



**MULTNOMAH
COUNTY**

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.

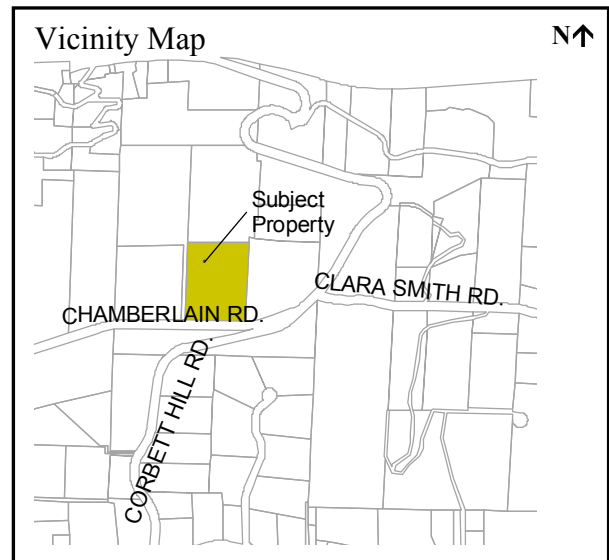
Case File: T2-05-072

Permit: National Scenic Area Site Review

Location: 36411 NE Chamberlain Road
TL 800, Sec 26CB, T1N, R4E, W.M.
Tax Account #R94426-1040

Applicant: David Leech

Owner: Jim & Velvet Cox



Summary: The applicant is seeking approval for the following alterations to the on-site structures:

1. Modify the middle bay of the accessory building to accommodate a recreational vehicle by raising the roof line;
2. Retro-actively permit the third bay of the accessory building which was added by a previous owner without permits;
3. Retro-actively permit the deck on the rear of the house installed by both the previous and current owners without permits.

Decision: The request is approved with conditions.

Unless appealed, this decision is effective February 17, 2006 at 4:30 PM.

Issued by:

By: _____
Tammy Boren-King, AICP, Planner

For: Karen Schilling - Planning Director

Date: February 3, 2006

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted in support of the 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 Tammy Boren-King, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was mailed pursuant to the provisions of MCC 38.0640. An appeal requires a \$250.00 fee, and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043).

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is February 17, 2006, at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC):

38.0560, Code Compliance and Applications

38.3025(A), Review Uses-GGR District

38.3060, GGR Dimensional Standards

38.7035, General Management Area Scenic Review Criteria

38.7045 General Management Area Cultural Resource Review Criteria

38.7055 General Management Area Wetland Review Criteria

38.7060 General Management Area Stream, Wetland, and Riparian Area Review Criteria

38.7065 General Management Area Wildlife Review Criteria

38.7070 General Management Area Rare Plant Review Criteria

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/dscd/landuse/>

Scope of Approval

1. Approval of this land use permit is based on the written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 38.0690(B), this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 38.0690 and 38.0700. Extension requests must be made prior to the expiration date of the permit. Failure to sign and record the Notice of Decision within this time frame shall void the decision unless it is extended pursuant to MCC 38.0670.**

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 or prior to building permit sign-off, whichever happens first, the applicant shall record the Notice of Decision (pages 1-3 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 the Land Use Planning Division. Recording shall be at the applicant's expense. Failure to sign and record the Notice of Decision within this time frame shall void the decision pursuant to MCC 38.0670.
2. Within 60 days of this decision becoming final, the applicant shall apply to the County for authorization of retro-active building permits for the deck, replacement of the balcony railing, and the third bay of the accessory building. These permits shall be authorized prior to or in conjunction with the authorization of the building permit for the modification of the middle bay of the accessory structure. In no case shall the permit for the modification to the middle bay of the accessory building be authorized prior to the authorization of the retro-active permits for the deck, replacement of the balcony railing, and the third bay of the accessory building. (MCC 38.0560)
3. For the additions to the accessory building, the applicant shall match the colors and exterior materials of the existing building. The roofing shall be dark brown composition shingles and the exterior siding shall be wood painted dark brown. The garage doors shall be painted or colored to match the main body of the building. (MCC 38.7035(C)(3)(c)(4))
4. For the deck structure, the applicant shall use unpainted wood or shall paint the wood to match the existing house color as shown on Exhibit A4. (MCC 38.7035(C)(3)(c)(4))
5. The glass shall be removed from the railing surrounding the deck and balcony and shall be replaced with cable spaced as necessary to comply with the building code. The rail supports shall be painted or colored to match the existing color of the house as shown on Exhibit A4 or another dark earth tone color. The cable rail system shall be clearly shown on the building plans submitted for authorization of a building permit. (MCC 38.7035(C)(3)(c)(4), MCC 38.7035(B)(9))
6. Five Douglas Fir Trees 10 to 12 feet in height shall be planted in the locations required by SEC 9-90 as shown on Exhibit S2. The applicant shall submit photographic documentation showing the installed trees to this office within thirty (30) days of final inspection of the building permit for the deck. These trees shall be maintained and shall not be removed unless diseased or dying. If removed due to disease, the trees shall be

replaced immediately with trees of the same species and similar caliper size as those removed. (MCC 38.7035(B)(2), MCC 38.7035(C)(3)(c))

7. Four Douglas Fir Trees or Western Red Cedars shall be planted parallel to the north end of the accessory structure in the locations shown on Exhibit A2. These trees shall be at least six feet tall when planted. The applicant shall submit photographic documentation showing the installed trees to this office within thirty (30) days of final inspection of the building permit for the deck. These trees shall be maintained and shall not be removed unless diseased or dying. If removed due to disease, the trees shall be replaced immediately with trees of the same species and similar caliper size as those removed. (MCC 38.7035(B)(2), MCC 38.7035(C)(3)(c))
8. If, during construction, cultural or historic resources are uncovered, the applicant/owner shall immediately cease development activities and inform the Multnomah County Land Use Planning Division, Columbia River Gorge Commission, and the U.S. Forest Service of any discovery pursuant to MCC 38.7050(H).

Once this decision is final, application for building permits may be made. When ready to have building permits signed off, the applicant shall call the Staff Planner, Tammy Boren-King, at (503) 988-3043, to schedule 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. Four (4) sets each of the site plan and building plans are needed for building permits signed off. A \$75 erosion control inspection fee is required at time of plan signoff.

<p>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.</p>

FINDINGS: (Formatting Note: Staff provides the Findings included here as necessary to address Multnomah County ordinance requirements. Multnomah County Code requirements are referenced using a **bold** font. Written responses to code criteria prepared by or on behalf of the applicant are identified as “**Applicant:**”. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “**Staff:**” precedes the comments.)

1. Project Description

Applicant: The 4.75 acre site is located approximately 91 feet to the west of the intersection of Chamberlain Road and Corbett Hill Road. The property is near the community of Corbett and is within the Columbia River National Scenic Area. Existing on-site development includes a 2-story single family residence, built in 1990, and a 40' X 74' wood frame accessory building, built in 1992. The site is accessible from Chamberlain Road via a gravel driveway.

The property is located on a relatively flat bench (less than a 50 feet drop in elevation from South to North end) with the house and accessory building being located on the southern 1/3 of the site. This location aides in minimizing the visual impact of the structures to key viewing areas. The only two key viewing areas where the property can be seen are a very small window on Washington State Route 14 (approximately 100 feet of road) and a small area on the Columbia River (Exhibit A9).

We propose a very small addition to the middle bay of the existing accessory structure. The remodel will not include any water or plumbing. No changes will be made to the present gravel drive access. No trees will be removed. In fact, the new owners have plans to plant native trees on the north end of the building to act as a buffer between the lower pasture and the accessory structure.

The addition construction will match the current materials and paint colors used on the original structure. The siding is a textured plywood and the paint color is a medium brown. The composition roofing material is a medium brown as well. (See Exhibit A4)

Staff: The applicant is proposing the modification of an accessory building originally permitted by Multnomah County through SEC 9-90 and the Columbia River Gorge Commission in File C90-0169-M-G-11. This structure was originally permitted as a 40 foot by 60 foot residential accessory building. The structure is now 40 feet by 74 feet. The addition of a 14 foot bay was done without building permits or a National Scenic Area permit. The current owners have requested a National Scenic Area Site Review to legalize this addition to the structure as well as to modify the middle bay of the structure to accommodate a recreational vehicle.

During the review process, photos were submitted to the file which show that the deck on the rear of the house has been further modified since the applicants began the permit process for this NSA permit. Further evidence was submitted by the applicants showing the entire deck has been built since 2004. This deck required both building and National

Scenic Area permits. Neither were secured before construction. The applicants have modified their application to include a retro-active NSA approval request for the deck.

A site plan is included as Exhibit A2. Elevations of the previously approved dwelling are included as Exhibit S3. Building elevations showing the proposed changes to the dwelling and accessory structure are included as Exhibit A3.

2. The county adhered to the required notification procedures.

Staff: An Opportunity to Comment was sent out to the County's list of property owners within 750-feet of the subject property and to the required Agencies, Confederated Tribes, and Recognized Neighborhood Associations pursuant to MCC 38.0530(B). The Opportunity to Comment was mailed on November 23, 2005, and was open for 14 days.

Comments were received from the USDA Forest Service in the form of a Cultural Resources Survey Determination and a Section 106 Documentation Form (Exhibit S4). These comments are directed at code criteria related to various aspects of the National Scenic Area site review and are addressed in section 8 of this report.

Additional comments were received from the Friends of the Columbia Gorge. The letter from the Friends group was authored by David Richardson and is included as Exhibit S5. Mr. Richardson identified the standards of the Multnomah County Code he understands to be applicable to the subject request. Findings through out this document address the applicable standards and, thereby, address the comments of Mr. Richardson.

Procedures met.

3. Proof of ownership and initiation of action

Staff: Applications for National Scenic Area Site Review permits are classified as Type II permit applications (MCC 38.0530). As such, they may only be initiated upon written consent of the property owner or contract purchaser (MCC 38.0550). County Assessment Records included as Exhibit S1 and deed records included as Exhibit A5 show the property is owned by Jim and Velvet Cox. Both Jim and Velvet Cox have signed the application form providing the necessary consent to process this request. A copy of the signed application form is included as Exhibit A1.

4. The subject property meets the definition of "Parcel."

Staff: The property was created through an approved partition in 1987. Casefile LD 32-86 granted approval of the creation of the lot. A copy of the approved partition plat is in the file. The property remains in the same configuration as approved in LD 32-86. The property continues to meet the definition of "Parcel."

Criterion met.

5. The property is not in full compliance as required by MCC 38.0560.

§ 38.0560 Code compliance and applications.

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

Staff: The subject property contains a house and an accessory building. Both were originally permitted by the County through casefile SEC 9-90 and the Gorge Commission through file C90-0169-M-G-11. In reviewing the application for completeness, staff determined that there are inconsistencies between the previous approvals and the structures on site. The site plan from permit SEC 9-90 is included as Exhibit S2. The building elevation drawings from permit SEC 9-90 are included as Exhibit A3. Full copies of the decision from SEC 9-90 and Gorge Commission file C90-0169-M-G-11 are included in the file.

Review of this application raised questions about several aspects of the existing development including:

- The original building plans showed no balcony on the rear of the house and showed a deck that was 10 feet wide extending along the entire length of the rear of the house. There is currently a balcony on the rear of the house and the deck has been enlarged.
- The building plans included with SEC 9-90 show the house intersecting the ground plane at the bottom of the first floor. The current photos of the house show a configuration that is more similar to a daylight basement, making it taller than shown on the approved elevations.
- The building elevations included with SEC 9-90 show windows only on the top floor of the house. It appears that windows have been enlarged and turned into doors in several locations on the rear of façade of the house.
- Photos submitted appear to show all of the windows in the house now having white window trim as well as white railing being installed around the balcony and the deck while SEC 9-90 required the use of dark earthtone colors.

- The pole barn approved in SEC 9-90 and for which building permits were issued was 60' by 40'. The existing structure is 74' by 40'. A third bay appears to have been added to the pole barn without building permits or an NSA approval.
- The approval in SEC 9-90 required the planting of screening vegetation. From the photos submitted, it appears this vegetation is no longer in existence on the property.

The applicant responded to each of these topics through the narratives and letters included as Exhibits A11 through A15. These topics are most directly addressed by the applicant in Exhibit A13. Below, staff has analyzed each of these topic areas beginning with a summary of the applicant's statements regarding that particular topic.

THE DAYLIGHT BASEMENT

The applicant asserts that the daylight basement is original to the house and was inspected and approved by the City of Gresham during the building inspection process. The applicant asserts reason why the daylight configuration does not show on the elevations from SEC 9-90 is that the plans were stock building plans not modified to reflect specific site conditions.

The elevations available in SEC 9-90 show the house intersecting the ground plane at the first floor. No daylight basement is shown in the elevations. It is highly unlikely that this major of a modification was made to the structure after it was originally built. Unfortunately neither the City of Gresham nor the County retained copies of the approved building plans, so it is difficult to determine what was originally constructed. Given the natural slope of the land, a daylight basement configuration is a logical choice. It is highly unlikely that the house was constructed on fill which was later excavated out from under the house to create an exposed basement. Staff finds the basement and foundation are original to the house and were thus inspected and approved during the construction of the house. No further action is necessary on the part of the owners with regard to the basement.

WHITE WINDOWS

The applicant asserts that the white vinyl windows are original to the house. As such, the applicant also asserts that these windows were inspected and approved by the City of Gresham during building inspections. Further, the applicant notes that the Gorge Commission has taken enforcement action against this property on the issue of the color treatment of the house and did not make the previous owners paint the windows when the house was repainted to achieve compliance.

Neither the SEC permit nor the original decision from the Gorge Commission specify a color treatment for the windows. The Gorge Commission did take enforcement action against this property in 2003-2004 for several issues. One of the issues was the color of the house and accessory building. The Gorge Commission found the house color was not in compliance with their approval and the previous owners repainted the house to come into compliance with the Gorge Commission's approval. A letter from Brian Litt of the Gorge Commission is included as Exhibit S6. In this letter, he indicates that the color scheme of the house has been changed to be in compliance with the original approval.

Photographs of the house taken by Mr. Litt are included as Exhibit S7. As can be seen in the photos, the house had white windows at the time of the enforcement action. The house and the house trim have been painted a dark earth tone color as required by the previous decisions. The colors of the house have been reviewed previously and determined to be in compliance after the house was painted with its current color scheme. No further action is necessary on the part of the owners with regards to the color of the windows.

LACK OF REQUIRED SCREENING VEGETATION

The applicant agrees that the previously required screening vegetation is no longer on site. The applicant has indicated willingness to plant these trees.

Both SEC 9-90 and the Gorge Commission decision approving the structures required screening vegetation. As noted in the enforcement letters from Brian Litt of the Gorge Commission (Exhibit S6) the screening vegetation was either not originally planted or did not survive. As a result of an enforcement action in 2004, the previous owners were again required to plant the five Douglas Fir trees between the house and the accessory building by December 1, 2004. These trees are no longer on the site. The lack of screening vegetation required by previous land use decisions makes the property out of compliance. This vegetation must be provided in order for the property to come into compliance with the previous approvals. A condition of approval of this permit requires the owner to plant five Douglas Fir trees 10 to 12 feet in height in the locations specified on the site plan for SEC 9-90 (Exhibit S2).

THE BALCONY ON THE REAR OF THE HOUSE

The applicant asserts the balcony is original to the house and was thus inspected and approved by the City of Gresham building inspectors.

There is a second story balcony on the rear of the house. As can be seen in Exhibit A4, this balcony is cantilevered, meaning that it is supported by structure that reaches back into the interior of the house. It is not possible to add such a structure onto an existing building without tearing apart the existing building. The applicants strongly assert that the balcony is original to the house and was thus inspected by the City of Gresham building inspectors. The City of Gresham retains building plans for two years as required by state law. Neither the County nor the City still have a copy of the building plans for the originally permitted house.

The rear building elevations from SEC 9-90 do not show a balcony on the second story. These elevations also do not show a deck though the site plan from SEC 9-90 does show a small deck across the rear of the house. Another inconsistency between the SEC 9-90 elevations and the existing house is that the elevations show a chimney and the house does not have a chimney. It is highly likely that the elevations in the file from SEC 9-90 were stock plans that were purchased by the property owner. These stock elevations often do not include modifications such as decks and balconies. It is worth noting that none of the windows and doors on the rear of the house are exactly the same at the 1990 elevations. They are all in the same locations as shown on the 1990 elevations but are not

the exact size or shape shown in the 1990 elevations. It is highly unlikely that the entire rear of the house was rebuilt to alter window sizes and add the structure needed for a cantilevered balcony.

The photos of the balcony submitted by the applicant show that the balcony does extend back into the interior structure of the house. Additionally, the wooden parts of the balcony appear to be weathered, which is consistent with the applicant's assertion that the balcony was original to the house.

Staff finds the second story balcony is original to the house and were thus inspected and approved during the construction of the house. No further action is necessary on the part of the owners with regards to the balcony structure. The balcony rail is discussed later in this section.

THE DECK ON THE REAR OF THE HOUSE

The applicant asserts that the majority of the deck was built by a previous owner. The applicant has noted that the deck has been modified by the current owner. The applicant notes that the house received a final inspection without the deck being in place.

The site plan for SEC 9-90 (Exhibit A2) clearly shows a deck on the rear of the structure. This deck was shown as a constant width across the rear of the structure. As can be seen in the photos included as Exhibit A4, the existing deck has additional area associated with it. Unfortunately, neither the County nor the City of Gresham retained a copy of the approved building plans which would show the details of the deck which was approved for construction.

The applicant has stated throughout his application that the City of Gresham building department approved the final inspection for the house without a deck being in place. The applicant has submitted testimony from two neighbors that the previous owner installed the deck shortly before the house was listed for sale in 2004. These letters of testimony are included as Exhibits A6 and A7. This deck was built long after the original SEC permit approving the house was issued in 1990. If a building permit is not issued within two years of an NSA approval and the construction authorized by that permit executed, the approval expires and a new approval is required. No NSA permit or building permit was issued in 2004 for the construction of the deck.

The deck has been altered between the time photos submitted with the original application materials were taken and the time additional materials were submitted in November, 2005. Additional area and a hot tub have been added. These modifications were done without a National Scenic Area approval and without building permits. The applicant reports the modifications were made during the week of June 18, 2005.

The entire deck was built without a National Scenic Area permit or building permits. Both a NSA permit and building permits will be necessary to bring this aspect of the property into compliance with the code. This decision reviews the deck for consistency

with the National Scenic Area standards. A condition of approval requires the applicant to obtain a building permit for the deck.

DECK/BALCONY RAILING

The applicant asserts that the railing was installed prior to the Gorge Commission enforcement action and was not noted to be out of compliance then. He does note that the deck is minimally visible from any Key Viewing Areas.

The deck and balcony on the rear of the house are surrounded by a glass railing held in place with white supports. As noted in the findings above for the deck, the deck was installed in 2004 and modified in 2005. There is no evidence in the record to support the assertion that the deck was in place at the time of the Gorge Commission enforcement action. Both the color and the reflectivity of this material violate National Scenic Area standards and the decision in SEC 9-90 which requires the use of dark earth tone materials that are non-reflective or have low reflectivity. The applicant asserts that the glass deck and balcony railing were in place when the Gorge Commission took enforcement action regarding the house colors in 2004. As such the applicant asserts the railings have been reviewed and tacitly found to be in compliance with the color and reflectivity requirements. There is no documentation of this assertion in the file. Staff obtained all available photos of the house from the Gorge Commission's enforcement file and discussed the enforcement action with Brian Litt of the Gorge Commission. None of these photos show the rear of the house. One photo does show the corner of the house. As can be seen in the bottom photo on page 4 of Exhibit S7, the rear corner of the house does not appear to have a deck installed. It is possible that the entire deck was installed after the Gorge Commission's enforcement action. Mr. Litt did not recall whether a glass deck railing was in place at the time of the enforcement action. The enforcement action focused on an illegal business being run from the accessory building, and Mr. Litt had no evidence to show that any aspect of the house other than color was been reviewed. What is clear from the evidence in the record is that the deck was originally constructed without permits and has been altered by the current owners without permits. Additional area and a hot tub have been added. This additional area is now surrounded by the same glass deck railing as the rest of the deck and balcony.

It is worth noting that SEC 9-90 did approve a deck and that the file does not contain any drawings of the proposed or approved deck or balcony railing. Without evidence to prove that the glass railing has been approved, staff must assume the railing was not approved by the County or the Gorge Commission. Staff is not aware of any time in the history of the Scenic Area where the use of such a highly reflective building material was approved for use as a railing on the side of a project that is most directly visible from Key Viewing Areas. Staff must rely on the written decisions in SEC 9-90 and in Gorge Commission file C90-0169-M-G-11 which require the use of natural, non-reflective materials and dark earth-tone colors. The railing is not in compliance with previous approval. A deck railing composed of non-reflective materials which is a dark earth-tone color must be installed in order for the property to come in compliance with the code and previous approvals.

As discussed in findings in Section 7, the existing railing could be modified to meet scenic area standards. If the glass is removed from the railing and replaced with cable railing, this will substantially reduce the reflectivity of the railing. The supports must be painted or colored a dark earthtone color.

The building permit for the installation of the deck must also include the installation of the railing. A building permit must also be obtained for the modification of the balcony railing.

THE THIRD BAY OF THE ACCESSORY BUILDING

The applicant states that the previous owner built the addition to the accessory building. The applicant notes that the Gorge Commission took enforcement action regarding the use of this building and required the previous owner to repaint the entire structure, including the addition. The applicant asserts that the addition to the building is comparable to other development in the vicinity.

The applicant has stated in his application that the third bay of the accessory building was added to the approved structure without an NSA approval or a building permit. Photos and a signed statement from a neighbor have been submitted into the record to establish that the addition has been in place since at least 1998. (Exhibit A8) The applicant is now seeking a retroactive NSA approval for the additional bay. As discussed in findings throughout Section 7, the additional bay meets the National Scenic Area standards when the conditions of approval of this decision are met. The applicant will be required to obtain a building permit for the third bay of the accessory structure.

When the conditions of approval of this permit are met, the property will be in full compliance with the code.

6. The proposal is allowed in the GGR District and meets the applicable dimensional standards of the GGR District.

38.3025 Review Uses

(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.

(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.

6.1 Applicant 11-05-05: The bay at the north end was added by the previous owners without a building permit or an SEC approval. We're not exactly sure when this bay was

added, but it was prior to September of 1998. This is substantiated by a letter and photograph from Brian Potts, the neighbor directly to the east (see Exhibit A8, Brian Potts Letter & Photo). I have also attached a "then and now" photo comparison for clarification (see Exhibit A8, Accessory Building 1998 & 2005 Comparison Photos).

We ask that the existing nonpermitted north bay be approved contingent on the issuance of a City of Gresham building permit and conifer screening (five 10'-12' tall) on the north side of the house and accessory building, as shown on the SEC 9-90 Landscape Plan (Exhibit S2). The structure is virtually invisible to the naked eye from the two applicable Key Viewing Areas.

You will notice that we have revised our initial NSA application to reflect a smaller and less obtrusive addition to the middle. The new bay proposal of the accessory asks for only building a 1' extension at the front and back of this bay to achieve the bare bones minimum space needed to house the RV. These extensions would come flush to the present 12" roof overhangs, thereby staying within the existing roof footprint.

Staff: MCC 38.3025(A)(2) allows residential accessory buildings as a review use in the GGR district pursuant to the provisions of MCC 38.7000 through 38.7085. The proposal is reviewed for compliance with MCC 38.7000 through 38.7085 in Sections 7 through 10 of this report. Single family homes, and therefore additions to single family homes (such as decks) are allowed by MCC 38.3025(A)(1) in the GGR district pursuant to the provisions of MCC 38.7000 through 38.7085.

The applicant has stated the proposed alterations to the accessory building will house a recreational vehicle. Additionally, the structure will provide storage and hobby workspace for the residents of the home. The primary use of the property is as a single family dwelling. The dwelling provides for the cooking, eating, sleeping, and sanitation needs of the residents. All of these primary functions remain inside the dwelling. The storage and hobby-related activities to be housed inside the garage are incidental and accessory to the residential use of the property.

Criteria met.

38.2860 Dimensional Requirements

- 6.2 **Staff:** The dimensional standards of the GGR zone include standards for lot size, lot length, setbacks and height limits. The only portion of this section applicable to the subject request is sub-part (C), which establishes setback and height limit requirements.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet

- 6.3 **Staff:** As shown on the applicant's site plan (Exhibit A2) and building elevations (Exhibit A3), the proposal meets the setbacks and is in compliance with the height limit.

Criteria met.

7. The proposal meets the GMA Scenic Review Criteria of MCC 38.7035.

§ 38.7035 GMA Scenic Review Criteria

The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(A) All Review Uses and Conditional Uses:

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

Applicant: The existing topography will not be changed. Excavation will be made only for foundation footings and the concrete floor. It is estimated that only 18 cubic feet of soil will be removed for this work (equal to approximately 5 wheelbarrow loads).

Staff: No new buildings or roads are proposed. This criterion does not apply. While this criterion does not apply the applicant is proposing only minimal grading. The additions to the existing building will require excavations for footings and a concrete floor only. No cuts and fills are proposed. The existing topography will be retained to the extent practicable.

Criterion does not apply.

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

Applicant: Accessory buildings and residences of similar size and height exist in the nearby area.

Staff: No new buildings are proposed. This criterion does not apply. There is a criterion in the landscape setting which does require the comparison of the size and scale of additions to the character of the area. Please see finding 7.21 beginning on page 21 for this discussion.

Criterion does not apply.

- 7.3 **(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: No new vehicular access points are proposed.

Staff: As shown on the applicant's site plan, the existing driveway will continue to be used. No new access points are proposed.

Criterion met.

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

Applicant: Any required vegetation stipulated as a condition of approval will be properly maintained. In addition, all present vegetation on the property will be retained.

Staff: As discussed in Finding 6, the previous approval for the house and accessory building required the planting of screening vegetation. This vegetation has not survived. The applicant must provide the previously required screening vegetation in order to be in compliance with the code and the previous approval. An additional 4 trees are proposed for use as screening for the addition to the accessory building. A condition of approval is attached to this decision requiring the owners to ensure the survival of the required vegetation.

Criterion met with conditions.

7.5 (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 owner's are intending to plant native evergreen tree stock near the north end of the existing accessory structure to act as a buffer between the building and the adjacent pasture to the north.

Staff: The applicant provided sufficient information in the site plan (Exhibit A2) to determine compatibility with the landscape setting.

Criterion met.

7.6 (6) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable.

Applicant: Mineral resource development is not proposed.

Staff: No new production or development of mineral resources or expansion of existing quarries is proposed.

Criterion does not apply.

(B) All Review Uses and Conditional Uses visible from Key Viewing Areas:

- 7.7 (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: The residence is visible from only two key viewing areas: The Columbia River and Washington State Route 14. The field of view from both areas is very limited. (See Key Viewing Areas photography, Exhibit A9). The accessory building is not visible from the river and cannot be seen with the naked eye from SR 14.

Staff: The applicant's property was previously reviewed for compliance with the National Scenic Area by the Gorge Commission under the Interim Rules in 1990. At that time, the Gorge Commission determined that the property is visible from the Columbia River, Washington State Route 14 (SR 14), and the Burlington Northern Railroad in file C90-0169-M-G-11. The railroad is no longer considered a Key Viewing Area (KVA) though the Columbia River and State Route 14 are. A copy of the 1990 decision is in the file.

The previous Gorge Commission decision agrees with the applicant's assessment of the visibility of the property. The only KVA's from which the property is visible are quite distant. The applicant's photos included as Exhibit A9 show that the structures currently are visually subordinated to the landscape setting. With a high powered zoom lens or binoculars, you can pick the structures out of the landscape. With the naked eye, the structures blend in to the surrounding trees and hillside. It is important to note that these photos were taken within the last year and include the third bay of the structure which was built without permits. It is not known if these photos include the additional "bump out" onto the deck, but they do include the deck built in 2004.

ACCESSORY BUILDING

The proposed addition to the middle bay of the structure will raise the roof level slightly and increase the footprint of the building by approximately 56 square feet. This is in addition to the 560 square foot third bay that was built onto the structure without permits in or around 1998. The increased area does not necessarily mean the structure will be more visible from KVA's. The short end of the structure is facing the two KVA's from which the structure is visible. When viewed from the river or SR14, the increase in mass would only appear to be the one foot "bump outs" on either side of the middle bay that are intended to accommodate a recreational vehicle and the gables added to the roof to accommodate the height of the recreational vehicle. The third bay was added on in a manner that did not increase the visible mass as seen from KVA's because the third bay is the same width as the approved building and is shorter than the existing roof line.

The proposed building materials are the same as the existing materials- wood siding painted a dark brown color and dark brown asphalt roof shingles. No new windows or other glass is proposed.

In addition to thoughtful design of the structure and the use of materials that blend with the landscape, the applicants are proposing the use of screening vegetation. The structure was originally permitted at the same time as the house through SEC 9-90 as well as a Gorge Commission Interim Decision. Both of these permits required the planting of five Douglas Fir trees, 10' to 12' in height at the time of planting. A copy of the previously approved landscape plan is included as Exhibit S2. An enforcement action was taken against a previous owner by the Gorge Commission for several reasons. As noted in the enforcement letters from Brian Litt of the Gorge Commission (Exhibit S6) the screening vegetation was either not originally planted or did not survive. As a result of an enforcement action, the previous owners agreed to plant the five Douglas Fir trees that were required between the house and the accessory building in 2004. These trees are no longer on the site. The applicant has proposed re-planting five 10 foot to 12 foot tall Douglas Fir trees to provide screening of the house and accessory building from the river and State Route 14.

These trees were already determined to provide adequate screening for the originally approved dwelling and accessory structure. Both the existing modification and the proposed modification have only minor impact on either structure's visibility from KVA's. The proposed modification to the accessory building will be painted a dark earth tone color to match the existing structure. Additionally, the applicant has proposed the planting of four evergreen trees at the north end of the accessory building. This vegetation should block the structure from view as seen from KVA's. With these measures, the modifications to the accessory structure will be visually subordinant. The applicant will need to plant the originally approved screening vegetation in order to be in compliance with the previous approval.

DECK

The applicant has asked to have only the portion of the deck added in June 2005 reviewed as part of this application. Through the review process it has become apparent that the entire deck was built without permits and requires an NSA permit. As such, staff will extend the analysis to the entire deck, not just the addition done in June 2005.

A large wooden deck has been added to the house. It is important to note that all of the photos of the property from KVA's submitted by the applicant show this deck being in place. The deck is elevated as the second story of the house sits on a daylight basement. The deck is six feet above grade with a three foot tall railing for a total height of nine feet as shown on the applicant's elevations included as Exhibit A3. The deck is ten feet wide all across the length of the house with two "bump outs" that are also ten feet wide each as shown on the applicant's site plan. These bump outs appear to be between 20 and 22 feet long from the applicant's site plan. The house is fifty feet long. This means the total deck area is between 900 and 920 square feet. Staff will use the larger number for analysis.

The structure of this deck is unpainted wood which is a non-reflective material. The wooden materials will weather to a dark earth tone color over time. Due to their distance from any key viewing area, the unpainted wood blends easily with the landscape setting as seen from Key Viewing Areas and does not have to be painted to be Visually Subordinant. No additional vegetation other than the screening vegetation required by SEC 9-90 is required to achieve visual subordination for the wooden portions of the deck.

The deck railing is made of tempered glass held in place by white metal railing. This same railing has been installed on the balcony. The glass does not have low reflectivity and the metal supports are not a dark earthtone color. As such, neither will blend into the landscape, making them visually subordinant. The rail can be modified to be visually subordinant. The glass must be removed from the railing. The owners may replace the glass with cables as necessary to comply with the building code. The supports must be painted or colored to match the house. A condition of approval is attached to this decision which requires the applicant to remove the glass from the railing and replace it with cable spaced as necessary to comply with the building code. An additional condition of approval requires the applicant to paint or color the white rail supports to match the dark earth tone color of the house or another dark earth tone color.

With these modifications, the deck will be visually subordinant as seen from Key Viewing Areas.

Criterion met with conditions.

- 7.8 **(2) The extent and type of conditions applied to a proposed development to achieve visual subordinance 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 subordinance and final conditions of approval shall include findings addressing each of these factors.**

Applicant: As described above and depicted in Exhibit A9, visual subordinance achieved through screening provided by existing vegetation and structures. The distance from the proposed building to the river and highway also minimize its visibility. These setbacks greatly exceed Multnomah County and Columbia River Gorge standards. Any additional conditions stipulated by County Staff in order to improve visual subordinance will be met.

As previously stated, the field of view from the two key viewing areas is very limited. The viewable window on Washington State Route 14 is about 100 feet in length. The accessory building where the remodel is proposed cannot be seen from the Columbia River, and can only be seen from SR 14 with the aid of a telescopic device. It cannot be seen with the naked eye from SR 14. (See Key Viewing Areas, Exhibit A9)

The house is in view of a small area of the Columbia River. However the shop where the remodel is proposed is not in view of the river. Washington State Route 14 has one small area in which the property can be viewed at approximately milepost 19. The view area is less than 100 feet in length. With the naked eye only the upper level of the house was in view. The shop where the remodel is proposed is not visible to the eye. It is only when a photo is enlarged that the shop is viewable.

Staff: The following analysis is broken down into the subject areas required by the above criterion.

NUMBER OF KEY VIEWING AREAS SITE IS VISIBLE FROM

The subject property is visible from two key viewing areas- the Columbia River and State Route 14.

DISTANCE FROM BUILDING SITE TO KEY VIEWING AREAS IT IS VISIBLE FROM

The structures are approximately 1900 feet from the Columbia River and over one mile from State Route 14.

LINEAR DISTANCE ALONG KEY VIEWING AREAS FROM WHICH THE BUILDING SITE IS VISIBLE

The applicant reports that the building site is visible for only about 100 feet of State Route 14 and that a telescopic device is needed to discern the structure. The applicant has submitted photos as evidence of the difficulty of seeing the structure from State Route 14 (Exhibit A9). Staff accepts the applicant's testimony that the structures are visible for only a short distance on State Route 14.

The applicant has also stated that the upper level of the house is visible from the Columbia River but that the accessory building and the lower levels of the house are not visible from the River. No evidence to support this conclusion has been submitted. However, topography maps do show a substantial change in elevation from the location of the subject structures to the level of the River. (Exhibit S10) The River is almost a mile wide at this location. On the southerly parts of the River, the entire property may be topographically screened from the River. On the northern portions of the River, closer to State Route 14, it is highly likely that at least some portion of the structures are visible. Based on the topography of the area, staff accepts the applicant's statement that the accessory structure and house are minimally visible from the River. No claims were made as to the distance along the River for which the structures may be seen.

AMOUNT OF AREA OF BUILDING EXPOSED TO KEY VIEWING AREAS/DEGREE OF EXISTING VEGETATION PROVIDING SCREENING.

The north facing elevations of the structures are exposed to KVAs. This is the short end of the accessory building and the rear elevation of the house upon which the deck is located.

The subject property currently contains no screening vegetation. The entire property is open pasture. The house and accessory structure were originally permitted through SEC 9-90 as well as a Gorge Commission Interim Decision. Both of these permits required the planting of five Douglas Fir trees, 10' to 12' in height at the time of planting. A copy of the previously approved landscape plan is included as Exhibit S2. An enforcement action was taken against a previous owner by the Gorge Commission for several reasons. As noted in the enforcement letter from Brian Litt of the Gorge Commission (Exhibits K) the screening vegetation was either not originally planted or did not survive. As a result of an enforcement action, the previous owners agreed to plant the five Douglas Fir trees that were required between the house and the accessory building in 2004. These trees either were not planted or are no longer on the site. The applicant

will need to plant this previously required vegetation to be in compliance with the code and previous approval.

The trees that must be planted were already determined to provide adequate screening for the originally approved structures. The house and accessory building are visible for only a short distance (approximately 100 feet) while driving on State Route 14 over a mile away. Topography blocks views of the property from the Columbia River, making it difficult to see the accessory building and deck even from the far northern banks of the river. The proposed modifications will have very little impact as seen from these two Key Viewing Areas. The modifications to the accessory building will increase the apparent mass of the building by adding gables to the roof. The addition of the third bay did not increase the apparent mass as seen from Key Viewing Areas since it was no wider than the existing building and was shorter than the existing roof line. As seen from the distances at which this structure is visible, it looks as if no real change has been made. To offset the increase in apparent mass from the proposed gables, the applicant has proposed planting an additional four evergreen trees along the northern edge of the building in addition to the previously required Douglas Fir Trees. These trees are proposed to be either Douglas Fir or Western Red Cedar. A condition of approval will require the applicant to provide this screening vegetation.

The deck added on to the rear of the house may not be visible at all from the Columbia River due to topography changes. It is possible that the deck could be seen from the far northern banks of the Columbia, approximately 1 mile away. The deck is visible from State Route 14, also over a mile away. The applicant's photos show that the wooden portions of the deck are difficult to discern from State Route 14 with the naked eye. The planting of the previously required screening vegetation is all that is needed to ensure the wooden portions of the deck are visually subdominant as seen from KVA's. The glass deck and balcony rail is highly reflective. Even in small amounts, exposed glass is difficult to make visually subdominant. The deck railing has no vegetation or overhangs that can serve to break up glare from the sun. If the glass is removed from the deck railing and replaced with cables, this will greatly reduce the reflectivity of the structure. Coloring or painting the supports to match the house will allow the supports to blend with the structure of the house and the surrounding landscape.

In addition to planting the previously required and currently proposed screening vegetation, requiring the applicant to paint the modifications to the accessory structure to match the existing color of the structure and requiring the applicant to use the same roofing material on the gables as currently exists on the roof would achieve visual subordination for the accessory structure. The applicant will also be required to remove the glass from the railings and replace it with cable spaced as necessary to comply with the building code. The white supports on the railings will be required to be colored or painted a dark earth tone color.

The required conditions of approval are proportional to the impact of the development.

Criterion met with conditions.

7.9 (3) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

Applicant: The change to the current subordination of this structure will change very slightly due to the small size of the added space. With the addition of evergreen tree plantings on the north end of the structure the cumulative effect will, over time, be greatly diminished. In addition, there are other structure mentioned previously that are currently more visibly dominate within close proximity to subject structure.

Staff: The proposed additions to the accessory building would be off set by the addition of four conifers at the north end of the building. These conifers would increase the amount of vegetative screening between the accessory building and the KVA's. If approved, the changes to the accessory building and the associated screening would reduce the visual impact of the building as seen from KVA's. The addition of the wooden portion deck to the rear of the house would have a minimal impact on the visual subordination of the house as discussed in finding 7.8. Painting or coloring the white rail supports to match the house and replacing the glass with cables will allow the rail to achieve visual subordination. When the screening vegetation required by SEC 9-90 and the newly proposed screening vegetation is planted, the proposal will be minimally visible and will not contribute to a negative cumulative effect on the landscape as viewed from Key Viewing Areas.

Criterion met.

7.10 (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

(5) For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to MCC 38.7035 (A) (5) and subsection (4) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.

Applicant: Mining is not proposed.

Staff: No mining activities are proposed. These two criteria do not apply.

Criteria do not apply.

7.11 (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 existing structure is now located in the best possible location for minimization relative to line of sight from Key Viewing Areas. The accessory building sits at the back (southern) edge of a bench that essentially blocks its view from applicable Key Viewing Areas. There are no wetlands or other sensitive sites on the property.

Staff: No new buildings or roads are proposed. This criterion does not apply.

Criterion does not apply.

7.12 (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 existing structure currently sits on the best topographically screened location, as previously documented. No berms will be installed. The owner's will, however (as previously stated) be planting several evergreen trees near the north end of the building.

Staff: No new buildings or roads are proposed. This criterion does not apply.

Criterion does not apply.

7.13 (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 existing gravel driveway will be used. The existing topography will not be changed. Excavation will be made only for foundation footings and the concrete floor. It is estimated that only 18 cubic feet of soil will be removed for this work (equal to approximately 5 wheelbarrow loads).

Staff: No changes to the driveway are proposed. The deck and the modifications to the accessory building did and will require grading activities. The required grading is relatively minor. The deck requires grading to install footings. The third bay required grading to install a level concrete pad. The area where the third bay was constructed was already made relatively level when the originally approved 40 x 60 structure was built. The additional bay was built before the break in slope, making the installation of the concrete slab require minimal grading. The proposed 1 foot bump outs on either side of the structure would require very minimal grading. The site is already level. Some dirt removal would be needed to dig down for the depth of the slab, which would only be a few inches. The applicant has reported that installing the proposed "bump outs" to the accessory building will required approximately 18 cubic feet of soil to be removed. The proposal is designed to minimize grading activity.

No cut banks or fill slopes will be created.

Criterion met.

- 7.14 **(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 medium brown tones used on the wood siding and roof of the existing structure have a low reflectivity as documented from the Key Viewing Areas exhibit (Exhibit S6). There will be no windows installed in the project.

Staff: The applicant is proposing the use of the same building material for the additions to the accessory building as was originally approved for the accessory building. These additions are proposed with a wood exterior, which is a nonreflective material. The deck structure is made of wood, which is a nonreflective material. The proposed railing is glass, which is not a low reflectivity building material. Conditions of approval are included which require the applicant to remove the glass from the railing and install cables as necessary to meet the building code. With this modification, the railing will be composed of non-reflective materials.

Criterion met with conditions.

- 7.15 **(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: No new exterior lighting will be added to the structure. There are no windows on the structure for the transmission of light from within.

Staff: No new lighting is proposed.

Criterion met.

- 7.16 **(11) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the landscape setting for the subject property.**

Applicant: The addition is smaller than the existing building and will utilize the same materials and color scheme as used on same.

Staff: The deck is between 900 and 920 square feet. Assessment and Taxation records show that the house is 2,970 square feet. The deck is less than the area of the house. It can be painted the same color as the house, but is proposed to be left as unpainted wood. The deck railing may be the same color as the house. A condition of approval will be attached requiring the white supports to be painted or colored to match the house.

The accessory building was approved to be 2,400 square feet. The two additions are a total of 672 square feet. The additions may be the same color as the accessory building as the applicants have proposed.

Criterion met with conditions.

- 7.17 **(12) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to such historic structures shall be consistent with National Park Service regulations for historic structures.**

Applicant: There are no significant historic structures on site.

Staff: Staff concurs. The structures on the site were built since 1990.

Criterion does not apply.

- 7.18 **(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.**

(14) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Areas, may itself protrude above the skyline if:

Applicant: The existing structure, including the new addition, is well below nearby bluffs, cliffs or ridges.

Staff: Staff concurs. The subject structures are on a bench. The hillside continues to rise to the south of the subject structures for several hundred more feet of elevation. The structures are below the skyline. The proposed modifications will not break the skyline.

Criterion met.

- 7.19 **(15) New main lines on lands visible from Key Viewing areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.**

Staff: The standards of sub-parts (15) through (25) of this section regulate utility facilities, new communication facilities, roadway facilities, structural development involving more than 100 cubic yards of grading, and quarries. The subject proposal does not include any of the uses regulated by sub-parts (15) through (25). These criteria do not apply to the subject proposal.

Criteria 14 through 25 do not apply.

7.20 (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.

Applicant: Any approval conditions required to achieve visual subordination will be met within the allotted time frame.

Staff: The applicant has stated the conditions of approval will be met within this time frame.

Criterion met.

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

(3) Rural Residential

7.21 (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: As mentioned earlier, this structure is compatible with the general scale of buildings in the immediate area. The building is similar in overall mass to comparable 5 and less in height than comparable 7. (See Exhibit A10)

Staff: The applicant has submitted photographs of a number of structures near the subject property to be used in comparison for the addition to the outbuilding. These photos are included as Exhibit A10.

Staff will analyze both the deck and the additions to the outbuilding for compliance with this standard. Before a determination can be made that the development is in character with the vicinity, the vicinity must be defined. The County's standard approach to the analysis of "vicinity" includes all properties within ¼ mile of the subject lot. Staff ran a GIS query to obtain a list of all properties within ¼ mile of the subject lot and generated a list including 89 tax accounts. A map showing the properties within ¼ mile is included as Exhibit S11. A copy of the printout showing all 89 tax accounts is included in the file.

This is a larger sample than is needed to perform a vicinity analysis. Staff has selected a subset of 13 properties from the set of properties within ¼ mile of the subject lot. These 13 properties

were chosen because they all have frontage on Chamberlain Road and lie west of Corbett Hill Road. The properties are at approximately the same elevation and sit on a wide flat bench as shown on the topography map included as Exhibit S10. These are the properties that you visually associate with the subject lot when driving along Chamberlain Road.

The chart on the next page contains information gathered from Assessment records for each of 13 properties included in the vicinity analysis. Copies of the assessment records are in the file. The map illustrating the location of each property in relationship to the subject property is included as Exhibit S12. The subject property is labeled as property 1. The numbers reported for the subject property in the chart represent the proposed size of the accessory building with both additions and the house including the deck.

The entries under square feet of outbuildings do not include carports. The entries under square feet of house include main floors, finished attics, basements (both finished and unfinished) and attached garages. The square feet of deck entries include anything that is listed on the Assessment records as “deck,” “covered deck,” or “covered patio” but not concrete, asphalt, or blacktop.

Property # on Map	R Number	Address	Sf. Feet of Outbuilding(s)	Total Outbuildings	SF. House	SF. Deck	House plus deck
1	R944261040	36411 NE Chamberlain	3016	3016	2970	920	3890
2	R944270090	35701 NE Chamberlain	4560, 3346, 480	8386	6251	485	6736
3	R944270150	None Assigned	0	0	0	0	0
4	R944270140	36131 NE Chamberlain	1440	1440	3330	496	3826
5	R944261030	36315 NE Chamberlain	1920	1920	5764	610	6374
6	R944260200	36375 NE Chamberlain	0	0	3748	652	4400
7	R944260880	2139 NE Corbett Hill	1640	1640	3024	432	3456
8	R944260970	2131 NE Corbett Hill	235	235	2630	0	2630
9	R944260980	36505 NE Chamberlain	1440, 720, 504	2664	1680	0	1680
10	R944260830	None Assigned	0	0	0	0	0
11	R944260900	36310 NE Chamberlain	0	0	4252	200	4452
12	R944270220	36100 NE Chamberlain	0	0	2642	144	2786
13	R944270250	35900 NE Chamberlain	0	0	2178	168	2346

As can be seen from the square footage calculations of the nearby houses, the proposed deck is larger than any decks reported to exist on other lots in the vicinity. However, the subject house is smaller than many of the neighboring houses. If the house is viewed as a whole structure, including the deck, the overall mass of the entire structure is well within the range of houses in the vicinity. The house, including the basement, attic and deck, would be 3,890 square feet. Four of the 13 properties currently contain houses which have an overall area in excess of 3,890 square feet. The photos of nearby houses submitted by the applicant (Exhibit A10) show that several of the houses nearby have elevated decks that look very similar to the deck the applicant is seeking a permit for. The two photos of houses submitted by the applicant that are included in staff's vicinity analysis are photos 4 and 6 on Exhibit A10. These decks appear to be approximately the same height and a very similar design to the applicant's proposal. This deck will be the largest deck in the vicinity sample but will keep the house within the same scale (height and overall mass) as the existing houses in the vicinity. The deck addition is in character with the development in the vicinity.

There are two additions to the accessory building being reviewed for compliance with this standard. One is a 56 square foot addition to allow the owner to store his recreational vehicle (RV) inside the accessory building. This addition is the smallest amount of area that can be added to the building and still accommodate the RV. This addition will require one foot "bump outs" on either side of the middle bay of the structure and will require the roof of the structure to

be raised to accommodate the RV. These changes are illustrated by the applicant's elevations (Exhibit A3). The larger addition that is being reviewed is a 560 square foot third bay that was added on to the accessory building without permits by a previous owner. When viewed together, these two additions represent an increase in square footage of 616 square feet. This will make the accessory building a total of 3,016 square feet as shown in the chart above. This will make the structure 1,542 square feet smaller than the largest structure in the vicinity sample and 330 square feet smaller than the second largest structure in the vicinity sample. The alterations to the accessory building are in character with the development in the vicinity.

Criterion met.

- 7.22 **(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: No trees will be removed.

Staff: The applicant has stated no trees will be removed. Staff concurs.

Criterion met.

- 7.23 **(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: No trees will be removed.

Staff: The applicant has stated no trees will be removed. Staff concurs.

Criterion met.

- 7.24 **2. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.**

Applicant: Two species are being considered for planting near the north end of the structure: Douglas Fir and Western Red Cedar.

Staff: Both of the species the applicant has proposed for use as screening vegetation are native to the landscape setting.

Criterion met.

- 7.25 **3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.**

Applicant: All new plantings will be coniferous.

Staff: Staff concurs. The two species proposed for use as screening vegetation are coniferous.

Criterion met.

- 7.26 **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: Color will match existing structure.

Staff: For the additions to the accessory building, the applicant has proposed matching the color of the accessory building. This is allowable under MCC 38.7065(B)(11) since the additions are smaller than the existing building.

For the deck structure, the applicant has proposed the use of unpainted wood. As can be seen in the photos of the deck included as Exhibit A4, this wood is a natural earth-tone color which blends with the landscape setting.

The railing used on the deck and balcony is made of white metal supports and glass panels. White is neither dark nor a natural or earth-tone color. A condition of approval is attached requiring the applicant to paint or color the supports dark brown to match the color of the house.

Criterion met with conditions.

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

Staff: No recreational uses are proposed.

Criterion does not apply.

(D) All Review Uses and Conditional Uses within scenic travel corridors:

- 7.28 **(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 subject property is not within one quarter mile of the edge of pavement of the Historic Columbia River Highway or Interstate 84.

The property is not in the foreground of a Scenic Travel Corridor. The criteria of this section do not apply.

8. The proposal meets the GMA Cultural Resource Review Criteria of MCC 38.7045.

Staff: The subject site was reviewed for both cultural and historic resources in the Cultural Resource Survey Determination prepared by Margaret Dryden, the Archaeologist and Heritage Program Manager for the Columbia River Gorge National Scenic Area. This document is included as Exhibit S4. The determination reviewed the site and the existing buildings and determined that no reconnaissance survey is required. This determination satisfies the requirements of MCC 38.7045(A)(1)(f) and concludes the required cultural resource review pursuant to MCC 38.7045(B).

Criteria met.

9. The proposal meets the GMA Wetland Review Criteria of MCC 38.7055.

Staff: The project site is not identified as containing wetlands on the National Wetland Inventory. The soils on the project site are identified as Quatama Loam of slopes 0% to 3% and Quatama Loam of slopes 3% to 8% in the Multnomah County Soil Survey published by the USDA Natural Resource Conservation Service (NRCS). Pages 18 and 19 of the Hydric Soils List for Multnomah County prepared by the USDA NRCS indicates that Quatama Loam is not Hydric. A copy of the soil map and hydric soils information is included in the casefile. No wetlands have been identified on the project site by County staff, the applicant, or any of the public agencies or private individuals who received notice of the application.

Pursuant to MCC 38.7055(A), the wetland review criteria are satisfied.

Criteria met.

10. The proposal meets the GMA Stream, Lake and Riparian Area Review Criteria of MCC 38.7060, the GMA Wildlife Review criteria of MCC 38.7065, and the GMA Rare Plant Review Criteria of MCC 38.7070.

Staff: Staff reviewed the National Scenic Area maps showing known streams, lakes, riparian areas, special habitat streams, habitat locations for known sensitive wildlife and locations of known rare plants. None of these resources are mapped on the subject site or within 1,000 feet of the subject site. No comments were received regarding any of these resources. The review criteria for streams, lakes, riparian areas, and rare plants are satisfied.

Criteria met.

Conclusion

Based on the findings, site plan, and other information provided herein, this application does not satisfy the applicable approval criteria required for Site Review in the National Scenic Area. The request is denied.

Applicant's Exhibits

- A1. Signed Application Form
- A2. Site plan showing proposed changes
- A3. Proposed building elevations (2 pages)
- A4. Photos of house and accessory building (6 pages)
- A5. Deed showing current ownership (2 pages)
- A6. Letter regarding deck from neighbor R. Kjargaard
- A7. Letter regarding deck from neighbors D. & T. Mysinger
- A8. Letter regarding addition of 3rd bay from neighbor Brian Potts (3 pages)
- A9. Applicant's photos of property from KVA's.
- A10. Applicant's photos of comparable accessory structures. (5 pages)
- A11. Applicant's original narrative, submitted July 7, 2005 (7 pages)
- A12. Applicant's revised narrative, submitted November 8, 2005 (7 pages)
- A13. Applicant's letter dated November 5, 2005, submitted November 8, 2005 (4 pages)
- A14. Applicant's letter dated December 3, 2005, submitted December 8, 2005
- A15. Applicant's letter dated January 21, 2006, submitted January 25, 2006 (2 pages)

Staff's Exhibits

- S1. Assessment information showing property ownership
- S2. Approved site plan from SEC 9-90
- S3. Approved building elevations from SEC 9-90 (4 pages)
- S4. Cultural Resources Determination (2 pages)
- S5. Friends of Columbia Gorge letter of comment (3 pages)
- S6. Gorge Commission enforcement letter from Brian Litt dated 7-13-04 (2 pages)
- S7. Gorge Commission photos from enforcement action. (6 pages)
- S8. Gorge Commission enforcement letter from Brian Litt dated 8-16-04
- S9. Zurfluh letter regarding repainting house dated 9-1-04
- S10. Topography map
- S11. Map showing all properties within ¼ mile of subject property.
- S12. Map showing properties used by staff in character of the vicinity analysis