)(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

(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, floor plan and building elevations. Exterior of the addition and existing house will be clad in approved gray colored wood lap siding. The roofing will be forest green colored standing seam metal roofing.*

Applicant's Addendum: *See enclosed Landscape Plan. A drip irrigation system is planned.*

Staff: The applicant has provided the information required. This standard is met.

* * *

- 6.2.5 MCC 38.7035 (B)(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 new addition will be attached to the opposite side of the existing house from the view. No additional driveways are planned. Exposure to key viewing -see areas (2)above .*

Staff: The proposed development is an addition to an existing dwelling. The development is on the south side of the dwelling. Due to the nature of the development it must be located where it is proposed to be attached to south side of the existing dwelling. The location of the addition is screened from key view area, the Columbia River to the northwest by the substantial existing vegetation on the property except for one opening in the vegetation from which the Columbia River is visible. This criterion is met.

- 6.2.6 MCC 38.7035 (B)(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: *Placement of the addition on the south side of the house is closest to a large (40') high) oak tree, which will screen the house and addition from the closet (direct north) river exposure. New landscaping will be added on the west side of the addition (most visible side) to screen the lower wall.*

Staff: The proposed development is an addition to an existing dwelling. The development is on the south side of the dwelling. Due to the nature of the development it must be located where it is proposed to be attached to the existing dwelling. The location of the addition is screen from key view areas by the substantial existing vegetation on the property except for one opening in the vegetation from which the Columbia River is visible. The criterion is met.

- 6.2.7 MCC 38.7035 (B)(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 addition will occupy one of the few fairly level portions of the site. It will require minimal grading as it will set on a stepped foundation at the west. The driveway will be widened several feet adjacent to the addition for safety purposes. Grading will be minimal.*

Staff: The proposed development will utilize existing topography to place the addition. The driveway is proposed to be widened in the area behind the dwelling, an area not visible from the KVA. This criterion is met

6.2.8 MCC 38.7035 (B)(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: *The addition will have windows on angled walls because of various wall orientations minimizing the area of glass facing any one direction. The glazing will be an approved non reflective type.*

Staff: The proposed addition will be sided with wood lap construction (Exhibit 1.2) , have asphalt shingle roofing (Exhibit 1.13), and windows with less than 13 percent reflectivity rating (Exhibit 1.9). The proposed exterior of the addition meets the low reflectivity standard. The proposed development meets this criterion.

6.2.9 MCC 38.7035 (B)(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: *Exterior lighting will be minimal wall-mounted lights to provide illumination of the deck at north and west of the house and will be directed down, hooded and intended to cover minimal areas.*

Applicant's Addendum: *Light fixture specs, Plan and Elevations enclosed.*

Staff: The proposed light will be down-facing and shielded (Exhibit 1.12).. The proposed development meets this criterion.

6.2.10. MCC 38.7035(B)(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: *This addition is smaller than the existing house and both will be the same color and material. The addition is 1,300 sq. ft. The existing house is 2644 sq. ft.*

Staff: The County Assessor's records show the dwelling is 2,656 square feet. The proposed addition will be 1,300 square feet. The proposed addition is smaller than the existing dwelling. The applicant has proposed painting the addition the same color as the existing dwelling's lower floor as shown on Exhibit 2.10 (Exhibit 1.10 and 1.11). The proposal meets this criterion

6.2.11 MCC 38.7035 (B)(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 house is located well below the ridge line of the adjacent trees covered adjacent hills. The additions ridge will be considerably lower (13') than the existing house's ridge.

Staff: The existing dwelling and proposed addition are below the ridgeline as seen from the applicable KVA (Exhibit 1.2). Criterion is met.

* * *

- 6.2.12 MCC 38.7035 (B)(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 will require minimal excavation and does not involve slopes of more than 10%.*

Staff: The proposed addition is in an area that is predominately flat except for a small portion which has slope of less than 30 percent. A grading plan is not required for this site (Exhibit 2.10). Criterion is met.

- 6.2.13 MCC 38.7035 (B)(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:**

Applicant: *The site will require minimal excavation and does not involve slopes of more than 10%.*

Staff: The proposal is to minimize the amount of grading with most of the development in a flat area currently used for parking vehicles. For the minimal sloped area a stepped foundation is proposed (Exhibit 2.10).

- 6.3 MCC 38.7035(C) All Review Uses within the following landscape setting: MCC 38.7035(C)(4) Rural Residential in Conifer Woodland or Pastoral**

(a) New development in this setting shall meet the design standards for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral or Coniferous Woodland), unless it can be demonstrated that compliance with the standards for the more rural setting is impracticable. Expansion of existing development shall comply with this standard to the maximum extent practicable.

(b) In the event of a conflict between the standards, the standards for the more rural setting (Coniferous Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such standards would not be practicable.

Applicant: *Expansion of existing development shall comply with this standard to the maximum extent practicable. The addition is compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. The top of the addition is well below the top of the adjacent forest canopy. No new trees are planned. Exterior building colors will match the previously approved color of the existing house.*

Staff: The proposed development is reviewed for the standards for both the Rural Residential and the Pastoral landscape settings in the following sections of this decision. The findings in the following Sections 6.4, and 6.5 of this report demonstrates the proposed addition expansion of the existing development complies with the standards to the maximum extent practicable.

6.4. MCC 38.7035(C)(3) Rural Residential

Staff: The subject property is in the Rural Residential in Pastoral Landscape Setting. The subject property is in a rural area with characteristic a blend of residential uses amongst pastoral and woodland settings.

6.4.1. MCC 38.7035(C)(3)(a) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this standard to the maximum extent practicable.

Applicant: *The new building will be consistent in height& size of existing nearby buildings (see comparable photo exhibits).*

Staff: The proposed development is a one story with an area that has a vaulted ceiling appearing to be about a story and a half. Findings under Section 6.1.2: (MCC 38.7035(A)(2)) in this decision address the proposed development's consistency with development in the nearby vicinity (along Chamberlain Road to the south and along Chamberlain to the east for a little more than a mile). This analysis compared the general scale of development on these properties with the existing dwelling plus the proposed development. The findings under Section 6.1.2 are adopted as findings for this criterion.

Because the dwelling is built into the slope with significant vegetation it appears smaller to have a smaller overall mass than the square foot measurements indicate when compared to some of the dwellings nearby. This setting tends to give a low profile appearance to the existing dwelling. There are nearby dwellings of a similar size as the existing dwelling that are not built into a slope, with minor amounts of vegetation, that appear larger to the eyes than the existing subject dwelling; such as Number 22 at 33401 NE Chamberlain (Exhibit 1.14 and 2.8).

The information in the table of County Assessor's data and findings in Section 6.1.2 that show the dwelling is within the range of existing dwelling sizes in the vicinity. The table shows there are other dwellings in the area that are multiple stories. The proposed

addition is about a story a half fits into the range of heights. Given these findings, staff finds the proposed development compatible with the general scale of development in the vicinity. The criterion has been met.

6.4.2. MCC 38.7035(C)(3)(b) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

Applicant: *No trees will be removed.*

Staff: The applicant states no trees will be removed. A condition of approval will require all trees be maintained.

6.4.3 MCC 38.7035(C)(3)(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.
2. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.
3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.
4. Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by MCC 38.7035 (B) (11) and (12).

Applicant: *No trees will be removed.*

Staff: Trees that provide screening to obtain visual subordination will be required to be retained by a condition of approval. The proposed addition is located in area where a gap in existing vegetation allows it to be viewed at a distance of one and a half to three miles from the KVA. Due to this visibility, two additional conifer trees and proposed shrub vegetation planted adjacent on the west side of the addition as shown on the landscape plans will be needed to provide screening of addition to obtain visual subordination. The existing trees on the property are predominately deciduous. Due to this fact, the additional trees should be conifers. Two six foot conifer trees along with evergreen green shrubs will be needed for visual subordination. A condition of approval will require two six foot conifers. MCC 38.7035(B)(11) provides for additions to existing structures to be painted the same color as the existing structure. The applicant is proposing to paint the addition a medium dark gray color which matches a color on the existing dwelling. The proposed roofing will be a speckled dark green and black. This criterion has been met.

6.5. MCC 38.7035(C)(1) Pastoral

6.5.1 MCC 38.7035(C)(1) (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 new building will be consistent in height & size of existing nearby buildings (see*

comparable photo exhibits).

Staff: The proposed development is a one story with an area that has a vaulted ceiling appearing to be about a story and a half. Findings under Section 6.1.2: (MCC 38.7035(A)(2)) in this decision address the proposed development's consistency with development in the nearby vicinity (along Chamberlain Road to the south and along Chamberlain to the east for a little more than a mile). This analysis compared the general scale of development on these properties with the existing dwelling plus the proposed development. The findings under Section 6.1.2 are adopted as findings for this criterion.

Because the dwelling is built into the slope with significant vegetation it appears smaller to have a smaller overall mass than the square foot measurements indicate when compared to some of the dwellings nearby. This setting tends to give a low profile appearance to the existing dwelling. There are nearby dwellings of a similar size as the existing dwelling that are not built into a slope, with minor amounts of vegetation, that appear larger to the eyes than the existing subject dwelling; such as Number 22 at 33401 NE Chamberlain (Exhibit 1.14 and 2.8).

The information in the table of County Assessor's data and findings in Section 6.1.2 that show the dwelling is within the range of existing dwelling sizes in the vicinity. The table shows there are other dwellings in the area that are multiple stories. The proposed addition is about a story a half fits into the range of heights. Given these findings, staff finds the proposed development compatible with the general scale of development in the vicinity. The criterion has been met.

* * *

6.5.3 MCC 38.7035(C)(1)(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.**
- 2. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.**
- 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).**
- 4. At least one-quarter of any trees planted for screening shall be coniferous for winter screening.**
- 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: *No trees will be removed.*

Staff: Trees that provide screening to obtain visual subordination will be required to be retained by a condition of approval. There is very little open field on the subject property. The subject property is predominately forested as are the other adjacent properties that have been designated Rural Residential in Pastoral Landscape. A condition of approval

will require that half the trees required be native to the setting or commonly found in the area. Due to the existing trees being primarily deciduous, the two trees needed to provide screening to achieve visual subordination will need to be conifers. MCC 38.7035(B)(11) provides for additions to existing structures to be painted the same color as the existing structure. The applicant is proposing to paint the addition a medium dark gray color which matches a color on the existing dwelling. The proposed roofing will be a speckled dark green and black. This criterion has been met.

7. THE PROPOSAL MEETS NSA GMA SITE REVIEW FOR CULTURAL RESOURCE REVIEW CRITERIA

7.1 MCC 38.7045 (A) Cultural Resource Reconnaissance Surveys

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

*** * ***

- (f) Proposed uses occurring in areas that have a low probability of containing cultural resources**

Areas that have a low probability of containing cultural resources will be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the U.S. Forest Service, public agencies, and private archaeologists.

MCC 38.7045 (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: Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service submitted a cultural resources report on July 13, 2004 (Exhibit 3.1). Ms. Dryden's survey show a Cultural Resource Reconnaissance Survey not required. Ms. Dryden's survey also shows that a Historic Survey is not required. Criterion is met.

7.2 MCC 38.7045 (L) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- (1) Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.**

(2) Notification – The project applicant shall notify the Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(3) Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from SHPO (*see* ORS 273.705 and ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural resources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045 (C) (2) and MCC 38.7045 (E).

(a) The Planning Director shall, based on the survey and evaluation report and any written comments, make a final decision within 10 days of the receipt of the report of the Gorge Commission on whether the resources are significant.

(b) The Planning Director shall require a Mitigation Plan if the affected cultural resources are found to be significant.

(c) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B).

(d) The decision of the Planning Director shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B).

Construction activities may recommence if no appeal is filed.

(4) Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J).

Construction activities may recommence when the conditions in the mitigation plan have been executed.

Staff: A condition of approval will require a halt of work (within 100 feet) when a cultural resource is discovered during construction activities and that the process outlined above be followed. These criteria are met through conditions of approval.

7.3 MCC 38.7045 (M) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(1) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(2) Notification – Local law enforcement officials, the Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

(3) Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(4) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.

(5) Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760.

(a) If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report standards of MCC 38.7045 (I).

(b) The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed.

Staff: A condition of approval will require a halt of activities – All survey, excavation, and construction activities shall cease if human remains are discovered during construction. The condition will require any found human remains not be disturbed any further and the procedures outline above be followed.

8. THE PROPOSAL MEETS GMA WETLANDS BUFFER

MCC 38.7055 (A) The wetland review criteria shall be deemed satisfied if:

*** * ***

(4) The project site is not within a wetland buffer zone; and

*** * ***

MCC 38.7055 (G) Wetlands Buffer Zones

(1) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(2) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland.

Vegetation communities are classified as forest, shrub, or herbaceous.

(a) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(b) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(c) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and non-woody vines.

(3) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

(a) Forest communities: 75 feet

(b) Shrub communities: 100 feet

(c) Herbaceous communities: 150 feet

Staff: An analysis of a 2002 aerial photo of the property and a site visit has demonstrated the area where the stream is located has shrubs and trees that are greater than 3 feet tall and form of more than at least 40 percent canopy cover for the stream thus the vegetation community is shrub. The shrub community buffer is 100 measured. Using the aerial photo for measurement indicates that the distance to the stream is approximately 150 feet from the addition and exceed the 100 foot required buffery.

9. **THE PROPOSAL MEETS GMA STREAMS BUFFER**

MCC 38.7060(F) Stream, Pond, and Lake Buffer Zones

- (1) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:**
 - (a) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.**
 - (b) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet.**
- (2) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.**
- (3) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Planning Director may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Planning Director shall, at the project applicant's expense, obtain professional services to render a final delineation.**

Staff: The stream is an intermittent stream with a 50 foot required buffer. The proposed addition is about 150 feet from the stream exceeding the buffer area requirement. Criterion is met.

11 **THERE ARE NO KNOWN SENSITIVE WILDLIFE WITHIN 1000-FEET OF THE SITE**

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

Staff: There are no known sensitive wildlife areas or sites within 1000-feet of the subject site according to maps listing such areas and sites provided to Multnomah County by the Columbia River Gorge Commission. Criterion is met.

12. **THERE ARE NO KNOWN RARE PLANT SPECIES WITHIN 1000-FEET OF THE SITE**

MCC 38.7070 GMA Rare Plant Review Criteria

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

Staff: There are no known rare plant species within 1000-feet of the subject site according to maps listing such areas and sites provided to Multnomah County by the Columbia River Gorge Commission. Criterion is met.

13 **CONCLUSION**

Based on the findings, narrative, and other information provided herein, this application, as conditioned, satisfies the applicable approval criteria required for Site Review in the National Scenic Area.

14 **EXHIBITS**

14.1 **Exhibits submitted by the Applicant:**

- Exhibit 1.1: NSA application form submitted 6/10/04 (1 page);
- Exhibit 1.2: Narrative submitted 6/10/04 (13 pages);
- Exhibit 1.3: Site plan submitted 6/10/04 (1pages);
- Exhibit 1.4: Elevation drawings of proposed addition submitted 7/30/04 (2 pages);
- Exhibit 1.5: Topographic map of subject property 7/30/04 (1 page);
- Exhibit 1.6: Addendum narrative submitted 7/30/04
- Exhibit 1.7: Landscape plan submitted 7/30/03 (2pages);
- Exhibit 1.8: Summary of Nearby Development with photos submitted 7/30/04 (2 pages);
- Exhibit 1.9: Window reflectivity specifications for proposed windows submitted 7/30/04 (2 pages);
- Exhibit 1.10: Paint color chip submitted 7/30/04 (1 page);
- Exhibit 1.11: Narrative addendum submitted 8/18/04 (1page);
- Exhibit 1.12: Manufactures specification for the proposed outdoor lighting fixture and elevation drawing showing location of light submitted 8/18/04 (2 page);
- Exhibit 1.13: Sample of color of asphalt roofing shingle submitted 8/19/04 (1 page);
- Exhibit 1.14: Addendum analysis of Nearby Development with photos submitted 10/12/04 (7 pages)
- Exhibit 1.15: Letter from Mr. and Mrs. Moseley stating authority to sign the application the Moseley Trust submitted 10/12/04 (1 page).

14.2 **Exhibits included by County:**

- Exhibit 2.1: County Assessment Record for the subject property (1 page);
- Exhibit 2.2: County Zoning Map with subject property labeled (1 page);
- Exhibit 2.3: 1962 Zoning and Assessment Map (1 page);
- Exhibit 2.4: 2002 Aerial Photos showing subject property and vicinity (1 page);

- Exhibit 2.5: Columbia River Gorge National Scenic Area Landscape Settings Map with labels added (1 page);
- Exhibit 2.6: 2002 Aerial Photo with landscape setting drawn on it (1 page);
- Exhibit 2.7: Columbia River Gorge National Scenic Area showing boundary of the NSA along the County line in the river (1 page)
- Exhibit 2.8: County Assessment data sheets provide information for subject property and nearby development (34 pages).
- Exhibit 2.9: Photographs taken on site by staff during a site visit on August 8, 2004 showing view of Columbia River KVA (1 page);
- Exhibit 2.10: Photographs taken on site by staff during a site visit on August 8, 2004, showing proposed addition site (1 page);
- Exhibit 2.11: Photographs taken on site by staff during a site visit on October 13, 2004 showing intermittent stream bed and surrounding vegetation (3 pages).
- Exhibit 2.12: 2002 Aerial Photo showing topography of the vicinity (1 page);
- Exhibit 2.13: 2002 Aerial Photo showing the site in relationship to the Columbia River KVA (1 page);

13.3 Exhibits submitted by other parties:

- Exhibit 3.1: Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service Heritage Resource Inventory Report submitted on 7/13/04 (2 pages);
- Exhibit 3.2: Letter of comment from Karen Mirande, Planner, Columbia River Gorge Commission, submitted 9/1/04 (1 page);
- Exhibit 3.3: Faxed letter of comment from Glen Fullilove, Land Use Legal Assistant, Friends of the Columbia Gorge, submitted on 9/3/04 (2 pages).
- Exhibit 3.4: Letter of comment from Glen Fullilove, Land Use Legal Assistant, Friends of the Columbia Gorge, submitted on 9/7/04 (3 pages).

BEFORE THE HEARINGS OFFICER
FOR MULTNOMAH COUNTY

IN THE MATTER OF AN APPEAL)
OF MULTNOMAH COUNTY LAND)
USE AND TRANSPORTATION)
PROGRAM CASE NO. T2-04-051)
(WILLIAM WHITNEY, APPLICANT).)

SETTLEMENT AGREEMENT

RECEIVED
JAN 19 2005
MULTNOMAH COUNTY
HEARINGS SECTION

I. INTRODUCTION

This Settlement Agreement is entered into to resolve the above-captioned appeal filed by the Executive Director of the Columbia River Gorge Commission.

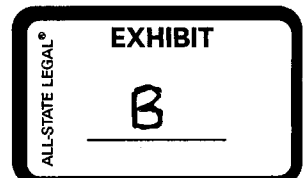
The appeal challenges, *inter alia*, Multnomah County's application of MCC 38.7035(A)(2) and MCC 38.7035(C)(1).

At the hearing for this appeal, the Executive Director presented testimony and evidence based on information provided by the applicant. Subsequently, the Applicant provided new information demonstrating that the prior information provided to the Executive Director was not accurate. This new information addresses many of the Executive Director's concerns regarding the actual size of the dwelling and the proper application of MCC 38.7035(A)(2) and (C)(1).

Although the Executive Director disagrees with Multnomah County's application of MCC 38.7035(A)(2) and (C)(1), the Executive Director and the Applicant have reached a compromise that is based on the new information and additional modifications to the proposed addition.

II. TERMS OF AGREEMENT

1. **Modifications to the Proposed Addition:** The attached letter from William Whitney to Jeffrey Litwak dated January 18, 2005 describes modifications that the Applicant is willing to make to the proposed addition. The Executive Director of the Columbia River Gorge Commission accepts these modifications in an effort to settle this appeal.
2. **Effect of Modifications:** The modifications eliminate the proposed carport and reduce the size and scale of the proposed addition. As such, the Executive Director and Applicant believe that the modifications can and should be approved within the confines of the existing findings of fact and conclusions of law.



3. **Stipulated Submittal Supplementing the Record:** The Applicant and the Executive Director request that the Hearings Officer:

- a. Approve the proposed addition as modified by this settlement agreement by amending condition of approval no. 3 to require the addition to be built as described in the attached letter.
- b. Not interpret or apply MCC 38.7035(A)(2) or (C)(1) in any manner different than the County Planning Staff.

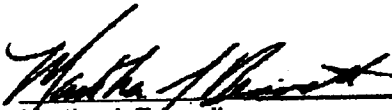
4. **Binding Agreement:** The Executive Director agrees to let stand (i.e., not appeal) a decision by the Hearings Officer that is made in accordance with 3.a and b. above.

5. **Agreement Not Binding:** In the event that the Hearings Officer does not approve the proposed modifications, or the Hearings Officer interprets or applies MCC 38.7035(A)(2) or (C)(1) in a manner different than the County Planning Staff, the parties to this agreement shall not be bound by this Agreement and shall have the right to appeal the decision of the Hearings Officer.

6. This agreement is made solely in the spirit of settlement and is not admissible in any other land use application, appeal, or proceeding.

VI. SIGNATURES

By our signatures below, we jointly submit this settlement agreement to the Hearings Officer as a supplement to the record and respectfully request the Hearings Officer approve the proposed addition, as modified in accordance with the terms of this agreement.



Martha J. Bennett
Executive Director of the
Columbia River Gorge Commission
Appellant

1/19/05
Date



William Whitney
Applicant

1/19/05
Date

Attachment

NOTICE OF DECISION
JAN 19 4:11:36
COLUMBIA RIVER GORGE COMMISSION



WHITNEY
ARCHITECTS

January 18, 2005

Mr. Jeffrey B. Litwak, Counsel
Columbia River Gorge Commission
#1 Town & Country Square
P.O. Box 730
White Salmon, Washington 98672

Re: Moseley Property
Proposed Settlement to Appeal
Multnomah County No. T2-04-051

Dear Jeffrey:

We are proposing to resolve issues related to comparable size by offering to make the following compromise to the size of the addition:

1. Eliminate the new carport - 324 s.f.
 2. Reduce the size of the laundry room - 27 s.f.
 3. Reduce the east side of the addition by 1 ft. - 33 s.f.
 4. Reduce the south side of the addition by 2 ft. - 62 s.f.
 5. Reduce the west side of the addition by 2 ft. - 74 s.f.
 6. Eliminate the hall closet across from the laundry room - 34 s.f.
- Total reduction: 554 s.f.

Previous area: 5,056 s.f.
- 554 s.f.
New Total area: 4,502 s.f.

This would reduce the overall building area / mass to within 5% ($4,275 / 4,502 = .95\%$) of your standard for compatibility.

This represents a significant sacrifice to the Moseleys, especially Katie's mom, who will reside in the addition; but they wish to avoid further delay, thus have agreed to the compromise.

I have their verbal agreement to the changes, and as before, I'm acting as their representative.
Thank you for your assistance in reaching this.

Sincerely,

William Whitney,
Whitney Architects

WW/cl