

# NOTICE OF NSA EXPEDITED DECISION



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<b>Case File:</b>	T2-2025-0014	<b>Applicant</b>	Department of State Lands
<b>Proposal:</b>	NSA Expedited Review for a 14-foot long and 4-foot tall driveway closure gate.		
<b>Location:</b>	N/A	<b>Property ID #</b>	R320667
	<b>Map, Tax lot:</b> 1N3E25 -00100	<b>Alt. Acct. #</b>	R943252300
<b>Base Zone:</b>	Gorge Special Public Recreation (GSPR), Gorge Special Open Space (GSO)		
<b>Overlays:</b>	Flood Hazard		
<b>Key Viewing Areas:</b>	Bridal Veil State Park, Columbia River, Crown Point, Historic Columbia River Highway (including the Historic Columbia River Highway State Trail) Highway I– 84 (including rest stops), Larch Mountain (including Sherrard Point) Portland Women’s Forum State Park, Rooster Rock State Park, Washington State Route 14		
<b>Landscape Setting:</b>	River Bottomlands		

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**Preliminary Decision:** **Approved with Conditions**

The Planning Director is granting preliminary approval of the development. You have 14 days from the date of this decision to provide comments. If no comments are received, the decision shall become final at the close of business on the 14th day. If substantive written comments are submitted, the Planning Director may modify the decision to address the comments and re-issue it for a 14-day appeal period. Comments must be directed to the applicable approval criteria. *Failure to provide comments during this comment period will preclude a right to appeal.*

**This decision is final at the close of the comment period, unless comments are received. The deadline for providing comments is April 18, 2025 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 visiting [www.multco.us/landuse/public-notices/](http://www.multco.us/landuse/public-notices/).

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**Issued by:** \_\_\_\_\_

Anna Shank-Root, Planner

**For:** Megan Gibb,  
Planning Director

**Date:** April 4, 2025

## Vicinity Map



### 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

Expedited Uses: MCC 38.1010(A)(7) – Road closure gates

Expedited Development Review: MCC 38.7100 Expedited Development 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

1. If, during construction, cultural or historic resources are discovered, the applicant/owner shall immediately cease development activities and inform the Multnomah County Land Use Planning Division, Columbia River Gorge Commission, and the U.S. Forest Service of any discovery pursuant to MCC 38.7045(L) & (M), or MCC 38.7050(H) as applicable. Once halted, construction activities shall not resume until these standards have been satisfied.
2. Approval of this land use permit is based upon the statements made in this application and attached materials. No work shall occur under this permit other than that which is specified in these documents.
3. This permit shall expire if the construction of the development has not commenced within two years of the date of the final decision. Commencement shall have the meaning described in MCC 38.0690(B)(3). The construction of the development and/or structure shall be completed within 2 years of the date of commencement and all conditions of approval met.
4. The gate and posts shall be painted with low reflective or non-reflective Dark Brown paint as specified in Exhibit A.4.
5. All signage posted on the gate must comply with the standards of MCC 38.0080(A)(6).

**Note:** The property owner may request an extension as provided in MCC 38.0700. The request for extension of the time frames listed in MCC 38.0700(D)(1), (D)(2) and (E) shall be submitted in writing before the applicable expiration date.

**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 (DSL) proposes to install a 14-foot-wide by 4-ft high single arm gate with a post on both sides to help prevent unauthorized vehicle access as unauthorized access is causing damage to the trees, vegetation, soil and water. Unauthorized vehicle access has been occurring at this access point and people have been abandoning vehicles on the edge of the Sandy River requiring Department of State Lands to tow the vehicles out of the water (Exhibit A.3). The gate and post will be painted brown (Exhibit A.4).

### 2.0 Property Description & History:

**Staff:** The proposed development will occur at 1000-acre park at the Sandy River Delta. The gate is proposed to be placed in the center of the subject property along the southern property line in the Gorge Special Public Recreation zoning (Exhibit A.4).

### 3.0 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:**

\* \* \*

**(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.

For purposes of the current application, there are no known open compliance cases associated with the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *Criterion met.*

## **4.0 Expedited Development Review Criteria**

### **4.1 MCC 38.7100 EXPEDITED DEVELOPMENT REVIEW CRITERIA**

**(A) Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:**

**(1) Scenic**

**(a) In the General Management Area, the scenic resource protection provisions MCC 38.7100 (A)(1)(b) through (f) shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.**

**Staff:** The application is not located in the General Management Area. Additionally, the property does not include installation of a woven-wire fencing.

**(b) Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors approved by the reviewing agency shall be included as a condition of approval. This guideline shall not apply to additions to existing buildings smaller in total square area than the existing building, which may be the same color as the existing building.**

**Staff:** The gate is proposed to be painted brown, a dark earth tone that is present in the surrounding landscape (Exhibit A.4). Painting the gate in a dark earth tone is a condition of approval.

**(c) Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.**

**Staff:** The gate is topographically visible from a number of key viewing areas. The proposed brown color gate will utilize low or non-reflective paint (Exhibit A.2, A.4).

**(d) Any exterior lighting shall be directed downward and sited, limited to no more than 1,000 lumens per fixture, hooded, and shielded 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 has indicated that no outdoor lights are proposed. This criterion does not apply.

**(e) Signs shall comply with the applicable sign provisions of MCC 38.0080.**

**Staff:** The applicant is proposing signage on the gate to state “no vehicle access” compliant with MCC 38.0080(A)(6).

**(f) Structures within 1/2-mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).**

**Staff:** The proposal will be required to meet the Not Visually Evident scenic standard, which means:

**Not visually evident (Special Management Area): “...A description of the relative visibility of a development, structure or use that provides for developments, structures or uses that are not visually noticeable to the casual visitor and the defining landscape setting characteristics appear intact. Deviations may be present but must repeat form, line, color, texture and pattern common to the natural landscape setting so completely and at such scale, proportion intensity, direction, pattern, etc., that it not be noticeable.” [MCC 38.0015 Definitions]**

**Staff:** The project is proposed in the Public Recreation (GSPR) land use designation with a River Bottomlands landscape setting, and is subject to the “Not Visually Evident” standard. Due to the 4’ foot height of the proposed gate, the proposed Brown dark earth tone color, and the proximity of the proposed gate to the tall trees in the park, the proposal complies with the not visually evident standard.

## **(2) Cultural**

**(a) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The GMA Cultural Resources Reconnaissance Survey Criteria in MCC 38.7045(A)(1) – (4) shall be used to determine if a reconnaissance or historic survey is required for a proposed development.**

**(b) The GMA provisions that protect cultural resources in MCC 38.7045(L) and human remains discovered during construction in MCC 38.7045(M) shall be applied as conditions of approval for all development approved under the expedited development review process.**

**Staff:** Although the proposed development is within the Special Management Area, the proposed development meets the cultural review exception of MCC 38.7045(A)(1)(d), as the gate is proposed in already disturbed land by human activities. The SMA provisions that protect cultural resources will be made conditions of approval.

## **(3) Recreation**

**The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.**

**Staff:** The applicant states that the purpose of the closure gate is to prevent unauthorized vehicle access that is causing damage to the trees, vegetation, and reduce potential fire hazards and eliminate the issue of abandoned vehicles. The gate proposal will not detract from the use and enjoyment of the park (Exhibit A.2 & A.4).

**(4) Natural**

**(a) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)**

**The development is outside water resources and their buffer. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.**

**Staff:** The proposed gate will be located outside of the Flood Hazard zone and will not disturb water resources or their buffers, as it is located within a maintained access route (Exhibit A.5).

**(b) Sensitive Wildlife and Sensitive Plants**

**1. The development meets one of the following:**

**a. The development is at least 1,000 feet from known Priority Habitats or sensitive wildlife sites (excluding sensitive aquatic species, and deer and elk winter range) and known rare plants; or**

**b. The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or**

**c. For sensitive wildlife, the development is within 1,000 feet of known Priority Habitats or sensitive wildlife sites (excluding sensitive aquatic species, and deer and elk winter range), but an appropriate federal or state wildlife agency determines:**

**1) the Priority Habitat or sensitive wildlife site is not active; or,**

**2) the proposed development would not compromise the integrity of the Priority Habitat or sensitive wildlife site or occur during the time of the year when wildlife species are sensitive to disturbance.**

**For rare plants, the development is within 1,000 feet of known rare plants, but the Oregon Biodiversity Information Center or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the rare plants.**

**2. Development eligible for expedited review shall be exempt from the field surveys for sensitive wildlife in MCC 38.7065 (A) or sensitive plants in MCC 38.7070 (A).**

**Staff:** The development meets MCC 38.7100(4)(b)1.b. as it will occur within a roadway.

**(B) Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:**

**(1) Proposed developments shall not adversely affect treaty or other rights of any Indian tribe.**

**(2) The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.**

**(3) Except as provided in MCC 38.7100(B)(2) above, the GMA and SMA treaty rights, and the consultation process discussed in MCC 38.0110 shall not apply to proposed developments reviewed under the expedited review process.**

**Staff:** The proposed project is occurring within an area that has already been disturbed, and the applicant states that will not adversely affect treaty or other right of any Indian tribe. If an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development, the expedited development review process will cease and the proposed development will be required to be reviewed through a full development review process.

## **5.0 Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

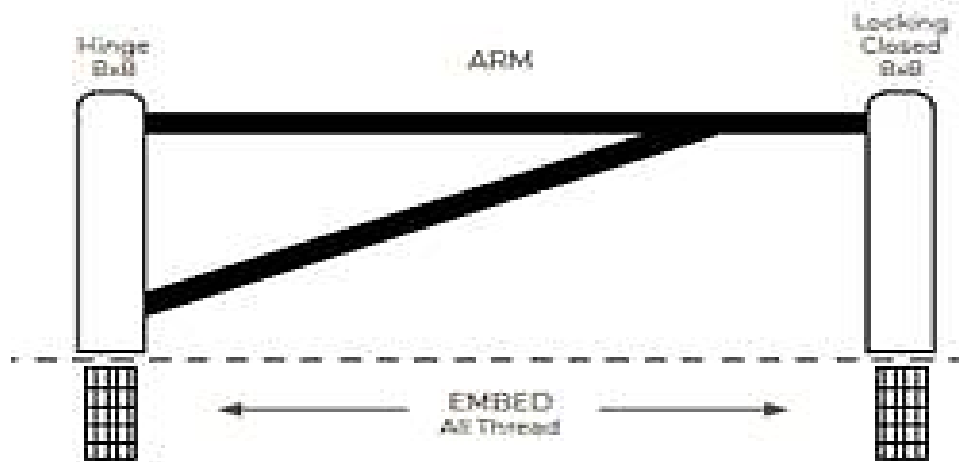
Exhibits with an ‘\*’ have been reduced in size and included with the mailed decision. All exhibits are available for digital review by sending a request to [LUP-comments@multco.us](mailto:LUP-comments@multco.us).

<b>Exhibit #</b>	<b># of Pages</b>	<b>Description of Exhibit</b>	<b>Date Received / Submitted</b>
A.1	2	Application Form	03.05.2025
A.2	6	NSA Expedited Review Application Form	03.05.2025
A.3	1	Applicant Code Narrative	03.05.2025
A.4*	4	Gate location (site plan), gate color and size	03.05.2025
A.5	1	Flood Map	03.05.2025
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Assessment and Taxation Property Information for <State ID> (Alt Acct# / Property ID#)	03.05.2025
B.2	1	Current Tax Map for <State ID>	03.31.2025
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	10	Preliminary Decision	04.04.2025



**Brown GATE** 14 foot, single swing

*Similar* to this (but brown):



**Not yellow – finishes will  
be BROWN**

**Hinge Post, Park Gate**

- 8' x 8'
- Paint: AE Safety Yellow
- Product Number: 713-101-003

**Locking Post, Closed**

- 8' x 8'
- Paint: AE Safety Yellow
- Product Number: 713-102-003

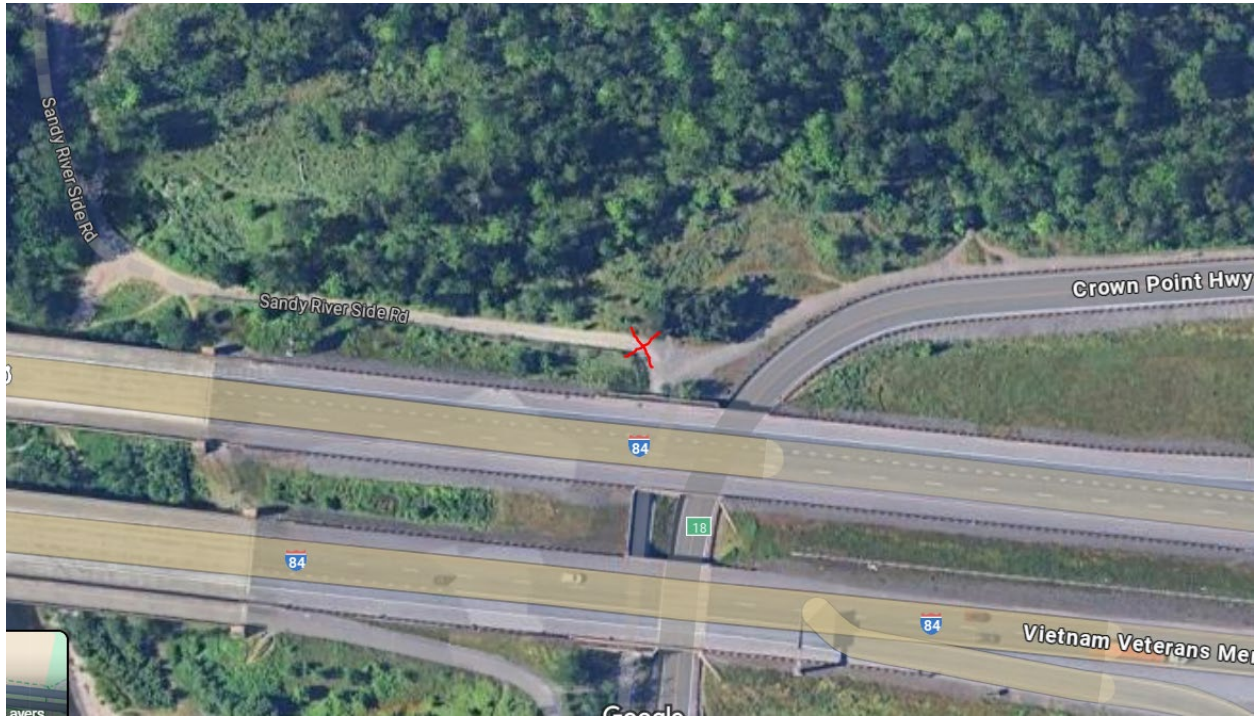
**Embed for 8' x 8' Post Park Gate**

- Galvanized All-Thread and Hardware, Primed Template
- Primer: Red Oxide
- Product Number: 713-110-002

**Crosspiece / Gate Arm**

- Paint: AE Safety Yellow
- Product Number: /303.02

Gate will be installed on State land in a location that is not meant to be accessed.



Gate location 45.5447222 -122.381666666

This property is located west of the US Forest Service land and east and south of the Sandy River, with Interstate 84 and Jordan road to the south.

This property is restricted from vehicle access or camping.

No vegetation will be removed or damaged during installation.

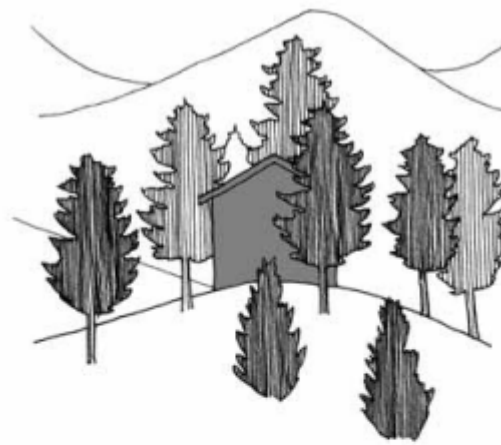
This gate is necessary to restrict access by unauthorized vehicles. Unauthorized vehicles are causing damage to vegetation, increase fire risk and are often abandoned.

### **Some of the DSL partners;**

- US Forest Service
- Oregon Parks and Recreation
- Multnomah Co HOPE and Sheriff
- Multnomah Co Joint Office of Homeless Services
- Metro RID
- Oregon Department of Transportation

- Friends of Sandy River Delta

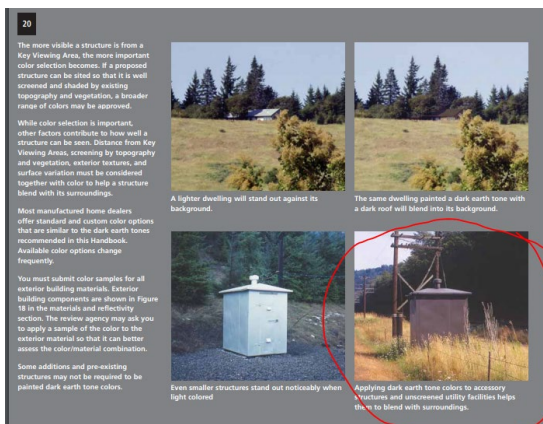
## COLOR:



## Visually Subordinate

Development is visible but not what you see first or remember best about the landscape.

Applied in the General Management Area and to most private land in the Special Management Area.



From the Building in the Scenic Area Handbook. Columbia River Gorge Commission

[https://www.gorgecommission.org/images/uploads/amendments/Scenic\\_Handbook\\_-\\_FINAL\\_12-05.pdf](https://www.gorgecommission.org/images/uploads/amendments/Scenic_Handbook_-_FINAL_12-05.pdf)

The gate will be visually subordinate