

## NOTICE OF NSA DECISION

**Case File:** T2-2019-11651      **Permit:** National Scenic Area (NSA) Site Review  
**Applicant(s):** Casey Heuker      **Owner(s):** Heuker Properties Inc.  
**Location:** 63941 NE Warrendale Road, Cascade Locks  
Tax Lot 400, Section 36, Township 2 North, Range 6 East, W.M.  
Tax Account #R956360210      Property ID #R323584  
**Zoning:** Gorge General Public Recreation (GG-PR)  
**Key Viewing Areas:** Beacon Rock, Columbia River, Historic Columbia River Highway, Highway I-84,  
Pacific Crest Trail, Washington State Route 14  
**Landscape Setting:** River Bottomlands  
**Recreation Intensity:** Recreation Intensity Class 4  
**Proposal Summary:** Request is for a National Scenic Area (NSA) review for the replacement of a  
single-family dwelling, which was destroyed in the Eagle Creek Fire that began on  
September 2, 2017.

**Decision:** **Approved with Conditions**

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is **Tuesday, November 19, 2019, at 4:00 pm.**

**Opportunity to Review the Record:** The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Rithy Khut, Staff Planner at 503-988-0167 or at [rithy.khut@multco.us](mailto:rithy.khut@multco.us)

**Opportunity to Appeal:** 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 office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

**Issued By:**



Rithy Khut, Planner

**For:** Adam Barber, Interim Planning Director

**Date:** Tuesday, November 5, 2019

Instrument Number for Recording  
Purposes: #97062321

N↑



**For this application to be approved, the proposal will need to meet the applicable approval criteria below:**

Multnomah County Code (MCC): General Provisions: MCC 38.0015 Definitions, MCC 38.0030(C)  
Existing Uses and Discontinued Uses

### Administration and Procedures: MCC 38.0560 Code Compliance and Applications

Recreational Districts - GG-PR: MCC 38.2860 Dimensional Requirements, MCC 38.2890 Access

NSA Site Review Approval Criteria: MCC 38.7035 GMA Scenic Review Criteria

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link

## Chapter 38: Columbia River Gorge National Scenic Area



## **Conditions of Approval**

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. 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. Permit Expiration – This land use permit shall expire as follows:

- a. Within two (2) years of the date of the final decision, when construction has not commenced. [MCC 38.0690(B)(1)]
  - i. For purposes of Condition #1.a., commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
  - ii. Notification of commencement of construction must be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. [MCC 38.0690(B)(3)]
- b. When the structure has not been completed within two (2) years of the date of commencement of construction. [MCC 37.0690(B)(2)]
  - i. For purposes of Condition #1.b, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
  - ii. Notification of completion of the exterior surface(s) of the structure must be given to Multnomah County Land Use Planning Division once the exterior surfaces of the structure are complete. [MCC 38.0690(B)(4)]
- c. Within 10 years from the commencement of construction, if the proposed plantings do not achieve visual subordination through the planting of the six (6) trees as shown on the sketch map labeled as Exhibit A.14 [MCC 38.0030(C)(4)(c)5.]

**Note:** Expiration of the permit is automatic. Failure to give notice of expiration shall not affect the expiration of this approval. The property owner may request one (1) 12-month extension to the timeframe within which this permit is valid, as provided under MCC 38.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period. [MCC 38.0700]

2. Prior to Land Use Planning sign off for building plan check, the applicant(s), owner(s), or their representative(s) shall:
  - a. Record pages 1 through 6, and Exhibit A.11 and A.13 in this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 38.0660, 38.0670, and 38.0690(D)]
3. At the time of building permit sign-off, the property owner or their representative shall:
  - a. Provide a sample or cut/specification information of the composite shingle roof to ensure that:

- i. The roof colors are dark earth tone colors as outlined in the top two rows (A and B) or C14, C15, C16 of the third row of the from the Columbia River Gorge Commission *Scenic Resources Implementation Handbook* Color Chart. [MCC 38.0030(C)(4)(a)]
  - b. Provide information or cut/specification sheets for the windows for the replacement single-family dwelling. The windows will have a reflectivity rating of less than 11%. [MCC 38.0030(C)(4)(a)]
  - c. Submit a building plan that demonstrates compliance with City of Graham Building Permits & Inspections requirements in implementing the Oregon Fire Code (OFC). As indicated in Exhibit A.3, a plan must demonstrate compliance with the OFC standard that a 30-foot defensible space around the building is met. If the standard cannot be met, the Building's Official must authorize a deviation from the OFC standard.
  - d. Provide evidence that a State Highway Approach Upgrade Permit has been obtained from ODOT and an ODOT Miscellaneous Permit has be obtained for all work in the highway right of way. [MCC 38.2890]
4. The proposed single-family dwelling shall use cedar siding or hardy board siding and shall be painted with Aging Barrel, Conifer Green, and Chocolate Swirl as shown in Exhibit A.10. [MCC 38.0030(4)(a)]
5. The gutters to be installed are to be treated or painted so the material is not reflective. The gutters can be painted with a flat paint or other treatment so that they are not reflective and must be a dark earth tone colors as outlined in the top two rows (A and B) or C14, C15, C16 of the third row of the from the Columbia River Gorge Commission *Scenic Resources Implementation Handbook* Color Chart. [MCC 38.0030(C)(4)(a)]
6. Prior to and during construction, the property owner(s) or their representative(s) shall ensure that:
  - a. If any Cultural Resources and/or Archaeological Resources are located or discovered on the property during this project, including but not limited to finding any evidence of historic campsites, old burial grounds, implements, or artifacts, the following procedures shall be implemented. Additionally all survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and the SHPO. Native American tribal governments shall also receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.:
    - i. 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.
    - ii. 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 Native American tribal governments within 24 hours. Procedures required in MCC 38.7045(L) shall be followed.
    - iii. Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from Oregon State Historic Preservation Office (SHPO) (see 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).

- iv. 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)]
- b. 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):
  - i. Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
  - ii. Notification – Local law enforcement officials, the Multnomah County Planning Director, the Gorge Commission, and the Native American tribal governments shall be contacted immediately.
  - iii. 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.
  - iv. Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
  - v. 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.
    - 1. 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).
    - 2. 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)]
- 7. Within 10 years from the commencement of construction, the property owner or their representatives shall:
  - a. Provide evidence that visual subordination has been achieved through the planting of the six (6) trees as shown on the sketch map labeled as Exhibit A.14. The Douglas-fir and western redcedar shall be a minimum height of 3 to 4 feet bare-root or of similar size and the big leaf maple shall be a minimum planting height of 3 to 4 feet (2 gallon) or of similar size. [MCC 38.0030(C)(4)(c)4.]
- 8. As an on-going condition, the property owner(s) or their representative(s) shall:
  - a. Be responsible for the proper maintenance and survival of any required planted vegetation. If any of the six (6) proposed trees become diseased, die, or are removed; a replacement tree that is of similar type shall be planted. If the replacement tree is a Douglas-fir or western redcedar, the tree shall be a minimum height of 3 to 4 feet bare-root or of similar size. If the replacement tree is a big leaf maple, the tree shall be a

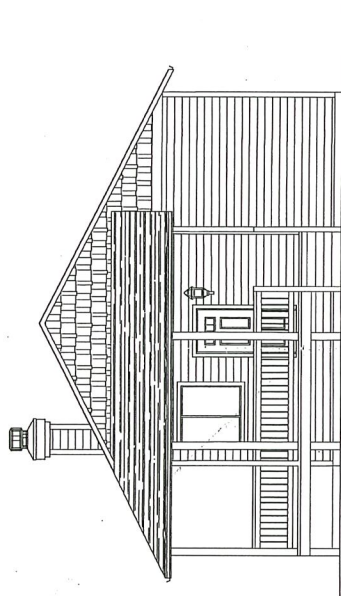
minimum planting height of 3 to 4 feet (2 gallon) or of similar size. [MCC 38.0030(C)(4)(c)4.]

**Note:** Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at e-mail [septic@portlandoregon.gov](mailto:septic@portlandoregon.gov) or by phone at 503-823-6892 or for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
3. Contact Rithy Khut, Planner at 503-988-0176 or [rithy.khut@multco.us](mailto:rithy.khut@multco.us), for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

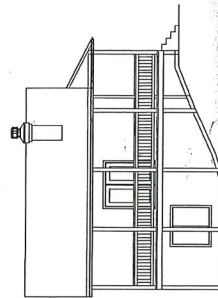
The above must be completed before the applicant can obtain building permits from the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.





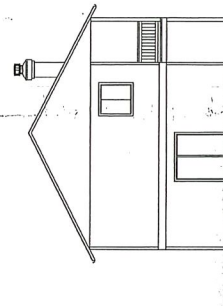
FRONT ELEVATION

SCALE: 1/4" = 1'-0"



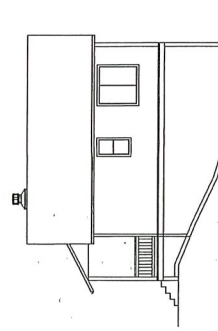
## LEFT ELEVATION

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



## REAR ELEVATION

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



### RIGHT ELEVATION

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

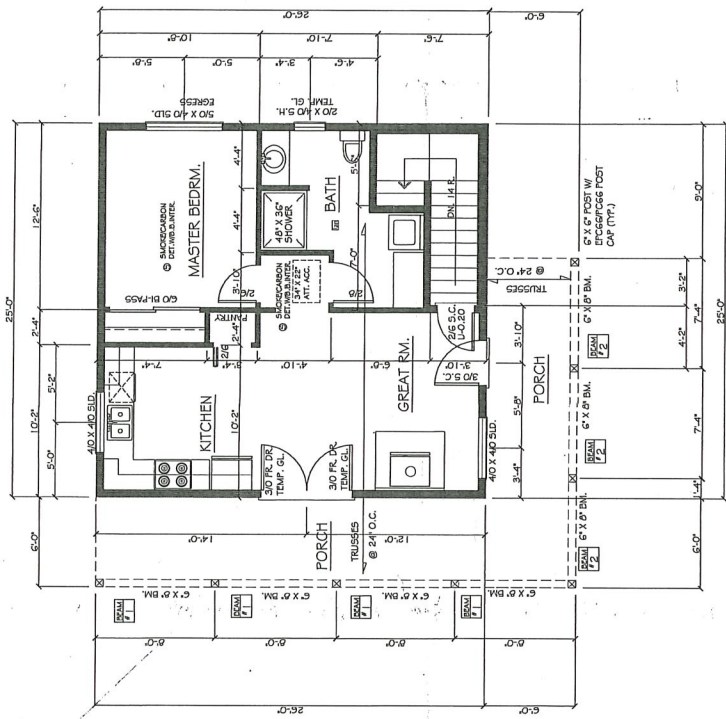


1998

© 2000 TAYLOR & FRANCIS

TROXEL'S HOME	
1775 SW 50TH CT. GRESHAM, OREGON 97030 (503) 665-5464	
SCALE: NOTED	DATE: 2/6/18
MAIN: 600 SQ FT UPPER: NA SQ FT	

TABLE N1 (D1, D2) ADDITIONAL MEASURES	
<input type="checkbox"/> (1) HIGH EFFICIENCY WALLS EXTERIOR WALLS - U-0.055, 21 1/2 S CONTINUOUS	
<input checked="" type="checkbox"/> (2) UPGRADED PARTITIONS EXTERIOR WALLS - U-0.075-0.23 INTERMEDIATE OR R-21 ADVANCED, PARTITIONS - U-0.075-0.23 INTERMEDIATE OR R-21 ADVANCED, WINDOWS - U-0.25-0.35 INTERMEDIATE OR R-10 ADVANCED	
<input type="checkbox"/> (3) UPGRADED FLOORS FLOORING - U-0.075-0.23 INTERMEDIATE OR R-21 ADVANCED, FRAMED FLOORS - U-0.055-0.35	
<input type="checkbox"/> (4) SUPER INSULATED WINDOWS AND ATTIC OR FRAMED FLOORS WINDOWS - U-0.25 (TYPICAL FRAME LOW E) AND FRAMED FLOORS - U-0.055-0.35	
<input type="checkbox"/> (5) AIR SEALING HOME AND DUCTS MANUFACTURED AIR SEALING OF ALL COVERINGS AT TOP PLATE AND AIR SEALING CHECKER PLATE AND AIR SEALING OF ALL COVERINGS AT TOP PLATE AND AIR SEALING CHECKER PLATE AND ALL DUCTS AND AIR HANDLERS ARE COMPANIED WITH BUILDING ENVELOPE (D) ALL DUCTS SEALED WITH MASTIC (D)	
<input type="checkbox"/> (6) HIGH EFFICIENCY THERMAL ENVELOPE (D) PROPOSED U-0.055 6% LOWER THAN THE CODE U-0.055	
CONSERVATION MEASURE (SELECT ONE)	
<input type="checkbox"/> (A) HIGH EFFICIENCY HVAC SYSTEM (D) GAS-FIRED THERMACE OR SOLAR WITH MINIMUM A/C OF 94% OR GROUND SOURCE HEAT PUMP WITH MINIMUM COP OF 3.5 OR DUCTED STAIR RATED GROUND SOURCE HEAT PUMP WITH MINIMUM COP OF 3.5 OR DUCTED STAIR RATED	
<input type="checkbox"/> (B) DUCTED HVAC SYSTEMS WITHIN CONDITIONED SPACE ALL DUCTS AND AIR HANDLERS ARE COMPANIED WITH BUILDING ENVELOPE (D) DUCTS SEALED WITH MASTIC (D)	
<input type="checkbox"/> (C) DUCTLESS HEAT PUMP (D) DUCTLESS HEAT PUMP (D) 10.0 IN PRIMARY ZONE OF DWELLING DUCTLESS HEAT PUMP (D) 10.0 IN PRIMARY ZONE OF DWELLING	
<input type="checkbox"/> (D) ELECTRIC HEAT PUMP WATER HEATER (D) ELECTRIC HEAT PUMP WATER HEATER (D) 1.0 IN PRIMARY ZONE OF DWELLING	
<input type="checkbox"/> (E) APPLIANCES LOCATED WITHIN THE BUILDING THERMAL ENVELOPE SHALL HAVE SEALED COMBUSTION AIR INTAKE. COMBUSTION AIR SHALL BE DUCTED DIRECTLY FROM THE OUTDOORS.	
<input type="checkbox"/> (F) ALL EXISTING WATER HEATERS SHALL BE REPLACED WITH ENERGY STAR RATED WATER HEATERS COMBUSTION SYSTEMS PROGRAM ADMINISTERED BY THE DOMESTIC POWER ADMINISTRATION (DPA)	
<input type="checkbox"/> (G) RESIDENTIAL WATER HEATERS LESS THAN 55 GALLON STORAGE VOLUME RESIDENTIAL WATER HEATERS LESS THAN 55 GALLON STORAGE VOLUME DUCTS LOCATED OUTSIDE OF THE CONDITIONED SPACE SHALL HAVE INSULATION INSTALLED AS REQUIRED BY CODE	
<input type="checkbox"/> (H) TOTAL HEATED SPACE FLOOR AREA UNLESS VAULTED AREA HAS A U-FACTOR NO GREATER THAN U-0.055 TOTAL HEATED SPACE FLOOR AREA UNLESS VAULTED AREA HAS A U-FACTOR NO GREATER THAN U-0.055	
<input type="checkbox"/> (I) CONTINUOUS AIR BARRIER, ADDITIONAL REQUIREMENT FOR SEALING OF ALL VERTICAL COVERINGS TO TOP PLATE FRAMING SEALING WITH FOAM GASKET, CHALK, OR OTHER APPROVED METHOD LISTED FOR SEALING WALL COVERINGS	
<input type="checkbox"/> (J) TABLE N1 (D4, I) STANDARD BASE CASE DESIGN, CODE U-0.055 SHALL BE 9% LESS THAN THE PROPOSED U-0.055 BUILDINGS WITH PRESTABILIZATION LESS THAN 15% OF THE TOTAL VERTICAL WALL AREA MAY ADJUST THE CODE U-0.055	



ALL OF THE PERMANENTLY INSTALLED HIGH-EFFICIENCY LIGHTING SHALL BE COMPACT FLUORESCENT AND LED LAMPS. THE LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ILLUMINANCE CODE. THE LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ILLUMINANCE CODE. THE LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ILLUMINANCE CODE.

ALL ELECTRICAL TO MEET OR EXCEED THE REQUIREMENTS OF THE ILLUMINANCE CODE. THE ELECTRICAL SHALL BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ILLUMINANCE CODE. THE ELECTRICAL SHALL BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ILLUMINANCE CODE.

PROVIDE DIRECT VENT VENT PIA MIN. THE VENT MUST REACH TO OUTSIDE WALLS AND TERMINATE AT LEAST 12" ABOVE ANY OPENING INTO RESIDENCE.

ALL WINDOWS, EXCEPT DOORS, SHALL BE 20" X 12" UNLESS NOTED OTHERWISE.

ALL ROOMS CONTAINING SLEEPING OR BATHING SHALL BE PROVIDED WITH A WINDOW OR OTHER MEANS OF EGRESS. THE WINDOW OR OTHER MEANS OF EGRESS SHALL BE INSTALLED IN ACCORDANCE WITH SECTION N1507.4.

RECEIVED  
MAY 1 2019

# MAIN FLOOR PLAN

SCALE: 1/4" = 1'-0"

TROXEL'S HOME DESIGN	
SCALE: NOTED	DESIGNED BY: DENNIS TROXEL
DATE: 07/07/18	PROJECT NO.: 1803 655-5554
MAIN: 650 SQ FT	TOTAL: 650 SQ FT
LOFT: 650 SQ FT	PLAN NUMBER: # 1822
CONSTRUCTION: 1803 655-5554	SHEET: 2



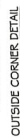
1) WALLS SHALL BE FRAMED W/ 2" X 6" STUDS @ 16" O.C.

1) WALLS SHALL BE FRAMED W/ 2" X 6" STUDS @ 16" O.C.

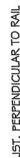
2) CORNERS & INTERSECTIONS W/ EXTERIOR WALLS & CEILING CORNERS SHALL BE FULLY INSULATED THROUGH THE USE OF THREE-STUD CORNERS CONFIGURED TO ALLOW FULL INSULATION INTO THE CORNER, OR 2 STUD CORNERS & DRYWALL BACKUP CLIPS OR OTHER APPROVED TECHNIQUES.

W/ EXTERIOR WALLS SHALL BE FULLY INSULATED THROUGH THE USE OF SINGLE BACKER BOARDS, MID-HEIGHT BLOCKING W/ DRYWALL CLIPS OR OTHER APPROVED TECHNIQUE.

3) HEADERS  
ALL HEADERS ON EXTERIOR WALLS LESS THAN FULL  
DEPTH OF WALL SHALL HAVE RIGID INSULATION  
EQUAL TO R-4 FOR EACH 1' OF THICKNESS LESS  
THAN FULL DEPTH.



**SCALE: NOT TO SCALE**

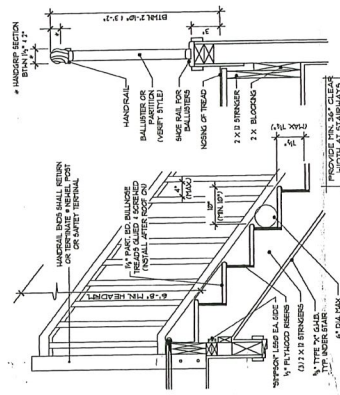


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N.T.S.



## SCALE: 1/4" = 1'-0"



## SCALE: 3/4" = 1'-0"

SCALE: 3/4" = 1'-0"

RECEIVED  
MAR 1 2019  
BY:

TROXEL'S HOME DESIGN

SCALE: NOTED  
DATE: 4/11/8

DATE 8/6/18 (503) 663-2494  
MAIN: 600 SQ FT

TOTAL: 600 SQ FT

<p>THIS PLAN SET HAS BEEN AUTHORIZED FOR THE CONSTRUCTION OF ONE BUILDING BY THE ORIGINAL CONTRACTOR.</p>	<p>PLAN NUMBER:</p>
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SHEET: 3 #1821





## **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 requesting a National Scenic Area (NSA) site review for the replacement of a single-family dwelling that was destroyed in the Eagle Creek Fire that began on September 2, 2017.

### **2.00 Property Description & History:**

**Staff:** The NSA site review application is for one tax lot located at 63941 NE Warrendale Road (also known as tax lot 400). The property is 9,824 square feet (0.23 acres) and is located on the north side of NE Warrendale Road immediately adjacent to Interstate Highway I-84 within the Gorge General Public Recreation (GG-PR) zoning district in the Columbia River Gorge National Scenic Area (CRGNSA).

Multnomah County Department of Assessment, Records, and Taxation (DART) data indicates that the subject property is owned by Heuker Properties Inc., which the applicant, Casey Heuker is a member. According to DART records, the subject property previously contained a 596 square foot single-family dwelling. The dwelling was first accessed in 1935. Aerial photo comparison between 2016 and 2008 would indicate that the single-family dwelling was destroyed by the Eagle Creek Fire that occurred in September 2017. There is no history of land use permits or building permits for the subject property.

### **3.00 Public Comments:**

#### **3.01 Letter dated on March 26, 2019 from Marah Danielson, Development Review Planner, Oregon Department of Transportation and Kate Wihtol, Development Review Planner, Oregon Department of Transportation**

**Staff:** Marah Danielson and Kath Wihtol submitted a response that recommended local conditions of approval. The conditions included that, “A State Highway Approach Upgrade Permit is required and must be obtained from ODOT” and “An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way” (Exhibit D.1).

#### **3.02 Letter dated on March 28, 2019 from Chris Donnermeyer, Heritage Resources Program Manager, Columbia River Gorge National Scenic Area**

**Staff:** Chris Donnermeyer submitted a Cultural Resource Survey Determination that stated, “A Cultural Resource Survey is: Required” and “A Historic Survey is: Not Required” (Exhibit D.2).

#### **3.03 Letter dated on June 25, 2019 from Chris Donnermeyer, Heritage Resources Program Manager, Columbia River Gorge National Scenic Area**

**Staff:** Chris Donnermeyer submitted a revised Cultural Resource Survey Determination that reflected changes to the letter submitted under Section 3.01 and Exhibit D.1 that stated, “A Cultural Resource Survey is: Not Required” (Exhibit D.3).

**3.04 E-mail dated on October 9, 2019 from Kristen Tiede, Archaeologist, Cultural Resources Protection Program, Confederated Tribes of the Umatilla Indian Reservation**

**Staff:** Kristen Tiede submitted an e-mail with questions about the proposal. The questions included the replacement single-family dwelling footprint size and whether significant excavation will occur that could affect cultural resources, archaeological resources, or human remains. A reply e-mail was sent with replies to Kristen’s questions and potential Conditionals of Approval to ensure that if cultural resources, archaeological resources, or human remains are found protocols and procedures are in place to ensure they are protected, notification is given to the appropriate groups and mitigation measures are implemented. (Exhibit D.4).

**3.05 E-mail and Letter dated October 15, 2019 from Steven D. McCoy, Staff Attorney, Friends of the Columbia River Gorge**

**Staff:** Steven D. McCoy submitted an e-mail and letter that discussed applicable application requirements and suggested conditions of approval that should be included within the Decision. This decision discusses how the applicant meets the issues raised in the comments from the Friends of the Columbia River Gorge. The decision discusses replacement of existing uses in and resource protection in Section 5.00 of this Decision. (Exhibit D.5).

**4.00 Administration and Procedures – Code Compliance and Applications Criteria:**

**4.01 § 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:** As required, the County shall not make a land use decision approving development or issue a building permit for any property 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. For a property to be in full compliance, there needs to be no active code compliance cases open on the subject property, no known code compliance issues on the subject property, and the property needs meet the definition of a parcel. At this time, there are no active code compliance cases for the subject property and no known code compliance issues on the subject property.

To determine if the subject property is a parcel, a legal parcel determination must occur. As defined in MCC 38.0015, a parcel is defined as:

**Parcel:**

- (a) Any unit of land legally created by a short division, partition, or subdivision, that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.**
- (b) Any unit of land legally created and separately described by deed, or sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.**
- (c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the U.S. Forest Service Office prior to the Final Interim Guidelines.**
- (d) A unit of land shall not be considered a separate parcel simply because it:**
  - 1. Is a unit of land created solely to establish a separate tax account;**
  - 2. Lies in different counties;**
  - 3. Lies in different sections or government lots;**
  - 4. Lies in different zoning designations; or**
  - 5. Is dissected by a public or private road.**

Multiple deeds were reviewed to verify, if Tax Lot 400, Section 36, Township 2 North, Range 6 East, W.M. is a parcel. The earliest warranty deed reviewed describing the subject property was recorded in Book 1611, Page 513-514 on July 17, 1953 (Exhibit B.15). In 1953, there was no zoning applied to the subject property at that time. The earliest zoning requirements were put in place on May 26, 1953 under the County's first Interim Zoning Ordinance. Zoning districts were then applied to the County over a span of three years from 1955 to 1958. Within the Gorge, zoning was applied on July 10, 1958. Therefore, tax lot 400, as described in Exhibit B.15 was legally created and separately described by deed prior to zoning and has remained in the same configuration from 1953 through November 17, 1986 to the present. Additionally, as a deeded unit of land, tax lot 400 was not created solely to establish a separate tax account, does not lie in different counties, sections, government lots, or different zoning designations, and is not dissected by a public or private road.

Based on the information provided, the subject property known as tax lot 400 can be considered as a parcel and is in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

**5.00 General Provisions – Existing Uses and Discontinued Uses Criteria**

**5.01 § 38.0030 EXISTING USES AND DISCONTINUED USES**

**(C) Replacement of Existing Structures Damaged or Destroyed by Disaster:** An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

**Staff:** The applicant is requesting to replace a single-family dwelling that was destroyed in the Eagle Creek Fire, which began on September 2, 2017. As required above, an existing structure destroyed by fire may be replaced if a complete land use application for a replacement structure is submitted within two years of the date the original structure was destroyed. This application was submitted on March 1, 2019, which is 1 year, 5 months, 27 days after the date the original structure was destroyed. *This criterion is met.*

**(1) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.**

**Staff:** The applicant is requesting to replace a single-family dwelling that was destroyed in the Eagle Creek Fire with a new single-family dwelling. The original single-family dwelling was built at some point in 1935 according to Department of Assessment, Records, and Taxation data (Exhibit B.18). Aerial photos from 2016 before the Eagle Creek Fire indicate that a building was located on the property and aerial photos from 2018 show the property is now vacant (Exhibit B.12 and B.13). *This criterion is met.*

**(2) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if the following conditions exist:**

- (a) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.**
- (b) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.**
- (c) The new building site complies with the cultural resources, natural resources, and treaty rights protection provisions.**

**Staff:** The site plan indicates that the replacement structure will be located in the same location as the building that was destroyed. In a sketch map, drawn by Daniel R. Bauer, Registered Professional Land Surveyor, the location of the burned house is drawn on the map (Exhibit A.11). The original single-family dwelling is located 8 feet from the front property line, 22 feet from the west property line, 14 feet from the east property line, and 81 feet from the northern property line. Since the replacement structure is in the same location, the replacement structure



does not need to comply with the cultural resources, natural resources, or treaty rights protection provisions. *This criterion is met and (2)(a-c) are not applicable.*

**(3) The replacement structure shall be the same size and height as the original structure, provided:**

**(a) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.**

**(b) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.**

**Staff:** As provided above, the replacement structure shall be the same size and height as the original structure. The original single-family dwelling was established at some point in 1935 and the County does not have any construction plans that indicate the size or height of the original structure. The sketch map indicates the original single-family dwelling is 37 feet by 32 feet or 1,184 square feet (Exhibit A.11). The sketch map does not specify if measurement were taken from the foundation, floor area, or the footprint of the building. As defined in MCC 38.0015, the definitions of “footprint” and “floor area” are:

**Footprint: The area that falls directly beneath and shares the same perimeter as a structure. This includes covered porches.**

**Floor area: The area included within the surrounding exterior walls of a building or portion thereof. The floor area of a building or a portion thereof, not provided with surrounding exterior walls shall be the area under the horizontal projection of the roof or floor above.**

Department of Assessment, Records, and Taxation assessment records indicate that the original single-family dwelling was accessed at 596 square feet of living area (Exhibit B.18). The living area is typically smaller than the footprint as the living area measures the floor area of the building or the area included within the surrounding exterior walls where a person could occupy within the building and does not typically include the square footage of unfinished attic spaces, basement areas, or covered decks.

Alternatively, aerial photo were used to measure the building dimensions. Based on the aerial photo measurement the building appears to be approximately 934 square feet (Exhibit B.19). The outline of the building is different from the Sketch Map, as the Sketch Map only shows a square footprint that does not match the aerial photo-building outline. Although aerial photo measurements can be inaccurate, it can be assumed that the footprint of the original single-family dwelling was approximately 934 square feet. As allowed above, the replacement structure may be up to 10 percent larger than the footprint of the original structure, which would allow a replacement single-family dwelling of approximately 1,027 square feet.

As shown on the roof plan, the footprint or the area that falls directly beneath and shares the same perimeter as the structure for the replacement single-family dwelling is 938 square feet. (Exhibit A.13: Sheet 5: Cross Section and Roof Plan). The replacement single-family dwelling is less than the maximum of 1,027 square feet. *These criteria are met.*

**(4) The replacement structure shall only be subject to the following scenic resources standards:**

**(a) The replacement structure shall comply with the scenic resources provisions regarding color and reflectivity. These provisions shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.**

**Staff:** The subject property is visible from the following Key Viewing Areas (KVAs): Beacon Rock, Columbia River, Historic Columbia River Highway, Highway I-84, Pacific Crest Trail, and Washington State Route 14. The proposed replacement single-family dwelling is viewable from KVAs on all sides of the building. Therefore, the building will be required to be visually subordinate to the maximum extent practicable. To meet the visually subordinate scenic standard, the proposed single-family dwelling will need to use low reflective building materials and dark earth tone exterior colors to help the building blend into the surrounding landscape.

As described in the narrative and building plan, the applicant is proposing the following to ensure that the proposed single-family dwelling will meet applicable scenic standards. The applicant is proposing to use cedar siding or hardy board siding in earth tone colors (Exhibit A.2). The paint colors provided indicate that Aging Barrel, Conifer Green, and Chocolate Swirl will be used (Exhibit A.10). All three colors can be considered as dark earth tone. The plans indicate that roof will be a "Comp Roof," which is interpreted to mean a composite shingle roof although there is no color indicated. To ensure that the roof complies with visual subordination requirements, a condition will be needed that the roof is a dark earth tone color. Lastly, the plans do not contain specifications for the windows. Windows with a visible light reflectivity of 11 percent or less are considered a low reflectivity building material. Therefore, a condition will be required that the windows have a reflectivity rating of 11 percent or less and the roof be a dark earth tone color and not reflective. *As conditioned, this criterion is met.*

**(b) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.**

**Staff:** The original single-family dwelling was established at some point in 1935 and the County does not have any construction plans that indicate the whether the original structure contained decks, verandas, balconies or other open portions of the original structure. The applicant states that the original dwelling did not contain these features (Exhibit A.2). Therefore, this standard is not applicable. *This criterion is not applicable.*

**(c) In the General Management Area, the replacement structure shall comply with the scenic resources provisions regarding landscaping. These provisions shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:**

- 1. Except as provided in 2. below, the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.**
- 2. In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that**



required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

3. To help determine how much vegetation may be required under 1. and 2. above, land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:

a. The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

b. The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

c. Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

4. The height of any new trees shall not be required to exceed 5 feet.

5. The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

**Staff:** As required the replacement single-family dwelling shall comply with the scenic resources provisions regarding landscaping. Using subsection (c)3. aerial photos and Google Streetview photos were used to quantify the amount and type of vegetation will need to be planted and or replaced (Exhibit B.12, B.20, and B.21).

**Table 1 – Percent of Screening**

Key Viewing Area	Location of KVA in relation to subject property	% of Screening by Coniferous Vegetation	% of Screening by Deciduous Vegetation
Beacon Rock	NW	75%	0%
Columbia River	North	60%	0%
Historic Columbia River Highway	South	0%	30%
Highway I-84	South	0%	30%
Pacific Crest Trail	East	20%	30%
Washington State Route 14	North	60%	0%

Based on the percentages above, the applicant will be required to plant coniferous and deciduous trees on the subject property. The applicant proposes to plant two western redcedars along the northwest property line. The two western redcedars will meet the percentage of coniferous trees needed to screen from the Beacon Rock KVA. Two additional Douglas-fir will be planted near the northeast property line. Together with the redcedars, the four coniferous trees will meet the 60% needed to screen from the Columbia River and Washington State Route 14 KVAs. Along the southern property line, the applicant is proposing two deciduous trees to provide screening from the Historic Columbia River Highway, Highway I-84 and Pacific Crest Trail KVAs. The two big leaf maples will provide adequate screening to meet the screening percentages from the table (Exhibit A.13).

As required above, to ensure that the applicant plants the coniferous and deciduous trees conditions will be required. Additionally, the height of any new trees shall not be required to exceed 5 feet and the time frame for achieving visual subordination shall be 10 years or less from the commencement of construction. *As conditioned, these criteria are met.*

**(5) The replacement structure shall be subject to (B)(1), (B)(2), and (B)(3) above if it would not comply with (C)(2) and (C)(3) above.**

**Staff:** As discussed above, the applicant has demonstrated compliance with (C)(2) and (C)(3) and is thereby not required to be subject to (B)(1), (B)(2), and (B)(3). *This criterion is met.*

**(6) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.**

**Staff:** The applicant has submitted a complete land use application for a replacement structure within two years of the date the original structure was destroyed. Therefore, the original structure is not considered discontinued and an application can be reviewed under the provisions of MCC 38.0030(B). *This criterion is met.*

## **6.00 Recreational Districts - GG-PR Criteria**

### **6.01 § 38.2890 ACCESS**

**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 subject property is located on NE Warrendale Road under the jurisdiction of the Oregon Department of Transportation (ODOT). As this property does not abut a street, the approval authority, ODOT must determine the access to be safe and convenient. The applicant has submitted a copy of Oregon Department of Transportation – Approval of Application for State Highway Approach (Standard Drawing and Plans). However, the approval expired on February 19, 2019 (Exhibit A.9). Additionally, comments were submitted by Marah Danielson, Development Review Planner and Kate Wihtol, Development Review Planner from ODOT requesting that a State Highway Approach Upgrade Permit be obtained from ODOT and an ODOT Miscellaneous Permit must be obtained for all work in the highway right of way (Exhibit D.1). Therefore to ensure that safe and convenient for pedestrians and passenger and emergency vehicles, a condition will be required that those permits be obtained prior to building permit authorization. *As conditioned, this criterion is met.*

## **7.00 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for an NSA Site Review to establish a replacement single-family dwelling in the Gorge General Public Recreation (GG-PR) 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 (and reduced to print size of 8.5” by 11”) as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-11651 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	NSA Application Form	03/01/2019
A.2	6	Narrative	03/01/2019
A.3	5	Fire Service Agency Review signed by Building Official	03/01/2019
A.4	4	Fire Service Agency Review signed by Corbett Rural Fire District #14	03/01/2019
A.5	1	Septic Review Certification	03/01/2019
A.6	6	City of Portland Bureau of Development Services – Site Evaluation #19-103463-SE / Report # SER 01-19	03/01/2019
A.7	2	Transportation Planning Review	03/01/2019
A.8	3	Oregon Department of Transportation (ODOT) – Permit Performance Bond	03/01/2019
A.9	12	Oregon Department of Transportation (ODOT) – Approval of Application for State Highway Approach (Standard Drawing and Plans)	03/01/2019
A.10	1	Paint Samples	03/01/2019
A.11	1	Sketch Map (24” x 18”)	03/01/2019
A.12*	7	Building Plans (34” x 22”) <ul style="list-style-type: none"> <li>*- Sheet 1: Elevations</li> <li>*- Sheet 2: Main Floor Plan</li> <li>*- Sheet 3: Lower Floor Plan</li> <li>- Sheet 4: Foundation Plan</li> <li>- Sheet 5: Cross Section and Roof Plan</li> <li>- Sheet S1.0: Structural Plan</li> <li>- Sheet S2.0: Structural Plan</li> </ul>	03/01/2019
A.13*	1	Sketch Map showing the location of trees to be planted	03/01/2019
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Department of Assessment, Records, and Taxation (DART) Property Information for 2N6E36AD -00400 (#R956360210)	03/01/2019
B.2	1	Department of Assessment, Records, and Taxation (DART) Property Information Map with 2N6E36AD -00400 (#R956360210 highlighted	03/01/2019
B.3	5	Pre-filing Conference Summary Notes	09/26/2019

B.4	1	Department of Assessment, Records, and Taxation (DART) Property Information for 2N6E36AD -00400 (#R956360210) printed on September 21, 2017	09/26/2019
B.5	1	Parcel Record – Cartographic Unit Card for 2N6E36AD - 00400 (#R956360210)	09/26/2019
B.6	1	Warranty Deed recorded in Book 518, Page 824 on 1967	09/26/2019
B.7	2	Warranty Deed recorded as Instrument #97062321 on April 28, 1997	09/26/2019
B.8	1	Zoning Map showing zoning prior to 1962	09/30/2019
B.9	1	Zoning Map showing zoning from 1962 to November 15, 1977	09/30/2019
B.10	8	Zoning code pages 6, 6 Con't, and 8A-F as adopted in June 18, 1964	09/30/2019
B.11	3	Oregon Secretary of State Business Registry for Heuker Properties, Inc.	09/30/2019
B.12	1	Aerial photos taken in 2016 of subject property and vicinity	09/30/2019
B.13	1	Aerial photos taken in 2018 of subject property and vicinity	09/30/2019
B.14	1	Deed – Creating Estate in Entirety recorded in Book 834, Page 197 at some time after 1944	09/30/2019
B.15	2	Warranty Deed recorded in Book 1611, Page 513-514 on July 17, 1953	09/30/2019
B.16	1	Warranty Deed recorded in Book 1888, Page 217 on March 13, 1958	09/30/2019
B.17	1	Warranty Deed recorded in Book 2066, Page 176 on June 12, 1961	09/30/2019
B.18	1	Photo of Department of Assessment, Records and Taxation microfiche of property information from May 1, 1990	09/30/2019
B.19	1	Aerial Photo Measurement	09/30/2019
B.20	1	Good Street View Photo taken on August 2016	09/30/2019
B.21	1	Aerial Photo taken on July 18, 2017 obtained from Google	09/30/2019
<b>'C'</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	5	Agency Review and OR SHPO Submittal Form	03/14/2019
C.2	2	Incomplete Letter and Applicant's Response	03/28/2019
C.3	1	Applicant's Acceptance of 180 Day Clock	04/01/2019
C.4	1	Complete Letter (Day 1)	06/28/2019
C.5	10	Opportunity to Comment	09/30/2019
C.6	17	Administrative Decision	
<b>'D'</b>	<b>#</b>	<b>Comments Received</b>	<b>Date</b>
D.1	1	Letter dated on March 26, 2019 from Marah Danielson, Development Review Planner, Oregon Department of Transportation and Kate Wihtol, Development Review Planner, Oregon Department of Transportation	03/26/2019



D.2	1	Letter dated on March 28, 2019 from Chris Donnermeyer, Heritage Resources Program Manager, Columbia River Gorge National Scenic Area	03/28/2019
D.3	4	Letter dated on June 25, 2019 from Chris Donnermeyer, Heritage Resources Program Manager, Columbia River Gorge National Scenic Area	06/25/2019
D.4	3	E-mail correspondence dated on October 9, 2019 from Kristen Tiede, Archaeologist, Cultural Resources Protection Program, Confederated Tribes of the Umatilla Indian Reservation	10/09/2019
D.5	3	E-mail and Letter dated October 15, 2019 from Steven D. McCoy, Staff Attorney, Friends of the Columbia River Gorge	10/15/2019