

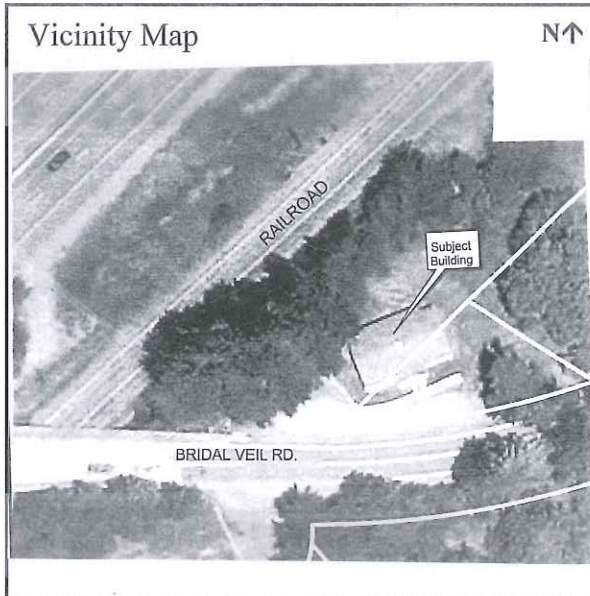


MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.multco.us/landuse>

NOTICE OF DECISION

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

Case File: T2-2011-1756
Permit: National Scenic Area Site Review
Location: Adjacent to the East Bridal Veil Road
railroad crossing
Township 1 North, Range 5 East, W.M.
Section 22AB, Tax Lot 600,
Alternative Account #R283300300
Applicant: Colby Hunt
Owner: Trust for Public Lands & Union Pacific
Railroad



Summary: A request to demolish existing church building, remove the debris and decommission the septic system within Gorge General Forest – 20 (GGF-20) Zone.

Decision: Approved with conditions

Unless appealed, this decision is effective October 14, 2011, at 4:00 PM.

Issued by:

By:

George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: September 30, 2011

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 George Plummer, Staff Planner at 503-988-3043, ext. 29152.

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 October 14, 2011 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 38.2000 et. al: GGF-20 and MCC Chapter 38, Part 6: Site Review Approval Criteria

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.multco.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 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 38.0700. 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 brackets.

1. If any Cultural Resources and/or Archaeological Resources are located or discovered on the property during this project, including finding any evidence of historic campsites, old burial grounds, implements, or artifacts, the following procedures shall be implemented: [MCC 38.7045 (L)]

All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- (a) Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

- (b) Notification – The project applicant shall notify the County Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours. This includes the Yakama Nation, contact Cultural Specialist for the Cultural Resources Program at: (509) 865-5121 extension 4720; FAX number (509) 865-4664. Procedures required in MCC 38.7045 (L) shall be followed.
- (c) Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from SHPO (see ORS 273.705 and ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural resources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045 (C) (2) and MCC 38.7045 (E).
- (d) Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may recommence when the conditions in the mitigation plan have been executed. [MCC 38.7045 (L)]

2. The following procedures shall be in effect if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):

- (a) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
- (b) Notification – Local law enforcement officials, the Multnomah County Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
- (c) Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
- (d) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
- (e) Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760.
 - If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report standards of MCC 38.7045 (I).
 - The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed. [MCC 38.7045 (M)]

Note: Once this decision is final, application for demolition permit may be made with the City of Gresham. When ready to have demolition permit signed off, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. A erosion control inspection fee of \$77.00 may be required.

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.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1. Project Description:

Staff: A request to demolish existing church building, remove the debris and decommission the septic system within Gorge General Forest – 20 (GGF-20) Zone.

2. Property Description & History (if needed):

Staff: The 50 plus year old church proposed to be demolished is partially located on the subject property and partially located on Union Pacific Railroad property. The property slopes down near the site of the church and the church is built into that slope.

3. Letters of Comment Received

Staff: We received comments from:

- A letter submitted by Marge L. Dryden, Heritage Program Manager, US Forest Service addressing cultural resources as outlined in Finding 6.1 of this decision (Exhibit C.1).
- A letter from Richard Till, Conservation Legal Advocate, Friends of the Columbia Gorge which outlines the criteria which we must address in this decision. The findings in the following sections of this decision address the applicable criteria (Exhibit C.3).

4. NSA Cultural Review Required

MCC 38.7045(A)(3) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older.

Staff: The church proposed to be demolished was built in 1914, older than 50 years old, thus a NSA Site review is required.

5. Site Review Criteria

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

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

*** * ***

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

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

(C) If comment is received during the comment period provided in MCC 38.0530 (B), the applicant shall offer to meet with the interested per-sons within 10 calendar days. The 10 day consultation period may be extended upon agreement between the project applicant and the interested persons.

Staff: Exhibit C.1 indicates that SHPO concludes that the building is not of historic significance. Determination by Margaret L. Dryden, USFS, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, included as Exhibit C.2, Ms Dryden states, "A cultural Resource Reconnaissance Survey is: Not Required." Ms. Dryden continues, "A Historic Survey is: Not Required. No cultural resources are known to exist in the project area, and no substantiated comment is received during the comment period. *Cultural resource review criteria are satisfied.*

* * *

5.2. Discovery of Cultural Resources and/or Human Remains

MCC 38.7045(L) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural re-sources are prehistoric or otherwise associated with Native Americans.

- (1) Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.**
- (2) Notification – The project applicant shall notify the Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are pre-historic or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours. Commission will survey the cultural re-sources after obtaining written permission from the landowner and appropriate permits from SHPO (see ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural re-sources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045 (C) (2) and MCC 38.7045 (E).**
 - (a) The Planning Director shall, based on the survey and evaluation report and any written comments, make a final decision within 10 days of the receipt of the report of the Gorge Commission on whether the resources are significant.**
 - (b) The Planning Director shall require a Mitigation Plan if the affected cultural resources are found to be significant.**
 - (c) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B).**
 - (d) The decision of the Planning Director shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B). Construction activities may recommence if no appeal is filed.**
- (4) Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may re-commence when the conditions in the mitigation plan have been executed.**

MCC 38.7045 (M) Discovery of Human Remains

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

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

- (1) **Halt Activities** – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
- (2) **Notification** – Local law enforcement officials, the Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
- (3) **Inspection** – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
- (4) **Jurisdiction** – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
- (5) **Treatment** – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760.
 - (a) If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be pre-pared in accordance with the consultation and report standards of MCC 38.7045 (I).
 - (b) The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed.

Staff: These requirements will be included as a condition of approval. *These criteria are met through a condition,*

6. Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the NSA Site Review, Cultural Review to demolish a church in the GGF-20 zone. This approval is subject to the conditions of approval established in this report.

7. Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Comments Received

All exhibits are available for review in the case file at the Multnomah County Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application	7/13/11
A.2	1	Narrative	7/13/11
A.3	1	Site Plan	7/13/11
A.4	1	Letter to applicant from Julie Osborne, SHPO, Preservation Specialist	7/13/11
A.5	3	Certification of Onsite Sewage Disposal for decommissioning septic	8/23/11
'B'	#	Staff Exhibits	Date
B.1	1	Div. of Assessment, Records, and Taxation, property information	
B.2	1	County Assessment map	

B.3	1	2010 Aerial Photo of the site	
'C'	#	Comments and Forms Received from other Parties	Date
C.1	6	Oregon SHPO Clearance Form	4/26/11
C.2	2	Cultural Resource Survey Determination	8/11/11
C.3	7	Letter from Richard Till, Conservation Legal Advocate, Friends of the Columbia Gorge	9/9/11

