



MULTNOMAH COUNTY
LAND USE & 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 NSA DECISION

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

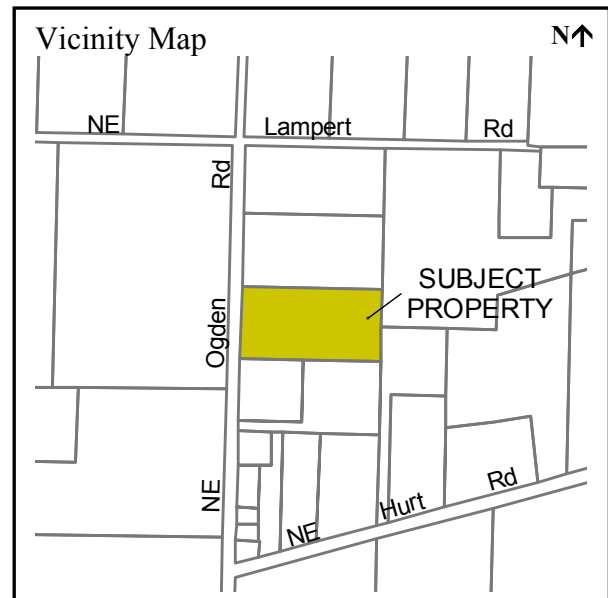
Case File: T2-04-075

Permit: National Scenic Area Site Review

Location: 1112 NE Ogden Road
Lot 16, Banner Acres
TL 900, Sec 32, T1N, R4E, W.M.
Tax Account #R05350-1400

Applicant: Julie Katch
Giulietti/Schouten AIA Architects P.C.
2800 NW Thurman St
Portland, OR 97210

Owner: Jeffrey and Jennifer Bratten
1155 NE Hogan Drive
Gresham, OR 97030



Summary: NSA Site Review to construct a 5,697 square-foot single-family dwelling with attached garage on a 4.76-acre lot in Banner Acres. The proposed dwelling is to be located toward the rear of the property near the existing storage building.

Decision: Approved with conditions.

Unless appealed, this decision is effective **Monday, February 28, 2005**, at 4:30 PM.

Issued by:

By: _____
Beverly Bruesch, Planner

For: Karen Schilling, Planning Director

Date: Monday, February 14, 2005

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 Beverly Bruesch, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 38.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Columbia River Gorge Commission (CRGC) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, February 28, 2005, at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 38.0045 - Review and Conditional Use Applications, MCC 38.0060 - Agricultural Buffer Zones, MCC 38.0510 through 38.0800 - Administration and Procedures, MCC 38.3000 through 38.3095 - GGR Zoning District, and MCC 38.7035 through 38.7090 - Site Review (GMA).

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 38.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 38.0700. 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 (pages 1-3 of this decision and the Site Plan) with the County Recorder; provided, however, that the Planning Director may grant reasonable extensions, not to exceed an additional 30 days, in cases of practical difficulty. 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 the Land Use Planning Division. Recording shall be at the applicant's expense. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision. [MCC 38.0670]**
- 2. Prior to zoning approval of the building permit, the property owners shall provide the Land Use Planning Division with a copy of the proof of recording of a "Covenant - Notice of Zoning Compliance – Accessory Structure" that has been signed, notarized, and recorded with Multnomah County Recorder. This covenant shall run with the land. Recording shall be at the applicant's expense. [MCC 38.3025(A)(2)]**
- 3. Within six months of the effective date of this decision, the applicant or owner must obtain building permits for a dwelling on the subject property, or the zoning clearance for the accessory structure will expire, and the accessory structure must be removed or approved as an allowable use. [MCC 38.3025(A)(2)]**
- 4. If, during construction, cultural or historic resources are uncovered, the applicant/owner shall immediately cease development activities and inform the Multnomah County Land Use Planning Division, Columbia River Gorge Commission, and the US Forest Service of any discovery in accordance with MCC 38.7045(L) and 38.7045(M).**

Building Permit Note: Once this decision is final and all applicable conditions have been met, application for a Building Permit may be made with the City of Gresham. When ready to have the zoning review conducted for the Building Permit, the applicant shall call the Staff Planner, Beverly Bruesch, at (503) 988-3043, for an appointment to review and approve the conditions and sign off on the Site Plan and building plans. Please note, Multnomah County must conduct the zoning review sign-off of the Site Plan and building plans before the applicant submits them to the City of Gresham. Four (4) sets each of the Site Plan and building plans are needed for the zoning review sign-off for the Building Permit.

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.
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Findings of Fact

Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicant's 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*.

Description of Project

Applicant: The applicant proposes a new single family residence with approximately 4,746 sq. ft. of interior livable space and 215 sq. ft. of covered porch, for a total new house area of 4961 sq. ft. The garage is an additional 736 sq. ft. for a total new square footage of 5697 sq. ft. There is an existing gravel driveway along the south edge of the property as well as an existing barn at the SE corner of the property; both of which will remain on the site. The existing barn will be used as storage and will comply with MCC 38.0560.

Staff: As shown on Exhibits 1 and 2, the applicant proposes to construct a 5,697-square foot dwelling on property within the Banner Acres subdivision on Ogden Road. The dwelling is to be located in the back (eastern) fourth of the property; north of the existing storage building (which was originally built as a barn) and southeast of the dwelling on the lot to the north. The proposed two-story structure is to have 4,961 square feet of living area, including a covered pool and patio area, and 736 square feet of garage space. As shown in Exhibit 3, the highest point of the roofline is 34 feet, 4 inches high.

As shown in Exhibits 4 and 5, the exterior walls of the proposed dwelling are to be taupe-colored, sand textured stucco and beveled siding, with egg-shell-colored trim. The roof is to be composed of gray/black fiberglass asphalt roof shingles. The windows are to be of a low-E II or better rating, and the lighting is to be limited to safety lighting, including bronze metal light fixtures on the exterior of the dwelling and low-voltage, hooded, downward-facing landscape and safety lighting near the dwelling. The landscape plan (Exhibit 6) shows a mix of deciduous and evergreen trees and bushes to be planted along the driveway and the northern edge of the property, and near the dwelling.

No changes to the existing storage building are proposed as part of this application. The existing gravel driveway will be used to access the dwelling. A new turn-around will be created at the end of the driveway between the storage building and proposed dwelling (Exhibit 1).

Site and Vicinity Characteristics

Applicant: All adjacent parcels to the immediate north, east, and south of the site are zoned General Gorge Residential (GGR-10). Properties north of Lambert Rd. and west of Ogden Rd. are zoned Gorge Special Agriculture (GSA-40). The area predominately contains single-family residential land uses.

Staff: The 4.76-acre site has an existing 2,400 square-foot storage building in the eastern fourth of the property and a 500-foot long gravel driveway extending from Ogden Road to the storage building. The lot is part of Banner Acres; a 65-lot subdivision that created lots roughly five acres in size. The immediate area surrounding the subject lot is made up of lots with single-family dwellings and agricultural practices (Exhibit 7). Directly across Ogden Road to the west is a 19.8-acre parcel that is being farmed with row crops. The lots to the west of the 20-acre lot are also being farmed. The adjacent lots to the north, south, and east of the subject lot contain single-family dwellings.

1.00 Administration & Procedures

1.01 Type II 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 decision is a review of the proposed dwelling pursuant to MCC 38.0530(B). The application was submitted on August 25, 2004 (Exhibit 8). A Completeness Review notice was sent to interested agencies and Indian tribes. One Completeness Review comment letter was received from the Columbia River Gorge Commission on September 17, 2004 (Exhibit A). The application was deemed incomplete September 24, 2004. Additional information was submitted on October 18, 2004, and the application was deemed complete on November 3, 2004. A 14-Day Opportunity to Comment notice was mailed by staff on November 3, 2004 to property owners within 750 feet of the subject tract, the Gorge Commission, US Forest Service, and the Indian Tribal Governments, and other interested parties. The comment period closed on November 17, 2004. One comment letter was received from the US Forest Service on November 19, 2004, stating that neither a Cultural Resource Reconnaissance Survey or a Historic Survey is required (Exhibit B). This decision was drafted and will be mailed in accordance with MCC 38.0660. *These criteria are met.*

1.02 Proof of Ownership

MCC 38.0550 Initiation of Action

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.

MCC 38.0550, continued

Staff: Jeffrey J. and Jennifer L. Bratten are shown on Multnomah County Assessment and Taxation records as the owners of the subject lot (Exhibit C). Jeffrey Bratten signed the application form submitted on August 27, 2004 (Exhibit 8). *This criterion is met.*

1.03 Code Compliance

MCC 38.0560 Code Compliance and Applications

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, 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.

Applicant: The existing accessory building obtained an Exempt Farm Structure status under the previous owner, Keith Bybee, in December 1995. In 1996, the accessory building was approved for a building permit by Multnomah County (case NSA 20-95).

Staff: A NSA Site Review for a barn on the subject property was approved by Multnomah County on November 22, 1995 (NSA 20-95); and an Exempt Farm Structure permit was issued for the barn on the same day. Zoning approval of the building permit for the barn was issued by Multnomah County on June 3, 1996.

The County assigned an Under Review (UR) case number to the property because there was a report that someone was residing inside the barn (UR-03-020). Based on Multnomah County's February 10, 2005 inspection of the building, it was determined that it is no longer being used as a residence nor are there improvements to the structure (e.g., a kitchen) that would make it suitable as a residence. UR-03-020 has, therefore, been closed. As a condition of approval, the applicant will be required to record a covenant with the County Recorder that runs with the land and prohibits the accessory structure from being used as a second dwelling.

Based on the February 10, 2005 inspection, the existing structure does not meet the definition of an "agricultural building" because it is not used for the storage, maintenance, or repair of machinery and equipment used in farm practices (Section 402, State Structural Code) and is no longer considered an Exempt Farm Structure. It is being used for storage of residential items.

This decision gives zoning clearance for a dwelling on the subject property. Thus, the storage building will be accessory to a dwelling and allowed in accordance with MCC 38.3025(A)(2) – see finding below. NSA 20-95 approved the NSA site review to construct the structure, and no changes to the exterior of the building have occurred. Thus, site review pursuant to MCC 38.7000 through 38.7085 has been satisfied for this structure.

This criterion is met, as conditioned.

2.00 Gorge General Residential - 10

2.01 MCC 38.3015 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.3020 through 38.3095.

* * *

MCC 38.3025 Review Uses

MCC 38.3025(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0035:

(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: Banner Acres was recorded with the County on February 8, 1910 – well before zoning laws went into effect in Multnomah County. The subject lot (#16) has not changed configuration since it was created. Therefore, the parcel met all requirements at the time of creation and is legally created. The property is zoned GGR-10; therefore a single-family dwelling is allowed in this zone subject to NSA Site Review. According to the County zoning map, the subject property is located adjacent to property zoned GGA-40. Therefore, the setbacks of MCC 38.0060 apply as described below. *This criterion is met.*

2.02 (b) If the subject parcel is located is adjacent to lands designated GGF, the placement of a dwelling shall also comply with the fire protection standards of MCC 38.0085.

Staff: According to Multnomah County zoning maps, the subject property is not located adjacent to GGF lands. *This criterion is met.*

2.03 (2) Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

Staff: A NSA Site Review decision for a barn on the subject property was approved by Multnomah County on November 22, 1995 (NSA 20-95); and an Exempt Farm Structure permit was issued for the barn on the same day. Zoning approval of the building permit for the barn was issued by Multnomah County on June 3, 1996.

Based on the February 10, 2005 inspection, the existing structure does not meet the definition of an “agricultural building” because it is not used for the storage, maintenance, or repair of machinery and equipment used in farm practices (Section 402, State Structural Code) and is no longer considered an Exempt Farm Structure. It is currently being used for storage of residential items.

This decision gives zoning clearance for a dwelling on the subject property. Thus, the storage building will be accessory to a dwelling.

MCC 38.3025(A)(2), continued

NSA 20-95 approved the NSA site review to construct the structure. The building was constructed in accordance with that decision, and no changes to the exterior of the building have occurred. Thus, site review pursuant to MCC 38.7000 through 38.7085 has been satisfied for this structure. *This criterion is met.*

2.04 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'

MCC 38.0060(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.

Staff: The subject property is across the street from property zoned Gorge General Agriculture - 40 (GGA-40). Therefore, the buffer zones apply. Aerial photography (Exhibit 7) shows what appear to be row crops planted on the property. The submitted Site Plan (Exhibit 1) shows the proposed dwelling to be approximately 560 feet from the property line of the agricultural field to the west. Therefore, it meets the 300-foot setback buffer for an open or fenced condition. *This criterion is met.*

2.05 MCC 38.3060 Dimensional Requirements

MCC 38.3060(A) Except as provided in MCC 38.3030 (A) (8), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:

GGR-2	2 acres
GGR-5	5 acres
GGR-10	10 acres
GSR	The size of all contiguous, individually owned parcels, as of November 17, 1986

MCC 38.3060(A), continued

Applicant: The applicant parcel is 4.76 acres. Multnomah County zoning and land use maps from 1962 and 1977 show the subject parcel with the same configuration, lot shape and size, as the current configuration. The zoning designation of the parcel, GGR-10 became effective June 23, 1993 (ord. 748). The applicant does not meet the criteria of 10 acres for a minimum lot size. Multnomah County recognizes the parcel as a legally established parcel (see case file: NSA 2-98, June 22, 2000).

Staff: The property is not being partitioned under this proposal. The property is part of a lawfully established 65-acre subdivision recorded on February 8, 1910, in Book 515, on pages 69-70 in the Multnomah County records (Exhibit C). The subdivision pre-dates the 10-acre minimum requirement.

A 2004 Warranty Deed shows Jeffrey and Jennifer Bratten as the current owners of the property (Exhibit 9). *This criterion met.*

2.06 MCC 38.3060(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.

Staff: Assessment and Taxation show the subject property as 4.76 acres. With that portion that would accrue to the property if the street were vacated, the property would be five-acres. *This criterion is met.*

2.07 MCC 38.3060(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Staff: As measured on the Site Plan (Exhibit 1), the dwelling is approximately 500 feet from the front property line, over 60 feet from both side lot lines, and 60 feet from the rear lot line. The building elevation (Exhibit 3) shows the proposed structure to be 34 feet-4 inches high. The subject lot has a 328-foot front lot line. *This criterion is met.*

2.08 MCC 38.3060(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.

Staff: Ogden Road has a 60-foot right of way according to the original plat and meets the County's minimum requirements according to the Street Standards Ordinance. *This criterion met.*

- 2.09 MCC 38.3060(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

Staff: *Not applicable.*

- 2.10 MCC 38.3085 Off Street Parking and Loading**

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

Applicant: As required by MCC 38.4205(A)(1), there will be a minimum of two parking spaces for the residential dwelling unit on the site. All off-street parking and loading will comply with MCC 38.4100 through 38.4215.

Staff: *This criterion is met*

- 2.11 MCC 38.3090 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.

Staff: The subject lot abuts Ogden Road and has an existing gravel driveway starting at the southwestern corner of the lot. Exhibit 1 shows a “new paved access” (although the existing gravel driveway access already exists in this location). *Therefore, this criterion is met.*

In accordance with Multnomah County Road Rules, a driveway permit must be obtained from Multnomah County Right-of-Way and the driveway and pavement must be designed in compliance with County standards. Multnomah County Transportation determined that the driveway must have a 20-foot paved approach to Ogden Road as measured from the edge of road pavement, and must not create any drainage problems along the County road (Exhibit D). In addition, the security gate on the driveway must be at least 20 feet back from the County right-of-way (Exhibit D). To obtain a driveway permit, the applicant shall contact Alan Young, Multnomah County Right-of-Way; (503) 988-3043; 1600 SE 190th Avenue, Gresham.

- 3.00 NSA Site Review**

- 3.01 MCC 38.7010 Applicability**

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.

Staff: The proposed use is not listed as a primary use in the GGR-10 zoning district. Therefore, a NSA Site Review is required. MCC 38.0530 requires this application to go through a Type II permitting process. MCC 38.7090 is for an emergency response, which this is not. Therefore the application shall go through a Type II process. *This criterion is met.*

3.02 MCC 38.7015 Application for NSA Site Review

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

Staff: See findings for MCC 38.7035 through MCC 38.7085 below. *This criterion is met.*

3.03 MCC 38.7020 Required Findings

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: See findings for MCC 38.7035 through MCC 38.7085 below. *This criterion is met.*

3.04 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:

MCC 38.7035(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 elevation of the site is highest at the southeast corner of the property and lowest at the southwest corner of the property. The average slope to the site lies between 10 – 15% slope.

The applicant will use the existing driveway that leads to the existing accessory structure as the access to the proposed development. There will be a new driveway turn-around that utilizes some of the existing driveway. The proposed single family residence will need minimal grading as it is oriented with its length parallel to the existing slope. The width of the building footprint is no wider than 42' at any one section cut (with the overall maximum width of 63') over an average slope of approximately 11-14%. The main floor level will be placed at a midpoint contour between the upper and lower contours of the natural slope to minimize filling and cutting. The west side of the house will include some additional fill to provide adjacent access around the house. The east side of the house will be graded for a patio and terraced landscaping with landscape retaining walls where necessary. There is an existing minor raise in grade near the proposed residence entry that will be removed, with all remaining fill taken off site or used for adjacent new landscape grading.

Staff: As described by the applicant and shown in Exhibit 1, the site slopes from the east to the west with approximately 80 feet of elevation difference from the highest point behind the storage building to the front property line. The slopes range from 5 to 14 percent, except for an area of higher slopes located immediately east of (behind) the existing storage building. Also, a small raised knoll is located north of the existing storage building in the proposed building site area.

MCC 38.7035(A)(1), continued

As shown on Exhibits 10 and 11, the proposed development will require grading of the property to provide a more level building site; it is estimated that approximately 251 cubic yards of fill and 336 yards of cut (587 cubic yards total) will be required to prepare the building site. The main floor level is to be placed at a midpoint contour between the upper and lower contours of the natural slope to minimize filling and cutting. The width of the proposed dwelling footprint will be no wider than 42 feet at any one section cut (with the overall maximum width of 63 feet) over an area with slopes ranging from 8 to 14 percent. The entire development would take place within a 10-foot interval over a roughly 160-foot distance (including the driveway turnaround).

The west side of the house will include some additional fill to provide adjacent access around the house. The east side of the house will be graded for a patio and terraced landscaping with landscape retaining walls where necessary. There is an existing minor raise in grade near the proposed residence entry that will be removed, with all remaining fill taken off site or used for adjacent new landscape grading. Most of the natural grade around the building site will be retained. Also, the design of the dwelling as a two-story versus one-story structure reduces the amount of grading required (assuming the same amount of square footage is proposed).

Based on the contour information provided by the applicant (Exhibit 1), except for an area near the southwestern corner of the lot that has 6 to 11 percent slopes, most of the property has slopes of 11 to 14 percent. At the proposed development site, there is a flatter area northwest of the storage building with approximately 8 percent slopes that is to be utilized in the development of the driveway turnaround and southern portion of the dwelling. Moving the development to another location on the property would not be expected to substantially alter the amount of required grading since the slopes on the balance of the property are similar to those at the proposed development site. Also, because the proposed location utilizes the existing driveway, a different location could potentially increase the amount of grading associated with accessing a dwelling in a different location on the site. No grading will be required for the access driveway except for the new turnaround at the eastern end of the driveway which will require fill be placed at the northern end of the turnaround.

Staff finds that the proposed development has been sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable. *This criterion is met.*

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

Applicant: The applicants' home is a single-family residence that has a 3-car garage and a covered pool/patio area. The garage and pool areas are one story structures and the home's main habitable space is a two story structure. The house has a covered entry patio area and a covered second floor deck. The total square footage of this building area minus the garage is 4961 sq. ft. The total area including the garage is 5697 sq. ft. In addition to the proposed house and garage, there is an existing detached 2400 sq. ft. barn on the site not approved for living. The maximum height of the house is 34 ft. at its' main ridge line. The maximum height of the garage is 21 ft. and the pool house is 28 ft. The average height of combined rooflines is 28.4 ft.

MCC 38.7035(A)(2), continued

Chart No. 1 [Exhibit 13] compares all the houses in the vicinity regardless of size and age. Upon reviewing these neighboring houses, it is apparent that there is a wide variation of style, height, size and mass. There is no consistency of size and height in the vicinity. Homes range from 1008 square feet to 11,816 square feet. There are eleven two story homes, nine daylight basement homes, and six one story homes. The average size is 3602 square feet and the mean size is 5404 square feet. The applicants home, at 5696 square feet is slightly above the mean size and in the upper quarter in square footage. Since there is such a range of homes, it is not possible for new construction to be consistent with all the homes, but the applicant's home is certainly consistent in size and height to the existing two story homes in upper half of the range.

Since the range of homes is so wide, we felt that a more appropriate comparison would be to look at those homes built since 1980, a generation of homes more consistent with today's current American family lifestyle. Homes built prior to 1980 were smaller. Review of Chart No. 1 shows that of 16 homes below 4000 square feet, only one home was built after 1980. There are a total of seven homes built after 1980. These homes range from 2458 square feet to 11,816 square feet. Since the 11,816 square foot house seems too atypical for the vicinity, we removed this home from the following calculations in **Chart No. 2** [Exhibit 14].

The two exposures of the home, which potentially face the Key Viewing Areas, are the west and the north exposure. While the applicant's home is a two-story home, only a small portion of the Western and Northern exposure is a true two-story element. The pool is a one-story element with a 10 foot vertical wall and a sloped roof surface facing north. The Living Room is a one story element with a vaulted ceiling. The vertical gabled end is broken into two gables of 22 feet high and 27 feet high at their ridges. The garage exposure that faces West is 22 feet tall at its high point. The highest point of the house is 34 ft. and the average height of the house is 28.4 ft.

Staff: As described above, the applicant has submitted a comparative analysis of the height and size of 28 homes near the proposed dwelling. Most of these homes are within a quarter-mile of the subject property; the furthest being a half-mile from the property. Exhibit 12 shows the location of the homes and Exhibit 13 (Chart 1) presents a breakdown of the corresponding sizes (square feet and height) of these homes. As shown, the applicant's analysis area includes an inventory of the homes physically close and topographically similar to the subject property, focusing on the ones within a quarter mile, and a few others within a half-mile. Due to the road system and topography, these homes are related visually to the subject property because they are on or near Ogden Road and at a similar elevation as the subject property; they are separated from surrounding development by ridges and hills. The only homes not included in the applicant's analysis are three homes located immediately south of the property along Ogden Road. Based on County Assessment and Taxation records, staff determined that these homes ranged in size from 550 to 1,230 square feet in size (Exhibit E). Staff recognizes the inventory of homes shown in Exhibit E as appropriate for the evaluation of *consistency* under this code criterion (MCC 38.7035(A)(2)) and the evaluation of *compatibility* under MCC 38.7035(C)(1)(a) and (C)(3)(a) below, because they include development that is in the vicinity of the subject property, and is physically close and topographically comparable to the subject property.

MCC 38.7035(A)(2), continued

The Columbia River Gorge Commission, in a letter dated September 16, 2004 (Exhibit A), had three comments that pertained to the first version of the applicant's submittal. In summary, these comments were: (1) the square footage of the proposed dwelling used in the consistency and compatibility analyses did not include the entire structure's square footage; (2) the evaluation was based on only three structures and only compared living areas, and (3) height should not be used as a separate factor to evaluate compatibility. The applicant revised the analysis in response to the Commission's comments. The entire square footage was used in describing the proposal and in comparing the proposed building to other nearby development. In addition, a larger sample of homes in the vicinity of the subject property was added to the analysis. Height was addressed as one of the parameters for evaluating compatibility with other development; other factors included square-footage and overall mass.

As described above, the applicant's analysis includes homes that are physically close and topographically similar to the property and provides detailed information about the sizes of the livable areas, garages, basements, and heights of the structures. While information regarding the year built gives some context for looking at this information, it is not a parameter that is included in this code criterion. Therefore, County staff is evaluating the proposed dwelling in the context of all the properties included in the analysis area, independent of the year built. Exhibit 15 includes photographs of many of the dwellings used in the analysis.

The County amended the applicant's Chart 1 (Exhibit 13) to include the three previously excluded homes and to correct garage square footages to exclude any detached garage areas (Exhibit E). As shown on Exhibit E, homes within the analysis area range in size from 550 square feet to 6,746 square feet of living area, and 550 square feet to 7,514 square feet of total living area (living area plus basements and attached garages). (Note: Basement areas were only included in the total where the applicant determined them to be visible based on a site visit. Also, the analysis excludes the manufactured homes and the 11,816 square-foot home.

The proposed dwelling would include 4,961 square feet of living area (including a 1,169 square-foot covered pool area) plus 736 square feet of garage, for a total of 5,697 square feet of new building. The proposed dwelling would be larger than most of the nearby homes included in the analysis; however, it would be within the range of the sizes of existing nearby homes – three of which are on lots directly adjacent to the subject property. When considering total living area plus attached garage space, it would be smaller than four nearby homes (30485 NE Hurt, 1010 NE Ogden, 1334 NE Ogden, and 29425 NE Lampert), and it would be only 300 square feet larger than the next smaller home at 1001 NE Ogden). Heights of the homes were estimated for most of the homes in the analysis area. As least five of the nearby homes have estimated heights that are within four feet of the height of the proposed dwelling (30811 NE Hurt, 1334 NE Ogden, 1408 NE Ogden, 30700 NE Lampert, and 29425 NE Lampert); and one of these is estimated to be 34 feet in height (1408 NE Ogden) -- the same as the proposed dwelling. Thus, the height of the proposed dwelling is comparable with other nearby homes.

Considering the above analysis, the proposed new building is generally consistent with the height and size of existing nearby development. *This criterion is met.*

MCC 38.7035(A), continued

- 3.06 (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 applicant parcel does not directly access a Scenic Travel Corridor. The applicant plans to utilize the existing driveway from NE Ogden Rd. to the proposed dwelling.

Staff: The access to the property is off of Ogden Road, which is not listed as a Scenic Travel Corridor. This criterion does not apply.

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

Applicant: The applicants will be responsible for the proper maintenance and survival of any required vegetation as required by MCC 38.7035. Existing blackberry vines, a listed nuisance plant, have been identified on the property and will be eradicated in and around cultivated areas of the property. The existing trees on the property will not be affected by the proposed development.

Staff: No vegetation is required for screening of the proposed development. *This criterion is met.*

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

Applicant: The proposed development will be compatible with the landscape setting as shown in the site plan submitted.

Staff: Based upon the site plan, supplemented by a staff site visit, staff finds the proposed dwelling is consistent with the Rural Residential in a Pastoral Landscape Setting (see findings under MCC 38.7035(C)(1), (3) and (4)). *This criterion is met.*

- 3.09 (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 development is a single family residence and the above criteria are not applicable.

Staff: The proposal does not include any mining activities. *This criterion is not applicable.*

3.10 MCC 38.7035(B) All Review Uses and Conditional Uses Visible from Key Viewing Areas:

Applicant: The applicant site was confirmed by Multnomah County staff in April 1998 (see previous owner's case file: NSA 2-98) as not visible from a Key Viewing Area within the Gorge National Scenic Area. The property to the immediate north of the applicant site (1334 NE Ogden, case file T2-02-051, Jan. 2003) was also determined not to be visible from any

Key Viewing Area (KVA). This neighboring property bears similar site characteristics to the applicant's property with regard to site elevation and slope, pastureland vegetation, and siting of building development. The applicant determines that the proposed development will not be viewable from any KVA.

The applicant has photographs corresponding to locations on a topography map that provide potential sightlines of the property from Key Viewing Areas. The photographs do not show any visibility of the proposed development from a potential KVA. Drawing SK-14 provides an approximate section through the topography in line with the photographs. The applicant believes this section is a good representation of similar sections in the area, and any potential visibility is mitigated by extreme distance of proposed development. The applicant believes there is no potential impact of the proposed development on visibility from Key Viewing Areas.

If Multnomah County does find that the proposed development would be visible from a Key Viewing Area, all the requirements of visual subordination will be understood by the applicant as required.

Staff: Based on a review of the submitted view analysis, photographs, and site visit, staff concurs that the proposed building site is not visible from any NSA Key Viewing Areas and, thus, not subject the Site Review criteria relating to visibility from Key Viewing Areas.

The application includes photographs taken from potential Key Viewing Areas (Columbia River and Interstate 84 (see Exhibits 16 and 17). The building site is not visible due to intervening distance and topography. The building site is topographically screened from the east and northeast by a large hill that begins at Hurt Road and extends north along the property line and northeast past Lampert Road. Beyond the adjacent properties to the north along Ogden and Lampert Roads is the continuation of the ridge that topographically shields the property from the Key Viewing Areas (Exhibit 7). According to the USGS elevation mapping, the Columbia River is at an elevation below 30 feet while the subject property is at approximately 630 feet. Also, the proposed development and is approximately 6/10 of a mile from the ridgeline (Exhibit 18). The 600-foot difference in elevation, as well as the distance from the ridgeline, makes it virtually impossible to see the building site, at any angle, from the Key Viewing Areas.

This criterion is met.

3.11 MCC 38.7035(C) All Review Uses and Conditional Uses within the following landscape settings:

Staff: According to the Landscape Settings Map in the Multnomah County Land Use Planning Office, the subject lot is in a “Rural Residential in Pastoral” landscape setting.

3.12 (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: Please refer to MCC 38.7035 (A) (2) that addresses compatibility of proposed development with development in the vicinity.

Staff: The standard under MCC 38.7035(A)(2) addresses, “...general consistency with the height and size of existing nearby development.” This criterion addresses whether or not the “new development shall be compatible with the general scale (height, dimensions, overall mass) of the development in the vicinity.” The information included in Chart 1 (Exhibit 13), as well as the photographs of nearby homes (Exhibit 15) are useful in evaluating “compatibility.” As found in the response to MCC 38.7035(A)(2), the proposed dwelling’s square footage and height are within the range of the size and height of existing development in the vicinity of the subject site. The new dwelling will appear to be a larger scale or overall mass than many nearby homes when viewed from neighboring properties and roadways. However, it will appear to be similar to or smaller than the scale of a few of the existing homes in the sample area (30485 NE Hurt, 1334 NE Ogden, 1408 NE Ogden, and 29425 NE Lampert).

Because the proposed development is within the range of the scales (height, dimensions, and overall mass) of other homes in the vicinity of the subject property, it is found to be compatible with the general scale of the development in the vicinity. *This criterion is met.*

3.13 (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: All new development will be clustered together toward the rear of the site, adjacent to the existing storage barn. This allows the majority of open pastoral land to remain undisturbed.

Staff: *This criterion is met.*

MCC 38.7035(C)(1), continued

- 3.14** (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:

Staff: As noted in response to MCC 38.7035(B), the proposed development was determined to not be visible from the Key Viewing Areas. *These criteria do not apply.*

- 3.15** (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 proposes a new single-family residence for the subject parcel. The applicant proposes recreational uses typical of the use of a parcel for a single-family residence.

Staff: There are no proposed recreation uses for the subject lot. *This criterion does not apply.*

- 3.16** (3) Rural Residential

(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.

Staff: As determined in the finding for MCC 38.7035(C)(1)(a), the proposed development is compatible with the general scale of development in the vicinity. *This criterion is met.*

- 3.17** (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: The existing tree cover is along the south property and east property (southern half) lines. Most of the trees are not on the applicant's site. The proposed development has no impact on existing tree cover.

Staff: The landscape plan included in the application (Exhibit 6) shows that the trees on the subject property will be retained. *This criterion is met.*

- 3.18** (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:

Staff: As noted in response to MCC 38.7035(B), the proposed development was determined to not be visible from the Key Viewing Areas. *These criteria do not apply.*

MCC 38.7035(C)(3), continued

- 3.19** **(d) Compatible recreation uses include should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks) may be allowed.**

Applicant: The proposed development is a new single-family residence with recreational uses typical of the use of a parcel for a single-family residence.

Staff: The proposed development is not a recreational development. *This criterion does not apply.*

3.20 **(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.**

Applicant: The applicant intends to comply with design standards for both the Rural Residential setting and the more rural setting with which it is combined (Pastoral).

Staff: The applicant has addressed the Rural Residential and Pastoral landscape settings individually. See findings for MCC 38.7035(C)(1) and (3). *This criterion is met.*

- 3.21** **(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: The applicant agrees that in the event of a conflict between the standards, the standards for the more rural setting (Pastoral) shall apply, unless it can be demonstrated that application of such standards would not be practicable.

Staff: Staff finds there is no conflict between the standards for this property. *This criterion is met.*

- 3.22** **(c) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.**

Applicant: The proposed development is a new single-family residence with recreational uses typical of the use of a parcel for a single-family residence.

Staff: There are no proposed recreation uses for the subject lot. *This criterion does not apply.*

3.23 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).

Applicant: The proposed development would not affect known cultural resources. Thomas Turck, the archaeologist for the U.S. Forest Service, visited the site on March 4, 1998 and concluded that neither a Reconnaissance Survey nor a Historic Survey is necessary for the site. To protect unknown cultural resources, the applicant is required to immediately cease work and notify the Planning Director, the Gorge Commission, and the Oregon State Office of Historic Preservation within 24 hours in the event that cultural resources are inadvertently discovered during construction activity. If the cultural resources area prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian Tribal Governments within 24 hours.

Staff: A comment letter from the US Forest Service, dated November 19, 2004 (Exhibit B), stated that neither a Cultural Resource Reconnaissance Survey nor a Historic Survey is required for the proposed project because it would occur in a low probability zone for cultural resources and no historic structures would be altered or compromised. Thus, no known cultural resources are known to exist in the project area. A condition of approval includes the provisions from MCC 38.7045(L) and (M). *This criterion is met, as conditioned.*

3.24 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:

(a) It is conducted using best management practices;

(b) It does not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

MCC 38.7045(A)(6), continued

(c) It complies with all applicable federal, state, and county laws:

Applicant: There are no known wetlands or wetland plants on the site.

Staff: Based on the National Wetlands Inventory map and the Soil Survey of Multnomah County, there are no identified wetlands or hydric soils on the subject property. *This criterion is met.*

3.25 MCC 38.7060 GMA Stream, Lake and Riparian Area Review Criteria

Staff: Based on the Columbia River Gorge National Scenic Area (NSA) Wetlands Maps for the Washougal Quad provided by the US Forest Service, there are no streams, lakes, or riparian areas near the subject site. *These criteria do not apply.*

3.26 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: According to NSA Sensitive Wildlife Maps for the Washougal Quad provided by the US Forest Service, there are no sensitive wildlife areas within 1,000 feet of the subject property. *These criteria do not apply.*

3.27 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: According to NSA Sensitive Plants Maps for the Washougal Quad provided by the US Forest Service, there are no known rare plants within 1,000 feet of the subject building site. *These criteria do not apply.*

3.28 MCC 38.7080 GMA Recreation Resource Review Criteria

Staff: The proposal is not for a recreational use. *These criteria do not apply.*

4.00 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.

5.00 Exhibits

Exhibits referenced in this decision, but not attached, are found in the case file, located at the Land Use Planning office; John B. Yeon Building, 1600 SE 190th Avenue, Gresham, Oregon.

Exhibit #	# of Pages	Description of Exhibit
<i>Exhibits Provided by Applicant</i>		
1	1	Site Plan
2	2	Floor Plans
3	1	North Building Elevation
4	1	West Building Elevation
5	1	Exterior Material Palette
6	1	Preliminary Landscape Plan
7	1	Aerial Photograph of Property and Vicinity
8	1	Signed General Application Form
9	1	2004 Warranty Deed
10	1	Grading Plan
11	2	Sections with New Grading
12	1	Aerial Vicinity Map Showing Nearby Development
13	1	Chart 1 – Data for Nearby Development
14	1	Chart 2 – Data for Nearby Development Built Since 1980
15	5	Photographs of Nearby Development
16	1	Site Photo Index
17	1	Photographs of Site from Key Viewing Areas
18	1	Cross Section
<i>Exhibits Provided by Multnomah County</i>		
A	2	September 16, 2004 Completeness Letter from Columbia River Gorge Commission
B	2	November 19, 2004 Comment Letter from Marge Dryden, US Forest Service
C	1	County Property Assessment & Taxation Record
D	1	Memorandum from Alison Winter to Beverly Bruesch re: Driveway Requirements, dated November 9, 2004
E	1	Inventory of Nearby Development