

NOTICE OF NSA DECISION

Case File: T2-2019-11746
Permit: National Scenic Area Site Review for a Temporary Health Hardship Dwelling
Applicant(s): ConKraft Construction **Owner(s):** Allen & Stephanie Cress
Location: 1710 NE Marok Rd., Troutdale
Tax Lot 100, Section 29CC, Township 1 North, Range 4 East, W.M.
Tax Account #R944290320 Property ID #R322372
Zoning: Gorge General Agriculture – 20 (GGA-20)
Landscape Setting: Pastoral
Proposal Summary: Applicant requests approval of a Temporary Health Hardship Dwelling for the subject property.
Decision: Approved with Conditions

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is October 25, 2019 at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Chris Liu, Staff Planner at 503-988-2964 or at chris.liu@multco.us

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

Issued By:



Chris Liu, Assistant Planner

For:

Adam Barber,
Interim Planning Director

Date:

Friday, October 11, 2019

Instrument Number for Recording
Purposes: #2017-116830

Vicinity Map

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Applicable Approval Criteria: Multnomah County Code (MCC):

General Provisions: MCC 38.0015 Definitions – Parcel, MCC 38.0560 Code Compliance and Applications, MCC 38.0060 Agricultural Buffer Zones,

Indian Tribal Treaty Rights and Consultation: MCC 38.0110,

Gorge General Agriculture -20 Zone: MCC 38.2225(A)(7) Review Uses – Temporary Dwelling, MCC 38.2260 Dimensional Requirements,

National Scenic Area Review: MCC 38.7035 GMA Scenic Review Criteria, MCC 38.7045 Cultural Resource Review, MCC 38.7055 Wetland Review Criteria, MCC 38.7060 Riparian Area Review Criteria, MCC 38.7080 Recreation Resource Review,

Special Uses: MCC 38.7320 Temporary Health Hardship Dwelling.

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link *Chapter 38: Columbia River Gorge National Scenic Area Rural Plan Area*.

Conditions of Approval

Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. The conditions listed are necessary to ensure that approval criteria for this land use

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

1. The Temporary Health Hardship Permit **expires automatically one year after the date of final approval** unless an extension is approved as set forth in (a) below,
 - a. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in MCC 38.7320(B)(1) through (4). More than one extension may be granted, but each extension is limited to a one-year period from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application **at least 30 days prior to expiration of the permit**. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject parcel
2. Occupancy of the temporary dwelling may occur only while the person [Virginia McIntyre] for which the Temporary Health Hardship Permit was granted lives on the property. [MCC 38.7320(F)]
3. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit or the end of the health hardship or the provision of supervision or assistance with daily care. [MCC 38.7320(G)]
4. Prior to Land Use Planning review and sign-off for a building permit, the property owners or their representative shall:
 - a. Record a covenant that states the dwelling is temporary and must be removed as set forth in MCC 38.7320(G) and that the Temporary Health Hardship Permit is not transferable to another party.
 - b. Record pages 1 through 5 and Exhibit B.10 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 38.0670]
 - c. Provide samples of the proposed Sherwin Williams paint color for the siding, trim, and roof. Provide samples of the proposed color for the asphalt roof shingles. Proposed colors must be dark earthtone. The applicant may utilize the recommended colors in rows A1-A16 or B1-B16 of the *Scenic Resources Implementation Handbook*.
5. Prior to installation of the temporary dwelling on the site, the property owner shall obtain the necessary permits to place the temporary dwelling on the site and connect utilities. [MCC 38.7320(C)(1)]
 - a. Prior to occupying the temporary dwelling, the property owner must obtain a final building permit. [MCC 38.7320(C)(1)]
6. Prior to and during construction, the property owner or their representative shall ensure that:
 - a. 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:

- i. Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
- ii. Notification – The project applicant shall notify the County Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Native American tribal governments within 24 hours. Procedures required in MCC 38.7045 (L) shall be followed.
- iii. Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from 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).
- iv. Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may recommence when the conditions in the mitigation plan have been executed. [MCC 38.7045(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 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)]

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

7. Within 45 days of this decision becoming final, the property owner shall plant the trees noted in Exhibit B.10. The proposed evergreen trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen and agricultural buffer extension shall be planted along the appropriate parcel line(s), and be continuous. The necessary berming and/or planting must be maintained in good condition. [MCC 38.0060]
 - a. All present and future property owners shall be responsible for the proper maintenance and survival of screening and agricultural buffer vegetation shown and labeled on the site plan included as Exhibit B.10. Any of these trees damaged or destroyed by inclement weather or disease to the extent that they no longer screen the development shall be replaced with the same tree species within the next planting season. Replacement tree shall be at least 6-ft tall at the time of planting and shall be placed in the same general location. [MCC 38.7035(A)]
 - b. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. The Scenic Resources Implementation Handbook includes recommended minimum sizes. [MCC 38.7035(C)]
 - c. At least one-quarter of any trees planted for screening shall be coniferous for winter screening. [MCC 38.7035(C)]

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
2. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
3. Contact Staff Planner, Chris Liu, at 503-988-2964 or chris.liu@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

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

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.0 PROJECT DESCRIPTION:

Staff: The Applicant requests approval of a Temporary Health Hardship Dwelling in the Gorge General Agriculture – 20 (GGA-20) zone in the Columbia River Gorge National Scenic Area. The requested Temporary Health Hardship Dwelling is for the property identified as 1710 NE Marok Road, Troutdale.

2.0 PROPERTY DESCRIPTION:

Staff: The subject property, zoned Gorge General Agriculture -20, is located on NE Marok Road in rural East Multnomah County in the Columbia River Gorge National Scenic Area. The subject property is visible from one (1) Key Viewing Area, the Columbia River. Surrounding properties are primarily agricultural (grazing, pasture, and haying) in nature and a number of these properties contain a single-family residence. County Tax Records note the subject property contains a single-family dwelling constructed in 1979.

3.0 GENERAL PROVISIONS:

3.1 MCC 38.0015 Definitions – Parcel:

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

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

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

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

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

Staff: A warranty deed recorded on September 20, 1973 in Book 950, Page 333 (Exhibit B.9), describes the subject 2.0 acre property 1N4E29CC -00100. In 1973, the subject property was zoned F2 as shown in the November 15, 1962 zoning county zoning maps. The minimum lot size for the F2 zone in 1973 was 2.0 acres. Therefore, the subject property is a legal parcel that complied with all planning, zoning, and land division ordinances or regulations in 1973.
Criteria met.

3.2 MCC 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
Livestock grazing pasture, haying	100'	15'	20'

(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: The nearby agricultural uses to the east of the subject property are primarily for livestock grazing pasture and haying. The subject property contains an existing row of trees along the east side property line that provide a minimum 15 feet barrier for the main dwelling (Exhibit A.19). The proposed temporary health hardship dwelling location is adjacent to a portion of this barrier. The property owners will plant an additional row of evergreen trees to the east of the proposed hardship dwelling to complete the barrier along the east property line (Exhibit B.10). A condition of approval is included requiring the additional trees be a minimum 6 feet high when planted, that planting occurs during the first phase of development, and that plantings be maintained in good condition. No crop rotation is involved in the adjacent agricultural land and no variance is requested or necessary. *Criteria can be met through a condition of approval.*

3.3 MCC 38.0110 Indian Tribal Treaty Rights and Consultation:

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

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

Staff: The Confederated Tribes of the Umatilla River (CTUIR) Cultural Resources Program (CRPP) provided comments during the completeness review indicating that the subject property was in an area of religious and cultural significance to the CTUIR (Exhibit B.2). CRPP subsequently recommended a pedestrian survey and subsurface testing prior to development. An Archaeologist with the U.S. Forest Service completed a confidential Heritage Resource Inventory Report (Exhibit B.7), which planning staff forwarded to CRPP. Upon review of the report, CRPP had no further comments to provide at the time. *Criteria met.*

3.4 MCC 38.0560 Code Compliance and Applications:

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

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

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised

utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: There are no known compliance issues on the subject parcel. In the absence of any compliance issues, the County may issue a decision on this development application.

4.0 GORGE GENERAL AGRICULTURE – 20 ZONE:

4.1 MCC 38.2225 Review Uses – (A)(7) Temporary Dwelling:

A temporary dwelling for health hardship, pursuant to MCC 38.7320 and MCC 38.0060.

Staff: Findings for MCC 38.7320 are in section 6.0 and findings for MCC 38.0060 are in section 3.2 above.

4.2 MCC 38.2260 Dimensional Requirements:

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet

Staff: The proposed temporary health hardship dwelling will be less than 35 feet in height and will be located greater than 40 feet from the front property line, greater than 10 feet from the side property lines, and more than 90 feet from the rear property line. The front lot line of the subject property is greater than 50 feet in length (Exhibit A.19). *Criteria met.*

5.0 SCENIC REVIEW CRITERIA:

5.1 MCC 38.7035 GMA Scenic Review Criteria:

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

(A) All Review Uses and Conditional Uses:

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

(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 temporary health hardship dwelling will be located within 100 feet of the existing single family dwelling (Exhibit A.19). The designated site is adjacent to an area with existing trees that will provide screening from the east side property line. Grading is limited to the minimum footprint necessary to site the temporary dwelling (Exhibit A.12). Per County tax records and aerial photos, nearby dwellings are much larger in footprint than the proposed temporary health hardship dwelling. Therefore, the general scale of similar buildings within ¼ mile of the subject parcel will not increase. *Criteria met.*

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

Staff: This criterion is included as a condition of approval. *Criterion can be met through a condition of approval.*

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

Staff: Staff utilized the site plan submitted as Exhibit A.19 to determine the compatibility with the site's pastoral landscape setting. Additional findings regarding the landscape setting are in Section 5.13 and 5.16. *Criterion met.*

5.4 MCC 39.7035(A)(3), (A)(6), and (A)(7)

Staff: The subject site takes access from Marok Road. It is not a designated Scenic Travel Corridor. No new vehicular access points to Scenic Travel Corridors are proposed. The proposal does not include the production or development of mineral resources. The development is for a Temporary Health Hardship Dwelling. *Criterion are not applicable.*

5.5 (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...

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

Staff: The subject property is within the Key Viewing Area for the Columbia River. The proposed temporary health hardship dwelling will be located on the subject property in an area adjacent to existing trees and supplemented with the planting of an additional row of 6 feet or taller trees on the east and west side of the proposed hardship dwelling (Exhibit A.15 & A.19). The exterior of the dwelling will be painted in dark earthtone colors with the cement siding

painted with Sherwin Williams paint (Exhibit A.3 & A.15). A condition of approval is included in this decision ensuring that the paint color(s) will be dark earthtone colors.

The designated site is adjacent to an area with existing trees to the north and south, and partial screening from existing trees along the east side property line. An additional row of trees will need to be planted to the east and to the west of the proposed hardship dwelling to provide additional screening (Exhibit B.10). A condition of approval is included to ensure required plantings are completed. Grading is limited to the minimum footprint necessary to site the temporary dwelling and connect to the existing septic system for the primary dwelling (Exhibit A.12). Per County tax records and aerial photos, nearby dwellings are much larger in footprint than the proposed temporary health hardship dwelling. Therefore, the general scale of similar buildings within ¼ mile of the subject parcel will not increase. *Criteria met through a condition of approval.*

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

Staff: The applicant provided descriptions of the proposed height, shape, exterior building materials, exterior lighting and landscape details in the application materials (Exhibit A.1-A.19). The proposed dwelling will have an asphalt shingle roof, cement exterior siding, and vinyl windows. A condition of approval ensures the exterior colors will be dark earthtone colors and a condition of approval requires the property owner to ensure the survival of the proposed plantings. *Criterion can be met through a condition of approval.*

- 5.7** **(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.**

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

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

Staff: The location for the proposed temporary health hardship dwelling was chosen based on the availability of existing tree cover to the north and south of the proposed site and along the east side property line. The existing tree cover will help minimize the visibility of the proposed hardship dwelling (Exhibit A.19). The property owners propose to maintain the existing tree cover on the east side property line (Exhibit A.15 & A.19). Additional plantings of 6 feet or taller trees to the east and west of the proposed hardship dwelling will help to supplement the existing tree cover. Staff identified the planting areas in Exhibit B.10. *Criteria met.*

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

Staff: The existing driveway will be utilized, with a small extension added to provide additional access to the proposed temporary health hardship dwelling (Exhibit A.15). The subject site is flat. Ground disturbance will be limited to the clearing for the manufactured dwelling pad/foundation, driveway extension, and connection to the existing septic system for the primary dwelling. This grading is limited to the minimum necessary to place the proposed dwelling in position (Exhibit A.12). *Criterion met.*

5.9 (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 cement siding and trim for the proposed hardship dwelling will be painted with Sherwin Williams paint in a dark earthtone color. The roof material will be asphalt shingle in a dark earthtone color. The windows will be white vinyl, low-e, and must have a reflectivity rating between 11 – 15%. A condition of approval ensures that the proposed exterior materials will meet the low reflectivity standard prior to building plan review. *Criterion can be met through a condition of approval.*

5.10 (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 proposed exterior lighting contains a dark bronze matte finish housing, is hooded and directed downward so as not to be highly visible from Key Viewing Areas. (Exhibit A.16). *Criterion met.*

5.11 (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 exterior of the proposed hardship dwelling will be painted with Sherwin Williams paint in dark earthtone colors. Windows will be white vinyl and the roofing will be composed of asphalt shingle. Dark earthtone colors will match the nature of surrounding pastoral landscape. A condition of approval is included to ensure the proposed colors are dark earthtone colors. *Criterion can be met through a condition of approval.*

- 5.12 (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 proposed temporary health hardship dwelling is not located on a bluff, cliff, or ridge as seen from Key Viewing Areas. *Criterion met.*

- 5.13 (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).

Staff: Existing evergreen tree cover at the proposed location and along the east side property line will be utilized to provide screening of the proposed temporary health hardship dwelling (Exhibit A.19). The property owners will utilize additional plantings of evergreen trees at least 6 feet in height to the east and west of the proposed hardship dwelling to supplement the existing tree cover (Exhibit B.10). A condition of approval is included to ensure the above criteria are satisfied. *Criteria can be met through a condition of approval.*

- 5.14 (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 subject property does not contain any mapped slope hazards or slopes in excess of 30 percent per available topography maps. Topographic information available to the County shows the slopes being less than 10 percent slopes on the property. *Criterion met.*

5.15 MCC 39.7035(B)(5), (13), (14), (16), (19), (20), (21), (22), (23), (25), (26), (27), (28), and (29)

Staff: The proposal does not include any development related to the above criteria.

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

(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 proposal does not include any accessory structures, outbuildings or additional accessways. The existing tree cover at the proposed location and along the east side property line will be maintained to provide screening from the Columbia River Key viewing area (Exhibit A.19). An additional row of Evergreen trees will be planted to the east and west of the proposed hardship dwelling to provide additional screening (Exhibit B.10). A condition of approval is included requiring half the proposed additional tree plantings be native to the

setting and at least one-quarter of the trees be coniferous. *Criteria can be met through a condition of approval.*

5.17 MCC 38.7045 Cultural Resource Review

(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).

(2) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this standard, a reasonable buffer zone must be established around the affected resources or properties; all ground disturbing activities shall be prohibited within the buffer zone.

Staff: The County did not receive substantial comment during the comment period provided in MCC 38.0530 (B). *Criteria met.*

5.18 MCC 38.7055 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);

Staff: The project site is not identified as a wetland on the National Wetlands Inventory.

5.19 MCC 38.7060 Riparian Area Review Criteria

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

Staff: The subject property is not within an identified riparian area.

5.20 MCC 38.7080 Recreation Resource Review

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

Staff: The project site is not adjacent to an identified recreation resource.

6.0 TEMPORARY HEALTH HARDSHIP DWELLING:

6.1 MCC 38.7320 Temporary Health Hardship Dwelling

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and/or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling on a parcel with a single-family dwelling on a renewable term. This use is temporary in nature and shall not increase the residential density on the subject property.

Staff: The subject parcel contains an existing single-family dwelling constructed in 1979. The applicant is requesting permission to allow a manufactured dwelling be added to the site for a temporary health hardship. Once the temporary health hardship permit expires, the manufactured dwelling will be required to be removed from the property so as to not increase residential density in the GGA-20 zone. The GGA-20 zone allows only one permanent single family dwelling. *Criterion met.*

6.2 (B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling on a parcel in conjunction with a single-family dwelling allowed in the base zone based on the following findings:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners occupying the principal dwelling. For the purposes of this section a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, stepparent, stepchild, step-grandparent, or stepgrandchild either by blood or legal relationship.

Staff: Virginia McIntyre is the proposed occupant of the Temporary Health Hardship dwelling and is the mother of one of the property owners, Allen Cress (Exhibit A.13). *Criterion met.*

- 6.3 (2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:**
- (a) The person identified in the application has a health hardship as defined in MCC 38.0005;**
 - (b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 38.0005; and**
 - (c) The proposed care provider is capable of providing the necessary supervision and/or assistance with daily care needed by the person with the health hardship.**
- (3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.**

Staff: The applicant submitted the required Health Hardship Medical verification form completed by a licensed physician (Exhibit A.8); the form is confidential. The physician notes that the intended occupant [Virginia McIntyre] of the Temporary Health Hardship dwelling requires supervision and/or assistance with daily care as defined in MCC 38.0005 and that the property owners [Allen & Stephanie Cress] are capable of providing the necessary supervision and/or assistance. The proposed care provider(s) [Allen & Stephanie Cress] provided a written statement within the required timeframe acknowledging that they understand the physician's determination and are capable of providing the necessary supervision and/or assistance (Exhibit A.13). *Criteria met.*

6.4

(4) The following criteria are satisfied:

(a) The temporary dwelling shall be either a mobile home or park-model recreational vehicle.

(b) The temporary dwelling shall be located within 100 feet of the single family dwelling on the subject parcel, unless a variance pursuant to MCC 38.7600 through 38.7605 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the care needs of the proposed occupant.

Staff: The proposed temporary health hardship dwelling is a mobile home (Exhibit A.6) that will be located within 100 feet of the existing single family dwelling on the subject property (Exhibit A.19). The proposed temporary health hardship dwelling will be connected to the same utilities as the existing single-family dwelling, share the existing driveway, and will not require any attached or detached accessory structures (Exhibits A.11, A.15, & A.18 - A.19). *Criteria met.*

6.5

(C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.

(2) The property owner shall record a covenant that states the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

Staff: The above criteria are included as conditions of approval. *Criteria can be met through a condition of approval.*

- 6.6 (D) Expiration of the Temporary Health Hardship Permit.** The Temporary Health Hardship Permit expires automatically one year after the date of final approval unless an extension is approved as set forth in (E) below,

(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a one-year period from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject parcel.

Staff: The above criteria are included as conditions of approval. *Criteria can be met through a condition of approval.*

- 6.7 (F) Occupancy of the Temporary Dwelling.** Occupancy of the temporary dwelling may occur only while the person or persons for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit or end of the health hardship or the provision of supervision or assistance with daily care.

Staff: The above criteria are included as conditions of approval. *Criteria can be met through a condition of approval.*

7.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the National Scenic Area Site Review to establish a Temporary Health Hardship Dwelling in the Gorge General Agriculture – 20 (GGA-20) zone. This approval is subject to the conditions of approval established in this report.

8.0 PUBLIC COMMENT:

- 8.1 Comments from Steven McCoy, Staff Attorney Friends of the Columbia Gorge**
Mr. McCoy provided comments regarding various application requirements per Multnomah County Code Chapter 38.

Staff: Comments noted. Page no. 2 of this land use decision lists the applicable approval criteria for this review. Staff addressed the listed applicable approval criteria in section 3.0 – 6.0 of this decision.

9.0 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 T2-2019-11746 at the Land Use Planning office.

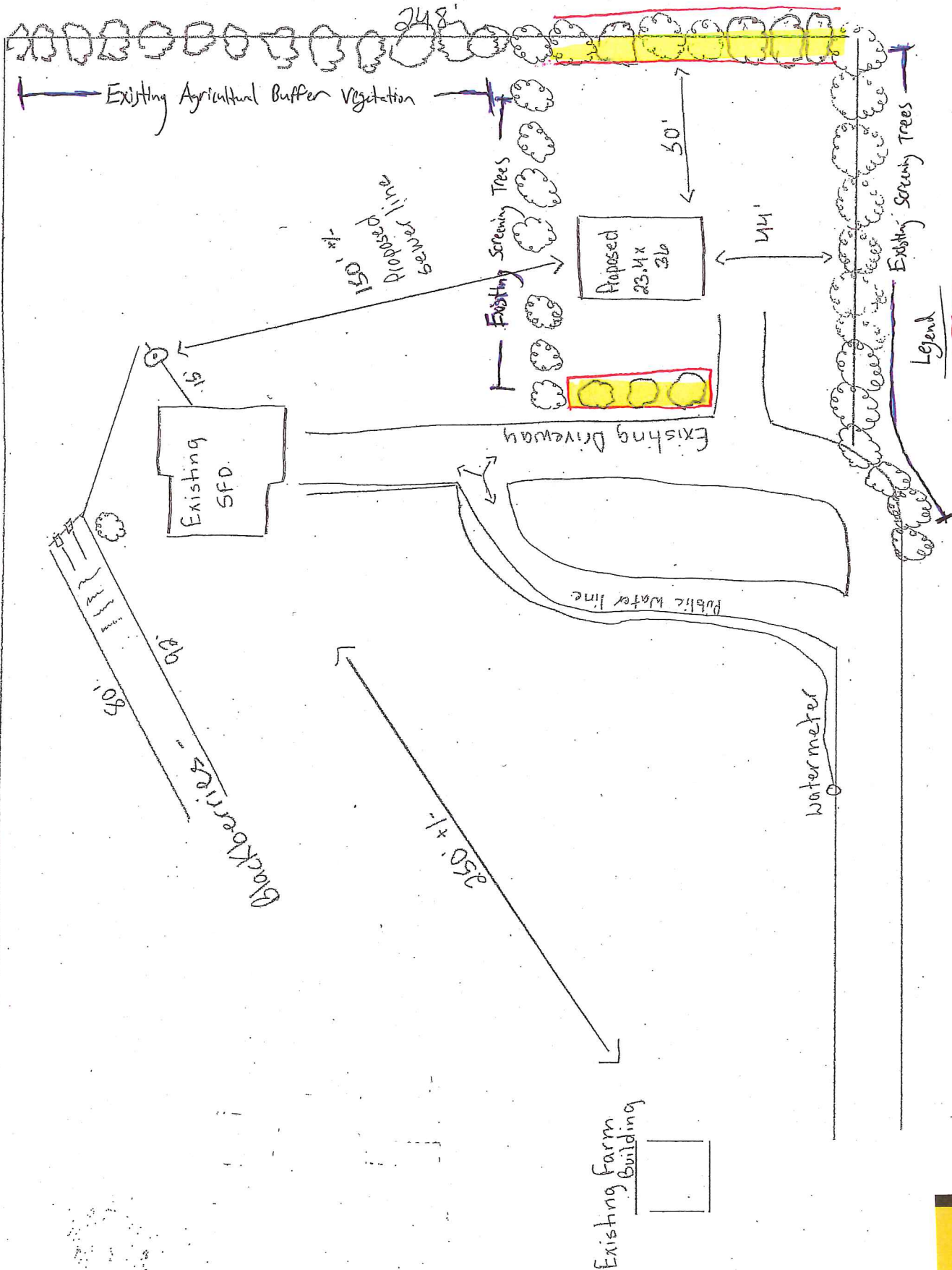
Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	03.22.2019
A.2	3	Introductory Letter and Authorizing Representative Form	03.22.2019
A.3	5	Applicant Narrative	03.22.2019
A.4	1	Site Plan	
A.5	4	Statutory Warranty Deed Instrument #2017-116830	03.22.2019
A.6	4	Floor Plan for Proposed Manufactured Home	03.22.2019
A.7	2	Elevations for Proposed Manufactured Home	03.22.2019
A.8	2	Health Hardship Medical Verification Form (*CONFIDENTIAL*)	03.22.2019
A.9	30	Stormwater Certificate and accompanying documents prepared by Mia C. Mahedy, P.E.	03.22.2019
A.10	5	Fire Service Agency Review Form	03.22.2019
A.11	3	Transportation Planning Review Form	03.22.2019
A.12	2	Grading and Erosion Control Worksheet	03.22.2019
A.13	1	Written statement from proposed care provider	05.21.2019
A.14	1	Applicant response letter	05.21.2019
A.15	3	Revised Narrative	05.21.2019
A.16	7	Exhibit A: Lighting Details	05.21.2019
A.17	1	Certification of Water Service	05.21.2019
A.18	3	Septic Review Certification	05.21.2019
A.19	1	Revised Scaled Site Plan	05.21.2019
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	03.22.2019
B.2	1	Email from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP)	04.05.2019
B.3	2	Cultural Resource Survey Determination	04.17.2019
B.4	1	Letter from Oregon SHPO	05.07.2019
B.5	3	Parcel Record Card (1N4E29CC -00400)	05.21.2019
B.6	2	Parcel Record Card (1N4E29CC-00100)	05.21.2019

B.7	8	Heritage Resource Inventory Report (*CONFIDENTIAL – Not for Public Distribution*)	07.16.2019
B.8	1	Response Email from the CTUIR, CRPP regarding the Heritage Resource Inventory Report	07.16.2019
B.9	1	Warranty Deed recorded September 20, 1973 in Book 950, Page 333	07.16.2019
B.10	1	Required Plantings Plan	10.08.2019
‘C’	#	Administration & Procedures	Date
C.1	11	Agency Review	04.04.2019
C.2	3	Incomplete Letter	04.09.2019
C.3	1	Applicant Response	05.08.2019
C.4	1	Complete Letter (Day 1)	08.08.2019
C.5	3	Opportunity to Comment	09.03.2019
C.6	20	Administrative Decision	10.11.2019
‘D’	#	Comments Received	Date
D.1	8	Comments from Steven McCoy, Attorney Friends Of The Columbia Gorge	09.18.2019

← N

1" = 40'

Binger III City
1710 NE Marok
Troutdale OR 97060



Legend
New evergreen plantings
for screening purposes, 6-ft tall or
higher

* Required Plantings Plan
Exhibit B.10

EXHIBIT
B.10