

NOTICE OF NSA DECISION



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

Case File: T2-2024-0035

Applicant: Dale Burkholder

Proposal: Request for a National Scenic Area (NSA) Site Review to establish an agricultural use and areas of new cultivation, in addition to review of development that occurred without review from the County. The development includes repair and addition to an existing accessory building (“A-Frame #1”), an addition to a second existing building (“barn”), construction of four (4) agricultural buildings (“hoop house”, “A-Frame #2”, “chicken coop”, and “tuff shed”), and fencing. The applicant is also proposing to alter the barn and conduct ground disturbance to connect the barn to the septic system.

Location: 700 NE Rohrbach Rd, Corbett

Property ID # R322760

Map, Tax lot: 1N4E35BD -00800

Alt. Acct. # R944350810

Base Zone: Gorge General Residential (GGR-5)

Overlays: None

Key Viewing Areas: Historic Columbia River Highway (including the Historic Columbia River Highway State Trail), Larch Mountain Road, Sandy River

Landscape Setting: Rural Residential

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, February 13, 2025 at 4:00 pm.

Issued by:

A handwritten signature in black ink, appearing to read "Rithy Khut".

Digitally signed by Rithy Khut
DN: cn=Rithy Khut, o=Multnomah
County, ou=Land Use Planning Division,
email=rithy.khut@multco.us, c=US

Rithy Khut, Senior Planner

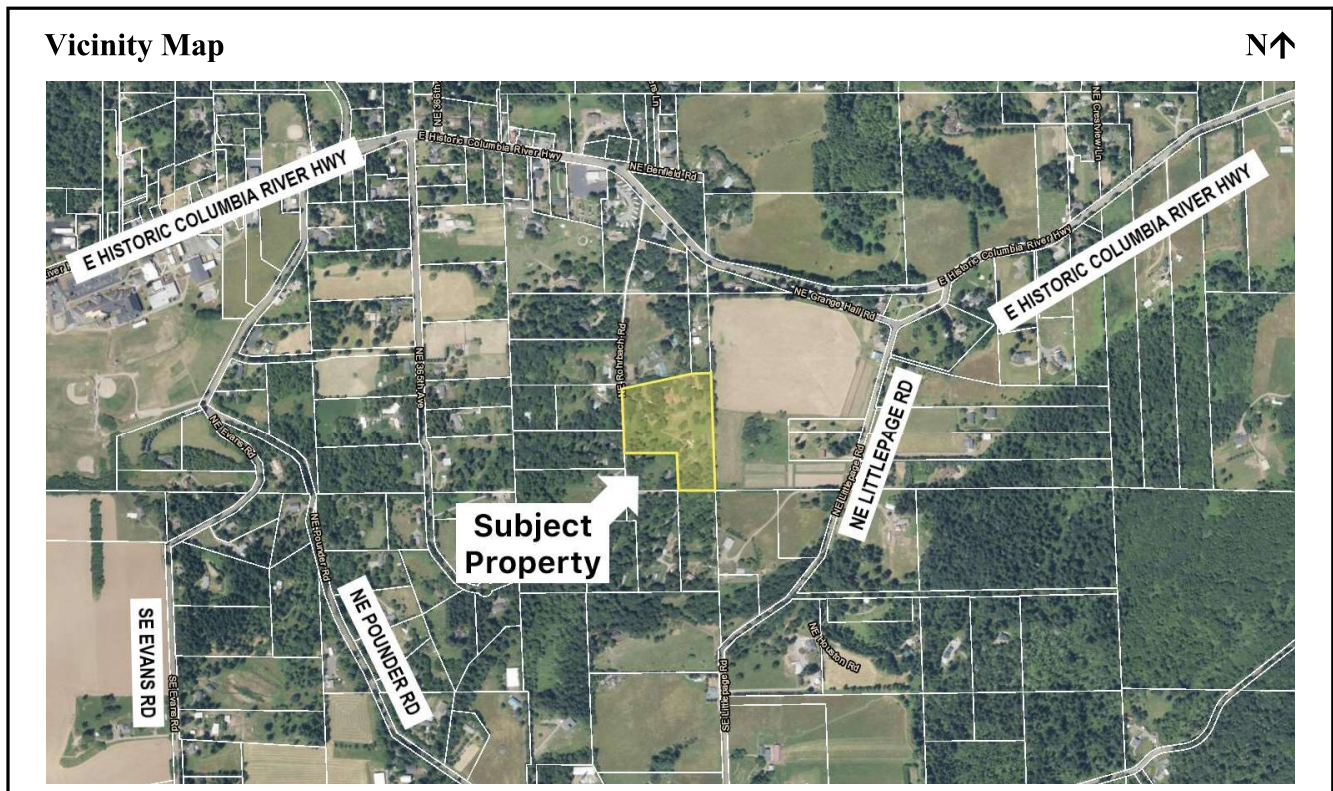
For: Megan Gibb,
Planning Director

Date: Thursday, January 30, 2025

Instrument Number for Recording
Purposes: #2024-026809

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.



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

Gorge General Residential (GGR-5): MCC 38.3025(A)(2) Review Uses - (2) Accessory structures for an existing or approved dwelling..., MCC 38.2025(A)(3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel..., MCC 38.3025(A)(6) Review Uses – New cultivation..., MCC 38.3025(A)(12) Review Uses – Agricultural buildings in conjunction with current agricultural use..., MCC 38.3060(B)-(D) Dimensional Requirements

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

Special Uses: MCC 38.7300 Review and Conditional Uses, MCC 38.7340 Agricultural Buildings

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

Conditions of Approval

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/frame of the approved structure or actual excavation of trenches for an approved underground utility or development, whichever occurs first.
 - ii. For purposes of 1.a, 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. T2-2024-0035 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, 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. T2-2024-0035 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. This permit authorizes the following development that occurred without review by the County:
 - a. Establishment of an agricultural use and areas of new cultivation.
 - b. Repair and addition to an existing accessory building (“A-Frame #1”).

- c. Addition to an existing building (“barn”).
 - d. Construction of four (4) agricultural buildings (“hoop house”, “A-Frame #2”, “chicken coop”, and “tuff shed”).
 - e. Construction of fencing.
4. **Prior to submitting Building Plans for Zoning Review**, the property owners or their representative shall:
- a. Record pages 1 through 5 and Exhibit A.20 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant’s expense. [MCC 38.0670]
 - b. Acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be submitted and uploaded when submitting Building Plans for Zoning Review and Review of Conditions of Approval. [MCC 38.0660(A) & (B)]
5. **When submitting Building Plans for Zoning Review**, the property owner(s) or their representative shall:
- a. Provide a Letter of Acknowledgement and recorded Notice of Decision as required in Condition 4.a and 4.b. [MCC 38.0660(A) & (B)]
 - b. 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]
 - c. Submit an Agricultural Building application for each of the agricultural buildings. The plans for the Barn shall not show or include a cooking facilities for a kitchen. [MCC 38.0560, MCC 38.3025(A)(12), and MCC 38.7340]
 - d. Submit paint samples for the Agricultural Buildings (A-Frame #2, chicken coop, and tuff shed), and fence. The exterior of the buildings/structures shall be coated/painted with a matte finish to reduce their reflectivity and match the dark earth tone colors in Row A, B, or C of the *Columbia River Gorge Commission Scenic Resources Implementation Handbook*. [MCC 38.7035(B)(2), (8), and (10)]
6. **After obtaining an approved Zoning Review**, the property owner(s) or their representative shall:
- a. Paint the Agricultural Buildings (A-Frame #2, chicken coop, and tuff shed) and fence as follows:
 - i. The exterior surfaces shall be repainted to match the dark earth tone colors in Row A, B, or C of the *Columbia River Gorge Commission Scenic Resources Implementation Handbook*. [MCC 38.7035(B)(2), (8), and (10)]
7. **As an on-going condition**, the property owner(s) shall:
- a. Not install cooking facilities to create a kitchen in the Agricultural “Barn” building. [MCC 38.7340]

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:

1. 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.
2. 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.
3. Visit <https://www.multco.us/landuse/submitting-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.

Once you have obtained an approved zoning review, application for building permits may be made with the City of Gresham.

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 National Scenic Area (NSA) Site Review to establish an agricultural use and areas of new cultivation, in addition to review of development that occurred without review from the County. The development includes repair and addition to an existing accessory building (“A-Frame #1”), an addition to a second existing building (“barn”), construction of four (4) agricultural buildings (“hoop house”, “A-Frame #2”, “chicken coop”, and “tuff shed”), and fencing. The applicant is also proposing to alter the barn and conduct ground disturbance to connect the barn to the septic system.

2.0 Property Description & History:

Staff: This application is for 700 NE Rohrbach Rd, Corbett. The property is located on the east side of an access easement road NE Rohrbach Road in the Columbia River Gorge National Scenic Area (CRGNSA), unincorporated east Multnomah County, and outside of Metro’s Urban Growth Boundary (UGB). The property is zoned Gorge General Residential (GGR-5) and has no overlays.

The property is occupied by a single-family dwelling with an attached garage and deck according to the County Assessor. The dwelling was first assessed in 1968 and the property is approximately 8.02 acres in size. Aerial photos from 2022 show what appears to be the dwelling and six (6) buildings/structures (Exhibit B.4).

This is the previous land use/building permit associated with the property:

Permit No.	Date	Description
LE 11-88	10/17/1988	Lot of Exception

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 (Exhibit C.5). Staff did receive comments during the 21-day comment period and did not receive comments regarding Cultural Resources during the 30-day comment period.

3.1 Email and Cultural Resource Survey Determination from Chris Donnermeyer, Heritage Resources Program Manager on behalf of the United States Department of Agriculture: Forest Service (“USFS”) - Columbia River Gorge National Scenic Area (Exhibit D.1)

Staff: Chris Donnermeyer sent an e-mail and a Cultural Resource Survey Determination on behalf of the USFS on July 24, 2023. The Survey stated that, “A Cultural Resource Survey is: Not Required” and “A Historic Survey is: Not Required.”

3.2 Letter from Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge (Exhibit D.2)

Staff: Steven D. McCoy submitted a letter on October 21, 2024 on behalf of the Friends of the Columbia Gorge. The letter contained comments intended to identify application requirements,

procedural requirements, resource protection standards, and provide recommendations to the County and the public regarding legal requirements.

4.0 Code Compliance and Applications Criteria:

4.1 § 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

* * *

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.

Staff identified an open compliance case relating to an accessory building that was not previously reviewed by the County. The code compliance case, UR-2021-14829 was opened on June 15, 2022. Staff described these issues in addition to additional compliance issues during a pre-file meeting, PF-2022-15922, on September 1, 2022 and again during pre-file meeting, PF-2023-0006, on January 11, 2024 (Exhibit A.14 and B.4).

The applicant responded by submitting this application for review of a National Scenic Area (NSA) Site Review to establish an agricultural use, areas of new cultivation, four (4) agricultural buildings, fencing to address the above compliance issues. Additionally, this application seeks to permit the addition to two existing buildings. One will become a building accessory to the single-family dwelling and one will be an agricultural building. This application, a Type II application, is the first part of a sequencing of permits needed to resolve the code compliance issues relating to non-permitted development. In completing the required Conditions of Approval, the applicant will return the subject property into full compliance with Multnomah County Code. *As conditioned, criterion met.*

5.0 Parcel Criteria:

5.1 § 38.0015 DEFINITIONS

Parcel:

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

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

(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, the property when created or reconfigured must meet the definition above and demonstrate that the property satisfied all applicable zoning laws and satisfied all applicable land division laws. The property was created as part of a Lot of Exception in land use case no. LE 11-88. The property was legally created and separately described by deed on November 17, 1986 and complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation. The property has not been reconfigured and is a “Parcel” as defined in MCC 38.0015. *Criterion met.*

6.0 Existing Uses and Discontinued Uses Criteria:

6.1 § 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.

* * *

(D) Changes to Existing Uses and Structures: Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this Management Plan.

* * *

Staff: The proposal includes two (2) existing building (“A-Frame #1” and “Barn”). A-Frame #1 will become an accessory building to the single-family dwelling and will be repaired with an added addition. The Barn will become an agricultural building with an added addition and interior modifications. The two buildings were originally were shown on Survey #50885 as part of land use case no. LE 11-88 (Exhibit B.5). The buildings have not been discontinued as they are still present; however, as required above, the additions, modifications, and change of use for the buildings is subject to review and approval to this Management Plan, including, but not limited to,

guidelines for land use designations and scenic, cultural, recreation and natural resources. Those policies, guidelines, and Multnomah County Code requirements are discussed below.

7.0 Review Criteria:

7.1 § 38.3025 REVIEW USES

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

- (2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (3) below.**

Staff: The applicant is requesting review of an accessory structure (“fencing”) that was not previously reviewed by the County. The property currently contains a single-family dwelling that was originally shown on Survey #50885 as part of land use case no. LE 11-88 (Exhibit B.5). The fencing is located on the north property line (Exhibit A.3, A.19, and A.20). The development is to the NSA Site Review standards which are discussed in Section 8.00.

- (3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:**

- (a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.**
- (b) The height of any individual accessory building shall not exceed 24 feet.**

Staff: The applicant is requesting review of an addition to an existing building (“A-Frame #1”) that was not previously reviewed by the County. A-Frame #1 was last reviewed in LE 11-88 as a rectangular building (Exhibit B.5). Now T-shaped the building is approximately 600 square feet in size (Exhibit A.3, A.19, and A.20). The total height of the building has not been changed from when it was reviewed as part of LE 11-88. The development is subject to the NSA Site Review standards which are discussed in Section 8.00. *Criteria met.*

* * *

- (6) New cultivation, subject to compliance with MCC 38.7045, 38.7053, 38.7065 and 38.7070.**

Staff: The applicant is requesting review of areas of new cultivation that was not previously reviewed by the County. The areas are described as Field #1, #2, and #3 (Exhibit A.20). As it has not been shown that the areas of land have been previously cultivated, those areas are subject to compliance with MCC 38.7045, 38.7053, 38.7065, and 38.7070 as discussed in Section 8.00.

* * *

- (12) 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 review of an addition to an existing building (“barn”) that was not previously reviewed by the County. Additionally, the applicant is proposing alterations to the

interior of the building to add a bathroom and kitchen. Ground disturbance will also be required to connect the bathroom inside the barn to the septic system on the property.

Lastly, the applicant is seeking review of four (4) buildings (“hoop house”, “A-Frame #2”, “chicken coop”, and “tuff shed”) that will also be used for agricultural purposes that were not previously reviewed by the County. To ensure that the buildings are properly permitted, a condition will be required that the agricultural buildings be registered. The development is subject to the NSA Site Review standards, which are discussed in Section 8.00 and Special Uses Approval Criteria, which are discussed in Section 9.00. *As conditioned, criterion met.*

* * *

7.2 § 38.3060 DIMENSIONAL REQUIREMENTS

* * *

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet
Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

Staff: The image below illustrates the lot lines for the Property.



The applicant’s site plan shows the location of all buildings and structures on the property. All the buildings are more than 10 feet from a side lot line and 30 feet from either the front or rear lot line (Exhibit A.20). The elevation plans for the buildings show each building is less than 35 feet in height (Exhibit A.22, A.24 through A.29). The accessory structure is 6 feet in height, which can be located within the yard setback. *Criteria met.*

7.3 § 38.3090 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

Staff: The property takes access off an access easement road. The access easement road, NE Rohrbach Road abuts E. Historic Columbia River Highway, which is a road under the jurisdiction of the Oregon Department of Transportation. ODOT did not indicate any concerns about the proposal. *Criterion met.*

8.0 National Scenic Area (NSA) Site Review Criteria:

8.1 § 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:

Staff: As discussed in Section 4.0, 6.0, and 7.0, this application involves proposed and retroactive Review Uses. Staff addresses relevant GMA Scenic Review Criteria below.

8.1.1 (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 new buildings and expansion of existing development that occurred without review by the County altered the landscape. The ground disturbance that occurred included areas of new cultivation, additions to buildings, and construction of buildings (Exhibit A.3, A.19, and A.20). The applicant is also proposing additional development to connect the septic system to barn that will require grading activities. The addition to an A-Frame #1; addition to the barn; construction of fencing, hoop house, A-Frame #2, chicken coop, and tuff shed; and new cultivation are all sited to retain the existing topography. The disturbance that did occur and will occur involved and will involve minimal amounts of grading activities as the structures were either existing as discussed in Section 5.00 or small in size. The areas of grading are also in a generally flat area with the agricultural uses being in field areas that are flat. *Criterion 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.**
- (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: The applicant is requesting review of buildings and expansion of existing development that were not previously reviewed by the County. The expansion includes an addition to an A-Frame #1 and addition to the barn. The new buildings include a hoop house, A-Frame #2, chicken coop, and tuff shed.

The size of the new buildings are as follows:

Building	Size (sq. ft.)
Hoop house	±1,200
A-Frame #2	±750
Chicken coop	±215
Tuff shed	±160

Those buildings are exempt from the requirement above. For the expansions of existing development, A-Frame #1 has an addition of ±115 square feet with the total square footage of the building now at ±590 square feet and the Barn has an addition of 480 square feet with the total square footage of the building now at ±3,595 square feet. (Exhibit A.20)

Within the nearby area, 16 properties are in the same GGR zoning district. There are 12 properties that have farm buildings. The average square footage of the nearby agricultural buildings is 1580 square feet, with a minimum of 472 square feet and a maximum of 3,600 square feet. The alterations resulted in the farm building 3,595 square feet. *Criterion met.*

(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 applicant is not proposing new vehicular access appoints to the Scenic Travel Corridors; therefore, this criterion is not applicable. *Criterion not applicable.*

* * *

8.1.2 (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 subordinance 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.

Staff: The new buildings, structure, and expansion of existing development that occurred without review by the County are in areas that are topographically visible from the following KVAs: Historic Columbia River Highway (including the Historic Columbia River Highway State Trail), Larch Mountain Road, Sandy River.

To meet the not “visually subordinate” standard, the development must not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a Key Viewing Area). Structures which are visually subordinate may be partially visible, but are not visually dominant in relation to their surroundings

The development that did occur is not topographically visible from those KVAs. From the Historic Highway, there is a ridge and vegetation that obscures or blocks the view from the highway to the property (Exhibit B.6 and B.7). From Larch Mountain Road, the development more the 1.25 miles from the road to the nearest development on the property. This distance limits the visibility and dominance of the development in relation to its surroundings.

Lastly, there are substantial amounts of mature trees located around the development. As shown in the most current aerial photo, the trees are established and the development are obscured by trees to the east (Exhibit B.4). *Criterion met.*

(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 subordination policies shall include consideration of the cumulative effects of proposed developments.

(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 narrative and building plans discuss and show the design of the buildings and structures. A-frame #1 is existing and was constructed of wood siding and a metal roof. As the building is existing the adding of an addition matches the current design of the building (Exhibit A.28). The barn is also an existing building that was constructed of brown/red metal siding and metal roof (Exhibit A.26 and A.29). As the building is existing, the adding of an addition matches the current design of the building. The hoop house is constructed of a PVC piping with a plastic covering (Exhibit A.24). A-Frame #2 is constructed of T1-11 wood siding and a DuraCoat matte brown metal roof (Exhibit A.19 and A.27). The chicken coop was constructed of wood and sheet metal (Exhibit A.25). The tuff shed was constructed of light blue wood siding and asphalt shingle (Exhibit A.22). Lastly, the fencing was constructed of wood and metal sheeting (Exhibit A.23). As discussed below, the exterior of the buildings will need to altered to meet the GMA Scenic Approval Criteria. *As conditioned, criterion met.*

(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 development that did occur is not topographically visible from the KVAs and are in an area of significant vegetative screening. The placement of the development uses the existing topography and existing vegetation to achieve visual subordination from the KVAs. Lastly, the development that will occur, cultivation, connecting the barn to the septic system, etc. are located within a building or are low to the ground. *Criterion 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 were removed or will be removed as part of the development that did and will occur. *Criterion 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 existing driveway, existing buildings, and proposed buildings are designed and sited to minimize visibility of cut banks and fill slopes. The driveway and buildings are in an area of relative gentle slope that is more than 0.15 miles from the nearest KVA that is obscured by a ridge (Exhibit B.7). From that distance, any visible cut bank and fill slopes that can be seen from KVAs are minimized. *Criterion met.*

(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 previously, the narrative and building plans discuss and show the design of the buildings and structures. Some of the buildings use corrugated metals for their exterior surfaces or other materials that are reflective or have high to medium reflectivity (Exhibit A.19, A.25, and A.27). A condition will be required that all buildings, except A-Frame #1 and barn, and the fence be coated with matte finish to reduce their reflectivity. *As conditioned, criterion met.*

(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 non-reflective, opaque materials.

Staff: The applicant indicates that there is no exterior lighting on the buildings being reviewed; therefore, this criterion is not applicable. *Criterion not applicable.*

(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 previously, the narrative and plans discuss and show the design of the buildings and structures. Some of the buildings and the fence use colors that are not dark earth tone found at the specific site or in the surrounding landscape (Exhibit A.19, A.22, A.23, A.25, and A.27). A condition will be required that all buildings, except A-Frame #1 and barn, and the fence be painted with colors that match Row A, B, or C in the *Building in the Scenic Area Scenic Resources Implementation Handbook*. *As conditioned, criterion met.*

(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: As discussed previously, there are two existing buildings, A-Frame #1 and barn. The development that occurred without review included additions to both buildings. The additions are smaller than the total square area of the existing building; therefore, the additions are the same color and use the same materials as the existing building. *Criterion met.*

* * *

(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 silhouette of the buildings are below the skyline of a bluff or ridge as seen from the KVAs. There is a large ridge that has an elevation that is 20 feet higher to the north that ensures that the silhouettes of the buildings are below the skyline (Exhibit B.7). *Criterion met.*

* * *

(21) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this standard. In determining the slope, the average percent slope of the proposed building footprint shall be utilized.

Staff: As previously discussed, the buildings are in an area of relative gentle slope. The slopes on the property are not greater than 25% with most of the property having a slope of less than 10% (Exhibit B.7). *Criterion met.*

* * *

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

(3) Rural Residential

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

Staff: The new cultivation, alteration of buildings, new buildings, new structure, and expansion of existing development were done in a manner to retain the existing tree cover. In comparing aerial photos over time, most of the existing tree cover that was removed was done for site development to allow for agricultural uses and cultivation. The new buildings were placed adjacent to those agricultural uses and cultivation areas (Exhibit A.3, A.19, and A.20). *Criterion 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. At least half of any trees planted for screening purposes shall be species native to the setting or species identified in the Scenic Implementation Handbook as appropriate for the area.**
- 3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.**

Staff: As previously discussed, the property is not visible from nearby KVAs due to the topography of the area. No additional screening will be required at this time. *Criterion met.*

* * *

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

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

Staff: The property is located within one-quarter mile from the edge of pavement of the Historic Columbia River Highway. As the land is in the immediate foreground of the Scenic Travel Corridor the standards of MCC 38.7035(D)(2) through (7) are applicable.

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

Staff: As proposed none of the buildings are located within 100 feet of the edge of pavement from the Scenic Travel Corridor roadway. The closest building is located more than 700 feet from the Historic Columbia River Highway. *Criterion met.*

(3) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a GGRC, shall comply with subsection (2) above to the maximum extent practicable.

Staff: As proposed no additions to an existing building is located within 100 feet of the edge of pavement from the Scenic Travel Corridor roadway. The closest building is located more than 700 feet from the Historic Columbia River Highway. *Criterion met.*

* * *

8.2 § 38.7045 GMA CULTURAL RESOURCE REVIEW CRITERIA

8.2.1 (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:

(a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

* * *

(f) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

* * *

Areas that have a low probability of containing cultural resources will be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the U.S. Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting tribal governments and state historic preservation officers, will prepare and adopt a map showing areas that have a low probability of containing cultural resources. It will be refined and revised as additional reconnaissance surveys are conducted. Areas will be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

Staff: Chris Donnermeyer sent an e-mail and a Cultural Resource Survey Determination on behalf of the USFS on April 26, 2024. The Survey stated that, “A Cultural Resource Survey is: Not Required” as the proposed development would:

1. ...involve the modification, expansion, replacement, or reconstruction of existing buildings and structures;
2. ...would occur on a site that has been determined to be located within a low probability zone;
3. is not within 100 feet of a high probability zone; and
4. Does not occur within 500 feet of a known archeological site. (Exhibit D.1).

Criteria 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 sent an e-mail and a Cultural Resource Survey Determination on behalf of the USFS on April 26, 2024. The Survey stated that, “A Historic Survey is: Not Required” as

the proposed development: 1) Would not later the exterior architectural appearance of significant buildings and structures that are 50 years old or older and 2) 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). The Survey did require one condition that A-Frame #1 be repaired with the same materials and the dimensions/scale and appearance remain unchanged from its original condition. As described in the narrative, this condition has been met. *Criterion met.*

8.2.2 (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: The cultural resource review has been satisfied, as the project is exempted by MCC 38.7045(A)(1) above; therefore, these criteria are not applicable except for MCC 38.7045(L) and (M). Those criteria are required to be met as a condition. *As conditioned, criteria met.*

8.2.3 (L) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities, and shall be included as conditions of approval for all review uses. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Tribal governments also shall receive a copy of all reports and plans if the cultural resources are precontact or otherwise associated with Native Americans.

* * *

Staff: A condition requires the property owner to follow the procedures of MCC 38.7045(L), if cultural resources are discovered during construction. *As conditioned, these criteria are met.*

8.2.5 (M) Discovery of Human Remains

The following procedures shall be used when human remains are discovered during a cultural resource survey or during construction, and shall be included as a condition of approval for all review uses.

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

* * *

Staff: A condition requires the property owner to follow the procedures of MCC 38.7045(M), if human remains are discovered during construction. *As conditioned, these criteria are met.*

8.3 § 38.7053 GMA WATER RESOURCES REVIEW CRITERIA

WATER RESOURCES: WETLANDS, STREAMS, PONDS, LAKES, AND RIPARIAN AREAS

* * *

Staff: Based on the United State Forest Service maps for wetlands and Department of State Lands Statewide Wetland Inventory Map, the property does not contain any wetlands, streams, ponds, lakes, or riparian areas. *Criteria not applicable.*

8.4 § 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 property. *Criteria not applicable.*

8.5 § 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: Based on United State Forest Service maps for Sensitive Plans, there does not appear to be any endemic plants or sensitive plant species within 1,000 feet of the property. *Criteria not applicable.*

8.6 § 38.7080 GMA RECREATION RESOURCE REVIEW CRITERIA

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

* * *

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

9.0 Special Uses Criteria:

9.1 § 38.7340 AGRICULTURAL BUILDINGS

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

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

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

Staff: The agricultural use on the property is the growing of flowers, vegetables, herbs, and plants. The site plan shows areas being used for orcharding, livestock, and chickens (Exhibit A.20). Photos were provided showing the current agricultural use occurring on the property and two Internal Revenue Service Form 1040 Schedule F – Profit or Loss from Farming were provided showing that income and expenses were incurred by the property owners (Exhibit A.19 and A.23).

Lastly, based on Assessor data, the property is classified as being used under farm use land assessment (Exhibit B.1).

The buildings that will be used for agriculture include a barn, hoop house, A-Frame #2, chicken coop, and tuff shed. The barn floor plan shows areas for processing (i.e. cleaning and preparing crops), cold storage, workshop, and tool storage (Exhibit A.26). A laundry area, bathroom, and kitchen area are also proposed. The kitchen area will be used to extract dyes from plants and drying and curing plant and animal products. As defined in MCC 38.0015 an Agricultural Use means:

“The current employment of land for the primary purpose of obtaining a profit in money by the raising, harvesting and selling of crops, or by the feeding, breeding, management and sale of livestock, poultry, furbearing animals or honeybees, or dairying and the sale of dairy products, or any other agricultural or horticultural use including Christmas trees....”

The definition does not include the processing of crops to extract dyes. Additionally, as defined in Merriam-Webster, a kitchen is defined as a place (such as a room) with cooking facilities. By allowing a kitchen, it would create a dwelling unit as defined in MCC 38.0015. Therefore, a condition will be required that the placement of a cooking facilities is not permitted to ensure that the barn is an agricultural building that supports an agricultural use and not a dwelling unit.

Lastly, the hoop house, A-Frame #2, and tuff shed are all used to raise crops or storage of farm equipment (Exhibit A.22, A.24, and A.27). The chicken coop is used for sheltering poultry (Exhibit A.25). *As conditioned, criteria met.*

10.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the National Scenic Area (NSA) Site Review in the Gorge General Residential (GGR-5) zone for the development described below:

1. Authorize the following development that has occurred:
 - a. Establish an agricultural use and areas of new cultivation.
 - b. Repair and addition to an existing accessory building (“A-Frame #1”).
 - c. Addition to an existing building (“barn”).
 - d. Construction of four (4) agricultural buildings (“hoop house”, “A-Frame #2”, “chicken coop”, and “tuff shed”).
 - e. Construction of fencing.
2. Authorize the following development that has yet to occur:
 - a. Alteration of internal features inside the barn.
 - b. Ground disturbance and placement of piping to connect the barn to the septic system.
 - c. Alteration of buildings to comply with GMA Scenic Review Criteria.

This approval is subject to the conditions of approval established in this report.

11.0 Exhibits

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

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 Form	04/09/2024
A.2	17	Narrative	04/09/2024
A.3	3	Additional Narrative	04/09/2024
A.4	1	Site Plan (reduced to 8.5” x 11”)	04/09/2024
A.5	1	Agricultural Building Floor Plan	04/09/2024
A.6	15	Photos	04/09/2024
A.7	22	Historical Zoning Information <ul style="list-style-type: none"> ▪ Zoning Ordinance 100 - 05/21/1968 ▪ Zoning Map – prior to 10/05/1977 ▪ Zoning Ordinance 100 – 03/06/1979 ▪ Zoning Map – prior to 10/05/1977 ▪ Zoning Ordinance 300 – 03/23/1982 ▪ Zoning Map Ordinance 238 – 08/14/1980 	04/09/2024
A.8	1	Zoning Map Ordinance 395– 10/13/1983	04/09/2024
A.9	1	Aerial Photo from 1981	04/09/2024
A.10	26	Stormwater Drainage Control Certificate	04/09/2024
A.11	4	Septic Review Certification	04/09/2024
A.12	4	Fire Service Agency Review	04/09/2024
A.13	8	Transportation Planning Review	04/09/2024
A.14	11	Pre-Filing Meeting Summary Notes, PF-2023-0006	04/09/2024
A.15	1	RMLSweb Map	04/09/2024
A.16	2	Email between Applicant and Multnomah County	04/09/2024
A.17	1	Screenshot of Permit Portal	04/09/2024
A.18	1	Water Service Certification	04/26/2024
A.19	8	Additional Narrative	06/12/2024
A.20*	1	Updated Site Plan	06/12/2024
A.21	13	RMLS Webmap with building comparisons of nearby properties	06/12/2024
A.22	4	Tuff Shed Floor/Elevation Plan with pictures	06/12/2024
A.23	3	Cultivation Pictures	06/12/2024
A.24	5	Greenhouse Floor/Elevation Plan with pictures	06/12/2024
A.25	4	Chicken Coop Floor/Elevation Plan with pictures	06/12/2024
A.26	6	Barn Floor/Elevation Plan with pictures	06/12/2024

A.27	9	A-Frame Floor/Elevation Plan with pictures	06/12/2024
A.28	3	Additional A-Frame pictures	06/12/2024
A.29	4	Barn Elevation Plans	06/26/2024
'B'	#	Staff Exhibits	Date
B.1	2	Assessment and Taxation Property Information for 1N4E35BD - 00800 (Alt Acct #R944350810 / Property ID #R322760)	04/09/2024
B.2	1	Current Tax Map for 1N4E35BD	04/09/2024
B.3	1	Aerial Photo taken in April 2024	05/07/2024
B.4	13	Pre-Filing Meeting Summary Notes, PF-2022-15922	05/07/2024
B.5	1	Survey 50885	05/07/2024
B.6	2	Google Maps 3D Render	01/14/2025
B.7	1	Metro Map - Contours	01/14/2025
'C'	#	Administration & Procedures	Date
C.1	123	Agency Review	04/17/2024
C.2	6	Incomplete letter	05/09/2024
C.3	1	Applicant's acceptance of 180-day clock	05/10/2024
C.4	3	Complete letter (day 1)	07/09/2024
C.5	14	Opportunity to Comment	09/30/2024
C.6	24	Decision	01/30/2025
'D'	#	Comments	Date
D.1	4	Cultural Resource Survey Determination from Chris Donnermeyer, Heritage Resources Program Manager for the USDA Forest Service Columbia River Gorge National Scenic Area	04/26/2024
D.2	9	Letter from Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge	10/21/2024

