



MULTNOMAH COUNTY
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/landuse>

NOTICE OF DECISION

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

Case File: T2-08-008

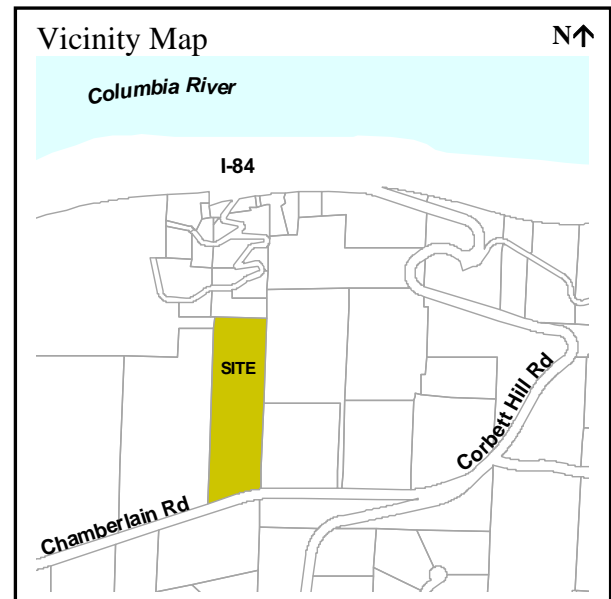
Permit: National Scenic Area Site Review

Location: 36131 NE Chamberlain Road
T1N, R4E Sec. 27 -TL 100
R944270140

Applicant: Shirleen Lanter
40721 NE Alder Meadows Drive
Corbett, Oregon 97019

Owner: Jonathan and Jodi Beckman
28201 SE Sweetbriar Road
Troutdale, Oregon 97060

Zoning: Gorge Special Agriculture (GSA-40)
Hillside Development Overlay



Summary: Construct a new 6,000± sq. ft. single family residence. The existing dwelling, carport, and shed are to be removed.

Decision: Approved with conditions.

Unless appealed, this decision is effective December 16, 2008, at 4:30 PM.

Issued by:

By: _____
Derrick Tokos, AICP, Principal Planner

For: Karen Schilling- Planning Director

Date: December 2, 2008

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 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 Derrick Tokos, Staff Planner at 503-988-3043 x22682.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, 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 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 Tuesday, December 16, 2008 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 38, Parts 1, 2 and 3; Chapter 38, Part 4, Agricultural Districts (GSA); and Chapter 38, Part 6, SMA Approval 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: <http://www.co.multnomah.or.us/landuse>

Scope of Approval

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

Conditions of Approval

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

1. Within 30 days of this decision becoming final and prior to building plan sign-off, the applicant shall record the Notice of Decision through conditions of approval (pages 1-3 of this decision and the site plan 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 a copy of the recorded document shall be submitted to the Land Use Planning Division. Recording shall be at the applicant's expense (MCC 38.0670).

2. For building plan sign-off the owner shall submit a set of exterior building elevations establishing that the height of the dwelling will not exceed 35 feet, as measured from lowest adjoining finished grade to the highest point of the structure. (MCC 38.2260)
3. Existing conifer (evergreen) and deciduous trees shown on the site plan from the drainage north to the north property line shall be retained for screening purposes. Trees shall not be pruned or limbed unless necessary for their health or for the safety of the property. (MCC 38.7040(A)(3), (4) and (7))
4. All present and future property owners shall be responsible for the proper maintenance and survival of screening vegetation. Any trees damaged or destroyed by inclement weather or disease to the extent that they no longer screen the development shall be immediately replanted with the same tree species. New plantings shall be at least 6ft tall and shall be placed in the same general location (MCC 38.7040(A)(3), (4) and (7)).
5. 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 (MCC 38.7040(A)(12)). Specific exterior lighting details for all buildings must be presented at plan signoff so planning staff can verify the proposed design meets the design standard.
6. Exterior paint for the body of the home shall be dark grey (Miller 0494) with trim being slightly lighter (Miller 0493). Stone façade treatment shall be a dark grey and brown equivalent to Rouge River Stone “Sandalwood Castle Rock.” (MCC 38. 7040(A)(10))
7. The new dwelling shall be sided with Hardiplank or other non-reflective material. Window specifications shall be provided at plan signoff showing that the exterior visible light reflectivity rating will not exceed 11 percent. (MCC 38. 7040(A)(11))
8. Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration. (MCC 38. 7040(A)(13))
9. If, during construction, cultural or historic resources are uncovered, the applicant/owner shall immediately cease development activities and inform the Multnomah County Planning Director, Columbia River Gorge Commission, and U.S. Forest Service of their discovery (MCC 38.7050(H)).
10. No development, including earthwork, shall occur within the water resource buffers illustrated on the site plan (i.e. within 200 feet of the pond or 50 feet of the drainage (MCC 38.7075(A))).
11. Placement of soil or earth materials in excess of 50 cubic yards in the Hillside Development (HD) overlay shown on the site plan shall not occur unless the property owner first obtains a Hillside Development Permit (MCC 38.5505)

FINDINGS OF FACT

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria are in bold font. The applicants statements are identified below as ‘*Applicant:*’ Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria.

1.0 PROJECT DESCRIPTION

Applicant: Construction of a replacement single family dwelling on a 7.05 acre lot in the GSA-40 zoning district that will meet the requirements to satisfy scenic, cultural, natural, and recreational resources.

Staff: The application form (Exhibit A1) submitted by the applicant notes that the existing dwelling will be replaced with a 6,000 sq. ft. single family home and that the accessory building (barn) would be resided. Both structures are identified on the applicant’s site plan (Exhibit A2). Recently, the property owner indicated that new siding for the barn is not a part of the application. The existing dwelling, shed and covered parking area will be removed.

2.0 PROPERTY DESCRIPTION

Staff: The 7.05 acre property is located on the north side of Chamberlain Road. It is rectangular in shape, with an east/west dimension of 300 feet. North to south the property is approximately 1006.5 ft in length. The property is situated along a bench in the ridge that forms the south side of the gorge wall. Terrain slopes gradually down and away from Chamberlain at roughly 6.5% for the first 600± ft. From there the grade drops 10-15% down to the edge of a bluff, and then drops from there at a 2:1 (Horizontal: Vertical) angle to the property line.

The existing residence is approximately 40’ south of the edge of the bluff, and there is a small shed, covered parking area and concrete pad in close proximity to the dwelling. A barn is located a couple of hundred feet south of the home near the middle of the property. A 12 ft wide gravel road provides access to the parcel.

Deciduous trees cover the property below the bluff. The top of the bluff is clear in front of the existing home; however, there is a grove of fruit trees just west of the structure, and mature fir trees east, west, and immediately south of the home. There is a small pond and outfall drainage just south of the barn. Several large conifer trees line the north and south sides of the drainage. These trees obstruct the view of the existing residence and barn as viewed from Chamberlain Road. Blackberries, shrubs, and small trees form the east west border of the property between the drainage and Chamberlain. The balance of the property is cleared and vegetated in grass, with a handful of cedar and fir trees scattered about. A hand sketched vegetation map (Exhibit A3), existing conditions site map (Exhibit A4) and aerial photograph (Exhibit A5) provided by the applicant illustrate the existing condition of the property.

County zoning maps show that the property is within the Gorge Special Agricultural (GSA) district within the Special Management Area of the gorge (Exhibit A6).

3.0 INITIATION OF ACTION (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: The application form was signed by Jonathan Beckman. Assessment and taxation records show Jonathan and Judi Beckman to be the current owners of the property (Exhibit A7).

4.0 CODE COMPLIANCE (MCC 38.0560)

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.**

Applicant: The parcel at 36131 NE Chamberlain Rd, Corbett, OR; Tax # R944270140; State ID #: IN4E2700I00 is a legal parcel purchased by owners See Exhibit A –map/drawing showing location of property in perspective to outlying areas and specific deed information.

Staff: There are no known compliance issues with the property. In 2003 an individual advised the County of a second dwelling in the basement of the existing residence. This was not filed as a complaint and there was no investigation. This application is for a replacement residence, so if there is a second dwelling violation it would be resolved through issuance of a building permit to demolish the existing structure and construct the new residence.

A deed submitted by the applicant shows that the property was created in 1964 (bk 187, pg 334). At 7.05 acres the property met the 2 acre minimum lot size in effect in 1964 (ref: Ord. #100).

5.0 COMMENTS RECEIVED

Upon receipt of a complete application, notice of the application and an invitation to comment is mailed to the Gorge Commission, Oregon Department of Fish and Wildlife, 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 (MCC 38.0530(B)). 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 (MCC 38.0530(B)).

Staff: Notice of the application and invitation to comment was mailed to the listed parties on September 22, 2008 (Exhibit A8). Recipients were given 14 days to provide comments. Letters were received from the Gorge Commission and Friends of the Columbia Gorge within this

timeframe (Exhibits A9 and A10). The U.S. Forest Service and State Historic Preservation Office provided comments regarding cultural resources in March and April, respectively (Exhibits A11 and A12).

6.0 EXISTING USES (MCC 38.0030)

(B) Replacement of Existing Structures Not Damaged or Destroyed by Disaster: Except as provided in (C) below, an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

- (1) The replacement structure shall be used in the same manner and for the same purpose as the original structure.**
- (2) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.**
- (3) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources provisions; the treaty rights provisions; and the land use designations provisions involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.**
- (4) The use of the original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.**

Staff: In the National Scenic Area, legally established uses or structures are eligible for replacement as existing uses. To qualify as legal the use or structure must have met land use and building permit requirements at the time it was established. Additionally, any changes to the use or structure over time must have complied with permitting requirements (ref: MCC 38.0015). The applicant is replacing a single family dwelling on the property. County Assessment and Taxation information indicates that the home was constructed in 1953. However, building permit records note that the structure was torn down and reconstructed from the foundation up in the mid 80's (Exhibit A13) and photographs submitted by the applicant illustrate a structure that was built in that timeframe (Exhibit A14). The county approval to rebuild the home notes that it was to be 3,500 square feet in size. Current assessment records list the structure at 3,300 sq. ft. so it does not appear the structure has been substantially altered since it was built. The County building permit records are adequate to establish that the structure is lawful.

In their comments, the Friends of the Gorge correctly note that the applicant must show that use of the structure (dwelling) has not been discontinued for a year or more. The current owner acquired the property in June of 2007 (inst #2007-105725). An affidavit from realtor, Dale Burkholder notes that non-paying holdover tenants occupied the dwelling through February of 2008 (Exhibit A15). This affidavit is sufficient to establish that a residential use of the dwelling has not been discontinued.

Floor plans provided by the applicant (Exhibit A16) show the new structure will be used in the same manner as the existing building, that is as a single family dwelling. This decision addresses

required criteria and the applicant has agreed to remove the existing dwelling, as illustrated on their existing conditions plan.

7.0 REVIEW USE APPLICATIONS (MCC 38.0045)

7.1 The following additional information shall be submitted for all review and conditional uses: A list of Key Viewing Areas from which the proposed use would be visible (MCC 38.0045(A)(1)).

Applicant: This property is viewable from SR-14 on the Washington side and from the Columbia River.

Staff: In addition to SR-14 and the Columbia River, GIS data provided by the U.S. Forest Service notes that the property is topographically visible from I-84, the Historic Columbia River Highway, Larch Mountain Road, and Sherrard Point on Larch Mountain.

7.2 A map of the project area showing the information listed in MCC 38.0045(A)(2).

Applicant: See Exhibit B Maps, Plot Maps

Staff: The required site plan information is illustrated on the applicant's existing conditions map, site plan, and hand sketched drawing identifying the vegetation on the property.

8.0 AGRICULTURE BUFFER ZONES (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	Type of Buffer		
	Open or fenced	Natural or created vegetation barrier	8 foot berm or terrain barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

Staff: County zoning maps indicate that there are no GGA-20 or GGA 40 properties adjacent to the subject parcel; therefore, the buffers do not apply.

9.0 GSA-40 DIMENSIONAL REQUIREMENTS (MCC 38.2260)

Except as provided in MCC 38.2230 (A) (16) and (17), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:

GGA-20 20 acres

GGA-40 40 acres

GSA-40 Not Applicable

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

FAÇADE 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.

(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.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

Staff: MCC 38.2230 (A) (16) and (17) apply to GGA zoned properties. There is no minimum lot size in the GSA district. The site plan provided by the applicant illustrates the size of the property and location of the home. The map is drawn to scale and shows that the new residence will satisfy the 10 foot side and 30 foot front yard setbacks. The property meets the 50 foot front lot line length requirement. Building plans provided by the applicant show the structure to be 36 feet in height as measured from lowest finished grade adjoining an exterior wall to the peak of the roof. This does not satisfy the 35 foot maximum height limitation. The owner has advised that they can drop the roof such that it will meet the height limitation. Given that the change is feasible, staff has imposed a condition requiring the plans be revised prior to the owner submitting for building permits. At 60 feet in width the Chamberlain Road right of way meets the County standards for a local roadway (Table 2.2.5, Design and Construction Manual); therefore, an additional setback is not needed. There are no chimneys, antennae or other structures proposed that would exceed the building height requirement.

10.0 ACCESS (MCC 38.2290)

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

Staff: The site plan shows that the parcel abuts Chamberlain Road, which is a County maintained street. An existing 12' gravel road provides access to the property. The County Transportation Program has reviewed the application and does not object to the continued use of this access point (Exhibit A17)

11.0 SMA SCENIC REVIEW CRITERIA (MCC 38.7040)

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

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

(A) All Review Uses and Conditional Uses visible from KVAs. This section shall apply to proposed development on sites topographically visible from KVAs:

New developments and land uses shall be evaluated to ensure that the scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from Key Viewing Areas.

Applicant: The proposed single-family dwelling is visible from 2 Key Viewing Areas. Respectfully, the proposed dwelling will be sited in a manner to decrease visibility, and will be sited so that the existing trees outlining the property and the new landscape plan will screen most of the view of the dwelling itself to achieve visual subordination.

Staff: As noted by the applicant, the property is visible from the Colombia River and SR-14. It is also visible from I-84, the Historic Columbia River Highway, and Larch Mountain. The property is most readily visible from the Columbia River, which resides approximately 1,300 feet to the north. The applicant provided photographs of the property from river (Exhibit A18). The new dwelling is superimposed on the images where the existing residence is located and is visible. I-84 is within 1,000 feet albeit at a steeper viewing angle given that the property is on a bench over 300 feet above the highway. The property is visible at a distance from other viewing areas. SR-14 is over 2 miles to the north, Larch Mountain and Sherrard Point 9 miles to the south east. A ridge separates the property from the historic highway to the south. To the extent the property is visible from this Key viewing Area it would be from specific angles further to the east at a distance of at least 1 mile.

Construction of a residence is new development as the term is defined in the scenic area. The findings below discuss the degree to which the home is visible from these key viewing areas, and explain how scenic resources will not be adversely impacted as a result of the development. Cumulative effects of the development are considered.

11.2 (2) The required SMA scenic standards for all development and uses are summarized in the following table.

REQUIRED SMA SCENIC STANDARDS		
LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
Pastoral	Forest, Agriculture, Public Recreation, Open Space	VISUALLY SUBORDINATE

Applicant: The orientation of the proposed replacement dwelling is sited at an angle on the property to diminish visibility from any Key Viewing Areas. The existing trees outlining the property will screen most of the view of the dwelling itself and the addition of trees in the proposed landscape plan, choice of dark earth tone colors, windows with low reflectivity and all exterior materials, paint finishes, etc. as discussed in the site review will enable the actual dwelling to be visually subordinate with the pastoral setting.

Staff: Gorge Commission maps on file with the County show that the property is within a pastoral landscape setting. The scenic standard of “visual subordination” applies to land within this setting that is zoned agricultural, such as the subject property. Visual subordination means that the relative visibility of a structure does not noticeably contrast with the surrounding landscape, as viewed from Key Viewing Area (KVAs). Structures may be visible, but cannot be visually dominant in relation to its surroundings. In the Special Management Area, structures must repeat form, line, color or texture common to the natural landscape (MCC 38.0015).

11.3 (3) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

Applicant: To the west of the property is a dense forest land; the north is the Columbia River and surrounded on the east and north by combination of agriculture and residential elements. With the proposed landscape plan, the combination of visual natural elements, the existing trees outlining the property and carefully selected building and landscape materials that will screen most of the view of the dwelling itself—all of these elements will enable the proposed dwelling to blend with the adjacent natural landscape and enhance the visual subordination in this beautiful pastoral setting.

Staff: This standard seeks to preserve views of the landscape by blending development into the surrounding natural environment. The location and design of the home as illustrated on the site plan uses the bluff to provide separation and screening from nearby Key Viewing Areas, including I-84 and the southern edge of the Columbia River. As you extend into the river and further north towards SR 14 the viewing angle from KVAs back towards the property drops below 20%. Calculations taken by staff indicate that this point is reached at about 400 to 500 feet into the river. Once the viewing angle is below 20% the ridge south of the property, between Chamberlain Road and the Historic Columbia River Highway serves as a natural backdrop. Mature conifer trees to the east, north, northwest and south of the structure breakup its visual appearance as viewed from KVAs to the north. Fruit trees northwest of the dwelling also help in this regard. Dark earth tone composite roofing materials and exterior colors will ensure the development blends with the dark forest landscape as viewed from KVAs, including distant ones to the southeast such as the Historic Columbia River Highway and Larch Mountain. Although the applicant proposes new plantings along the bluff, such steps are not needed to achieve visual subordination.

11.4 (4) Proposed developments or land use shall be sited to achieve the applicable scenic standards. Development shall be designed to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.).

Applicant: The proposed replacement dwelling is on an existing “flat” spot on the slope/bluff that is visible from 2 Key Viewing Areas. The proposed landscape plan includes planting of 3’ high Douglas Firs on the north side of the parcel that faces the Columbia River. The Douglas Firs will blend nicely with the natural elements as discussed previously—the adjacent property to the west is forest—primarily conifer. The drop-off lower than the Douglas Firs will be the natural vegetation—undisturbed by this development. The existing fruit trees immediately to the east but on this property—will also remain intact and will not modify the natural characteristics of the setting.

Staff: This standard requires development be located on a portion of a property that achieves the scenic standard, which in this case is visual subordination. Significant grading and landform changes are discouraged because they tend to stand out as viewed from key viewing areas. Existing terrain and vegetation must be used to achieve visual subordination. Introduced landscaping can only be used if there are no other alternatives.

The applicant's initial proposal was to site the dwelling within approximately 45' of the bluff on the property in the same location as the existing residence. Since the new home is larger than the existing home, there would be additional grading; however, they point out that it would be modest because the area is relatively flat (having been cleared in the past). The photographic renderings prepared by the applicant show how the new home would be viewed from the Columbia River (Exhibit A18). The photos appear to be at different distances from the shore; however, specific measurements were not given. A portion of the second story and roof of the new dwelling is visible, with the balance of the structure being screened by deciduous vegetation.

In their comments on the application, Gorge Commission staff notes that the proposed location close to the edge of the bluff is prominent and increases the visibility of development as compared to what is there now. They also point out that the building site could be moved to the south and east to ensure the development is more effectively screened by terrain and vegetation consistent with this standard. The Friends of the Gorge similarly noted that existing topography and vegetation must be used to achieve visual subordination.

We concur with these comments and have worked with the applicant to shift the location of the new home approximately 80 feet to the south as compared to the original proposal. Staff prepared a contour map and slope diagrams to illustrate the relative visibility of development at both the old and new locations (Exhibit A19). The drawings show that, topographically, the new home would be almost entirely visible from the southern edge of the river and I-84 if located 45 feet south of the bluff. While the slope of the property raises 10-15% as you go south from the bluff, the diagrams show that with additional distance the terrain becomes more effective at screening the structure. This is particularly true for KVAs that are close to the site with steep viewing angles up to the property. As shown on the applicant's site plan, the new location of the dwelling at 126 feet from the bluff ensures that terrain screens the home entirely from I-84 and the southern edge of the river and partially from areas north of that point. While the bluff is less effective at greater distance the viewing angle from those areas drops below 20% allowing the structure to blend into the terrain and vegetation south of the home. Existing screening trees north, northwest, and east of the dwelling are also more effective at greater distances. The photo renderings provided by the applicant support this as you cannot see the existing barn, which is located 220' south of the bluff. Considering the above, the location illustrated on the site plan satisfies this criterion.

11.5 (5) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

(a) Decisions shall include written findings addressing the Primary factors influencing the degree of visibility, including but not limited to:

1. The amount of area of the building site exposed to key viewing areas,

Applicant: Because of the steep slope "behind" the house site –or on the North side of the house, the view of the actual building site is actually totally obscured from I-84, therefore it

is not listed as a KVA; possibly 10ft x 60ft top part of the house MAYBE visible from Reed Island in the Middle of the Columbia River –approximately 3/4 mile away; possibly 16x60ft top part of the house MAYBE visible from SR14 on the Washington side of the Columbia River –approximately 1 mile away for approximately 1/8 mile distance.

2. The degree of existing vegetation providing screening,

Applicant: The existing vegetation is a small grove of fruit trees on the west side of the house, dense –primarily conifer –forest on the adjacent property to the west, mixed conifer –including cedar and deciduous trees and shrubs on the east and natural vegetation including blackberries down the slope to the north.

3. The distance from the building site to the key viewing areas from which it is visible,

Applicant: The TWO KVA's are Reed Island in the middle of the Columbia River approximately 3/4 mile away; and SR-14 on the Washington side of the Columbia River – approximately 1 mile away.

4. The number of key viewing areas from which it is visible, and

Applicant: There are TWO KVA 's from which the site is slightly visible.

5. The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

Applicant: The KVA #1 –Reed Island-in the middle of the Columbia River –approximately 200 feet. KVA#2 SR-14 approximately 1/8 of mile.

(b) Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:

1. Siting (location of development on the subject property, building orientation, and other elements),

Applicant: See Site Plan – the location of the proposed house on the subject property is set back from the bluff to the north and placed at an angle on the site in such a way that the house will blend in the natural setting.

2. Retention of existing vegetation,

Applicant: The existing vegetation will remain intact and is a natural screen for the proposed house.

3. Design (color, reflectivity, size, shape, height, architectural and design details and other elements), and

Applicant: See Site Plan and House Plans. The color of the house is chosen from the NSA Color Chart of suggested colors in the National Scenic Area. The house colors will be dark earth tones and will blend nicely with the pastoral setting with existing and new landscape.

4. New landscaping.

Applicant: The new landscaping plan will include the addition of 3' Douglas Firs on the north side of the site –which will enhance the true subordination of the house and will blend into the pastoral setting.

Staff: These factors have been considered. By pulling the home back a distance of at least 126 feet from the edge of the bluff the applicant has effectively used terrain and existing vegetation to screen the home from nearby KVAs to the north. Gorge Commission staff expressed concerns about window massing and the amount of building mass facing nearby KVAs. By moving the home to the south, away from the bluff the applicant has mitigated the issue. The new location also allows the owner to keep two large conifers immediately north of the home, which break up the view of the second story and roof line. New landscaping is not needed. As a condition of this approval the applicant will be required use the dark grey composite shingles, dark grey paint, dark rock façade treatment and low reflective windows that they have proposed. This dark exterior treatment when considered in conjunction with terrain and preservation of existing vegetation are sufficient to ensure the home is visually subordinate from all KVAs. Portions of the site adjacent to Chamberlain would fully screen the structure; however, conditioning development to occur on that portion of the property exceeds the standard and would be excessive under this criterion.

11.6 (6) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.

Applicant: There are no significant wetlands, riparian corridors or sensitive plant or wildlife sites on the subject property. Since most of the natural vegetation will remain, there will be no “new” disturbance of the natural areas.

Staff: There is a pond and drainage on the property. They are protected resources with a 200 foot buffer required around the pond and 50 foot buffer around the intermittent drainage (MCC 38.7075(A)(2)). As illustrated on the site plan the proposed development is outside of the resource buffers. The U.S. Forest Service evaluated the property for cultural resources and did not find that any areas require protection.

11.7 (7) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.

Applicant: The rise to the south looking up the bluff from the north (KVAs) prevents the proposed development from protruding above the line of the bluff.

Staff: The rise to the south does not prevent development on the site from breaking the skyline. Were development to occur where originally proposed the structure would have likely broken the skyline as viewed from I-84 and nearby vantagepoints along the Columbia River. Photographs provided by the applicant support this, showing the vegetation (not the ridge) in the background. Given the elevation and distance of the background ridge the viewing angle south towards the property needs to be less than 20% in order for it to prevent the structure from breaking the skyline. Slope diagrams prepared by staff show that SR 14 and most of the river are below this threshold. By moving the new dwelling south away from the bluff, the applicant has used that terrain feature to block the view of the structure from I-84 and the south bank of the river. The

slope diagrams do indicate that there is a narrow stretch along the river where the viewing angle will be as high as 25%. In this area, mature conifer trees to the east and south provide a backdrop to prevent the structure from breaking the skyline.

- 11.8 (8) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that compliance with this standard is not feasible considering the function of the structure.**

Applicant: The structure height at the highest peak is approximately 35 feet and the Coniferous forest land adjacent to the subject property contains extremely tall firs, cedars and other conifers that are equal or higher than the proposed dwelling.

Staff: We concur with the applicant. As illustrated on the site plan and photographs provided by the applicant the property contains a substantial number of mature trees that exceed the height of the new residence.

- 11.9 (9) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:**

- (a) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.**

Applicant: The only “new landscaping” will include the row of 3’ high Douglas Firs on the north side of the property that will screen the proposed house and will achieve the required scenic standard.

- (b) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.**

Applicant: The only “new landscaping” will include the row of 3’ high fast growing Douglas Firs on the north side of the property that will screen the proposed house and will achieve the required scenic standard within five years or less from the commencement of construction.

- (c) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.**

Applicant: The Douglas Firs will be able to be installed while the construction of the house is in progress –as the silt/erosion fence will be one of the first items to be installed at the time of initial grading and Douglas...

- (d) The Scenic Resources Implementation Handbook shall include recommended species for each landscape set-ting consistent with the Landscape Set-tings Design Guidelines in this**

chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

Staff: As noted, no new landscaping is required for the structure to achieve visual subordination. In their letter, Gorge Commission staff notes that this standard allows the planting of additional screening vegetation only if other methods are insufficient. We concur. As illustrated on the revised site plan and building elevations, the applicant has moved the home a sufficient distance south to ensure that terrain and vegetation screen the structure. No new landscaping is required.

- 11.10 (10) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting.**

Applicant: See Exhibit C.

Staff: The applicant has chosen dark grey paint for the body of the house (Miller 0494) and a slightly lighter shade of grey (Miller 0493) for the trim (Exhibit A20). Stone façade treatment will be used as shown on the south elevation of the building plans. The stone work is a dark grey and brown product titled “Sandalwood Castle Rock” by Rogue River Stone (Exhibit A21). Dark grey composite shingles will be used as the roofing material (Exhibit A22). The colors and shades proposed are consistent with the dark earth-tone palette contained in the Scenic Resources Implementation Handbook.

- 11.11 (11) The exterior of buildings on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The Scenic Resources Implementation Handbook will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the “Visibility and Reflectivity Matrices” in the Implementation Handbook. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.**

Applicant: The materials have been chosen to meet the criteria for non-reflectivity, to include Hardiplank siding, composition shingles, and vinyl windows with cardinal 170 Low E glass, with a reflectivity rating between 12 and 13 percent.

Staff: Hardiplank siding is a concrete composite product that is on the recommended list in the handbook. Milgard SunCoatMax low e clear glass is proposed. The applicant notes that the reflectivity rating is between 12 and 13 percent; however the specifications provided do not list a rating (Exhibit A23). Windows with an 11 – 15% exterior reflectivity rating are listed in the handbook as potentially acceptable if well screened and outside of the foreground of the KVA (1/2 mile). While screened, this development is within ½ mile of KVAs to the north. The handbook recommends an exterior reflectivity rating of 11% or less for development this close to a KVA. This can often be achieved with a gray or bronze coating on low e glass. From the specifications provided it appears that Milgard offers this type of coating, so it is feasible for the applicant to

adjust the type of windows without affecting the homes design. A condition is included requiring the windows visible light reflectivity not exceed 11 percent.

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

Applicant: There will be minimal exterior lighting on the north and north east sides of the home, which face the Columbia River and SR-14. All exterior lighting will be directed downward, shielded, or non-reflective materials and be opaque. See site plan for location of entry/exit lighting.

Staff: There is a wide range of lighting options that satisfy these specifications. Staff can verify that the specifications are met at time of building permit approval. A condition of approval is included noting this requirement.

- 11.13 (13) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.**

Staff: A condition of approval is included noting this limitation.

- 11.14 (B) The following shall apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas seen from KVAs as well as areas not seen from KVAs):**

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

The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape set-ting is encouraged.

Staff: Although not required, the applicant is proposing to plant Douglas fir trees along the bluff. These trees are native to the area. The plans do not show any other plantings on the property.

12.0 CULTURAL RESOURCE CRITERIA (MCC 38.7050)

- 12.1 (G) If the U.S. Forest Service or Planning Director determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:**

(1) Literature Review and Consultation

(a) An assessment of the presence of any cultural resources, listed on the National Register of Historic Places at the national, state or county level, on or within the area of potential direct and indirect impacts.

(b) A search of state and county government, National Scenic Area/U.S. Forest Service and any other pertinent inventories, such as archives and photo-graphs, to identify

cultural resources, including consultation with the State Historic Preservation Office (SHPO) and tribal governments.

- (c) Consultation with cultural resource professionals knowledgeable about the area.**
- (d) If the U.S. Forest Service determines that there no recorded or known cultural resource, after consultation with the tribal governments on or within the immediate vicinity of a new development or land use, the cultural resource review shall be complete.**

Staff: On March 7, 2008 Marge Dryden, Heritage Program Manager with the U.S. Forest Service, conducted a field survey. The content of the report suggests that the above factors were considered. Ms. Dryden did not find any cultural resources on the property.

12.2(H) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Planning Director in the event of the inadvertent discovery of cultural resources during construction or development.

- (1) In the event of the discovery of cultural resources, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3).**
 - (2) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:**
 - (a) Stop all work in the vicinity of the discovery.**
 - (b) The applicant shall immediately notify the U.S. Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.**
- façade The U.S. Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.**
- (d) A cultural resource professional shall evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3) and report the results to the U.S. Forest Service which shall have 30 days to comment on the report.**
 - (3) If the U.S. Forest Service determines that the cultural resource is not significant or does not respond within the 30 day response period, the cultural resource review process shall be complete and work may continue.**
 - (4) If the U.S. Forest Service determines that the cultural resource is significant, the cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to MCC 38.7050 (G) (4) and (5)**

Staff: This requirement is addressed with a condition of approval.

13.0 SMA NATURAL RESOURCE CRITERIA (MCC38.7075)

13.1 All new developments and land uses shall be evaluated using the following standards to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.

(A) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in MCC 38.7075 (2)(a) and (2)(b). These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined in MCC 38.7075 (2)(a) and (2)(b).

(2) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(a) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(b) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

Staff: The site plan provided by the applicant shows that development will not encroach within the required buffers.

13.2 (H) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 feet of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas are those areas depicted in the wildlife inventory and listed in Table 4 of the Management Plan titled “Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge”, including all Priority Habitats Table. Sensitive Plants are listed in Table 7 of the Management Plan, titled “Columbia Gorge and Vicinity Endemic Plant Species.” The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

Staff: Gorge Commission maps on file with the County identify sensitive wildlife/plant areas and sites within the National Scenic Area. The subject property is not within 1000 feet of any of the areas or sites listed on those maps.

14.0 HILLSIDE DEVELOPMENT (MCC 38.5505)

Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the “Slope Hazard Map”, or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC 38.5510.

Staff: As illustrated on the site plan, development will occur outside of the mapped hazard area on slopes less than 25 percent. Demolition of the structures should not require grading. Storage of less than 50 cubic yards of soil is exempt from review (MCC 38.5510(B)(3)), so a small amount of soil can be used to improve the appearance of these areas. A condition of approval notes that placement of soil or earth materials in excess of 50 cubic yards in the hazard area cannot occur without first obtaining a Hillside Development Permit.

15.0 CONCLUSION

Based on the findings and other information provided above, the applicant has established that the new dwelling satisfies criteria for development within the National Scenic Area. This approval is subject to the conditions of approval established in this report.

EXHIBITS

All materials submitted by the applicant, prepared by county staff, or provided by public agencies or members of the general public relating to this request may be found as part of the permanent record for this application. Reduced copies of the site plan and building plans are enclosed with this decision. All other exhibits referenced herein are described below:

EXHIBIT	PAGES	CONTENT
A1	1	Application form
A2	1	Oversized site plan labeled "Grading Plan" submitted, November 28, 2008
A3	1	Hand sketched vegetation map
A4	1	Oversized existing conditions map, submitted November 28, 2008
A5	1	Aerial photograph of the property, received February 26, 2008
A6	1	County zoning map
A7	1	November 10, 2008 assessment and taxation printout
A8	2	County opportunity to comment notice, mailed September 22, 2008
A9	2	October 1, 2008 letter from Tom Ascher, Planner, Gorge Commission
A10	9	October 3, 2008 fax from Richard Till, Law Clerk, Friends of the Gorge
A11	2	Letter from Margaret Dryden, Heritage Program Manager, United States Forest Service, with attachment, received March 7, 2008
A12	1	County letter stamped by Oregon State Historic Preservation Office as "No Historic Properties Affected" received April 7, 2008
A13	1	County building permit card for 36131 NE Chamberlain, dated December 4, 1986

A14	4	Photographs of the property from the winter of 2008, received July 24, 2008 with cover
A15	1	Affidavit of Dale Burkholder dated November 28, 2008
A16	6	Oversized floor plans and exterior elevations of the new home, received November 28, 2008
A17	2	Letter from Ken Born, Transportation Planner, dated October 28, 2008
A18	4	Photographic renderings submitted by the applicant September 2, 2008
A19	4	11" x 17" slope diagrams prepared by staff, with aerial photograph
A20	1	Paint sample, submitted February 26, 2008
A21	4	Rouge River Stone facade treatment flyer
A22	1	Sample roofing material
A23	7	Milgard SunCoatMAX Window Specifications