

## NOTICE OF NSA DECISION

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**Case File:** T2-2020-13381

**Permit:** National Scenic Area “Parcel” Determination

**Applicants / Owners:** Michael and Donna Mannthey

**Location:** Property to the southeast of 41300 E Larch Mountain Road, Corbett  
**Map #** 1N5E31A – 01200 **Alternate Account #**R945310040 **Property ID #**R323072

**Zoning:** Gorge General Residential – 10 (GGR-10)

**Overlays:** Geologic Hazard (GH)

**Key Viewing Areas:** Bridal Veil, Columbia River, Hist. Columbia River Hwy, I-84, Larch Mtn Rd, and State Route 14

**Landscape Setting:** Rural Residential in Pastoral and Rural Residential in Coniferous Woodlands

**Proposal Summary:** Applicants are requesting a National Scenic Area Parcel Determination to verify that tax lot 1N4E31A – 01200 is a legally created unit of land.

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**Determination:** **Upon completion of the conditions of approval listed below, tax lot 1N4E31A – 01200 is a legal Parcel as defined in MCC 38.0015 Definitions.**

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is **Friday, December 18, 2020, at 4:00 pm.**

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**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 by contacting the case planner. Copies of all documents are available at the rate of \$0.35/per page. For further information, contact Lisa Estrin, Staff Planner at 503-988-0167 or [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@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). The Notice of Appeal form is available on our website at [multco.us/landuse/application-materials-and-forms](http://multco.us/landuse/application-materials-and-forms). This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

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**Issued By:** \_\_\_\_\_  
Lisa Estrin, Senior Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:** Friday, December 4, 2020

## Vicinity Map

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### **Applicable Approval Criteria:**

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

Multnomah County Code (MCC): *Provisions:* MCC 38.0015 Definitions, MCC 38.0560 Code Compliance and Applications

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:**

The conditions listed are necessary to ensure that the two units of land are recombined into a single legal parcel as described in the findings for this Parcel Determination.

1. Permit Expiration – This determination shall expire two years after the date of the final decision unless the following is completed:
  - a. The property owners shall apply for a Lot Consolidation approval to recombine the area contained in tax lot 1200 into a single 10.26 acre Parcel.
  - b. The new legal description shall be reviewed by Land Use Planning prior to its recordation in Step c. The new metes and bounds description shall describe the unit of land as a single parcel containing 10.26 acres.

- c. Upon approval of the Lot Consolidation legal description, the property owners shall record a new deed and the new legal description to complete the process. The deed shall state that its purpose is to reconsolidate two units of land back into one 10.26 acre parcel. [MCC 38.0690(A)]

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]

**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:** The applicants request a determination that the area of land known as tax lot 1N4E31A – 01200 (subject property) is a “Parcel” as defined in MCC 38.0015 Definitions.

### **2.0 Property Description:**

**Staff:** The subject property is approximately 10.26 acres in size and contains two outbuildings.

### **3.0 Public Comment:**

Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 38.0530 as Exhibited in C.2. Staff did receive 1 written comment during the 14-day comment period.

**Staff:** The Friends of the Columbia Gorge, a non-profit chartered to protect the National Scenic Area, provided a letter on August 19, 2020 (Exhibit D.1). The letter discussed the findings necessary to find that the property qualifies as a “Parcel” as defined in MCC 38.0015 Definitions.

### **4.0 Code Compliance:**

#### **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:**

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

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

**Staff:** This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming

into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This application is a request for a Parcel Determination, which does not require the County to approve development, a land division, a property line adjustment, or a building permit. *Therefore, this standard is not applicable.*

### **MCC 38.0015 DEFINITIONS**

**As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.**

**Parcel:**

**(a) Any unit of land legally created by a short division, partition, or subdivision, that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.**

**(b) Any unit of land legally created and separately described by deed, or sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.**

**(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the U.S. Forest Service Office prior to the Final Interim Guidelines.**

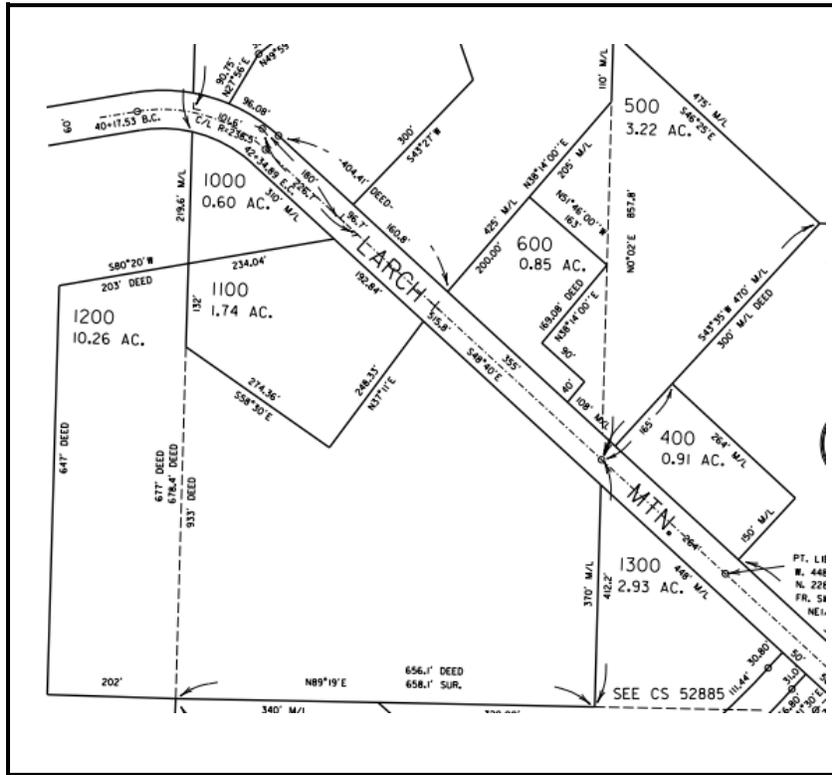
**(d) A unit of land shall not be considered a separate parcel simply because it:**

- 1. Is a unit of land created solely to establish a separate tax account;**
- 2. Lies in different counties;**
- 3. Lies in different sections or government lots;**
- 4. Lies in different zoning designations; or**
- 5. Is dissected by a public or private road.**

**Staff:** : To qualify as a “Parcel” pursuant to MCC 38.0015 Definitions, the subject property, when created or reconfigured, must have (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. The finding below analyzes whether the Parcel provisions listed above have been met.

The applicant provided a number of deeds and other exhibits to support this verification (Exhibit A.1 through A.34). The Graphic #1 shows the current tax lot identification number so that the information in Table #1 is easier to understand.

## Graphic #1



The following exhibits are the deeds that reflect important dates or milestones in determining what is the legal Parcel in this application:

**Table #1**

Exhibit	Deed Date	Legal Description from Deeds	Grantor/Grantee
A.12	1912	Legal describing the original Parent Parcel consisting of tax lots (TL) 1000, 1100 and 1200 (subject parcel)	Swirsky to Butlers
A.13	1932	Legal transfers TL 1100	Butlers to W & V Mannthey
A.14	5/13/1944	Legal transfers TL 1000.	Butlers to Theiss
A.15	11/13/1945	Legal includes tax lots (TL) 1100 and 1200	Butlers to W & V Mannthey
A.16	6/10/1983	Legal transfers TLs 1100 and 1200	V Mannthey to L & R Stabler
A.17	4/25/1996	Legal lists a Parcel 1 which includes the TLs 1100 and 1200 and then excepts out the western portion of TL 1200; and  Legal then lists a Parcel 2 as the western portion of TL 1200  Legal excepts out TL 1100	L Stabler to M Mannthey
A.18	10/8/1996	Deed lists a Parcel 1 which includes the TLs 1100 and 1200 and then excepts out the western portion of TL 1200 and TL 1100; and	M Mannthey to M & D Mannthey

		Deed then lists a Parcel 2 as the western portion of TL 1200	
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In 1912, the original parent parcel consisted of an area of land that today is known as tax lots 1000, 1100 and 1200. In 1932, the area of land contained within tax lot 1100 was sold to W & V Mannthey. In May 1944, a Warranty Deed transferred the land in tax lot 1000 to the Theiss household. In November 1945, Butler recorded a deed with a legal description that contained a single unit of land (tax lots 1100 and 1200 combined) and transferred the land to W&V Mannthey. But, based on the deed records provided by the applicants, W&V Mannthey already owned the land contained in tax lot 1100. The 1945 deed was the last deed to be recorded prior to the County instituting zoning and land division regulations in 1955.

From November 1945 to June 1983, W&V Mannthey owned the land contained in tax lots 1100 and 1200. No deeds are referenced in the document from First American Title (Exhibit A.5) for this time period.

In June 1983, V Mannthey transferred a single unit of land to L & R Stabler. This unit of land consisted of the area contained in tax lot 1100 and 1200. There was no exception within the legal description for the area of land known as tax lot 1100.

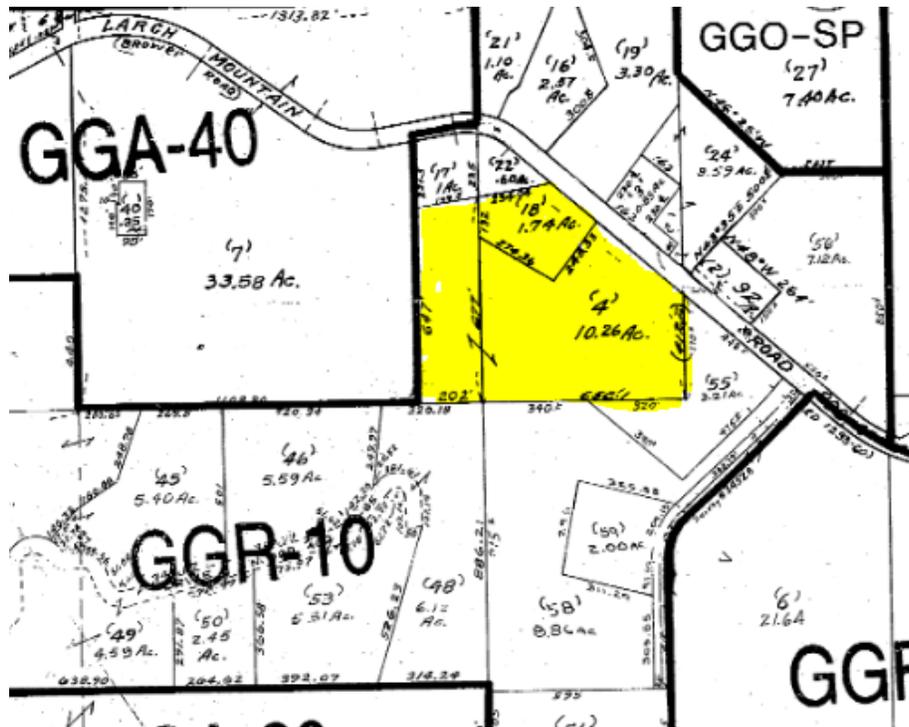
In April 1996, the personal representative for the Estate of L Stabler transferred two units of land which are referenced as Parcel 1 and Parcel 2 to M Mannthey. This is the first time that the headers of Parcel 1 and Parcel 2 are seen on a deed. The legal for Parcel 1 included that area within tax lots 1100 and 1200 but broke out an area of land to the west of the north-south quarter section line. All prior deed transactions included this area. Graphic #2 shows the two new units of land being described:

**Graphic #2**



In April 1996, tax lots 1100 and 1200 were zoned Gorge General Residential – 10 (GGR-10) as shown in Graphic #3 below:

Graphic #3



The deeds provided by the applicants show tax lot 1100 (Old Tax lot '18' in Graphic #3) separated from the parent parcel from 1932 (Exhibit A.13) to November 1945 (Exhibit A.15). Tax lot 1100 was then combined back into one legal description from November 1945 until April 1996 (Exhibit A.17). Two deeds occurred during this time period (Exhibits A.15 and A.16) This would seem to indicate a reconsolidation in 1945, but tax lot 1100 remained a separate tax lot on the County's tax lot maps as shown in Exhibits B.2 through B.9. Tax lots are for taxation purposes only and tax lot 1100 is occupied by a dwelling built in 1938. Tax lot 1200 is occupied by two older outbuildings (2,365 sq. ft. building and a 704 sq. ft. building). County land use records have no building records or zoning approvals for these buildings. They would seem to be associated with the 1938 dwelling on tax lot 1100. The applicant has indicated in their narrative (Exhibit A.4) that the deeds in 1932, November 1945 and 1983 (Exhibits A.13, A.15. & A.16) were between family members and that the 1945 and 1983 deeds used old legal descriptions. There is no evidence in the record to support that the legal descriptions used were in error or were intended to reconsolidate tax lots 1100 and 1200 into a single parcel.

In April 1996, the area of land contained in tax lot 1200 was zoned Gorge General Residential – 10 (GGR-10). The County had land division regulations for the division of land and the adjustment of the area of land contained in a parcel or lot. No land use approvals were found for a land division or property line adjustment. The GGR-10 zone requires for the creation of any new parcel, a 10 acre minimum lot size, a front lot line length of 50 feet and to take access from a public street. Tax lot 1200 (subject property) is 10.26 acres in size and has 384 +/- ft. of road frontage on E. Larch Mountain Road. The division of the westerly 3.07 acres into parcel 2 (see Graphic #2) would not have met these requirements in April 1996.

The applicant is requesting that the County find that tax lot 1200 in its entirety is a legal Lot of Record as a single legal parcel (Exhibit A.4, page 1). In the National Scenic Area, the County does not utilize the term *Lot of Record* to convey that the property is lawfully created. In Chapter 38, the term used is *Parcel*. Based on the evidence in the record, tax lot 1200 in its entirety qualifies as a

Parcel. As the last deed describing tax lot 1200 broke it into two areas of land (Exhibit A.18), it is necessary to recombine the two areas (western 3.07 acres and the eastern 7.19 acres) back into a single unit of land and its legal configuration. A Condition of Approval has been included that the applicants' apply for a Lot Consolidation pursuant to MCC 38.3025(A)(16) and draft a new legal description that encompasses the combined area in a single metes and bounds description. Once the Lot Consolidation is approved and a new deed and legal description recorded, the property known as tax lot 1200 would qualify as a *Parcel* as defined in MCC 38.0015 Definitions.

## 6.0 Conclusion

Once the Lot Consolidation is complete and a new deed and legal description is recorded reestablishing the 10.26 acre unit of land as contained in tax lot 1200, the subject property will qualify as a *Parcel* in the GGR-10 zoning district. This determination is subject to the condition of approval established in this report.

## 7.0 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits
- 'D' Comments Received

All exhibits listed below are available for review by contacting the case planner, Lisa Estrin at [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@multco.us).

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	NSA Application Form	6.09.2020
A.2	1	Corrected NSA Application Form	6.09.2020
A.3	1	Letter from Ty Wyman, Attorney dated May 5, 2020	6.09.2020
A.4	12	Applicant's Narrative	6.09.2020
A.5	8	Exhibit 1: First American Title – Oregon Recorded Document Guarantee	6.09.2020
A.6	3	Exhibit 2: Tax Lot Map and Legal Descriptions	6.09.2020
A.7	9	Exhibit 3 A – I: Tax Lot Map – Series of Maps for Deeds	6.09.2020
A.8	3	Exhibit 4: Tax Parcel Record for Tax Lot 1200	6.09.2020
A.9	2	Exhibit 5: Tax Parcel Record for Tax Lot 1100	6.09.2020
A.10	1	Exhibit 6: Tax Parcel Record for Tax Lot 4 – Current Lot 1200	6.09.2020
A.11	1	Exhibit 7: Tax Parcel Record for Tax Lot 18 – Current Lot 1100	6.09.2020
A.12	2	Exhibit 8: 1912-07-03 Deed Fee 72237	6.09.2020
A.13	1	Exhibit 9: 1932-02-27 – Warranty Deed Book 162 Page 408	6.09.2020
A.14	1	Exhibit 10: 1944-05-13 Warranty Deed Book 883 Page 517	6.09.2020
A.15	1	Exhibit 11: 1945-11-13 Warranty Deed Book 986 Page 502	6.09.2020
A.16	2	Exhibit 12: 1983-06-10 Warranty Deed Book 1670 Page 325	6.09.2020
A.17	1	Exhibit 13: 1996-04-25 PR Deed 96-061972	6.09.2020
A.18	3	Exhibit 14: 1996-10-08 Bargain and Sale Deed 96-152545	6.09.2020

A.19	3	Exhibit 15: 2017-11-02 Warranty Deed 2017-133251	6.09.2020
A.20	1	Exhibit 16: 2019-02-28 Warranty Deed 2019-020448	6.09.2020
A.21	14	Exhibit 17: Uniform Residential Appraisal Report – 41300 Larch Mtn -09-20-1996	6.09.2020
A.22	5	Exhibit 18: Stewart Title Report 41300 Larch Mtn Plus -09-18-1996	6.09.2020
A.23	7	Exhibit 19: Deed of Trust 41300 Larch Mtn plus 10-09-1996	6.09.2020
A.24	17	Exhibit 20: Residential Appraisal Report 41300 Larch Mtn -03-24-1998	6.09.2020
A.25	8	Exhibit 21: Fidelity Title Report 41300 Larch Mtn 3-18-1998	6.09.2020
A.26	5	Exhibit 22: Deed of Trust 41300 Larch Mtn 04-07-1998	6.09.2020
A.27	18	Exhibit 23: 2002 Appraisal Report – Fannie Mae	6.09.2020
A.28	8	Exhibit 24: Transnation Preliminary Title Report dated 3/8/2002	6.09.2020
A.29	23	Exhibit 25: Deed of Trust dated 4/2/2002	6.09.2020
A.30	8	Exhibit 26: Fidelity Preliminary Title Report 2007	6.09.2020
A.31	18	Exhibit 27: Deed of Trust to GMAC Mortgage, LLC, recorded 5/30/2007	6.09.2020
A.32	1	Exhibit 28: Owner(s) Tax Bill Authorization 2007	6.09.2020
A.33	31	Exhibit 29: Uniform Residential Appraisal Report dated 3/7/2015	6.09.2020
A.34	22	Exhibit 30: Deed of Trust to Quicken Loans recorded 4/14/2015	6.09.2020
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Assessment and Taxation Property Information for 1N5E31A – 01200 (R945310340)	6.09.2020
B.2	1	Assessment and Taxation Map 1N5E31A	11.24.2020
B.3	1	1962 Zoning Map	11.24.2020
B.4	1	October 5, 1977 Zoning Map	11.24.2020
B.5	1	October 6, 1977 Zoning Map	11.24.2020
B.6	1	1980 Zoning Map	11.24.2020
B.7	1	1983 Zoning Map	11.24.2020
B.8	1	1990 Zoning Map	11.24.2020
B.9	1	1993 Zoning Map	11.24.2020
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	1	Complete Letter (Day 1)	7.08.2020
C.2	2	Opportunity to Comment and mailing list	8.05.2020
C.3	10	Administrative Decision and mailing list	12.04.2020
<b>‘D’</b>	<b>#</b>	<b>Comments Received</b>	<b>Date</b>
D.1	2	Friends of the Columbia Gorge	8.19.2020