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NOTICE OF NSA DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2018-10382

Permit: National Scenic Area Post-Emergency Response Site Review

Location: 6088 NW Gwen Ave & Lot across the street to the SW, Corbett
Tax Lots 2400 & 2600, Section 35CD, Township 2 North, Range 6 East, W.M.
Tax Account #R090100890 & R090100970

Applicant: Jim Denney

Owner: Jim & Alicia Denney

Zoning: Gorge General Residential – 2 (GGR-2)

Landscape Setting: Coniferous Woodlands

Summary: The applicant has submitted a National Scenic Area Post-Emergency Response application to authorize the emergency installation of a new on-site sewage disposal system.

Decision: Approved with Conditions.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, August 28, 2018 at 4:00 pm.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 38.0640. 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 offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Columbia River Gorge Commission until all local appeals are exhausted.

Issued by:

By:



Chris Liu, Asst. Planner

For: Michael Cerbone, AICP
Planning Director

Date: Tuesday, August 14, 2018



Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office (*Tuesday-Friday 8am-4pm*). Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Chris Liu, Staff Planner at 503-988-2964 or chris.liu@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 38.7090 Responses to an Emergency Disaster Event

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at www.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 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. 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.
2. No additional work shall be completed or is authorized by this permit.

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. Project Description:

Staff: The subject application is for a Post Emergency Response Site Review for the replacement of a on-site sewage disposal system serving the dwelling. The original system was failing. The emergency work included the replacement of the septic tank and absorption trenches. Care was utilized to avoid any cultural and natural resource impacts to the site.

2. Post-Emergency Criteria:

2.1 § 38.7090 RESPONSES TO AN EMERGENCY/DISASTER EVENT

Responses to an emergency/disaster event are allowed in all zoning districts within the Columbia River Gorge National Scenic Area when in compliance with the following standards:

(C) Post-Emergency/Disaster Response Site Review Application Requirements

(1) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director, or U.S. Forest Service for federal agency actions. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and no more than two (2) extensions shall be granted.

(2) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms “development activities” and “development” include the disposal of any soil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

(3) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions with-in 500 feet of a known cultural resource (as determined in the notification process).

(4) Applications shall include the following information:

(a) Applicant's name and address.

(b) Location of emergency/disaster response.

(c) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation

removal.

(d) A map of the project area drawn to scale, at a scale of 1"=200' or a scale providing greater detail. The map shall include:

- 1. North arrow and scale.**
- 2. Boundaries, dimensions and size of subject parcel(s).**
- 3. Topography at a contour interval sufficient to describe the terrain of the project site.**
- 4. Bodies of water, watercourses, and significant landforms.**
- 5. Existing roads and structures.**
- 6. New structures placed and any vegetation removal, excavation or grading resulting from the response actions.**

(e) An exception to the scale requirements of subsection (4)(d) may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1"=200' or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

Staff: On April 23, 2018, the County Sanitarian notified County Land Use Planning of a septic failure for the subject property identified as a public health hazard [Exhibit A.2]. The notification was made within the required 30 day period.

On May 1, 2018, Jim Denney filed the subject application meeting the requirements of MCC 38.7090(C)(1) [Exhibit A.1].

The subject application relates solely to the emergency replacement of an on-site sewage disposal system. No other development activities have been included as part of the subject application.

The applicant has provided a site plan and various other exhibits to meet the requirements of MCC 38.7090(C)(4).

Criteria Met.

2.2 (E) Post-Emergency/Disaster Response Site Review Approval Criteria

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

(1) Scenic Resources

(a) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable, except for actions located in the Corbett Rural Center zoning district. In the SMA, such actions shall meet the scenic standard to the greatest extent practicable.

Staff: The subject property is in the GMA (General Management Area). The area of disturbance for the drainfield replacement has been returned to its previous condition [Exhibit A.3]. *Criterion met.*

- 2.2.1 (b) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.**

Staff: The replacement activities of the on-site sewage disposal system aimed to preserve existing vegetation. The septic tank was installed in the same area as the old tank. The new drain lines run under the road (NE Gwen Ave.) to a lot across the street owned by the applicants. The applicant did not remove any trees during installation. [Exhibit A.3]. *Criterion met.*

- 2.2.2 (c) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one year requirement may be granted upon demonstration of just cause, with an extension of up to one year.**

Staff: The applicant planted grass to cover the areas where excavation activities occurred. Blackberries are contained and measures to prevent spread are required by the County Sanitarian [Exhibit A.3]. *Criterion met.*

- 2.2.3 (d) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as seen from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.**

Staff: The drainfield and tank is located underground in a lawn area [Exhibit A.3]. *Criterion met.*

- 2.2.4 (e) Additions to existing structures, resulting from a emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable.**

Staff: The replacement of a septic system is not an addition. *Criterion not applicable.*

- 2.2.5 (f) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall comply with the following standards:**

- 1. The spoil materials shall either be:**
 - a. Removed from the NSA or**
 - b. Deposited at a site within the NSA where such deposition is, or can be, allowed, or**
 - c. Contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.**
- 2. The County shall decide whether an applicant removes the spoil**

materials (MCC 38.7090(E)(1)(f) 1.a.), deposits the spoil materials (MCC 38.7090(E)(1)(f) 1.b.), or contours the spoils materials (MCC 38.7090(E)(1)(f)1.c.) The applicant does not make this decision.

3. The County shall select the action in MCC 38.7090(E)(1)(f) 1. that, to the greatest extent practicable, best complies with the provisions in Chapter 38 that protect scenic, cultural, recreation, and natural resources.

4. Disposal sites created according to MCC 38.070(E)(1)(f)1.b. shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.

Staff: The development is in the General Management Area. It appears that no spoils remain from the installation of the new septic system [Exhibit A.3]. *Criterion met.*

2.2.6

(g) In the Special Management Area, spoil materials associated with grading, excavation, and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

1. The spoil materials shall either be:
 - a. Removed from the NSA, or
 - b. Deposited at a site within the NSA where such deposition is, or can be, allowed within two years of the emergency.
2. After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.
3. All grading (i.e. contouring) shall be completed within 30 days after the spoils materials are removed.
4. Sites shall be replanted using native plants found in the land-scape setting or ecoregion to the maximum extent practicable.
5. All revegetation shall take place within one (1) year of the date an applicant completes the grading.
6. MCC 38.7090 (E) (1) (g) shall take effect on August 3, 2006, or approval of a disposal site, which ever comes first.

Staff: The subject property is not located in the Special Management Area. *Criterion not applicable.*

2.2.7

(2) Cultural Resources and Treaty Rights

(a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect Tribal treaty rights.

(b) The U.S. Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the Planning Director.

1. Reconnaissance surveys shall be conducted by the U.S. Forest Service and comply with the standards of MCC 38.7045 (D) (1) and (D)(2)(c).

2. Historic surveys shall be conducted by the USDA Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival re-search, blueprints, and drawings as necessary.

Staff: The US Forest Service determined that the emergency replacement of the on-site septic system did not require either a Historic Survey or a Cultural Resource Reconnaissance Survey [Exhibit B.4]. *Criteria met.*

2.2.8 (3) Natural Resources

(a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

(b) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be the same as those established in MCC .7060(E).

Staff: The repair work was limited to the subject properties, which contain development and are not near any streams or wetlands. The U.S. Forest Service and Oregon Department of Fish and Wildlife were noticed of the emergency application and provided no comments of sensitive wildlife or rare plants in the area. *Criteria met.*

2.2.9 3. Deer and Elk Winter Range

Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall satisfy the standards of MCC 38.7065 (E).

Staff: No permanent fencing was installed. *Criterion met.*

2.2.10 (4) Recreational Resources

(a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.

(b) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

Staff: *No adverse effects have been identified.*

3. Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the National Scenic Area Post-Emergency Response Site Review for the emergency replacement of an on-site sewage disposal system in the Gorge General Residential -2 zone. This approval is subject to the conditions of approval established in this report.

4. Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

All exhibits are available for review in Case File T2-2018-10382 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	NSA Application Form	5.1.2018
A.2	1	Email from Lindsey Reschke, Multnomah County Septic Sanitarian, declaring an emergency to repair a failed septic system dated April 23, 2018	4.23.2018
A.3	5	Applicant Response to requirements of MCC 38.7090	5.1.2018
A.4	2	Aerial Photo and Tax Map of the subject properties	5.1.2018
A.5	4	Septic Site Evaluation Report (SER 13-18)	4.9.2018
A.6	1	Plot Plan of subject properties	5.1.2018
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Records for 2N6E35CD - 02600	5.1.2018
B.2	2	A&T Property Records for 2N6E35CD - 02400	5.1.2018
B.3	1	Letter from the Parks and Recreation Dept., State Historic Preservation Office dated May 9, 2018	5.9.2018
B.4	1	Email from the U.S. Forest Service regarding the subject properties	4.23.2018
'C'	#	Administration & Procedures	Date
C.1	1	Application Complete	5.30.2018
C.2	3	Opportunity to Comment	6.4.2018
C.3	8	Administrative Decision	8.14.2018

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