

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

NOTICE OF DECISION

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

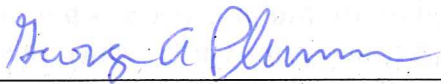
Case File: T2-2018-10826
Permit: National Scenic Area Site Review
Location: No Address (Thompson Villa Tract, Lot 36)
Tax Lot 300, Section 31B,
Township 1 North, Range 4 East, W.M.
Tax Account R831302570
Applicant: Dean Mackeson
Owner: Thomas Rich



Summary: Request for a Columbia River Gorge National Scenic Area Site Review permit approval to build a new single story, single family dwelling with attached garage, detached accessory building to be used as a garage/shop and associated site development.

Decision: Approved with Conditions

Unless appealed, this decision is effective June 13, 2019, at 4:00 PM.

Issued by: 
George Plummer, Planner

For: Adam Barber, Interim Planning Director

Date: May 30, 2019

Instrument Number for Recording Purposes: 2016154629

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 during normal business hours. 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 George Plummer, Planner at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or george.a.plummer@multco.us

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.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is June 13, 2019, at 4:00 PM.

Applicable Approval Criteria: Multnomah County Code (MCC):

- MCC 38.3000-38.3090: Gorge General Residential -2 (GGR-2) General Management Area (GNA)
- MCC 38.7000 38.7080: GMA Site Review
 - MCC 38.7035: GMA Scenic Review
 - MCC 38.7045: GMA Cultural Resource Review
 - MCC 38.7055 through 38.7070: GMA Natural Resources Review
 - MCC 38.7080 GMA Recreation Resource Review

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at multco.us/landuse/zoning-codes under the link Chapter 38: Columbia River Gorge National Scenic Plan Area.

Scope of Approval

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 permit expires two years from the date the decision is final if; (a) development action has not been initiated or (b) building permits have not been issued. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 38.0700. Such a request must be made prior to the expiration date of the permit.

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. Prior to building permit sign-off, the property owner shall record the Notice of Decision including the Conditions of Approval of this decision (through Page 5) and the site plan labeled Exhibit A.20 with the County Recorder. The Notice of Decision shall run with the land and the conditions shall be met by the current and future property owner(s) unless amended through a later decision by an authorized authority. Proof of recording shall be submitted to Multnomah County Land Use Planning prior to the issuance of any permits. Recording shall be at the applicant's expense. [MCC 38.0670]
2. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. [MCC 38.0580]
3. The property owner shall ensure that Building Permits are obtained for the dwelling and the garage/shop accessory building. The property owner shall ensure final building inspection occurs prior to occupying the dwelling building or using the garage/shop accessory building. The garage/shop building shall be used as an accessory building for the personal use of occupants of the dwelling on the property. The garage/shop building shall not be used for commercial purposes unless approved through a Home Occupation Permit. The garage/shop building shall not be used as a dwelling. The garage/shop building shall not exceed 1500 square feet. [MCC 38.0580]
4. All present and future property owner(s) shall be responsible for the proper maintenance and survival of existing trees and planted trees shown and labeled on the site plan included as Exhibit A.20. The proposal includes planting eight western red cedar and two Douglas fir trees, which shall be planted during the next planting season. If any of these trees shown on Exhibit A.20 die, are damaged or destroyed by inclement weather or disease to the extent that they no longer screen the development or are removed, the property owner(s) shall replace the dead, dying or damaged tree with the same tree species within the next planting season. Replacement tree shall be at least 6ft tall a time of planting and shall be placed in the same general location. [MCC 38.7040(A)(3), (4) and (7)]
5. The property owner(s) shall ensure the building materials shall be as represented in the application. The siding of the proposed buildings shall be composite cement board or wood and roofing shall be composition asphalt shingles. The proposed building shall be painted to match the two color chip samples from Miller Paint "Newbury Moss" a dark green for the dwelling exterior body, "Cummings Oak" a dark brown for exterior trim and "Espresso" a dark brown for the window vinyl trim. The roofing will be "Heather Blend" dark mixed color shingles as shown in Exhibit A17. The property owner(s) can substitute with any color that matches a color on the top the top two rows of the Columbia River Gorge *Scenic Resources Implementation Handbook* Color Chart with submittal of the color chip and concurrence from planning staff the color matches a chart color. [MCC 38.7035 (B)(10), (12), and (13)]
6. The property owner(s) shall ensure the garage doors shall be painted with Miller Paint "Newbury Moss" a dark green or "Cummings Oak" a dark brown. The property owner(s) can substitute for

any color that matches a color on the two rows of the Columbia River Gorge *Scenic Resources Implementation Handbook* Color Chart with submittal of the color chip and concurrence from planning staff the color matches a chart color. [MCC 38.7035 (B)(10), (12), and (13)]

7. The property owner(s) shall ensure all windows on the exterior windows have 11% or less exterior visible light reflectivity rating. [MCC 38.7035(B)(10)]
8. The property owner(s) shall ensure exterior lighting shall be directed downward and sited, fixture is 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. Specific exterior lighting details for all buildings must be presented at plan signoff so planning staff can verify the proposed design meets the design standard. [MCC 38.7035(A)(11)].
9. The property owner(s) shall monitor the surrounding trees before and during the project for sensitive bird species nesting including but not limited to eagles. If any sensitive bird species are nesting in the area, the property shall stop work and notify County Land Use Planning at 503-988-3043. Work shall be suspended until Oregon Department of Fish and Wildlife (ODFW) determines there will be no impact to the sensitive species. [MCC 38.7065]
10. 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: [MCC 38.7045 (L)]

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 also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- (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)]
11. 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.
 - 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).
 - The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed. [MCC 38.7045 (M)]

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.

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, George Plummer at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or george.a.plummer@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 Troutdale. 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.

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. Project Description:

Staff: Request for a Columbia River Gorge National Scenic Area Site Review permit approval to build a new single story, single family dwelling with attached garage, detached accessory building to be used as a garage/shop and associated site development.

2. Property Description & History (if needed):

Staff: The vacant subject 1.08 acre lot is located along the Sandy River within the Troutdale City Limits between the Historic Columbia River Highway and the River. Development Permits such as Floodplain Development, Erosion Control, and Building Permits are issued by the City of Troutdale.

3. GORGE GENERAL RESIDENTIAL -2 (GGR-2)

3.1. Review Uses

MCC 38.3025(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:

(1) One single-family dwelling per legally created parcel.

- (a) If the subject parcel is located adjacent to lands designated GGA or GGF, the use shall comply with the buffer requirements of MCC 38.0060; and**
- (b) If the subject parcel is located is adjacent to lands designated GGF, the placement of a dwelling shall also comply with the fire protection standards of MCC 38.7305.**

* * *

(3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel 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: The proposal includes a single family dwelling and a 1,500 square foot garage/shop accessory building (19 feet tall). The subject lot is a legally created subdivision lot of Thompson Villa Tract, Lot 36. The property is not adjacent to GGA or GGF zoned land so the buffer requirements of MCC 38.0060 and fire protection standards of MCC 38.7305 do not apply. Following are the resource findings for compliance with the NSA Site Review standards of MCC 38.7000. *These standards are met.*

3.2. Dimensional Requirements

MCC 38.3060 (C) Minimum Yard Dimensions

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The proposed development meets the minimum yard setbacks and height requirement. The dwelling will be a single story well below the maximum height limit. *These standards are met.*

4. GMA SCENIC REVIEW CRITERIA

4.1. All Review Uses

4.1.1. MCC 38.7035(A)(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 proposed dwelling and detached garage/shop is sited on a relatively shallow sloped location of the property. The development includes minimal grading or excavation for the building sites, stormwater swale, septic and the driveway. The proposed development will require minimal grading/excavation for of the building site only. The proposed development will retain the existing topography thus minimizing grading activities to the maximum extent possible for siting the development. *This criterion is met.*

4.1.2. MCC 38.7035(A)(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's narrative states the proposed dwelling with the proposed which the architect states on the floor plan will be 2064 square feet (Exhibit A.19). Staff measured the dwelling enclosed area, covered area and attached garage to total area came to 2881 square feet and the proposed detached garage/shop accessory building will be 1500 square foot (Exhibit A.23).

Following is a table showing the proposed dwelling and accessory building areas compared to nearby dwellings sizes (including covered deck/porch and attached garage) and the sizes of detached accessory buildings. The data is from County Assessment Records (Exhibit B.3)

Address	Stories	Dwelling Area (Sq. Ft.)	Garage or Shed Area (Sq. Ft.)
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Proposed E. HCRH	1	2881⁽¹⁾	1500
1785 E. Hist Columbia River Hwy	2	1518	600
1819 E. Hist Columbia River Hwy	1	3728 ⁽¹⁾⁽²⁾	
1820 E. Hist Columbia River Hwy	2	2695 ⁽¹⁾	
1911 E. Hist Columbia River Hwy.	1	3214 ⁽¹⁾	1040
1914 E. Hist Columbia River Hwy	1	1630	650
1921 E. Hist Columbia River Hwy	1	2743 ⁽¹⁾	625
1938 E. Hist Columbia River Hwy	1	1501	100
1969 E. Hist Columbia River Hwy	1	3976 ⁽¹⁾	
2016 E. Hist Columbia River Hwy	2	3125 ⁽²⁾	2480
2051 E. Hist Columbia River Hwy	2	1700	643
2060 E. Hist Columbia River Hwy	2	2298 ⁽¹⁾	560
2150 E. Hist Columbia River Hwy	2	4498 ⁽¹⁾	
2187 E. Hist Columbia River Hwy	2	3401 ⁽¹⁾	1440
2211 E. Hist Columbia River Hwy	1	2224 ⁽¹⁾	
2251 E. Hist Columbia River Hwy	1	2240 ⁽¹⁾	
1853 SE Thompson Rd	1	1336	1780 ⁽³⁾

⁽¹⁾ Attached garage

⁽²⁾ Covered Porch

⁽³⁾ Third of a mile

The proposed dwelling is a single story, 2881 square feet in area which includes an attached garage. The proposed 2881 square foot dwelling is in the middle upper range of dwellings located within a quarter mile from the property, with six dwellings larger.

The detached garage and shop is proposed at 1500 square feet the maximum size limit for accessory building. There are three accessory buildings in the area that are larger than 1000 sq. feet and one a third of a mile 1780 square feet. The largest accessory build is 2480 square feet, one 1780 is a third mile away. There is a 1440 square foot accessory building and one at 1040 square feet and many very small garden sheds. The proposed 1500 square foot building is in the middle upper range of accessory buildings nearby.

The proposed buildings are compatible with the general scale (height, dimensions and visible mass) of similar buildings that exist in the nearby area. *These criteria are met.*

4.1.3. MCC 38.7035(A)(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 property does not have any other option to access the public road system. *This criterion is met.*

4.1.4. MCC 38.7035(A)(4): Property owners shall be responsible for the proper maintenance and survival of any required vegetation.

Staff: The only trees to be removed are in the area of the proposed dwelling addition. The rest of the existing trees will remain, with an additional planting of eight western red cedar trees and two Douglas fir trees (Exhibit A.20). A condition will require maintaining the existing trees except those showing on the plan to be removed and will require proper maintenance and survival of the newly planted trees, with replacement for those that do not survive. *This criterion is met through a condition.*

4.1.5. MCC 38.7035(A)(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 Subsection 4.3 for findings of compliance with landscape setting criteria. *This criterion is met.*

4.2. Review Uses Topographically Visible from Key Viewing Areas (KVAs)

MCC 38.7035(B): All Review Uses topographically visible from Key Viewing Areas:

Staff: The proposed buildings are in an area between and topographically visible from the Sandy River and Historic Columbia River Highway Key Viewing Areas. The following criteria must be met.

4.2.1. MCC 38.7035(B)(1): Each development shall be visually subordinate to its setting as seen from Key Viewing Areas.

Staff: The proposed dwelling and detached garage/shop are to be built with low reflectivity materials and with dark earth-tone exterior colors (Exhibit A.17). The proposed siding is cement composite board, the trim is wood, the roofing composite asphalt shingles, and the windows are rated a 11% reflectivity. The proposed colors are Miller Paint "Newbury Moss" a dark green for the dwelling exterior body, "Cummings Oak" a dark brown for exterior trim and "Espresso" a dark brown for the window vinyl trim. The roofing will be "Heather Blend" dark mixed color shingles (Exhibit A17).

The existing trees on the property along with the proposed western red cedar trees to be planted between the river and the dwelling as shown on Exhibit A.21 will provide significant screening of the proposed buildings as seen from the Key Viewing Areas (KVA's). As demonstrated by the proposed building design, materials utilized, proposed exterior colors and the existing and proposed vegetative screening in the applicant's proposal, the development will be visually subordinate. *This criterion is met.*

4.2.2. MCC 38.7035(B)(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: This decision includes written findings addressing the factors that influence potential visual impact. Conditions will be required for the proposed building to be built as represented in the

application using the materials proposed and will require the existing tree density be maintained in a living condition as well as the proposed five western red cedar trees to be planted. Conditions are applied to various elements of proposed developments to ensure proposed development meets the visually subordinate criterion. *This criterion is met.*

4.2.3. MCC 38.7035(B)(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 are well screened from the KVA's by existing trees and proposed five (5) planted trees. The proposed development further reduces visual effects through the utilization of low reflective building materials and dark earth tone exteriors colors. The dwelling size is in the upper middle range of dwelling sizes with the houses located to the north, east and south of the subject property, thus resulting in no cumulative impact to the size of dwellings within the area. The detached garage/shop size is within the size limitation for accessory buildings and when compared to accessory buildings within a third mile is in the mid-size range. There should be no cumulative impact from the proposed development. *This criterion is met.*

4.2.4. MCC 38.7035(B)(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 and A.22). *This criterion is met.*

4.2.5. MCC 38.7035(B)(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 development is sited in the best area for screening from the KVA's by existing trees on the property. The proposed dwelling and detached garage/shop are sited with more than a 170 foot setback from the road providing screening from existing vegetation and area to a plant an additional three cedar trees for screening the development. *This criterion is met.*

4.2.6. MCC 38.7035(B)(7): New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.

Staff: The proposed new building is sited using existing topography and existing vegetation to achieve visual subordination from the identified KVA's, and the Sandy River and the Historic Columbia River Highway. The property has a relatively shallow slope and is about 25 feet above the river during most of the year. The topography will screen a significant amount of the development from river users. With the dwelling sited 100 feet from the ordinary high water line of the river and 170 feet from the highway the natural topography and existing vegetation results in significant screening along with the planting of five cedar trees between the dwelling and the

river as well as the planting of other three cedar and fir trees between the dwelling and the highway will result in visual subordination for the development. *This criterion is met.*

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

Staff: The only trees to be removed are in the area of the proposed development areas. The rest of the existing trees will remain as well as a proposed additional planting of eight (8) western red cedar and two Douglas fir trees. *This criterion is met through a condition.*

4.2.8 MCC 38.7035(B)(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 driveway will not need any cut banks. *This criterion is met.*

4.2.9. MCC 38.7035(B)(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 applicant proposes to use a cement composite board exterior siding, composite shingle roofing and windows with an 11 percent reflectivity rating (Exhibit A.2, A11, and A.17). *As conditioned, this criterion is met.*

4.2.10. MCC 38.7035(B)(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 nonreflective, opaque materials.

Staff: The application submittal included a brochure showing the proposed exterior light fixture which appears that it will shield the light bulb as required. A condition will require that if any exterior lighting is installed that it meets this requirement. *This criterion is met through a condition of approval.*

4.2.11. MCC 38.7035(B)(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 exterior colors of the buildings are dark earth-tone colors as is the roofing. The proposed colors are Miller Paint “Newbury Moss” a dark green for the dwelling exterior body, “Cummings Oak” a dark brown for exterior trim and “Espresso” a dark brown for the window vinyl trim. The roofing will be “Heather Blend” dark mixed color shingles (Exhibit A17). This decision will allow a change in proposed colors if the property owner or applicant submits a

color chip of the proposed color change and staff agrees the color matches a color on the Gorge Commission Color Chart, Rows A or B. *As conditioned, this criterion is met.*

- 4.2.12. MCC 38.7035(B) (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 two story dwelling and one story garage will remain below the skyline of a bluff, cliff or ridge as seen from KVA's. The building is well below the tree line. *This criterion is met.*

4.3. Review Uses within the Rural Residential Landscape Settings, Regardless of Visibility from KVAs

- 4.3.1. MCC 38.7035(C)(3)(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.**

Staff: The only trees to be removed are in the area of the proposed development. The rest of the existing trees will remain along with eight (8) western red cedar and two (2) Douglas Firs trees that are proposed to be planted. A condition will require maintaining the existing and proposed trees on the property in a living condition. Exhibits A.3, A.4, A.21 and B.3. *This standard is met.*

- 4.3.2. MCC 38.7035(C)(3)(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.**

Staff: The existing trees on the property will screen the proposed development with the assistance of eight (8) western red cedar and two (2) Douglas Firs trees that are proposed to be planted. Western red cedar and Douglas fir trees are native. A condition will require maintaining the existing trees, planting the proposed trees. The applicant is responsible for assuring the establishment of the additional tree and for the retention and health of all of trees (existing and proposed) on the property in perpetuity. *This criterion is met through a condition.*

5. GMA CULTURAL RESOURCE REVIEW CRITERIA

5.1. Cultural Resource Reconnaissance Surveys

MCC 38.7045(A) (1) A cultural reconnaissance survey shall be required for all proposed uses, except:

* * *

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

Areas that have a low probability of containing cultural resources will be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the U.S. Forest Service, public agencies, and private archaeologists.

MCC 38.7045 (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: Chris Donnermeyer, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service (USFS) with consultation with Oregon SHPO, assessed likelihood or not of cultural resources within the proposed project area and found the project area to have low probability of impacts. Mr. Donnermeyer, submitted a Cultural Resources Survey Determination on September 20, 2018 (Exhibit C.1.).

In the Cultural Resources Survey Determination **Mr. Donnermeyer**, USFS, stated, "A cultural resources reconnaissance survey is: "Not Required" and "A Historic Survey is: Not Required.

SHPO (Exhibit C.2) expressed concerns that if cultural resources are located during excavation that the proper procedures be implemented (see findings 5.2 and 5.3 below). *Based on the information provided by SHPO and USFS these criteria are met.*

* * *

5.2. Discovery of Cultural Resources and/or Human Remains

MCC 38.7045(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 re-sources are prehistoric or otherwise associated with Native Americans.

- (1) Halt Construction** – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
- (2) Notification** – The project applicant shall notify the Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours. Commission will survey the cultural re-sources after obtaining written permission from the landowner and appropriate permits from SHPO (see ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural re-sources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045 (C) (2) and MCC 38.7045 (E).

- (a) The Planning Director shall, based on the survey and evaluation report and any written comments, make a final decision within 10 days of the receipt of the report of the Gorge Commission on whether the resources are significant.
- (b) The Planning Director shall require a Mitigation Plan if the affected cultural resources are found to be significant.
- (c) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B).
- (d) The decision of the Planning Director shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B).

Construction activities may recommence if no appeal is filed.

- (4) Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may recommence when the conditions in the mitigation plan have been executed.

MCC 38.7045 (M) Discovery of Human Remains

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

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

- (1) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
- (2) Notification – Local law enforcement officials, the Planning Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
- (3) Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
- (4) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.
- (5) Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760.
 - (a) If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report standards of MCC 38.7045 (I).
 - (b) The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed.

Staff: These requirements are included as a condition of approval. *These criteria are met through conditions.*

6. NATURAL RESOURCES

6.1. GMA Wetland Review Criteria

Staff: There are no indications of wetlands on the property.

6.2. GMA Stream and Riparian Area Review Criteria

MCC 38.7060 (E) Stream, Pond, and Lake Buffer Zones

- (1) **Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark.**
- (a) **Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.**

Staff: A 150 plus foot buffer front the ordinary high water of the Sandy River will be maintained for the dwelling. A storm water swale and five newly planted western red cedar trees will be between the dwelling and the 100 foot buffer line. The area within the 100 buffer will be left undisturbed thus the project does not intrude on the stream riparian area (Exhibit A.22) *This criterion is met.*

6.3. GMA Wildlife Review Criteria

MCC 38.7065 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).

* * *

- (3) **The wildlife protection process may terminate if the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines:**
 - (a) **The sensitive wildlife area or site is not active, or**
 - (b) **The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.**
- (4) **If the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Planning Director will incorporate them into the site review order and the wildlife protection process may conclude.**

Staff: This property is not within the Oregon Department of Fish and Wildlife (ODFW) designated Big Game Habitat Area (important elk habitat) nor is it designated as deer and elk winter range.

ODFW was noticed of the proposed development and did comment. In recent previous new dwelling in the general area ODFW made a site visit to review the project. For that previous case ODFW asked the property owner to monitor for potential nesting birds nest, especially eagle nest.

Monitoring is needed during nesting season January through June. A condition will require the property owner to monitor trees for bird nests, especially eagles. No further Natural Resources review is necessary. *These criteria are met through condition.*

6.4. GMA Rare Plant Review Criteria

MCC 38.7070 C) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed ...

Staff: Staff consulted maps provided by the Columbia River Gorge Commission. There are no known rare plants within 1000 feet. *These criteria are met.*

7. RECREATION RESOURCES

MCC 38.7080(E) Approval Criteria for Recreation Uses

All proposed recreation projects outside of GG– PR or GG– CR districts shall satisfy the following...

Staff: No recreational project is proposed. The property is privately owned. The Approval Criteria for Recreation Uses are not applicable for the proposed development. *The Recreation Review is not applicable.*

8. Letters of Comment

8.1. Letter from Troutdale City Planning

We received a letter dated September 4, 2018 from Ryan Kruger, Troutdale City Planning. Floodplain Development addressing Floodplain Development Permit requirements (Exhibit C.1). The property owners will need to work with the Troutdale City Planning for any floodplain issues and to obtain a building permit after we sign the plans.

8.2. Letter from State Historic Preservation Office

We received a letter dated September 17, 2018 from Jamie French, MA, SHPO Archaeologist stating concern about potential for archaeological resources (Exhibit C.2). Section 5 of this decision addresses through the findings of Cultural Resources Survey Determination included as Exhibit C.3.

8.3. Cultural Resources Survey Determination from Heritage Resource Program Columbia River Gorge National Scenic Area, US Forest Service

Chris Donnermeyer, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service (USFS) submitted a Cultural Resources Survey Determination on September 20, 2018 (Exhibit C.3.).

In the Cultural Resources Survey Determination **Mr. Donnermeyer**, USFS, stated, “A cultural resources reconnaissance survey is: “Not Required” and “A Historic Survey is: Not Required.

8.4. Letter from the Friends of the Columbia Gorge

We received a letter dated March 29, 2019 from Steve D. McCoy, Staff Attorney, Friends of the Columbia Gorge commenting on general concern that the proposal be found to meet the code for it to be approved. Specifically, highlighting a concern that existing topography and existing vegetation be used to screen the dwelling. Scenic Resources including visual subordination for the proposed development are addressed in Section 4, for Cultural Resources Section 5, Natural Resources Section 6 of this decision.

9. CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the new single family dwelling with attached garage and detached accessory building used as a garage/shop along with associated development in the NSA in the GGR-2 Zone. This approval is subject to the conditions of approval established in this report.

10. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Comments Received

All other exhibits are available for review in Case File at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application form	8/22/18
A.2	2	Introduction & Table of Contents	8/22/18
A.3	34	Narrative (Applicant’s Exhibit A)	8/22/18
A.4	1	Septic Decommission Permit (Applicant’s Exhibit B)	8/22/18
A.5	3	Septic Review Certification (Applicant’s Exhibit C)	8/22/18
A.6	4	Fire District Review and Comments (Applicant’s Exhibit D)	8/22/18
A.7	1	ODOT Approach Road Application and Permit (Applicant’s Exhibit E)	8/22/18
A.8	1	Skyles Drilling, Inc letter addressing water availability on adjacent lots (Applicant’s Exhibit F)	8/22/18
A.9	1	Strom Water Certification stamped and signed by Thomas J Sisul (Applicant’s Exhibit G)	8/22/18
A.10	2	Photos of Existing Vegetation from river looking toward the proposed dwelling and from the highway (Applicant’s Exhibit H)	8/22/18
A.11	1	Milgrad Windows brochure showing proposed trim color “Espresso” and external reflection rating of 11% (Applicant’s Exhibit I)	8/22/18
A.12	1	Brochure of proposed fiberglass door mahogany dark brown color (Applicant’s Exhibit J)	8/22/18
A.13	1	Brochure of proposed garage door (Applicant’s Exhibit K)	8/22/18
A.14	1	Brochure of proposed roofing (Applicant’s Exhibit L)	8/22/18
A.15	1	Brochure of Outdoor lighting fixtures (Applicant’s Exhibit M)	8/22/18
A.16	6	First American Title Property Research Report(Applicant’s Exhibit N)	8/22/18
A.17	bag	Bag of color and material samples	8/22/18

A.18	21	Site Plan 8 by 11"	8/22/18
A.19	3	Elevation Drawing & Floor Plans	8/22/18
A.20	2	Site Plan and Landscaping Plan (11 by 17" & oversized)	8/22/18
A.21	1	Site Plan Existing Conditions (oversized)	2/01/19
A.22	1	Revised Site Plan (oversized)	2/01/19
A.23	2	Detached Garage Elevational Drawings and Floor Plan	2/01/19
A.24	24	Wetland Delineation by Cari L. Cramer flagging the Ordinary High Water Line for the property	2/01/19
A.25	6	Letter from Department of State Lands addressing concurrence with Ordinary High Water Line for the property	2/01/19
A.26	14	Documents by Thomas J. Sisul PE addressing drainage and flooding	2/01/19
A.27	4	Narrative by applicant addressing the attached incomplete application letter	2/01/19
'B'	pages	Staff Exhibits	Date
B.1	2	County Assessment Property Information	NA
B.2	1	County Assessment Tax Lot Map	NA
B.3	26	County Assessment Property Information for nearby properties	NA
'C'	pages	Comments Received	Date
C.1	1	Letter dated September 4, 2018 from Ryan Kruger, Troutdale City Planning.	9/4/18
C.2	1	Letter dated September 17, 2018 from Jamie French, MA, SHPO Archaeologist	9/17/18
C.3	1	Cultural Resources Survey Determination submitted on September 20, 2018 from Chris Donnermeyer, Heritage Resource Program Manager, Columbia River Gorge National Scenic Area, US Forest Service (USFS)	9/20/18
C.4	8	Letter dated March 29, 2019 from Steve D. McCoy, Staff Attorney, Friends of the Columbia Gorge	3/29/19