

NOTICE OF NSA DECISION

Case File: T2-2022-15623

Permit: National Scenic Area Site Review

Applicant: Beau James & Megan Snyder **Owner:** Beau James & Megan Snyder

Location: Address: 31926 NE Wand Rd. Troutdale, OR Map, Tax Lot: 1N4E32A-00300
Alternate Account #: R053500130 Property ID #: R111597

Zoning: Gorge General Residential (GGR-10)

Overlays: none

Key Viewing Areas: Bridal Veil, Crown Point, Historic Columbia River Hwy, I-84, Larch Mountain Rd., Portland Women's Forum, Washington State Route – 14 (SR-14)

Landscape Setting: Rural Residential in Pastoral

Proposal Summary: Applicants request a National Scenic Area Site Review for a proposed 165 square foot garage addition, a 12.24 kW roof-mounted photovoltaic (solar) system for the existing dwelling, and a 197 square foot storage shed.

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 **Friday November 18, 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 Marisol Cervantes, Staff Planner at 503-988-9452 or Marisol.Cervantes@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 (503) 988-3043. This decision is not appealable to the Columbia River Gorge Commission until all local appeals are exhausted.

Issued By: _____
Marisol Cervantes, Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, November 04, 2022



Applicable Approval Criteria:

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

General Provisions: MCC 38.0560 Code Compliance and Applications, MCC 38.0015 Definitions, Parcel, MCC 38.0045 Review Use Applications, MCC 38.0030(D) Changes to Existing Uses and Structures, MCC 38.0110 Indian Tribal Treaty Rights

Gorge General Residential (GGR-10): MCC 38.3025(A)(2) Accessory Structures, MCC 38.3025(A)(17)(a) – (b) Photovoltaic System, MCC 38.3060 Dimensional Standards

National Scenic Area Site Review (NSA): MCC 38.7035 GMA Scenic Review, MCC 38.7045 GMA Cultural Resource Review, 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. Two (2) years after the date of the final decision, when the use or development has not been established according to all specifications and conditions of approval in the land use approval. [MCC 38.0690(A)]

Note: Expiration of the permit is automatic. Failure to give notice of expiration shall not affect the expiration of this approval. The property owner may request one (1) 12-month extension to the timeframe within which this permit is valid, as provided under MCC 38.0700, as applicable. The request for a permit extension must be submitted **prior to** the expiration of the approval period. [MCC 38.0700]

2. Within 30 days after the decision becomes final, the applicant(s), owner(s), or their representative(s) shall:
 - a. Acknowledge in writing that they have read and understand the conditions of approval and intend to comply with the, A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to Marisol.Cervantes@multco.us and shall reference the case number T2-2022-15623. [MCC 38.0660(B)]

Prior to Land Use Approval for Building Plan Check:

3. The applicant will need to revise the site plan to include erosion control measures to meet the Minimal Impact Project criteria (MCC 39.6220) for the proposed ground disturbance for the addition.

As an ongoing condition, the property owner and/or their representatives shall:

4. All exterior colors for siding, roof and trim shall remain the same color as the existing dwelling's light gray exterior paint and white trim colors (Exhibit A.16 & A.18). The proposed energy storage mounted to the wall of the dwelling shall also be white and matte finish to match the existing dwelling.
5. This decision does not authorize the removal of any existing screening vegetation. Existing vegetation enables the proposed development to achieve visual subordination. Therefore, the applicant must maintain the existing vegetation used for screening purposes (Exhibit A.20). In order to maintain the existing vegetation, dead / sick/ or damaged vegetation shall be replaced on a one-to-one basis with a similar native tree / shrub. Minimum sizing for new trees shall be 5 feet in height and minimum sizing for new shrubs shall be 5-gallon. [MCC 38.7035(B)(8) and (C)]
6. 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 SHIPO. 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 with 24 hours. The CRGNSA Heritage Program Manager should also be notified at 541-308-1711 or 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 SHIPO. (See Oregon Revised Statue [ORS] 273.705, ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.23). 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” 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.

7. 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 RCW 27.44 and 68.05 shall generally be implanted if the remains are re-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.

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. Visit <https://www.multco.us/landuse/how-apply> for current instructions regarding the submission of your building plans for zoning plan review. 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.

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 applicants request a National Scenic Area Site Review for a 165 square foot garage addition, a 12.24 kW roof-mounted photovoltaic (solar) system for the existing dwelling, and retroactive approval of an existing storage shed on the property identified as 1N4E32A-00300 (subject property).

2.0 Property Description:

Staff: The subject property is zoned Gorge General Residential (GGR-10) and developed with an existing dwelling and a detached storage shed. The subject property is located within the following Key Viewing Areas: Bridal Veil, Crown Point, Historic Columbia River Hwy, I-84, Larch Mountain Rd., Portland Women’s Forum, Washington State Route – 14 (SR-14).

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 38.0530 (Exhibit C.5). Staff received one public comment during the 14-day comment period. Staff summarizes the comment below:

3.1 Friends of the Columbia River Gorge (Exhibit D.1)

The Friends provided written comments to ensure that they will obtain a full written decision when issued and that the code criteria is upheld. No specific concerns were addressed.

4.0 General Provisions 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 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.

On the subject property, there is an existing 197 square foot shed that has not been authorized. The shed's current use is to store garden equipment. Applicants request to authorize the existing shed as shown in (Exhibit A.20). By authorizing the shed under the NSA site review, the subject property will no longer have a code compliance issue. *Criteria met.*

4.2 MCC 38.0015 Definitions - Parcel

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

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

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

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

- 1. Is a unit of land created solely to establish a separate tax account;**
- 2. Lies in different counties;**
- 3. Lies in different sections or government lots;**
- 4. Lies in different zoning designations; or**
- 5. Is dissected by a public or private road.**

Staff: Land Use Case T2-2018-10188 found that the 2.0 acre subject property is a single Parcel. The current configuration (Exhibit A.19) matches the configuration described in case no. T2-2018-10188. Therefore, the subject property remains a single Parcel. *Criteria met.*

4.3 MCC 38.0030 Existing Uses

* * *

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

(1) Expansion of Existing Commercial and Multifamily Residential Uses: In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the Dedicated Site, subject to MCC 38.0045. Expansion beyond the Dedicated Site is prohibited.

(2) Conversion of Existing Industrial Uses in the General Management Area: In the General Management Area, existing industrial uses may convert to less intensive uses, subject to MCC 38.0045. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

(3) Existing Development or Production of Mineral Resources in the General Management Area: In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to MCC 38.0000 through 38.0110, 38.1000 through 38.3295, and 38.7000 through 38.7085 if:

* * *

(4) Uses involving the exploration, development or production of sand, gravel or crushed rock in the Special Management Area may continue when:

* * *

Staff: As described above, the subject National Scenic Area site review application includes a proposal for the alteration of an existing single-family dwelling to install a roof-mounted solar system to support power generation for the dwelling. The proposal does not include any of the activities described in subsection (1) – (4) above. *Criteria met.*

4.4 38.0110 Tribal Treaty Rights And Consultation

(A) If a substantive written comment regarding tribal rights is received during the comment period provided in MCC 38.0530 (B) or (C) from an Indian tribal government, the applicant shall offer to meet with the affected tribal government within 10 calendar days. The 10 day consultation period may be extended upon agreement between the project applicant and the tribal government. If a substantive written comment is received on an expedited review preliminary decision, then the application will be reviewed using the full Type II process and is no longer eligible for expedited review.

* * *

(B) The Planning Director shall deem the Treaty Rights Protection Plan process complete if no substantiated comment is received during the 30 day comment period and the Treaty Rights Protection Plan and/or site plan indicate that the proposed uses would not affect or modify treaty or other rights of any Indian tribe.

(1) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B) or (C) within 25 days of the expiration of the 30 day comment period.

(2) The decision of the Planning Director regarding treaty or other rights of any Indian tribe shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B) or (C).

(3) A finding by the Planning Director that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in this subsection, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

Staff: The County provided the required notices (Exhibit C.1 and C.6) to the tribal government(s). No comments were received following either of the aforementioned notices. Staff finding that these criteria are met are subject to (B)(3) above. *Criteria met.*

5.0 Gorge General Residential (GGR-10)

5.1 MCC 38.3025 Review Uses

Accessory Structures

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

* * *

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

Staff: The applicant is proposing a 165 square foot addition to the garage and permitting an existing 197 square foot storage shed (Exhibit A.18 & A.20). Both are accessory to the main dwelling. *Criteria met.*

Photovoltaic System

(17) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that:

(a) For all systems:

- 1. They are not a commercial power generating facility such as a utility;**
- 2. The system meets all special district requirements;**
- 3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;**

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

Staff: The applicant also proposes under this application a 12.23 kW roof mounted solar energy system on the existing dwelling. Exhibit A.4 is an energy consumption estimate that was created using information from recent utility bills for the existing dwelling. Based on the energy consumption estimate, the roof solar system is not a commercial power generating facility and will only be used for the existing dwelling. The system is mounted to the roof of the existing dwelling and does not exceed the peak of the roof of the building (Exhibit A.2). *Criteria met.*

MCC 38.3060 Dimensional Standards

(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 165 square foot addition is 30 feet from the front property line, 20 +/- feet from the west property line, 60 feet from the east property line and more than 80 feet from the rear property line (Exhibit A.20). The existing 197 square foot shed is 12 feet from the west property line, more than 30 from the front property line, more than 60 feet from the east property line, and more than 80 feet from the rear property line. The proposed addition will have the same roofline as the existing home (Exhibit A.6) and the existing shed is 12 feet in height. *Criterion met.*

6.0 National Scenic Area (NSA) Site Review Criteria:

6.1 MCC 38.7035 GMA Scenic Review

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 a 165 square foot addition to the garage, a 12.24 kW roof solar system and permitting an existing 197 square foot storage shed. According to the County's GIS data, the topography of the building envelope does not contain any slope hazards and appears to be relatively level around 0%-10% slopes. There will be minimal ground disturbance for the addition and there will not be any major cuts as the subject property is fairly flat. Staff finds that proposed addition to the garage, roof solar system and existing storage shed will be sited to retain the existing topography and minimize grading activities to the maximum extent practicable. *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 does not propose a new building as the proposed addition is to the existing dwelling, the proposed solar system is to be mounted to the existing dwelling and the existing 197 square foot storage shed is existing. Based off the County's GIS data similar structures as the existing shed are within ¼ mile of the subject property. Staff finds that the existing storage shed is compatible with the general scale of similar buildings that exist within a quarter-mile of the subject property. *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 Wand Road, 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 applicant does not propose any vegetation as no trees are to be removed. The proposed addition is located in the open area with existing tree coverage (Exhibit A.18). *This criterion is not applicable.*

(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 Rural Residential Pastoral setting. The compatibility of the proposed addition, roof solar system and existing storage shed are discussed below in subsection (C).

(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.

Staff: The subject property is topographically visible from the following Key Viewing Areas (KVA): Bridal Veil, Crown Point, Historic Columbia River Hwy, I-84, Larch Mountain Rd., Portland Women's Forum, Washington State Route – 14 (SR-14). The applicant proposes to paint the proposed addition the same color as the existing dwelling and use the same materials (Exhibit A.18). The proposed color is light gray for the exterior and white trim, which matches the existing dwelling (Exhibit A.16, A.17, & A.18). The existing storage shed also is the same color and materials as the existing home. The proposed roof solar system is all black with a flat finish and with no chrome or aluminum colors and the energy storage units are white matte to match the existing dwelling and is less than 4% reflectivity (Exhibit A.2 & A.18).

The applicant does not propose any tree planting nor any tree removal as the existing tree canopy on the subject property screens the proposed addition and existing shed. The use of low reflective materials and using the same paint color as the existing dwelling ensures the proposed development is visually subordinate from the various KVAs. *Criterion met.*

(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.

Staff: The subject property is topographically visible from seven Key Viewing Areas (KVAs). The proposed location of the 165 square foot addition, roof mounted solar system and existing 197 square foot shed provides some existing tree coverage (Exhibit A.15 & A.20). A condition of approval requires the proposed addition be painted the same color and use the same siding materials as the existing dwelling. The existing shed is painted the same color as the existing house and the roof solar system has low reflectivity of 4%. The existing tree canopy and the proposed materials to be used will reduce the potential visual effects and achieve visual subordinate. *As conditioned, the above criteria are met.*

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

Staff: The applicant is proposing a 165 square foot addition to the garage (Exhibit A.12), the proposed roof solar system to the dwelling (Exhibit A.2) and the existing shed (Exhibit A.20) all located towards the front of the property. The proposed addition elevations (Exhibit A.12) will not exceed the height of the existing dwelling. The addition is proposed to have the existing roof line as the existing dwelling.

The proposed roof-mounted solar system (Exhibit A.2) is to be mounted to the existing dwelling and will not exceed the peak of the existing roof. The existing storage shed is painted the same colors as the existing dwelling and the height of the structure is about 12 feet.

The existing tree coverage on-site will cover the proposed development and will be maintained for screening purposes. *Criterion met.*

(5) For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to MCC 38.7035 (A) (6) and subsection (4) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.

Staff: The applicant is not proposing mining or any associated activities on the subject property. *This criterion does not apply.*

(6) New development shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural

resources. In such situations, development shall comply with this standard to the maximum extent practicable.

Staff: Based on available GIS information, the subject property does not contain wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflicts with the protection of cultural resources. The applicant is proposing the addition to the garage, roof solar system and existing storage shed to be placed where the existing tree coverage is located this allows the development to be less visible from the Key Viewing Areas (KVAs). *This criterion is met.*

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

Staff: As stated previously the applicant proposes the addition, roof mount solar system and existing storage shed to be located where the existing tree coverage is located at the front of the property. The subject property is topography flat and contains existing vegetation providing screening to the addition and existing storage shed (Exhibit A.13, A.14, A.15, & A.20). *This criterion is met.*

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

Staff: The proposed addition, roof solar system, and existing storage shed will retain the existing tree coverage (Exhibit A.18), no trees are proposed to be removed. *This criteria is met.*

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

Staff: The subject property is relatively level and does not contain any mapped slope hazards. The proposed development does not require significant ground disturbance, cutting or filling to construct (Exhibit A.2, A.12, & A.18). *This criterion is met.*

(10) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features. The *Scenic Resources Implementation Handbook* includes a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this code, including those that meet recommended thresholds in the “visibility and Reflectivity Matrices” in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces are provided for guidance in the *Implementation Handbook*

Staff: The subject property is topographically visible from Key Viewing Areas (KVAs), the applicant has identified that the existing tree coverage on-site around the existing dwelling and existing storage shed will help screen the proposed addition and existing shed. Additionally, the same paint color and hardiplank siding present on the existing dwelling will be used for the addition. The existing shed is painted the same paint color as the existing

home (Exhibit A.16 & A.18). The exterior lighting of the proposed addition will remain shielded (Exhibit A.18). *This criterion is met.*

(11) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

Staff: The applicant does not propose new light fixtures and will be reusing the existing exterior lights for the garage addition (Exhibit A.12 & A.18). Light fixtures are pointed downward and are non-reflective. The roof solar system does not propose any exterior lighting and the existing storage shed does not contain exterior lighting. *This criterion is met.*

(12) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors 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.

Staff: The proposed color materials for the 165 square foot addition will be light gray for the exterior, white trim, and a composite roof. A condition of approval requires the addition be painted the same color as the existing dwelling. The roof solar system array will be black with a flat finish and with no chrome or aluminum colors, the energy storage units will be off white matte color to match the existing dwelling's paint colors. With the proposed paint colors to be the same and the existing tree coverage the proposed development will be screened from the Key Viewing Areas. *As conditioned, this criterion is met.*

(13) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors 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.

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

Staff: The applicant proposes a 165 square foot addition and proposes to paint the addition the same color as the existing dwelling. The addition is smaller the total square area of the existing dwelling which allows for the same color palette as the existing dwelling. The roof solar system will be black with a flat finish and the existing storage shed is painted the same color as the dwelling (Exhibit A.16, A.17, & A.18).

The applicant is not proposing to rehabilitate or modify an existing historic structure. *The above criterion is met.*

(15) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances may be granted if application of this standard would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the standard have been made.

(16) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Areas, may itself protrude above the skyline if:

(a) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and

(b) There is no practicable alternative means of altering the building without increasing the protrusion.

Staff: The applicant's plans (Exhibit A.12) demonstrate the addition to the garage will maintain the same roofline as the existing garage. The roof solar is to remain below the roofline and the existing storage shed is around 10 to 12 feet tall (Exhibit A.18). The proposed development does not include the construction or alteration of a building situated above the skyline of a bluff, cliff or ridge (Exhibit A.13, A.14 & A.15). The proposed development will remain below the skyline of a bluff, cliff or ridge as seen from the KVA. *This criterion is met.*

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

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

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

(c) Vegetation planted for screening purposes shall be of sufficient size to make the development visually subordinate within five years or less of commencement of construction.

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

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

Staff: The subject property has existing vegetation with mature evergreen and apple trees to the north and east of the property and deciduous tree to the south of the property. The property also contains mature native shrubs to the east side of the proposed addition also where the existing storage shed is situated. The applicant does not propose any removal of

trees or revegetation, the existing tree coverage will remain undisturbed (Exhibit A.18 & A.20). *Criteria met.*

(18) Conditions regarding new landscaping or retention of existing vegetation for new developments on land designated GMA Forest shall meet both scenic guidelines and the fuel break requirements of MCC 38.7305(A).

Staff: The subject property is zoned Gorge General Residential (GGR -10). There will be no new vegetation therefore, it does not need to comply with the GMA fuel break requirements. *This criterion is not applicable.*

MCC 38.7035(B)(19), (B)(20), and (B)(22)

Staff: Applicant is proposing a 165 square foot addition to the garage, a roof solar system and permitting an existing 197 square foot shed. As communication facilities, transportation signs/facilities, main lines, etc. are not proposed, the criteria in (B)(19) – (B)(22) do not apply. *These criteria are not applicable.*

(23) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.

Staff: The proposed development is not water dependent and is approximately 0.50 of a mile from the Columbia River. *This criterion is met.*

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

Staff: According to contour information the slopes on-site are less than 10% (Exhibit A.20). *This criterion is not applicable.*

(25) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas shall include submittal of a grading plan. This plan shall be reviewed by the Planning Director for compliance with Key Viewing Area policies. The grading plan shall include the following:

MCC 38.7035(B)(26) and (B)(27)

Staff: The applicant is proposing a 165 square foot addition, a roof-mounted solar system to the existing dwelling and permitting an existing 197 square foot storage shed. As the proposal does not involve the expansion of and/or new production or development of mineral resources, (B)(26) and (B)(27) do not apply. *These criteria are not applicable.*

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

(4) Rural Residential in Conifer Woodland or Pastoral

(a) New development in this setting shall meet the design standards for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral or Coniferous Woodland), unless it can be demonstrated that compliance with the standards for the more rural setting is impracticable. Expansion of existing development shall comply with this standard to the maximum extent practicable.

(b) In the event of a conflict between the standards, the standards for the more rural setting (Coniferous Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such standards would not be practicable.

(c) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

Staff: The subject property landscape setting requirements are described in the sections below. *Criteria met.*

(1) Pastoral

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

(b) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance for new development and expansion of existing development:

1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

2. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

3. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, bigleaf maple, and black locust (primarily in the eastern Gorge). The *Scenic Resources Implementation Handbook* includes recommended minimum sizes.

4. At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

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

Staff: The proposed addition, roof mounted solar system and existing shed are clustered together towards the front of the subject property (Exhibit A.20). The existing tree coverage

is to remain to help screen the proposed development from KVAs and the rear part of the property shall remain pasture land. The applicant does not propose any revegetation as the existing tree coverage is sufficient for screening. A condition of approval requires the property owners to maintain the existing vegetation. *As conditioned, these criteria are met.*

(3) Rural Residential

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

(b) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance for new development and expansion of existing development:

1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

2. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(c) Compatible recreation uses include should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks) may be allowed.

Staff: As mentioned above, the existing tree coverage is to remain for screening of the proposed development in order to achieve visual subordination. The existing tree canopy is made of native shrubs, evergreens, apple trees and deciduous trees. A condition of approval requires the property owner to maintain the existing vegetation. *As conditioned, the above criteria are met.*

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:

Staff: Chris Donnermeyer, Columbia River Gorge Scenic Area Heritage Resources Program Manager, submitted a Cultural Resource Survey Determination on April 06, 2022, stating that a historic survey is not required because the proposal would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older and would not compromise features of the surrounding area that are important to defining the historic or architectural character of significant buildings or structures that are 50 years old or older. (Exhibit B.2). Therefore, a historic survey is not required. *This criterion is not applicable.*

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

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

Staff: As stated in the above section 6.2, the project is exempt from the cultural resource review requirement. *This criterion is met.*

(L) Cultural Resources Discovered After Construction Begins

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

(M) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction.

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

Staff: A condition of approval requires compliance with (L) and (M) above. *As conditioned, these criteria are met.*

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;

Staff: According to available 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 the subject property and adjacent properties do not have wetlands on them. *These criteria are met.*

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: According to available GIS data, the subject property does not contain streams, ponds, lakes, and riparian areas. *These criteria are not applicable.*

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 not applicable.*

MCC 38.7070 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 available maps, 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.*

MCC 38.7080 GMA Recreation Resource Review Criteria

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

(B) Recreation Intensity Class 2

- (1) All uses permitted in Recreation Intensity Class 1.**
- (2) Parking areas for a maximum of 25 cars, including campground units, to serve any allowed uses in Recreation Intensity Class 2.**
- (3) Simple interpretive signs and displays, not to exceed a total of 100 square feet.**
- (4) Entry name signs not to exceed 20 square feet per sign.**
- (5) Boat ramps, not to exceed two lanes.**
- (6) Campgrounds for 20 units or less, tent sites only.**

Staff: The subject property is located within the Recreation Intensity Class 2; 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 165 square foot garage addition, 12.24 kW roof-mounted solar system and retroactive approval of a 197 square foot storage shed in the Gorge General Residential (GGR-10) 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 T2-2022-15623.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	National Scenic Area Site Review Application Form	03.23.2022
A.2	18	Roof-Mounted Solar System Site Plan & Floor Plans	03.23.2022
A.3	2	Roof Solar System Applicant Narrative	03.23.2022
A.4	3	Yearly Energy Production vs. Yearly Solar Consumption	03.23.2022
A.5	2	Applicant Narrative for Garage addition, existing shed & Solar System	03.23.2022
A.6	5	Fire Service Agency Review Form	03.23.2022
A.7	4	Transportation Planning Review Form	03.23.2022
A.8	4	Transportation Planning Comments	03.23.2022
A.9	10	Transportation Planning Form for Existing Driveway	03.23.2022
A.10	3	Septic Review Certification Form	03.23.2022
A.11	1	Existing Stormwater System Site Plan	03.23.2022
A.12	6	Garage Addition Site Plan, Floor Plans & Elevations	03.23.2022
A.13	1	Aerial Photo View from above I-84	03.23.2022
A.14	1	Aerial Photo View from Wand Rd.	03.23.2022
A.15	1	Aerial Photo of Existing Shed	03.23.2022
A.16	1	Paint Color Chip for Garage Addition	03.23.2022
A.17	1	Garage Expansion Photo of Existing Area	03.23.2022
A.18	2	Revised Final Applicant Narrative	04.25.2022
A.19	3	Warranty Deed Recorded on August 20, 2021, recorded instrument #2021-127880	04.25.2022
A.20	1	Final Revised Site Plan	05.25.2022
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for R111597 (Alt Acct#R053500130)	03.23.2022
B.2	2	Cultural Resources Survey Determination	04.06.2022
‘C’	#	Administration & Procedures	Date
C.1	1	Agency Review	04.01.2022
C.2	3	Incomplete Letter	04.22.2022
C.3	1	Applicant’s Acceptance of 180 Day Clock	04.26.2022
C.4	1	Second Incomplete Letter	05.24.2022

C.5	1	Complete Letter (Day 1)	05.25.2022
C.6	5	Opportunity to Comment	06.22.2022
C.7	23	Administrative Decision	11.04.2022
'D'	#	Comments Received	Date
D.1	8	Friends of the Columbia Gorge Comments	07.06.2022