

# OPRD Rooster Rock EV Charging Project

## Applicable Code Summary

### Gorge Special – Public Recreation (GS-PR) Zone & Code Section

#### ***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; 4. Lies in different zoning designations; or 5. Is dissected by a public or private road.

**RESPONSE:** The subject parcel is within Rooster Rock State Park, public lands managed by Oregon Parks and Recreation Department (OPRD). Lands for the park were purchased from private land owners between 1937 and 1985 to provide public river access and protection of the Columbia River Gorge.

The property deeds from 1946 deeding land to the state (Oregon Department of Transportation (ODOT) which preceded OPRD) and a later transfer document from 1979 from ODOT to OPRD. See **Appendix B** of this document for deed and parcel information available for Rooster Rock State Park.

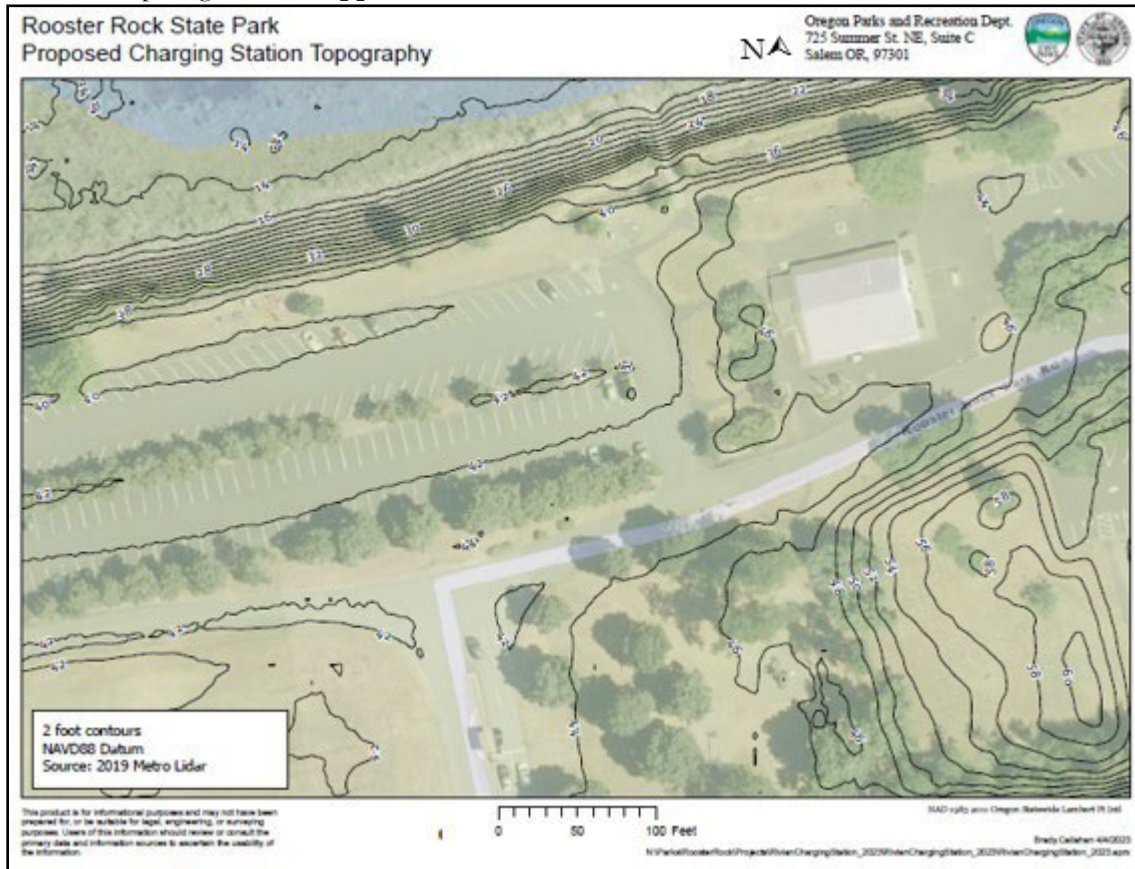
#### ***MCC 38.0045 - Conditional Use Applications - Submittal Requirements***

REVIEW AND CONDITIONAL USE APPLICATIONS - SUBMITTAL REQUIREMENTS (A) The following additional information shall be submitted for all review and conditional uses: (1) A list of Key Viewing Areas from which the proposed use would be visible. (2) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the reviewing agency to determine the location and extent of the proposed use and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail. If a parcel is very large, the map does not have to show the entire parcel. Rather, it may show only those portions of the parcel affected by the proposed use. The map shall include the following elements: (a) North arrow; (b) Map scale; (c) Boundaries, dimensions, and size of the subject parcel; (d) Significant terrain features or landforms; (e) Groupings and species of trees and other vegetation on the parcel; (f) Location and species of vegetation that would be removed or planted; (g) Bodies of water and watercourses; 1-25 (S-1 2022) (h) Location and width of existing and proposed roads, driveways, and trails; (i) Location and size of existing and proposed structures; (j) Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting; and (k) Location and depth of all proposed grading and ditching. (l) Proposed uses in streams, ponds, lakes, and their buffer zones shall include the exact boundary of the ordinary high water-mark or normal pool elevation and the prescribed buffer zone; and a description of actions that would alter or destroy the stream, pond, lake, or riparian area. (m) Proposed uses in water resources or their buffer zones shall include the exact boundary of the water resource, ordinary high water mark, or normal pool elevation, and their buffer zone; and a description of actions that would affect the water resource. (n) Proposed uses on parcels contiguous to established recreation sites shall provide a buffer between the proposed use and recreation site sufficient to insure that the proposed use will not detract from the use or enjoyment of the recreation site. (o) New uses located in, or providing recreation river access to, the Columbia River or its fish bearing tributaries shall include the following supplemental information: 1. The site plan shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant. 2. The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall: a. Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods. b. List tribal commercial fishing seasons in the project vicinity, as established by the four Columbia River treaty tribes. c. List tribal ceremonial fishing seasons in the project vicinity. d. Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights. (3) Elevation drawings shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale. (4) The following applications for structural development shall include a grading plan: (a) Applications involving more than 100 cubic yards of grading with slopes greater than 10 percent shall include a grading plan, except applications for trails in the SMAs. (b) Applications involving more than 200 cubic yards of grading on sites visible from key viewing areas. This plan shall be reviewed by Multnomah County for compliance with key viewing area policies. 1-26 Multnomah County – Chapter 38 – Columbia River Gorge National Scenic Area (S-1 2023) (c) Grading plans shall include the following: 1. A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2, 400) or a scale providing greater detail, with contour intervals of at least 5 feet, including: i. Existing and proposed final grades. ii. Location of all areas to be graded, with cut banks and fill slopes delineated. iii. Estimated dimensions of graded areas. 2. A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including: i. Its purpose. ii. An estimate of the total volume of material to be moved. iii. The height of all cut banks and fill slopes. iv. Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.) v. A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings. vi. A description of any other interim or permanent erosion control measures to be used. (B) Supplemental information will be required for: (1) Forest practices in the Special Management Areas, (2) Production and development of mineral resources in the General Management Area, (3) Proposed uses visible from Key Viewing Areas, (4) Proposed uses located near cultural resources,



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(3) Elevation map, larger file on **Appendix D**.



(4) This application does not involve grading.

(B) Supplemental information is not presented for (1) Forest practices (2) Production and development of mineral resources in the General Management Area, nor (3) Proposed uses visible from Key viewing Areas as they are not applicable to this project.

**Appendix E** of this document contains the Inadvertent Discovery Plan (IDP) for Cultural Resources to satisfy the code under: (4) Proposed uses located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat, and rare and sensitive plant sites.

## ***MCC 38.0560 – Code Compliance and Violations***

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 or zoning review approval of development or any other approvals authorized by this code for any property that is not in full compliance with all applicable provisions of the Multnomah County 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. (4) It brings a non-conforming structure or on-conforming use into compliance with current regulations; or (5) The Planning Director determines the development qualifies as a minor project. For purposes of this provision, a minor project is defined as small in scale, located outside a Flood Hazard zone or Geologic Hazard overlay, intended for the primary benefit of the residents, farm uses, or natural habitat on the subject property and will meet all other applicable zoning and building regulations. A minor project shall qualify under at least one of the following categories: (a) Request for trade permits (such as electrical, mechanical and/or plumbing) that does not change the use of a structure or property; or (b) Free standing renewable energy and heating systems including, but not limited to solar (including solar panels), geothermal and wind generated systems; or (c) Roof mounted solar renewable energy (including solar panels) and solar heating systems not exceeding the size of a structure's roof area, or roof height; or Chapter 38 - Columbia River Gorge National Scenic Area 3-5 (S-1 2023) (d) Mechanical equipment such as heating and air conditioning units, heat pumps, ventilation and air filtration systems, electrical boxes, back-up power generators, energy storage systems, water pumps, and similar equipment; or (e) Heating oil, propane and similar tanks; or (f) Development requests to protect or enhance natural resources, such as but not limited to water quality or wildlife habitat. (B) For the purposes of this section, Public Safety means the

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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.

**RESPONSE:** The Oregon Parks and Recreation Department is submitting this application for land use decision to approve this pilot project for its conditional use permit. Under this subsection, this permit can be authorized (A)(5) with the determination from the Planning Director as a “minor project.” This project qualifies as such as it meets the following categories:

(a) Request for trade permits that does not change the use of a structure or property. Rooster Rock State Park will continue to be a public state park with recreation and stewardship in mind. The parking lot’s purpose will not change but further allow for increased access to a wider spectrum of visitors, thereby increasing service to the public the agency serves.

(f) Development requests to protect or enhance natural resources, such as but not limited to water quality or wildlife habitat. The installation of these EV chargers will encourage public use and welcome more non-internal combustion engine transportation into the parks, reducing greenhouse gases and effectively helping the state achieve cleaner air quality in this scenic area. Improved air quality can help with the local wildlife, plants and overall benefit the local ecosystem.

## **MCC 38.0110(B) Tribal Treaty Rights...**

(B) Tribal Treaty Rights and Consultation in the Special Management Area (SMA) (1) The Forest Service is responsible for consulting with tribal governments at the government-to-government level. The purpose of this process is to ensure that management activities will not affect treaty rights, and to provide meaningful participation in the identification, evaluation and protection of cultural resources. (2) Section 17 (Savings Provisions) of the National Scenic Area Act contains several provisions regarding the need to avoid potential effects on treaty rights. Treaty rights are defined by the treaties of 1855 between Congress and tribal governments. These rights are not subject to negotiation. Potential effects to treaty rights must be avoided. The Forest Service has no authority to interpret or negotiate in the area of treaty rights. (3) Cultural resources are protected by the National Scenic Area Act and the Historic Preservation Act of 1966. Tribal governments are identified as parties to be consulted during the inventory, evaluation, and protection of cultural resources.

**RESPONSE:** OPRD worked with the tribes from the early stages of this pilot project, beginning with an introduction of the pilot project at the Tribal Culture Cluster meeting on December 7, 2021. Since then and tribes were notified via a tribal mailing list for the projects and were updated every few months on the project’s progression. For specific sites, tribes were invited for government to government consultation in May of 2022. OPRD’s Valley Region Archaeologist sent out emails to the following tribes for feedback on the four sites in the Valleys Region including Rooster Rock State Park on May 2, 2022. The email also contained an Inadvertent Discovery Plan (IDP) with the area of potential effects (APE). The tribes consulted include: Confederated Tribes of the Grand Ronde, Confederated Tribes of Siletz Indians of Oregon, Confederated Tribes of the Warm Springs Reservation of Oregon, Confederated Tribes of the Umatilla Indian Reservation, Nez Perce Tribe and Yakama Nation. Copies were also sent to the Oregon State Police, Legislative Commission on Indian Services and the State Historic Preservation Office. OPRD did not receive any comments or requests for consultation in the 30-day review period from any of the tribes. The IDP is contained on **Appendix E** of this document.

In addition, the project contractor has subcontracted with PaleoWest, a cultural resource management firm to oversee all required archaeology work for each site. Work could include monitoring and testing. They completed work at 7 out of the 8 sites associated with this pilot project.