
NOTICE OF NSA DECISION

Case File: T2-2021-15220

Permit: National Scenic Area Site Review

Applicant: Adam Pomante

Owner: Adam Pomante

Location: Address: 1230 NE 365th Avenue, Corbett
Alternate Account #: R944351170

Map, Tax Lot: 1N4E35BB -01700
Property ID #: R322794

Zoning: Gorge General Rural Center (GGRC)

Overlays: N/A

Key Viewing Areas: Historic Columbia River Highway, Larch Mountain Road, Larch Sherrard

Landscape Setting: Village

Recreation Intensity: Recreation Class 4

Proposal Summary: Replacement dwelling

Decision: **Approved with Conditions**

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is **Wednesday, August 24, 2022, at 4:00 pm.**

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application are available for review by contacting Izze Liu, Staff Planner at 503-988-0213 or isabella.liu@multco.us. Copies of all documents are available at the rate of \$0.40/per page.

Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

Issued By:

Izze Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: August 10, 2022

Instrument Number for Recording
Purposes: #2014089711

Vicinity Map



Applicable Approval Criteria:

For this application to be approved, the proposal will need to meet the applicable approval criteria below:

Multnomah County Code (MCC): General Provisions: MCC 38.0015 Definitions, MCC 38.0030 Existing Uses and Discontinued Uses

Administration and Procedures: MCC 38.0560 Code Compliance and Applications

GGRC Zone: MCC 38.2425 Review Uses, MCC 38.2460 Dimensional Requirements

NSA Site Review: MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 GMA Cultural Resource Review Criteria, MCC 38.7055 GMA Wetland Review Criteria, MCC 38.7060 GMA Stream, Lake and Riparian Area Review Criteria, MCC 38.7065 GMA Wildlife Review Criteria, MCC 38.7070 GMA Rare Plant Review Criteria, MCC 38.7080 GMA Recreation Resource Review Criteria

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

Chapter 38: Columbia River Gorge National Scenic Area

Conditions of Approval

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. The conditions listed are necessary to ensure that approval criteria for this land use

permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in brackets.

1. 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 #1.a., commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility, development, or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
 - ii. Notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement and shall state the date of commencement. Notification shall be given in writing and emailed to *isabella.liu@multco.us* and reference the case number. [MCC 38.0690(B)(3)]
- b. When the structure has not been completed within two (2) years of the date of commencement of construction. [MCC 38.0690(B)(2)]
 - i. For purposes of Condition #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. [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. Within 30 days after the decision becomes final, the applicant(s), owner(s), or their representative(s) shall:
- a. Record pages 1 through 5 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]

Note: The Planning Director may grant reasonable extensions for required recording, not to exceed an additional 30 days, in cases of practical difficulty. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision. [MCC 38.0670]

3. Ongoing Conditions:

- a. The replacement dwelling must meet the following setbacks: 22 feet from the northern property line, 78 feet from the eastern property line, 53.5 feet from the southern property line, and 222.65 feet from the western property line. The proposed replacement dwelling shall not exceed 22.5 feet in height.
4. The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted

to the local government and the SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are pre-contact or otherwise associated with Native Americans.

- A. Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
- B. Notification. The project applicant shall notify the local government and the Gorge Commission within 24 hours of the discovery. If the cultural resources are pre-contact or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours. The CRGNSA Heritage Program Manager, Chris Donnermeyer, should also be notified at 541-308-1711, *Christopher.Donnermeyer@usda.gov*.
- C. Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the SHPO. (See Oregon Revised Statute [ORS] 273.705, ORS 358.905 to 358.955. and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in the “Reconnaissance Survey Reports – Large Scale Uses” and “Evaluation of Significance: Evaluation Criteria and Information Needs” sections within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2.

Based on the survey and evaluation report and any written comments, the local government shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

- D. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the “Mitigation Plans: Mitigation Plan Criteria and Information Needs” section within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2. Construction activities may recommence when the conditions in the mitigation plan have been executed. [MCC 38.7045(L)]
5. The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.
- a. Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - b. Notification. Local law enforcement officials, the local government, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
 - c. Inspection. The coroner, or appropriate official, shall inspect the remains at the project site and determine if they are pre-contact/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
 - d. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

- e. Treatment. In Oregon, pre-contact/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implanted if the remains are pre-contact/historic.

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 requirements specified in the “Mitigation Plans: Mitigation Plan Criteria and Information Needs” section within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2.

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set for in the “Mitigation Plans: Conclusion of the Cultural Resource Protection Process” section within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2 are met and the mitigation plan is executed. [MCC 38.7045(M)]

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off by land use planning, the applicant shall 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 land use sign-off for building plan check...” Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or call 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact the City of Portland, Bureau of Development Services, On-site Sanitation via e-mail septic@portlandoregon.gov or by phone at 503-823-6892 for information on how to complete the Septic Evaluation or Permit 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.
4. Contact Staff Planner, Izze Liu, via email at isabella.liu@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning may collect additional fees.

The above must be completed before the applicant can obtain building permits from the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee may be collected and an erosion control inspection fee may be required.

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 Site Review to construct a replacement single-family dwelling. The proposed replacement dwelling is 1,688 square feet.

2.0 Property Description & History:

Staff: The subject property is zoned Gorge General Rural Center (GGRC) and is topographically visible from the following key viewing areas: Historic Columbia River Highway, Larch Mountain Road, and Larch Sherrard. According to the County Assessor’s data, the subject property is developed with a 1980 manufactured dwelling and a detached accessory structure.

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 as Exhibited in C.1 and C.5. Staff summarizes the comments below.

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

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

A Cultural Resource Reconnaissance Survey is: Not Required

A Historic Survey is: Not Required

3.2 Friends of the Columbia Gorge (Exhibit D.2)

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

4.0 Administrative Procedures Criteria:

4.1 MCC 38.0560 Code Compliance and Applications

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**

(3) It is for work related to and within a valid easement over, on or under an affected property.

(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 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 is 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. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 38.0560.

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. *This criterion is met.*

5.0 Gorge General Rural Center Criteria:

5.1 MCC 38.2425 Review Uses

(A) A single-family dwelling on a legally created parcel.

Staff: The subject property is developed with a 1980 manufactured dwelling. The applicant is proposing to construct a 1,688-square-foot replacement dwelling in the same footprint as the original dwelling. The NSA Site Review standards are addressed below.

5.1 MCC 38.2460 Dimensional Requirements

* * *

(E) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear

30	10	30	30
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Maximum Structure Height – 35 feet

Staff: The subject property is rectangular in shape. The western property boundary is the front yard, the eastern property boundary is the rear yard, and the southern and northern property boundaries are the side yards. Based on the submitted site plan, the replacement dwelling will be located 22 feet from the northern property line, 78 feet from the eastern property line, 53.5 feet from the southern property line, and 222.65 feet from the western property line (Exhibit A.16). The proposed replacement dwelling is 22.5 feet in height (Exhibit A.17). *As conditioned, these criteria are met.*

* * *

(F) 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: As required in Table 2 of MCC 29.571, the rural standard for local streets is a 50-foot right-of-way width. As shown on the road survey recorded with the County, (RD4327), the right-of-way for NE 365th Avenue is currently 50 feet wide (Exhibit B.7).

(G) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

Staff: The proposed replacement dwelling does not exceed the height requirements. *This criterion is not applicable.*

6.0 National Scenic Area (NSA) Site Review Criteria:

6.1 MCC 38.7035 GMA Scenic Review Criteria

The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(A) All Review Uses and Conditional Uses:

(1) New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

Staff: The applicant is proposing to demolish the existing 1,296-square-foot manufactured dwelling and construct a 1,688-square-foot replacement dwelling in the same location. The replacement dwelling will utilize the existing gravel driveway in this location. The subject property slopes to the southwest at 7 to 10% and is relatively level (Exhibit A.8). Staff finds that the proposed replacement will be sited to retain the existing topography and minimize grading activities because it will be sited in the same location as the existing dwelling and will utilize the existing driveway. *This criterion is met.*

(2) New buildings shall be compatible with the general scale (height, dimensions and visible mass) of similar buildings that exist nearby (e.g. dwellings to dwellings). Expansion of existing development shall comply with this guideline to the maximum extent practicable. For purposes of applying this standard, the term nearby generally means buildings within ¼ mile of the parcel on which development is proposed.

Staff: The applicant provided a list of six properties surrounding the subject property (Exhibit A.4). Based on the County's Department of Assessment, Records, and Taxation (DART) Property Information site, the average size of the similar buildings on these properties is approximately 2,900 square feet (Exhibits B.2 - B.6). The applicant is proposing to construct a 1,688-square-foot dwelling. Staff finds

that the proposed replacement dwelling is compatible with the general scale of similar buildings in the area. *This criterion is 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 subject property is located on NE 365th Avenue which is not a Scenic Travel Corridor. As defined in MCC 38.0015, the Scenic Travel Corridors are those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area. *This criterion is not applicable.*

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

Staff: The property owner is not required to plant additional vegetation for the proposed development. *This criterion does not apply.*

(5) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

Staff: The subject property is located within the Village setting. The compatibility of the replacement dwelling in this landscape setting is discussed below.

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

(1) Each development shall be visually subordinate to its setting as seen from Key Viewing Areas.

(2) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its potential visual impacts as seen from Key Viewing Areas. Decisions shall include written findings addressing the factors influencing potential visual impact including but not limited to: 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). Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to siting (location of development on the subject property, building orientation, and other elements); retention of existing vegetation; design (color, reflectivity, size, shape, height, architectural and design details and other elements); and new landscaping.

(3) Determination of potential visual effects and compliance with visual sub-ordinance 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 subject property is topographically visible from the following Key Viewing Areas (KVA): Historic Columbia River Highway, Larch Mountain Road, and Larch Sherrard. The subject property is a significant distance from Larch Mountain Road and Larch Sherrard. Due to the distance, staff finds that the proposed replacement dwelling will not be visible from these specific KVAs. The closest KVA

is the Historic Columbia River Highway which is located approximately 200 feet north of the subject property. The proposed replacement dwelling is exempt from the color and siting requirements of MCC 38.7035(B) because the subject property is located in the Village setting. Although the siting standards are not applicable, the proposed replacement dwelling will be sited in the same location as the original dwelling which ensures that the replacement dwelling will be visually subordinate from the Historic Columbia River Highway (Exhibit A.16). As shown on the landscape plan, existing vegetation borders the northern property boundary (Exhibit A.9). Staff viewed the property from the Historic Columbia River Highway using images captured in 2019 on Google Street View. These images show that the vegetation bordering the northern property boundary are mature hedges and trees that adequately screen the entire dwelling site. Using Google Street View, staff also recognizes that the existing vegetation on the adjacent properties to the east and northeast will provide additional screening to ensure that the proposed replacement dwelling will remain visually subordinate from the Historic Columbia River Highway. *These criteria are met.*

* * *

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

* * *

(6) Village

(a) New development in this setting is exempt from the color and siting requirements of MCC 38.7035(B).

Staff: The applicant is proposing a replacement dwelling which is exempt from the color and siting requirements of MCC 38.7035(B).

(b) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 and 1/2 stories or less.

(c) For new commercial, institutional (churches, schools, government buildings) or multi-family residential uses on parcels fronting a Scenic Travel Corridor (the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

Staff: The applicant is not proposing a commercial building. *These criteria are not applicable.*

(d) New vehicular access points to the scenic travel corridors shall be limited to the maximum extent practicable, and access consolidation shall be required where feasible.

Staff: The subject property is located on NE 365th Avenue which is not a Scenic Travel Corridor. As defined in MCC 38.0015, the Scenic Travel Corridors are those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area. *This criterion is not applicable.*

(e) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly-shared landscaped open areas, etc.

Staff: The proposed replacement dwelling is located on a single lot of record with an existing driveway access. *This criterion is not applicable.*

(f) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

- 1. Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.**
- 2. The landscape strip required in subsection (f) 1. above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.**

Staff: The applicant is not proposing a new commercial, institutional or multi-family residential use. *These criteria are not applicable.*

(g) The use of building materials reinforcing the Village Setting's character, such as wood, logs or stone, and reflective of community desires, should be encouraged.

(h) Architectural styles characteristic of the area (such as 1½ story dormer roof styles in Corbett), and reflective of community desires, should be encouraged. Entry signs should be consistent with such architectural styles.

Staff: The proposed replacement dwelling is single-story with a dormer roof style (Exhibit A.14). The applicant is proposing to paint the dwelling brown with tan accents (Exhibit A.11). *These criteria are met.*

(i) Design features which create a "pedestrian friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc. should be encouraged.

(j) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

Staff: The proposed development is residential. *These criteria are not applicable.*

(k) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

Staff: The applicant is proposing to remove four trees within the building envelope for the replacement dwelling. The existing dense cover of vegetation along the northern and southern property boundaries will remain. *This criterion is met.*

(l) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

Staff: The applicant is not proposing any recreational uses on the subject property. *This criterion is not applicable.*

6.2 MCC 38.7045 GMA Cultural Resource Review Criteria

(A) Cultural Resource Reconnaissance Surveys

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

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

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

Staff: Chris Donnermeyer, Columbia River Gorge Scenic Area Heritage Resources Program Manager, submitted a Cultural Resource Survey Determination stating that a Cultural Resource Reconnaissance

Survey is not required. The reconnaissance is not required because the proposed use involves the replacement of an existing building. Furthermore, the proposed use would occur on a site that has been determined to be located within a low probability zone, is not within 100 feet of a high probability zone, and the proposed use does not occur within 500 feet of a known cultural resource (Exhibit D.1). *These criteria are met.*

* * *

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

* * *

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

(B) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7045 (L) and (M), if:

(1) The project is exempted by MCC 38.7045 (A) (1), no cultural resources are known to exist in the project area, and no substantiated comment is received during the comment period provided in MCC 38.0530 (B).

Staff: As stated above, a cultural resource review is not required. *These criteria are deemed satisfied.*

(L) Cultural Resources Discovered After Construction Begins The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(1) 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.

(2) Notification – The project applicant shall notify the 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 Indian tribal governments within 24 hours.

(3) Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from 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).

- (a) The Planning Director shall, based on the survey and evaluation report and any written comments, make a final decision within 10 days of the receipt of the report of the Gorge Commission on whether the resources are significant.
- (b) The Planning Director shall require a Mitigation Plan if the affected cultural resources are found to be significant.
- (c) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B).
- (d) The decision of the Planning Director shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B). Construction activities may recommence if no appeal is filed.
- (4) 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.
- (M) Discovery of Human Remains The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.
 - (1) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - (2) Notification – Local law enforcement officials, the Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
 - (3) 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.
 - (4) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
 - (5) 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.
 - (a) 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).
 - (b) 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.

Staff: *As conditioned, these criteria are met.*

6.3 MCC 38.7055 GMA Wetland Review Criteria

- (A) The wetland review criteria shall be deemed satisfied if:
 - (1) The project site is not identified as a wetland on the National Wetlands Inventory (U.S. Fish and Wildlife Service, 1987);
 - (2) The soils of the project site are not identified by the Soil Survey of Multnomah County, Oregon (U.S.D.A. Soil Conservation Service, 1983) as hydric soils;

(3) The project site is adjacent to the main stem of the Columbia River.

(4) The project site is not within a wetland buffer zone; and

(5) Wetlands are not identified on the project site during site review.

Staff: According to the County's GIS data, there are no wetlands or hydric soils identified on the subject property. The subject property is also not located adjacent to the main stem of the Columbia River. The project site is not located in a wetland buffer zone as this and adjacent properties do not have wetlands on them. No wetlands were identified during this NSA Site Review by planning staff. *These criteria are met.*

6.4 MCC 38.7060 GMA Stream, Lake and Riparian Review Criteria

(A) The following uses may be allowed in streams, ponds, lakes and riparian areas, and their buffer zones, when approved pursuant to the provisions of MCC 38.0045, MCC 38.7060 (C), and reviewed under the applicable provisions of MCC 38.7035 through 38.7085:

* * *

Staff: The subject property does not contain streams, ponds, lakes, and riparian areas. *These criteria are met.*

6.5 MCC 38.7065 GMA Wildlife Review Criteria

Wildlife Habitat Site Review shall be required for any project within 1,000 feet of sensitive wildlife areas and sensitive wildlife sites (i.e., sites used by sensitive wildlife species).

* * *

Staff: Based on the maps provided by the United States Forest Service for Sensitive Wildlife, there does not appear to be any sensitive wildlife areas and sensitive wildlife sites within 1,000 feet of the subject property. *These criteria are met.*

6.6 MCC 38.7070 GMA Rare Plant Review Criteria

Rare Plant Site Review shall be required for any project within 1,000 feet of endemic plants and sensitive plant species.

* * *

Staff: Based on the maps provided by the United States Forest Service for Sensitive Wildlife, there does not appear to be any endemic plants and sensitive plant species within 1,000 feet of the subject property. *These criteria are not applicable.*

6.7 MCC 38.7080 GMA Recreation Resource Review Criteria

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

* * *

(D) Recreation Intensity Class 4

(1) All uses permitted in Recreation Intensity Classes 1, 2, and 3.

(2) Parking areas for a maximum of 250 cars, including campground units, for any allowed uses in Recreation Intensity Class 4.

(3) Horseback riding stables and associated facilities.

(4) Entry name signs, not to exceed 40 square feet per sign.

(5) Boat ramps.

(6) Campgrounds for 175 individual units or less for tents and/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on

total size of recreation facility and may include required buffer and setback areas).

Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

Staff: The subject property is located within the Recreation Intensity Class 4, however the applicant is not proposing any recreation based uses. *These criteria are not applicable.*

7.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the National Scenic Area Site Review to establish a replacement dwelling in the GGRC zone. This approval is subject to the conditions of approval established in this report.

8.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Comments Received

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2021-15220 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	Application Form	11.09.2021
A.2	1	Site Plan	11.09.2021
A.3	3	Septic Review Certification	11.09.2021
A.4	1	Nearby Properties	11.09.2021
A.5	8	DEQ Evaluation Report	11.09.2021
A.6	1	Elevation Drawing	11.09.2021
A.7	2	Transportation Planning Review	11.09.2021
A.8	15	Stormwater Drainage Control Certificate	11.09.2021
A.9	1	Landscape Plan	11.09.2021
A.10	1	Floor Plan	11.09.2021
A.11	1	Color Options	11.09.2021
A.12	2	Fire Service Agency Review	11.09.2021
A.13	1	Exterior Lighting	11.09.2021
A.14	4	Narrative	11.09.2021
A.15	1	Water Certification	11.09.2021
A.16	1	Revised Site Plan	01.04.2022
A.17	3	Revised Elevation Drawings	01.04.2022
A.18	1	Revised Landscape Plan	01.04.2022
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Map with 1N4E35BB -01700 (Alt Acct# R944351170)	11.09.2021

B.2	1	Division of Assessment, Recording, and Taxation (DART): 1117 NE 365 th Ave.	11.09.2021
B.3	1	Division of Assessment, Recording, and Taxation (DART): 1227 NE 365 th Ave.	11.09.2021
B.4	1	Division of Assessment, Recording, and Taxation (DART): 36610 E Historic Columbia River Highway	11.09.2021
B.5	1	Division of Assessment, Recording, and Taxation (DART): 36400 E Historic Columbia River Highway	11.09.2021
B.6	1	Division of Assessment, Recording, and Taxation (DART): 1025 NE 365 th Ave.	11.09.2021
B.7	3	Road Survey No. RD4327	11.09.2021
‘C’	#	Administration & Procedures	Date
C.1	60	Agency Review	12.15.2021
C.2	4	Incomplete Letter	12.09.2021
C.3	2	Applicant’s Acceptance of 180 Day Clock	12.13.2021
C.4	1	Complete Letter (Day 1)	02.22.2022
C.5	9	Opportunity to Comment and mailing list	05.18.2022
C.6	16	Administrative Decision and mailing list	08.10.2022
‘D’	#	Comments Received	Date
D.1	4	USFS Comment	12.20.2021
D.2	8	Friends of the Columbia Gorge Comment	06.01.2022