
NOTICE OF NSA DECISION

Case File: T2-2020-13302

Permit: National Scenic Area Site Review

Applicant(s): Barbara Liles & James Morgan **Owner(s):** Barbara Liles & James Morgan

Location: 34002 NE Mershon Rd., Corbett
Tax Lot 100, Section 33, Township 1 North, Range 4 East, W.M.
Alternative Account #R944331130 Property ID #R322597

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

Key Viewing Areas: Columbia River; Historic Columbia River Hwy.; Larch Mt. Road, PDX
Women’s Forum; SR-14

Landscape Setting: Rural Residential in Pastoral

Proposal Summary: Replace an existing single-family dwelling and retroactive review of a greenhouse. The subject property contains two existing single-family dwellings; the dwelling to be replaced is on the corner of E. Bell Rd. and NE Mershon Rd.

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, September 4, 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. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or 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 503-988-3043. This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

Issued By: Digitally signed by Chris Liu
Date: 2020.08.19 07:15:46 -07'00'
Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, August 21, 2020

Instrument Number for Recording
Purposes: #2019-014438



Applicable Approval Criteria:

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

Multnomah County Code (MCC):

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

GGA-40 Zone: MCC 38.0030 Existing Use, (B) Replacement of Existing Uses, MCC 38.0060 Agricultural Buffer Zones, MCC 38.2225(A)(3) Agricultural Buildings in conjunction with current agricultural use, MCC 38.2260 Dimensional Requirements

NSA Site Review: MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 GMA Cultural Resource Review Criteria, MCC 38.7055 GMA Wetland Review Criteria, MCC 38.7060 GMA Stream, Lake and Riparian Area Review Criteria, MCC 38.7065 GMA Wildlife Review Criteria, MCC 38.7070 GMA Rare Plant Review Criteria, MCC 38.7080 GMA Recreation Resource Review Criteria, MCC 38.7340 Agricultural Buildings

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 Exhibit B.5 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. Prior to land use sign-off for building plans, the property owners or their representative shall:

- a. Remove the two greenhouses identified for removal in this application from the subject property. Any tarp used on the remaining greenhouse shall be brown in color.
4. Cultural Resources Discovered After Construction Begins: The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.
 - (1) Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
 - (2) Notification – The project applicant shall notify the Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.
 - (3) 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 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).
 - (a) The Planning Director shall, based on the survey and evaluation report and any written comments, make a final decision within 10 days of the receipt of the report of the Gorge Commission on whether the resources are significant.
 - (b) The Planning Director shall require a Mitigation Plan if the affected cultural resources are found to be significant.
 - (c) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B).
 - (d) The decision of the Planning Director shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B). Construction activities may recommence if no appeal is filed.
 - (4) Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may recommence when the conditions in the mitigation plan have been executed.
5. Discovery of Human Remains: The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.
 - (1) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - (2) Notification – Local law enforcement officials, the Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

(3) Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(4) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.

(5) Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760.

(a) If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report standards of MCC 38.7045 (I).

(b) The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed.

6. As an ongoing condition, the property owner and all future property owners shall:
- a. Maintain the existing vegetation identified in Exhibit B.5 in living condition and shall replace any dead or damaged vegetation. [MCC 38.7035(A)(4)].



- b. If the tenant farmer ceases to use the agricultural greenhouse for plant propagation purposes for a period of 1 year, the greenhouse shall be removed from the property immediately. The greenhouse is not authorized for use for equipment storage associated with the on-site farm uses. [MCC 38.0030]
7. Prior to occupancy of the replacement dwelling, the 1931 single-family dwelling shall be demolished and all materials removed from the property. [MCC 38.0560 and MCC 38.0030(B)].

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 call 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 the City of Portland, Bureau of Development Services, On-site Sanitation via e-mail septic@portlandoregon.gov or by phone at 503-823-6892 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.
4. Contact Staff Planner, Chris Liu, at 503-988-2964 or chris.liu@multco.us, for instructions on scheduling 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 may 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 may be collected and 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 & PROPERTY DESCRIPTION:

Staff: The Applicants propose to replace one of two existing single-family dwellings on the property identified as 1N4E33 -00100 (the “subject property”). The existing dwelling proposed for removal was built in 1931 and is located at the intersection of NE Mershon Road and E Bell Road. Access for the replacement single-story 1,770 +/- sq. ft. single-family dwelling will be from NE Mershon Road and it will be located parallel to NE Mershon Road. The anticipated replacement dwelling was assigned the address 34002 NE Mershon Road per land use case no. T1-2020-13201. A 20 ft. x 50 ft. greenhouse is included in this site review and said greenhouse will be positioned near the farm use occurring in the northeastern portion of the subject property.

The subject property is approximately 17.51 acres, located in the Columbia River Gorge National Scenic Area and zoned GGA-40. Current farm use on the subject property includes the growing and harvesting of cut flowers. A replacement dwelling of 3,466 sq. ft. was previously authorized via case no. T2-2017-8140 & EP-2017-5560; however, that decision was not acted upon. The current application seeks approval for a smaller footprint replacement dwelling and greenhouse as noted above.

2.0 PUBLIC COMMENT:

2.1 Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 38.0530 as Exhibited in C.3. Staff did not receive any public comments during the 14-day comment period.

3.0 GENERAL PROVISIONS:

3.1 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.

(A) A permit or other approval, including building permit applications, may be authorized if:

Staff: The subject property contains three non-permitted greenhouses. This application seeks to approve one of the greenhouses and remove the other two. Staff is not aware of any other compliance issues on the subject property at this time. *Criteria met.*

3.2 MCC 38.0015 Definitions

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.

Staff: Land Use case no. T2-2017-8140 found that the 17.51 acres subject property was a legal parcel in the configuration noted at that time. The subject property remains in the same configuration as noted in T2-2017-8140. Therefore, the subject property is a legal parcel in its current configuration. *Criteria met.*

3.3 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 information as Exhibits A.1 – A.18. *Criteria met.*

4.0 GGA-40 ZONE CRITERIA:

4.1 MCC 38.0030 Existing Uses

(A) **Right to Continue Existing Uses and Structures:** Any existing use or structure may continue so long as it is used in the same manner and for the same purpose, except as otherwise provided.

(B) **Replacement of Existing Structures Not Damaged or Destroyed by Disaster:** Except as provided in (C) below, an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

(1) The replacement structure shall be used in the same manner and for the same purpose as the original structure.

(2) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

(3) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources provisions; the treaty rights provisions; and the land use designations provisions involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

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

Staff: As per the Applicants narrative, the subject property contains two occupied existing single-family dwellings. The larger of the two dwellings was constructed in 1941 and the smaller dwelling that the Applicants seek to replace was constructed in 1931. An approximately 1,770 sq. ft. new single-family dwelling will replace the 1931 dwelling (Exhibit A.11 – A.12). The Applicants propose to site the replacement dwelling in a different location on the property to take access from NE Mershon Road. As a result, a new septic system will be installed to serve the replacement dwelling. No changes to the 1941 dwelling are proposed as part of this application. No additional dwellings are proposed or authorized. All applicable provisions noted in (3) above are reviewed in the sections below. *Criteria met.*

4.2 MCC 38.0060 Agricultural Buffer Zones

All buildings, as specified, shall satisfy the following setbacks when proposed to be located on a parcel which is adjacent to lands designated GGA- 20 or GGA- 40:

Type of Agriculture	Type of Buffer		
	Open or fenced	Natural or created vegetation barrier	8 foot berm or terrain barrier
Orchard	250'	100'	75'
Row crops/ Vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

(A) Earth berms may be used to satisfy, in part, the setbacks. The berm shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to appear natural. Shrubs, trees and/or grasses shall be employed on the berm to control erosion and achieve a finished height of 15 feet.

(B) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback standards. Trees shall be at least 6 feet high when planted and reach an ultimate

height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

(C) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

(D) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

(E) A variance to buffer setbacks may be granted upon a demonstration that the standards of MCC .0065 have been satisfied.

Staff: Adjacent properties to the north and west of the proposed replacement dwelling are zoned GGA-20 and GGA-40. Per the submitted site plan (Exhibit A.6), the distance between the proposed replacement dwelling and the properties to the north is approximately 150 feet. There is approximately 45 to 60 feet of mature conifers between the proposed dwelling and NE Mershon Road. No additional plantings are necessary nor is a variance necessary to meet the buffer setbacks to the north. The distance between the proposed replacement dwelling and the properties to the west is approximately 105 feet. As the properties to the west are in pasture, the proposed setback meets the minimum requirement of 100 feet. Properties to the south are not within the National Scenic Area. *Criteria met.*

4.3 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:

(3) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

Staff: Tenant farmers farm approximately 12 acres of the subject property currently. Farming primarily consists of cut flowers. The tenant farmers placed three (3) 20 feet x 50 feet x 10 feet plastic covered hoop greenhouses in the northeastern portion of the property to grow plant starts. The property owner proposes to remove two (2) of the greenhouses to ensure only a single greenhouse remains on the subject site. Findings for MCC 38.7340 are in Section 5.21 of this decision. Findings relative to the NSA Site Review standards of MCC 38.7000 – 38.7085 are in sections below. *Criteria met.*

4.4 MCC 38.2260 Dimensional Requirements

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet

Staff: Per the site plan submitted as Exhibit A.6, the proposed replacement dwelling is 110 feet from the northern property line, 105 feet from the western property line, 510 feet from the southern property line, and approximately 840 feet from the eastern property line. The proposed greenhouse is 100 feet from the northern property line, 720 feet from the western property line, 420 feet from the southern property line, and 200 feet from the eastern property line. Per the proposed elevations submitted as Exhibit A.12, the maximum height is 24 feet. *Criteria met.*

5.0 NATIONAL SCENIC AREA (NSA) SITE 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.

Staff: The topography in the location of the dwelling is relatively flat with a maximum slope of 10 percent. The replacement dwelling will utilize an existing driveway for 140-ft. from NE Mershon Road and a new 40-ft. section of driveway leading to the attached garage (Exhibit A.6). Minimal grading is necessary to construct the driveway extension, foundation for the dwelling, and installation of the septic system. No changes to the existing topography were necessary to construct the 20 feet x 50 feet x 10 feet greenhouse. *Criterion met.*

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

Staff: The proposed dwelling and attached garage will be 1,770 square feet with a second-story above the attached garage (Exhibit A.11 & A.12). Staff reviewed the following properties within the immediate area to determine the size of existing dwellings in the area.

Address	Stories	Square Footage
<i>Proposed Dwelling</i>	2	1,770
34101 NE Bell Rd (2 nd dwelling on-site)	1	608
34000 NE Mershon	2	882
33500 NE Mershon	2	2,096
33730 NE Mershon	1	3,357
33601 NE Mershon	1	2,884

33921 NE Mershon	2	1,468
34043 NE Mershon	1	1,372
34001 NE Mershon	1	938
34101 NE Mershon	2	2,112
33404 NE Mershon	2	2,890
33333 NE Mershon	2	2,982
34251 NE Mershon	2	4,056

The average size of the dwellings reviewed in the above table is approximately 2,109 sq. ft. The proposed 1,770 sq. ft. dwelling with attached garage is below the average size in the neighborhood within the boundaries of the National Scenic Area. Properties to the south of the proposed dwelling are not within the National Scenic Area and not evaluated in the dwelling comparisons. The proposed dwelling with attached garage is compatible with the general scale of dwellings in the National Scenic Area within the immediate area. *Criterion met by the proposed dwelling.*

The tenant farmer requires a single 20 ft. x 50 ft. x 10 ft. greenhouse for plant propagation. Staff agrees that a single greenhouse of such size is adequate and appropriate for the scale of the farm use occurring on the subject property. See Section 5.21 for further discussion regarding the farm use occurring on the subject property. A condition of approval (condition no. 3) is included in this decision requiring the removal of the additional two greenhouses located on the subject property. *As conditioned, this criterion is met.*

5.3 (3) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation required where feasible.

Staff: The subject property has road frontage on NE Mershon Road and E. Bell Road. Neither of these public right-of-ways are Scenic Travel Corridors. *Criterion met.*

5.4 (4) Property owners shall be responsible for the proper maintenance and survival of any required vegetation.

Staff: The applicant will maintain and enhance the existing natural vegetation, including the forested area on the northern and eastern boundaries of the subject property. The image below identifies the above referenced areas of existing vegetation on the subject property (Exhibit B.5). A condition of approval (condition no. 6) is included in this decision requiring the property owner and all future owners to maintain and ensure the survival of the existing vegetation. *As conditioned, this criterion is met.*



5.5 (5) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

Staff: The findings for compatibility with the landscape setting are based on information submitted in the site plans included as Exhibit A.6. & A.7. See Section 5.8 – 5.10 for findings of compliance with the landscape setting criteria. *Criterion met.*

5.6 MCC 38.7035(A)(6) – (A)(7)

Staff: The above criteria do not apply, as the application does not involve the production and/or development of mineral resources.

5.7 (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:

Staff: The subject property is topographically visible from the Columbia River, Historic Columbia River Highway, and Larch Mountain Road. Although the subject property is topographically visible from Key Viewing Areas, the project site is not visible from such areas as evidenced by County Maps (Exhibit A.5). Because the project site is not topographically visible from Key Viewing Areas, the requirements of Section (B) are not applicable. *Criteria not applicable.*

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

(4) Rural Residential in Conifer Woodland or Pastoral

(a) New development in this setting shall meet the design standards for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral or Coniferous Woodland), unless it can be

demonstrated that compliance with the standards for the more rural setting is impracticable. Expansion of existing development shall comply with this standard to the maximum extent practicable.

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

(c) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

Staff: Section 5.9 – 5.10 discusses the design standards for both the Rural Residential setting and Pastoral setting. There are no proposed or existing recreation uses on the project site. *Criteria met.*

5.9 (3) Rural Residential

(a) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(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. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.
3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(c) Compatible recreation uses include should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks) may be allowed.

Staff: A condition of approval (condition no. 6) requiring the existing tree cover to be retained (Exhibit B.5) is included in this decision. The proposed replacement dwelling will be located on a portion of the subject site that is not topographically visible from Key Viewing Areas. There are no proposed or existing recreation uses on the project site. *As conditioned, the above criteria are met.*

5.10 (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 one greenhouse proposed to remain on the subject site is clustered within the existing farm use in the northeast portion of the property (Exhibit A.6 & A.7). All existing tree cover screening the development from Key Viewing areas will remain per a condition of approval (condition no. 6) included in this decision. No additional plantings or landscaping will be necessary. The subject site does not have any recreation uses and no such uses are proposed. *As conditioned, the above criteria are met.*

5.11 (D) All Review Uses and Conditional Uses within scenic travel corridors:

(1) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Historic Columbia River Highway and I- 84.

(2) All new buildings and alterations to existing buildings, except in a GGRC, shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to MCC 38.0065. All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

(3) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway

except in a GGRC, shall comply with subsection (2) above to the maximum extent practicable.

(4) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(a) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;

(b) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable standards to protect the resources.

Staff: The subject site is less than 50 feet from the Historic Columbia River Highway (“HCRH”), a designated scenic travel corridor. The proposed replacement single-family dwelling is approximately 1000 feet from the HCRH and the proposed greenhouse is approximately 510 feet from the HCRH (Exhibit A.6). No expansion of an existing building or parking lot nor work within the public right-of-way are proposed as part of this application.
Criteria met.

5.12 MCC 38.7035(D)(5), (D)(6), and (D)(7)

Staff: The above criteria are not applicable, as the proposal does not involve any of the uses noted in the aforementioned sections. *The above criteria are not applicable.*

5.13 MCC 38.7045 GMA Cultural Resource Review Criteria

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

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

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

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

Staff: The USDA Forest Service provided a Cultural Resources Survey Determination stating “A Cultural Resource Reconnaissance Survey is: Not Required” and “A Historic Survey is: Not Required” (Exhibit B.3). The Determination further states that a historic survey completed in 2016 found that the house to be replaced is “Not eligible” for the National Register of Historic

Places. Oregon State Historic Preservation Office concurred with this determination (Exhibit B.4). Section 5.14 – 5.15 below contain findings for MCC 38.7045(L) and (M). *Criteria met.*

5.14 (L) Cultural Resources Discovered After Construction Begins The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

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

(2) **Notification** – The project applicant shall notify the Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(3) **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 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).

(a) The Planning Director shall, based on the survey and evaluation report and any written comments, make a final decision within 10 days of the receipt of the report of the Gorge Commission on whether the resources are significant.

(b) The Planning Director shall require a Mitigation Plan if the affected cultural resources are found to be significant.

(c) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B).

(d) The decision of the Planning Director shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B). Construction activities may recommence if no appeal is filed.

(4) **Mitigation Plan** – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may recommence when the conditions in the mitigation plan have been executed.

Staff: The above criteria are included as a condition of approval (condition no. 4) in this decision. *As conditioned, the above criteria are met.*

5.15 (M) Discovery of Human Remains The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction.

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

(1) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(2) Notification – Local law enforcement officials, the Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

(3) Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(4) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.

(5) Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760.

(a) If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report standards of MCC 38.7045 (I).

(b) The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed.

Staff: The above requirements are included as a condition of approval (condition no. 5) in this decision. *As conditioned, the above criteria are met.*

5.16 MCC 38.7055 GMA Wetland 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: The project site is not on the National Wetland Inventory Maps. The soils on the site are classified as 27B and 27C, which indicate Mershon silt loam. Such soils are not hydric. The project site is not adjacent to the main stem of the Columbia River, is not within an identified wetland, and no wetlands were identified during the site review process. *Criteria met.*

5.17 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: No lakes, streams, or riparian areas exist on the subject property. *Criterion met.*

5.18 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: Staff did not receive any comments from partner agencies indicating that the project was within 1,000 feet of a sensitive wildlife area or site. *Criterion met.*

5.19 MCC 38.7070 GMA Rare Plant Review Criteria

Rare Plant Site Review shall be required for any project within 1,000 feet of endemic plants and sensitive plant species.

Staff: Staff did not receive any comments from partner agencies indicating that the project was within 1,000 feet of endemic plants and sensitive plant species. *Criterion met.*

5.20 MCC 38.7080 GMA Recreation Resource Review Criteria

The following uses are allowed, subject to compliance with MCC 38.7080 (E) and (F).

Staff: No recreational uses exist or are proposed on or near the subject property. The proposed development is a replacement single-family dwelling. *Criterion not applicable.*

5.21 MCC 38.7340 Agricultural Buildings

(A) The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

(B) To explain how (A) above is met, applicants shall submit the following information with their land use application:

- (1) A description of the size and characteristics of current agricultural use.**
- (2) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).**
- (3) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).**

Staff: The tenant farmer uses the 20 ft. x 50 ft. x 10 ft. greenhouse proposed to remain at the subject site to propagate plant starts for the cut flower growing operation occurring on the subject property (Exhibit A.10). The cut flower growing operation utilizes approximately 12 acres of the subject property. A condition of approval (condition no. 3) requires the property owner to remove the two other greenhouses from the subject property. A condition of approval (condition no. 6) prohibits the use of the agricultural building to store other agricultural equipment used on the subject property. *As conditioned, the above criteria are met.*

6.0 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 an approximately 1,770 sq. ft. replacement single-family dwelling and 20 ft. x 50 ft. x 10 ft. greenhouse on the subject site in the GGA zone. This approval is subject to the conditions of approval established in this report.

7.0 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. Those exhibits have been reduced to a size of 8.5" x 11" for mailing purposes. All other exhibits are available for review in Case File T2-2020-13302.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	NSA Application Form	05.15.2020
A.2	14	Applicant Narrative	05.15.2020
A.3	1	List of Exhibits	05.15.2020
A.4	1	Exhibit 1: Notice of Assignment of Address	05.15.2020
A.5	1	Exhibit 2: Key Viewing Areas	05.15.2020
A.6*	1	Exhibit 3: Site Plan – Overall Property	05.15.2020
A.7	1	Exhibit 4: Site Plan – Northwest Corner	05.15.2020

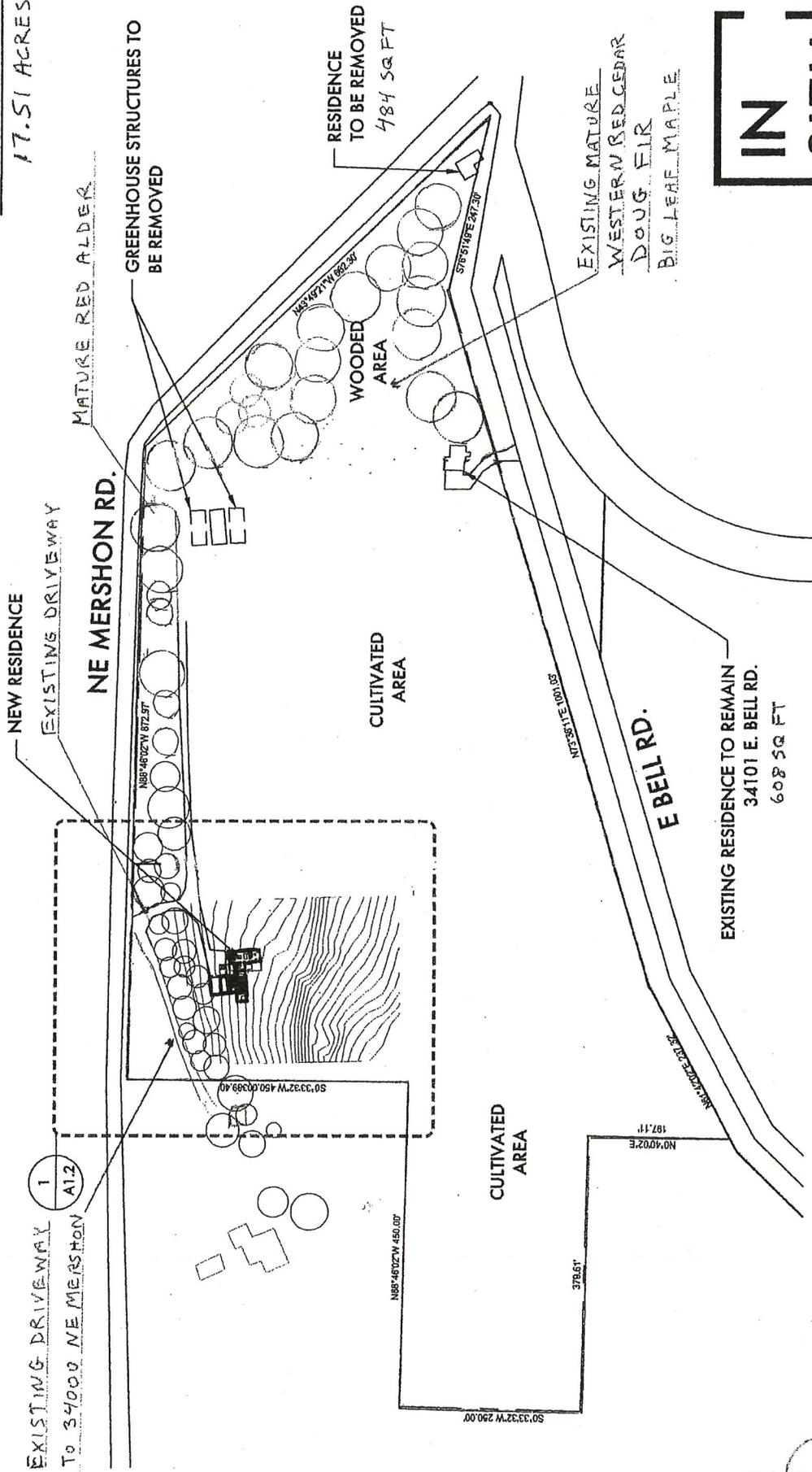
A.8	2	Exhibit 5: Cultural Resources Survey Determination	05.15.2020
A.9	2	Exhibit 6: Oregon SHPO Clearance Form	05.15.2020
A.10	1	Exhibit 7: Greenhouses – 34101 E. Bell Rd.	05.15.2020
A.11	1	Exhibit 8: Main Floor Plan	05.15.2020
A.12	2	Exhibit 9: Building Elevations	05.15.2020
A.13	4	Exhibit 10: Parcel Status – Deed	05.15.2020
A.14	2	Exhibit 11: Stormwater Certification	05.15.2020
A.15	4	Exhibit 12: On-Site Septic Review Certification	05.15.2020
A.16	2	Exhibit 13: Fire Service Agency Review	05.15.2020
A.17	3	Exhibit 14: Habitable Dwelling Documentation	05.15.2020
A.18	1	Exhibit 15: Transportation Review	05.15.2020
'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N4E33 -00100 (R944331130)	05.15.2020
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 1N4E33	05.15.2020
B.3	2	U.S. Forest Service Cultural Resources Survey Determination	06.03.2020
B.4	1	SHPO Concurrence Letter from case no. T2-2017-8140	06.03.2020
B.5*	1	Existing Vegetation Preservation Plan	06.03.2020
'C'	#	Administration & Procedures	Date
C.1	47	Agency Review	05.18.2020
C.2	1	Complete Letter (Day 1)	06.11.2020
C.3	7	Opportunity to Comment	07.31.2020
C.4	21	Administrative Decision	08.21.2020

CORBETT HOUSE

34002 NE MERSHON RD.

CORBETT, OR 97019

17.51 ACRES



IN SITU ARCHITECTURE



SITE PLAN: OVERALL PROPERTY

SCALE: 1" = 200'



Exhibit B.5 – Existing Vegetation Preservation Plan



EXHIBIT
B.5