

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1074

Amending MCC Chapter 38, Columbia River Gorge National Scenic Area, Relating to Historic Properties Management Plan and Declaring an Emergency

(Language ~~stricken~~ is deleted; double underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County is committed to implementing the Historic Properties Plan Amendment, as outlined in a letter to the Gorge Commission from the Chair of the Multnomah County Board of Commissioners, dated February 1, 2006. This Plan Amendment amended the Management Plan for the National Scenic Area, creating a process and criteria for approving certain commercial uses of historic properties as an incentive for property owners to preserve historic buildings and make them accessible to the public.
- b. Section 7, of the Scenic Area Act requires counties that choose to implement the Act, adopt ordinances that are consistent with the plan amendments within nine (9) months of date it was delivered. The Plan Amendment was delivered to the County on January 25, 2006, meaning that the County must adopt an implementing ordinance by September of 2006. The Board committed to adopting an implementing ordinance in a compressed time frame, with the final hearing by the Board to be held by May 2006.
- c. In the interest of providing meaningful public involvement in crafting an implementing ordinance, Multnomah County has held two public workshops in Corbett, on March 2, 2006 and March 16, 2006.
- d. Notice of the Planning Commission hearing, which was held on April 17, 2006, in Corbett, was published in the Oregonian newspaper and the Gresham Outlook Newspaper and copies were mailed to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, Oregon Department of Transportation, and Oregon Department of Fish and Wildlife. Notice was also mailed to persons owning property within the Multnomah County portion of the National Scenic Area as well as persons who signed in at either of the public workshops held by the County or at the public workshops held by the Gorge Commission when originally considering the amendment to the Management Plan.
- e. On April 17, 2006, the Planning Commission, after taking testimony at a public hearing, deliberated and made amendments to portions of the proposed Ordinance that address neighborhood impacts commonly associated with commercial uses, including noise, hours of operation, compatibility with the character of the area, sanitation, parking, and compliance with conditions of approval. The Planning Commission approved a resolution recommending the Board of Commissioners adopt an Ordinance amending Parts 4, 5 and 7 of Chapter 38 of the Multnomah County Code that incorporates their amendments.
- f. Notice of this Board of County Commissioners meeting, which was held on April 27, 2006, was published in the Oregonian newspaper on April 17, 2006, and in the Gresham Outlook newspaper on April 8, 2006. Additionally, the Clerk of the Board, emailed, faxed, US mailed and posted to

the web the April 27th Board meeting agenda on April 20th. These notices were sent to an extensive list of distribution customers which may be obtained at the office of Clerk of the Board.

- g. Proposed amendments to Parts 4, 5 and 7 of Chapter 38 of the Multnomah County Code, discussed in the April 17, 2006 staff report and addendums, as amended by the Planning Commissioners Resolution are a product of the public input received at and after the two public workshops and the Planning Commission hearing held on April 17, 2006, in Corbett. They effectively implement corresponding sections of the amended Management Plan. The County cannot adopt rules that are less stringent than the Management Plan, but can adopt rules that provide greater protection to scenic, natural, cultural and recreation resources of the gorge. The proposed amendments respect these constraints.
- h. The Board held a public hearing on April 27, 2006, where all interested persons were given an opportunity to appear and be heard.

Multnomah County Ordains as follows:

Section 1. MCC §§ 38.2030, 38.2230, 38.2430, 38.2830, 38.3030, and 38.3230 are amended as follows:

38.2030 Conditional Uses

(A) The following conditional uses may be allowed on lands designated GGF, pursuant to the provisions of MCC 38.0045 and 38.7300:

* * * * *

(10) Special uses in historic buildings, subject to MCC 38.7380.

* * * * *

38.2230 Conditional Uses

(A) The following conditional uses may be allowed on lands designated GGA, pursuant to the provisions of MCC 38.0045 and 38.7300.

* * * * *

(23) Special uses in historic buildings, subject to MCC 38.7380.

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38.2430 Conditional Uses

The following conditional uses may be allowed on lands designated GGRC, pursuant to the provisions of MCC 38.0045:

* * * * *

(M) Special uses in historic buildings, subject to MCC 38.7380.

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38.2830 Conditional Uses

(A) The following conditional uses may be allowed on lands designated GG– PR, pursuant to the provisions of MCC 38.0045, 38.7300 (E) and 38.7080 (E) (1) and (3) through (7):

* * * * *

(4) Special uses in historic buildings, subject to MCC 38.7380.

(B) The following conditional uses may be allowed on lands designated GG– CR, pursuant to the provisions of MCC 38.0045, 38.7300 (E) and 38.7080 (E) (1) and (3) through (7):

* * * * *

(5) Special uses in historic buildings, subject to MCC 38.7380.

* * * * *

38.3030 Conditional Uses

(A) The following conditional uses may be allowed on lands designated GGR, pursuant to the provisions of MCC 38.0045 and MCC 38.7300 (C):

* * * * *

(14) Special uses in historic buildings, subject to MCC 38.7380.

* * * * *

38.3230 Conditional Uses

The following conditional uses may be allowed on lands designated GGC, pursuant to the provisions of MCC 38.0045 and MCC 38.7300:

* * * * *

(F) Special uses in historic buildings, subject to MCC 38.7380.

Section 2. MCC §38.4205 is amended as follows:

38.4205 Minimum Required Off-Street Parking Spaces

* * * * *

(B) Public and Semi-Public Buildings and Uses

(1) Auditorium or Meeting Room (except schools) – One space for each 60 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.

(2) Church – One space for each 80 square feet of floor area in the main auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.

(3) Church Accessory Use – In addition to spaces required for the church, one space for each ten persons residing in such building.

(4) Club or Association – These shall be treated as combinations of uses such as ~~hotel~~overnight accommodation, restaurant, auditorium etc., and the required spaces for each separate use shall be provided.

* * * * *

(C) Retail, ~~and~~ Office and Commercial Uses

- (1) Store, and Personal Service Shop – One space for each 400 square feet of gross floor area.
- (2) Service and Repair Shop – One space for each 600 square feet of gross floor area.
- (3) Bank or Office, including Medical and Dental – One space for each 300 square feet of gross floor area.
- (4) Restaurant, Coffee Shop, Tavern or Bar – One space for each 100 square feet of gross floor area.
- (5) Mortuary – One space for each four chapel seats or eight feet of bench length.
- (6) Overnight Accommodations- One space per guest room or suite plus extra spaces for dining rooms, ballrooms or meeting rooms as required by this section where the capacity of such areas exceeds the capacity of the guest rooms or suites.
- (7) Commercial Events- One space for every three guests allowed within the maximum event size plus one space for each two employees
- (8) Conference or Retreat Facilities- These shall be treated as combinations of uses such as overnight accommodations, restaurant, auditorium, etc., and the required spaces for each separate use shall be provided.

* * * * *

(G) Alternative Parking Standards

Alternatively, where a mixture of uses is proposed or where the applicant asserts that a different amount or type of parking is appropriate as the required parking, the applicant may submit a parking and loading study. Such a study will include estimates of parking and off-street loading demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. The study will document the source of data used to develop the recommendations for identification of the use's required parking.

Section 2. MCC Chapter 38 is amended to add § 38.7380 as follows:

§ 38.7380 Special Uses in Historic Buildings

(A) Definitions

- (1) For the purposes of this section, the term “historic buildings” refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to MCC 38.7380(F)(1)(a).
- (2) For the purposes of this section, the term “subject property” refers to the parcel or group of parcels in common ownership that have been historically used in conjunction with an historic building.

(B) As established in each zone, the following uses shall be allowed on properties with buildings included on the National Register of Historic Places. All uses authorized under this section shall be subject to the provisions of MCC 38.7000-38.7085 and MCC 38.7300.

(1) The properties shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with 38.7380(G) and 38.7380(F) except 38.7380(F)(1)(a), 38.7380(F)(1)(b)(iii) and 38.7380(F)(1)(b)(iv). This use is not subject to the parking limits and associated "Facility Design Guidelines" in MCC 38.7080.

Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.

(2) Properties which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with MCC 38.7380(G) and 38.7380(F) except 38.7380(F)(1)(a), 38.7380(F)(1)(b)(iii) and 38.7380(F)(1)(b)(iv).

The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. The capacity of the use may include any decks, terraces, or patios that were used as part of the former use and that existed on January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.

(3) Properties shall be permitted to hold commercial events, subject to compliance with MCC 38.7000-38.7085, MCC 38.7380(G) and MCC 38.7380(F) except 38.7380(F)(1)(a).

(C) The following uses may be allowed as established in each zone on a property with a building included on the National Register of Historic Places and that was 50 years old or older as of January 1, 2006 subject to compliance with the standards of MCC 38.7000-38.7085, MCC 38.7300 and parts (D), (E), (F), and (G) of this section.***

(1) Establishment selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such an establishment shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within an approved establishment selling food and/or beverages shall be considered a part of the approved use.

(2) Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of lawfully existing rooms in the historic building as of January 1, 2006.

*** (However, if the Columbia River Gorge Commission determines that this section is inconsistent with Plan Amendment PA-05-02, the following language shall replace the above language.)

(C) The following uses may be allowed as established in each zone on a property with a building either on or eligible for the National Register of Historic Places and that was 50 years old or older as of January 1, 2006 subject to compliance with the standards of MCC 38.7000-38.7085, MCC 38.7300 and parts (D), (E), (F), and (G) of this section.

(3) Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property

(4) A winery upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.

(5) Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006.

(6) A conference and/or retreat facility within a historic building, as the building existed as of January 1, 2006.

(7) Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.

(8) A gift shop within a historic building, as the building existed as of January 1, 2006 that is:

(a) incidental and subordinate to another approved use included in Guideline 1 of “Additional Review Uses for Historic Buildings”; and

(b) no larger than 100 square feet in area.

(9) Interpretive displays, picnic areas or other resource-based recreational day use activities on the subject property. This use is not subject to the parking limits and associated “Facility Design Guidelines” in MCC 38.7080.

(10) Parking areas on the subject property to support any of the above uses.

(D) Uses allowed by parts (B)(3) and (C)(3) of this section shall include all information required for the “Operational Plan for Commercial Events” as specified in MCC 38.7380(F)(1)(b)(iv). The following apply to commercial events at historic properties:

(1) Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel.

(2) The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

(E) Land use approvals for Special Uses in Historic Buildings shall be subject to review every five years from the date the original approval was issued.

(1) As part of this review, the applicant shall submit documentation on the progress made in implementing the “Protection and Enhancement Plan” required by MCC 38.7380(F)(1)(b).

(2) The County shall submit a copy of the applicant’s documentation to the State Historic Preservation Office (SHPO). The SHPO shall have 30 calendar days from the date this information is mailed to submit written comments. If the County’s determination contradicts comments from the SHPO, the County shall justify how it reached an opposing conclusion.

(3) The County shall revoke the land use approval if the owner has failed to substantially implement the actions described in the “Protection and Enhancement Plan” according to the schedule for completing such actions in this plan or if the property has not been used in compliance with applicable County rules or conditions of approval. The County may, however, allow such a use to continue for up to one additional year from the date the County determines the applicant has failed to implement the actions if the applicant submits a written statement describing:

(a) unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule;

(b) what progress the applicants have made towards completing such actions; and

(c) a proposed revised schedule for completing such actions.

(F) The following criteria apply to all proposed Special Uses in Historic Buildings in addition to the Site Review Criteria of MCC 38.7000-38.7085.

(1) Cultural Resources.

(a) All applications for uses listed in MCC 38.7380(C) shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in MCC 38.7045(D)(3). The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin “How to Apply the National Register Criteria for Evaluation” [National Park Service, National Register Bulletin #15].

Eligibility determinations shall be made by the County, based on input from the State Historic Preservation Office (SHPO). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPO. The SHPO shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the County’s determination contradicts comments from the SHPO, the County shall justify how it reached an opposing conclusion.

(b) Applications for Special Uses in Historic Buildings shall include a “Protection and Enhancement Plan” which shall include the following:

(i) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completion of such actions.

(ii) A statement addressing consistency of the proposed use with the Secretary of the Interior’s Standards for Rehabilitation of Historic Properties and the Secretary of the Interior’s Standards for Preservation of Historic Properties.

(iii) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior

additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.

(iv) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:

- Number of events to be held annually.
- Maximum size of events, including number of guests and vehicles at proposed parking area.
- Provision for temporary structures, including location and type of structures anticipated.
- How the proposed commercial events will contribute to protection and enhancement of the historic resource.

(c) The local government shall submit a copy of the "Protection and Enhancement Plan" to the State Historic Preservation Office (SHPO). The SHPO shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPO comments shall address consistency of the proposed use with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties, and the effect of the proposed use on the historic resource.

(d) Any alterations to the building or surrounding area associated with the proposed must be determined by the local government to be consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties. If the County's final decision contradicts the comments submitted by the State Historic Preservation Office, the County shall justify how it reached an opposing conclusion.

(e) The proposed use must be determined by the County to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the County's final decision contradicts the comments submitted by the State Historic Preservation Office, the County shall justify how it reached an opposing conclusion.

(2) Scenic Resources.

(a) New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials are prohibited.

- (b) Parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual sub ordinance.
- (c) Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days in one calendar year if the County determines that they will be visually subordinate from Key Viewing Areas.
- (3) Recreation Resources. The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.
- (4) Agricultural and Forest Lands.
- (a) The proposed use shall be compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.
- (b) The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.
- (c) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on nearby lands.

(G) The following standards address health, safety, and potential impacts to surrounding properties and apply to all proposed Special Uses in Historic Buildings.

- (1) Outdoor uses shall be limited to the hours of 7:00 am to 7:00 pm or sunset, whichever is later, except that between Memorial Day and Labor Day afternoon activities may extend to as late as 10:00 pm.
- (2) The use of outdoor amplification in conjunction with a use authorized under this section is prohibited. All amplification must be contained within the historic building associated with the use.
- (3) Parking shall be provided in accordance with the Minimum Required Off-Street Parking Spaces in MCC 38.4205. Existing off street parking and loading areas on a historic property shall be allowed to be used in their current configuration. New parking areas or expansions to existing parking areas shall meet the design and improvement standards of MCC 38.4100-38.4215 with the following exceptions.

MCC 38.4130(B) and (C) shall not apply to Special Uses in Historic Buildings. All required parking associated with the use shall be provided on the subject property.

Additionally, the surfacing requirements of MCC 38.4180(A) shall not apply. Instead, the surfacing requirements of MCC 38.7380(F)(2)(a) shall be employed.

- (4) Business identification or facility entry signs located on the premises may be allowed, subject to the provisions of MCC 38.0080.

(5) The proposed use shall be compatible with the surrounding area. Review of compatibility shall include but not be limited to impacts associated with the scale of the use, effects of noise, traffic generation, and hours of operation.

(6) The proposed use shall not create hazardous conditions.

(7) The proposed use shall not require public services other than those existing or approved in the area.

(8) If private services will be used, the applicant shall demonstrate the private service is or can be made adequate to serve the use.

Section 3. This ordinance, being necessary for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and this ordinance takes effect upon its signature by the County Chair.

Section 4. The amendments to Chapter 38, Columbia River Gorge National Scenic Area, will be effective when the Bi-State Gorge Commission has acknowledged that the amendments are consistent with the Management Plan and Act.

FIRST READING:

April 27, 2006

SECOND READING AND ADOPTION:

May 4, 2006



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy
Sandra N. Duffy, Assistant County Attorney