

NOTICE OF NSA DECISION



www.multco.us/landuse ▪ Email: land.use.planning@multco.us ▪ Phone: (503) 988-3043

Case File: T2-2023-16540

Applicant: Edgar Diaz

Proposal: Request for a Parcel Determination, replacement septic system and retroactive approval of three agricultural buildings

Location: 33535 NE Mershon Road, Corbett

Property ID # R322545

Map, Tax lot: 1N4E33A -00100

Alt. Acct. # R944330550

Base Zone: Gorge General Agriculture (GGA-40)

Overlays: Geologic Hazard (GH)

Key Viewing Areas: Cape Horn, Columbia River, Historic Columbia River Highway, Interstate – 84, Larch Mountain Road, Portland Women’s Forum, Rooster Rock, Sandy River, State Route – 14

Landscape Setting: Pastoral, Coniferous Woodlands

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is January 9, 2024 at 4:00 pm.

Opportunity to Review the Record: The complete case file and all evidence associated with this application is available for review by contacting LUP-comments@multco.us. Paper copies of all documents are available at the rate of \$0.46/page.

Opportunity to Appeal: The appeal form is available at www.multco.us/landuse/application-materials-and-forms. Email the completed appeal form to LUP-submittals@multco.us. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

Issued by:

A handwritten signature in black ink, appearing to read "Izze Liu".

Izze Liu, Planner

For: Megan Gibb,
Planning Director

Date: December 26, 2024



Applicable Approval Criteria:

Multnomah County Code (MCC): General Provisions: MCC 38.0015 Definitions, MCC 38.0030 Existing Uses and Discontinued Uses, MCC 38.0110 Tribal Treaty Rights and Consultation

Administration and Procedures: MCC 38.0560 Code Compliance and Applications

GGA Zone: MCC 38.2225 Review Uses, (A)(4) Accessory structures for an existing or approved dwelling...

NSA Site Review Criteria: MCC 38.7015 Application for NSA Site Review, MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 GMA Cultural Resource Review Criteria, MCC 38.7053 GMA Water Resources Review Criteria, MCC 38.7065 GMA Wildlife Review Criteria, MCC 38.7070 GMA Rare Plant Review Criteria, MCC 38.7080 GMA Recreation Resource Review Criteria

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link **Chapter 38: Columbia River Gorge National Scenic Area**

Conditions of Approval

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 parenthesis.

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)]
 - i. For the purposes of 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 or development or actual excavation of trenches for an approved underground utility or development.

- ii. For purposes of 1.a.i, notification of commencement of construction shall be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to the date of commencement. Notification shall be sent via email to LUP-submittals@multco.us with the case no. T2-2023-16540 referenced in the subject line. [MCC 38.0660(A)]
- b. Within two (2) years of the date of commencement of construction when the structure has not been completed. [MCC 38.0690(B)]
 - i. For the purposes of 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.
 - ii. For purposes of 1.b.i, the property owner shall provide building permit status in support of completion of exterior surfaces of the structure and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to LUP-submittals@multco.us with the case no. T2-2023-16540 referenced in the subject line. [MCC 38.0660(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]

- 2. 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. [MCC 38.0660(B)]
- 3. The property owners shall acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. The signed document shall be submitted and uploaded when submitting for Zoning Review and Review of Conditions of Approval [MCC 38.0660(A) & (B)]
- 4. Submit a request for a Zoning Plan Review to register the existing agricultural buildings.
- 5. Demonstrate compliance with the County's Ground Disturbing Activity regulations by obtaining an Erosion and Sediment Control Permit or Minimal Impact Project Permit. [MCC 38.0560 and MCC 39.6210]
- 6. The property owner(s) or their representative shall put into action the following procedures, if any Cultural Resources and/or Archaeological Resources are located or discovered on the property during this project, including but not limited to finding any evidence of historic campsites, old burial grounds, implements, or artifacts. Additionally, all survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and the SHPO. Native American tribal governments shall also receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.:
 - a. 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.
 - b. Notification - The project applicant shall notify the County Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Native American tribal governments within 24 hours. Procedures required in MCC 38.7045(L) shall be followed.

- c. Survey and Evaluation - The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from Oregon State Historic Preservation Office (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).
 - d. Mitigation Plan - Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045(J). Construction activities may recommence when the conditions in the mitigation plan have been executed. [MCC 38.7050(H)]
7. The property owner(s) or their representative shall put into action the following procedures, if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):
- a. Halt Activities - All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - b. Notification - Local law enforcement officials, the Multnomah County Planning Director, the Gorge Commission, and the Native American tribal governments shall be contacted immediately.
 - c. 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.
 - d. Jurisdiction - If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
 - e. 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.
 - f. 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).
 - g. The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045(J) are met and the mitigation plan is executed. [MCC 38.7050(H)]

Note: Land Use Planning must sign off on the building plans before you can go to the Building Department. When ready to submit Building Plans for Zoning Review, complete the following steps:

8. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to submitting Building Plans for Zoning Review..." Be ready to demonstrate compliance with the conditions.
9. You will need to provide a copy of your Transportation Planning Review (TPR) sign-off with your building plans. If you have not yet received sign-off, visit the following webpage for instructions on how to request a review of your plans: <https://www.multco.us/planreview>. Failure to obtain TPR sign-off of your plans will result in delaying your zoning review.
10. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on completing the Septic Permit or Evaluation 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.

11. Visit <https://www.multco.us/landuse/submitted-building-plan> for instructions regarding the submission of your building plans for zoning review and review of conditions of approval. Please ensure that any items required under, “When submitting Building Plans for Zoning Review...” are ready for review. Land Use Planning collects additional fees at the time of zoning review.

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 applicant requests a Parcel Determination and a National Scenic Area Site Review to replace the existing septic system. In addition, the applicant requests retroactive approval for three agricultural buildings.

2.0 Property Description & History:

Staff: The subject property is zoned Gorge General Agriculture (GGA-40) and located within the following Key Viewing Areas: Cape Horn, Columbia River, Historic Columbia River Highway, Interstate – 84, Larch Mountain Road, Portland Women’s Forum, Rooster Rock, Sandy River, and State Route – 14. According to the County Assessor’s data, the subject property is developed with a single-family dwelling in 1949.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 38.0530 (Exhibits C.2 & C.4). Staff did receive comments during the 21-day comment period and did receive comments regarding Cultural Resources during the 30-day comment period.

3.1 U.S. Forest Service Chris Donnermeyer, MA, RPA, Heritage Program Manager, submitted the following comment on March 15, 2023 (Exhibit D.1):

I have reviewed the proposed undertaking and area of potential effect as stated on the development review application, against the National Scenic Area records and inventories. These inventories include the cultural resource site inventory maintained by the State Historic Preservation Office. Based upon the information provided in these inventories and the requirements of the Gorge Commission’s Land Use Ordinances, it is recommended that:

A Cultural Resource Reconnaissance Survey is: Not Required

A Historic Survey is: Not Required

3.2 M. Sitmann, neighbor, submitted a comment on October 24, 2024 (Exhibit D.2).

Staff: The neighbor provided comments in support of the proposal.

3.3 Friends of the Columbia Gorge submitted a comment on November 7, 2024 (Exhibit D.3).

Staff: The Friends provided written comments to ensure that they will obtain a full written decision when issued. No specific concerns were addressed.

4.0 Code Compliance and Applications Criteria:

4.1 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 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**
- (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 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 standard codified in the Columbia River Gorge National Scenic Area Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance.

The subject property is developed with a single-family dwelling and three agricultural buildings. There were no permit records for the existing agricultural buildings so the applicant is seeking retroactive approval through this application. The National Scenic Area Site Review standards for the agricultural building are

addressed further below. In addition, staff included a Condition of Approval requiring the registration of the agricultural buildings. *As conditioned, this criterion is met.*

5.0 Parcel Criteria:

5.1 MCC 38.0015 Definitions Parcel

Parcel:

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

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

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

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

- 1. Is a unit of land created solely to establish a separate tax account;**
- 2. Lies in different counties;**
- 3. Lies in different sections or government lots;**
- 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 Sales Contract recorded on October 4, 1957 in Book 1866, Page 312 (Exhibit A.11) that contains a legal description that matches the current legal description for tax lot 1N4E33A - 00100 (Exhibit A.11).

In 1957, the subject property was zoned F2. At the time of the parcel creation, the minimum lot size in the F2 zone was 2 acres (Exhibits B.3 & B.4). In 1957, the subject property was 60.19 acres in size.

Based on the above, the property identified as 1N4E33A -00100 satisfied the applicable zoning laws of the F2 zone in 1957 and still remains in the same configuration as described in 1957 Sales Contract. The subject property is a verified Legal Parcel in its current configuration.

6.0 General Provisions:

6.1 MCC 38.0030 Existing Uses and Discontinued 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.

Staff: According to the County Assessor’s records, the existing dwelling was established in 1949. Multnomah County’s first zoning ordinance was adopted in 1955, therefore; the existing dwelling was lawfully established prior to the County’s requirement for permits.

6.2 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 and are currently used for agricultural use:

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) New buildings adjacent to lands designated GGA-20 or GGA-40 that are suitable, but currently not used for agriculture, shall use the open or fenced setback associated with the dominant type of agriculture in the vicinity. If a vegetation barrier, 8-foot berm, or terrain barrier exists, the corresponding setback shall apply. If more than one type of agriculture is dominant, the setback shall be the larger width.

* * *

Staff: The adjacent properties sharing the northern and eastern property boundaries are located within the Gorge General Agriculture zone. The three agricultural buildings on the subject property are located more than 300 feet from all property boundaries (Exhibit A.10). Additional buffers will not be required for the retroactive approval of the agricultural buildings. *These criteria are met.*

7.0 Gorge General Agriculture Criteria:

7.1 MCC 38.2225 Review Uses

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

* * *

(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: The applicant is requesting the retroactive approval of three agricultural buildings. The applicant describes the three agricultural buildings as a potato shed, chicken house, and machine shed (Exhibit A.10). The potato shed is 8,265 square feet in size. The chicken house is 1,216 square feet in size. The machine shed is 2,494 square feet in size.

(4) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in MCC 38.2225 (A)(5) or MCC 38.2225 (A)(6).

Staff: The subject property is developed with a single-family dwelling. As an accessory to the existing dwelling, the applicant is proposing to replace the septic system with a 1,000-gallon tank and a new drainfield (Exhibit A.5).

7.2 MCC 38.2260 Dimensional Requirements

* * *

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Staff: The potato shed is approximately 470 feet from the southern property boundary, 490 feet from the western property boundary, 1,320 feet from the northern property boundary, and 490 feet from the eastern property boundary. The chicken house is approximately 560 feet from the southern property boundary, 550 feet from the western property boundary, 1,320 feet from the northern property boundary, and 400 feet from the eastern property boundary. The machine shed is 560 feet from the southern property boundary, approximately 540 feet from the western property boundary, 1,320 feet from the northern property boundary, and 360 feet from the eastern property boundary.

The replacement septic system is underground. Therefore, the location of the system does not need to adhere to the minimum yard requirements based on the County’s definition of “yard” in Chapter 39¹. *These criteria are met.*

8.0 National Scenic Area (NSA) Site Review Criteria:

8.1 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 development shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

Staff: The topography of the area where the replacement septic system will be established, and the location of the existing agricultural buildings are relatively flat with a maximum slope of 10 percent. The applicant is not proposing new ground disturbance for the agricultural buildings. All excavation relating to the septic system will be backfilled and the disturbance maintain the existing contours of the property (Exhibit A.6). *This criterion is met.*

(2) New buildings and expansion of existing development shall be compatible with the general scale of similar buildings that exist nearby (e.g. dwellings to dwellings). For purposes of applying this standard, the term nearby generally means buildings within ¼ mile of the parcel on which development is proposed. New buildings that are 1,500 square feet or less are exempt from this requirement. Findings addressing this requirement shall include but are not limited to:

(a) Application of the landscape setting design requirements, if applicable.

(b) A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.

¹ MCC Chapter 39 defines “yard” as an open space, on a lot with a building and bounded on one or more sides by such building, such space being unoccupied and unobstructed from 30 inches above the ground upward, except as otherwise specified in the base zone.

(c) Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:

- 1. All finished above ground square footage;**
- 2. Total area of covered decks and porches;**
- 3. Attached garages;**
- 4. Daylight basements;**
- 5. Breezeways, if the breezeway shares a wall with an adjacent building; and**
- 6. Dimensions, based on information from the application or on Assessor's records**

(d) An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the propose development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

Staff: Planning staff is not aware of any lawfully permitted agricultural buildings within a quarter-mile of the subject property in the National Scenic Area. The subject property is approximately 60.2 acres in size and appears to be engaged in farm use based on the County's aerial images of the property and land use history. In addition, the subject property is in farm tax deferral. The potato shed is 8,265 square feet in size, and the machine shed is 2,494 square feet in size (Exhibit A.10). The applicant provided interior and exterior photographs of the stored farm equipment and the potato shed which appears to be a cellar for potato storage. The size of the potato cellar and farm equipment storage seems to be a minimal size for the size of the farm operation. *This criterion is met.*

A septic system is considered a "structure" pursuant to MCC 38.0015 Definitions but not a building. *These criteria are not applicable for the replacement septic system.*

(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 does not take access from a Scenic Travel Corridor. *This criterion does not apply.*

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

Staff: Additional vegetation is not required to be planted as part of this proposal. *This criterion is not applicable.*

* * *

(B) All Review Uses and Conditional Uses topographically visible from Key Viewing Areas:

(1) Each development shall be visually subordinate to its setting as visible from Key Viewing Areas. New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, rare plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, new development siting shall comply with this guideline to the maximum extent practicable.

(2) A determination of the potential visual impact of a new development or use shall include written findings addressing the following factors: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas it is visible from, the number of Key Viewing Areas it is visible from, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads), and

other factors the reviewing agency determines relevant in consideration of the potential visual impact. The extent and type of conditions applied to a proposed development to achieve visual subordination to its landscape setting shall be proportionate to its potential visual impacts as visible from key viewing areas. Conditions may include, and shall be applied using the following priorities:

- (a) Screening by topography.
- (b) Siting (location of development on the subject property, building orientation, and other elements).
- (c) Retention of existing vegetation on the applicant's property.
- (d) Design and building materials (color, reflectivity, size, shape, height, architectural and design details and other elements).
- (e) New landscaping on the applicant's property.
- (f) New berms or other recontouring on the applicant's property, where consistent with other applicable provisions.

(3) Determination of potential visual effects and compliance with visual sub-ordination policies shall include consideration of the cumulative effects of proposed developments.

Staff: Portions of the subject property are topographically visible from Key Viewing Areas (KVAs). The following KVAs were identified: Cape Horn, Columbia River, Historic Columbia River Highway, Interstate – 84, Larch Mountain Road, Portland Women's Forum, Rooster Rock, Sandy River, and State Route – 14. The Columbia River is the only Key Viewing Area identified in the location of the agricultural buildings as shown in Figure 1 below.

Figure 1



Yellow = Columbia River

The replacement septic system is not topographically visible from the KVAs as it is located underground. The subject property is approximately 0.4 miles south of the Columbia River and a dense cover of vegetation can be found along the northern, eastern and western property boundaries. The subject property will remain

not visible from the Columbia River due to the distance and changes in topography between the subject property and the river (Exhibit A.13) *These criteria are met.*

(4) In addition to the site plan requirements in MCC 38.0045 (A) applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

Staff: The agricultural buildings are not visible from the Columbia River. *This criterion is not applicable.*

(5) New development shall be sited using existing topography and existing vegetation as needed to achieve visual subordination from key viewing areas.

Staff: As discussed above, the replacement septic system and agricultural buildings have been sited using existing topography and existing vegetation. *This criterion is met.*

(6) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in MCC 38.7035(C).

Staff: No existing trees are to be removed as part of the development that will occur. *This criterion is met.*

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

Staff: The applicant is not proposing any new cut banks or fill slopes for a driveway or building. *This criterion is not applicable.*

(8) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity. Continuous surfaces of glass shall be limited to ensure visual subordination. The Scenic Resources Implementation Handbook includes a list of recommended exterior materials and screening methods.

Staff: As discussed above, the agricultural buildings are not visible from the Columbia River. *This criterion is not applicable.*

(9) Any exterior lighting shall be directed downward and sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and hooding materials shall be composed of nonreflective, opaque materials.

Staff: The applicant is not proposing any exterior lighting. *This criterion is met.*

(10) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors approved by the reviewing agency shall be included as a condition of approval.

Staff: As discussed above, the septic system and agricultural buildings are not visible from the Columbia River. *This criterion is not applicable.*

(11) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors approved by the reviewing agency shall be included as a condition of approval.

Staff: The applicant is not proposing an addition to an existing building. *This criterion is not applicable.*

(12) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual sub-ordinance requirements for lands visible from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to such historic structures shall be consistent with National Park Service regulations for historic structures.

Staff: The applicant is not proposing to rehabilitate or modify an existing significant historic structure. *This criterion does not apply.*

(13) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as visible from Key Viewing Areas.

Staff: The replacement of a septic system qualifies as a “Structure” and “Development” but not a “Building” pursuant to MCC 38.0015 Definitions.

The existing agricultural buildings are situated in an area that is not visible from the Columbia River due to the distance and changes in topography. The subject property is situated at a lower elevation compared to the location of the Columbia River. The silhouette of the agricultural buildings will remain below the skyline of a bluff, cliff or ridge as seen from the KVA. *This criterion is met*

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

(a) New landscaping (including new earth berms) shall be required only when there is no other means to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.

(b) If new landscaping is required, it shall be used to supplement other techniques for achieving visual subordination.

(c) Vegetation planted for screening purposes shall be of sufficient size to make the development visually subordinate within five years or less of commencement of construction. If after five years the vegetation has not achieved a size sufficient to screen the development, additional screening may be required by Multnomah County to make the development visually subordinate.

(d) Landscaping shall be installed as soon as practicable, and prior to project completion. The property owner(s), and their successor(s) in interest are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(e) The Scenic Resources Implementation Handbook includes recommended species for each landscape setting consistent with MCC 38.7035(C) and the minimum recommended sizes for tree plantings (based on average growth rates expected for recommended species).

Staff: Additional landscaping for screening purposes is not required as the agricultural buildings are not visible from the Columbia River. *These criteria are not applicable.*

* * *

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

(1) Pastoral

(a) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

Staff: The replacement septic system and agricultural buildings are clustered near each other and surrounded by an active farm use (Exhibit A.10). *This criterion is met.*

(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. Examples of native species are identified in the Scenic Implementation Handbook as appropriate for the area.**
- 4. At least one-quarter of any trees planted for screening shall be coniferous for winter screening. Flexibility may be granted to this provision when development is directly adjacent or adjoining a landscape setting where coniferous trees are not common or appropriate (see Scenic Implementation Handbook for guidance) and tree species ultimately selected for winter screening are natives characteristic to that setting.**

Staff: The applicant is not proposing to remove any trees and additional trees are not required to be planted as the agricultural buildings are not visible from the Columbia River. *These criteria are not applicable.*

(c) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature, occurring infrequently in the landscape.

Staff: No public recreational uses are proposed. *This criterion is not applicable.*

8.2 MCC 38.7045 GMA Cultural Resource Review Criteria

(A) Cultural Resource Reconnaissance Surveys

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

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

* * *

Staff: Chris Donnermeyer, Columbia River Gorge Scenic Area Heritage Resources Program Manager, submitted a Cultural Resource Survey Determination stating that “A Cultural Resource Reconnaissance Survey is: Not required” as the proposed use or element of the propose use, “would occur on a site that has been determined to be located within a low probability zone”, and “Does not occur within 500 feet of a known archaeological site” (Exhibit D.1). *These criteria are met.*

* * *

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

Staff: Chris Donnermeyer, Columbia River Gorge Scenic Area Heritage Resources Program Manager, submitted a Cultural Resource Survey Determination. The letter stated that a historic survey is not required because the proposal “Would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older” and “Would not compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older.” (Exhibit D.1). Therefore, a historic survey is not required. *These criteria are not applicable.*

(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).

* * *

Staff: As stated above, according to the USFS determination (Exhibit D.1) a cultural resource review is not required. *This criterion is met.*

(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.

* * *

(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.

* * *

Staff: Conditions of approval require the property owner(s) to comply with the procedures outlined in (L) and (M) above. *As conditioned, these criteria are met.*

8.3 MCC 38.7053 GMA Water Resources Review Criteria

Water Resources: Wetlands, Streams, Ponds, Lakes, and Riparian Areas

* * *

Staff: The subject property does not contain any wetlands, streams, ponds, lakes, or riparian areas. *These criteria are not applicable.*

8.4 MCC 38.7065 GMA Wildlife Review Criteria

Wildlife Habitat Site Review shall be required for any project within 1,000 feet of Priority Habitat and sensitive wildlife areas and sensitive wildlife sites (i.e., sites used by sensitive wildlife species). If Multnomah County discovers a new protected wildlife location during the review process, the County shall submit this information to the appropriate state agency to be updated in their species databases.

* * *

Staff: Based on the United State Forest Service maps for Sensitive Wildlife, there are no sensitive wildlife areas or sensitive wildlife sites within 1,000 feet of the subject property. *These criteria are not applicable.*

8.5 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 rare plant species.

* * *

Staff: According to County’s GIS data, there does not appear to be any sensitive wildlife areas and sensitive wildlife sites within 1,000 feet of the subject property. *These criteria are not applicable.*

8.6 MCC 38.7080 GMA Recreation Resource Review Criteria

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

(A) Recreation Intensity Class 1

* * *

Staff: The subject property is located within the Recreation Intensity Class 1; however, the applicant is not proposing any recreation-based uses. *These criteria are not applicable.*

9.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the National Scenic Area Site Review to replace the septic system in the GGA-40 zone. This approval is subject to the conditions of approval established in this report.

10.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Public Comments

Exhibits with an ‘*’ have been reduced in size and included with the mailed decision. All exhibits are available for digital review by sending a request to LUP-comments@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Application	02.14.2023
A.2	1	Authorizing Form	02.14.2023
A.3	1	Table of Contents	02.14.2023
A.4	1	Subject Property Lidar Map	02.14.2023
A.5	3	Septic Approval Area	02.14.2023
A.6	3	Elevation Drawings	02.14.2023
A.7	1	Erosion Control Plan	02.14.2023
A.8	1	Drainfield Cross Section Drawing	02.14.2023
A.9	6	Fire Agency Review	09.19.2023
A.10	30	Existing Agricultural Buildings	08.08.2023
A.11	25	Deed History	08.08.2023
A.12	1	Corbett Water District Service Letter	08.08.2023
A.13	2	Key Viewing Area	08.08.2023

A.14	1	Property Owner Correspondence	08.08.2023
A.15	1	PGE Account Confirmation	08.08.2023
A.16	7	ROW-DR-2024-001	03.13.2024
A.17	9	Septic Review Certification	03.13.2024
'B'	#	Staff Exhibits	Date
B.1	2	Assessment and Taxation Property Information for 1N4E33A -00100 (Alt Acct# R944330550)	02.14.2023
B.2	1	Current Tax Map 1N4E33A -00100	02.14.2023
B.3	1	Historic Zoning Map	02.14.2023
B.4	1	Historic Zoning Code	02.14.2023
'C'	#	Administration & Procedures	Date
C.1	12	Agency Review	03.10.2023
C.2	4	Incomplete Letter	03.24.2023
C.3	1	Complete Letter	12.07.2023
C.4	6	Opportunity to Comment	10.24.2024
C.5	18	Decision	12.26.2024
'D'	#	Comments	Date
D.1	2	USFS Comment	03.15.2023
D.2	1	M. Sitmann Comment	10.24.2024
D.3	9	Friends of the Gorge Comment	11.07.2024