

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

NOTICE OF NSA DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2017-8140 & EP 2016-5560

Permits: National Scenic Area Site Review and Road Rules Variance

Location: 34101 E. Bell Road, Corbett
Tax Lot 100, Section 33, Township 1 North, Range 4 East, W.M.
Tax Account #R944331130 Property ID#R322597

Applicant: Dale Burkholder **Property Owner:** Dennis Bates

Base Zone: Gorge General Agriculture – 40 (GGA-40) and Exclusive Farm Use (EFU)

Landscape Setting: Rural Residential in Pastoral

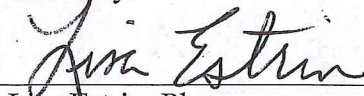
Summary: The applicant is proposing to replace an existing small dwelling with a new 3,466 sq. ft. single family dwelling. The old dwelling will be demolished. In addition, various outbuildings will be reviewed for land use approval. A Transportation Road Rules Variance has been applied for to add a second driveway off of Mershon Road for the new single family dwelling.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, December 14, 2017 at 4:00 pm.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 38.0640. 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 offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Columbia River Gorge Commission until all local appeals are exhausted.

Issued by:

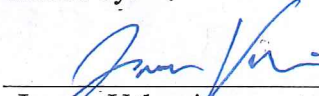


Lisa Estrin, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Thursday, November 30, 2017

Issued by:



Joanna Valencia,
Transportation Planning Manager

For: Ian B. Cannon, P.E.
County Engineer

Date: Thursday, November 30, 2017

Instrument Number for Recording Purposes: #2015038150

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office (*Tuesday-Friday 8am-4pm*). Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact skakelk, Staff Planner at 503-988-0167 or lisa.m.estrin@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 38.0030(B) Existing Uses and Discontinued Uses, MCC 38.0060 Agricultural Buffer Zones, MCC 38.2225 Review Uses, MCC 38.2260 Dimensional Requirements, MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 GMA Cultural Resource Review Criteria, MCC 38.7055 GMA Wetland Review Criteria, MCC38.7060 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, MCC 38.7305 Fire Protection in Forest Zones, and MCC 38.7340 Agricultural Buildings.

Multnomah County Road Rules (MCRR): MCRR 4.000 through MCRR 4.500, MCRR 5.000 through MCRR 6.1000, MCRR 16.3000 through MCRR 16.3100, and MCRR 16.200 A. through D.

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at www.multco.us/landuse/zoning-codes under the link titled *Chapter 38 – Columbia River Gorge National Scenic Area*. The Multnomah County Road Rules can be obtained by contacting our office or online at multco.us/transportation-planning/plans-and-documents under the link *Multnomah County Road Rules*.



Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in brackets.

1. 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.
2. Pursuant to MCC 38.0690, this land use approval expires as follows:
 - a. When construction has not commenced within two years of the date the final decision. 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 or 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.
 - b. When the structure has not been completed within two years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surfaces(s) of the structure and compliance with all conditions of approval in the land use approval.
 - c. Expiration under a. or b. above is automatic.

The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 38.0700, as applicable. The request for an extension must be submitted prior to the expiration of the approval period.

3. Prior to land use sign-off for the building permit, the property owner shall record with the County Recorder the Notice of Decision including the Conditions of Approval of this decision (pages 1 through 6). The Notice of Decision shall run with the land and the conditions shall be met by the current and all future property owners unless amended through a later decision by an authorized authority. Proof of recording shall be submitted to Multnomah County Land Use Planning office prior to the issuance of any permits. Recording shall be at the applicant's expense. [MCC 38.0670]
4. Prior to land use sign-off for building plan check, the property owners or their representative shall:
 - a. Remove two of the greenhouses from the property. Only 1,000 sq. ft. of greenhouse structure is authorized by this permit.
 - b. Remove all blue tarps from remaining structures. If tarps are used on the greenhouse or dog kennel/run, they shall be brown.
 - c. All metal roofing shall be removed from the dog kennel/run. [MCC 38.0560]
5. The dwelling shall utilize hardi-plank type siding, windows with a reflectivity rating of 13% or less, and architectural composition shingles. Within two years of this permit becoming final, the exterior of the dwelling shall be treated as follows:

Feature	Materials	Color	Exhibit
Roof	Arch. Composition	Mixed Grey	A.19 & A.20
Siding	Hardi-Plank	Behr PPU18-19	A.19 & A.20
Trim	Cedar	Behr PPU5-18	A.19 & A.20

Window Frames	Vinyl	Desert Sand	A.18
Front & Rear Door	Vinyl	Hartford Green (dark green)	A.18
Gutters	Metal	Behr PPU5-18	A.19

The above colors or paint colors from the Columbia River Gorge Commission *Scenic Resources Implementation Handbook* Color Chart Row A or B or Numbers 13 through 16 of Row C colors shall be used for the dwelling. [MCC 38.7035(B)(1), (B)(2), (B)(4), (B)(10) and (B)(12)]

6. All 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 nonreflective, opaque materials. [MCC 38.7035(B)(11)]
 - a. Prior to land use sign-off for building plan check, the property owner or their representative shall add to the building plans the exact location of the lighting and provide lighting details to meet the standards of MCC 38.7035(B)(11)
7. Prior to occupancy of the new dwelling, the 1931 single family dwelling shall be demolished and all materials removed from the property. [MCC 38.0560 and MCC 38.0030(B)]
8. Prior to occupancy of the new dwelling, a 15-ft wide evergreen, vegetative buffer shall be planted along the western property line between the subject parcel and tax lot 1N4E33AD -00800 as shall on Exhibit B.6. The plants used shall native and evergreen and shall reach a mature height of at least 10 feet within 5 years. [MCC 38.0060]
9. The property owners shall maintain the existing trees and required plantings as shown below in living condition and shall replace any dead or damaged tree or required vegetation if they do not survive. Invasive species will need to be removed and controlled. The property owner is responsible for the retention and health of the trees to maintain the existing density on the property in perpetuity. [MCC 38.7035(B)(2) and (B)(8)]



10. Any tarp used on the greenhouse or dog kennel/run shall be dark brown. No metal roofing may be used on the dog kennel/run.
11. If the farmer of the property ceases to use the 1,000 sq. ft. agricultural greenhouse for plant propagation purposes for a period of 1 year, it shall be removed from the property immediately. The greenhouse may not be used for just equipment storage even if it is associated with the on-site farm use. [MCC 38.0030]
12. If any Cultural Resources and/or Archaeological Resources are located or discovered on the property during this project, including but not limited to finding any evidence of historic campsites, old burial grounds, implements, or artifacts, the following procedures shall be implemented:
 - a. 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.
 - b. Notification – The project applicant shall notify the County Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Native American tribal governments within 24 hours. Procedures required in MCC 38.7045 (L) shall be followed.
 - c. 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 273.705 and 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).
 - d. Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may recommence when the conditions in the mitigation plan have been executed. [MCC 38.7045 (L)]
13. The following procedures shall be in effect if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):
 - a. Halt 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 Multnomah County Planning Director, the Gorge Commission, and the Native American tribal governments shall be contacted immediately.
 - c. 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.
 - d. Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
 - e. 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.
 - i. 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).

- ii. 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.

All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and the Oregon State Historic Preservation Office (SHPO). Native American tribal governments shall also receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans. [MCC 38.7045 (M)]

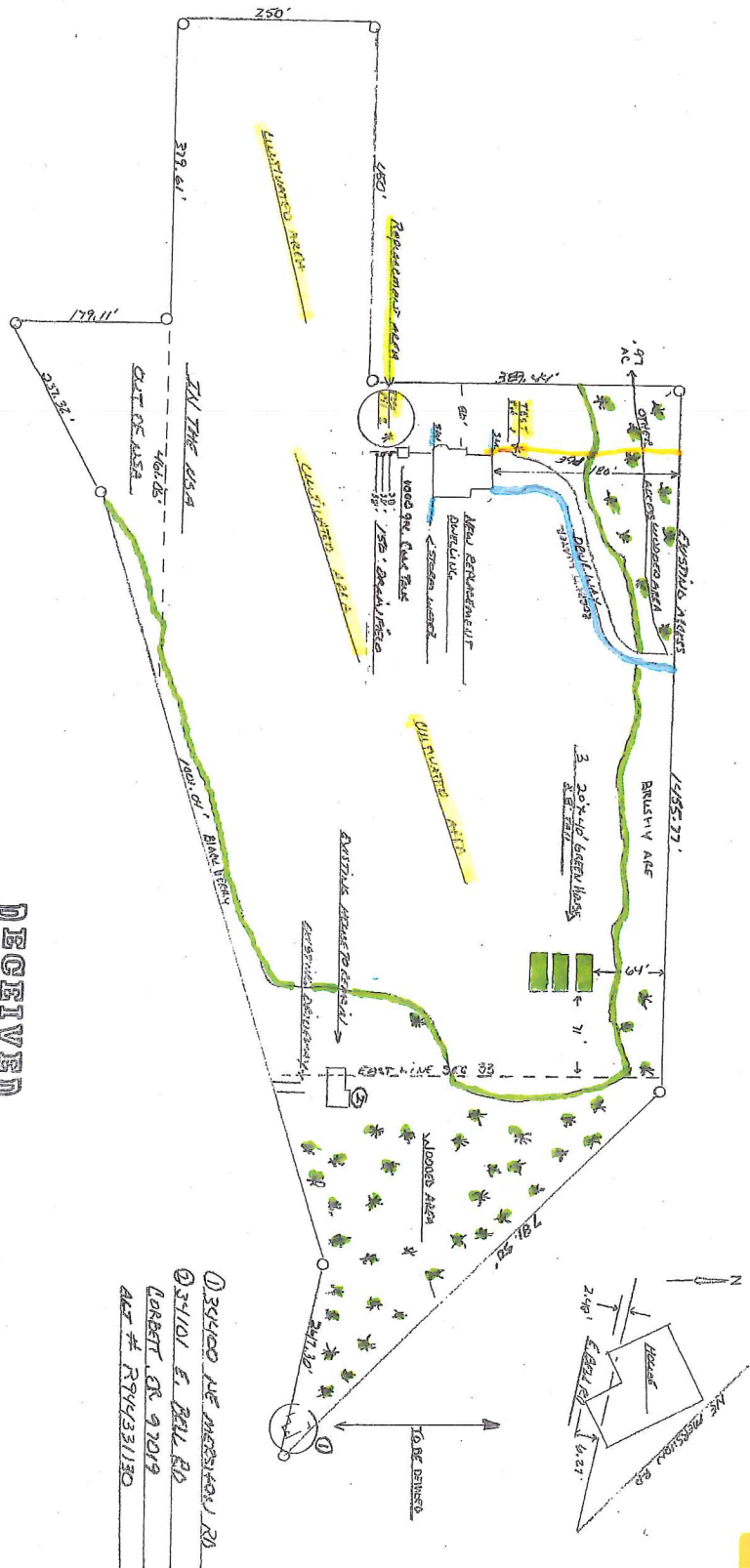
14. Prior to Building Permit approval, the applicant shall acquire an access permit for the site's proposed reconfigured access onto NE Mershon Road and the site's existing unpermitted access onto East Bell Road. The permit shall include the closure of the existing unpermitted access onto NE Mershon Road northwest of the intersection of NE Mershon Road, East Bell Road, and East Historic Columbia River Highway. [MCRR 4.000 and 18.250]
15. The applicant shall maintain vegetation adjacent to the proposed reconfigured and existing accesses in order to preserve adequate sight distance both access points.
16. Prior to Building Permit approval, the applicant shall acquire an encroachment (right of way) permit for the demolition of the dwelling encroaching on County right of way.
17. Note that any work in the right of way, including the removal of trees, or any increase in storm water drainage from the site to the right of way will require review and storm water analysis and a permit from Multnomah County [MCRR 18.750, DCM 5.1] (This is consistent with City of Troutdale Type II procedure, case file: 15-039).

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, the applicant shall call the Staff Planner, Lisa Estrin, at (503) 988-0167 or lisa.m.estrin@multco.us, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to 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 will be collected. In addition, an erosion control inspection fee may be required.

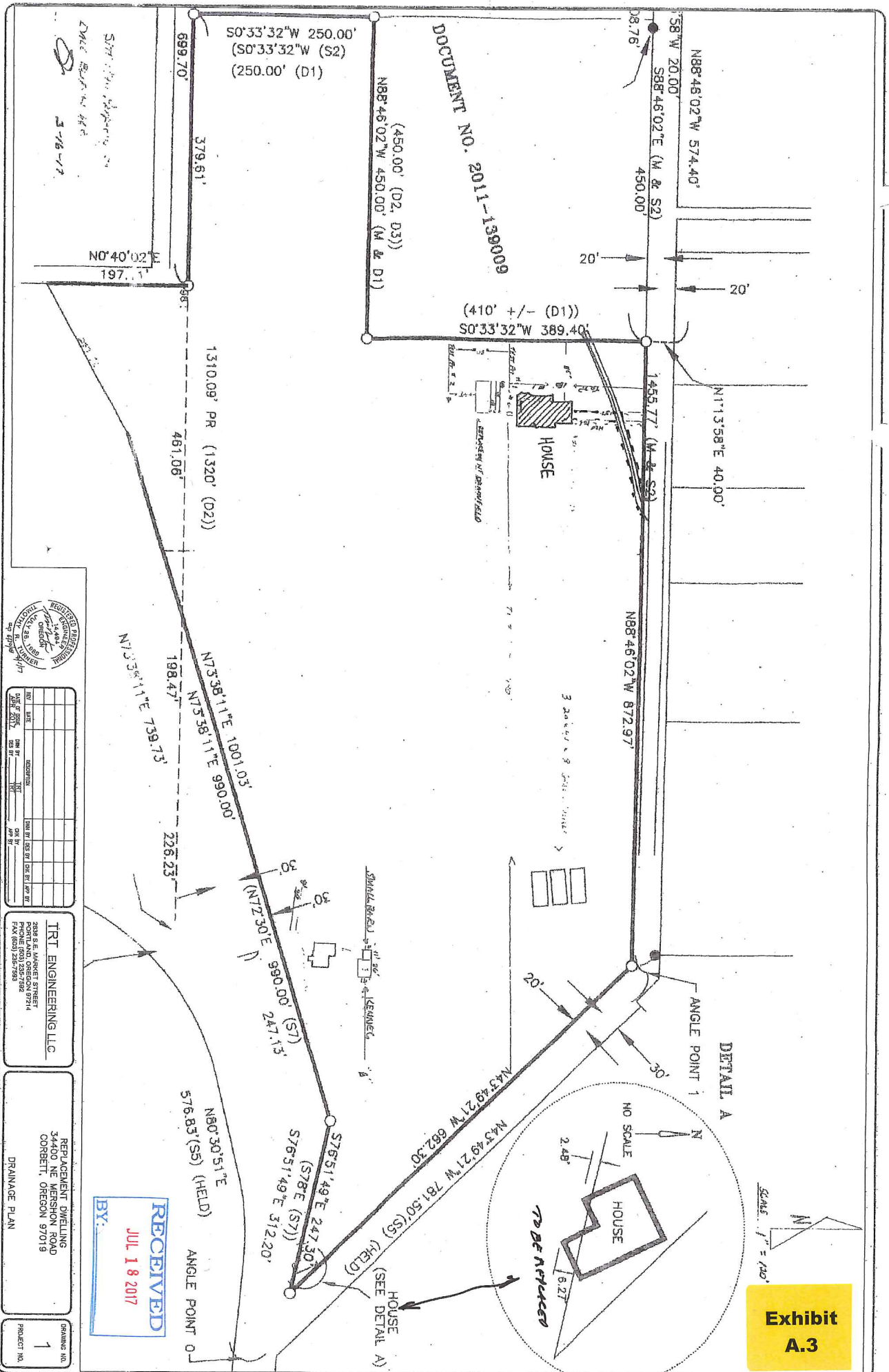
Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

SILE EVACUATION TH 15-194586-SE
SEC 33D WAGE T-# 100 17.51 AC



RECEIVED
JUL 18 2017
BY:



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*.

1.00 Project Description:

Staff: The applicant is proposing to replace one of two existing dwellings with a new 3,466 sq. ft. single family dwelling. The new dwelling will take access off of Mershon Road. The original 1931 (year built) dwelling will be demolished. In addition, various outbuildings will be reviewed for land use approval. A Transportation Road Rules Variance has been applied for to add a second driveway off of Mershon Road for the new single family dwelling.

2.00 Property Description & History:

Staff: The subject property is 17.51 acres in size. It fronts onto E. Bell Road and NE Mershon Road. The property has two legally existing single family dwellings, three non-permitted greenhouse structures, a small barn and a non-permitted dog kennel. The original dwelling was constructed in 1931 based on County assessment records. A second single family dwelling was constructed in 1941 based on those same records. These dwellings were constructed before zoning was implemented by the County in 1955.

The 1941 dwelling will remain on the property and will continue to take access off of Bell Road. The property is currently in farm use and three greenhouses have been constructed without permits. Adjacent to the small barn is an attached dog kennel which was constructed without permits between the years 2012 and 2016. Pursuant to MCC 38.0560, this land use decision will consider all non-permitted structures and resolve these issues through it or its conditions of approval.

3.00 General Provisions

3.01 § 38.0030 EXISTING USES AND DISCONTINUED USES

(A) Right to Continue Existing Uses and Structures: Any existing use or structure may continue so long as it is used in the same manner and for the same purpose, except as otherwise provided.

(B) Replacement of Existing Structures Not Damaged or Destroyed by Disaster: Except as provided in (C) below, an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

- (1) The replacement structure shall be used in the same manner and for the same purpose as the original structure.**
- (2) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.**
- (3) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources provisions; the treaty rights provisions; and the land use designations provisions involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.**

(4) The use of the original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

Staff: The subject property has two existing single family dwellings. The smallest dwelling at 484 sq. ft. was constructed in 1931. The second dwelling was constructed in 1941 and is 608 sq. ft. The two dwellings have been rented as single family dwellings in recent years.

The applicant is proposing to replace the 1931 dwelling with a new single family dwelling. The 1931 dwelling will be torn down as part of the construction of the new dwelling. A condition of approval has been included requiring that the structure be removed from the property prior to occupancy of the new dwelling. After the project is completed, there will be a new single family dwelling located off of Mershon Road and the 1941-built dwelling will remain and will take access off of Bell Road. The property will contain two dwellings.

The new structure is to be built approximately 103 feet from the Mershon Road right-of-way. The new structure will be used as a single family dwelling and will be 3,897 sq. ft. The application will be reviewed for the various scenic area provisions and the agricultural buffer zones. *Criterion met.*

3.02 § 38.0060 AGRICULTURAL BUFFER ZONES

All buildings, as specified, shall satisfy the following setbacks when proposed to be located on a parcel which is adjacent to lands designated GGA- 20 or GGA- 40:

Type of Agriculture	Type of Buffer		
	Open or fenced	Natural or created vegetation barrier	8 foot berm or terrain barrier
Orchard	250'	100'	75'
Row crops/ Vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

(A) Earth berms may be used to satisfy, in part, the setbacks. The berm shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to appear natural. Shrubs, trees and/or grasses shall be employed on the berm to control erosion and achieve a finished height of 15 feet.

(B) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback standards. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

(C) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

(D) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

(E) A variance to buffer setbacks may be granted upon a demonstration that the standards of MCC .0065 have been satisfied.

Staff: Planning staff reviewed the recent 2016 aerial photographs to determine surrounding farm uses. Nearby uses include pasture and row crops.



Properties south of the subject site are outside of the National Scenic Area. Properties to the north and west are in the GGA-20 and GGA-40 zone. The proposed dwelling will be 103 feet south of the Mershon Road right-of-way and 70 feet from a western side property line. An existing 50 to 90 foot wide buffer exists between the proposed dwelling and the southern line of the Mershon Road right-of-way. The Mershon Road right-of-way is 40 feet wide. There will be 140 feet buffered area between the proposed dwelling and farm uses to the north. To the west the properties are in pasture. A 15-ft wide vegetative buffer will need to be installed as part of the construction of the dwelling to buffer the property from the agricultural use to the west. A condition of approval has been included requiring that an evergreen buffer be installed along this western property line as shown on Exhibit B.2. *Through a condition, criterion can be met.*

4.00 Gorge General Agriculture - 40 Criteria:

4.01 § 38.2225 REVIEW USES

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

(3) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

Staff: The subject property is currently being farmed by tenant farmers. They grow chiefly flowers on approximately 11.5 acres of the 17.51 acre site. The farmers have erected three, 20-ft by 50-ft greenhouse type structures. Two of the structures are used to house chickens. The other structure is used for growing plant starts. Additional findings will be made under Section 6 for the criteria listed in MCC 38.7340.

4.02 (5) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

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

(b) The height of any individual accessory building shall not exceed 24 feet.

Staff: In the southeastern portion of the 17.51 acre parcel is a small, 132 sq. ft. accessory building to the house built in 1941 which will remain on the property. Attached to the accessory building is a rough, 16-ft by 33-ft (528 sq. ft.) dog kennel constructed without permits. The kennel is constructed of fencing materials with a plywood and tarp cover. The dog kennel is used solely for the pets of the people living in the 1941 dwelling. No commercial kennel is operated from the property. The small accessory building and dog kennel is less than 15-ft in height. The subject property will have a total of 660 sq. ft. of accessory buildings on it after the approval of this decision. *Criterion met.*

4.03 § 38.2260 DIMENSIONAL REQUIREMENTS

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The proposed dwelling will be located 103 ft. to the north property line, 70 ft. to the closest western property line, a minimum of 520 ft. to the south property line, and a minimum of 760 feet to the east property line. The greenhouses are 70 feet from the north property line, a minimum of 110 ft. from the east property line, approximately 356 ft. from the south property line and 740 ft. to the closest western property line. The small accessory building and dog kennel is 90 ft. to the south property line, approximately 240 ft. from the east property line, 850 ft. from the closest west property line and 360 ft. from the north property line.

The proposed dwelling will be 28 feet in height. The greenhouse structures are approximately 15 feet tall. The small accessory building and dog kennel is approximately 15 feet tall.
Criterion met.

5.00 Site Review Criteria

5.01 § 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 topography in the location of the dwelling is fairly flat with a maximum slope of 10 percent towards the rear of the dwelling and where the septic drainfield will be installed. The new dwelling will use an existing driveway for approximately the first 140 feet from the Mershon Road right-of-way. A new 60-ft section of driveway will be constructed from the existing driveway to the attached garage in the dwelling. Minimum grading will be necessary to construct the driveway extension. The area of the dwelling will be excavated for the foundation

and the installation of the septic system. No significant grade cuts will be necessary to install these improvements.

The location of the three greenhouses is in an area of approximately 10 percent slopes. No topography change was required to construct the three, 20-ft by 50-ft greenhouse type structures. The existing dog kennel area is attached to an existing small shed. The dog kennel is composed of “cattle” type panels, fence posts, and solid wood fencing. It is roofed with a mixture of tarps and metal panels. The structure is built with the topography and it did not require grading to construct it. *Criterion met.*

5.02

(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 proposed dwelling and attached garage will be 3,466 sq. ft. and two-story in height (29-ft in height). Planning staff reviewed the following properties within the immediate area to determine sizes of the existing dwellings in the area:

Address	Dwlg Stories	Dwelling Square Footage
Proposed Dwelling	2	3,897
34101 NE Bell Rd (site's 2 nd dwlg)	1	608
34000 NE Mershon	2	882
33500 NE Mershon	2	2,096
33730 NE Mershon	1	3,357
33601 NE Mershon	1	2,884
33921 NE Mershon	2	1,468
34043 NE Mershon	1	1,372
34001 NE Mershon	1	938
34101 NE Mershon	2	2,112
33404 NE Mershon	2	2,890
33333 NE Mershon	2	2,982
34251 NE Mershon	2	4,056

The average size of the dwellings reviewed in the above table is 2,137 sq. ft. The proposed 3,897 sq. ft. dwelling (3,351 sq. ft.) and attached garage (546 sq. ft.) will be the second largest dwelling within neighborhood within the boundaries of the National Scenic Area. The dwelling without the three car garage will be 3,351 sq. ft. Properties to the south of the proposed dwelling are not within the National Scenic Area and are not used in the dwelling comparisons. Staff attempted to review all dwellings within a quarter mile of the subject site. The proposed dwelling with attached garage is compatible with the general scale of dwellings in the National Scenic Area within the immediate area. *Criterion met by the proposed dwelling.*

The existing flower farmer on the site has constructed three, 20-ft by 50-ft greenhouses without permits. The applicant states that two of the structures are used for chicken coops and equipment storage. The third greenhouse is used for plant propagation. The farmer(s) currently propagate approximately 14 acres of flowers and some vegetable crops. The use of one, 20-ft by 50-ft (1,000 sq. ft.) greenhouse seems a minimal size for the level of crop production.

The remaining two, 1,000 sq. ft. greenhouses adds a more significant footprint to the site. Planning staff is not aware of any lawfully permitted greenhouses within the national scenic area. The use of greenhouses for arbitrary equipment storage is not a standard agricultural practice (A.21). The applicant has not demonstrated the need for 2,000 sq. ft. of storage building for the agricultural use on the site. Based upon the lack of evidence to support that the 2,000 square feet of greenhouses is compatible with the general scale of similar buildings in the area, staff cannot find they meet the above criteria. *A condition of approval has been included to require their removal from the property.*

- 5.03** **(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 has road frontage on E. Bell Road and NE Mershon Road. Neither of these right-of-ways are Scenic Travel Corridors. *Criterion met.*

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

Staff: The applicant states that the existing trees will be used to screen the proposed dwelling from the Key Viewing Areas. The aerial photo highlights the existing screening vegetation. Additional vegetation will be necessary to achieve visual subordination from the Scenic Travel Corridor known as the Historic Columbia River Highway. A condition of approval has been included requiring the present and future property owner to maintain all screening vegetation. *Through a condition, this criterion will be met.*



- 5.05** **(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 findings for compatibility with the landscape setting are based on information submitted in the site plans. See Section 4.21 for findings of compliance with landscape setting criteria. *Criterion met.*

5.06 (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.

Staff: The subject property is topographically visible from Columbia River, Historic Columbia River Highway and Larch Mountain Road. The proposed dwelling will be built with low-reflectivity materials: Hardi-plank siding, low-reflectivity windows and asphalt composition shingles. The proposed colors for the dwelling are as follows:

Feature	Materials	Color	Exhibit
Roof	Arch. Composition	Mixed Grey	A.20
Siding	Hardi-Plank	Behr PPU18-19 (dark brown)	A.20 /A.19
Trim	Cedar	Behr PPU5-18 (medium brown)	A.20 /A.19
Window Frames	Vinyl	Desert Sand (tan)	A.18
Front & Rear Door	Vinyl	Hartford Green (dark green)	A.18
Gutters	Metal	Behr PPU5-18 (medium brown)	A.20 /A.19

The closest key viewing area is approximately 1,100 feet south of the proposed dwelling and is the Historic Columbia River Highway. The Historic Highway is a Scenic Travel Corridor for approximately 566 feet near the southeastern corner of the property. The proposed dwelling will be approximately 40-ft higher in elevation than the Historic Highway. While the property has significant vegetation along its northern and eastern property line, limited vegetation exists along the southern property line. The addition of 125 feet of new evergreen vegetation will disrupt the visibility of the proposed dwelling and the Historic Highway. The addition of 12, evergreen 5-6 ft. trees placed in a zig zag pattern with 10 feet between the trees should

adequately screen the proposed dwelling. A condition of approval has been included requiring that 12 trees be planted as shown in Exhibit B.3.

The three existing greenhouses are a mixture of materials. Two greenhouses have blue tarps installed over the greenhouse plastic. The third greenhouse has only greenhouse plastic. This greenhouse is somewhat reflective but is screened from the key viewing areas and scenic travel corridor by existing trees. If the greenhouses with the tarps are allowed to stay, the tarps must be changed out to a brown colored tarp to reduce the buildings visibility.

Through conditions of approval, these criteria will be met.

5.07 (3) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

Staff: There will be no cumulative effects of proposed developments because the proposed buildings will be screened from the KVA's by existing trees, additional planting, the use of dark earthtone colors and the use of low-reflectivity materials. The dwelling size is similar to other dwellings in the area and will not increase the potential for larger dwellings to be built in the future within the area. The location of the greenhouse is screened from three sides by existing vegetation. The dog kennel has vegetation assisting in its screening from the Historic Highway. A condition of approval will require tarps used on the property to be brown colored to help blend them into the landscape setting. Through conditions of approval, the dwelling and various outbuildings will achieve visually subordination. *Through conditions, criterion met.*

5.08 (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 application included the required information (Exhibits A. 2 through A.21). *Criterion met.*

5.09 (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: The proposed dwelling is located on a portion of the property where visibility is minimized from Key Viewing Areas. The dwelling and accessory buildings will be screened from the KVAs' and Scenic Travel Corridor by existing trees and additional plantings on the property. *Criterion met.*

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

Staff: There is no location on the property where the buildings can be screened from the key viewing areas by topography. The property slopes up from the Historic Highway and tops out where the dwelling will be located and greenhouses exist. The existing greenhouses and dog kennel will be chiefly screened by existing vegetation. The proposed dwelling will be screened from the north and east by existing vegetation. New vegetation will be necessary to screen the dwelling from the west and south. The existing vegetation and new vegetation will help to

achieve visual subordination so that the development will achieve visual subordination. *Criterion met.*

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

Staff: A condition of approval will be included so that all existing trees as well as newly planted vegetation be maintained in living condition or be replaced if it is removed or dies.

Through a condition of approval, this criterion will be met.

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

Staff: The proposed dwelling will utilize an existing driveway cut onto Mershon Road. The existing driveway cut serves the adjacent dwelling to the west and the existing farm use on the site. After entering the property along the existing driveway for approximately 120 feet, a new driveway will be cut for approximately 60 feet to reach the attached garage and dwelling (Exhibit A.2). The location where the new driveway area will be created is relatively flat.

Criterion met.

5.13 (10) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective 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 siding for the proposed dwelling will be Hardi-plank cement composite board siding. The roofing for the structure will be laminated architectural roof shingles. The windows will have a reflectivity rating of 13% or less.

The greenhouses utilize a whitish plastic sheet to protect growing plants from inclement weather. Sometimes the farmer uses plastic tarps to strengthen the covering. No glass is being used on these structures. A condition of approval has been included that the tarps used be dark brown.

The dog kennel uses tarps and metal siding for roofing over the dog runs. A condition of approval has been included that requires that the metal roofing be removed and that any tarps used be brown.

Through conditions of approval, this criterion will be met.

5.14 (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 has submitted in three light details for the proposed dwelling. The site plans do not show the proposed locations for the lighting. One fixture meets the above requirement and the other fixture (Exhibit A.8) does not. The Portfolio Outdoor Lighting has a bulb which is not shielded (Exhibit B.5). A condition of approval has been included that the

exact location of the lighting be marked on the plans and that the one fixture be changed to a dark sky compliant fixture. *Through a condition, criterion will be met.*

- 5.15** (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 dwelling will be painted with dark brown tones (Exhibit A.19). The roof material will be a dark grey (Exhibit A.20). A condition of approval has been included that any tarps used on the greenhouses and the dog kennel use brown tarps. *Through conditions, this criterion will be met.*

- 5.16** (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.

Staff: The terrain in the area of the dwelling and greenhouses is not a bluff or ridge. It is a large plateau extending over several properties and across Mershon's right of way. The proposed dwelling and greenhouses will not create a silhouette for the setting. *Criterion met.*

- 5.17** (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 subordination. 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 subordination.
 - (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). (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 applicant has sited the dwelling to utilize existing vegetation and some topography to limit its visibility from Key Viewing Areas. The proposed dwelling will be topographically visible from the scenic travel corridor (Historic Highway). The addition of two small areas of vegetation to the south and west will help the dwelling be visually subordinate. The aerial photo below shows where this additional vegetation is necessary.



A condition of approval has been included requiring evergreen trees be planted and that landscaping be maintained and replaced by the property owners. *Through a conditions, criteria will be met.*

- 5.18 MCC 38.7035(B)(5), (B)(13), (B)(14), (B)(16), (B)(18), (B)(19), (B)(20), (B)(21), (B)(22), (B)(23), (B)(26), (B)(27), (B)(28) and (B)(29).**

Staff: The above listed criteria are not applicable to the proposed development. Criteria not applicable.

- 5.19 (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: The entire property has an average slope of 10% or less. *Criterion met.*

- 5.20 (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:**

Staff: The applicant indicates that the grading for the project involves approximately 2,814 sq. ft. for the home site, approximately 3,000 sq. ft. for installation of the septic system and 1,200 sq. ft. for the extension of the driveway to the dwelling. Total square footage of ground disturbance will be approximately 7,014 sq. ft. Excavation for the dwelling's foundation will be approximately 40 cubic yards of earth material. This material will be used to backfill around the foundation and spread around the dwelling for landscaping. *No grading plan is required for the proposed dwelling.*

- 5.21 (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 applicant has demonstrated compliance with the Rural Residential and Pastoral landscape setting as discussed below in Section 4.22 and 4.23. No recreational uses are proposed or exist on the subject site. *Criteria met.*

5.22

(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 subordination 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: The application materials do not indicate that any trees will be removed from the northern and eastern borders of the property. The trees required to be planted by the conditions of approval will be native evergreen trees appropriate for the site. No recreational uses are proposed or exist on the site. *Criteria met.*

5.23

(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 subordination 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 one greenhouse to remain will be clustered with the existing farm use in the northeastern portion of the property. The dog kennel is attached to an existing small outbuilding and existing dwelling near E. Bell Road. The dog kennel is clustered with the existing dwelling which will remain after this decision.

5.24 MCC 38.7035

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

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

Staff: The subject property is within 50 feet of the Historic Highway and these standards apply.

5.25

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

Staff: The dwelling is approximately 1000 feet from the Historic Highway. The greenhouse is approximately 472 feet from the Historic Highway. The dog kennel is approximately 193 feet from the Historic Highway. *Criterion met.*

5.26

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

Staff: The dog kennel addition to the small outbuilding is a minimum of 193 feet from the Historic Highway. No parking lot is proposed. *Criterion met.*

(4) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(a) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;

(b) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable standards to protect the resources.

(5) When evaluating which locations to consider undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.

(6) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in MCC 38.7035 (B) (29).

(7) Expansion of existing quarries may be allowed pursuant to MCC 38.7035 (B) (26). Compliance with visual subordination requirements shall be achieved within time frames specified in MCC 38.7035 (B) (28).

Staff: The proposed development is for a single family dwelling, farm greenhouse and dog kennel addition. No vegetation management projects are proposed. No undergrounding of utility companies services are proposed. No mineral production is proposed. *Criteria not applicable.*

6.00 Resource Review Criteria

6.01 § 38.7045 GMA CULTURAL RESOURCE REVIEW CRITERIA

(A) Cultural Resource Reconnaissance Surveys

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

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

(3) 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: The applicant is proposing to replace an existing 1931-built dwelling. A historic survey was completed for the dwelling (Exhibit B.2).

6.02 (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).

(3) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(a) SHPO concludes that the historic buildings or structures are clearly not significant, as determined using the criteria in the National Register Criteria for Evaluation ("36 CFR Part 60.4); or

Staff: The USFS determined that a cultural resource survey is not necessary. SHPO and the USFS completed a historic survey regarding demolishing the existing dwelling constructed in 1931. Both agencies found that the house was not significant and demolition would not harm a historic building. *Cultural Review completed and criterion met.*

6.03 § 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: The project site is not on the NWI maps. The soils are all farm soils (Mershon silt loam, 27B and 27C) and are not hydric. The property is located at the intersection of E. Bell Road, Historic Highway, and NE Mershon Road. It is not adjacent to the main stem of the Columbia River. No wetlands were identified on the project site during the site review process. *Criterion met.*

6.04 § 38.7060 GMA STREAM, LAKE AND RIPARIAN AREA REVIEW CRITERIA

(A) The following uses may be allowed in streams, ponds, lakes and riparian areas 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:

(1) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:

(a) Increase the size of an existing structure by more than 100 percent,

(b) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or

(c) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

Staff: No lakes, streams or riparian areas exist on the subject site. *Criterion met.*

6.05 § 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: During the completeness review process, the Oregon Department of Fish and Wildlife was notified. No comments were received that the project was within 1,000 feet of a sensitive wildlife area or site. *Criterion met.*

6.06 § 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: During the completeness review process, the PSU/Institute for Natural Resources was notified. No comments were received that the project was within 1,000 feet of a sensitive wildlife area or site. *Criterion met.*

6.07 § 38.7080 GMA RECREATION RESOURCE REVIEW CRITERIA

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

* * *

Staff: The proposed development is for a single family dwelling. No recreational uses exist on or near the site or are proposed. *Criterion not applicable.*

7.00 Special Use Approval Criteria

7.01 § 38.7340 AGRICULTURAL BUILDINGS

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

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

(1) A description of the size and characteristics of current agricultural use.

(2) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).

(3) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

Staff: The applicant states that two of the structures are used for chicken coops and equipment storage (Exhibit A.21). The third greenhouse is used for plant propagation. The farmer currently propagates approximately 14 acres of flowers and some vegetable crops on the site. The use of one, 20-ft by 50-ft (1,000 sq. ft.) greenhouse seems a minimal size for the level of crop production to support the flower propagation. The use of two, 1,000 sq. ft. greenhouses for chickens and storage is a significant expansion of greenhouse area that is more questionable for livestock production. The applicant has provided no pictures of poultry. The photo of one of the

two greenhouses shows random equipment: cages, a single chicken feeder, tubs, plant start trays, wheel barrow. The applicant states that a rooster is in a cage within one of the greenhouses. It seems like the building is being used for general storage more than a chicken coop. No chickens are visible in the photo. One would not usually find this type of materials in a chicken coop. There are no heat lamps, roosts or waterers for poultry. Based on the information in the record, staff cannot find that the greenhouses would be compatible with the general scale of other greenhouse use in the area. *A condition of approval has been included to reduce the square footage and number of greenhouses authorized for the use.*

8.00 Transportation Standards

8.01 MCRR 4.000 Access to County Roads

4.100 Required Information: Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;**
- B. Traffic Study-completed by a registered traffic engineer;**
- C. Access Analysis-completed by a registered traffic engineer;**
- D. Sight Distance Certification from a registered traffic engineer; and**
- E. Other site-specific information requested by the County Engineer**

Staff: The applicant proposes to construct a reconfigured access onto NE Mershon Road, a County road under County Jurisdiction. An access is considered reconfigured when it will be physically altered, or when a change in the development that it serves has a Transportation Impact as defined in section 6.000 of the Multnomah County Road Rules. The proposed reconfigured access is shown on the applicant's site plan (Exhibit A.2). The property has two other existing accesses. One access onto East Bell Road serving an existing dwelling, and another access onto NE Mershon Road northwest of the at the intersection of NE Mershon Road, East Bell Road, and East Historic Columbia River Highway which the applicant proposes to close. The proposal will result in two accesses serving the property, which requires a variance. The applicant has submitted all the required information. *This criterion is met.*

8.02 4.200 Number: Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

Staff: The property has three existing accesses. The applicant proposes two accesses to serve the subject property—one access serving each dwelling—and the closure of an existing unpermitted access onto NE Mershon Road located northwest of the at the intersection of NE Mershon Road, East Bell Road, and East Historic Columbia River Highway currently serving the dwelling proposed for demolition. The access serving the replacement dwelling, located on the northwest corner of the property, accesses NE Mershon Road. The access serving the existing dwelling, located on the southeast corner of the property accesses East Bell Road. NE Mershon and East Bell Roads are functionally classified as Rural Local facilities. The proposal will result in two accesses serving the property, which requires a variance. The criteria for the Road Rules variance is addressed in the findings below. *Through the approval of this variance, this criterion is met as conditioned.*

8.03 4.300 Location: All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

Staff: The County minimum access spacing standard for a road functionally classified as a Rural Local facility is 50 feet (DCM Table 1.2.5). The minimum driveway access spacing distance is measured driveway centerline to driveway centerline. The minimum spacing distance is applied to driveways on the same side of the street as well as driveways opposite to the site (DCM Figure 1.2.1). Access driveways on opposite sides of the street should be located directly opposite to each other, or no less than 50 feet from adjacent accesses for a Rural Local facility. [MCRR 4.300]

The proposed reconfigured access onto NE Mershon Road is located directly opposite the access located on the opposite side of the street. The proposed reconfigured access onto NE Mershon Road is located more than 50 feet from other, adjacent accesses. The existing unpermitted access onto East Bell Road is located more than 50 feet from adjacent accesses. The applicant proposes to close the existing unpermitted access onto NE Mershon Road located northwest of the at the intersection of NE Mershon Road, East Bell Road, and East Historic Columbia River Highway currently serving the dwelling proposed for demolition. *This criterion is met.*

8.04 4.400 Width: Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

Staff: For a single-family residential use, a new or reconfigured driveway must be 12 to 25 feet wide. The proposed reconfigured and existing driveway widths fall within the standard width for a single-family residential use. *This criterion is met.*

8.05 4.500 Sight Distance: All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's A Policy on Geometric Design of Highway and Streets. The applicant has submitted for the review of the County Transportation Division a sight distance certification from a registered traffic engineer, which provides an assessment of sight distance at the intersection in question consistent with AASHTO standards.

Both accesses have sight distance that meet the standards listed above. *This criterion is met.*

8.06 5.000 Transportation Impact

5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or

B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

5.200 The County Engineer will use the information obtained pursuant to sub-section 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the

number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a Transportation Impact. A minimum increase of 10 new trips per day is required to find a transportation impact.

Staff: The Multnomah County Road Rules defines a Transportation Impact as the effect of any new construction or alteration that will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

According to the ITE Manual, 8th Edition, a single-family residential use generates an average of 10 trips per day. The property is has two existing legal dwellings. Therefore, the proposed replacement of one of the existing dwellings will not result in a transportation impact. *This criterion is met.*

8.07 6.000 Improvement Requirements

6.100 Site Development: The owner of the site or the applicant for a proposed development, which is found to cause a Transportation Impact will be responsible for improvements to the right-of-way as follows:

A. Dedication Requirement***

Staff: The proposal does not result in a transportation impact; therefore, no dedication of right of way may be required. *This criterion is met.*

B. Frontage Improvement Requirements***

Staff: The proposal does not result in a transportation impact; therefore, no frontage improvements may be required. *This criterion is met.*

8.08 18.000 Right-of-Way Use Permits

18.250 Access/Encroachment Permit:

A. An Access/ Encroachment Permit (A/E Permit) may be required for the following activities within the right-of-way:

- 1. New or altered access to roads under County jurisdiction. An access is considered altered when a change in the development that it serves has a Transportation Impact as defined in section 6.000 of these rules;**
- 2. New or reconstructed driveway approaches, private road approaches, curb cuts, or sidewalks;**
- 3. Structures in the right-of-way, such as signs, posts, fences, flags, nonstandard mailboxes, etc.; or**
- 4. Any other minor physical alteration of the County right-of-way, including but not limited to any altered landscape design, vegetation planting or placement.**

Staff: The proposed reconfigured access onto NE Mershon Road, existing access onto East Bell Road, and closure of the site's existing unpermitted access onto East Bell Road require an access permit as noted in the conditions of approval. An encroachment (right of way) permit must be obtained for the demolition of the dwelling encroaching on County right of way. *As conditioned, this criterion is met.*

9.00 MCRR 16.000 Variance from County Standards and Requirements

9.01 16.3000 Variance Request Procedure

For the County Engineer to consider a variance request, it must be submitted in writing with the appropriate fee to the County prior to the issuance of any development permit. The written variance request shall be signed by a person with the authority to bind the applicant and shall include the following information as applicable:

A. Applicant name, telephone/fax number(s), email address, mailing address;

Applicant: Dale Burkholder, PO Box 305 Corbett, OR 97019, 503-830-8614c/503-492-8472
daleburkholder@rocketmail.com

B. Property location and zoning;

Applicant: 34440 NE Mershon Rd, Corbett, OR 97019, GGA-40

C. Current or intended use of the property;

Applicant: Application for a replacement dwelling in a new location on the subject property. The property is currently being farmed by tenants growing flowers.

D. The nature and a full description of the requested variance;

Applicant: The request for a variance is because of the unique preexistence of the property having two legal dwellings existing on the property and requiring the need for two access points. 34101 E. Bell Rd built in 1931 and accessed off E. Bell Rd. This home is to remain. The dwelling located at 34400 NE Mershon Rd, built in 1941, is to be replaced with a new dwelling in a different location on the property and accessed from NE Mershon Rd. from an existing access from approximately 1940 and used for the farming operation. This location is sited with good visibility from both the east and west directions for safe ingress and egress, and does not require any additional grading or cuts. The property has recently had a boundary survey and the property line is approximately five feet from the edge of the pavement on the south side of NE Mershon Rd. The home being replaced is encroaching E. Bell Rd (See Site Plan) and will be demolished and that approach will be eliminated as well as the encroachment.

9.02 E. Site plan, sight distance, pedestrian traffic, intersection alignment, traffic generation, vehicle mix, traffic circulation including impact on through traffic, and other similar traffic safety considerations;

Applicant: See attached site plan.

F. Existing right-of-way or improvement limitations, and utility considerations;

Applicant: The new location has all the utilities at the street for the new dwelling to be connected to and the preexistence of the access could not be located in a better spot.

G. Adjacent land uses, their types, access requirements, and impact of traffic on them;

Applicant: The adjacent properties are all of similar use with several large farming operations mixed with some smaller parcels with dwellings.

H. Topography, grade, side hill conditions, and soil characteristics;

Applicant: The access is level to NE Mershon Rd. with no grading being required and no side hills existing soils are primarily Mershon silt loam.

I. Drainage characteristics and problems;

Applicant: The property is level with a gentle slope to the south and is well drained.

J. Fire Department access requirements within a public right-of-way and their written approval of the proposed modification;

Applicant: See Fire District 14 approve provider form attached.

K. Natural and historic features including but not limited to trees, shrubs or other significant vegetation, water courses, wetlands, rock outcroppings, development limitation, areas of significant environmental concern, etc;

Applicant: See historic and cultural review by Marge Dryden showing no historic features.

L. Multnomah County Comprehensive Plan policies applicable to the particular parcel or location;

Applicant: No Policies are effected through this application.

9.03 Public Comment

MCRR 16.310 Completeness, Timelines, Public Notice, Decision:

E: Public notice of an application for a variance to these Road Rules shall be as follows:

1. For variance applications not in conjunction with a proposed development requiring a land use decision:

a. Notice of the application and invitation to comment shall be mailed to the applicant, the applicable recognized neighborhood association, and all property owners within 100 feet within the urban growth boundary or within 750 feet outside of the urban growth boundary. The County Engineer will accept comments for 14 days after the notice of application is mailed.

Staff: A 14-Day Opportunity to Comment was mailed to neighboring property owners in accordance with MCRR 16.310. The County received no comments regarding the Road Rules variance. This decision was drafted and will be mailed in accordance with MCRR 16.310. Procedures met.

9.04 16.200 General Variance Criteria: In order to be granted a variance, the applicant must demonstrate that:

A. Special circumstances or conditions apply to the property or intended use that do not apply to other property in the same area. The circumstances or conditions may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses;

Applicant: The property has two legal dwellings existing from 1931 and 1941 and have separate access points. The property is located between E. Bell Rd. and NE Mershon Rd. The replacement dwelling will remove an existing dwelling that is encroaching on to the right of way of E. Bell Rd and remove that approach at an intersection of E. Bell Rd NE Mershon Rd. and the Historic Columbia River Highway.

Staff: As the applicant states, if the County restricts the applicant from reconfiguring the existing access onto NE Mershon Road to serve the replacement dwelling, the applicant would have to construct a lengthy access road to provide access to the proposed replacement dwelling from the existing unpermitted access onto East Bell Road serving the existing dwelling. This would place an unnecessary financial burden on the applicant. Due to the size and existing use of the parcel, and the existence of two non-conforming uses (two, legal single-family dwellings) internal, on-site circulation to serve the replacement dwelling is not feasible. This combination

of characteristics and conditions is unique to the subject parcel, in comparison to surrounding uses.

The two non-conforming uses exist on the property. One existing dwelling is located on the southeastern side of the parcel with frontage on East Bell Road, and a proposed replacement dwelling is located on NE Mershon Road. The dwellings are/will be located on opposite ends of the parcel. The dwelling proposed for demolition and replacement is encroaching on County right of way and is served by access that does not meet County access spacing or intersection setback standards.

The subject parcel is 17.51 acres and has frontage on three roads, NE Mershon Road, East Bell Road, and East Historic Columbia River Highway. The parcel is located in the Columbia River Gorge National Scenic Area (NSA) and zoned General Management Area (GMA) – Agricultural. The predominate use on the property is agricultural; a majority of the parcel is farmed for flowers. Additionally, much of the parcel is located within a NSA Key Viewing area.

If the County required internally, on-site circulation as opposed to a variance from access number standards allowing two accesses, the new road that would be required to facilitate the internal, on-site circulation would negatively impact NSA Key Viewing areas. Due to the size of the parcel and the location of the existing dwelling and the proposed replacement dwelling, this new road would be very long, over 475 feet in length, in order to connect the existing unpermitted access onto East Bell Road to the proposed replacement dwelling on NE Mershon Road. This road would disturb a significant portion of the proposed would be NSA Key Viewing area located on the parcel, including the removal of a number of trees. Allowing the two proposed accesses, as opposed to on-site circulation would result in less disturbance to these NSA Key Viewing areas. *This criterion is met.*

9.05 B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards;

Applicant: Without the variance for access, the replacement dwelling could not be approved and the existing dwelling will remain at the intersection and encroaching on to the E. Bell Rd right of way. The value of the property would also be affected by not allowing the ability for a replacement dwelling and it would not be fair to apply these standards to a property that has been in existence with its current dwelling and access points for over 70 years.

Staff: Strict adherence to the County standard limiting the number of accesses per parcel to one would result in the County requiring the applicant to construct a lengthy access road to facilitate on-site circulation between the existing and proposed replacement dwellings—non-conforming uses. The access road would disturb the NSA Key Viewing areas located on the parcels and this would create an unnecessary financial burden in terms of the cost of constructing the lengthy access road and would potential impact the property value by disturbing the NSA Key Viewing areas in order to avoid impacts to the flower farm.

The requested variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards. This criterion is met.

9.06 C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties;

Applicant: The variance would actually improve the safety and welfare of the public by removing an encroachment and access at an intersection of three very busy roads.

Staff: Based on a review of the requested variance, staff finds that the authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties. As the applicant states, the proposal will in-fact improve the traffic safety. The applicant proposes to close the existing unpermitted access onto NE Mershon Road northwest of the at the intersection of NE Mershon Road, East Bell Road, and East Historic Columbia River Highway which serves a dwelling which is encroaching on County right of way. This access does not met access spacing or intersection setback standards. The proposed, reconfigured access onto NE Mershon Road to serves the proposed replacement dwelling, meets access spacing, intersection setback, and sight-distance standards results in improved traffic safety on NE Mershon Road.

Because the existing unpermitted access onto East Bell Road is located on another County facility, two accesses onto two different County facilities from the subject property will not negatively affect traffic safety. *This criterion is met.*

9.07 D. The circumstances of any hardship are not of the applicant's making.

Applicant: The property has been developed with the two dwellings from the 1930's and 1940's and their access points as well. The owner nor the applicant knowingly created this hardship.

Staff: As stated by the applicant, the existence of two non-conforming uses with unpermitted accesses on the parcel is not a hardship of the applicant's making. The dwellings were built in 1931 and 1941, according to County records. Due to the size and existing use of the parcel, and the existence of two non-conforming uses (two, legal single-family dwellings), in order to provide internal, on-site circulation to serve the replacement dwelling as opposed to having two accesses onto two different County facilities would require a lengthy access road to connect the two dwellings. The financial hardship that this would create in terms of the cost of constructing the lengthy access road and would potential impact the property value by disturbing the NSA Key Viewing areas in order to avoid impacts to the flower farm, are not circumstances of the applicant's making. *This criterion is met.*

10.0 Conclusions

Land Use Planning: 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 Gorge General Management Agriculture 40 (GGA-40) zone. This approval is subject to the conditions of approval established in this report.

Transportation Planning: Based on the findings, narrative, and other information provided herein, this application, as conditioned, satisfies all applicable approval criteria required for a variance to allow the subject property two accesses, the proposed reconfigured access onto NE Mershon Road to serve the replacement single-family dwelling and the site's existing unpermitted access onto East Bell Road to serve an existing single-family dwelling. The applicant shall close the existing unpermitted access onto NE Mershon Road northwest of the at the intersection of NE Mershon Road, East Bell Road, and East Historic Columbia River Highway serving an existing single-family dwelling proposed for demolition. Any changes to the scope of the project will must reviewed for transportation impact to County facilities.

11.0 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. All other exhibits are available for review in Case File T2-2017-8140 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	NSA Application form	7.18.2017
A.2	11	Narrative	7.18.2017
A.3	1	Site Plan	7.18.2017
A.4	1	Existing Vegetation Map	7.18.2017
A.5	12	Milgard Windows Information	7.18.2017
A.6	4	Greenhouse Structure Photos	7.18.2017
A.7	5	Photos of Existing Single Family Dwellings	7.18.2017
A.8	2	Lighting Details for New Single Family Dwelling	7.18.2017
A.9	3	Oregon SHPO Clearance Form	7.18.2017
A.10	2	Fire Service Agency Review Form a. Signed Site Plan	7.18.2017
A.11	1	Certification of Water Service signed by Corbett Water	7.18.2016
A.12	4	Storm Water Certificate	7.18.2017
A.13	2	Stormwater Details	7.18.2017
A.14	2	Floor Plans	7.18.2017
A.15		Building Elevations	7.18.2017
A.16	8	Certification of Onsite Sewage Disposal and related documents	7.18.2017
A.17	2	Site Evaluation #15-194586-SE	7.18.2017
A.18	59	Jeld-Wen Brochure for Windows	11.14.2017
A.19	1	Color Chips	11.14.2017
A.20	1	Material List	11.14.2017
A.21	10	Photos Dog Kennel, Greenhouses and Small Outbuilding	11.14.2017
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1N4E33 – 00100	7.18.2017
B.2	1	SHPO Non-Significant Letter dated August 15, 2016	7.18.2017
B.3	1	SHPO Archeological Letter	10.27.2017
B.4	2	Cultural Resource Survey Determination	11.6.2017
B.5	1	Portfolio Lighting Detail	11.20.2017
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1 – August 17, 2017)	8.24.2017
C.2	6	Opportunity to Comment	10.11.2017
C.3	30	Administrative Decision	11.30.2017
'D'	#	Comments Received	Date
D.1	9	Friends Comments	10.25.2017