
NOTICE OF NSA DECISION

Case File: T2-2019-12360

Permit: National Scenic Area (NSA) Site Review

Applicant(s): Kenneth Fischer & Rita McCord **Owner(s):** Kenneth Fischer & Rita McCord

Location: 710 NE 365th Avenue, Corbett
Tax Lot 300, Section 35, Township 1 North, Range 4 East, W.M.
Tax Account #R944350700 Property ID #R322752

Zoning: Gorge General Residential (GGR-5)

Key Viewing Areas: Historic Columbia River Highway

Landscape Setting: Rural Residential **Recreation Intensity:** Recreation Class 2

Proposal Summary: The applicant requests an NSA Site Review to correct compliance issues on the subject property. The proposal includes removal and replacement of trees, updated lighting, deck expansions, and other associated development.

Decision: **Approved with Conditions**

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is **Wednesday, September 2, 2020, 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 \$0.35/per page. For further information, contact Rithy Khut, Staff Planner at 503-988-0176 or rithy.khut@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 Columbia River Gorge Commission until all local appeals are exhausted.

Issued By:



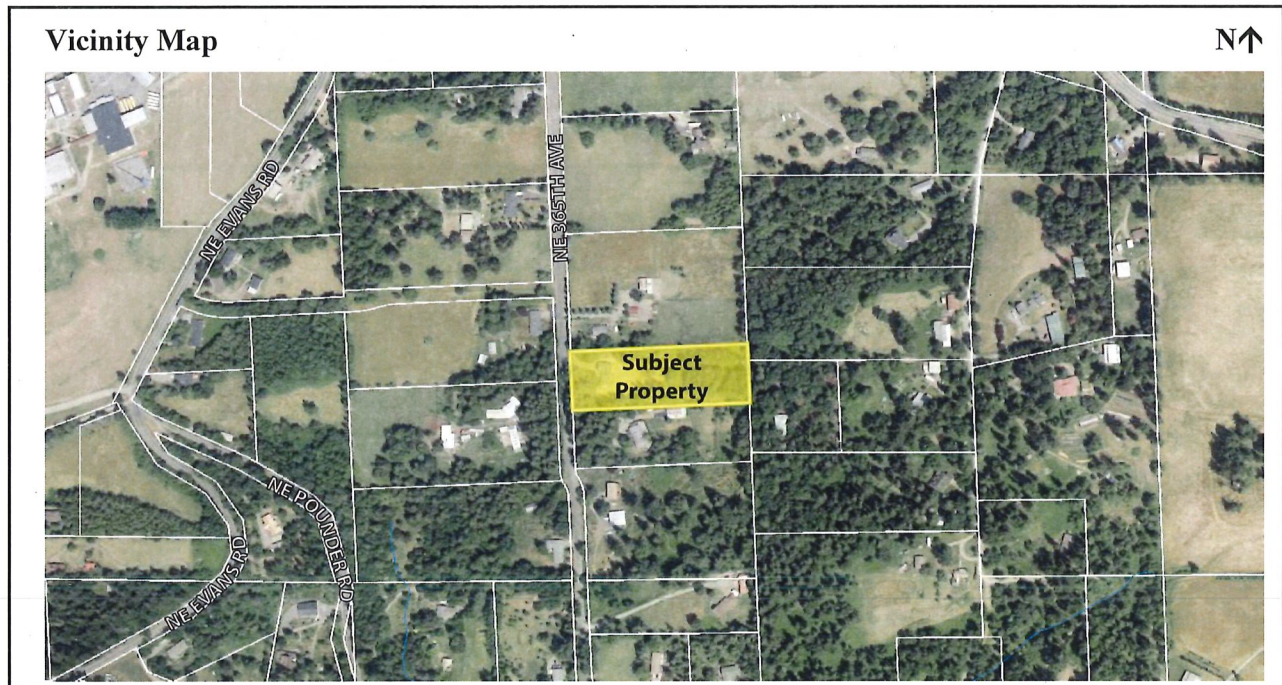
DN: cn=Rithy Khut, o=Multnomah
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Rithy Khut, Planner

For: Carol Johnson, AICP
Planning Director

Date: Wednesday, August 19, 2020

Instrument Number for Recording
Purposes: #2011-07194



Applicable Approval Criteria:

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

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

Administration and Procedures: MCC 38.0560 Code Compliance and Applications

Gorge General Residential: MCC 38.3025 Review Uses, MCC 38.3060: Dimensional Requirements, MCC 38.3090 Access

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

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

Chapter 38: Columbia River Gorge National Scenic Area

Conditions of Approval

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

1. Permit Expiration – This land use permit shall expire as follows:

- a. Within two (2) years of the date of the final decision, when construction has not commenced. [MCC 38.0690(B)(1)]
 - i. For purposes of Condition #1.a., commencement of construction shall mean actual excavation of trenches for an approved underground utility or development.
 - ii. Notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. [MCC 38.0690(B)(3)]
- b. When the structure has not been completed within two (2) years of the date of commencement of construction. [MCC 37.0690(B)(2)]
 - i. For purposes of Condition #1.b., completion of the structure shall mean compliance with all conditions of approval in the land use approval. [MCC 38.0690(B)(4)]

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

2. Within 30 days after the decision becomes final, the applicant(s), owner(s), or their representative(s) shall:
- a. Record pages 1 through 5 and Exhibit A.9 (C-1 and C-4), reduced to 8.5" x 11" in this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 38.0670]

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

3. As an on-going condition, the property owner(s) or their representative(s) shall ensure that:
- a. All exterior lighting shall be directed downward such that it is not highly visible from Key Viewing Areas [MCC 38.7035(B)(2) and MCC 38.7035(B)(11)]
 - b. The existing tree cover on the property shall be retained as much as possible. If trees are removed due to safety purposes, they shall be replaced in the same general area so that the density of tree cover is maintained. [MCC 38.7035(C)(3)]
 - c. 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. Additionally, all survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and the 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.:

- 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 Oregon State Historic Preservation Office (SHPO) (see ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural resources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045(C)(2) and MCC 38.7045(E).
 - 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) and Comments 3.02]
- d. 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.
 - vi. 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).

- vii. 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) and Comments 3.02]

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

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or call 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at e-mail septic@portlandoregon.gov or by phone at 503-823-6892 for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
4. Contact Staff Planner, Planner, at 503-988-0176 or rithy.khut@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning may collect additional fees.

The above must be completed before the applicant can obtain building permits from the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee may be collected. 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 an NSA Site Review to correct compliance issues on the subject property. The proposal includes removal and replacement of trees, updated lighting, deck expansions, and other associated development and ground disturbance.

2.0 Property Description & History:

Staff: The subject application is for 710 NE 365th Avenue, Corbett (subject property) also known as tax lot 300, Section 35, Township 1 North, Range 4 East, W.M. The subject property is located on the east side of NE 365th Avenue within the Gorge General Residential (GGR-5) zoning district in the Columbia River Gorge National Scenic Area (CRGNSA). There are no environmental overlays, geologic hazards overlays, or areas of Special Flood Hazard on the property.

Multnomah County Division of Assessment, Recording, and Taxation (DART) data indicates that the subject property is approximately 2.5 acres and is owned by the Kenneth Fischer and Rita McCord (Exhibit B.1). DART records also indicate that the subject property contains a single-family dwelling with attached garage and attached deck that was first assessed in 1979 and a shed. Aerial photo review from 2019 confirms the presence of the single-family dwelling with attached garage and deck in addition to the shed (Exhibit B.3).

In reviewing the past permit history of the subject property, the property has not had an extensive permit history. Below are the land use and building permits that are on record:

Permit Number	Date	Description
772687	12/13/1977	New single-family dwelling
BP-2011-1919	10/05/2011	Zoning review for building permit authorization for deck repair/replacement
T2-2012-2184	04/05/2012	Expedited NSA Review for alteration of single-family dwelling
BP-2012-2242	04/06/2012	Zoning review for building permit authorization associated with T2-2012-2184
T2-2014-3346	06/27/2014	NSA Site Review alteration of single-family dwelling to convert area above garage into bedrooms
BP-2014-3346	07/02/2014	Zoning review for building permit authorization associated with T2-2014-3346

3.0 Public Comment:

3.1 Letter from Chris Donnermeyer, United States Forest Service – Columbia River Gorge Scenic Area Heritage Resources Program Manager

Staff: Chris Donnermeyer submitted a Cultural Resource Survey Determination on August 29, 2019 stating that “A Cultural Resource Reconnaissance Survey is: Not required” and “A Historic Survey is: Not required” (Exhibit D.1).

3.2 Letter from Jamie French, Archaeologist, Oregon Parks and Recreation Department (OPRD) – State Historic Preservation Office (SHPO)

Staff: Jamie French submitted a letter on September 19, 2019 discussing the potential of archaeological sites and/or buried human remains. The letter stated, “the project area lies within an area generally perceived to have a high probability for possessing archaeological sites and/or buried human remains” (Exhibit D.2). Based on that information they recommended, “extreme caution...during project related ground disturbing activities.”

Based on the letter, Staff has included findings in Section 7.1 to address the likelihood of finding archaeological deposits and human remains. Conditions of approval have been added detailing the procedures of the property owner or their representative if archaeological deposits and human remains are found.

3.3 Comments from Steven D. McCoy, Staff Attorney, Friends of the Columbia River Gorge

Staff: Steven D. McCoy, Staff Attorney, Friends of the Columbia River Gorge (“Friends”) submitted an e-mail and attached letter on August 7, 2020 discussing the application requirements and applicable approval criteria for this project (Exhibit D.3).

All of the findings in this Decision are based on the required application materials. The application was found to be Complete on March 12, 2020. Findings in Section 5.0 address Existing Uses (page 3 of the letter), Section 6.0 discusses Allowed Uses (page 3 of the letter), and Section 7.0 discusses Scenic, Natural, and Cultural Resource Protection. Additionally, the Conditions of Approval include suggested conditions from page 8 of the letter, which is also required by Multnomah County Code.

4.0 Administration and Procedures Criteria:

4.1 § 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 is one active code compliance case associated with this property. The case, UR-2013-3206 was opened on December 10, 2013 to address and resolve an issue regarding a non-permitted accessory structure that is located on the property. The case was partially resolved through removal of the accessory structure. Subsequently in 2018, a second complaint was lodged regarding non-permitted ground disturbance and grading and fill placement work on the property. At that time, it was also found that the subject property is not in compliance with previous permit approvals issued by the County. Based on review of the previous approvals, it appears the following Conditions of Approval have not been completed as required in land use case, T2-2014-3346 (Exhibit B.4):

“1. Prior to land use approval for the building plan check, the property owners shall mark on the site plan the location of all existing and proposed exterior lighting. The exterior lighting on the building shall be directed downward and sited, hooded and shielded such that it is not highly visible from the Historic Columbia River Highway. The light fixtures shall be consistent with the light detail labeled as Exhibit A.15. [MCC 38.7035(B)(11)]

3. The evergreen trees within and along the northern and western yards between the dwelling and the property lines shall be maintained for screening of the dwelling from the Historic Columbia River Highway (Exhibit B.[4]). Failure to maintain the trees in a living state on the site shall be a violation of this permit.

a. If the property owners want to remove a tree due to a decline in its health or because they believe it is a safety concern, they shall first contact Land Use Planning and file an application to modify this land use decision. [MCC 38.7035(B)(1), (4), (6) and (7) and MCC 38.7035(A)(4)].”

In order to make a land use decision approving development, the applicant will have to bring the property into full compliance. The applicant has removed the non-permitted accessory structure, submitted a Type 2 NSA Site Review Application, and a Type 1 Grading and Erosion Control permit. The Type 2 Application will resolve the issues related to compliance with previous Conditions of Approval. Lastly, in sequence, once the Type 2 NSA Site Review is completed and a Type 1 Grading and Erosion Control permit is issued, it will resolve the non-permitted ground disturbance and fill placement on the property. With the applicant fulfilling the requirements above, it will result in the property coming into full compliance and will meet the permit approvals previously issued by the County. The result will allow the County to issue this decision.

As discussed in this decision, when the applicant meets all of the conditions in this decision, it will result in the property coming into compliance with applicable provisions of the Multnomah County Land Use Code.

5.00 General Provisions Criteria:

5.1 § 38.0030 EXISTING USES AND DISCONTINUED USES

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

* * *

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

Staff: As required by MCC 38.0030(D), any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this Management Plan. The original single-family dwelling was established in 1977 and modified in 2011, 2012, and 2014. In 2014, the applicant did not complete all of the required Conditions of Approval of T2-2014-3346 that authorized the modification to the exterior of an existing structure. Therefore, the applicant is seeking approval of this permit to bring the subject property into full compliance. The review shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources. Those policies, guidelines, and Multnomah County Code requirements are discussed below in this Decision.

The original single-family dwelling was established in 1977 and modified in 2011, 2012, and 2014. This single-family dwelling is an existing use and structure. As the single-family dwelling was modified, the proposal shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

6.00 Gorge General Residential (GGR-5) Criteria:

6.1 § 38.3025 REVIEW USES

(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.

Staff: The applicant had requested to alter and expand an existing single-family dwelling in 2014 under land use permit #T2-2014-3346. As the applicant did not meet the Conditions of Approval laid out in that land use case, the applicant is seeking a new review of those elements. As such, those components of T2-2014-3346 that were not met will be reviewed as if they are being proposed today. Those components include the lighting and removal of trees to ensure visual subordination of the single-family dwelling. The applicant has also installed a generator that required the act of ground disturbance to trench a connection between the generator and the single-family dwelling. Lastly the applicant also cleared an area adjacent and to the east of the single-family dwelling.

To authorize this review, MCC 38.3025(A)(1) allows one single-family dwelling to be established on a legal created parcel. The subject property was found to be a “parcel” in land use case T2-2014-3346. That Decision found, “the parcel was legally created in 1973 when the property was zoned F-2 (2-acre minimum lot size)” (Exhibit B.4). The subject property has not been altered or reconfigured since the date of that decision.

Therefore, as described, the subject property remains a legally created parcel.

As the subject property is located in the GGR-5 zone and the adjacent lands are also zoned GGR-5, the subject parcel is not required to comply with the buffer requirements of MCC 38.006 or the fire protection standards of MCC 38.7305. The applicant is proposing to alter the existing single-family dwelling and if approved, the parcel will continue to contain only one single-family dwelling. Additionally, as discussed below, the proposed alteration of the single-family dwelling will need to meet the requirements of MCC 38.7000 through 38.7085 as discussed in Section 7.0. *These criteria are met.*

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

Staff: The placement of the propane tank and generator are required to be reviewed due to the ground disturbance associated with placement of the structures. As the propane tank and generator are less than 60 square feet and less than 10 feet in height, the structures would typically be allowed under MCC 38.1005(A)(4). However, as the applicant conducted ground disturbing activities, the accessory structures, which would otherwise be allowed outright are required to meet all of the requirements of the NSA Site Review. Those requirements are discussed in Section 7.00

6.2 § 38.3060 DIMENSIONAL REQUIREMENTS

(A) Except as provided in MCC 38.3030 (A) (8), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:

GGR-2	2 acres
GGR-5	5 acres
GGR-10	10 acres
GSR	The size of all contiguous, individually owned parcels, as of November 17, 1986

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

Staff: This application does not propose the creation of a lot; therefore, these requirements are not applicable. *These criteria are not applicable.*

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

Staff: As required in Table 2 of MCC 29.571, the County lists a rural standard for local streets as requiring 50-foot Right-of Way width. As shown on Multnomah County Division of Assessment, Recording, and Taxation maps, the right-of-way for NE 365th Avenue is currently 50 feet wide, which is sufficient (Exhibit B.2). As required by above, the Front Yard requirement shall remain at 30 feet.

The distance from the single-family dwelling and other accessory structures to the property line are as follows (Exhibit A.9: C-1 through C-4):

Figure 1 – Yard requirements and distance from the single-family dwelling to property line

	Yard Requirement	Distance from building/structure to Property Line
Single-family Dwelling		
Front (NE 365th Ave.)	30'	~ 108'
Rear (east property line)	30'	> 400'
Side (north property line)	10'	~ 47'
Side (south property line)	10'	~ 66'
Generator		
Front (NE 365th Ave.)	30'	~140'
Rear (east property line)	30'	> 400'
Side (north property line)	10'	~12'
Side (south property line)	10'	~174'
Propane Tank		
Front (NE 365th Ave.)	30'	~ 71'
Rear (east property line)	30'	> 400'
Side (north property line)	10'	~ 13'
Side (south property line)	10'	~ 174'

Based on measurements on the site plan, the existing single-family dwelling, propane tank, and generator all have yard dimensions that exceed the minimum yard dimension requirements. *This criterion is met.*

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

Staff: The applicant is not proposing any of the structures listed above, therefore this criterion is not applicable. *This criterion is met.*

6.3 § 38.3090 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

Staff: The subject property abuts NE 365th Avenue, which is a public street. *This criterion is met.*

7.0 National Scenic Area (NSA) Site Review Criteria

7.1 § 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:

7.1.1 (A) All Review Uses and Conditional Uses:

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

Staff: The applicant is not proposing any new building or roads on the subject property. As discussed in Section 5.00, the single-family dwelling was permitted in 1977 with the permit finalized in November 1981. As the applicant previously submitted a permit application under land use case T2-2014-3346 and failed to meet all of the conditions of approval, the applicant is required to meet all of the scenic review standards although no new buildings or roads are being proposed. *This criterion is met.*

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

Staff: As was previously found in T2-2014-3346, the expansion of the dwelling was compatible with the general scale of similar buildings in the area. Land use case, T2-2014-3346 found:

“The existing dwelling with the attached garage is 3,790 square feet. With the addition, the roof area of the garage will be raised in height and the structure will increase in size by slightly more than 200 square feet. The dwelling will be approximately 4,000 square feet. Planning staff reviewed a number of properties within a ¼ mile of the subject property. Of the dwellings considered, the average size was 3,598 square feet. The two largest dwellings in the area are 4,071 and 4,783 square feet respectfully.”

As no changes are being proposed for any buildings in this application except to address the failed completion of Conditions of Approval, this criterion is still met. *This criterion is met.*

(3) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation required where feasible.

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

State Routes 14, 141, and 142 located in the Scenic Area. Therefore, this criterion is not applicable. *This criterion is not applicable.*

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

Staff: As was previously found in T2-2014-3346, a condition of approval was required that trees within the northern and western yard between the dwelling and the property lines be maintained and replaced if necessary due to death or disease. Since the approval of that land use case, the applicant has cleared an area adjacent to the single-family dwelling. As shown in aerial photos from 2018 and 2019, an area was cleared of vegetation and trees along the northern property line. As required by Condition of Approval #3 those evergreen trees were required to be maintained; however, the applicant has provided additional information concerning the topographic visibility of the subject property, which is discussed below.

(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 property is located within the Rural Residential Landscape setting. Compatibility findings are located in Section 7.1.3.

* * *

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

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

Staff: The subject property is located in an area that could be seen from a Key Viewing Area. Located on NE 365th Avenue, the subject property is visible from the Historic Columbia River Highway (HCRH) KVA. As it is potentially visible it was previously found in T2-2014-3346 that two conditions of approval were required to ensure that the development was visually subordinate to its setting as seen from the KVA. The conditions included the maintenance of trees and use of specific lighting. These conditions were required to ensure that the development was visually subordinate.

As part of this application, the applicant is requesting a new review to remove the requirements that pertain to vegetation and visual subordination. The applicant has included topographic profiles of the subject property and a scaled model showing the elevation profile in relation to the KVA (Exhibit A.3: A-1 through A-3 and Exhibit A.8). Based on the information provided by the applicant, the development is at a lower elevation than that of the HCRH KVA. The elevation difference ensures that the previous development of the single-family dwelling is visually subordinate through the use of topographic features of the surrounding terrain as seen from the HCRH KVA.

The development of the single-family dwelling is visually subordinate based on the topography. This criterion is met.

(2) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its potential visual impacts as seen from Key Viewing Areas. Decisions shall include written findings addressing

the factors influencing potential visual impact including but not limited to: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas it is visible from, the number of Key Viewing Areas it is visible from, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to siting (location of development on the subject property, building orientation, and other elements); retention of existing vegetation; design (color, reflectivity, size, shape, height, architectural and design details and other elements); and new landscaping.

Staff: The extent and type of conditions applied to the development or use to achieve the scenic standard are proportionate to the visual impacts as seen from Key Viewing Areas. As discussed below the subject property is not visible from the KVA due to topography. However, to meet the scenic standard, Conditions of Approval will be required that relate to exterior lighting. The applicant's exterior lighting is discussed under in Section 7.1.2 under MCC 38.7035(B)(11). As the subject property is topographically screened from the KVA, the conditions are the minimum required to ensure that any potential visual impacts are mitigated. *As conditioned, this criterion is met.*

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

Staff: As was previously found in T2-2014-3346, the expansion of the dwelling resulted in a cumulative effect that was minimal. Land use case, T2-2014-3346 found:

“The proposed addition is relatively small and has just exceeded the threshold for an expedited review. While the house is currently larger than the average size dwelling within the vicinity, after the addition, it will remain below the largest sized dwelling in the area. The average size for dwellings in the area will be changed from 3,598 square feet to 3,619 square feet which is a difference of 21 square feet.”

No changes are being proposed for the existing single-family dwelling except to address the failed completion of Conditions of Approval. The only proposed changes relate to the placement of a propane tank, a generator, and ground disturbance surrounding the single-family dwelling (Exhibit A.9: C-1 through C-4). Those two structures would typically be allowed without review under MCC 38.1005(A)(4) and the associated ground disturbance would be reviewed under a Grading and Erosion Control permit. In both cases, the cumulative effect of the placement of the structures and ground disturbance is minimal, as the structures are fairly small and the ground disturbance was temporary. Therefore, this criterion is met. *This criterion is met.*

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

Staff: As was previously found in T2-2014-3346, the applicant has supplied the required information. This information is supplemented in this application as the applicant has included photos of the single-family dwelling, lighting summary, and landscaping details (Exhibit A.4, A.5, and A.9). *This criterion is met.*

* * *

(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: As was previously found in T2-2014-3346, the expansion of the dwelling was dependent on the location of the single-family dwelling, therefore requiring the development to be located in its current location. As part of this application, the applicant is requesting a new review to ascertain whether the subject property can be topographically seen from the HCRH KVA. The applicant has included topographic profiles and a scaled model of the subject property in relation to the KVA (Exhibit A.3: A-1 through A-3 and Exhibit A.8). The profiles and model indicate that the subject property is topographically screened as the slope from the HCRH to the subject property ensures that the subject property cannot be seen from the KVA. *This criterion is met.*

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

Staff: As discussed above, the applicant has included topographic profiles and a scaled model of the subject property in relation to the KVA. The profiles and model indicate that the subject property is topographically screened as the slope from the HCRH to the subject property ensures that the subject property cannot be seen (Exhibit A.3: A-1 through A-3 and Exhibit A.8). The existing topography ensures that the subject property achieves visual subordination from the HCRH KVA. *This criterion is met.*

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

Staff: As discussed previously, the applicant has provided information showing that the existing topography achieves visual subordination without the need for vegetation. As such the existing tree cover is not used for screening purposes. Therefore, the existing tree cover does not need to be retained except as required under MCC 38.7035(C), which is discussed in Section 7.1.3. *This criterion is met.*

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

Staff: The original dwelling and driveway were constructed between 1977 and 1981. As the driveway and building already exist, there are no cut banks or fill slopes proposed as part of this application. Nor will the driveway or building be designed or sited to minimize the visibility of cut banks or fill slopes. *This criterion is met.*

(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: As was previously found in T2-2014-3346, the exterior of the dwelling was reviewed and was found to be composed of nonreflective materials and materials with low reflectivity. The applicant has also included photos of the single-family dwelling demonstrating that the materials are nonreflective or materials with low reflectivity (Exhibit B.4). *This criterion is met.*

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

Staff: As was previously found in T2-2014-3346, a condition of approval was required to ensure that the exterior lighting was directed downward and sited, hooded, and shielded. The applicant has failed to meet the condition of approval. As part of this application, the applicant has included photos of the single-family dwelling and a lighting detail demonstrating that the exterior lighting meets the requirements above and is not highly visible from the HCRH KVA (Exhibit A.4 and A.5). Although the subject property cannot be seen from the KVA due to the topography, the lighting could potentially be visible if the lighting is directed upwards or reflected off vegetation that is at a higher elevation, therefore a condition will be required that any exterior lighting be directed downwards. *As conditioned, this criterion is met.*

(12) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

Staff: As discussed in Section 5.00, the single-family dwelling is existing and no change in color is proposed for the single-family dwelling, therefore this criterion is not applicable. *This criterion is not applicable.*

(13) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

Staff: As discussed in Section 5.00, the single-family dwelling is existing and no change in color is proposed for the single-family dwelling, therefore this criterion is not applicable. *This criterion is not applicable.*

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

Staff: The single-family dwelling was constructed permitted in 1977 and constructed in 1979. The structure is 41 years of age and not eligible for the National Register of Historic Places. This is supported by a letter from Chris Donnermeyer, United States Forest Service – Columbia River Gorge Scenic Area Heritage Resources Program Manager. The letter stated that a “A Historic Survey is: Not required” (Exhibit D.1). Therefore, this criterion is not applicable. *This criterion is not applicable.*

(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: As discussed in Section 5.00, the single-family dwelling is existing and no change is proposed for the single-family dwelling, therefore this criterion is not applicable as no new buildings are proposed. *This criterion is not applicable.*

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

- (a) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and**
- (b) There is no practicable alternative means of altering the building without increasing the protrusion.**

Staff: As was previously found in T2-2014-3346, the alteration of the dwelling was reviewed and was found to not protrude above the skyline. The single-family dwelling is located at a height of approximately 570 feet, which is 100 feet lower than the ridge of the HCRH (Exhibit A.3: A-1 through A-3 and Exhibit A.8). *This criterion is met.*

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

- (a) New landscaping (including new earth berms) shall be required only when there is no other means to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual 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: As discussed above, the applicant has included topographic profiles and a scaled model of the subject property in relation to the KVA. The profiles and model indicate that the subject property is topographically screened as the slope from the HCRH to the subject property ensures that the subject property cannot be seen (Exhibit A.3: A-1 through A-3 and Exhibit A.8). As the existing topography ensures that the subject property achieves visual subordination from the HCRH KVA no new landscaping is required to screen the development from the HCRH KVA. *This criterion is met.*

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

Staff: The subject property is not located on land designated GMA Forest; therefore, this criterion is not applicable. *This criterion is not applicable.*

* * *

(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: No new buildings are being proposed as part of this application. The existing single-family dwelling failed to meet the Conditions of Approval as laid out in T2-2014-3346. As in that case, the single-family dwelling was found to be on slopes less than 30 percent. As no changes are proposed for the single-family dwelling, this criterion is still met. *This criterion is met.*

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

- (a) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:

- 1. Existing and proposed final grades;

2. Location of all areas to be graded, with cut banks and fill slopes delineated; and
 3. Estimated dimensions of graded areas.
- (b) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
1. Its purpose;
 2. An estimate of the total volume of material to be moved;
 3. The height of all cut banks and fill slopes;
 4. Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);
 5. A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of plants, size and location, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and
 6. A description of any other interim or permanent erosion control measures to be utilized.

Staff: As part of this application, the applicant has also submitted a Grading and Erosion Control permit to discuss ground disturbing activities that occurred on the subject property. The ground disturbance was in relation to the placement of the propane tank and generator on the subject property. Additional ground disturbance also occurred as the property owner cleared an area adjacent and to the east of the single-family dwelling.

Based on the information provided in the Grading and Erosion Control permit, the applicant did not conduct structural development that involved more than 100 cubic yards on a site visible from a Key Viewing Area. Therefore, these criteria are not applicable. *These criteria are not applicable.*

* * *

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

* * *

(3) Rural Residential

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

Staff: The applicant has included a site plan that shows the existing and proposed tree cover on the subject property (Exhibit A.9: Sheet 3 and Sheet 4). As required above, the existing tree and proposed tree cover is not required to be removed for site development, safety purposes, or as part of forest management practices. Therefore, the existing tree cover shall be retained as much as possible. If trees are removed due to safety purposes, they shall be replaced so that the general density of tree cover is maintained. *As conditioned, this criterion is met.*

- (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: As discussed previously, the subject property is not visible from KVAs. As such, this standard is not applicable. *This criterion is not applicable.*

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

Staff: This application does not include a proposal for a recreation use; therefore, this criterion is not applicable. *This criterion is not applicable.*

* * *

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

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

Staff: The subject property is not located in the foreground of a Scenic Travel Corridor. As measured the subject property, located on NE 365th Avenue, 0.27 miles from the edge of pavement of the Historic Columbia River Highway. Therefore, the criteria in MCC 38.7035(D) are not applicable. *These criteria are not applicable.*

* * *

7.2 § 38.7045 GMA CULTURAL RESOURCE REVIEW CRITERIA

7.2.1 (A) Cultural Resource Reconnaissance Surveys

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

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

Staff: Chris Donnermeyer submitted a Cultural Resource Survey Determination on August 29, 2019 stating that “A Cultural Resource Reconnaissance Survey is: Not required” as the proposed use or element of the propose use, “would occur on a site that has been determined to be located within a low probability” and “Does not occur within 500 feet of a known cultural resource” (Exhibit D.1). *These criteria are met.*

* * *

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

Staff: The single-family dwelling was permitted in 1977 and constructed in 1979. The structure is 41 years of age and not eligible for the National Register of Historic Places. This is supported by a letter from Chris Donnermeyer, United States Forest Service – Columbia River Gorge Scenic Area Heritage Resources Program Manager. The letter stated that a “A Historic Survey is: Not required” (Exhibit D.1). Therefore, a historic survey is not required. *These criteria are not applicable.*

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

Staff: As a cultural resource review is not required, these criteria are not applicable except for MCC 38.7045(L) and (M). As MCC 38.7045(L) and (M) are required to be met, a condition will be added to ensure compliance. *These criteria are not applicable except MCC 38.7045(L) and (M).*

8.0 Resource Review Criteria

8.1 § 38.7055 GMA WETLAND REVIEW CRITERIA

(A) The wetland review criteria shall be deemed satisfied if:

- (1) The project site is not identified as a wetland on the National Wetlands Inventory (U.S. Fish and Wildlife Service, 1987);**
- (2) The soils of the project site are not identified by the Soil Survey of Multnomah County, Oregon (U.S.D.A. Soil Conservation Service, 1983) as hydric soils;**
- (3) The project site is adjacent to the main stem of the Columbia River.**
- (4) The project site is not within a wetland buffer zone; and**
- (5) Wetlands are not identified on the project site during site review.**

Staff: There does not appear to be any wetlands on the subject property. In reviewing the National Wetland Inventory and soils, the maps indicate that there are not inventoried wetlands and the soils on the property are classified as 27D (Mershon silt loam), which are not identified as hydric soils. The subject property is also not located adjacent to the main stem of the Columbia River and no wetlands were identified on the project site during the site review. *These criteria are met.*

8.2 § 38.7060 GMA STREAM, LAKE AND 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:

- (1) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:**
 - (a) Increase the size of an existing structure by more than 100 percent,**
 - (b) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or**
 - (c) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.**

(2) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(3) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(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. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(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.

(b) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet.

(c) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community and shall comply with MCC 38.7055 (G) (3), substituting the term pond or lake as appropriate.

(2) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(3) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Planning Director may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Planning Director shall, at the project applicant's expense, obtain professional services to render a final delineation.

(4) Proposed uses in streams, ponds, lakes, and riparian areas and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

Staff: The subject property contains a stream. The stream is classified as a Perennial stream as shown in the Statewide Wetland Inventory map (Exhibit A.11). The applicant contests the delineation and has provided additional information as required in MCC 38.7060(E) to adjust the boundary delineation. The report completed by Hans B. Berge, Senior Aquatic Scientist at Cramer Fish Sciences, evaluates the drainage feature on the property. Based on a site visit to the property the report found:

"After inspection of the property, it is obvious that the topography in the hydrography is incorrect and the noted lines are an approximate change in elevation, but do not correspond with the actual drainage pathway, watershed boundary, or water source (e.g., perennial initiation point)."

The summary of findings found:

“In my best professional judgment, the watercourse on the Fischer Property is not a defined feature and is simply a series of low places where water accumulates. It does not function as a channel under and flow scenarios, and would therefore not be considered an intermittent stream.”

Based on the information provided by the applicant, the final delineation indicates that there are no intermittent streams on the subject property and therefore the requirements of MCC 38.7060 are not applicable. *These criteria are not applicable.*

8.3 § 38.7065 GMA WILDLIFE REVIEW CRITERIA

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

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

8.4 § 38.7070 GMA RARE PLANT REVIEW CRITERIA

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

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

8.5 § 38.7080 GMA RECREATION RESOURCE REVIEW CRITERIA

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

* * *

(B) Recreation Intensity Class 2

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

Staff: The subject property is located within the Recreation Intensity Class 2, however the applicant is not proposing any recreation based uses; therefore, these criteria are not applicable. *These criteria are not applicable.*

9.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the NSA Site Review to correct compliance issues relating to the removal and

replacement of trees, updated lighting, deck expansions, and other associated development in the Gorge General Residential (GGR-5) zone. This approval is subject to the conditions of approval established in this report.

10.00 Exhibits

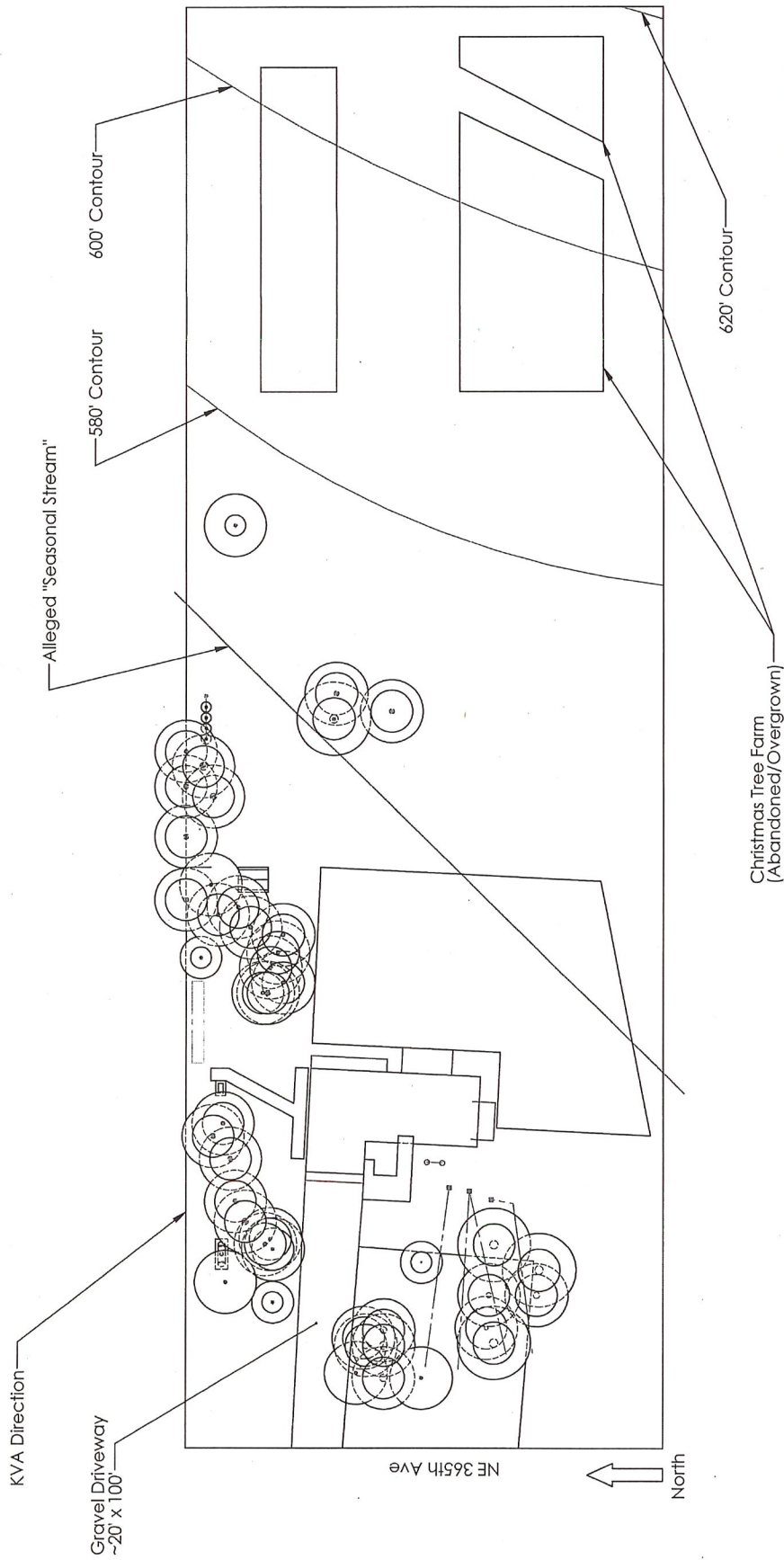
- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits
- ‘D’ Comments Received

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. Exhibits included as part of the mailed decision have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2019-12360 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	NSA Application Form	08/15/2019
A.2	3	Applicant Narrative	08/15/2019
A.3	9	Site Plans (11” x 17”) <ul style="list-style-type: none"> - Exhibit A-1: Topo Map Sheet 1 of 3 - Exhibit A-2: Topo Map Sheet 2 of 3 - Exhibit A-3: Topo Map Sheet 3 of 3 - Exhibit A-4: Aerial Image of Historic Columbia River Highway Viewing Area - Exhibit A-5: Contours of the Region - Exhibit A-6: Street Image of NE 365th Ave - Exhibit C-1: Lot Plan Overview Sheet 1 of 4 - Exhibit C-2: Lot Plan UR-2013-3206 Items Sheet 2 of 4 - Exhibit C-4: Tree Planting Sheet 4 of 4 	08/15/2019
A.4	3	Lighting Summary and Building Elevations	08/15/2019
A.5	2	Exterior Photos	08/15/2019
A.6	10	Site Plans (11” x 17”) <ul style="list-style-type: none"> - Sheet No. 1: General Notes and Site Plan - Sheet No. 2: Floor Plan – Schematic Foundation Plan and Lower Floor Plan - Sheet No. 3: Floor Plan – Lower Mechanical/Electrical and First Floor Framing Plan - Sheet No. 4: Floor Plan – Upper Floor Plan - Sheet No. 5: Floor Plan – Upper Floor Mechanical/Electrical and Roof Framing Plan - Sheet No. 6: Exterior Elevations - Sheet No. 7: Exterior Elevations - Sheet No. 8: Building Sections - Sheet No. 9: Building Sections - Sheet No. 10: Building Sections 	08/15/2019
A.7	7	Updated Applicant Narrative to address Incompleteness Items	02/11/2020

A.8	1	Scaled model of elevation from East Historic Columbia River Highway to the subject property	02/11/2020
A.9*	3	Updated Site Plans (11" x 17") - *Exhibit C-1: Lot Plan Overview Sheet 1 of 4 - Exhibit C-2: Lot Plan UR-2013-3206 Items Sheet 2 of 4 - Exhibit C-3: Tree Removal Sheet 3 of 4 - *Exhibit C-4: Tree Planting Sheet 4 of 4	02/11/2020
A.10	1	Photo of removal of unpermitted structure	02/11/2020
A.11	21	Evaluation of a drainage feature on your Property Report written by Hans B. Berge, Senior Aquatic Scientist, Cramer Fish Sciences on February 10, 2020	02/11/2020
'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART) Property Information for 1N4E35BC -00300 (#R944350700)	08/15/2019
B.2	1	Division of Assessment, Recording, and Taxation (DART) Property Information Map with 1N4E35BC -00300 (#R944350700) highlighted	08/15/2019
B.3	1	Aerial Photo from Summer of 2019	07/15/2020
B.4	13	Land Use Case T2-2014-3346	07/15/2020
'C'	#	Administration & Procedures	Date
C.1	36	Agency Review	08/22/2019
C.2	1	OR SHPO Submittal Form	08/22/2019
C.3	1	Email correspondence with SHPO Case #19-1398	09/03/2019
C.4	3	Incomplete Letter	09/13/2019
C.5	1	Applicant's Acceptance of 180 Day Clock	10/07/2019
C.6	1	Complete Letter (Day 1)	03/12/2020
C.7	4	Opportunity to Comment	07/24/2020
C.8	24	Administrative Decision	
'D'	#	Comments Received	Date
D.1	2	USDA Forest Service – Cultural Resources Survey Determination submitted by Chris Donnermeyer, Heritage Resources Program Manager, Columbia River Gorge National Scenic Area	08/29/2019
D.2	1	Letter from Jamie French, M.A., Oregon Parks and Recreation Department (OPRD) – State Historic Preservation Office (SHPO)	09/19/2019
D.3	9	Email and Letter from Steven D. McCoy, Staff Attorney, Friends of the Columbia River Gorge	08/07/2020

4 3 2 1



710 NE 365th Ave, Corbett			
TITLE: Overview			
SIZE	DWG. NO.	REV	
B	Lot Plan		
SCALE: 1:50WEIGHT:		SHEET 1 OF 4	



Exhibit C-1

4 3 2 1

4

3

2

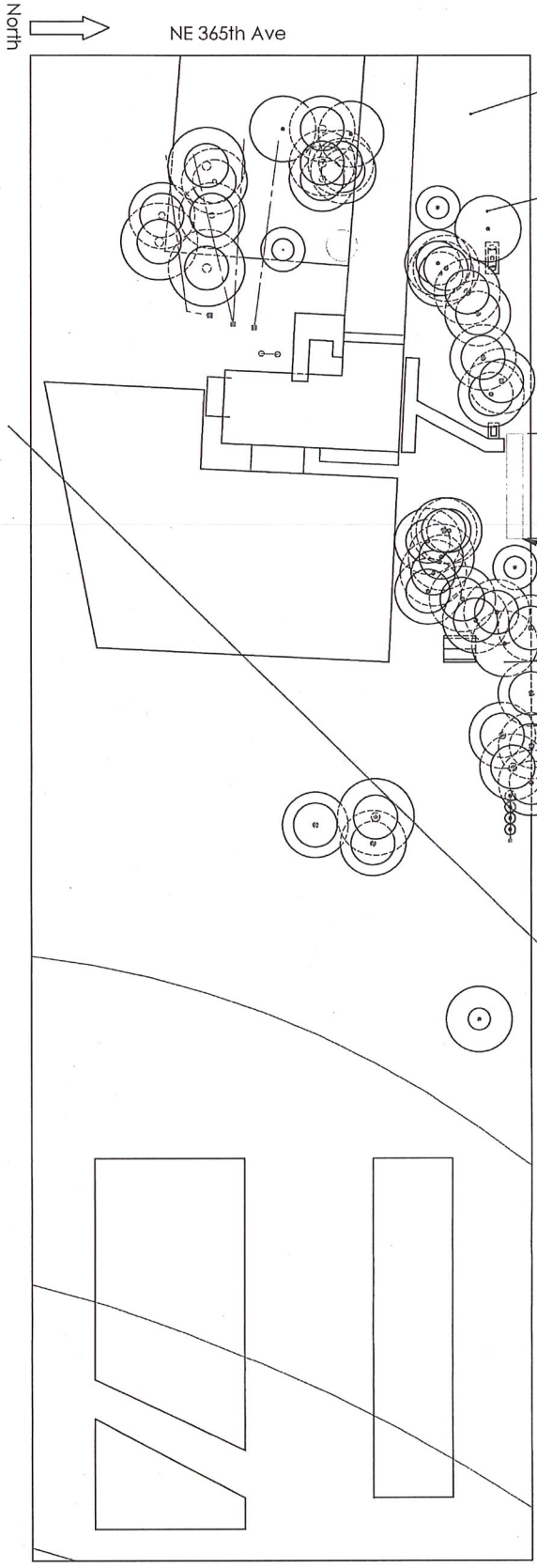
1

Street Tree
1 Native Dogwood
Plant in 2020 (6' Tree)

1 Native Cedar
(2' Tall in 2019)

North Property Line Trees
1 Native Cedar (2' Tall in 2019)
Non-solid row of Arborvitae

40 Feet



North

NE 365th Ave

A

B

A

B

Exhibit C-4

4

3

2

1

TITLE:
710 NE 365th Ave, Corbett

Tree Planting

SIZE DWG. NO. REV
B Lot Plan
SCALE: 1:50WEIGHT: SHEET 4 OF 4