

**Proposed Amendments to the Draft Multnomah County Ordinance
Special Uses in Historic Buildings in the National Scenic Area**

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**Multnomah County Board of County Commissioners
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<p>§ 38.7380(A)(1). The term “historic buildings” refers to buildings included on 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).</p> <p>§ 38.7380(C). The following uses may be allowed as established in each zone on a property with a building included on 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.</p> <p>§ 38.7380(F)(1)(a). All applications for uses listed in MCC 38.3780(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</p>	<p>Proposal #1: Limit the scope of the ordinance to buildings actually listed on the National Register of Historic Places.</p> <p>Multnomah County should limit the scope of the amendment to buildings actually listed on the National Register of Historic Places. The County has the authority to make this change if it finds that it would result in greater protections for historic buildings.</p> <p>This change would increase protection and enhancement of historic buildings because it would require landowners to take the extra step of achieving National Register status prior to applying for new commercial uses. National Register status carries with it additional protections, guidelines, and rewards for the buildings under federal and local law. For example, National Register properties are (1) eligible for favorable tax treatment under federal law to facilitate historic rehabilitation, (2) eligible for federal grants-in-aid for historic preservation, (3) must be considered in a federal decisionmaking process when any federal planning decision may adversely affect the property. 36 C.F.R. 60.2. In addition, last summer, the Oregon legislature extended its special assessment “property tax freeze” program to 30 years for residential properties on the National Register if the program is endorsed by the local government. Oregon House Bill 2776 (2005) (Oregon Laws 2005, ch. 2776, § 2.)</p>
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<p>National Register Bulletin “How to Apply the National Register Criteria for Evaluation” [National Park Service, National Register Bulletin #15].</p> <p>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.</p>	<p>Apparently, neither the Gorge Commission nor Multnomah County have a complete list of exactly which properties are “eligible” for listing on the National Register or could become “eligible” in the future. According to County Planning Staff, 11 properties in Multnomah County are “clearly eligible,” while as many as 78 additional properties “may be eligible.” Thus, as many as 89 properties in Multnomah County could be converted to commercial facilities under the draft language in the ordinance.</p> <p>Given the uncertainty involving the scope of the proposal and its impacts, and given the additional safeguards that come with National Register status, the County should take the important step of limiting the ordinance to properties that are actually listed on the National Register.</p>
<p>§ 38.7380(G)(3). Parking shall be provided in accordance with the Off Street Parking and Loading standards of MCC 38.4100 through 38.4215. MCC 38.4130(B) and (C) shall not apply to Special Uses in Historic Buildings. All parking areas associated with the use shall be provided on the subject property and shall be located at least 30 feet from the outer boundary of the subject property. Additionally, the surfacing requirements of MCC 38.4810(A) shall not apply. Instead, the surfacing requirements of MCC 38.7380(F)(2)(a) shall be employed.</p>	<p>Proposal #2: Require all commercial parking lots to be located at least 30 feet from the outer boundary of the subject property.</p> <p>In order to protect conflicts with neighboring properties, a buffer for all commercial parking areas should be provided in order to protect neighboring property owners. The county should require a buffer of 30 feet from all lot lines for all commercial parking lots.</p>
<p>§ 38.7380(G)(9). All sanitary facilities associated with a use allowed under MCC 38.7380 shall be located within permanent buildings on the subject property.</p>	<p>Proposal #3: Require sanitary facilities to be located within permanent buildings on the subject property.</p> <p>Allowing the use of portable restroom facilities would likely increase the scope, size, and impacts of individual events and has the potential to adversely affect scenic, natural, recreational, and cultural resources. The County should address these concerns by requiring all sanitary facilities to be located within permanent buildings on the subject property.</p>

<p>§ 38.7380(G)(10). The owner of the subject property shall live on the property and shall operate and manage the use.</p>	<p>Proposal #4: Ensure that the owner of the subject property lives on the property and operates and manages the use.</p> <p>County rules for bed and breakfast inns in the National Scenic Area require the owner/manager to live on site. The County should require the same for Special Uses in Historic Buildings. Requiring the owner/manager to live on site has the potential to better ensure compliance with applicable rules and conditions of approval, and in many cases could ensure that commercial events remain incidental and subordinate to residential use. In addition, requiring the owner/operator to live on site could ensure that such persons are more available and responsive to addressing neighbors' concerns about traffic, noise, safety, and related issues.</p>
<p>§ 38.7380(G)(1). Outdoor uses shall be limited to the hours of 7:00 a.m. to 7:00 p.m. or sunset, whichever is later, except that between Memorial Day and Labor Day afternoon activities may extend to as late as 10:00 p.m. 9:00 p.m. Indoor uses except for overnight lodging shall be limited to the hours of 7:00 a.m. to 10:00 p.m.</p>	<p>Proposal #5: Require a year-round cutoff time of 9:00 p.m. for outdoor uses and 10:00 p.m. for indoor uses.</p> <p>The draft language would allow outdoor uses to continue until as late as 10:00 p.m.. This is unacceptable, because outdoor parties may continue past the cutoff time as the parties wind down. In addition, the cutoff times in the draft ordinance would change depending on the time of year, and can be any of three possibilities (7:00, 10:00, or sunset). This is unnecessarily confusing.</p> <p>The draft language would also allow indoor commercial events to continue 24 hours per day. Even indoor events have the potential to cause disruption as party guests exit the building and congregate on decks and parking areas.</p> <p>The County should apply a cutoff time of 9:00 p.m. year-round to all outdoor uses and 10:00 p.m. for all indoor uses. This will reduce noise impacts and conflicts with surrounding properties.</p>
<p>§ 38.7380(G)(2). The use of outdoor amplification and outdoor music in conjunction with a use authorized under this section is prohibited. All amplification and music must be contained within the</p>	<p>Proposal #6: Limit outdoor music to acoustic stringed instruments.</p> <p>Sound travels very easily in residential and rural parts of the Gorge, especially in summer months</p>

<p>historic building associated with the use.</p>	<p>when Gorge landowners are likely to be outside and likely to keep their windows open to enjoy summer breezes. In order to minimize impacts to neighboring landowners and recreational uses, the County should limit outdoor music to acoustic stringed instruments.</p>
<p>§ 38.7380(D)(7). Use of the subject property by buses, vans, shuttles, and similar vehicles for shuttling passengers to and from an event shall be limited to pickup and drop off only, with a maximum of 20 minutes per visit.</p>	<p>Proposal #7: Limit the impacts of shuttle vehicles by limiting their use to pickup and drop off only.</p> <p>The County Staff Report to the Planning Commission states at pages 3 through 4 that “[u]nder this proposed code, a landowner could seek to shuttle clients to their property from areas outside of the County’s jurisdiction, such as Portland or Gresham, provided they can substantiate in their conditional use application that the shuttles and other vehicles associated with the commercial use will be parked onsite.”</p> <p>The parking of shuttle vehicles on the property during commercial events could cause significant impacts to scenic, natural, and recreational resources. In the recent past, a Corbett resident who held commercial events without a valid land use permit allowed large tour buses to be parked on the property for hours at a time immediately adjacent to neighboring residences and fully visible from key viewing areas. The County should ensure against this kind of disruption by limiting shuttle vehicle use to pickup and drop off only.</p>
<p>§ 38.7380(D)(4). A maximum of 18 events may be held on the property during each calendar year.</p> <p>§ 38.7380(D)(5). Each event shall host no more than 100 guests and 50 vehicles per event.</p>	<p>Proposal #8(a): Provide limits in the ordinance of 18 events per year and 100 guests and 50 vehicles per event.</p> <p>As it stands, the draft ordinance language contains no limitations on the number of events per year, nor on the number of guests and vehicles per event. This gap in the ordinance is very likely to cause commercial events to exceed the requirement to be incidental and subordinate to the primary use of the property and to harm resources and uses on adjacent properties.</p> <p>Limiting the number of events per year and the number of people and vehicles per event would</p>

	<p>better protect surrounding uses and resources, would apply uniformly and fairly to all applicants, and would provide applicants and neighboring landowners with more certainty. This would also be consistent with the plan amendment, which expressly provides the County with the authority to address potential impacts to surrounding properties.</p>
<p>MCC § 38.7380(G)(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. Land use approvals for commercial events shall include conditions of approval limiting the number of allowed events per year and the number of guests and vehicles at each event.</p>	<p>Proposal #8(b): Ensure that the size, scope, and frequency of commercial events are evaluated on a case by case basis with conditions of approval.</p> <p>The Board of County Commissioners has expressed a desire to regulate the size, scope, and frequency of commercial events on a case by case basis. This proposal would ensure that this happens. It would require Planning Staff to set appropriate limits for each proposed commercial events facility on a case by case basis in order to ensure that the events are compatible with the surrounding area. The proposed language would work hand in hand with draft section 38.7380(F)(1)(b)(iv), which requires the applicant for a commercial event to propose limits on the number of events and the number of guests and vehicles at each event.</p>
<p>MCC § 38.7380(E). Land use approvals for Special Uses in Historic Buildings shall be subject to review every five two years from the date the original approval was issued.</p>	<p>Proposal #9: Require review of special use approvals every two years rather than every five years.</p> <p>The draft ordinance language would require the County to review special use approvals only once every five years. Because the plan amendment is extremely controversial and, if adopted, would likely be newly tested for the first time in Multnomah County, approvals should be reviewed more frequently than every five years.</p> <p>A review requirement of once every two years would provide better County oversight, allow for more citizen input, result in more applicant accountability, and more effectively protect and enhance historic resources.</p>