



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

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

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

**September 20, 2005**

**Case File T2-05-023**

Appeal of a planning director's approval of an NSA site review permit to construct a new 40' wide by 56' long accessory structure in the Gorge General Residential (GGR-5) zoning district. The landscape setting is Rural Residential.

**Address:** 37003 NE Reed Road, Corbett, Oregon 97019

**Map Description:** Tax Lot 700, Section 26CA, Township 1 North, Range 4 East,  
Willamette Meridian  
Tax Account #R944261070

**Applicant:** Michael Bell

**Owner:** Michael Bell and Lisa Snider-Bell  
37003 NE Reed Road  
Corbett, OR 97019

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

## **PROCEDURAL ISSUES**

### **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 or 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.

### **Burden of Proof**

In this proceeding, the burden of proof is upon the Applicant.

### **Project Description**

Originally, the applicant proposed to construct a 40' wide by 70' long accessory structure. On July 15, 2005, the applicant modified his request to reduce the size of the structure to a 40' wide by 56' long building. The proposed structure will be partially located within the building footprint of an old barn which was removed from the property in the fall of 2004. The style of construction is a pole building and will be enclosed. The accessory structure is proposed for the housing of pet horses, goats, and rabbits and equipment utilized on the property.

### **Grounds for Appeal**

The appellant raised three separate grounds for appeal.

- 1. The appellant contended that the proposed building will not be visibly subordinate to its setting, as seen from the key viewing areas, if it is constructed as originally approved by the County staff;
- 2. The appellant also contended that the proposed structure used reflective building materials in violation of Code requirements, and that the vegetative screening would not be sufficient to assure that the development would be visually subordinate to its setting when reflective building materials were used; and
- 3. In addition, the appellant contended that the County should have required the shorter side of the building to face the key viewing areas.

### **Resolution of Appeal by Settlement Agreement**

At the hearing, the applicant and appellant submitted a proposed settlement agreement for review and approval. The applicant was proposing to amend his application to utilize exterior siding of wood (T-1-11). In addition, the color for the exterior of the building will

either be Swamp Green or Russian Green and the roofing material will be asphalt composition shingles, of a charcoal color.

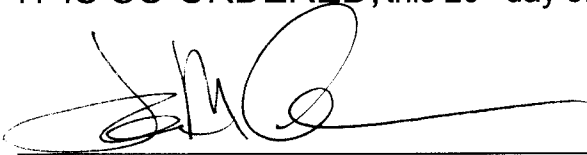
The applicant has also agreed to plant four trees at locations shown on a modified site plan, attached to the settlement agreement. The parties further agreed to add a new condition of approval to require the applicant to use wood (T-1-11) for the exterior siding material and asphalt composition shingles for the roofing material. Conditions 5 and 6 would also be modified, to be consistent with the proposed settlement agreement.

I have reviewed the proposed settlement agreement and find that it adequately addresses issues raised by the appellant. With the change in the building materials and the addition of trees, I find that the building in its proposed location, will be visually subordinate. It will not be necessary for the applicant to change the orientation of the building. Accordingly, I find that the submitted application should be revised as proposed in the settlement agreement, and that the proposed settlement agreement is hereby approved and resolves the issues raised on appeal. The decision of staff is approved, as modified herein, and by this reference is incorporated herein. The settlement agreement, which is labeled Exhibit H-5, is attached hereto and is incorporated by this reference herein. The application, as modified, is approved, subject to the following conditions of approval:

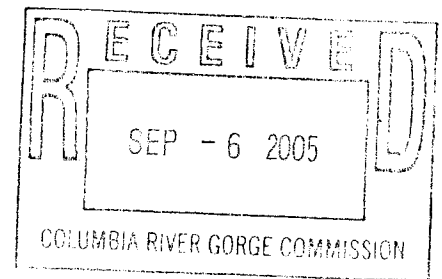
1. If, during construction, cultural or historic resources are uncovered, the property owner(s) shall immediately cease development activities and inform the Multnomah County Land Use Planning Division, Columbia River Gorge Commission, and the U.S. Forest Service of any discovery. [MCC 38.7050(H)]
2. The exterior lighting on the three sides of the accessory structure shall be directed downward, hooded and shielded. Prior to land use approval of the building permit for the shop/pole barn, the property owner or his representative shall provide construction details for the proposed lights. [MCC 33.7035(B)(10)]
3. 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/Landscape Plan - Exhibit B.5) 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 the Land Use Planning Division, and a copy of the recorded document shall be submitted to the Land Use Planning Division. Recording shall be at the applicant's expense. **Failure to sign and record the Notice of Decision within the above 30 day time period may void the decision.** [MCC 38.0670]
4. The applicant shall use wood (T-1-11) for the exterior siding materials of the pole building and shall use asphalt composition shingles for the roofing material.
5. The applicant shall use either Swamp Green (Rodda Color 771(4)) or Russian Green (Rodda Color 715(4)) with a flat finish, as the color for the exterior siding, and the color charcoal for the asphalt composition roof.

6. Prior to November, 2006, the property owners or their representative shall install four trees in accordance with the modified landscaping plan which is attached hereto as page 3 of Exhibit H-5.
7. Project applicants shall be responsible for the proper maintenance and survival of any required vegetation. Any required vegetation which is damaged or destroyed by inclement weather or dies or becomes diseased to the extent that it no longer serves its purpose shall be immediately replanted with Douglas Firs or Cedars which are a minimum of 6 feet tall. The required vegetation consists of all trees, shrubs and other plantings other than grass **to the north of the subject dwelling.**  
[MCC 38.7035(A)(4)]

IT IS SO ORDERED, this 20<sup>th</sup> day of September, 2005

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

JOAN M. CHAMBERS, Hearings Officer



**BEFORE THE HEARINGS OFFICER  
FOR MULTNOMAH COUNTY**

IN THE MATTER OF AN APPEAL )  
OF MULTNOMAH COUNTY LAND )  
USE AND TRANSPORTATION )  
PROGRAM CASE NO. T2-05-023 )  
MICHAEL BELL, APPLICANT. )

**SETTLEMENT AGREEMENT**

**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 Multnomah County's application of MCC 38.7035(B)(1), MCC 38.7035(B)(2), and MCC 38.7035(B)(9).

Prior to the hearing for this appeal, the applicant and Executive Director of the Gorge Commission discussed settlement options, conducted a joint visit, and reached this agreement to resolve this appeal in its entirety.

**II. TERMS OF AGREEMENT**

1. *Modification to the Proposed Accessory Building:* The proposed accessory building shall be sited in the location and orientation approved by Director's Decision T2-05-023. The exterior siding of the accessory building shall be constructed of wood (T-1-11). The color for the exterior of the building shall be either Swamp Green [Rodda Color 771(4)] or Russian Green [Rodda Color 715(4)] with a flat finish. The roofing material shall be asphalt composition shingles, and the color of the roofing material shall be charcoal (matching that of the existing structures on the site).

2. *Landscaping:* The applicant shall plant 4 trees, at the locations shown on the attached modified site plan. The trees shall be native Douglas Fir or other native evergreen species.

3. *Stipulated Submittal to the Hearings Officer:* The applicant and the Executive Director request that the Hearings Officer approve the proposed accessory building as modified by this settlement agreement by:

SETTLEMENT AGREEMENT  
APPEAL OF T2-05-023

**EXHIBIT  
H-5**

Copy


- a. adding a new condition of approval to require the applicant use wood (T-1-11) for the exterior siding materials, and asphalt composition shingles for the roofing material;
- b. modifying condition of approval no. 5 to require the applicant use Swamp Green [Rodda Color 771(4)] or Russian Green [Rodda Color 715(4)] with a flat finish as the color for the exterior siding, and Charcoal as the color for the roof; and,
- c. modifying condition of approval no. 6 to reduce the number of required trees to 4, and the locations of the trees to be as shown on the modified landscaping plan attached to this settlement agreement.

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, b, and c above.

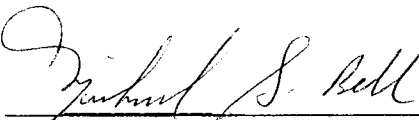
5. *Agreement Not Binding:* In the event that the Hearings Officer does not approve the proposed modifications, or the Hearings Officer interprets or applies MCC 38.7035(B)(1), (B)(2) or (B)(3) in a manner inconsistent with this settlement agreement, the parties to this agreement shall not be bound by this Agreement and shall have the right to appeal the decision of the Hearings Officer.

### III. SIGNATURES

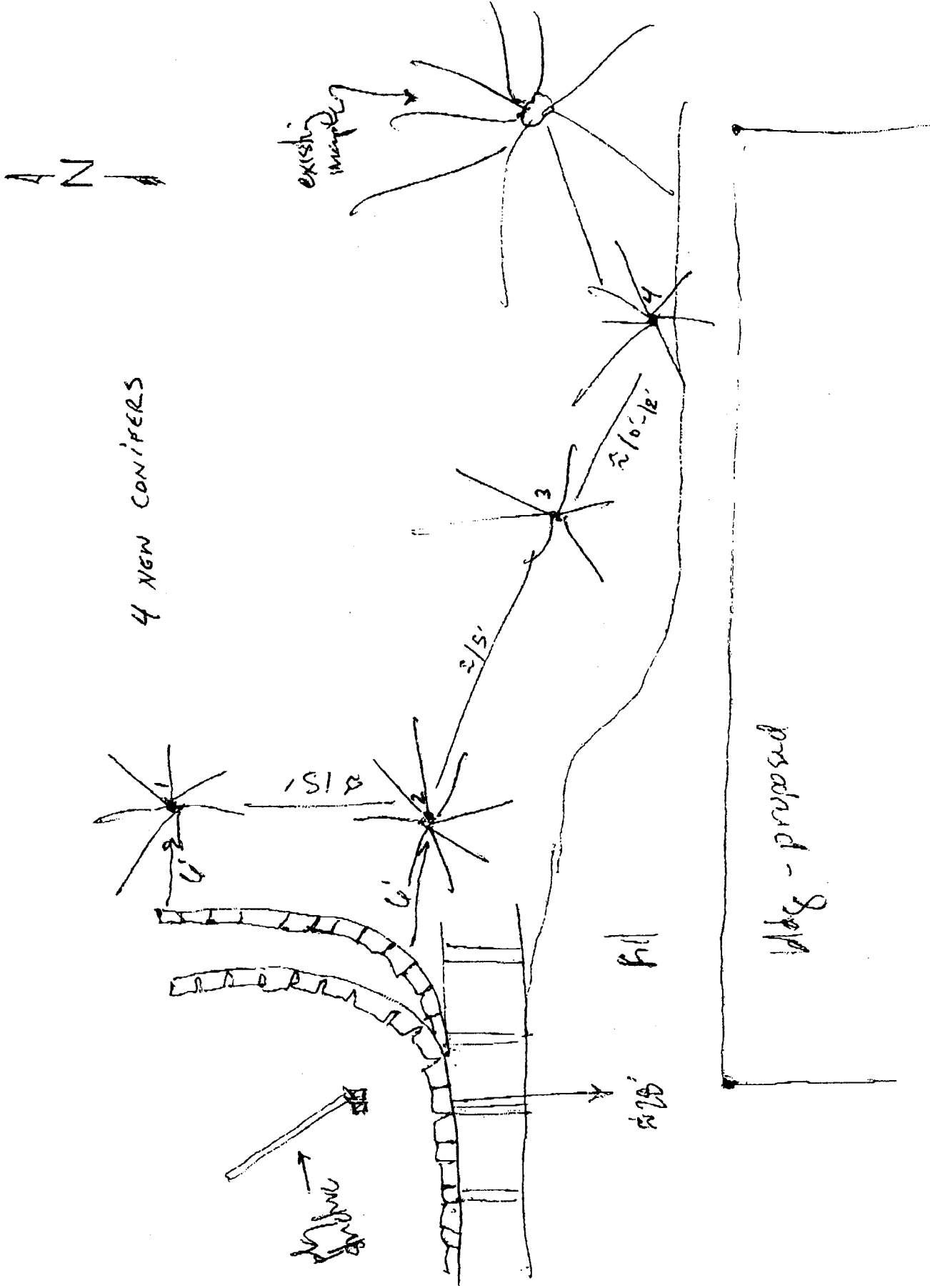
By our signatures below, we jointly submit this settlement agreement to the Hearings Officer and respectfully request the Hearings Officer approve the proposed accessory building, as modified in accordance with the terms of this agreement.

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

9/1/05  
Date

  
\_\_\_\_\_  
Michael Bell  
Applicant

9-1-05  
Date



BELL APPLICATION - PLANTING PLAN FOR SETTLEMENT AGREEMENT