



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.

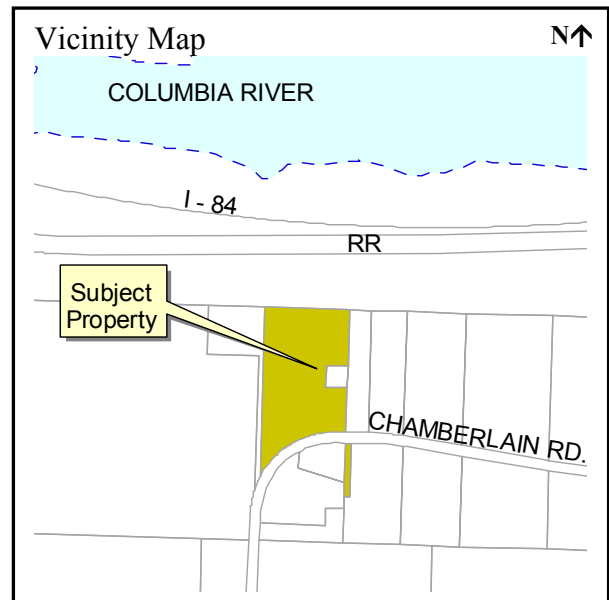
Case File: T2-05-025

Permit: NSA Site Review for an Accessory Building

Location: 32905 NE Chamberlain Road
TL 400, Sec 28C, T1N, R4E, W.M.
Tax Account #R944280190

Applicant: Dick Wand
31625 NE Wand Road
Corbett, OR 97019

Owner: George H. Perry JR
32905 NE Chamberlain Road
Corbett, OR 97019



Summary: NSA Site Review for a 720 square foot accessory building for storage of agricultural items and other personal items. The property is within the Gorge Special Agriculture - 40 Zone District.

Decision: Approved with Conditions

Unless appealed, this decision is effective **Friday, August 12, 2005 at 4:30 PM.**

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, July 29, 2005

Instrument Number for Recording Purposes: 01132845

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.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, August 12, 2005 at 4:30 PM.

Applicable Approval Criteria: Multnomah County Code (MCC): Multnomah County Code (MCC): Multnomah County Code (MCC) 38.0510 et. al: Administration and Procedures, MCC 38.0000 et. al: General Provisions, MCC 38.2200 et. al: Gorge Special Agriculture 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.

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 above 30 day time period may void the decision [MCC 38.0670].**
2. The existing tree growths shown on the aerial photo included as part of Exhibit 1.3 shall be maintained. If a the screening of the structure is compromised by trees that have been removed or dying the property owner shall replace the missing trees to provide the screening [MCC 38.7040(A)(2), 38.7040(A)(5).and MCC 38.7040(D)(a)]
3. The accessory structure shall be painted using the colors as represented on the submitted color samples (Exhibit 1.16) with the lighter "Jericho Brown" used for the trim and the darker "Alcazar Brown" for the body of the structure [MCC 38.7040(A)(2)].

4. To minimize reflectivity the windows shall meet a reflectivity rating of 13 percent or less [MCC 38.7040(A)(8)].
5. Outdoor lighting associated with the accessory structure shall be recessed soffit style as shown in Exhibit 1.15 [MCC 38.7040 (A) (6)].
6. A Grading and Erosion Control Permit shall be obtained prior to Building Permit zoning review. Soil movement within the development area shall be controlled with a silt fence down slope from the development area. The soil area disturbed by new development or land uses shall not exceed 15 percent of the project area. Within one year of project completion 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover. MCC 38.7075(B)(5)(e).
7. The following procedures shall be in effect 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 [MCC 38.7045 (L)]:

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.

- (a) 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.
 - (b) Notification – The project applicant shall notify the County 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. This includes the Yakama Nation, contact Cultural Specialist for the Cultural Resources Program at: (509) 865-5121 extension 4720; FAX number (509) 865-4664. Procedures required in MCC 38.7045 (L) shall be followed.
 - (c) 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).
 - (d) 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.
8. The following procedures shall be in effect 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 [MCC 38.7045 (M)]:
 - (a) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

- (b) Notification – Local law enforcement officials, the Multnomah County Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
- (c) 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.
- (d) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
- (e) 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.
 - 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).
 - 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.

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. Three (3) sets each of the site plan and building area are needed for building permits signed off.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Note: Staff as necessary to address Multnomah County Code criteria provides findings referenced herein. Headings for each finding category are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses, addressing the code criteria by the applicant, are labeled “**Applicant**” and are *italicized*. County Land Use Planning staff findings are label “**Staff**” and follow applicant responses.

1. **PROJECT DESCRIPTION**

Applicant: *This garage is going to be used for the purpose of storing hay for cattle, firewood, crates for blueberries and general storage.*

The purposed garage does not protrude above the line of any bluff, cliff or skyline that is in the key viewing area and cam-tot be seen from any KVA. The size of this garage is 24'~30'~22'tall. The roof is br5own composition and siding will also be brown. Outside lighting will be in soffit can light. The garage is well below the average tree canopy.

This property does have a small stream but the garage is more than 200'from it.

Staff: The applicant is proposing a 720 square foot accessory building for a property with an existing dwelling (Exhibit 2.1).

2. **SITE AND VICINITY CHARACTERISTICS**

Staff: The subject property is located north of Chamberlain Road about one and three quarters miles west of the junction with Corbett Hill Road at the curve were Chamberlain bends south (Exhibit 2.3). The vicinity is a mix of small farm and woodlots with many of these properties developed for residential uses. The properties north of Chamberlain are generally pasturelands with some wooded areas. This area is a shallow sloped bench between the steep dropping slope to the north of the property and steep rising slope to the south of Chamberlain Road (Exhibit 2.4). The property to the north of the subject property is a large acreage woodland that is about 300 deep and about a mile wide running along the railroad to the north. Also to the north are Interstate – 84 and the Columbia River. The properties south of Chamberlain are small woodlots, many of which are developed with a residential uses.

There is an intermittent stream running through the southeastern corner of the property. The subject property has a gentle slope generally dropping to the north and to the east towards the creek. The western half of the property is open field with some rows blueberry bushes on the northeastern corner of the field. An existing barn is located in the southern portion of this field (Exhibit 1.3). The eastern half of the property is generally wooded with an orchard and the existing residential development. Additionally there is a small 120 foot square residentially developed parcel separated out of the subject property in 1956. There is a heavily wooded area running along the northern border of the property which is a minimum of 100 feet deep on the western edge to about 200 feet deep toward the center of the property. This wooded area is located near the edge of and on the slope that drops off to the north.

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 Assessment shows George H. Perry, JR, as the property owner. Mr. Perry s. Russell signed the application form (Exhibit 1.1).

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 development pursuant to MCC 38.0530(B). The application was submitted on March 11, 2005 (Exhibit 1.1). A Completeness Review notice was sent on March 22, 2005 to interested agencies and Indian Tribes. Staff notified the applicant by letters dated April 8, 2005 and May 5, 2005 that the application was incomplete. The applicant submitted additional information on April 21, 2005 and May 10, 2005. The application was deemed complete in a letter dated May 10, 2005 the day the applicant submitted additional information. A 14 Day Opportunity to Comment notice was mailed by staff on May 13, 2005 to property owners within 750 feet of the subject tract, the Gorge Commission, US Forest Service, and the Indian Tribal Governments and other agencies and interested parties. Three letters and emails were received (Exhibits 3.1 through 3.4) addressing the proposal during the completeness review and during the comment period. Each of these letters is summarized below. This decision was drafted and will be mailed in accordance with MCC 38.0660.

A letter dated March 28, 2005 was received during the Completeness Review from Dennis Griffin, Ph.D., RPA, Lead Archaeologist, Oregon Parks and Recreation Department, State Historic Preservation Office (Exhibit 3.1). Mr. Griffin addresses concerns about archaeological resources. These issues are addressed in findings in Section 7 and in the conditions of approval of this decision.

An email with attachments dated April 5, 2005 was received during the Completeness Review from Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service (Exhibit 3.2). Ms Dryden submitted an attachment to the email titled Heritage Resource Inventory of Perry New Construction Project. The findings in this document will be discussed in the findings for the SMA Cultural Resource Review Criteria in Section 7 of this decision.

A letter dated April 26, 2005 was received during the Completeness Review from Sarah Jalving, Historic Compliance Specialist, Oregon Parks and Recreation Department, State Historic Preservation Office (Exhibit 3.3). The information in Ms. Jalving's letter will be discussed in the findings for the SMA Cultural Resource Review Criteria in Section 7 of this decision

An email with letter attached dated May 27, 2005 was received during the comment period from Mr. Fullilove, Friends of the Columbia Gorge (Exhibit 3.4). In this letter Mr. Fullilove listed several Code sections that are related to the proposed development. He detailed Code sections related to Scenic Resource Protection. He continued addressing the need for the proposed structure to meet the visual quality objective of partial retention. He points out that the requirements for Natural Resource and Cultural Resource Review must be met. The items Mr. Fullilove addressed in his letter are addressed in the findings of this decision in Section 5, 6, 7 and 8.

5. GORGE SPECIAL AGRICULTURE -40 ZONING DISTRICT

5.1. MCC 38.2225(B) The following uses may be allowed on lands designated GSA– 40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

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

Applicant: *This garage is going to be used for the purpose of storing hay for cattle, firewood, crates for blueberries and general storage.*

Staff: The applicant proposes an accessory structure that is 720 square feet (24 by 30 feet). The proposed building is in an area of the property that is not suitable for production of crops or livestock because the area is isolated from the hayfield by the berry patch and orchard, and is located in the wooded area along the driveway. The proposed development has been reviewed in Section 6 with findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied.

5.2. MCC 38.2260 (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The proposed location of the accessory structure is more than 300 feet from the front (south) property line, more than 300 feet from the rear (north) property line, more than 200 feet from the west side property line and more than 10 feet from the east side property line (Exhibit 1.14). The proposed structure meets the required setbacks.

The elevation drawings indicate that the proposed building will be 22 feet, 11 inches in height (Exhibit 1.4). The proposed structure meets the maximum height requirements.

5.3. MCC 38.2260 (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: This standard requires an increase in the minimum yard requirement if there is insufficient right-of-way width to serve the area. In a memorandum dated May 19, 2005, Alison Winter, County Transportation Planning Specialist (Exhibit 2.5), states that Chamberlain Road has a “Rural Local functional classification.” The Multnomah County Design and Construction Manual states the right-of-way width for a Rural Local is 15.2 meters minimum to 18.3m maximum (50 ft. min. to 60 ft. max.). The existing right-of-way is 60 feet, thus there is sufficient right-of-way to serve the area according to the functional classification.

In her memorandum Ms. Winter, stated that the following dedication is recommended, “Dedicate the necessary slope/drainage easement centered on the existing outlet/inlet of the drainage culvert located along the site’s Mershon Road frontage to Multnomah County for road purposes.”

Ms Winter continues, “With this easement dedication, the county can provide the services necessary to maintain the cross culverts under the County road to help prevent culvert failure and damage to the subject property.”

Since the right-of-way standard width is met this standard is met.

6. NSA SITE REVIEW FOR SCENIC REVIEW CRITERIA FOR SMA

6. SMA Scenic Review Criteria

MCC 38.7040: The following scenic review standards shall apply to all Review and Conditional Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic

structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

6.1. MCC 38.7040 (A) (1) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.

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

Staff: The proposed structure is less than 23 feet in height, well under the tree canopy in the area. The proposed development will not protrude above the skyline as seen from a KVA. This criterion is met.

6.2. MCC 38.7040 (A) (2) Size, scale, shape, color, texture, siting, height, building materials, lighting, or other features of a proposed structure shall be visually subordinate in the landscape and have low contrast in the landscape.

Applicant: *The garage will be a 24' x 30' x 22' and rectangular in shape. It will be a wood structure with a three tab asphalt roof and a forest green in color. The windows will be vinyl. The structure's exterior color and trim will be in brown tones. See samples.*

Staff: The proposed structure will be located among the trees on the property. The proposed size, scale and shape are standard for an accessory building. The applicant is proposing brown paint colors for the body and trim of the structure. The applicant has labeled the color for the structure body as the lighter "Jericho Brown" sample and the darker "Alcazar Brown" as the trim color (Exhibit 1.16). Reversing these colors, the lighter "Jericho Brown" as trim and the darker "Alcazar Brown" as the body, would meet the low contrast in the landscape requirement. This can be required by a condition. The applicant is proposing a dark forest green asphalt shingle roof. Given height and size along with the dark earth and natural tone colors along with the location within the trees, the proposed structure will be visually subordinate and have a low contrast in the landscape. The criterion is met.

6.3. MCC 38.7040 (A) (3) Colors shall be used in a manner so that developments are visually subordinate to the natural and cultural patterns in the landscape setting. Colors for structures and signs should be slightly darker than the surrounding background.

Applicant: *The color of the garage will be earth tones brown and green.*

Staff: The applicant is proposing brown color shades for the body and trim of the structure. We are requiring that these colors be revised with the darker brown used for the body. The applicant is proposing a dark forest green asphalt shingle roof. These colors will be slightly darker than the surrounding area. The colors will result in the structure blending into the landscape if seen at a distance. Given the location among the trees the structure will be visually subordinate. This criterion is met.

6.4. MCC 38.7040 (A) (4) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been

demonstrated that compliance with this standard is not feasible considering the function of the structure.

Applicant: *The structural height is well below the tree canopy.*

Staff: The proposed structure is less than 23 feet which is well below the tree canopy. This criterion is met.

- 6.5. MCC 38.7040 (A) (5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.**

Applicant: *This structure will fit in with the natural topography, vegetation and land form. There will be minimal grading to prepare for the footing and foundation without changing the topography. The ground is flat. We have aligned and designed the garage to set against and under the trees. This strategy inhibits sight from any Key Viewing Area.*

Staff: The proposed location of the accessory structure is 350 feet south of the cliff's edge on a relatively flat bench providing topographic screening from Columbia River and State Route 14, KVAs to the north. Given the relatively flat topography grading will be minimized. The proposed location is surrounded by existing trees and there are several trees to the north of the site providing screening from the KVAs. This criterion is met.

- 6.6. MCC 38.7040 (A) (6) Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.**

Applicant: *Exterior lighting will be recessed soffit 6" can lights. They sit flush with the eaves and the lighting pyramids directly down.*

Staff: The applicant proposes recessed soffit lighting. A condition of approval will require this type of lighting. This criterion is met through a condition.

- 6.7. MCC 38.7040 (A) (7) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.**

Applicant: *There is no seasonal lighting.*

Staff: No seasonal lighting is proposed. This criterion is met.

- 6.8. MCC 38.7040 (A) (8) Reflectivity of structures and site improvements shall be minimized.**

Applicant: *The building is made of wood siding, asphalt roofing, and low energy windows; all of which do not reflect any light.*

Staff: The proposed wood siding and asphalt shingle roofing are considered to be low reflective materials. A condition will require the windows to meet a reflectivity rating of 13 percent or less. This criterion can be met through a condition of approval.

- 6.9. MCC 38.7040 (A) (9) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as seen from Key Viewing Areas. Roadside vegetation management should enhance views out from the highway (vista clearing, planting, etc.).**

Applicant: *There is no vegetation being disturbed.*

Staff: No vegetation will be disturbed for this project. This criterion is met.

* * *

- 6.10. MCC 38.7040 (B) New developments and land uses shall be evaluated to ensure that scenic resources are not adversely affected, including cumulative effects, based on visibility from Key Viewing Areas.**

Applicant: *If the vegetation were removed, the colors of the building would lend a blending in effect and would not draw attention to itself. It's design and proximity are harmonious with the house on the property.*

Staff: The proposed location for the accessory structure is surrounded by existing trees. There is a grove of trees along the northern property line that ranges from 100 to 200 feet in depth. There is also a growth of trees on the eastern half of the property running the entire length of the property (Exhibit 1.3). These trees provide additional screening beyond what topography provides for the proposed structure from the KVAs to the north and from the road to the south. Due to the abundance of screening, the proposed colors and non-reflective materials, the proposed use will not add any cumulative effects.

* * *

- 6.11. MCC 38.7040 (D) (4) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.**

Applicant: *We are not disturbing any pasture ground or agricultural landscape. The proposed structure retains an overall appearance of agricultural landscape because its location and dimensions cannot be seen from an agricultural landscape viewing point. The agricultural landscape is not relevant in this instance because the structure site is not exposed in an open area and cannot be seen from these areas. It is located in a denser, treed and vegetated area.*

Staff: The proposed structure would retain the appearance of the agricultural landscape because the proposed structure has a small agricultural barn design. However the proposed location will provide substantial screening by existing trees, such that it should not be seen from any public area thus there are no impacts to the pastoral setting in the area of the property that is in open space. If portions are visible the structure will blend into the wooded area due to the colors and low reflectivity. This standard is met.

6.12. MCC 38.7040 (D) (a) New developments and forest practices shall meet the VQO of partial retention.

MCC 38.0015 (V)(2) Visual Quality Objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

MCC 38.0015(P) (2) Partial retention: A visual quality objective that provides for management activities which may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape but changes in their qualities of size, amount, intensity, direction, pattern, etc., shall remain visually subordinate to the characteristic landscape.

MCC 38.0015 (R)(11) Retention: A visual quality objective that provides for management activities not visually evident to the casual visitor. Management activities may only repeat form, line, color, and texture frequently found in the characteristic landscape.

Applicant: *The VQO is being retained. The structure is low profile and is designed to resemble an older style storage shed/garage.*

Staff: The proposed site of the structure will be surrounded by existing trees with growth of trees to the south and to the north as described in earlier findings (Exhibit 1.3). Given the number of trees, the proposed colors and low reflective building materials, the proposed structure will meet the Visual Quality Objective and will be visually subordinate in the landscape. This standard is met.

6.13. MCC 38.7040 (D) (b) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape setting is encouraged.

Applicant: *We are not removing any plants nor adding any plants.*

Staff: No additional landscaping is needed or proposed for this development. This standard is met.

6.14. MCC 38.7040 (D) (c) Exterior colors of structures shall be earth-tone colors which will result in low contrast with the surrounding landscape.

Applicant: *Exterior colors will be earth tones as stated earlier. See Samples below.*

Staff: The applicant is proposing brown paint colors for the body and trim of the structure. The applicant has labeled the color for the structure body as the lighter “Jericho Brown” sample and the darker “Alcazar Brown” as the trim color (Exhibit 1.16). Reversing these colors, the lighter “Jericho Brown” as trim and the darker “Alcazar Brown” as the body would meet the low contrast in the landscape requirement. This can be required by a condition. The applicant is proposing a dark forest green asphalt shingle

roof. The proposed colors as conditioned will blend in to the surrounding wooded landscape. This standard is met.

7. SMA AND GMA SITE REVIEW FOR CULTURAL RESOURCE CRITERIA

- 7.1. MCC 38.7050 (C) The procedures of MCC 38.7045 shall be utilized for all proposed developments or land uses other than those on all Federal lands, federally assisted projects and forest practices.**

Finding: The proposed project is located on private land, thus the procedures of MCC 38.7045 are utilized for the proposed development.

7.2. 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.

*** * ***

- (3) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older**

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).**

*** * ***

- (3) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:**

- (a) SHPO concludes that the historic buildings or structures are clearly not significant, as determined using the criteria in the National Register Criteria for Evaluation ("36 CFR Part 60.4); or**

Staff: Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service submitted a cultural resources report on August 9, 2005 (Exhibit 3.1).

In her April 06, 2005 email attachment Ms. Dryden, USFS, stated,

“The heritage resource inventory of this project indicates that the Perry-Chamberlain Farmstead is a historic cultural resource that could be indirectly affected by the applicant’s actions. No prehistoric archaeological resources were identified within the area of potential effect.”

“It is possible that the State Historic Preservation Officer for Oregon will have enough information in which to base a determination of eligibility:

- The SHPO may determine that the Perry-Chamberlain Farmstead is not eligible for the National Register of Historic Places. Construction of the detached garage will have no effect to potentially significant heritage resources, no mitigation measures will be required. or
- The SHPO may determine that Perry-Chamberlain Farmstead is eligible for the National Register of Historic Places – **and**
- That the proposed construction of the detached garage will have no adverse effect to potentially significant heritage resources. or
- That the proposed construction of the detached garage will have an adverse effect to potentially significant heritage resources. Mitigation measures will be required.

Or alternately

- The SHPO may determine that additional information is necessary to determine the significance of the Perry-Chamberlain Farmstead. If SHPO determines that additional information is necessary, the process outlined in the National Scenic Area Management Plan shall be followed. That process will typically include formal determination of eligibility, assessment of effect and mitigation plan.

Chapter 2 –Cultural Resources

“The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines [National Register Criteria for Evaluation- 36 CFR 60.4]. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission (page I-61).”

“I recommend that the Section 106 Historic Property Report for the Smith House and this Heritage Resource Inventory Report be forwarded to the State Historic Preservation Office for their review, finding of significance and determination of effect.”

A letter dated April 26, 2005 was received from Sarah Jalving, Historic Compliance Specialist, Oregon Parks and Recreation Department, State Historic Preservation Office. Ms. Jalving states,

“We have reviewed the materials submitted on the project referenced above, and we concur with the determination that the property is not eligible for the National Register of Historic Places in accordance with 36CFR Part 60.4. Additionally, there will be no historic properties affected for this undertaking.”

Given Ms Dryden's finding that there are no prehistoric archaeological resources identified within the area of potential effect and Ms. Jalving's that the property is not eligible for National Register of Historic Places and no historic properties are affected by the development, these criteria have been 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. SMA NATURAL RESOURCE REVIEW CRITERIA

- 8.1. MCC 38.7075** All new developments and land uses shall be evaluated to ensure that the natural resources on a site, or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, are protected from adverse effects. The Forest Service will provide the analysis and evaluation for all projects except those sponsored by non-Forest Service federal and state agencies.

MCC 38.7075 (A) Buffer zones shall be undisturbed unless it has been shown that there are no practicable alternatives pursuant to MCC 38.7055 (F) (1), substituting the name of the resource as appropriate. New developments and uses may only be allowed in the buffer zone upon demonstration in the natural resources mitigation plan required by MCC 38.7075 (B) (6) that there would be no adverse effects.

MCC 38.7075 (B)(3) Site plans shall be submitted to the Forest Service, and the Oregon Department of Fish and Wildlife. The site plan shall be reviewed by the Forest Service in consultation with the appropriate state or federal agency and reviewed and approved by the Planning Director if appropriate.

MCC 38.7075 (B) (5) Minimum natural resource protection standards include:

(a) Sites of sensitive wildlife and sensitive plant species.

- 1. A 200 foot buffer zone shall be created for sensitive plant species.**
- 2. A buffer zone for sites of sensitive wildlife species, such as nesting, roosting and perching sites, as defined by species requirements shall be as determined by the Forest Service biologist in consultation with other state or federal agency biologists.**

(b) Riparian, Wetlands, Parks, and Lakes.

*** * ***

- 2. A minimum 200 foot buffer zone shall be created on the landward side of each wetland, pond or lake; or a wider variance from this requirement shall be determined during the site plan analysis of the wetland or riparian area and those species inhabiting the area as determined by the Forest Service biologist in consultation with state and/or federal agencies;**

*** * ***

- 4. A 50 foot buffer zone shall be created along intermittent streams.**

*** * ***

(c) Soil productivity:

- 1. New developments and land uses shall control all soil movement within the area shown on the site plan.**
- 2. The soil area disturbed by new development or land uses shall not exceed 15 percent of the project area.**
- 3. Within one year of project completion 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.**

Staff: There are no sensitive wildlife species or sensitive plant species associated with this project site. There are no wetlands on the property other than the intermittent stream which has a stream buffer requirement. The proposed development is more than 100 feet from the non-fish bearing stream that crosses the property meeting the 50 foot buffer requirement. Conditions can include the soil productivity standards as required by MCC 38.7075 (B) (5)(c). These criteria have been met or can be met through conditions of approval.

12 CONCLUSION

Based on the findings, narrative, and other information provided herein, this application has satisfied the applicable approval criteria or can meet the criteria through conditions of approval as required for Site Review in the National Scenic Area.

13 EXHIBITS

13.1 Exhibits submitted by the Applicant:

- Exhibit 1.1: NSA application form submitted 3/11/05 (1 page);
Exhibit 1.2: Narrative submitted 3/11/05 (1 page);
Exhibit 1.3: Site Plan and aerial photo show proposed location submitted 3/11/05 (1 page);

- Exhibit 1.4: Elevation and floor plan drawings submitted 3/11/05 (6 pages);
- Exhibit 1.5: Photographs of the subject property and the building site submitted 3/11/05 (2 pages);
- Exhibit 1.6: Deed filed in Book 1810 on Page 594-595 submitted 3/11/05 (4 pages);
- Exhibit 1.7: Addendum to the narrative submitted 4/21/05 (1 page);
- Exhibit 1.8: Revised site plan submitted 4/21/05 (1 page);
- Exhibit 1.9: Fire District Review Fire Flow Requirements signed by Thomas Layton Fire Chief, District #14 submitted 4/21/05(6 pages);
- Exhibit 1.10: Fire District Access Review dated 4/19/05 signed by Thomas Layton Fire Chief, District #14 submitted 4/21/05(4 pages);
- Exhibit 1.11: Certificate of On-Site Sewage Disposal dated 4-21-05 signed by Philip Crawford submitted 4/21/05 (1 page);
- Exhibit 1.12: Storm Water Certificate dated 4/15/05 stamped and signed by Timothy R. Turner PE submitted 4/21/05 (1 page);
- Exhibit 1.13: Addendum to the narrative submitted 5/10/05 (2 pages);
- Exhibit 1.14: Revised site plan submitted 5/10/05 (1 page);
- Exhibit 1.15: Drawing of the proposed outdoor lighting fixture submitted 5/10/05 (1 page);
- Exhibit 1.16: Paint chip samples showing proposed paint colors (1 page).

13.2 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: 2002 Aerial Photo showing subject property, vicinity properties
- Exhibit 2.4: 2002 Aerial Photo showing subject property, vicinity properties and the topography of the vicinity in 10 foot contours (1 page);
- Exhibit 2.5: Memorandum dated June 14, 2005 from Alison Winter, County Transportation Specialist (2 pages).

13.3 Exhibits submitted by other parties:

- Exhibit 3.1: A letter dated March 28, 2005 from Dennis Griffin, Ph.D., RPA, Lead Archaeologist, Oregon Parks and Recreation Department, State Historic Preservation Office received on 3/30/05 (1 page)
- Exhibit 3.2: Email dated April 05, 2005 with attachment from Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service Heritage Resource Inventory Report received on 4/05/05 (153 pages);
- Exhibit 3.3: A letter dated April 26, 2005 from Sarah Jalving, Historic Compliance Specialist, Oregon Parks and Recreation Department, State Historic Preservation Office received on 4/27/05 (1 page);
- Exhibit 3.4: An email with an attached letter dated June 16, 2005 received that date from Glen Fullilove, Land Use Legal Assistant, Friends of the Columbia Gorge, (6 pages).