



## MULTNOMAH COUNTY OREGON

### LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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# NOTICE OF DECISION

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

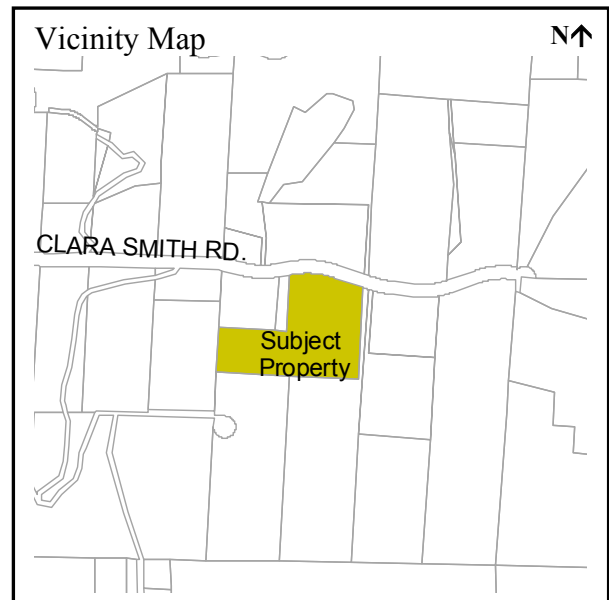
**Case File:** T2-05-028

**Permit:** NSA Site Review for a new single family dwelling with attached garage, accessory structure to house horses and associated development

**Location:** Clara Smith Road  
TL 00800, Sec 26DC, T1N, R4E, W.M.  
Tax Account #R944260720

**Applicant:** William Schimel  
3903 SE 14 CT  
Gresham, OR 97080

**Owner:** Marcus & Lorri Berglund  
3290 SE Boone Rd.  
Salem, OR 97301



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**Summary:** NSA Site Review for a 3342 square foot, single family dwelling with an attached 608 sq. ft. three car garage and 687 sq. ft. covered porch, a 1536 square foot accessory structure to house horses, a foot 280 long driveway and associated development within the Gorge General Residential Zone District.

**Decision:** Approved with Conditions

Unless appealed, this decision is effective Wednesday, July 20, 2005 at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, July 6, 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 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 Wednesday, July 20, 2005 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Multnomah County Code (MCC) 38.0510 et. al: Administration and Procedures, MCC 38.0000 et. al: General Provisions, MCC 38.3000 et. al: Gorge General Residential and MCC 38.7000 et. al: Site Review Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use).

### **Scope of Approval**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

### **Conditions of Approval**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **Within 30 days of this decision becoming final and prior to building permit sign-off, the applicant shall record the Notice of Decision including the Conditions of Approval (pages 1-5) 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 shall void the decision (MCC 38.0670).**

2. To provide for visual subordination year round, the applicant shall plant ten Douglas fir trees (or other native conifer trees suitable to the site), that are a minimum of six feet tall at planting, spaced 15 to 20 feet apart at a location of 30 to 50 feet north of the proposed dwelling in approximate locations as represented on Exhibit 2.9. These trees shall be planted within two years of the issuance date of this decision. The planted and existing trees necessary to screen the dwelling from KVAs to north, northeast, northwest and west of the dwelling site shall be maintained in a living condition and shall not be removed. If any of the planted trees die they shall be replaced within a year. If any of the existing trees die or are removed by any manner, they shall be replaced unless they have no impact to the visually subordination of the dwelling as seen from the KVAs. [MCC 38.7035(A)(4); MCC 38.7035(B)(2); MCC 38.7035(B)(7); MCC 38.7035(C)(3)(b); MCC 38.7035 (B)(13); & MCC 38.7035 (B)(26)].
3. The house exterior shall be painted with colors that match those submitted by the applicant included as Exhibit 1.12. The roofing shall be as be as represented by the submitted portion of an asphaltic shingle, dark black in color [Exhibit 1.12)]. Materials used on the exterior of the dwelling shall be low-reflective and shall be consistent with what is described by the applicant submittal [Exhibit 1.5 and 1.14]. The windows on the northern and western side of the dwelling shall be low reflectivity, with a reflectivity rating of not more than 13 percent. No changes can be made to the method of exterior treatment identified on an approved building permit, without written confirmation from Multnomah County Land Use Planning that proposed changes in treatment comply with this approval [MCC 38.7035(B)(1) and (9)].
4. The outdoor lighting shall be down-facing and shielded as shown in Exhibit 1.11 [MCC 38.7035(B)(10)].
5. Cut and fill slopes shall be revegetated with grass and/or low shrubs when the grading work is completed. The applicant shall install provide for irrigation necessary to ensure survival of the planted vegetated [MCC 38.7035(B)(8)].
6. If any Cultural Resources and/or Archaeological Resources are located on the property during this project. This includes finding any evidence of historic campsites, old burial grounds, food/medicine plants. If any are found, the following procedures shall be implemented [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.
6. 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 The Multnomah County Code criteria and Comprehensive Plan Policies 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. While the decision for this case is a denial, we have included made findings for some criteria that they could be met through conditions. Other criteria which have not been met, could not be met through conditions.

1. **PROJECT DESCRIPTION**

**Applicant:** *The home proposed is apx. 3342 sq ft of heated living space, the 3 car garage is 608 sq ft, There is a 5 ft covered porch that that wraps around to a covered patio that is 687 sq ft the total sq ft is apx 4637 sq ft.*

**Staff:** The application is for a single family dwelling with an attached garage in the GGR-5 Zone District. The proposed dwelling is a two story structure with 3342 square feet of living area, 687 square feet of covered porch area, 608 square feet of garage area (Exhibits 1.5 and 1.14). At its highest point the dwelling reaches about 28 feet in height. A covered porch attached to the dwelling runs along 48 feet of the north side and all of the west side wrapping around the southern side for about 38 feet. The proposed attached garage will be at the east end of the dwelling. The project includes a proposed accessory structure to house horses; that structure will be 32 by 48 feet by 19 feet tall (Exhibit 1.5). The proposal also includes a driveway that is about 280 feet long and a septic system (Exhibit 1.15)

2. **SITE AND VICINITY CHARACTERISTICS**

**Staff:** The subject property is located south of Clara Smith Road east of Corbett Hill Road about a third of a mile. Access to properties east of Corbett Hill Road in this vicinity is gained via Clara Smith Road and Reed Road with a few access easement private roads as well. Both of these roads run from Corbett Hill Road to the east for about a half mile. The area east of Corbett Hill Road and along Clara Smith Road and Reed Road is in the Gorge General Residential – 5 (GGR-5) Zone District (Exhibit 2.2).

Most of the properties in this area east of Corbett Hill Road are developed with residential uses. The majority of these properties continue to be heavily forested except for the clearing around the homesteads. In this residential zone district area there are a few properties that are not developed with a residence. Generally these properties are covered with dense forest canopy. The residential properties along Clara Smith Road and Reed road range in size from about a half acre to about 15 acres. At the eastern end of these two roads the land use and the zoning and uses change from residential to forestry with a couple of church camps to the southeast as well.

The terrain in the vicinity generally slopes downward towards the Columbia River as is shown on a 2002 aerial photo with 10 foot contour line overlays included by staff as

Exhibit 2.5. The steepness of the slopes alternate between relatively steep slopes of 50 to 60 percent to areas in between that are relatively flat with slopes of a few percent to about 15 percent. The landform appears like a natural terraced formation. Most of the dwellings in the vicinity are located in the shallower sloped land areas. Both Reed Road and Clara Smith Road are located at the south side of a shallow sloped terrace with the steeper slopes rising up just south of each of the roads. Clara Smith Road has a broader shallow slope area towards its eastern end. The subject property is located in this area.

Like most of other properties in the vicinity, the subject property includes a relatively shallow sloped area near the road. Directly south Clara Smith Road there is an embankment about 15 feet high from the road level to the area with the shallow slope (Exhibit 1.15). The eastern side of the property, along where the driveway is proposed, has a more consistent slope ranging from about 12 to 16 percent. On the southern portion of the property including to the south of the proposed building sites the slope increases to about 25 to 30 percent, generally increasing to steeper slopes further to the southwest.

The applicant proposes to build a 280 foot long driveway from Clara Smith Road to the dwelling and accessory structure (Exhibit 1.15). The drive is proposed to enter the property in an area with the least slope adjacent to the road at about 20 percent. This embankment along the road will be reduced to about 16 percent to accommodate the driveway. The driveway continues due south to access the proposed dwelling and accessory building sites. The applicant proposes to build the dwelling about 180 feet south of the northern property line and about 75 feet west of the eastern property line. The dwelling is proposed in an area with about 12 percent slope. The accessory structure is proposed on a similar slope.

The property is heavily forested with predominately deciduous trees with a few confers mixed in (Exhibits 1.15, 1.16 and 2.4). There is a clearing on the center part of the property as shown on Exhibit 1.15. The clearing is in the shallow sloped area and is currently covered with Himalayan Blackberries. The applicant will use this area for pasture for the horses.

### **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 Marcus and Lorri Berglund as the property owners. The applicant, William C. Schimel, has submitted a statement signed by Marcus and Lorri Berglund authorizing Mr. Schimel to make an application to the County for a single family dwelling on the subject property (Exhibit 1.2).

### **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 17, 2005 (Exhibit 1.1) with a letter authorizing the application from the property owner submitted on that date (Exhibit 1.2). A Completeness Review notice was sent on March 23, 2005 to interested agencies and Indian Tribes. Letters were sent to the applicant on April 15, 2005 and May 5, 2005 stating the application was incomplete and outlining the information needed to complete the application. Additional information was received on April 26, 2005 and May 11, 2005. A letter dated May 11, 2005 was sent by staff that deemed the application complete as of May 11, 2005. A 14 Day Opportunity to Comment notice was mailed by staff on May 16, 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 of comment were received (Exhibit 3.2, 3.3 and 3.4) addressing the proposal and each is summarized below. This decision was drafted and will be mailed in accordance with MCC 38.0660.

An email dated March 29, 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 3.1).

The following documents were received during the Comment Period: A letter dated May 29, 2005 received via fax on May 30, 2005 from Jim Augustine, 37311 NE Clara Smith Road (Exhibit 3.2), a letter dated March 31, 2005 submitted via email received on that date from Glen Fullilove, Land Use Legal Assistant, Friends of the Columbia Gorge, (Exhibit 3.3) and a letter dated June 3, 2005 received June 8, 2005 from Johnson Meninick, Manager Cultural Resources Program, Confederated Tribes and Bands of the Yakima Nation (Exhibit: 3.4).

In her email Ms. Dryden, USFS, stated, “A cultural resources reconnaissance survey is: Not Required” and “A Historic Survey is: Not Required.” “No historic properties were identified on the subject property.

In his letter Mr. Augustine comments on the location of the proposed dwelling. He is concern about a loss of privacy and that house could be located in location where his privacy would not be affected. Mr. August also comments on the size of the proposed dwelling. The size of the dwelling will be addressed in the finding addressing criteria that requires “New buildings shall be generally consistent with the height and size of existing nearby development” as required under MCC 38.7035(A)(2). There is no requirement for providing privacy, however the proposed dwelling is more than 180 feet from the road and Mr. Augustine’s dwelling is on the other side of the road.

In his letter Mr. Fullilove, Friends of the Columbia Gorge, listed several Code sections that are related to the proposed development. Specifically he expressed a concern that the accessory structure might not be incidental and subordinate to the main use. He continued addressing the need for the proposed use to be sited so as to be least visible from KVAs using topography and vegetation for screening. He points out that a detailed landscape plan is needed showing the location, height species and size of all screening vegetation. Mr. Fullilove then addressed Landscape Setting requirements and visual subordination. Fullilove 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 his letter Mr., Meninick, Yakama Nation, comment that measures should be taken to protect archaeological resources and that they any evidence of such sites be reported to their Cultural Specialist. Cultural resources finding will address this concern and condition of approval will require such a contact.

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

### **5.1 Applicability**

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

\* \* \*

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

\* \* \*

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



**Staff:** The proposed uses are listed as review uses in the GGR-5 zoning district. Therefore, a National Scenic Area Site Review is required. MCC 38.0530 requires this application to go through a Type II permitting process. This application request has been processed as a Type II Decision. The application addresses applicable criteria for approval, under MCC 38.7035 through 38.7090. Findings of consistency have been made for the applicable criteria, under MCC 38.7035 through 38.7090.

## **5.2. Use Is Allowed As a Review Use In The GGR-5 Zoning District**

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

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

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

**(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.**

#### **(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:** The proposal is for a single-family dwelling with an attached garage and a detached accessory structure on a lot within the GGR-5 Zone District. The accessory structure is proposed to be used for pet horses. The applicant submitted a copy of a deed signed on December 22, 1967 recorded with County Records in Book 600 on Page 149 that describes the subject property (Exhibit 1.13). Thus the property was created at least by 1967. The property was within the Agriculture (F-2) Zone District which had a two acre minimum from 1958 to 1977 (Exhibit 2.3). The property exceeded the two acre minimum if created by the 1967 deed or an earlier deed, thus it is a legally created parcel. The following sections of this decision include the findings for the NSA Site Review standards of MCC 38.7000 through 38.7085. The findings in the following sections of this decision indicate that the NSA Site Review criteria have not been met.

## **5.3 The Proposal Meets The GGA Dimensional Requirements**

### **5.3.1 MCC 38.3060(C) Minimum Yard Dimensions - Feet**

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>30</b>	<b>10</b>	<b>30</b>	<b>30</b>

#### **Maximum Structure Height – 35 feet**

**Staff:** The proposed location of the dwelling is about 185 feet from the front (north) property line, more than 200 feet from the back (south) property line, about 75 feet from the east property line (side), and about 180 feet from west (side) property line (Exhibit 1.15). The proposed accessory structure location is more than 250 feet from the front (north) property line, more than 100 feet from the back (south) property line, about 65

feet from the east (side) property line and more than 200 feet from the west (side) property line. All required minimum yard requirements are met.

The elevation drawings indicate that the proposed dwelling would be about 28 feet in height (Exhibit 1.5 and 1.18). The elevation drawings for the proposed accessory structure indicate it would be 19 feet in height (Exhibit 1.5). The proposed buildings meet the maximum height requirements.

**5.3.2. 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:** In a memorandum dated May 19, 2005, Alison Winter, County Transportation Planning Specialist (Exhibit 2.8), stated that, “No right of way dedications are required at this time.” The setback to the proposed dwelling and accessory structure is substantial and if any right-of-way is required in the future there is plenty of area between the proposed dwelling and the end of the road. The standard is met.

**5.4. Review and Conditional Use Applications**

MCC 38.0045 (A) The following additional information shall be submitted for all review and conditional uses:

- (1) A list of Key Viewing Areas from which the proposed use would be visible.
- (2) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the reviewing agency to determine the location and extent of the proposed use and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail. If a parcel is very large, the map does not have to show the entire parcel. Rather, it may show only those portions of the parcel affected by the proposed use. The map shall include the following elements (listed in MCC 38.0045(A)(2)(a) through (o)).

**Staff:** The information required that is applicable for the proposed uses has been submitted.

**6. NSA SITE REVIEW FOR SCENIC REVIEW CRITERIA FOR GMA**

**6.1 MCC 38.7035(A) The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:**

**Staff:** The subject property is in the General Management Area of the Columbia River Gorge National Scenic Area thus the GMA criteria are the applicable criteria.

**6.1.1 MCC 38.7035(A)(1) New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.**

**MCC 38.0015(P)(4): Practicable: Able to be done, considering technology and cost.**

**Applicant:** *The dwelling shall be sited to the southeast portion of the property that has area to site the dwelling and septic and at the same time preserve the trees and vegetation to the north and assist in meeting minimum visual impact. The driveway will require a length of apx 225 ft to the southeast corner of the house and an additional 75 ft. to the accessory building for a total of apx 300 ft of driveway. The grade is apx, 12.6% overall. See attached plat. Most grading will be at the approach with the major portion just lifted with base rock on grade topped with  $\frac{3}{4}$  minus.*

**Staff:** The proposed location requires minor amounts of grading to reduce steeper sloped portion of the proposed driveway and to level the building sites. This criterion is met.

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

**Applicant:** *The home proposed is apx 3342 sq ft of heated living space, the 3 car garage is 608 sq ft, There is a 5 ft covered porch that wraps around to a covered patio that is 687 sq ft the total sq ft is apx 4637 sq ft. The home located at 1740 NE Meyers In and adjacent to the site is 43 18 sq ft including the 3 car garage. The home located at 37404 NE Clara Smith is 6326 sq ft including the 3 car garage. Consistent to the area.*

**Staff:** The total area for the proposed dwelling with attached garage and porch is 4637 square feet with the attached garage and covered porch area. The elevation drawings show the proposed dwelling to be two stories and 28 feet in height. The applicant did not address the size or the consistency of the proposed accessory structure. The submitted plans show the accessory structure to be 32 by 48 feet for a total 1536 square feet and a height of 19 feet.

Staff has determined that nearby analysis area for this site should be a quarter mile. The area includes the dwellings along Clara Smith Road and other dwellings within a quarter mile. This area also includes 30 dwellings, a reasonable number for a comparison analysis. Most of these dwellings are located in the same landscape setting as the subject property.

For this area, staff analyzed data from the County Assessment records for existing development in regards to dwellings including dwellings with attached garages and accessory structures within a quarter mile of the property. For this analysis we have included in the total area of the dwelling structure and attached structures with roofs such as: garages, finished basements, porches, covered decks and carports. The following data table lists the area of the proposed and existing development in the nearby area obtained from County Assessment Records (Exhibit 2.7).

The dwellings in this area range from 672 to 4802 square feet. The average or mean is 1968 square feet. The largest dwelling at 4802 square feet is 676 square feet larger than the next largest at 4126 square feet. There are two dwellings under 1150 square feet, at 675 and 792 square feet.

<i>Account Number</i>	<i>Main Floor &amp; 2<sup>nd</sup> Floor</i>	<i>3rd Floor or Attic<sup>A</sup></i>	<i>Finished Basement</i>	<i>Attached Garage or Carport<sup>C</sup></i>	<i>Covered Deck and Porch</i>	<i>Total Without Basement</i>	<i>Total<sup>G</sup></i>	<i>Detached Building</i>
<b>Proposed Dwelling</b>	<b>3342</b>			<b>608</b>	<b>687</b>		<b>4637</b>	<b>1536</b>
1. R322257	672						672	788
2. R322237	921	400 <sup>A</sup>		264			1585	216
3. R322236	983	300 <sup>A</sup>	300				1583	720
4. R322278	1400						1400	
5. R322273	1114	400 <sup>A</sup>					1514	198
6. R322229	1036			360 <sup>C</sup>	180		1576	
7. R322266	1500						1500	864
8. R237451	2563			600			3163	
9. R322279	1469						1469	460
10. R322230	1728	528					2256	
11. R322270	2100						2100	624
12. R322244	948	400 <sup>A</sup>					1348	768
13. R322287	1492			576			2068	576
14. R322245	1000		1000	550			2550	
15. R322251	1152						1152	396
16. R239916	3060			680			3740	
17. R322264	1032		300	624			1956	
18. R322289	840			447			1287	
19. R322285	1680			560 <sup>C</sup>			2240	
20. R322729	910			364			1274	
21. R322260	1248						1248	
22. R322761	1213						1213	
23. R322242	1040				312		1352	960
24. R322263	3074	648 <sup>A</sup>		1080			4802	600
25. R237450	3232			894			4126	
26. R322255	1166	300 <sup>A</sup>			252		1718	1286
27. R322692	1683			736 + 204 <sup>C</sup>			2623	2852 <sup>F</sup>
28. R322805	1536						1536	1350
29. R322270 <sup>B</sup>	792 <sup>D</sup>						792	768 <sup>E</sup>
30. R322228	2710			496			3206	
31. R322244 <sup>B</sup>								240 <sup>E</sup>
32. R322255 <sup>B</sup>								286 <sup>E</sup>
<b>AVERAGE</b>							1968	653 <sup>H</sup>
<b>Median</b>							1580	672 <sup>H</sup>

<sup>A</sup> Finished Attic

<sup>B</sup> Property with more than one dwelling or outbuilding.

<sup>C</sup> Carport

<sup>D</sup> Second dwelling on property Second outbuilding

<sup>E</sup> Second outbuilding on property.

<sup>F</sup> Farm building (property with farm deferral tax status.

<sup>G</sup> Total dwelling structure with attached garage, carport, finished basement and covered decks (detached buildings not included in this total).

<sup>H</sup> Excludes the farm building.

The proposed dwelling with attached garage and porch totals at 4637 square feet. This would be 165 square feet smaller than the largest dwelling in the nearby area and 511 square feet larger than the second largest dwelling. Given that the proposed dwelling is within the range of dwelling sizes in the area, we find that proposed dwelling size is generally consistent with the development in the nearby area.

The applicant proposes to build a 1536 square foot accessory building. Accessory buildings in the nearby area range in size from 198 square feet to 1350 square feet. There is a farm building in the nearby area that is 2852 square feet, however we have dropped it from the analysis due to it being a farm building on property in farm use based on the farm deferral tax status. The proposed building is for property not in farm use and will be used for housing personal horses not for an agricultural profit, thus it is not a farm building. The proposed accessory building is 186 square feet larger than the largest accessory building in the area. An accessory building for housing horses is a common use in rural residential areas. The proposed size of the accessory building is reasonable for the proposed use. Given the proposed accessory building is only 186 square feet larger than the largest accessory building in the nearby area, we find it is generally consistent with the development in the nearby area. This criterion has been met by the proposed dwelling and the proposed accessory building.

**6.1.3 MCC 38.7035(A)(3) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation required where feasible.**

**Applicant:** *This development shall not require and additional access to the scenic travel corridor as the new driveway shall be connected to a paved dead end county road that already is connected to Corbett Hill Rd.*

**Staff:** The site is accessed by a private driveway off of Clara Smith Road, which is not listed as a Scenic Travel Corridor. The criterion has been met.

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

**Applicant:** *The development and location of the home will minimize the requirement for additional plantings of shrubs or trees. Most trees on site shall remain only the trees in the development envelope shall be removed. See attached pictures and site plan.*

**Staff:** A condition that will require proper maintenance and survival of required vegetation. This criterion can be met through a condition.

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

**Applicant:** *The home shall be of earth tone colors and be consistent in size as indicated in (A)2 and shall not exceed 35 A in height and will not exceed the horizon or the tree top canopy. See the attached section cut and Plat for elevations.*

**Staff:** Information from the submitted site plan was used to determine the compatibility with the landscape setting as required.

## **6.2 All GMA Review Uses visible from Key Viewing Areas:**

### **6.2.1. MCC 38.7035 (B) (1) Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.**

**Applicant:** *This development is implementing the best consideration to meet the visual sub ordinance with low reflective windows, wood siding, black composite roof and hooded light fixtures and use of the existing topography and existing trees on the site. Leaving the of all the existing trees along the front lot line at Clara smith road to maintain a landscape buffer between the development sit and the KVA to the north. The accessory building will also be constructed with composition roof of approved colors and wood siding. Located at a lower elevation and south of the house. This will eliminate any possible reflection of the structure.*

**Staff:** After reviewing the submitted materials, maps and topography it appears that the proposed development, both the proposed dwelling site and the proposed accessory structure site are potentially visible from Key Viewing Areas to the north and northwest. The topography and distance screens the proposed dwelling and accessory building from all but a couple KVAs. The KVAs to the north and northwest of the subject property which we believe are applicable to this site are the Columbia River and Washington State Route 14 (SR 14). The topography screens the proposed development from Interstate – 84.

The applicant has provided a site map showing the locations and species of trees providing screening of the proposed dwelling site (Exhibit 1.15). The applicant has also submitted photographs taken from the proposed dwelling location showing the vegetation (Exhibit 1.16). The proposed dwelling and accessory structure site, while near a cleared area, are screened by a band of predominately deciduous trees about 80 to 100 feet wide along the northern, western and eastern property lines as shown in the submitted photos attached as Exhibit 1.16. While these trees provide substantial screening, during the site visit, staff found there is potential for the proposed development to be visible through gaps in the vegetative cover to the north, northeast, and northwest of the proposed dwelling site. The gaps in the vegetation on the property are the greatest directly north of the dwelling as shown on the photo submitted by the applicant labeled “Looking north from House” included as Exhibit 1.16 (photo sheet number 3). During the winter the potential visibility of the dwelling from the KVAs may increase due to lack of leaves. Given the potential of increased visibility of the proposed development during the winter, a condition of approval can require the planting of some conifer trees to the north of the proposed dwelling. Planting ten Douglas fir that are minimum six feet tall at planting (or other native conifer trees suitable to the site), spaced 15 to 20 feet apart 30 to 50 feet north of the proposed dwelling in approximate locations as represented on Exhibit 2.9 in addition to the existing vegetation and proposed building materials and dark colors, will provide for visual subordination year round.

The distance to the river is more than a half mile from the subject property, with dwelling potentially visible from portions of the river from the far side of the river and the river to the northwest (Exhibit 2.5). The distance to SR 14 is substantially more. The applicant proposes wood siding for both buildings. The applicant proposes to paint the dwelling as represented by submitted paint chips, with dwelling body Clermont (a dark green) and the trim Warwick Lodge and Surrey (both dark browns) (Exhibit 1.12). The applicant submitted a dark black sample composite asphalt shingle for the roofing (Exhibit 1.12). The applicant has verbally stated that he will use low reflectivity windows. Low reflective windows can be required through a condition.

Given the distance and the existing vegetative screening, if the dwelling were painted dark natural or earth tone colors, built with low reflectivity materials, and with planting of the conifers any visible portion would blend into the shadows of the existing landscape as visually subordinate. Conditions of approval can require the planting of trees, trees provide screening be protected and maintained and building material be low reflectivity and paint dark colors. This criterion is met by a combination of the proposal and conditions of approval.

**6.2.2 MCC 38.7035 (B)(2) The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas it is visible from, the number of Key Viewing Areas it is visible from, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.**

**Applicant:** *As stated previously the only distant site is of the Columbia River that is a long stretch and of that area west of the NSA. It would require binoculars, a clear day and a winter day when leaves are off the trees to possibly see a small porthole of the home from this area outside the NSA. The north slope back drop and the heavy wooded setting will render this development visually unseen from any KVA. See attached photos.*

**Staff:** Since the dwelling is partially screened by topography and vegetation, and is only visible at a distance of greater than a half mile from the Columbia River and a greater distance from SR-14, retention of the existing vegetation, the additional planting of ten conifers described in the previous finding and the requirements for natural or dark earth tone colors and low reflectivity building materials are proportionate to potential visual impacts.

For some the NSA Site Review criteria, conditions can require a specific standard be met upon obtaining a building permit that will stratify the criterion, such as window reflectivity or be met with a specific timeframe. However for other criteria, if the applicant has demonstrated these criteria are met. When this application is approved, the conditions to achieve visual subordination are proportional to potential visual impacts as

seen from Key Viewing Areas. Due to gaps in the existing vegetation, conditions will require planting of conifer trees and low reflective and dark colored building materials.

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

**Applicant:** *The site is heavily wooded with a seasonal view to the north, northwest. The siting of the home with the north slope back drop and the earth tone colors shall blend into the landscape setting. The home will not be seen from any KVA and will have less exposure than the adjacent homes to the south because of the elevation difference. The only KVA that is in the line of site is the Columbia River. This visual stretch of the river is quite a distance west of the NSA. This area of the river would not be considered a KVA*

**Staff:** Given the distance to KVAs, the existing tree cover, additional planting of trees required by conditions, the use of low reflectivity building materials and dark colored paint and roofing, there should be minor cumulative effect if any. Conditions of approval will require additional trees, the existing and planted trees to be maintained and the proposed building materials be used.

**6.2.4 MCC 38.7035 (B)(4) For all buildings, roads or mining and associated activities proposed on lands visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in MCC 38.0045 (A) (2) and 38.7035 (A) (5) for mining and associated activities:**

**(a) For buildings, a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes); and**

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

**Applicant:** *The home to be constructed is a two story traditional with 3 bed rooms and three baths, three car garage. with wraparound porch. Overall height is apx 30 ft and a foot print of apx 40x70 including the wrap around porch and three car garage. The exterior will be wood siding, black composition roof, hooded lighting and low reflective windows. Colors approved green and black trim (See attached site plan, color samples and roof sample.) All trees and vegetation will maintained except that as indicated on the site plan. The area apx 40 ft around the home will consist of planted lawn with no planned irrigation system. The remaining area covered be blackberry's will be seeded with a pasture mix (see site plan attached)*

*See the attached site plan showing elevations and dwelling elevations. The site is heavily wooded and except for the building envelope and a reasonable area around the parameter for fire set back. The building height will not exceed the canopy of the*



*trees and will set apx 160 ft below the top of the north slope to the south of the home. The site will maintain the existing vegetation and trees that help in the visual impact of the development.*

**Staff:** In Section 6.2.1. of this decision addressing MCC 38.7035(B)(1) we found that the property was visible from KVAs (Columbia River and SR 14). The finding in Section 6.2.1. of this decision addressing MCC 38.7035 (B)(1) outlines the building materials and colors proposed for the dwelling. The applicant has submitted the required information regarding building materials, colors, building descriptions, height and elevation plans, lights, and shape for the proposed dwelling and accessory structure.

\* \* \*

**6.2.5 MCC 38.7035 (B)(6) New buildings or roads shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable.**

**Applicant:** *The siting of the home and accessory building are considered as an alternate site based on information discussed with the planner and local fire chief. The alternate location minimizes the grading of the overall development it also minimizes the length of the driveway and requires less number of trees to be removed and best for meeting the visual impact of the development. The site has no known wetlands or riparian corridor. The site is not listed with any sensitive wildlife or plants. The site has no known cultural resource.*

**Staff:** The proposed buildings are sited in an area of the property that will be screened by topography and existing tree cover. In combination with the planting of additional trees proposed building material, and dark colors the buildings will be visual subordination. Other sites on the property present similar visibility issues. The criterion is met.

**6.2.6 MCC 38.7035 (B)(7) In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be prioritized over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.**

**Applicant:** *The siting of the home and accessory building on the site are considered with the use of the existing topography and vegetation to minimize any visual impact to the area it is in. The non reflective materials and colors are also considered in achieving less impact of the surrounding area and minimizing the need to create artificial screens. The site is not in any visual line of any KVA. See Attached pictures and site plan elevations.*

**Staff:** The proposed building sites use topography and existing trees to screen the proposed development. As discussed earlier the site is topographically screened from most KVAs in the area with only the far side of the river to the north, portions of the river to the northwest and State Route 14 being the only KVAs from where the proposed

building could be visible. There is an 80 to 100 foot wide band of deciduous trees to the north of the proposed building sites. These trees will provide partial screening from KVA's that are not screened topographically, with some gaps in the vegetation through which the dwelling may be visible. This would be the case with other location on the property as well. This criterion is met.

**6.2.7 MCC 38.7035 (B)(8) Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.**

**Applicant:** *The grading activity will be limited to the driveway the home site and the accessory building and are not in any visual line of a KVA. The grading activity is the least required in the overall scope of the development to minimize visual impact to the area. The house and accessory structure are located at the lower elevation of the property where the slopes and grade are the least. Also this locates the dwelling and accessory structure to the east of the ridge that is in direct line to a potential direct view to the west and possible KVA. See attached site plan for details and grading plan.*

**Staff:** The cuts and fill are predominately less than two feet in height. Around the front of the dwelling there is a fill that is proposed to have somewhat of a steep slope which appears to be greater than three to one. The area is only six feet tall so it should not be visible at a distance. The area behind the accessory building will also have a cut that appears to be greater than three to one and again about six foot tall. The slopes will be required to be vegetated with grass or low shrubs as a condition. If the finished slope is greater than three to one the Grading and Erosion Control Permit requirements will require it to be engineered. The proposed driveway and building location will require minimal grading for site the development. This criterion is through combination of the proposal and conditions.

**6.2.8 MCC 38.7035 (B)(9) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.**

**Applicant:** *The exterior of the buildings will feature non reflective materials and hooded light fixtures (See attached picture of light fixture example). The heavily wooded site and existing topography add in the means for visual impact of the development to the area. The development may have a small exposure from the Columbia River but would be limited to a small portion of the structure on a seasonal basis only during the fall and winter when the leaves would be off the trees.*

**Staff:** The proposed dwelling will be sided with wood, have asphaltic roofing shingles and the applicant has stated verbally an intent to use low reflectivity windows. A condition can require windows with a low reflectivity rating of 11 percent or less. Other applicants in the area have installed such windows. The building plans for the accessory structure show that metal siding and roofing is proposed for that building. These materials have been found not to meet the low reflectivity standard. A condition can require the accessory structure be sided with wood siding and roofed with asphaltic shingles to meet this criterion. This criterion can be met through conditions.

**6.2.9 MCC 38.7035 (B)(10) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.**

**Applicant:** *All exterior lighting shall be hooded. (See attached example of light fixtures to be used.)*

**Staff:** The proposed light will be down-facing and the applicant is proposing to install a tube “dark skies sleeve” to provide shielding. The proposed fixture with the “dark skies sleeve” meets this criterion as conditioned.

\* \* \*

**6.2.10 MCC 38.7035 (B)(13) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances may be granted if application of this standard would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the standard have been made.**

**Applicant:** *The proposed development does not exceed the skyline and in fact sets apx 160 ft lower than the top of the north slope that the site features. The development is not in visual line of sight with any KVA*

**Staff:** Slope to the south of the property rise above the proposed dwelling height. The development would remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. This criterion is met.

\* \* \*

**6.2.11 MCC 38.7035 (B)(20) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this standard. In determining the slope, the average percent slope of the proposed building site shall be utilized.**

**Applicant:** *The new build on the site where slopes 12.6%. The access via the driveway has most of the slopes and have been inspected for access requirements by Multnomah county Fire District #14. (See attached requirements on service provider form and letter from Fire Chief Tom Layton requiring approval with one turn out at the home.)*

**Staff:** The proposed buildings are in an area that has slopes of about 12.5 percent slope. The criterion is met

**6.2.12 MCC 38.7035 (B)(21) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between 10 and 30 percent shall include submittal of a grading plan. This plan shall**

be reviewed by the Planning Director for compliance with Key Viewing Area policies. The grading plan shall include the following:

- (a) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:
  1. Existing and proposed final grades;
  2. Location of all areas to be graded, with cut banks and fill slopes delineated; and
  3. Estimated dimensions of graded areas.
- (b) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
  1. Its purpose;
  2. An estimate of the total volume of material to be moved;
  3. The height of all cut banks and fill slopes;
  4. Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);
  5. A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of plants, size and location, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and
  6. A description of any other interim or permanent erosion control measures to be utilized.

**Applicant:** *The development will include the following grading this includes the home at 3120 sq ft , the barn at 1536 sq ft and drainfield area at 2000 sq ft and the driveway at 3600 sq ft for a total of 10256 sq ft and will not be in view of any KVA because of the lower elevation and the existing trees to the north See attached site plan showing the apx location of existing trees to remain and grading plan attached.*

**Staff:** Our analysis of the topography, knowledge from the site visit and as seen on the photographs submitted by the applicant, we find that the site is potentially visible from the Columbia River and SR 14 both KVAs. The grading for this project will likely exceed 100 cubic yards in area and the slopes exceed 10 percent. The applicant has submitted a plan that shows the existing and finished grades and the extent of the grading including the cuts and fill areas. The dimensions of the graded areas are shown according to scale on the site plan. The cut and fill slopes will be required by condition of approval to be revegetated with lawn and/or shrubs and irrigation provided to ensure survival. The criterion is met.

**6.2.12 MCC 38.7035 (B)(26) Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), except mining and associated activities, shall occur within a period not to exceed 2 years after the date of development approval.**

**Staff:** This criterion can be met through a condition of approval requiring compliance with requiring compliance with the low reflectivity building materials, dark paint colors and the planting of trees for visual subordination within two years.

**6.3 MCC 38.7035(C) All Review Uses and Conditional Uses within the following landscape settings: MCC 38.7035(C)(3) Rural Residential**

**Staff:** The subject property is in the Rural Residential Landscape Setting

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

**Applicant:** *The size of the proposed structure is similar in the sq footage as several new structures adjacent to the south. The footprint of the dwelling is apx 45x70 ft. This includes the garage and wrap around porch. The proposed location of the structure is at a lower elevation than the homes to the south and sets in a heavy wooded setting with less or no visual impact along with the exterior colors the development will be visually not in site to the properties to the north or the east. The homes to the west are farther away and around the opposite side of the north slope and unseen.*

**Staff:** Findings under Section 6.1.2: (MCC 38.7035(A)(2)) in this decision address the proposed development's consistency with development in the vicinity (all dwellings within a quarter mile of the subject property). This analysis compared the general scale of development on these properties with the proposed development. The findings under Section 6.1.2 are adopted as findings for this criterion. Using these findings we find the proposed development is compatible with the general scale of development in the vicinity. The criterion has been met.

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

**Applicant:** *Except for site clearing the tree cover shall be retained as the development area is all wooded the trees to be removed will not open any line of site to any new area or KVA.*

**Staff:** The applicant's statement appears to be left over from his previous proposed development in an area that was more heavily forested. The applicant designed the location of the buildings with this in mind. The proposed dwelling site, most of the septic system area and the accessory building site are located on the edge of cleared areas reducing the number of trees needed to be removed. While the buildings areas are on the edge of the cleared area they tucked into the forested area some to provide for visual subordination. Siting the development will required some tree removal. The driveway will be in an area were that is forested which will provide screening of the drive. The applicant is proposing to remove only trees necessary to establish the driveway, dwelling, accessory structure and septic system. This criterion is met.

**6.3.3 MCC 38.7035(C)(3)(c) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development:**

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

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

**Staff:** Trees that provide screening to obtain visual subordination will be required to be retained through a condition of approval. No trees will be required to be planted. A condition of approval will require low reflectivity building materials and dark natural tone colors for the dwelling and accessory as proposed by the applicant. These criteria can be met through conditions.

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

7.1 **MCC 38.7045 (A) Cultural Resource Reconnaissance Surveys**

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

\* \* \*

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

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

**MCC 38.7045 (B) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7045 (L) and (M), if:**

(1) The project is exempted by MCC 38.7045 (A) (1), no cultural resources are known to exist in the project area, and no substantiated comment is received during the comment period provided in MCC 38.0530 (B).

**Staff:** Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service submitted a cultural resources report on March 29, 2005 (Exhibit 3.1).

In her email Ms. Dryden, USFS, stated, "A cultural resources reconnaissance survey is: Not Required" and "A Historic Survey is: Not Required." "No historic properties were identified on the subject property.

These criteria are 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 the stopping of work on the development (within 100 feet) if 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 stopping of work on activities – All survey, excavation, and construction activities shall cease if human remains are discovered. The condition will require any found human remains not be disturbed any further and the procedures outline above be followed.

**8. THE SITE DOES NOT CONTAIN GMA WETLANDS**

**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);**

**Staff:** The subject site does not have an identified wetland listed on the National Wetland Inventory maps. Staff did not see any indication of wetlands during the site visit. Criterion is met.

**9. THE SUBJECT SITE DOES NOT CONTAIN GMA STREAMS, LAKES OR RIPARIAN AREAS**

**Staff:** There are no streams, lakes or riparian areas near this property. Criterion is met.

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

**MCC 38.7065 GMA Wildlife Review Criteria**



**Wildlife Habitat Site Review shall be required for any project within 1,000 feet of sensitive wildlife areas and sensitive wildlife sites**

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

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

**MCC 38.7070 GMA Rare Plant Review Criteria**

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

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

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 3/17/05 (1 page);
- Exhibit 1.2: Letter of consent dated March 15, 2004 signed by Marcus E. and Lorri J. Berglund, property owners submitted 3/17/05 (1 page);
- Exhibit 1.3: Narrative submitted 3/17/05 (2 pages);
- Exhibit 1.4: Site plan submitted 3/17/05 (1 page);
- Exhibit 1.5: Elevation drawings of the dwelling and accessory structure and dwelling floor plan submitted 3/17/05 (4 pages)
- Exhibit 1.6: Certification of Water Services dated 4/7/04 and signed by Interim Manager of the Corbett Water District submitted 3/17/05 (1 page);
- Exhibit 1.7: Site Evaluation Report dated March 29, 1991 signed by Phillip Crawford, Environmental Soils Specialist, City of Portland Bureau of Building submitted 3/17/05 (3 pages);
- Exhibit 1.8: Fire District Access Review dated 3/19/05 signed by Thomas Layton Fire Chief, District #14 submitted 3/22/05 (
- Exhibit 1.9: Fire District Review Fire Flow Requirements signed by Thomas Layton Fire Chief, District #14 submitted 3/22/05 (
- Exhibit 1.10: Photographs of the subject property and nearby locations submitted 3/17/05 (6 pages);
- Exhibit 1.11: Manufacturer's brochure showing proposed outdoor lighting fixtures and "Dark Skies sleeve" submitted 12/22/04 (1 page);

- Exhibit 1.12: Paint chip samples and sample of composite asphalt roofing shingle submitted 3/22/05 (2 pages);
- Exhibit 1.13: Copy of deed recorded with County Records Book 600, Page 149 (1 page);
- Exhibit 1.14: Amended narrative submitted 4/22/05 (15 pages);
- Exhibit 1.15: Amended site plan submitted 4/22/05 (1 page);
- Exhibit 1.16: Photographs the subject property submitted 5/3/05 (6 pages);
- Exhibit 1.17: Amended narrative submitted 5/11/05 (9 pages); and
- Exhibit 1.18: Elevation drawings of the proposed dwelling showing finished grade submitted 5/11/05 (2 pages).

### **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: 1962 Zoning and Assessment Map (1 page);
- Exhibit 2.4: 2002 Aerial Photo showing subject property
- Exhibit 2.5: 2002 Aerial Photo showing subject property and the topography of the vicinity (1 page);
- Exhibit 2.6: 2002 Aerial Photos showing subject property with ¼ mile nearby vicinity analysis boundary added (1 page);
- Exhibit 2.7: County Assessment record for nearby properties (32 pages); and
- Exhibit 2.8: Memorandum dated May 19, 2005 from Alison Winter, County Transportation Specialist (3 pages).

### **13.3 Exhibits submitted by other parties:**

- Exhibit 3.1: Email dated March 29, 2005 with attachment from Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service Heritage Resource Inventory Report submitted on 3/29/05 (3 pages);
- Exhibit 3.2: Faxed letter dated May 29, 2005 from Jim Augustine submitted on 5/30/05 (1 page);
- Exhibit 3.3: Email dated May 31, 2005 with letter attached from Glen Fullilove, Land Use Legal Assistant, Friends of the Columbia Gorge, received on 5/31/05 (10 pages); and
- Exhibit 3.4: Letter dated June 3, 2005 from Johnson Meninick, Manager Cultural Resources Program, Confederated Tribes and Bands of the Yakima Nation received June 8, 2005 (1 page).