

Notice of Hearings Officer NSA Decision

Attached please find notice of the Hearings Officer's decision in the matter of **T3-2023-16947** issued and mailed **4/23/2024**. This notice is being mailed to those persons entitled to receive notice under MCC 38.0660(D) and to other persons who have requested the same.

The Hearings Officer's Decision is the County's final decision and may be appealed to Columbia River Gorge Commission by any person or organization that appeared and testified at the hearing, or by those who submitted written testimony into the record. An appeal must be filed with the Columbia River Gorge Commission within thirty days of when the decision is signed by the Hearings Officer. This decision is final at the close of the appeal period unless appealed.

Instructions and forms are available from:

Columbia River Gorge Commission
PO Box 730
1 Town & Country Square
57 NE Wauna Ave
White Salmon, WA 98672

Phone: 509-493-3323
FAX: 509-493-2229
E-mail: info@gorgecommission.org

For further information call the Multnomah County Land Use Planning Division at 503-988-3043.

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

DECISION OF THE HEARING OFFICER

Application for a Conditional Use Permit

Case File: T3-2023-16947

Applicant: Jo Niehaus, Oregon Parks and Recreation Department

Proposal: The Oregon Parks and Recreation Department (OPRD) has requested a Conditional Use Permit to establish a ‘Utility Facility’ consisting of four electric vehicle (“EV”) charging parking stalls at the existing Rooster Rock State Park parking lot. The project involves converting five existing parking stalls through the installation of two standing pedestals containing charging equipment, and boring underground to connect the pedestals to electrical service. OPRD also requested a Parcel Determination for the subject property.

Location: 41435 NE Columbia River Hwy, Corbett

Property ID # R495067

Map, Tax lot: 1N5E-01000

Alt. Acct. # R945300220

Base Zone: Gorge Special – Public Recreation (GS-PR) Zone

Overlays: Flood Hazard

Recreation Intensity: Class 4

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

Landscape Setting: River Bottomlands

Hearing Date, Time, & Place:

Friday, April 12, 2024 at 10:30 am. The hearing was conducted online.

Applicable Approval Criteria:

Multnomah County Code (MCC): General Provisions: MCC 38.0015 Definitions – “Parcel”, MCC 38.0045 Conditional Use Applications – Submittal Requirements

Administration and Procedures: MCC 38.0560 Code Compliance and Applications, MCC 38.0110(B) Tribal Treaty Rights

Gorge Special – Public Recreation (GS-PR): MCC 38.2830(C)(3) – Utility Facilities for Public Service (EV Charging Stations), MCC 38.2860(C), (D) – Dimensional Requirements, MCC 38.2885 – Off Street Parking and Loading, MCC 38.4100 – 38.4215

Conditional Use/National Scenic Area Site Review Criteria: MCC 38.7015 – Application for Conditional Use, MCC 38.7040 – SMA Scenic Review Criteria, MCC 38.7050 – SMA Cultural Criteria, MCC



38.7075 SMA Natural Resources Criteria, MCC 38.7085 SMA Recreation Resource Criteria

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

Decision:

The requested NSA Conditional Use Permit to establish a Utility Facility consisting of four electric vehicle (“EV”) charging parking stalls at the existing Rooster Rock State Park parking lot and Parcel Determination are approved subject to the conditions of approval included in this Final Order.

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. 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.

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)(1)]
 - i. For purposes of Condition #2.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, development, or actual excavation of trenches for an approved underground utility or development.
 - ii. Notification of commencement of construction shall be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Notification shall be sent to LUP-submittals@multco.us with the case no. T3-2023-16947 referenced in the subject line. [MCC 38.0660(A)]
 - b. When the structure has not been completed within two (2) years of the date of commencement of construction. [MCC 37.0690(B)(2)]
 - i. For purposes of Condition #2.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. [MCC 38.0690(B)(4)]

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.
3. Within 30 days after the decision becomes final, the applicant(s), owner(s), or their representative(s) shall:
 - a. The property owners shall 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 sent to LUP-submittals@multco.us. [MCC 38.0660(A) & (B)]
4. When submitting building plans for zoning review, the applicant(s), owner(s), or their representative(s) shall:
 - a. Finish all requirements for the Erosion Sediment Control permit (T1-2023-16944) and provide an approved Erosion and Sediment Control Permit for the proposed ground disturbance to connect electrical service to the standing pedestals for the EV charging stalls. [MCC 38.7040(4) and MCC 39.6225]
 - b. Prepare a plan set/page containing details for the proposed cover that will be placed on the screens of the EV charging stations to adequately prevent the emitting of light from the screens. [MCC 38.4185]

- c. Revise the proposed plan set to show the entire parking lot, label the loading area as appropriate, and provide a full detail page of proposed signage and level of reflectivity. [MCC 38.0080]
 - d. Revise plans to include details for the proposed standing pedestals and specify the materials (wood) and color dark brown that will be used to match the scenic standards. [MCC 38.7040(A)]
5. During construction, 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, 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:
- i. 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.
 - ii. 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.
 - iii. 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).
 - iv. 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)]
- b. 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):
- i. Halt Activities - All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - ii. Notification - Local law enforcement officials, the Multnomah County Planning Director, the Gorge Commission, and the Native American tribal governments shall be contacted immediately.
 - iii. 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.
 - iv. Jurisdiction - If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
 - v. 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.

1. 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).
2. 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:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “When submitting plans for Zoning Review...” Be ready to demonstrate compliance with the conditions.
2. 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.

Dated this 23rd day of April 2024



Joe Turner, Esq., AICP
Multnomah County Land Use Hearings Officer

This Decision is final when mailed. Appeals may be filed with the Oregon Land Use Board of Appeals within the time frames allowed by State law.

A. HEARING AND RECORD HIGHLIGHTS

1. Multnomah County Land Use Hearings Officer Joe Turner received testimony at the duly noticed online public hearing about this application on April 12, 2024. At the hearing, the hearings officer received into the record and inspected electronic copies of the file maintained by the Department of Community Services Land Use and Transportation Planning Program regarding the application. The hearings officer made the declarations required by ORS 197.763. The hearings officer disclaimed any *ex parte* contacts and any bias or conflicts of interest.

2. County planner Marisol Cervantes summarized the Staff Report and the applicable approval criteria. The applicant is proposing to install electric vehicle charging stations and convert five existing parking spaces into four EV parking/charging stations in the existing parking lot at Rooster Rock State Park. The applicant consulted with the Gorge Commission and determined that the proposed use qualifies as a utility facility. The applicant will install two charging pedestals that are painted to blend with surrounding vegetation. Existing vegetation on the site will screen offsite views of the pedestals and charging stations.

3. Jo Niehaus, Oregon Parks and Recreation District policy advisor, appeared on behalf of the applicant. She noted that this project is the last of eight pilot projects for electric vehicle charging in state parks. The applicant is eliminating one of the existing parking spaces allow one of the charging spaces to be ADA accessible. The chargers are mounted on wooden posts to minimize their visual impact. She waived the applicant's right to submit a final written argument.

4. The hearings officer closed the record at the end of the hearing and announced his intention to approve the application, subject to the conditions in the Staff Report.

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*. The hearings officer adopts the Staff findings as his own.

1.0 Project Description:

Staff: The Oregon Parks and Recreation Department (OPRD) has requested a Conditional Use Permit to establish a 'Utility Facility' consisting of four electric vehicle ("EV") charging parking stalls at the existing Rooster Rock State Park parking lot. The project involves converting five existing parking stalls through the installation of two standing pedestals containing charging equipment, and boring underground to connect the pedestals to electrical service. OPRD also requested a Parcel Determination for the subject property.

2.0 Property Description & History:

Staff: The subject property (1N5E-01000) is part of the Rooster Rock State Park and contains an existing parking lot for park users, a park office, and restroom facilities. Zoned Gorge Special Public Recreation (GS-PR), the subject property is within the National Scenic Area along the I-84 highway and facing the Columbia River. The subject property is within the Flood Hazard overlay.

3.0 Public Comment:

Staff: Staff mailed an Agency Review and notice of the application and Hearings Officer hearing to the required parties pursuant to MCC 38.0530 and MCC 38.0620 as Exhibited in C.1 (Agency Review) and C.5 (Hearing Notice). Staff received a comment from the USDA Forest Service.

3.1 Chris Donnermeyer, USDA Forest Service, Heritage Resources Program Manager (Exhibit D.1)

Staff: Chris submitted a Cultural Resource Survey Determination Form stating the proposed development will not require a Cultural Resource Reconnaissance survey nor a Historic Survey. The proposed development will not alter the exterior architectural appearance of buildings nor compromise features of the surrounding area.

4.0 Code Compliance and Applications Criteria:

4.1 MCC 39.0560 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:

* * *

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 was originally codified in the chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the administration and procedures part of the Columbia River Gorge National Scenic Area Code this standard remains applicable to the application review process and not to the post-permit-approval enforcement 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, staff is not aware of any open compliance cases on the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *Criteria met.*

5.0 Definitions – ‘Parcel’:

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 a property as a Legal Parcel, the subject property when created or reconfigured must meet the above standards. The applicant provided a Title Plant Records Report and deeds to support the Legal Parcel request (A.7, A.8, A.22, A.24, & A.25). The earliest deed provided was recorded on July 20, 1946, (Exhibit A.24) and contains a legal description matching the current configuration of the subject property (Exhibit A.25). The 1946 deed was recorded prior to County code zoning regulations that came into effect in 1955 and remained in the same configuration when the Management Plan/Gorge zoning came into effect in 1986. *Therefore, the subject property is a legal parcel before zoning regulations and remains in the same configuration.*

6.0 Gorge Special Public Recreation (GS-PR) Criteria:

6.1 MCC 38.2830 – Conditional Uses

* * *

(C) The following conditional uses may be allowed on lands designated GS-PR, pursuant to the provisions of MCC 38.0045 and 38.7085:

* * *

(3) Utility facilities for public service upon a showing that:

- (a) There is no alternative location with less adverse effect on Public Recreation land.**
- (b) The size is the minimum necessary to provide the service.**

Staff: The proposed four EV charging stalls that includes two standing pedestals are considered a Utility Facility. Rooster Rock State Park has an existing parking lot and the proposed charging stalls would result from converting five of the existing parking stalls. By siting the charging stalls in an existing developed area, the proposed location avoids adverse effects to undeveloped Public Recreation land(s) within the State Park. Rooster Rock State Park does not have any alternative existing parking lot(s) that would provide less adverse effects.

The two proposed standing pedestals are approximately 6’1” tall in height and are the minimum number of pedestals necessary to serve the existing parking stalls that would be converted to EV charging stalls (Exhibit A.21). *Criteria met.*

6.2 MCC 38.2860 – 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 proposed EV charging stalls meet the setback requirements as the development will be located approximately 35 feet from the rear property line, 173 +/- from the front property line, and over 3,000 feet from the side property lines. Maximum height of the charging stalls is 6’1” and the minimum yard does not need to be increased as it does not abut a street. (Exhibit A.17). *Criteria met.*

6.3 MCC 38.2885 – Off Street Parking

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215

Staff: The relevant criteria in MCC 38.4100 through 38.4215 are addressed in sections 6.4 – 6.9 below.

6.4 MCC 38.4100 – Purposes

The purposes of these off-street parking and loading regulations are to reduce traffic congestion associated with residential, commercial, and other land uses; to protect the character of neighborhoods; to protect the public's investment in streets and arterials and to provide standards for the development and maintenance of off-street parking and loading areas.

MCC 38.4125 USE OF SPACE

(A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

* * *

MCC 38.4130 LOCATION OF PARKING AND LOADING SPACES

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

* * *

MCC 38.4135 IMPROVEMENTS REQUIRED

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

* * *

Staff: MCC 38.4100 is for informational purposes. MCC 38.4125 pertains to the use of parking lot space.

The proposal involves the conversion of existing parking stalls located at the Rooster Rock State Park to create four EV charging stalls. Rooster Rock State Park’s parking lot currently contains 1,450 parking stalls and 5 of the stalls will be modified to create the four proposed EV charging stalls. No other changes to the existing parking and loading spaces or maneuvering areas are proposed (Exhibit A.21). No improvements are required under MCC 38.4135. *Criteria met.*

6.5 MCC 38.4140 CHANGE OF SCOPE

(A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

* * *

MCC 38.4145 JOINT PARKING OR LOADING FACILITIES

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

* * *

MCC 38.4150 EXISTING SPACES

Off-street parking or loading spaces existing prior to February 6, 1993 may be included in calculating the number of spaces necessary to meet these requirements in the event of subsequent enlargement of the structure or change of use to which such spaces are accessory. Such spaces shall meet the design and improvement standards of this Section.

MCC 38.4155 INTERPRETATION

Off-street parking or loading requirements for structures or uses not specifically listed in MCC 38.4205 shall be determined by written decision of the Planning Director. The Director shall base such requirements on the standards for parking or loading of similar uses.

Staff: As noted above, the proposal is to convert five existing parking stalls at the Rooster Rock State Park parking lot into four EV charging stalls. The proposal does not result in an increase in the number of parking or loading spaces as no new parking or loading spaces are required.
Criteria met.

6.6 MCC 38.4160 STANDARDS OF MEASUREMENT

(A) *Square feet* means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.

* * *

MCC 38.4165 DESIGN STANDARDS: SCOPE

(A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.

* * *

MCC 38.4170 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 38.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

* * *

MCC 38.4175 DIMENSIONAL STANDARDS

(A) Parking spaces shall meet the following requirements:

* * *

MCC 38.4180 IMPROVEMENTS

(A) Surfacing

* * *

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Staff: MCC 38.4160 is for informational purposes. As noted above, the proposal is to convert five existing parking stalls at the Rooster Rock State Park parking lot into four EV charging stalls. There are no other proposed design or dimensional changes, or proposed access changes. No improvements are required.

6.7 MCC 38.4185 LIGHTING

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Staff: As the standing pedestals for the proposed EV charging stalls contain digital informational screens that emit light, the applicant proposes to use covered shields for the screens. A condition of approval requires the use of the proposed covered shields. *As conditioned, this criterion is met.*

6.8 MCC 38.4190 SIGNS

Signs, pursuant to the provisions of MCC 38.0080

MCC 38.0080 SIGNS

(A) The following signs may be permitted without review in the General Management Area, and in the Special Management Area subject to MCC 38.0080 (E):

* * *

(6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the message intended.

Staff: The proposed sign to inform the public of the EV charging stations is from a governmental agency (Exhibit A.21, Page 21). A condition of approval requires the applicant to provide details demonstrating the sign meets the criteria of MCC 38.0080. *As conditioned, these criteria are met.*

6.9 MCC 38.4195 DESIGN STANDARDS: SETBACKS

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

* * *

MCC 38.4205 Minimum Required Off-Street Parking Spaces

* * *

MCC 38.4215 Exceptions from Required Off-Street Parking or Loading Spaces

* * *

Staff: As noted above, the proposal is to convert five existing parking stalls at the Rooster Rock State Park parking lot into four EV charging stalls. There are no other proposed changes that require additional setbacks, off-street parking spaces, or exceptions from required off-street parking spaces.

7.0 National Scenic Area Site Review Criteria:

7.1 MCC 38.7040 - SMA SCENIC REVIEW CRITERIA

The following scenic review standards shall apply to all Review and Conditional Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(A) All Review Uses and Conditional Uses visible from KVAs. This section shall apply to proposed development on sites topographically visible from KVAs:

- (1) New development and land uses shall be evaluated to ensure that the scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from Key Viewing Areas.**
- (2) The required SMA scenic standards for all development and uses are summarized in the following table.**

REQUIRED SMA SCENIC STANDARDS		
LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
River Bottomlands	Forest, Agriculture, Public Recreation	VISUALLY SUBORDINATE

(3) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

Staff: The proposed EV charging stations are located in the River Bottomlands landscape setting, therefore the scenic standard is visually subordinate. The EV charging stalls are proposed to blend with the adjacent natural landscape of the park and Gorge Scenic Area. The standing pedestals are to be wooden poles in a dark brown color as shown in (Exhibit B.2). A recommended condition of approval requires compliance with the materials and color limitations for the standing pedestals. *As conditioned, these criteria can be met.*

(4) Proposed development or land use shall be sited to achieve the applicable scenic standards. Development shall be designed to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

Staff: The proposed development will be screened by the existing vegetation located in the Rooster Rock parking lot to achieve the scenic standards. The parking lot currently has trees that will physically screen the two standing pedestals. The proposed grading involves 250 feet of directional boring, which is the minimum necessary to connect electrical service to the EV charging stalls (Exhibit A.17 & A.19). Through the use of boring, visible grading or modifications of the surrounding areas are minimized. *Criterion met.*

(5) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

(a) Decisions shall include written findings addressing the Primary factors influencing the degree of visibility, including but not limited to:

- 1. The amount of area of the building site exposed to key viewing areas,**
- 2. The degree of existing vegetation providing screening,**

* * *

Staff: The proposed EV charging stations are visible from the Columbia River, Crown Point, Historic Columbia River Highway, Interstate – 84, Larch Mountain Road, Larch Sherrard, Portland Women’s Forum, Rooster Rock, State Route – 14, Sandy River. The charging stalls will be located in an existing parking lot with trees that are screening the area. Recommended conditions of approval have been included in this staff report in accordance with subsection (5) above.

(6) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.

Staff: The proposed development that will be located in the existing Rooster Rock Parking lot is not near wetlands or riparian corridors. The flood hazard overlay is more than 100 feet away from the location of the EV charging stalls. Additionally, OPRD’s Valley Region Archaeologist

researched the area and created an Inadvertent discovery Plan (Exhibit A.10). The Archaeologist found no known threatened or endangered species, or archeological artifacts. USDA Forest Service also confirmed no Cultural Resource Reconnaissance Survey or Historic Survey is required. Recommended conditions of approval related to the discovery of cultural resources are included in this staff report. *Through conditions, this criterion can be met.*

(7) Proposed development shall not protrude above the line of a bluff, cliff, or skyline as visible from Key Viewing Areas.

(8) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that compliance with this standard is not feasible considering the function of the structure.

Staff: The standing pedestals for the proposed EV charging stalls are 6'1" in height each, which is well below any bluff, cliff or skyline of as visible from Key Viewing Areas. *Criterion met.*

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

* * *

Staff: The existing parking lot has vegetation along the parking stalls and the proposed EV charging stalls are to be screened by the existing vegetation. No new landscaping is proposed to screen the development.

(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 the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors as dark as or darker than the colors in the shadows of the natural features surrounding each landscape setting

Staff: The applicant will use a wooden pole in a dark brown color for each of the two proposed standing pedestals for the EV charging stalls in order to blend into the existing area in Rooster Rock Park (Exhibit B.2). The charging board and electrical cords will be of a black color (Exhibit A.21). A recommended condition of approval requires the applicant to comply with subsection (10) above. *Through a condition, this criterion can be met.*

(11) The exterior of structures 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 meeting the scenic standard. The *Scenic Resources Implementation Handbook* includes a list of recommended exterior materials and screening methods.

(12) Any exterior lighting shall be directed downward and sited, limited in intensity, and 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 exterior of the standing pedestals for the EV charging stalls, the cords and charging board consist of dark earth tone colors. The screen on the charging board is to be dimmed and shielded with a removable shade on the screens (Exhibit A.18 & A.21). Recommended conditions of approval require compliance with subsection (11) above. *Through conditions, this criterion can be met.*

(13) Seasonal lighting displays may be permitted on a temporary basis, not to exceed three months duration.

(14) New buildings shall be compatible with the general scale of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt from this provision. Findings addressing this provision shall include but are not limited to:

* * *

Staff: The applicant does not propose any seasonal lighting or new buildings. *These criteria are not applicable.*

(B) The following shall apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas visible from KVAs as well as areas not visible from KVAs):

* * *

(3) River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.

(a) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(b) Use of plant species native to the landscape setting. Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

Staff: The subject property is within the River Bottomlands landscape setting. No new buildings are proposed and no new plantings are proposed. Existing vegetation will be retained (Exhibit A.21). *Criteria met.*

(C) SMA Requirements for KVA Foregrounds and Scenic Routes

(1) All new development and land uses immediately adjacent to the Historic Columbia River High-way, Interstate 84, and Larch Mountain Road shall be in conformance with state or county scenic route standards.

(2) The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to MCC 38.7040(A).

* * *

(3) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as visible from Key Viewing Areas. Roadside vegetation management should enhance views out from the highway (vista clearing, planting, etc.).

* * *

Staff: Rooster Rock State Park’s existing parking lot, where the proposed development will occur, is located immediately adjacent to the I-84. The proposed development is not within the immediate foreground of a KVA. As noted above, the proposed development involves converting five existing parking spaces into four EV charging stalls (Exhibit A.21). Through the installation of two standing pedestals and connecting electrical service to the pedestals, EV charging can be accomplished. No vegetation removal is proposed and existing vegetation will be retained. Recommended conditions of approval require compliance with applicable scenic standards. *Through conditions, these criteria can be met.*

8.0 Special Management Area (SMA) Criteria:

8.1 MCC 38.7050 SMA CULTURAL RESOURCE REVIEW CRITERIA

(A) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7050 (H), if the U.S. Forest Service or Planning Director does not require a cultural resource survey and no comment is received during the comment period provided in MCC 38.0530 (B).

* * *

Staff: Land Use Planning sent out an Agency Review notice (Exhibit C.1). Exhibit D.1 is a Cultural Resources Survey Determination from Chris Donnermeyer, USDA Heritage Resources Program Manager stating that a Reconnaissance Survey and Historic Survey is not required for the proposed project. Donnermeyer noted the proposed development will not occur within 500 feet of a known archaeological site and the site is a low probability zone of containing cultural resources.

Additionally, OPRD provided an Inadvertent Discovery Plan (IDF) (Exhibit A.10) and their process in reaching out to the Tribes about the proposed EV charging stalls (Exhibit A.18, Pages 4-5). OPRD explains the steps that will be taken if any historic artifacts are to be discovered when the development occurs. A recommended condition of approval requires compliance with MCC 38.7050(H). *Through a condition, these criteria can be met.*

8.2 MCC 38.7075 SMA NATURAL RESOURCE REVIEW CRITERIA

All new developments and land uses shall be evaluated using the following standards to ensure that natural resources are protected from adverse effects. Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones

shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited. Comments from state and federal agencies shall be carefully considered.

* * *

Staff: The proposed development is not within a wetland or stream. An OPRD natural resource coordinator reviewed the project site and concluded that there would be no adverse impacts to habitats. (Exhibit A.18). *Criteria met.*

8.3 MCC 38.7085 SMA Recreation Resource

(A) The following shall apply to all new developments and land uses:

(1) New developments and land uses shall be natural resource-based and not displace existing recreational use.

(2) Protect recreation resources from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects such as site accessibility and the adverse effects on the Historic Columbia River Highway shall be required.

* * *

Staff: The proposal converts five existing parking spaces at the Rooster Rock State Park parking lot into four EV charging stalls. Existing parking spaces are for Rooster Rock State Park users. The proposal converts a limited number of existing spaces to serve the specific needs of electric vehicles, resulting in a net loss of a single parking space. Losing a single parking space does not displace the overall existing recreational use of Rooster Rock State Park. There are no anticipated adverse effects as existing vegetation will be maintained, and the proposed ground disturbance (boring) is limited to the minimum necessary to connect the two EV charging stall standing pedestals to electrical service. *Criteria met.*

9.0 Exhibits

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

All exhibits listed below are available for review in by contacting Marisol Cervantes via email at marisol.cervantes@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received/Submitted
A.1	1	NSA Application Form	05.24.2023
A.2	10	Applicant Narrative includes compliance & set back criteria (pgs. 1-10)	05.24.2023

A.3	5	Applicant Narrative addressing parking & loading (pgs. 10-14)	05.24.2023
A.4	10	Applicant Narrative addressing SMA criteria & legal parcel code (pgs. 14-23)	05.24.2023
A.5	6	Narrative addressing Erosion Control Criteria	05.24.2023
A.6	8	Set of Plans	05.24.2023
A.7	3	Trustee Deed recorded July 20, 1946	05.24.2023
A.8	1	Transfer Deed recorded on July 12, 1979	05.24.2023
A.9	1	Topography site map	05.24.2023
A.10	8	Inadvertent Discovery Plan (IDP)	05.24.2023
A.11	11	Location of existing EV Charging stations & proposed location (Rooster Rock)	05.24.2023
A.12	4	Fire Service Agency Form	05.24.2023
A.13	1	Revised Application Form	11.20.2023
A.14	3	OPRD Cover letter	11.20.2023
A.15	4	Revised Applicant Introduction Narrative	11.20.2023
A.16	4	Revised General Code Criteria	11.20.2023
A.17	6	Narrative MCC 38.2860, MCC 38.2830, MCC 38.2885, MCC 38.4100 - 38.4215 Off Street Parking	11.20.2023
A.18	9	Narrative code criteria MCC 38.7015, 38.7040, 38.7050, 38.7075, 38.7085	11.20.2023
A.19	3	Ground Disturbance Narrative MCC 39.6210-MCC 39.6225	11.20.2023
A.20	4	Appendix layout and summary of legal parcel narrative	11.20.2023
A.21	9	EV Charging Stations Set of Plans	11.20.2023
A.22	5	Subject Property Title Plant Records Report	11.20.2023
A.23	3	Deed recorded August 27, 1910 in Book 506, Page 331	11.20.2023
A.24	3	Revised July 20, 1946 Trustee Deed with recording numbers. Book 1086, Pages 117-119	11.20.2023
A.25	3	Quitclaim Deed recorded on July 06, 1998 recording #98118189	11.20.2023
'B'	#	Staff Exhibits	Date

B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for R495067 (Alt Acct#R945300220)	05.24.2024
B.3	2	Email Confirmation of Color Scheme	07.06.2023
B.4	4	Parcel Record card for subject property R495067	06.23.2023
'C'	#	Administration & Procedures	Date
C.1	9	Agency Review	06.21.2023
C.2	3	Incomplete Letter	06.23.2023
C.3	1	Applicant's Acceptance of 180 Day Clock	10.25.2023
C.4	1	Complete Letter (Day 1)	12.13.2023
C.5	13	Hearing Notice & mailing list	03.22.2024
C.6	19	Staff Report	04.02.2024
'D'	#	Comments Received	Date
D.1	1	USDA Forest Service Cultural Resources Survey Determination	07.05.2023