

NOTICE OF NSA DECISION

Case File: T2-2019-11984

Permit: National Scenic Area Site Review

Applicant(s): Sara Grigsby

Owner(s): Sara Grigsby

Location: 37201 NE Benfield Rd, Corbett
Tax Lot 1800, Section 35A, Township 1 North, Range 4 East, W.M.
Tax Account #R944350020 Property ID#R322692

Zoning: Gorge General Agriculture – 40 (GGA-40)

Key Viewing Areas: Historic Columbia River Hwy, Columbia River, Larch Mountain Road (SMA), Larch Sherrard, State Route 14, Sandy River, and I-84

Landscape Setting: Pastoral

Proposal Summary: National Scenic Area Site Review for the proposed construction of an accessory alternative energy system (ground mount photovoltaic system) on the subject property.


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 **Friday, January 31, 2020 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 Chris Liu, Staff Planner at 503-988-2964 or at chris.liu@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:


Chris Liu, Planner

For: Carol Johnson, AICP, Planning Director

Date: Friday, January 17, 2020

Instrument Number for Recording
Purposes: #2001-038366

Vicinity Map

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Applicable Approval Criteria: Multnomah County Code (MCC):

General Provisions: MCC 38.0015 Definitions, MCC 38.0045 Submittal Requirements, MCC 38.0560 Code Compliance and Applications,

Gorge General Agriculture -40 Zone Criteria: MCC 38.2225(A)(22) Review Uses, MCC 38.2260(C) & (D) Dimensional Requirements,

National Scenic Area Review: MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 GMA Cultural Resource Criteria, MCC 38.7055 GMA Wetland Review Criteria, MCC 38.7060 GMA Stream, Lake and Riparian Review Criteria, MCC 38.7065 GMA Wildlife Review Criteria, MCC 38.7070 GMA Rare Plant Review Criteria, MCC 38.7080 GMA Recreation Resource 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. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility, development, or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
 - ii. Notification of commencement of construction will 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. [MCC 38.0690(B)(4)]

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. Within 30 days after the decision becomes final, the applicant(s), owner(s), or their representative(s) shall:
 - a. Record pages 1 through 5 and Exhibits A.17 – A.18 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 38.0670]

Note: The Planning Director may grant reasonable extensions for required recording, not to exceed an additional 30 days, in cases of practical difficulty. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision. [MCC 38.0670]

3. The property owner and their successor(s) shall ensure:
 - a. Existing tree cover screening the proposed development from key viewing areas as shown on Exhibit A.17 shall be retained. [MCC 38.7035]
 - b. The exterior of the photovoltaic system shall be painted in black matte paint. The exterior shall be maintained and re-painted when necessary to ensure the structure maintains visual subordination. These requirements shall be in place for as long as the structure is on the property. [MCC 38.7035]
4. Prior to and during construction, the property owner or their representative 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:

- 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 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).
- 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)]

All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and the Oregon State Historic Preservation Office (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. [MCC 38.7045(M)]

- 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)]

5. Within 45 days of this decision becoming final, the property owner shall plant the screening trees and shrubs as outlined in the planting plan included as Exhibit A.18. The proposed Cedar and Hemlock trees shall be between 5-10 feet high when planted and reach an ultimate height of at least 20-30 feet. The proposed Pine and Elderberry trees shall be between 3-5 feet high when planted and reach an ultimate height of at least 15-20 feet. The proposed shrubs shall be between 1-3 feet high when planted and reach an ultimate height of at least 6-12 feet.
 - a. The supplementary screening vegetation identified on the planting plan included as Exhibit A.18 (shrubs) proposed along the property line parallel to the Historic Columbia River Hwy. shall be of sufficient size to make the development visually subordinate within five (5) years or less of commencement of construction. [MCC 38.7035(B)(17)]
 - b. All present and future property owners shall be responsible for the proper maintenance and survival of screening vegetation shown and labeled on the site plan and planting plan included as Exhibit A.17 and A.18. Any of these trees damaged or destroyed by inclement weather or disease to the extent that they no longer screen the development shall be replaced with the same tree species within the next planting season. Replacement trees shall be at least 6 feet tall at the time of planting and shall be placed in the same general location. [MCC 38.7035(C)]

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 Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact Staff Planner, Chris Liu, at 503-988-2964 or chris.liu@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.

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*.

1.0 PROJECT DESCRIPTION:

Staff: National Scenic Area Site Review for the proposed construction of an accessory alternative energy system (ground mount photovoltaic system) on the subject property.

2.0 PROPERTY DESCRIPTION:

Staff: The subject property, zoned Gorge General Agriculture -40, is located on NE Benfield Road in rural East Multnomah County in the Columbia River Gorge National Scenic Area. The subject property is visible from seven (7) Key Viewing Areas, the Historic Columbia River Hwy, Columbia River, Larch Mountain Road, Larch Sherrard, State Route 14, Sandy River, and I-84. Surrounding properties are a mix of agricultural (grazing, pasture, and haying) in nature and residential.

County Tax Records note the subject property contains a single-family dwelling constructed in 1911, a detached garage, carport and farm building.

3.0 GENERAL PROVISIONS:

3.1 MCC 38.0015 Definitions – Parcel

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;**

Staff: Previous land use decisions in 2001, 2011, and 2018 approved various development projects on the subject property. These decisions found that the subject property was in compliance with all relevant provisions of Multnomah County Code (MCC) Chapter 38. Based

on these previous land use decisions, the subject property continues to be a legal parcel as the configuration has not changed since those decisions became final. *Criteria met.*

3.2 MCC 38.0045 Review And Conditional Use Applications – Submittal Requirements

(A) The following additional information shall be submitted for all review and conditional uses:

Staff: The applicant submitted the required application information as shown in Exhibits A.1 – A.19. *Criteria met.*

3.3 MCC 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...

Staff: There is an active compliance case related to non-permitted development activity on a portion of the subject property. The property owner entered into a Voluntary Compliance Agreement (VCA) with the County Code Compliance office, which allows for the sequencing of permits/reviews (Exhibit B.4). Therefore, as a VCA has been signed, the County may issue a decision on this proposal for an accessory alternative energy system (photovoltaic system).

4.0 GORGE GENERAL AGRICULTURE – 40 ZONE:

4.1 MCC 38.2225 Review Uses

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

(22) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that:

(a) For all systems:

- 1. They are not a commercial power generating facility such as a utility;**
- 2. The system meets all special district requirements;**
- 3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;**

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

Staff: MCC 38.0015 Definitions states an “**Accessory Alternative Energy System**” is “A system accessory to a primary structure or use that converts energy into a usable form such as electricity or heat, and conveys that energy to uses allowed on the premises. An Accessory

Alternative Energy System is a solar thermal, photovoltaic or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the property.”

Findings for MCC 38.7000 through MCC 38.7085 are found in sections 5.0 – 7.0 below. The applicant provided utility statements that show the power demand required for the residential use and uses accessory to the residential use occurring on the subject property (Exhibit A.19). The proposed system will compensate solely for the remaining power demand for the residential use as shown in Exhibit A.19 and will not generate additional electricity to be sold for commercial purposes. Per the proposed system details (Exhibit A.15), the photovoltaic system is ground mounted and not mounted to a roof of a building. *Criteria met.*

4.1 MCC 38.2260 Dimensional Requirements

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

Staff: As shown on the submitted site plan (Exhibit A.17), the proposed ground mount photovoltaic system will be approximately 230 feet from the front property line, approximately 390 feet from the west side property line, approximately 1078 feet from the east side property line, and approximately 437 feet from the rear property line. Per the proposed system details (Exhibit A.15), the structure is approximately 8’, 11” in height.

The County Right-of-way office did not indicate that there any areas of insufficient right-of-way width to serve the subject property (Exhibit A.9). *Criteria met.*

5.0 SCENIC REVIEW CRITERIA:

5.1 MCC 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.

(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

nearly generally means buildings within ¼ mile of the parcel on which development is proposed.

Staff: The proposed location to site the photovoltaic system is relatively flat and no grading will be necessary. The proposal includes 10 post holes that are 6 feet deep to support the photovoltaic system structure and a 26 inch deep trench from the photovoltaic system to the main house to bury the connection line (Exhibit A.17 and A.19). The proposed trench would be backfilled and the terrain restored. As shown on the proposed system details (Exhibit A.15), the photovoltaic system is approximately 9 feet in height and has a total footprint of approximately 422 feet (~32' x 13'). Therefore, the system's visible mass would be similar to that of a small storage shed.

- 5.2**
- (3) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation required where feasible.**
 - (4) Property owners shall be responsible for the proper maintenance and survival of any required vegetation.**
 - (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 subject property takes access off of NE Benfield Road. It is not one of the designated Scenic Travel Corridors. In addition, as shown on the submitted site plan and applicant narrative (Exhibit A.17 & A.19), no new access points are proposed as part of this project. Staff has made findings relative to the compatibility to the landscape setting [pastoral] in section 5.11. A condition of approval is included in this decision to ensure the proper maintenance and survival of required vegetation. *Criterion (3) and (5) met. Criteria (4) met through a condition of approval.*

- 5.3**
- (6) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms 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 for review and comment. 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:...**

Staff: The proposed project is to install and accessory alternative energy system (photovoltaic system) to support the residential use on the subject property (Exhibit A.11, A.15, A.17, and A.19). The proposed project does not include the production and/or development of mineral resources and/or expansion of existing quarries. *Criteria met.*

- 5.4**
- (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.**

(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: The subject property is topographically visible from seven (7) Key Viewing Areas (KVA) including Historic Columbia River Hwy, Columbia River, Larch Mountain Road (SMA), Larch Sherrard, State Route 14, Sandy River, and I-84. The closest KVA is the Historic Columbia River Hwy (HCRH) at approximately 223 feet from the development site. The applicant has proposed the planting plan included as Exhibit A.18, which includes a mix of trees and shrubs along the southern property line to screen development from the HCRH. The terrain to the Columbia River, State Route 14 and I-84 from the subject property falls from 700 feet to 100 feet or less in elevation over approximately 0.618 of a mile (3,261 feet). With the proposed height of the photovoltaic system at approximately 9 feet in height, the elevation drop to I-84 should make the angle of viewing of the development topographically screened. The development would be topographically visible from the Columbia River and State Route 14 to the north of the site. The topography adjacent to the site has a knoll to the northwest to screen the development from the Sandy River, Columbia River, State Route 14 and I-84 from the northwest. The property contains a large forested area to the east to screen the Larch Mountain Rd and Larch Sherrard KVAs.

The property owner consulted with the East Multnomah County Soil and Water Conservation District to determine additional native trees and scrubs for the proposed planting plan (Exhibit A.18). The proposed trees include Western Red Cedar, Western Hemlock, Austrian Pine, and Blue Elderberry. The largest trees (cedar and hemlock) will grow to a mature height of 60 feet and the smallest trees (elderberry) will grow to a mature height of 15 feet. Proposed shrubs include Red Flowering Currant, Salmonberry, and Red-osier Dogwood. Shrubs will grow to a mature height of 6-12 feet. *Through conditions, the criteria met.*

- 5.5 (3) Determination of potential visual effects and compliance with visual sub-ordinance policies shall include consideration of the cumulative effects of proposed developments.**
- (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: Per the applicants submitted application materials, the proposed photovoltaic system structure is composed of anodized aluminum painted with a black matte finish and the photovoltaic panels are black tempered glass with an anti-reflective coating (Exhibit A.11, A15, and A.19). The property owner provided a planting plan (Exhibit A.18) that proposes to plant additional vegetative screening in a zigzag pattern along the property line parallel to Historic Columbia River Hwy (Exhibit A.17 & A.19). The potential visual effect of the ground mounted photovoltaic system will be limited from the KVAs as it will be screened by proposed vegetation. *Through a condition, the criteria met.*

- 5.6** **(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.**
- (7) New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.**
- (8) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in MCC 38.7035(C).**

Staff: The proposed site for the photovoltaic system was chosen to ensure adequate sun exposure to provide energy for the residential uses on the subject property (Exhibit A.19). Portions of the property are visible from seven KVAs. The proposed location of the system is visible from State Route 14 and HCRH only. There is nowhere on the property that is completely screened from all KVAs. This proposed site is mainly visible from the Historic Columbia River Hwy. Existing screening trees on site will be retained and the property owner will plant additional vegetative screening in a zigzag pattern along the property line parallel to the Historic Columbia River Hwy per the proposed planting plan. (Exhibit A.17 – A.19). Through the existing screening vegetation and the proposed new plantings, the property owner will be able to comply with the visual subordination requirements. A condition of approval is included requiring that existing screening vegetation be retained. *Criteria met through a condition of approval.*

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

Staff: No grading activities or other ground disturbance requiring cut banks or fill slopes are proposed as part of this photovoltaic system project (Exhibit A.1 – A.19). Ground disturbance is limited to 10 post holes for the frame and a trench to connect the photovoltaic panels to the dwelling's electrical system. *Criterion met.*

- 5.8** **(10) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective 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

(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 non-reflective, opaque materials.

(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 photovoltaic system is not a building and does not utilize any exterior lighting (Exhibit A.11, A.15, and A.19). The proposed photovoltaic system structure utilizes anodized aluminum painted with a black matte-finish and the photovoltaic panels are black tempered glass with an anti-reflective coating (Exhibits A.11, A.15, and A.19). A condition of approval is included to ensure that the property owner paints the proposed ground mount photovoltaic system structure in black matte-finish and maintains the coating. *Criteria met through a condition of approval.*

5.9

(17) The following standards shall apply to new landscaping used to screen development from key viewing areas:

- (a) New landscaping (including new earth berms) shall be required only when there is no other means to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.**
- (b) If new landscaping is required, it shall be used to supplement other techniques for achieving visual subordination.**
- (c) Vegetation planted for screening purposes shall be of sufficient size to make the development visually subordinate within five years or less of commencement of construction.**
- (d) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicant. The property owner(s), and their successor(s) in interest are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.**
- (e) The Scenic Resources Implementation Handbook includes recommended species for each landscape setting consistent with MCC 38.7035(C) and the minimum recommended sizes for tree plantings (based on average growth rates expected for recommended species).**

(18) Conditions regarding new landscaping or retention of existing vegetation for new developments on land designated GMA Forest shall meet both scenic guidelines and the fuel break requirements of MCC 38.7305(A).

Staff: The proposed location was chosen as it would be on a portion of the property that is topographically visible from the least amount of KVAs. After evaluating alternative locations on the subject property, the proposed location was chosen as it will maximize the available sunlight on the property and take advantage of existing tree covering to reduce the amount of necessary new landscaping. The proposed supplementary trees and shrubs are necessary to ensure the development is visually subordinate (Exhibit A.17 – A.19). Black matte finish paint will be utilized to paint the exterior of the photovoltaic system and the black glass photovoltaic panels will contain an anti-reflective coating (Exhibit A.11, A.15, and A.19). A condition of approval is included ensuring that the proposed plantings utilized for screening purposes shall be of sufficient size to make the development visually subordinate within five years or less of commencement of construction. The subject property is located in the GGA-40 Zone. The fuel break standards of MCC 38.7305(A) are not applicable. A condition of approval is included that ensures the property owner and all future owners are responsible for the proper maintenance, survival, and replacement of the proposed screening vegetation included as Exhibit A.18. *Criteria met through a condition of approval.*

5.10 MCC 38.7035(B):

(5), (13), (14), (15), (16), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29)

Staff: The proposed development is a photovoltaic ground mount system. It does not involve mining nor a building or addition to a building. The proposed system is a new system and does not involve historic structures. Therefore, the above criteria do not apply to this application, as the applicant proposes none of the activities referenced in these criteria. See Exhibits A.1 – A.19.

5.11 MCC 38.7035 (C):

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

(1) Pastoral

(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.

(b) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance 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, bigleaf 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. (c) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature, occurring infrequently in the landscape.

Staff: The proposed location of the photovoltaic system is the minimum distance necessary from the residential structures to allow adequate sunlight for the system (Exhibit A.17 & A.19). Per the site plan included as Exhibit A.17, the applicant does not propose to remove any existing trees on the subject property. The applicant proposes to plant additional vegetative screening landscaping in a zigzag pattern along the property line parallel to the Historic Columbia River Hwy. (Exhibit A.17 – A.19). Per the planting plan included as Exhibit A.18, ½ of the proposed trees will be native and ½ will be coniferous. The location of the proposed row of trees and shrubs along the property line parallel to the Historic Columbia River Hwy. maintains the maximum open pastoral areas to continue to maintain the open character of the existing fields. A condition of approval is included to ensure the property owner utilizes the required amount of native and coniferous trees per the planting plan included as Exhibit A.18. *Criteria met through a condition of approval.*

6.0 CULTURAL RESOURCE REVIEW CRITERIA:

6.1 MCC 38.7045 GMA Cultural Resource Review Criteria

(A) Cultural Resource Reconnaissance Surveys Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.

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

(2) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resources, including those listed above in MCC 38.7045 (A) (1) (a) through (f). The location of known cultural resources are shown in the cultural resource inventory.

(3) The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.

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

Staff: The US Forest Service provided a cultural resources survey determination (Exhibit B.2) stating that a cultural resource reconnaissance survey was not required and that a historic survey was not required. The State Historic Preservation Office provided a letter stating that archaeological sites are not known to exist within the proposed project location (Exhibit B.3).

The Tribal Governments did not provide comments requiring a reconnaissance or historic survey. *Criteria met.*

6.2 (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).

(2) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this standard, a reasonable buffer zone must be established around the affected resources or properties; all ground disturbing activities shall be prohibited within the buffer zone.

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

Staff: The US Forest Service provided a cultural resources survey determination indicating that no cultural resources are known to exist in the project area (Exhibit B.2). The Tribal Governments and the US Forest Service did not provide substantiated comment during the Opportunity to Comment period. A condition of approval is included to ensure that the project complies with MCC 38.7045 (L) and (M) in the event cultural resources are discovered during the construction process. *Criteria met through a condition of approval.*

7.0 ADDITIONAL SCENIC REVIEW APPROVAL CRITERIA:

7.1 MCC 38.7055 GMA Wetland Review Criteria

(A) The wetland review criteria shall be deemed satisfied if:

(1) The project site is not identified as a wetland on the National Wetlands Inventory (U.S. Fish and Wildlife Service, 1987);

(2) The soils of the project site are not identified by the Soil Survey of Multnomah County, Oregon (U.S.D.A. Soil Conservation Service, 1983) as hydric soils;

(3) The project site is adjacent to the main stem of the Columbia River.

(4) The project site is not within a wetland buffer zone; and

(5) Wetlands are not identified on the project site during site review.

Staff: Per available County maps, the U.S. Fish and Wildlife Service does not identify the project site as a wetland. Staff mailed an Agency Review to our partner agencies as well as a general Opportunity to Comment (Exhibit C.1 & C.5). No agency identified the subject property as containing hydric soils, within a wetland buffer zone, or as a wetland. *Criteria met.*

7.2 MCC 38.7060 GMA Stream, Lake and Riparian Area Review Criteria

(A) The following uses may be allowed in streams, ponds, lakes and riparian areas, and their buffer zones, when approved pursuant to the provisions of MCC 38.0045, MCC 38.7060 (C), and reviewed under the applicable provisions of MCC 38.7035 through 38.7085:

Staff: Per available County maps, the subject property contains a stream on the eastern edge. The proposed photovoltaic system is outside of the 100 ft. buffer area and is approximately 600 ft. from the stream. *Criteria met.*

7.3 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).

Staff: Per available County maps, the subject property is not within 1,000 feet of a sensitive wildlife area or sensitive wildlife site. *Criteria met.*

8.0 PUBLIC COMMENT:

8.1 Comments received from neighbor Andy Schwartz.

Staff: Comments included in the case record. Schwartz had concerns related to the proposed materials for the system and the quantity/quality of proposed vegetation.

8.2 Comments received from neighbor Shelley Benfield.

Staff: Comments included in the case record. Benfield does not support the project; however, Benfield did not cite any specific applicable approval criteria.

8.3 Comments received from Friends of the Columbia River Gorge, submitted by Attorney Steven McCoy.

Staff: Comments included in the case record. The Friend's noted applicable approval criteria for the proposal.

9.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the National Scenic Area Site Review to establish the proposed Accessory Alternative Energy system (Ground Mounted Photovoltaic System) in the GGA-40 zone. This approval is subject to the conditions of approval established in this report.

10.0 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

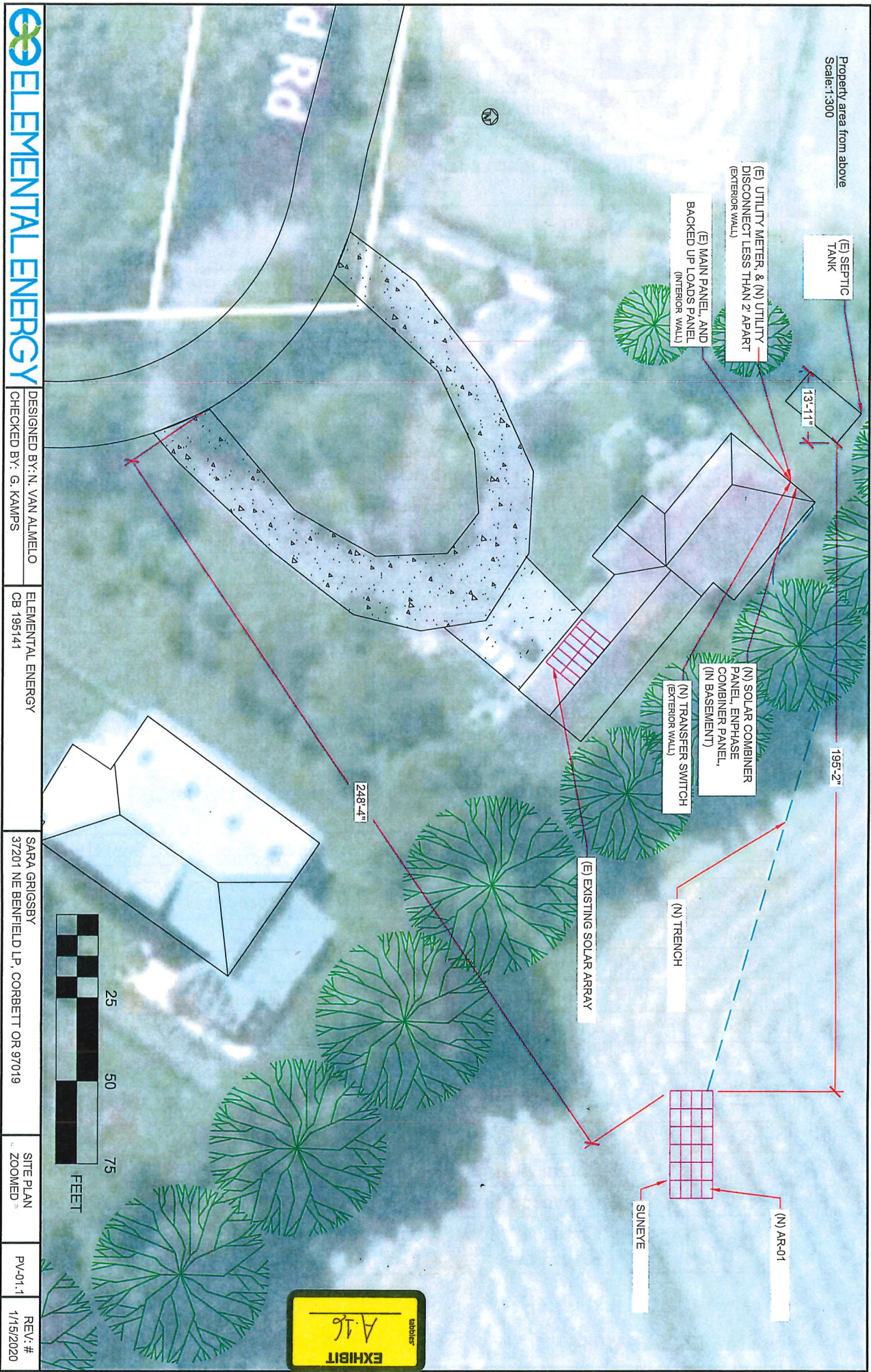
'D' Comments Received

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 T2-2019-11984 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	NSA Application Form	05.22.2019
A.2	6	Narrative	05.22.2019

A.3	2	Site Plan	05.22.2019
A.4	4	Voluntary Compliance Agreement	05.22.2019
A.5	4	Ground Mount Layout and Details	05.22.2019
A.6	5	Information from Land Use Case no. T2-2011-2047 approving a roof mounted accessory alternative energy production system.	05.22.2019
A.7	4	Fire Service Agency Review	05.22.2019
A.8	5	Septic Review Certification	05.22.2019
A.9	8	Transportation Planning Memorandum for EP 2019-11386	05.22.2019
A.10	9	Revised Narrative	09.24.2019
A.11	2	Specification Sheet for Silfab 60 Cell PV Module	09.24.2019
A.12	4	Revised Ground Mount Layout and Details	09.24.2019
A.13	1	Revised Site Plan (To-scale)	09.27.2019
A.14	1	Revised Site Plan (Zoomed)	09.27.2019
A.15	4	Final Revised Ground Mount Layout and Details	01.15.2020
A.16	1	Final Revised Site Plan (Zoomed)	01.15.2020
A.17	1	Final Revised Site Plan (To-scale)	01.15.2020
A.18	2	Planting Plan	01.15.2020
A.19	9	Final Revised Narrative	01.15.2020
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records, and Taxation (DART) Property Information for 1N4E35A -01800	05.23.2019
B.2	2	Cultural Resources Survey Determination completed by the US Forest Service	05.29.2019
B.3	1	Letter from The Oregon State Historic Preservation Office (SHPO) Archaeologist	06.19.2019
B.4	4	Voluntary Compliance Agreement for case UR-2018-9981	12.20.2019
'C'	#	Administration & Procedures	Date
C.1	4	Agency Review	05.28.2019
C.2	3	Incomplete Letter	06.20.2019
C.3	1	Applicant's Acceptance of 180 Day Clock	07.16.2019
C.4	1	Complete Letter (Day 1)	09.27.2019
C.5	7	Opportunity to Comment	10.22.2019
C.6	17	Administrative Decision	01.16.2020
'D'	#	Comments Received	Date
D.1	2	Comments from neighbor Andy Schwartz	10.30.2019
D.2	1	Comments from neighbor Shelley Benfield	11.05.2019
D.3	6	Comments from Steven McCoy, Friends of the Columbia River Gorge	11.05.2019

Property area from above
Scale: 1:300



	DESIGNED BY: N. VAN ALMELO	ELEMENTAL ENERGY	SARA GRIGSBY	SITE PLAN	REV: #
	CHECKED BY: G. KAMPS	CB 195141	37201 NE BENFIELD LP, CORBETT OR 97019	ZOOMED	1/15/2020

EXHIBIT
A-16

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- PROJECT NOTES:**
1. 7.440 KW DC, 6.960 KW AC SOLAR PHOTOVOLTAIC SYSTEM
 2. GROUND MOUNTED ARRAY AT 35° PITCH.
 3. CONSTRUCTION FOREMAN TO CONFIRM FINAL CONDUIT RUN PLACEMENT WITH CUSTOMER.
 4. CONTACT: JOHN GRIESER PHONE: 503-967-5786
 5. DESIGN CRITERIA:

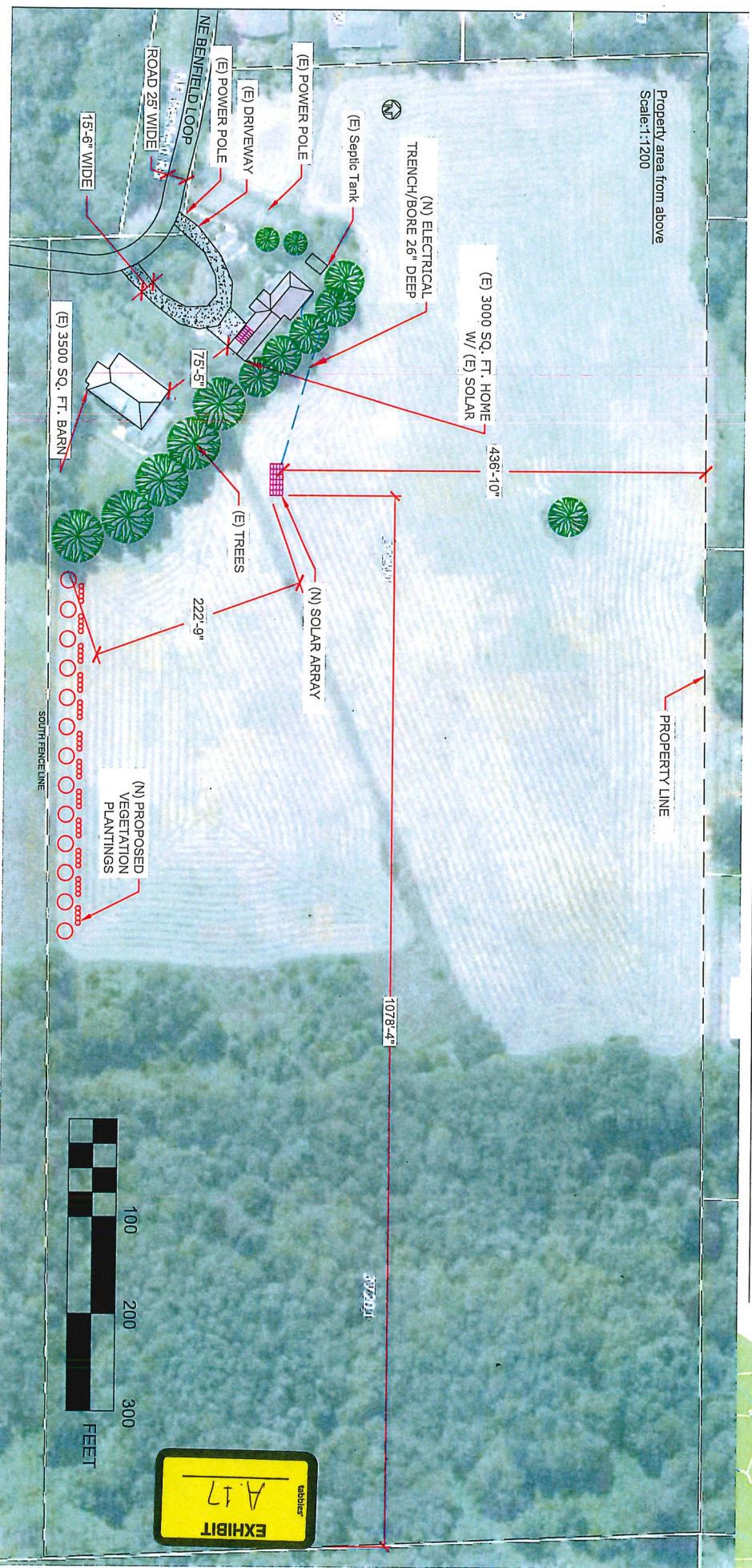
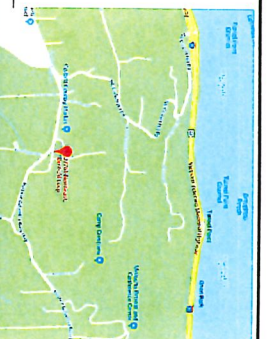
SYSTEM TILT AND ORIENTATION		
ARRAY	PITCH	ORIENTATION
AR-01	30°	180°

OSSC 3111

TOTAL PV ARRAY AREA: 421.44 FT²

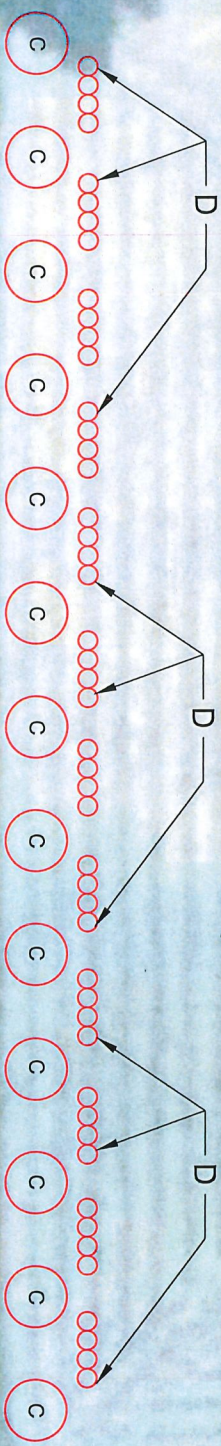
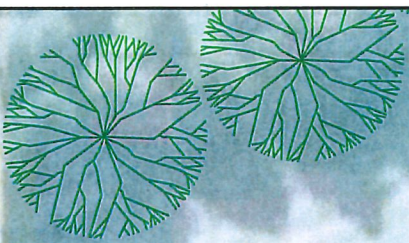
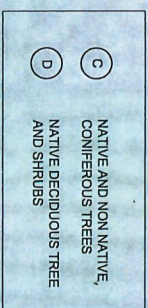
JAN 15 2020

TABLE OF CONTENTS	
PAGE #	DESCRIPTION
PV-01	SITE PLAN
PV-01.1	SITE PLAN ZOOMED
PV-02	RACKING LAYOUT
PV-03	RACKING DETAIL
PV-04	SINGLE LINE DIAGRAM
PV-05	SYSTEM PLACARDS



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NOTE: FOR MORE
DETAILED INFORMATION
REFER TO PLANTING
PLAN



SOUTH FENCE LINE



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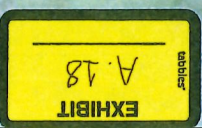
ELEMENTAL ENERGY
CB 195141

SARA GRIGSBY
37201 NE BENFIELD LP, CORBETT OR 97019

PLANTING PLAN

PV-01.2

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Planting Plan

for screening along south fence line for key viewing area, Historic Columbia River Hwy.
Sara Grigsby 37201 NE Benfield Road, Corbett OR 97019

South Fence line

NCT CT NCT CT NCT CT NCT CT NCT CT
NDT NDS NDT NDS NDT NDS NDT NDS NDT NDS

GLOSSARY

- NCT – Native Coniferous Tree
- CT – Coniferous Tree, non-native
- NDT – Native Deciduous Tree
- NDS – Native Deciduous Scrub

General Plan Features

- Following guidelines and recommendations from Scenic Resources Implementation Handbook provided by MC Land Use
- At least 1/2 native trees and scrubs and 1/2 conifers
- Assuring year round screening to Historic Highway
- Appropriate trees and scrubs species for the Western Gorge conditions of soil, wind and weather.
- Planted and staked to withstand wind until successfully established
- Watering and/or irrigating to assure survival
- Replacement of plants if they don't survive

Selected Species and Specifications*

Category	Species	Mature Height	Mature Spread	Height when planted	Distance apart to plant
Native Conifers	Western Red Cedar	60 feet	60 feet	5-10 feet	30 feet
	Western Hemlock	60 feet	45 feet	5-10 feet	20 feet
Non Native Conifer	Austrian Pine	40 feet	30 feet	3-5 feet	8 feet
Deciduous Trees	Blue Elderberry	15 feet	10 feet	3-5 feet	5 feet
Deciduous Scrubs	Red Flowering Currant	12 feet	6 feet	1-3 feet	3 feet
	Salmonberry	6 feet	5 feet	1-3 feet	3 feet
	Red-osier Dogwood	6 feet	8 feet	1-3 feet	3 feet

*Plant selections will be made from this list of trees and scrubs, meeting minimum standards for 1/2 natives and 1/2 coniferous



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PLACARDS

PV-5.1

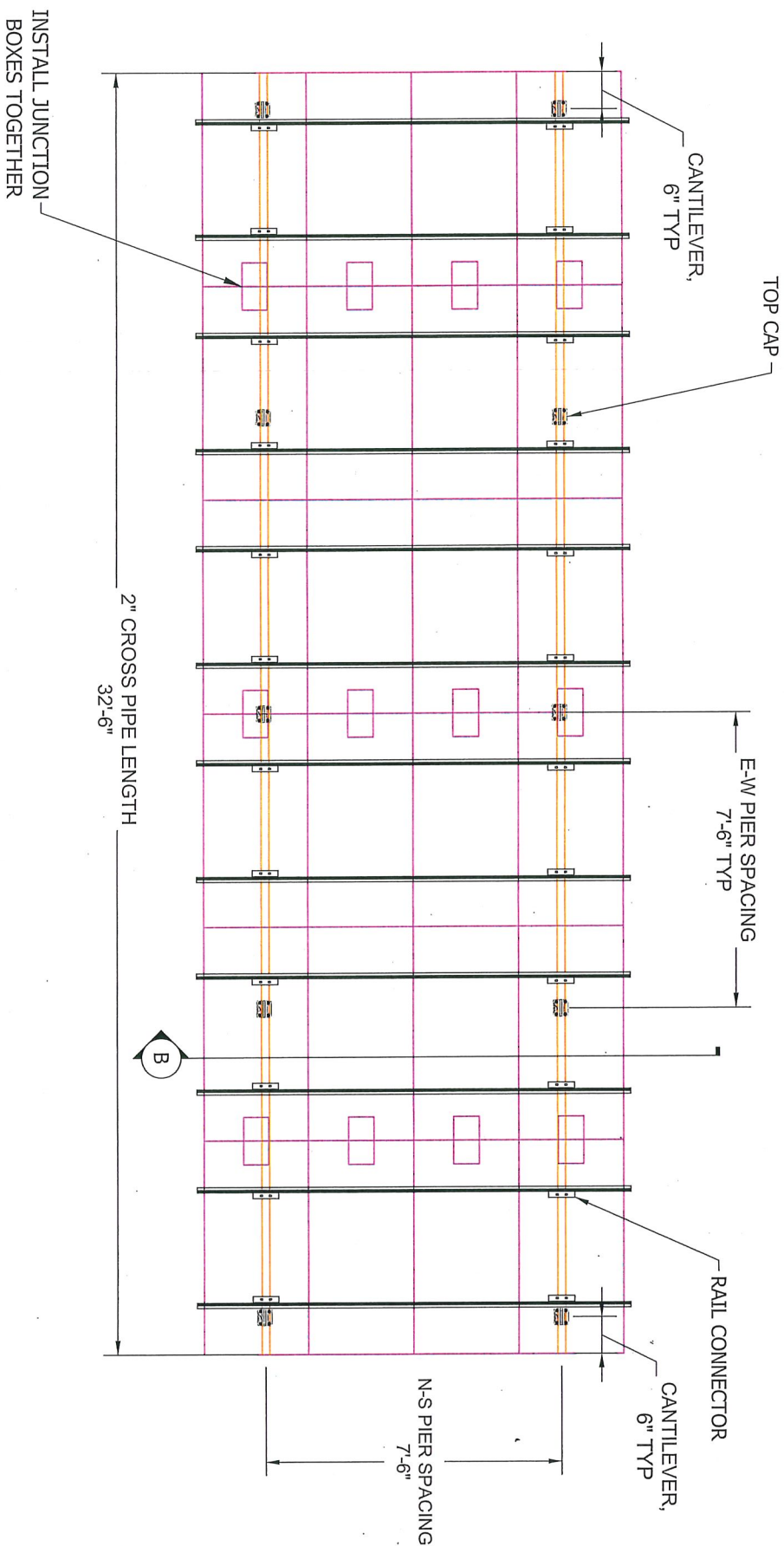
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1 5 2020

RACKING AND ATTACHMENT LAYOUT
Scale: 3/8" = 1'-0"

(6) NORTH POSTS
(6) SOUTH POSTS
(10) TOTAL FOUNDATIONS

RECEIVED
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RACKING
LAYOUT

PV-02

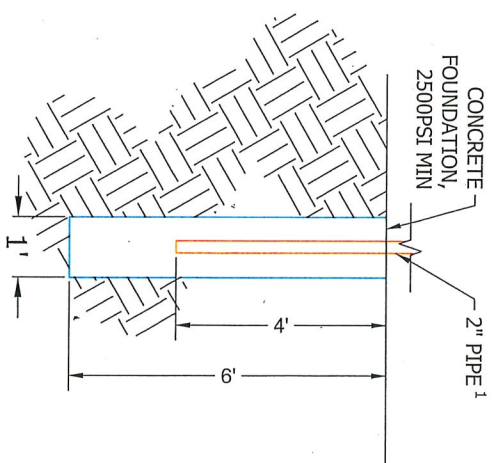
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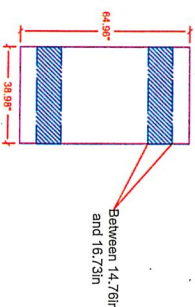
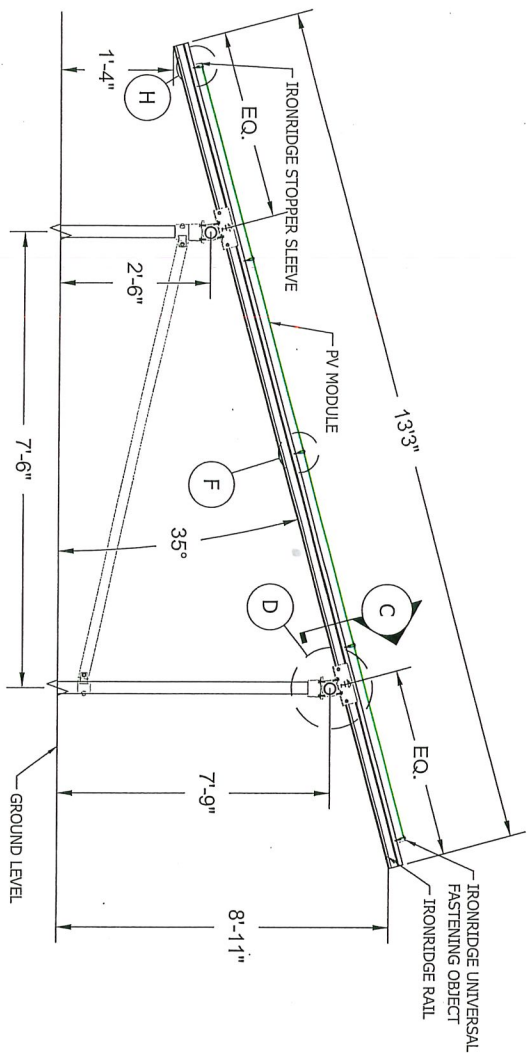
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GROUND MOUNT DETAILS

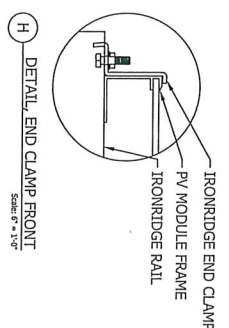
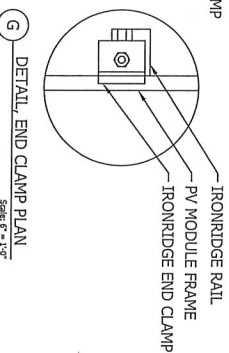
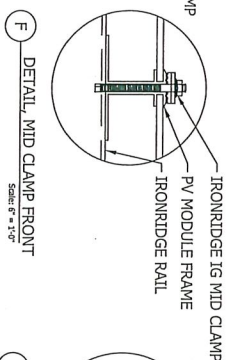
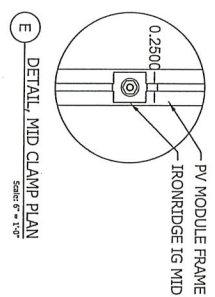
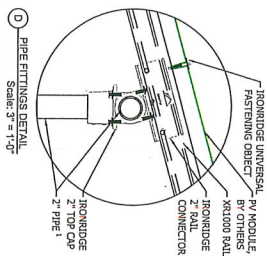
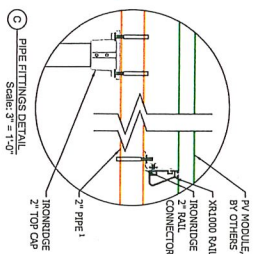
FOUNDATION DETAIL NTS.



ELEVATION VIEW
Scale: 1/2" = 1'-0"



MODULE MOUNTING LOCATIONS (PORTRAIT)



 ELEMENTAL ENERGY

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ELEMENTAL ENERGY
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RACKING DETAILS

PV-

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