

1600 SE 190th Ave, Portland OR 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: T2-2017-7801

Permit: National Scenic Area Site Review Type-A Home Occupation Permit

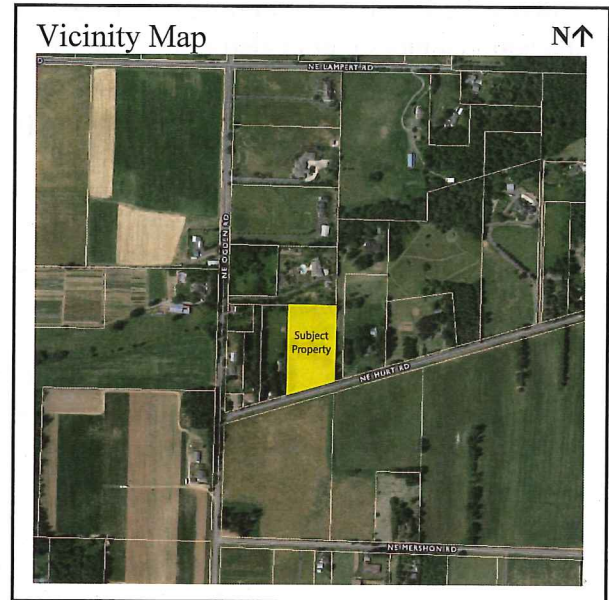
Location: 30421 NE Hurt Rd
Tax Lot 1900, Section 32B,
Township 1N, Range 4E, W.M.
Tax Account #R053501810

Applicant: Scott Bowman

Owners: Scott Bowman

Base Zone: Gorge General Residential -10 (GGR-10)

Landscape Setting: Rural Residential




Summary: Applicant is requesting a Type A Home Occupation Permit to operate a home office for a structural engineering business located within the existing dwelling. There are employees and a maximum of six customers may visit the site for consultation per year.

Decision: Approved with Conditions

Unless appealed, this decision is effective November 9, 2017, at 4:00 PM.

Issued by:

By: 
Chris Liu, Asst. Planner

For: Michael Cerbone, AICP
Planning Director

Date: Thursday, October 26, 2017

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 Chris Liu, Staff Planner at 503-988-3043 or email chris.liu@multco.us

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals 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 November 9, 2017 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 38.0560 Code Compliance and Applications, MCC 38.3025 Review Uses, MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7331 Type A Home Occupations.

Copies of the referenced Multnomah County Code (MCC) sections may be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.multco.us/landuse> at the link Chapter 38 – Columbia River Gorge National Scenic Area.

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.

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) Notwithstanding the transfer of approval rights in MCC 38.0770, approval of a Type A home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type A home occupation is personal to the business operator, Mr. Scott Bowman, and specific to the authorized parcel. Approval of a Type A home occupation terminates automatically, immediately and without notification if the business operator ceases to reside full-time on the authorized parcel.
- 2) The business operator, Mr. Scott Bowman, shall comply with all of the home occupation criteria listed in MCC 38.7331. If his operation exceeds the limitations in MCC 38.7331, the business operator shall immediately contact Multnomah County Land Use Planning to obtain a different type of business approval. [MCC 38.0560]

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*.

1.00 Project Description:

Staff: The applicant is proposing to establish a Home Office located in the existing dwelling of their property through the Type-A Home Occupation Permit process. Applicant is a structural engineer for residential projects, the sole proprietor, and has no employees. An estimated maximum of six customers would visit the premises per year. The dwelling, detached garage, and outbuilding located on the property were approved via National Scenic Area Permit NSA 0-6.

2.00 Property Description:

Staff: The 2.8-acre subject property is located in the Columbia River Gorge National Scenic Area (NSA). Structures located on the property include a single-family dwelling, a garage, and an outbuilding; these structures were approved via National Scenic Area Permit NSA 0-6. NE Hurt Rd has a mixture of single-family rural residences and large farming acreages. There is a long driveway to reach the residence and the residence is somewhat obscured by trees as viewed from Hurt Rd.

3.00 Comments Received

Staff: The Friends of the Columbia Gorge submitted public comment during the Opportunity to Comment Period (Exhibit D.1). Planning staff has summarized concerns/comments received below:

Friends of the Columbia Gorge: Per Multnomah County Code (MCC) application requirements include: MCC § 38.0600(C), MCC § 38.0045(A)(2), and MCC § 38.0030. Further, MCC § 38.3025-.3030, MCC § 38.7300(C), and MCC § 38.7331.

The first three code sections referenced are addressed during the application completeness review period and the completeness letter was issued accordingly (Exhibit C.2). Staff has provided findings below that address the additional sections referenced in the comments.

4.00 Code Compliance and Applications:

§ 38.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit 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.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: There is an active compliance case on the property, case no. UR-09-005, for the operation of a home based business without the necessary permit(s). The issuance of this Type-A Home Occupation Permit will resolve the outstanding compliance issue and bring the property into full compliance with Multnomah County Code. *Criteria met.*

5.00 Gorge General Residential Criteria

5.01 § 38.3025 REVIEW USES

(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(18) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331

Staff: The proposed business is located in an existing dwelling unit lawfully established through land use case NSA 0-6. The criteria listed in MCC 38.7331 are discussed below. *Criterion met.*

5.02 § 38.7035 GMA SCENIC REVIEW CRITERIA

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

(A) All Review Uses and Conditional Uses:

(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.

...

(7) All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency. The state agency shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:

(a) Whether the proposed mining is subject to state reclamation permit requirements;

(b) If subject to state jurisdiction, whether an application has been received for a state reclamation permit, and if, so, the current status of the application; and

(c) For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.

The Planning Director may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction. for review and comment.

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

(1) Each development shall be visually subordinate to its setting as seen from Key Viewing Areas

...

(29) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on sitespecific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(C) All Review Uses and Conditional Uses within the following landscape settings, regardless of visibility from KVAs:

(3) Rural Residential

...

Staff: The above criteria (A) (1) through (7), (B) (1) through (29), and (C) (3) do not apply to this proposal, as there will be no new development (Exhibit A.1 through A.3). The office is located in the existing dwelling. *Criteria does not apply.*

6.00 Type A Home Occupations

6.01 § 38.7331 TYPE A HOME OCCUPATIONS

A Type A home occupation is a lawful commercial activity that is conducted within a dwelling unit by a business operator, is subordinate to the residential use of the dwelling unit, and complies with the following:

(A) No non-resident employees are allowed. No more than two customers may be on the premises at any one time.

Staff: There are no employees other than the business operator. An estimated maximum of six customers may visit the property for consultation over the course of the year. *Criterion met.*

6.02 MCC 38.7331 (B) No more than 25 percent of the total actual living space of the existing dwelling unit may be utilized. No new buildings or modifications to an existing dwelling shall be allowed to facilitate the use.

Staff: The home office is located in an approximately 11' x 12' (132 sq. ft.) room inside the existing dwelling. The total square footage of the dwelling is 2200 sq. ft., which means approximately 6 percent of the living space is dedicated to the business (Exhibit A.3). *Criterion met.*

6.03 MCC 38.7331 (C) No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m. – 7 a.m. are permitted. Deliveries and pick-ups shall occur on the premises only. The road serving the premises may not be used for loading and unloading purposes. No more than two pickups or deliveries shall occur on any given day with a maximum of six vehicle trips generated per week.

Staff: The proposal does not include deliveries or pick-ups. *Criterion met.*

6.04 MCC 38.7331 (D) There shall be no outside, visible evidence of the home occupation, including outside storage or display on the premises, except for parking associated with the use pursuant to (H) below.

MCC 38.7331 (E) No signage shall be allowed, including temporary signage with the exception of property numbers.

Staff: There is no signage indicating the business exists on the property. No storage or displays related to the business are on the property. *Criterion met.*

6.05 MCC 38.7331 (F) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises, but does apply to idling vehicles.

Staff: A majority of the work occurs online, which reduces the need for customers to visit the site; hence, the business does not generate traffic. As mentioned previously, an estimated maximum of six customers would visit the site over the course of a year. *Criterion met.*

- 6.06** **MCC 38.7331 (G) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including an automobile, motorcycle, scooter, snowmobile, outboard marine engine, lawn mower, and chain saw.**

Staff: The business activities do not include repair or assembly of any motor or motorized vehicles. *Criterion met.*

- 6.07** **MCC 38.7331 (H) In addition to the required residential parking, the premises has on-site parking pursuant to MCC 38.4100–38.4215. to accommodate the total number of business vehicles and customers. Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 is prohibited.**

Staff: The business does not generate traffic as the majority of the work occurs online. Ample parking is available in the driveway on the rare occasions that a customer needs to visit the property for consultation. As mentioned previously, no more than six customers per year would require on-site consultation. Numerous trees obscure the visibility of the driveway from Key Viewing Areas. *Criterion met.*

- 6.08** **MCC 38.7331 (I) No operation of a dispatch center pursuant to which employees enter the premises for the purpose of being dispatched to other locations is allowed.**

MCC 38.7331 (J) All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

MCC 38.7331 (K) No retail sales may occur on the premises. 6

Staff: There are no employees and no dispatch center is required nor proposed. No chemicals will be used for the business. The business operator does not sell consumer goods and no retail sales are proposed. *Criterion met.*

- 6.09** **MCC 38.7331 (L) Notwithstanding the transfer of approval rights in MCC 38.0770, approval of a Type A home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type A home occupation is personal to the business operator and specific to the authorized parcel. Approval of a Type A home occupation terminates automatically, immediately and without notification if the business operator ceases to reside full-time on the authorized parcel.**

Staff: The applicant acknowledged that they understand this criterion (Exhibit A.1). This requirement is listed as a condition of approval for this decision. *Criterion met.*

7.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Type A Home Occupation Permit to establish a structural engineering home business in the existing dwelling in the Gorge General Residential - 10 (GGR-10) zone. This approval is subject to the conditions of approval established in this report.

8.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Comments Received

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2017-7081 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	2	Application and Narrative	9/30/2016
A.2	2	Additional Narrative	5/30/2017
A.3	6	Site Plan and Floor Plans	5/30/2017
A.4	3	Deed Information	5/30/2017
‘B’	#	Staff Exhibits	Date
B.1	2	A&T Property Information	10/9/2017
B.2	4	Pre-Filing Conference Summary Notes	10/9/2017
B.3	9	Supplemental Property Information and Funds Credited	6/1/2016
‘C’	#	Administration & Procedures	Date
C.1	2	NSA Agency Review	6/21/2017
C.2	1	Complete Letter (Day 1)	7/3/2017
C.3	6	Opportunity to Comment	10/9/2017
C.4	8	Administrative Decision	10/26/2017
‘D’	#	Comments Received	Date
D.1	4	Friends of The Columbia Gorge (via e-mail)	10/20/2017