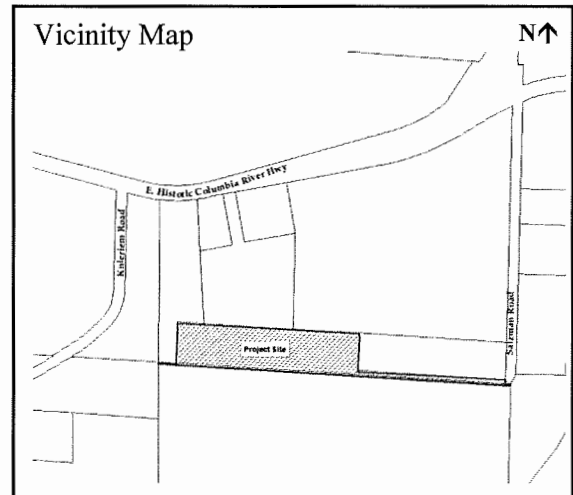


1600 SE 190<sup>th</sup> Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

## NOTICE OF DECISION

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

**Case File:** T2-2013-3209  
**Permit:** National Scenic Area Site Review  
**Location:** 1007 NE Salzman  
Tax Lot 600, Section 36AA  
Township 1 North, Range 4 East, W.M.  
and Tax Lot 100, Section 36AD,  
Township 1 North, Range 4 East, W.M.  
Tax Account #R944360500 &  
R944360030  
**Applicant:** Richard Lund  
**Owners:** Matthew D. & Amanda J. Lendway and  
Richard B. & Joann G. Lund  
**Base Zone:** Gorge General Residential – 10  
(GGR-10)

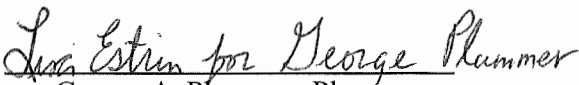


**Summary:** A request to build a 27 by 32 foot (864 sq. ft.) accessory building for entertainment, pet bathing and storage uses within the National Scenic Area.

**Decision:** Approved with Conditions

Unless appealed, this decision is effective June 6, 2014, at 4:00 PM.

Issued by:

By:   
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, May 23, 2014

Instrument Number for Recording Purposes: # 2010141576

**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 June 6, 2014, at 4:00 PM.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 38.3025(A)(3), MCC 38.3060(E), MCC 38.7035, MCC 38.7045, MCC 38.7055, MCC 38.7060, MCC 38.7065, MCRR 4.000

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; or (b) building permits have not been issued; 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 parenthesis.

1. Prior to building permit sign-off, the property owner shall record with the County Recorder the Notice of Decision including the Conditions of Approval of this decision and the site plan

labeled Exhibit A.3. The Notice of Decision shall run with the land and the conditions shall be met by the current and all future property owners unless amended through a later decision by an authorized authority. Proof of recording shall be submitted to Multnomah County Land Use Planning office prior to the issuance of any permits. Recording shall be at the applicant's expense. [MCC 38.0670]

2. Approval of this land use permit is based on the materials submitted including written narratives and plans included as exhibits. No work shall occur under this permit other than that which is specified within these documents or as required by these conditions using the most current submittal floor plan included as Exhibits A.11. It shall be the responsibility of the property owners to comply with these documents and the limitations of approval described herein. The development and use shall be as represented in the findings of this decision. The building materials used shall be as represented in the Exhibits A.6 and A.12. [MCC 38.0660, MCC 38.7035(B)(1), MCC 38.7035(B)(2), MCC 38.7035(B)(4), MCC 38.7035(B)(10), and MCC 38.7035(C)(6)(g)]
3. The proposed accessory building shall not be converted to a dwelling or used as a dwelling. No sink shall be installed other than a lavatory style sink located in the bathroom. 220 volt electrical wiring shall not be installed except for hot water heater if needed. The property owners shall record with County Records a covenant as included as Exhibit B.5 state that converting the accessory to a dwelling use is not allowed. [MCC 38.3025(A)(1) and (3)]:
4. The property shall maintain in living condition the row of cedar trees along the northern property. If more than 10 percent of these trees do not survive or a gap of 20 feet or more occurs from where these trees have died, then new similar conifer trees shall be planted to replace dead trees. [MCC 38.7035(A.4), (B)(1) and (B)(8)]
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 nonreflective, opaque materials. Proposed lighting shall be submitted for review at time of building plan check and sign off by the County. [MCC 38.7035(B)(11)]
6. 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. 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)]
7. 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)]
8. Prior to County Land Use zoning signoff on the plans for the building permit, the property owners shall submit an application for a Right-of-Way Access Permit from the County Right-of-Way program (contact Al Young 503-988-3582).

**Note:** When ready to have building permits signed off, the applicant shall call the George Plummer, planner, 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 sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$61.00\* will be collected. In addition, an erosion control inspection fee of \$82.00\* may be required.

*\* Fees increase on July 1, 2014.*

**Notice to Mortgagee, Lien Holder, Vendor, or Seller:**

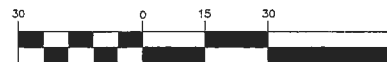
ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

●	FOUND SURVEY MONUMENT	CONCRETE	CEDAR	BIRCH
○	SEWER CLEAN OUT	GRAVEL	APPLE	LILAC
⊕	ELECTRIC METER	GRASS	FIR	MAPLE
⊖	ELECTRIC VAULT			

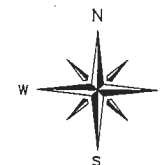
## TOPOGRAPHY MAP

LOCATED IN THE NORTHEAST 1/4 OF SECTION 36,  
TOWNSHIP 1 NORTH, RANGE 4 EAST, W.M.,  
COUNTY OF MULTNOMAH, STATE OF OREGON  
SCALE: 1" = 30' DATE: OCTOBER 1, 2013  
REVISED: OCTOBER 31, 2013

### GRAPHIC SCALE



1 inch = 30 ft.



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

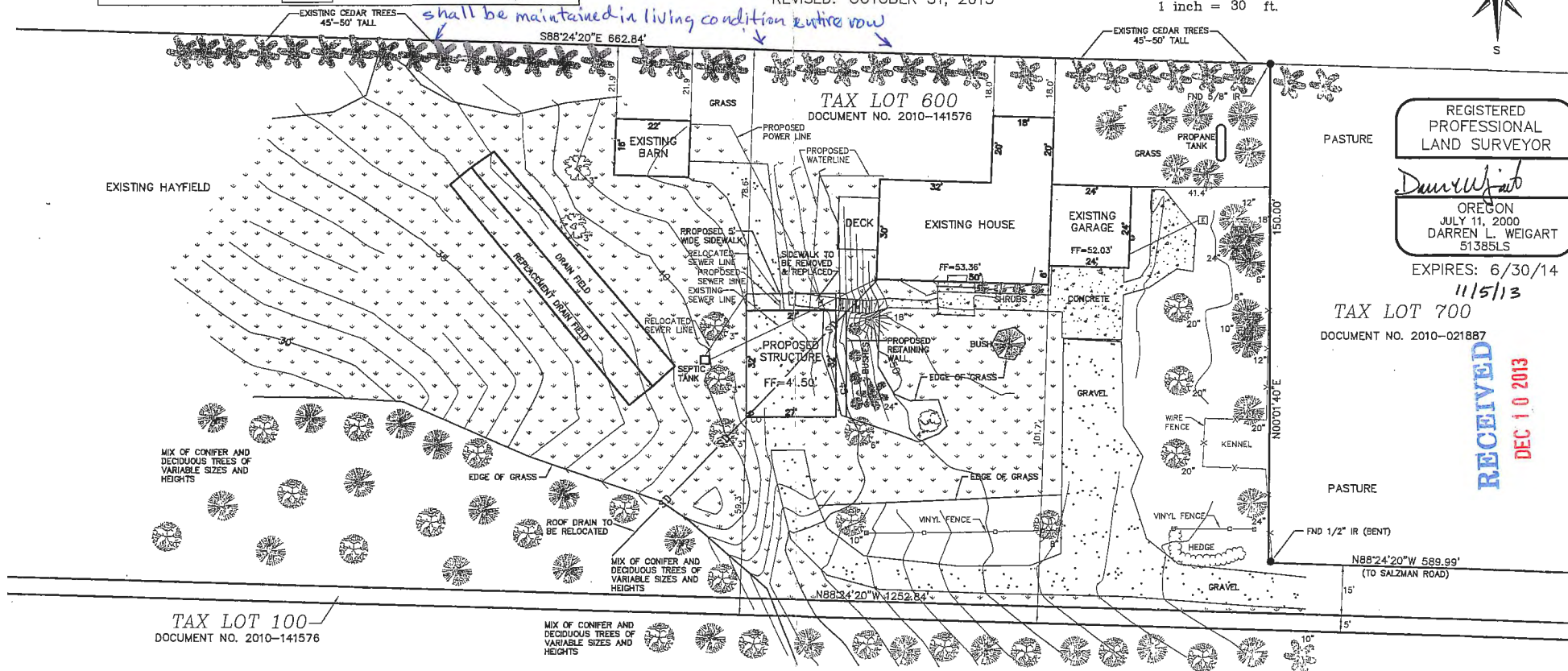
*Darren L. Weigart*  
OREGON  
JULY 11, 2000  
DARREN L. WEIGART  
51385LS

EXPIRES: 6/30/14

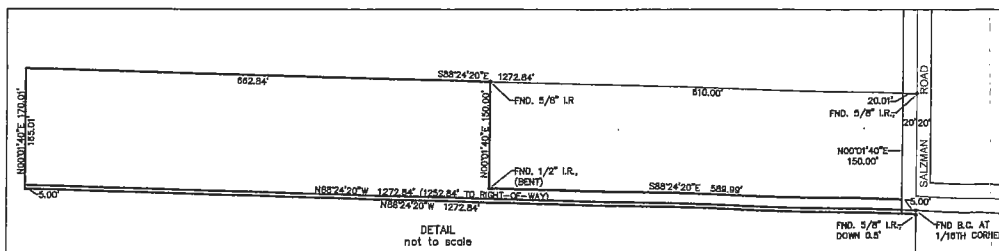
TAX LOT 700

DOCUMENT NO. 2010-021887

RECEIVED  
DEC 10 2013



TAX LOT 100  
DOCUMENT NO. 2010-141576



### NOTES:

- ELEVATIONS ARE BASED ON A  
AN ASSUMED VERTICAL DATUM.
- THE BEARINGS FOR THIS  
PROJECT ARE BASED ON THE  
SUBJECT DEED, RECORDED IN  
DOCUMENT NO. 2010-141576,  
CLACKAMAS COUNTY DEED  
RECORDS.

EXISTING BLUEBERRY FIELDS

**FDG**

Firwood Design Group, LLC  
SURVEYING + ENGINEERING + PLANNING

CLIENT: RICHARD AND JOANN LUND  
MATTHEW AND AMANDA LENDWAY  
ADDRESS: 2709 W. 22ND STREET  
SIOUX FALLS, SD 57105  
PHONE: (605)366-2894

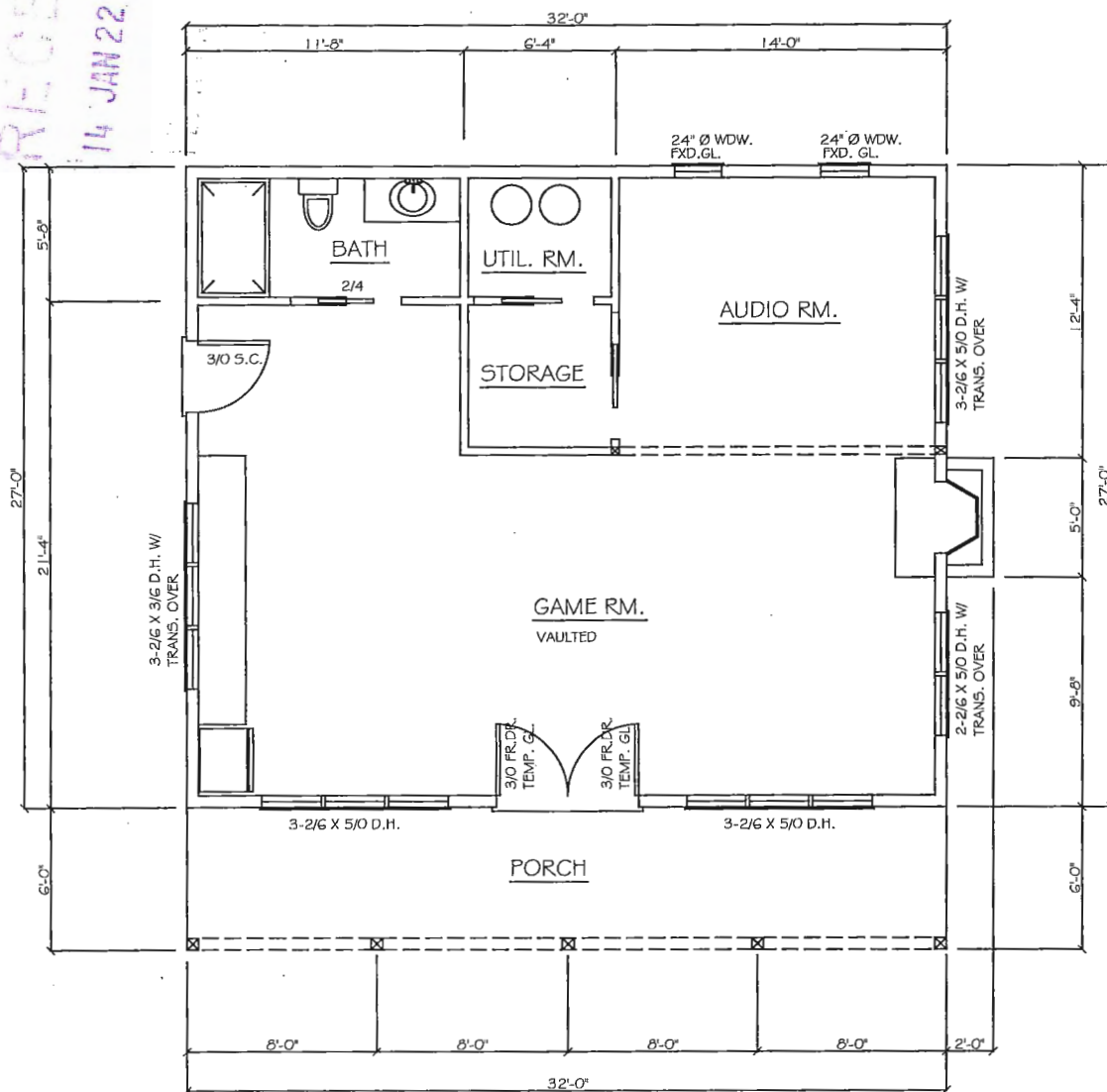
39065 PIONEER BLVD., SUITE 104  
SANDY, OREGON 97055  
BUS: (503) 668-3737 + FAX: (503) 668-3788

EXHIBIT

A.3

RECEIVED  
14 JAN 22 PM 2:19

104



# MAIN FLOOR PLAN

SCALE: 1/8" = 1'-0"

864 SQ FT

EXHIBIT

A. 11

tabbles

## **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 build a 27 by 32 foot (864 sq. ft.) accessory building for entertainment, pet bathing and storage uses within the National Scenic Area.

### **2. PROPERTY DESCRIPTION**

**Staff:** The subject property is developed with a single family dwelling authorized by a Building Permit in 1984. In a previous Case T2-02-039 the property was found to be a legally created lot. The stated above the property has a permitted existing single family dwelling. The property also includes a small accessory building that was approved through Case T2-05-0039 (Exhibit B.4) The 2009 case approved a 400 square foot structure, but building permit index card states the proposed structure will be 352 square feet. County Assessment record shows the building at 352 square feet (Exhibit B.1).

The property is a flag lot with access to NE Salzman Road. The property has a relatively shallow slope of about eight percent in the existing and proposed development areas. The slope increases in steepness to the west of the development area toward the western property line. There is an existing dense row of cedar trees along the northern property line.

### **3. GORGE GENERAL RESIDENTIAL**

#### **3.1. Review Uses**

**MCC 38.3025(A)(3):** Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

- (a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without re-view, existing buildings and proposed buildings.
- (b) The height of any individual accessory building shall not exceed 24 feet.

**Staff:** The single family dwelling on the property was established in 1984 (Exhibit B.1). Included as Exhibit B.3 is the building permit index card showing Building Permit Number 830270 was issued for the dwelling on the property. The proposal is to establish an accessory building for entertainment area, pet bathing and storage uses.

The applicant’s narrative states the proposed accessory building will be 864 square feet. There is an existing 352 square foot accessory building on the property approved through Case T2-02-039 (Exhibit B.4). The cumulative foot print of the accessory buildings with



the proposed building will be 1216 square which is less than the 1500 square foot size limitation. The proposed building is one story tall at 22 feet in height.

A letter of comment was received from Nancy Graybeal stating a concern that the proposed building may be converted into a second dwelling on the property. MCC 38.3025(A)(1) allows one single family dwelling per legally created lot in the GGR-10.

Converting the accessory building into a dwelling is a violation of the Multnomah County Code specially MCC 38.3025(A)(1). A condition of approval will require the property owners to file a covenant to the deed stating the proposed building is an accessory building and is not to be converted into a dwelling (Exhibit B.5).

MCC 38.0015: Definitions – “Dwelling, single-family” - A detached building containing one dwelling unit and designed for occupancy by only one family.

MCC 38.0015: Definitions “Dwelling unit” - A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

The proposed accessory building does not include a cooking area or a kitchen. The original plans included a wet-bar. Staff informed the applicant that the wet bar could not be approved because the sink was located outside of the restroom and creates a kitchen feature that is not allowed in accessory structures. A condition will require this decision to be recorded and linked to the property deed. *The standards are met through a conditions.*

### **3.2. Dimensional Requirements**

#### **MCC 38.3060 (E): Minimum yard dimensions – in feet**

Front and Rear	Side	Street Side
30	10	30

**Staff:** The applicant’s site plan demonstrates that proposed building is more than 50 feet from all property lines. *The proposed building meets the minimum yard standards.*

## **4. GMA SCENIC REVIEW CRITERIA**

### **4.1. All Review Uses**

#### **4.1.1. MCC 38.7035 (A) (1): New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.**

**Staff:** The proposed new building will be sited on a relatively shallow sloped location of the property. The proposed building is designed to retain the existing topography thus minimizing grading activities to the maximum extent possible for siting the development. The property has a relatively shallow slope of about eight percent which will be maintained by the proposed development. *This criterion is met.*



- 4.1.2. MCC 38.7035 (A) (2): New buildings shall be compatible with the general scale (height, dimensions and visible mass) of similar buildings that exist nearby (e.g. dwellings to dwellings). Expansion of existing development shall comply with this guideline to the maximum extent practicable. For purposes of applying this standard, the term nearby generally means buildings within ¼ mile of the parcel on which development is proposed.**

**Staff:** The applicant's narrative states the proposed accessory building will be 864 square feet. Following is a table of four accessory building located in the nearby area.

Prop. Id. #	Address	Area (Sq. Ft.)
R322858	931 NE Salzman Rd.	1980 <sup>(1)</sup>
R322824	39810 E Hist Columbia River Hwy.	1500 <sup>(1)</sup>
R323101	900 NE Salzman Rd.	1900 <sup>(1)</sup>
R322826	701 NE Salzman Rd.	1488 <sup>(2)</sup>

<sup>(1)</sup> Measure on aerial photo

<sup>(2)</sup> County Assessment information

The proposed shed is smaller in area than at least four nearby accessory buildings. *This criterion is met.*

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

**Staff:** This property is not accessed from a Scenic Travel Corridor. *This criterion is not applicable.*

- 4.1.4. MCC 38.7035 (A) (4): Property owners shall be responsible for the proper maintenance and survival of any required vegetation.**

**Staff:** The row of existing cedar trees along the north property line will need to be maintained for screening from the Historic Columbia River Highway. The row of trees needs to be maintained in living a condition, if more than 10 percent of these trees do not survive or a gap of 20 feet or more from results from trees that have died, there is potential the screening will not be as effective. If that occurs, then new similar conifer trees will need to be planted to replace dead trees. A condition will require proper maintenance and survival of these cedars. *This criterion is met through a condition.*

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

**Staff:** The findings for compatibility with the landscape setting are based on information submitted in the site plans. See Subsection 4.3 for findings of compliance with landscape setting criteria. *This criterion is met.*

- 4.2. Review Uses Topographically Visible from Key Viewing Areas (KVAs)**

**MCC 38.7035(B): All Review Uses topographically visible from Key Viewing Areas:**

**Staff:** The proposed building is in an area topographically visible from the Historic Columbia River Highway Key Viewing Area to the northeast. The following criteria must be met.

**4.2.1. MCC 38.7035(B)(1): Each development shall be visually subordinate to its setting as seen from Key Viewing Areas.**

**Staff:** The building is proposed to be built with low reflectivity materials and be dark earth-tone colors (Exhibit A.6 and A.12). An existing row of cedar trees along the northern property line screens the proposed building from the Historic Columbia River Highway to the northeast. As demonstrated in the applicant's materials, the proposed development will be visually subordinate. *This criterion is met.*

**4.2.2. MCC 38.7035(B)(2): The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its potential visual impacts as seen from Key Viewing Areas. Decisions shall include written findings addressing the factors influencing potential visual impact including but not limited to: 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). 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 siting (location of development on the subject property, building orientation, and other elements); retention of existing vegetation; design (color, reflectivity, size, shape, height, architectural and design details and other elements); and new landscaping.**

**Staff:** This decision includes written findings addressing the factors that influence potential visual impact. Conditions will be required for the proposed building to be built as represented in the application using the material proposed and will require the existing row of cedar trees be maintained in a living condition. Conditions are applied to various elements of proposed developments to ensure proposed development meets the visually subordinate criterion. *This criterion is met.*

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

**Staff:** There will be no cumulative effects of proposed developments because the proposed accessory building is well screened from the KVA by existing trees on the property. The accessory building is a minor addition to the existing development on the property and in the area. *This criterion is met.*

**4.2.4. MCC 38.7035(B)(4): In addition to the site plan requirements in MCC 38.0045 (A) applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building**

**materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).**

**Staff:** The application included the required information (Exhibits A.6 and A.12). *This criterion is met.*

- 4.2.5. MCC 38.7035(B)(6): New development 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.**

**Staff:** The proposed development is sited in an area that is screened from the KVA by existing trees on the property. *This criterion is met.*

- 4.2.6. MCC 38.7035(B)(7): New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.**

**Staff:** The proposed new building is sited using existing topography and existing vegetation to achieve visual subordination from key viewing areas. The slope rises near the KVA and then drops providing some topographic screening. The site slope drops to the southeast away from KVAs and the row of cedar trees along the north property screens the development from the KVA. *This criterion is met.*

- 4.2.7. MCC 38.7035(B)(8): Existing tree cover screening proposed development from key viewing areas shall be retained as specified in MCC 38.7035(C).**

**Staff:** The row of existing cedar trees along the north property screens the development from the KVA. The property shall maintain in living condition the row of cedar trees along the northern property. If more than 10 percent of these trees do not survive or a gap of 20 feet or more occurs from where these trees have died, then new similar conifer trees shall be planted to replace dead trees. A condition will require the row of cedar trees to be maintained in living condition or replaced if needed as described above and in the condition. *This criterion is met through a condition.*

- 4.2.8 MCC 38.7035(B)(9): Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.**

**Staff:** No new driveway is proposed. *Not applicable.*

- 4.2.9. MCC 38.7035(B)(10): 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. The Scenic Resources Implementation Handbook includes a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this code, including those that meet recommended 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 visual subordination. Recommended square footage limitations for such surfaces are provided for guidance in the Implementation Handbook.**

**Staff:** The applicant proposes to use a manufactured stone-like exterior siding with a rough texture and dark gray color and dark blackish or dark green asphalt compose shingle roofing. The window frames are proposed to be dark brown compost material with gray trim. *As conditioned, this criterion is met.*

- 4.2.10. MCC 38.7035(B)(11): 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 nonreflective, opaque materials.**

**Staff:** A condition will require that if any exterior lighting is installed that it meets this criterion. *This criterion is met through a condition*

- 4.2.11. MCC 38.7035(B)(12): 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 in 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.**

**Staff:** The proposed exterior colors of the building are dark earth-tone colors. The application proposes to use a manufacture stone exterior siding with a dark gray color and dark blackish or dark green asphalt compose shingle roofing. The window frames are proposed to be dark brown compost material with gray trim. *As conditioned, this criterion is met.*

- 4.2.12. MCC 38.7035(B) (15) 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.**

**Staff:** The one story building will remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. The building is well below the tree line. *This criterion is met.*

**4.3. Review Uses within the Following Landscape Settings, Regardless of Visibility from KVAs**

**4.3.1. Rural Residential in Pastoral**

- 4.3.1.1. MCC 38.7035(C)(4)(a): New development in this setting shall meet the design standards for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral or Coniferous Woodland), unless it can be demonstrated that compliance with the standards for the more rural setting is**

**impracticable. Expansion of existing development shall comply with this standard to the maximum extent practicable.**

**Staff:** The proposed development meets the design standards criteria for both the Rural Residential and Pastoral Landscape Settings. The findings addressing these standards are in the following section and subsections of this staff report.

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

**Staff:** There is no conflict between the standards with the proposed development. *This standard is met.*

#### **4.3.2. Rural Residential**

- 4.3.2.1. MCC 38.7035(C)(3)(a): 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.**

**Staff:** The applicant proposes to retain the existing trees on the property. A condition will require maintaining the existing trees on the property in a living condition. Exhibits A.5 and B.6. *This standard is met.*

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

- 1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.**
- 2. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.**
- 3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.**

**Staff:** The existing trees on the property will screen the proposed development. A condition will require maintaining the existing trees and replacement of the trees if they do not survive. No new trees are proposed or needed for screening. *This criterion is met through a condition.*

#### **4.3.3. Pastoral**

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

**Staff:** The proposal includes clustering of the proposed building as shown on the site plan, Exhibit A.3. *This standard is met.*

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

1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.
2. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
3. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge). The *Scenic Resources Implementation Handbook* includes recommended minimum sizes.
4. At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

**Staff:** The existing trees on the property will screen the proposed development. A condition will require maintaining the existing trees and replacement of the trees if they do not survive. No landscaping or new trees are proposed or needed for screening. *This criterion is met through a condition.*

## 5. GMA CULTURAL RESOURCE REVIEW CRITERIA

### 5.1. Cultural Resource Reconnaissance Surveys

**MCC 38.7045(A) (1)** A cultural reconnaissance survey shall be required for all proposed uses, except:

\* \* \*

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

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

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

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

**Staff:** A submitted email comment from Sally Bird, Cultural Resource Manager Warm Springs Tribes states, "This project should be assessed by an archaeologist prior to construction to determine likelihood or not of cultural resources within the proposed project area" (Exhibit C.1). A submitted email comment Vera Sonneck, Nez Perce Tribe, Cultural states deferral to "...other Tribes within project area" and if concern support of that Tribe (Exhibit C.2).

Margaret L. Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service in consultation with the Oregon State Historic Preservation Office (SHPO) assessed likelihood or not of cultural resources within the proposed project area and found the project area had a low probability of containing cultural resources. Ms. Dryden, submitted a Cultural Resources Survey Determination on December 23, 2013 (Exhibit C.3).

In the Cultural Resources Survey Determination Ms. Dryden, USFS, stated, "A cultural resources reconnaissance survey is: Not Required" and "A Historic Survey is: Not Required. *These criteria are met.*"

\* \* \*

## **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 sub-mitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- (1) **Halt Construction** – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
- (2) **Notification** – The project applicant shall notify the Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are 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 recommence 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 are included as a condition of approval. *These criteria are met through conditions.*

## **6. NATURAL RESOURCES**

### **MCC 38.7055 GMA Wetland Review Criteria**

### **MCC 38.7060 GMA Stream, Lake And Riparian Area Review Criteria**

### **MCC 38.7065 GMA Wildlife Review Criteria**

Wildlife Habitat Site Review shall be required for any project within 1,000 feet of sensitive wildlife areas and sensitive wildlife sites (i.e., sites used by sensitive wildlife species).

### **MCC 38.7070 GMA RARE PLANT REVIEW CRITERIA**

**Staff:** There are no wetlands, stream, lake or riparian areas located on the property. For the GMA Wildlife Review a finding is required as to whether the project is within 1,000 feet of sensitive wildlife areas and sensitive wildlife sites. If so, then a Wildlife Habitat Site Review must be conducted. Staff consulted maps provided by the Columbia River Gorge Commission and made a site visit to the property. There are no known sensitive wildlife areas or sensitive wildlife sites. This property is not within the Oregon Department of Fish and Wildlife (ODFW) designated Big Game Habitat Area (important elk habitat) nor is it designated as deer and elk winter range. Staff noticed ODFW of this pending decision and did not receive comments addressing any concerns. No further Natural Resources review is necessary. *These criteria are met.*

## **7. TRANSPORTATION STANDARDS**

### **MCRR 4.000: Access to County Roads**

**Staff:** The proposed structure is accessory to an existing dwelling. There will be no increased trips generated by the proposed accessory building. Prior to building permit signoff the property owner will need to demonstrate that they have applied for an access permit. A condition requires obtaining an access permit.

## **8. COMMENTS RECEIVED**

**Staff:** An opportunity to comment was sent to applicable agencies and property owners. The following comments were received:

Email dated Dec. 20, 2013 from Sally Bird, Cultural Resource Manager Warm Springs Tribes (Exhibit C.1) and an email dated Dec. 20, 2013 from Vera Sonneck, Nez Perce Tribe, Cultural (Exhibit C.2) addressing cultural resource concerns. Findings under Section 5.1 discusses Ms. Bird's and Ms. Sonneck's concerns.

Email dated February 27, 2013, Cultural Resources Survey Determination attached, from Margaret Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service (Exhibit C.3) with cultural resource determinations. Findings under Section 5.1 discusses Ms. Dryden's comments.

Letter dated March 19, 2014 from Nancy Graybeal, neighbor (Exhibit C.4) addressing concern that the accessory building may be converted into a second dwelling on the property. Findings under Section 3.1 of the decision address those concerns.

Letter dated March 26, 2014 from Richard Till, Conservation Legal Advocate, Friends of the Columbia Gorge detail the code that must be met for an approval of the application request. Findings in this decision address the applicable code sections.

## **9. CONCLUSION**

**Staff:** Based on the findings and other information provided above, the applicant has carried the burden necessary for the NSA Site Review Permit to establish an 864 square foot accessory building in the GGR-10 zone. This approval is subject to the conditions of approval established in this decision.

## 10. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Comments Received

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application form	12/10/13
A.2	8	Narrative	12/10/13
A.3	1	Site Plan	12/10/13
A.4	6	Floor plan and elevation	12/10/13
A.5	2	Photos of subject property	12/10/13
A.6	1	Brochure photos showing proposed materials and colors for siding, roofing and windows	12/10/13
A.7	2	Certificate of On-site Sewage Disposal	12/10/13
A.8	1	Storm Water Certification	12/10/13
A.9	1	Fire District Review	12/10/13
A.10	10	Addendum to Narrative	1/22/14
A.11	2	Amended floor plan removing kitchen sink	1/22/14
A.12	NA	Sample of the proposed siding showing color and texture	1/22/14
A.13	18	Amended Narrative	2/19/14
‘B’	#	Staff Exhibits	Date
B.1	2	A&T Property Information	NA
B.2	1	A&T Tax Map with Property Highlighted	NA
B.3	1	Building permit Index Cards for dwelling and accessory building	NA
B.4	12	Case T2-02-039 Decision for an NSA Site Review for an addition with legal lot finding on page 5.	NA
B.5	2	Accessory Building Covenant	NA
B.6	1	2012 Aerial Photo of Property	NA
‘C’	#	Comments Received	Date
C.1	2	Email dated Dec. 20, 2013 from Sally Bird, Cultural Resource Manager Warm Springs Tribes	12/20/13
C.2	2	Email dated Dec. 20, 2013 from Vera Sonneck, Nez Perce Tribe, Cultural	12/20/13

C.3	2	Email dated February 27, 2013 with Cultural Resources Survey Determination attached, from Margaret Dryden, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service	12/23/13
C.4	1	Letter dated March 19, 2014 from Nancy Graybeal, neighbor	3/20/14
C.5	8	Letter dated March 26, 2014 from Richard Till, Conservation Legal Advocate, Friends of the Columbia Gorge	3/27/14