



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

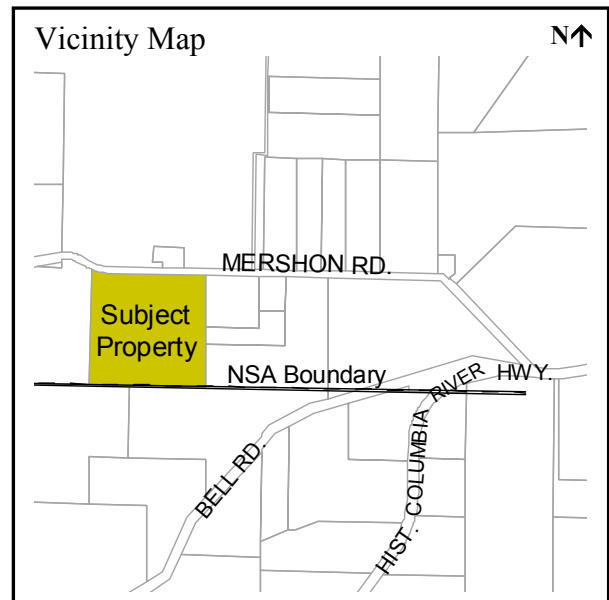
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-05-043

Permit: NSA Site Review for a Health Hardship Dwelling and Garage

Location: 33500 NE Mershon Road
TL 00800, Sec 33A, T1N, R4E, W.M.
Tax Account #R944330080

Applicant/ Janna L. Russell
Owner: PO Box 429
Corbett, OR 97019



Summary: NSA Site Review for a Health Hardship Dwelling, a 1535 square foot manufacture home with a 64 square foot covered porch area and a 576 square foot two car garage for the property owner's parents. The project includes a 60 feet of addition to the driveway. The property is within the Gorge General Agriculture - 40 Zone District. The garage will be a permanent accessory structure for future use, after Heath Hardship expires to be used as storage of farm equipment and personal property.

Decision: Approved with Conditions

Unless appealed, this decision is effective **Friday, August 5, 2005 at 4:30 PM.**

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, July 22, 2005

Instrument Number for Recording Purposes: 00117768

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 5, 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 38.2200 et. al: Gorge General 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. This permit is issued for a 2 year period. This approval is subject to annual review for compliance with the provisions of this section and any other conditions of approval. Prior to one year after this approval is issued the property owner shall submit a letter from a medical doctor that the health hardship continues to exist where conditions relate to the necessary care for father and/or the mother of the property owner [MCC 38.0040(B)(4)].
3. This permit may be renewed through an application for renewal and upon a finding that a family hardship continues to exist [MCC 38.0040(B)(6)].
4. Upon expiration of this permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days [MCC 38.0040(B)(5)]

5. 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.
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 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**

Staff: The application is for a Temporary Health Hardship Dwelling with an attached garage in the Gorge General Agriculture – 40 (GGA-40) Zone District (Exhibit 1.1). The proposed dwelling is a 1535 square foot manufactured home with a 64 square foot covered porch area and a 576 sq. ft. attached garage (Exhibits 1.6 and 1.7). The combined area of the dwelling with the porch and the attached garage is 2175 square feet. The proposed dwelling is a few inches more than 12 feet in height (Exhibit 1.7). The proposal also includes a driveway that is about 60 feet long and a connection to the existing septic system (Exhibit 1.2). The property owner would like to keep the garage as a permanent accessory structure to be used to store farm equipment and personal property.

2. **SITE AND VICINITY CHARACTERISTICS**

Staff: The subject property is located south of Mershon Road about one third of a mile west of the junction with the Historic Columbia River Highway (Exhibit 2.3). The vicinity is a mix of small farm and residential uses with some residential woodlot property about a half mile away. The vicinity gently slopes to the south with a few small hills about 30 to 400 feet in height mixed into the landscape.

The subject property includes a hill in the southern center of the property that is about 30+ feet in height above the lower elevations on the property (Exhibit 2.5). The existing dwelling and accessory buildings are located on the north flank of this hill. The proposed dwelling site elevation is about 20 feet lower than the elevation of the existing developed area (Exhibit 1.2 and 2.5). The subject property is predominately pastureland with a small orchard (Exhibit 2.3). There are several trees clustered around the existing buildings and on the south flank of the hill. The proposed building site has a slope of about nine percent dropping towards the west.

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 Janna Russell, the applicant, as the property owner. Ms. 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 May 5, 2005 (Exhibit 1.1). A Completeness Review notice was sent on May 9, 2005 to interested agencies and Indian Tribes. Staff notified the applicant in a letter dated June 1, 2005 that the application was complete as of May 5, 2005 when it was submitted. A 14 Day Opportunity to Comment notice was mailed by staff on June 2, 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. Four letters and emails were received (Exhibit 3.1 through 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 May 23, 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). In her email Ms. Dryden, USFS, stated, "A cultural resources reconnaissance survey is: Not Required" and "A Historic Survey is: Not Required."

The following documents were received during the Comment Period: A letter dated June 5, 2005 received on June 8, 2005 from H. Ron and Margaret Bates, 33730 NE Mereshon Road (Exhibit 3.2), a letter received on June 8, 2005 from Kevin and Ginger Bates, 33601 E Bell Road (Exhibit 3.3) and 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, (Exhibit 3.4).

H. Ron and Margaret Bates state that they have no objections to the proposed temporary health hardship dwelling and accessory structure. Kevin and Ginger Bates also state that they have no objections to the proposed temporary health hardship dwelling and accessory structure.

In his letter, Mr. Fullilove, Friends of the Columbia Gorge, listed several Code sections that are related to the proposed development. He stated his interpretation that for a Health Hardship approval, “the infirmed person(s) must inhabit the principle dwelling.” We will discuss this in findings under subsection 5.2.1 of this decision. 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. Mr. Fullilove then addressed Landscape Setting requirements and visual subordination. 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 and 7.

5. HEALTH HARDSHIP A REVIEW USE

5.1. MCC 38.0040: The following Review Uses may be permitted when allowed by the district and found to satisfy the applicable approval criteria pursuant to the provisions of MCC 38.7000 through 38.7085:

Staff: The applicant is applying for a Health Hardship Dwelling which requires a Site Review pursuant to the provisions of MCC 38.7000 through 38.7085. Findings addressing the Site Review Criteria are under Section 7 of this decision.

* * *

5.2. MCC 38.0040(B):Temporary Health Hardship Dwelling – the temporary placement of a mobile home in the General Management Area may be granted when:

Staff: The applicant proposes a manufactured home as a temporary dwelling. A manufactured home meets the mobile home requirement that the dwelling be temporary and removable. The property is within the General Gorge Agriculture District which is in the General Management Area. The following criteria for a Health Hardship Dwelling have been met as discussed in the individual findings.

5.2.1. MCC 38.0040(B)(1) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

Staff: The applicant has submitted a letter dated march 11, 2005 (Exhibit 1.5) from Patrick Tester, M.D. stating that it would be in Dr. Theodore and Velma Norman’s medical interest to be closer to their family. Dr. Tester referring to a home placed on their daughter’s property states about the Normans, “I believe this family support would be helpful for them, considering their advanced age and medical issues.” The Norman’s daughter is the applicant/property owner living in the principle dwelling. In a letter dated June 16, 2005 (Exhibit 3.4) Glen Fullilove, Friends of the Gorge states that according to this criteria, “...the person with the hardship, i.e., the infirmed person(s) must inhabit the principle dwelling.” He continues stating, “In this case, the principle dwelling is the existing dwelling.” We interpret the criteria, “where conditions relate to the necessary care for a member of the family occupying the principal dwelling,” as requiring a member of the family of the person(s) with the hardship must occupy the principle dwelling. This allows the person with the hardship to live in the principle dwelling or the

temporary dwelling but that the person(s) with the hardship must be member of the family occupying the dwelling. There is nothing in the criteria language that says which dwelling the person(s) with the hardship must live in. This criteria has been met.

5.2.2. MCC 38.0040(B)(2) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.

Staff: The applicant has submitted a Certification of On-Site Sewage Disposal (Exhibit 1.10) stating that a permit will be needed to hook the temporary dwelling up to the existing system. The intent is to hookup to the existing system. This criteria is met.

5.2.3. MCC 38.0040(B)(3) The hardship dwelling is found to be consistent with the standards for protection of scenic, cultural, natural and recreation resources of MCC 38.7000 through 38.7085.

Staff: The findings of consistency of the dwelling with the applicable standards for protection of scenic, cultural, natural and recreation resources of MCC 38.7000 through 38.7085 are addressed in the following section of this decision titled “NSA Site Review for Scenic Review Criteria for GMA.” This criteria is met.

5.2.4. MCC 38.0040(B)(4) A permit may be issued for a 2 year period, subject to annual review for compliance with the provisions of this section and any other conditions of approval.

Staff: This permit will include a condition of approval that requires an annual review for compliance with the provisions of this section and any other conditions of approval. The permit expires in two years unless it is renewed through an application for an extension per MCC 38.0040(B)(6). This criterion can be met through a condition of approval.

5.2.5. MCC 38.0040(B)(5) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.

Staff: A condition of approval will require removal of the temporary health hardship dwelling within 30 days for the expiration of the permit or cessation of the hardship, whichever comes first.

5.2.6. MCC 38.0040(B)(6) A new permit may be granted upon a finding that a family hardship continues to exist.

Staff: A condition of approval will require this review to renew this permit.

6. GORGE GENERAL AGRICULTURE -40 ZONING DISTRICT

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

Front	Side	Street	Rear
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		Side	
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The proposed location of the dwelling and garage is more than 300 feet from the front (north) property line, more than 150 feet from the rear (south) property line, 100 feet from the west side property line and 400 feet from the east side property line (Exhibit 1.2).

The elevation drawings indicate that the proposed dwelling would be one story in height (Exhibit 1.7) a few inches over 12 feet in height. The proposed dwelling meets the maximum height requirements. The garage is proposed as a single story structure which will meet the maximum height requirements.

6.2. 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 June 14, 2005, Alison Winter, County Transportation Planning Specialist (Exhibit 2.5), states that Mershon 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 40 feet thus there is insufficient right-of-way. County Transportation Planning Specialist is not requiring a dedication of additional right-of-way related to this decision. However 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.”

Since the right-of-way is less then the County Design and Construction Manual design specifications, the minimum yard requirement is increased. The applicant has provided substantial setback distance of about 300 feet from the right-of-way. The standard is met.

6.3. MCC 38.0060: All buildings, as specified, shall satisfy the following setbacks when proposed to be located on a parcel which is adjacent to lands designated GGA– 20 or GGA– 40:

Type of Agriculture: Livestock grazing pasture, or haying
Type of Buffer: 100’ (Opened and fenced).

Staff: The two properties within the NSA that are adjacent to the subject property are pastureland and land that is used for growing hay. The closest property to the dwelling is to the west which is used as pastureland and for growing hay. The proposed dwelling will be at least 100 feet from the closest property line to the west meeting the buffer area requirement.

7. NSA SITE REVIEW FOR SCENIC REVIEW CRITERIA FOR GMA

7.1 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 Gorge General Agriculture Zone district in the General Management Area of the Columbia River Gorge National Scenic Area thus the GMA criteria are the applicable criteria (Exhibit 2.2).

7.1.1 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: *Minimum grading.*

Staff: The proposed building site is located in a shallow sloped area of about nine percent maximum slope. The proposed location requires minor amounts of grading to level the building site and to establish the driveway access to the garage. This criterion is met.

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

Applicant: *Yes, many other homes in the area are taller and larger. See attached properties.*

Staff: The total area for the proposed dwelling with attached garage and porch is 2175 square feet with the attached garage and covered porch area (Exhibits 1.2 and 1.6). The elevation drawings show the proposed dwelling to be one story just over 12 feet in height (Exhibit 1.7). The submitted plans show the garage to be 24 by 24 feet. It will be a single story in height as well (Exhibit 1.13).

Staff has determined that nearby analysis area for this site should be the area within 1000 feet of the subject property. The area includes the dwellings along Mershon Road. This analysis area includes 17 dwellings, a reasonable number for a comparison analysis given the size of the proposed dwelling and the characteristics of the dwellings in the area. For this area, staff analyzed data from the County Assessment records for existing development in regards to dwellings, dwellings with attached garages and accessory structures.

The following data table lists the area of the proposed and existing development in the nearby area obtained from County Assessment Records (Exhibit 2.4). For this analysis we have included in the total area of the dwelling structure and attached structures with roofs such as: garages, porches, covered decks and carports. We have included a separate total area which includes the previous mentioned features as well as finished basements.

COMPARISON OF EXISTING NEARBY DEVELOPMENT

<i>Account Number</i>	<i>Main Floor & 2nd Floor</i>	<i>3rd Floor or Attic^A</i>	<i>Finished Basement</i>	<i>Attached Garage^G or Carport^C</i>	<i>Covered Deck and Porch</i>	<i>Total Without Basement</i>	<i>Total Including Finished Basement^G</i>	<i>Detached Building</i>
Proposed Dwelling	1535			576	64	2175	2175	
1. R322501	1619			560		2179	2179	
2. R322502	1058	500 ^A				1558	1558	
3. R322503	1672			792		2464	2464	2440
4. R322509	1083					1083	1083	1200
5. R322522	1480		800	504		1984	2784 ^B	816 ^F
6. R322531	1280		704	700 ^C		1980	2684 ^B	
7. R237534	704					704	704	
8. R322551	580					580	580	
9. R322536	1144	700 ^A				1844	1844	2400
10. R322545	1559			414		1973	1973	8064 ^F
11. R322545								2352 ^F
12. R322555	2150					2150	2150	672
13. R322557	1964			554		1964	1964	
14. R322571	1774		1100	483		2257	3974 ^B	816
15. R322583	938					938	938	
16. R322585	1796			616		2412	2412	256 ^F
17. R322597	484					484	484	
18. R322597	608 ^D					608	608	
Average without basements and with finished basement:						1634	1787	

^A Finished Attic (added to total)

^B Finished Basement (added to total)

^C Carport (added to total)

^D Second dwelling on property Second outbuilding

^F Farm building (property with farm deferral tax status.

^G Attached Garage (added to total)

The dwellings in this area range from 484 to 3974 square feet (with a finished basement). The largest dwelling without a finished basement is 2412 square feet. The average or mean for dwellings in the area is 1634 without basements or 1784 square feet with finished basement included. Most of the dwellings within analysis area are single story with three having a second story, two of which are finished attics.

The proposed dwelling with attached garage and porch totals at 2175 square feet. There are four dwellings within analysis area that are larger in size than the proposed 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 576 square foot garage that for the immediate future will be attached to the dwelling. The applicant has proposed keeping this building as an accessory building when the Health Hardship Dwelling is no longer needed. Because this garage starts out attached to the dwelling we have included its area in the total for the dwelling. Since it is proposed for the future to be a stand alone accessory structure, we are including the following comparison analysis for the proposed accessory structure. The subject property has two existing accessory buildings a 432 square foot shed and a 1800 square foot farm building (Exhibit 2.1).

Accessory buildings in the nearby area range in size from 256 square feet to 2440 square feet. There is a farm building in the nearby area that is 8064 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 will be used as garage until it is no longer needed for the health hardship, when it will be used for a combination of farm and personal storage. The proposed accessory building is in the lower quarter of the range of accessory structures in the area. Given the proposed accessory building within the range of accessory structures 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.

7.1.3 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: *None.*

Staff: The access will be from an existing access from Mershon Road, which is not listed as a Scenic Travel Corridor. The criterion has been met.

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

Applicant: *All vegetation around the current house will remain the same. All trees will stay where they are. The manufactured home will be placed in the pasture where there is currently no vegetation except field grass.*

Staff: This approval will not require any vegetation.

7.1.5. 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: *See site plan.*

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

7.2 MCC 38.7035(B) All Review Uses and Conditional Uses visible from Key Viewing Areas

Staff: The location of the proposed dwelling and garage is topographically screened from all Key Viewing Areas. Since the proposed development will not be visible from KVA the criteria under MCC 38.7035(B) do not apply.

7.3 MCC 38.7035(C)(4) All Review Uses and Conditional Uses within the following landscape settings: MCC 38.7035(C)(4) Rural Residential in Pastoral

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

7.3.1. MCC 38.7035(C)(4)(a) New development in this setting shall meet the design standards for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral or Coniferous Woodland), unless it can be demonstrated that compliance with the standards for the more rural setting is impracticable. Expansion of existing development shall comply with this standard to the maximum extent practicable.

Staff: Findings below under subsections 7.3.4. through 7.3.7. address the more rural setting design standards of Pastoral Landscape. Findings under subsections 7.3.8. through 7.3.10. address the design standards of the Rural Residential Setting. The proposed use is an expansion of an existing development. This standard is met.

7.3.2. MCC 38.7035(C)(4)(b) In the event of a conflict between the standards, the standards for the more rural setting (Coniferous Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such standards would not be practicable.

Staff: No conflict between standards exists.

7.3.3. MCC 38.7035(C)(4)(c) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

Staff: No recreation uses are proposed. This standard is met.

7.3.4. MCC 38.7035(C)(1) (a) New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. Expansion of existing development shall meet this standard to the maximum extent practicable.

Applicant: *Yes, see A2, most homes and barns in the area are much higher and larger.*

Staff: Findings under subsection 7.1.2. address the compatibility with the general scale of development within the vicinity. The table in that finding shows that there are four dwellings within 1000 feet of the proposed dwelling that are larger in dimensions and overall mass than the proposed dwelling including the attached garage. There are three dwellings within the area with inhabitable second stories, two of which are finished attics. The proposed dwelling and garage are one story. This standard is met.

7.3.5. MCC 38.7035(C)(1)(b) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

Applicant: *Yes, we are proposing a 1500 square foot manufactured home with a 24 x 24 attached garage.*

Staff: This standard does not apply to the dwelling. The applicant proposes to keep the garage after the health hardship dwelling is removed to be used as an accessory structure to store farm equipment and personal property. This building will be located near the existing driveway and within 200 feet of the exiting dwelling. The garage will be used to store equipment used for gardening and for the orchard. The proposed building is located near the garden just east of the orchard area and along the driveway at the edge of the pasture land. This standard is met.

7.3.6. MCC 38.7035(C)(1)(c) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development:

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

Applicant: *Yes, no current trees will be removed.*

- 2. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.**

Applicant: *Yes, no changes in vegetative landscape. Currently the area is a pretty flat field.*

- 3. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, bigleaf maple, and black locust (primarily in the eastern Gorge).**

Applicant: *None planted.*

- 4. At least one-quarter of any trees planted for screening shall be coniferous for winter screening.**

Applicant: *None planted.*

- 5. Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by MCC 38.7035 (B) (11) and (12).**

Applicant: *Will use approved Gorge colors. This selection will be natural or earth tones colors.*

Staff: The proposed dwelling and garage are not visible from any Key Viewing Area, however the applicant has agreed to meet these standards. No additional trees are needed or proposed

7.3.7. MCC 38.7035(C)(1) Pastoral (d) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature, occurring infrequently in the landscape.

Applicant: *Not applicable – no recreation vehicles will be used.*

Staff: No recreational use is proposed. This standard is met.

7.3.8 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: *Yes, see A2. Most all homes in the area are either taller or larger then what we are proposing.*

Staff: Findings under subsection 7.1.2. addresses the compatibility with the general scale of development within the vicinity. The table in that finding shows that there are four dwellings within 1000 feet of the proposed dwelling that are larger in dimensions and overall mass than the proposed dwelling including the attached garage. There are three dwellings within inhabitable second stories, two of which are finished attics. The proposed dwelling and garage are one story. This standard is met.

7.3.9. 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: *Yes, no trees will be removed.*

Staff: The applicant states that no trees will be removed. This standard is met.

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

- 1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.**
- 2. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.**
- 3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.**
- 4. Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by MCC 38.7035 (B) (11) and (12).**

Applicant: *Not Applicable. Site is not seen from any prime viewing areas, no trees will be planted for screening purposes. Will comply with Gorge Commission Colors, colors will be either natural or earth tone colors.*

Staff: The proposed development will not be visible from any Key Viewing Area. These standards do not apply, however the applicant has agreed to paint the proposed dwelling and garage either natural or earth tone colors. No new trees are needed or are proposed. These standards are not applicable.

7.4. MCC 38.7035(D) All Review Uses and Conditional Uses within scenic travel corridors:

7.4.1. MCC 38.7035(D)(1) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Historic Columbia River Highway and I- 84.

Staff: The land affected by the proposed development is more than 1700 feet from the Historic Columbia River Highway. The criteria under this section do not apply to this proposal.

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 August 9, 2005 (Exhibit 3.1).

In her May 23, 2005 email Ms. Dryden, USFS, stated, “A cultural resources reconnaissance survey is: Not Required” and “A Historic Survey is: Not Required.”

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

7.3 MCC 38.7045 (M) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means

articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

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

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

(3) Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern.

Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

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

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

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

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

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

8. THE 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 5/5/05 (1 page);
- Exhibit 1.2: Site plan submitted 5/5/05 (1 page);
- Exhibit 1.3: 2002 Aerial Photo of subject property showing 10 foot contours and proposed development site submitted 5/5/05 (1 page);
- Exhibit 1.4: Narrative submitted 5/5/05 (4 pages);
- Exhibit 1.5: Letter dated March 11, 2005 from Patrick Tester, M.D. submitted 5/5/05 (1 page);
- Exhibit 1.6: Floor plan of the proposed dwelling submitted 5/5/05 (1 page);
- Exhibit 1.7: Elevation drawings of the dwelling submitted 5/5/05 (2 pages);
- Exhibit 1.8: Fire District Access Review dated 4/1/05 signed by Thomas Layton Fire Chief, District #14 submitted 5/5/05(4 pages);
- Exhibit 1.9: Fire District Review Fire Flow Requirements signed by Thomas Layton Fire Chief, District #14 submitted 5/5/05(2 pages);

- Exhibit 1.10: Site Evaluation Report dated 4/7/05 signed by Phillip Crawford, Environmental Soils Specialist, City of Portland Bureau of Building submitted 5/5/05 (1 pages);
- Exhibit 1.11: Storm Water Certification dated 5/3/05 stamped and signed by Kent W. Cox P.E. with attached design and site plan submitted 5/5/05 (4 pages);
- Exhibit 1.12: Portland Maps printout showing nearby development submitted 5/5/05 (3 pages).
- Exhibit 1.13: Elevation drawings and floor plan for the proposed garage (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: County Assessment record for nearby properties (38 pages);
- Exhibit 2.5: Memorandum dated June 14, 2005 from Alison Winter, County Transportation Specialist (2 pages).
- Exhibit 2.5: 2002 Aerial Photo showing subject property, vicinity properties and the topography of the vicinity in 10 foot contours (1 page);

13.3 Exhibits submitted by other parties:

- Exhibit 3.1: Email dated May 23, 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 5/23/05 (3 pages);
- Exhibit 3.2: A letter dated June 5, 2005 received on June 8, 2005 from H. Ron and Margaret Bates, 33730 NE Mereson Road received on 6/8/05 (1 page);
- Exhibit 3.3: A letter from Kevin and Ginger Bates 33601 E Bell Road received on June 8, 2005 (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).