

Columbia River Gorge Commission
Meeting Minutes
November 15, 2005
A complete record of this meeting is available on audiotape

Location: Hood River County Administration Building, 601 State Street
Hood River, Oregon
Time: 9:00 a.m.

MEMBERS IN ATTENDANCE

Harold Abbe
Kenn Adcock
Jeffrey Condit
Doug Crow
Judy Davis
Dan Harkenrider
Jane Jacobsen-9:05 a.m.
Walt Loehrke
Jim Middaugh
Joe Palena
Joyce Reinig
Honna Sheffield

MEMBERS ABSENT

Roberta Kirk-excused

STAFF PRESENT

Martha Bennett, Executive Director
Angie Kenny, Planner
Brian Litt, Senior Planner
Jessica Metta, Planner
Kathy Obayashi-Bartsch, Administrative Assistant
Richard Whitman, Counsel

AUDIENCE PRESENT

Andersen, Steven. Cascade Planning Associates
Baird, Keri and Stu. Gresham, Oregon
Becker, Charles. City of Gresham, Oregon
Cornelison, Peter. Friends of the Columbia Gorge (FOCG)
Curran, Claudia. Corbett, Oregon
Curtis, Lee. Mid-Columbia Economic Development Department
Daily, Katy. FOCG
Darcy, Bill and Connie. Gorge Landowners United (GLU)
Davis, Richard. Corbett, Oregon
Flint, Doris and Lewis. GLU
Franz, Jan and Larry. Corbett, Oregon

Harrison, Mike. FOCG
Hocking, Sharon. Corbett, Oregon
Johnson, Ross. Corbett, Oregon
Keller, Deane. Lyle, Washington
Kelly, Virginia. Forest Service
Lang, Michael. FOCG
Law, Gary. Corbett, Oregon
Leipper, Bob. Troutdale, Oregon
Lichtenthaler, Eric. Corbett, Oregon
Metsger, Rick, Oregon State Senate
Miller, Bobbie. GLU
Pizanelli, Phil. Corbett, Oregon
Price, Sandy.
Quinn, Bud. Washougal, Washington
Reynolds, Jason. Oregon Consumer League
Rickert, Stephanie. Crown Point Historical Society
Scudder, Marilyn and Jim. Corbett, Oregon
Simione, Angelo. GLU
Smith, Patti. Oregon State House of Representatives
Stevens, Dixie. Corbett, Oregon
Swenson. Judy. Corbett, Oregon
Swyers, Cassie. Vancouver, Washington
Swyers, Rita. GLU
Thiemann, Phyllis. Columbia River Gorge Visitors Association
Thalhofer, Paul. City of Troutdale, Oregon
Thompson, Geoff. GLU
Thorsell, Kimberly. Corbett, Oregon
Tokos, Derrick. Multnomah County Planning Department
Williams, Marian. Portland, Oregon
Wolff, Emilie, Oregon Senator Jason Atkinson Office
Wooster, Wayne. Klickitat County Economic Development
Others were present during the day

Call to Order

Chair Davis called the meeting to order at 9:00 a.m. and roll was called. She introduced Richard Whitman, from the Oregon Attorney General's office who is serving as Counsel for the Commission on Plan Amendment PA-05-02.

Chair Davis said the purpose of today's meeting is to conduct a hearing to consider substantive modifications to an application to amend the Management Plan for the Columbia River Gorge National Scenic Area (PA-05-02) submitted by John Groen, representing Geoff Thompson.

She explained the procedures for the day. She said there are many people who wish to testify, so public testimony shall be limited to three minutes per person. She said the

Plan Amendment process is detailed by the Scenic Area Act and the Commission rule 350-50-030 and the hearing procedure is detailed in Commission rule 350-50-100.

Chair Davis asked the Commission to disclose any conflicts of interest and ex parte contacts. She said she received several letters at her home, had discussed the issue with Wasco County Court, had provided some public presentations where questions were asked and was approached by an individual expressing an opinion on the issue.

Commissioner Condit said he received several letters at his business, which were forwarded to the Commission office.

Commissioner Crow said he received two letters at his home and drove by the Viewpoint Inn.

Commissioner Reinig said she received several letters at her home and spoke to Hood River County staff and officials.

Commissioner Middaugh said he received letters at his work place.

Commissioner Loehrke said he spoke to the Skamania County Commissioners.

Commissioner Abbe said he received letters at his home.

Commissioner Adcock said he received letters at his home and had a few conversations with individuals about the issue.

Commissioner Jacobsen said she received letters and had conversations with individuals about the issue.

Chair Davis asked whether anyone wished to challenge the right of any of the Commissioners to participate in today's proceedings. There were none.

Public Hearing, Deliberation, and Possible Decisions on Application for Amendment of the Management Plan for the Columbia River Gorge National Scenic Area (PA-05-02)

Martha Bennett, Executive Director provided a summary of the process and said there have been several discussions with the parties involved. She said as a result of those discussions, the Commission has a full range of options before them, so the Commission may take testimony on all the options available.

Brian Litt, Senior Planner said the staff report addendum (see attachment A1-A4) was mailed out last week with three different appendixes. Appendix A is the staff modification on the blue paper, and Appendix B is the applicant's modification on green paper, and Friends of the Columbia River Gorge's (FOCG) modification is on pink paper. There are additional appendixes (see attachments A5-A6), appendix D on the

yellow paper, which includes minor changes to Appendix A and Appendix E on the brown paper is the text that the Commission was considering at its October 11, 2004 meeting to adopt the Plan Amendment application as it had been modified by the applicant and the Commission.

Litt said additional comments (see attachment A7) were distributed in the Commissioner packets as these comments were received after the mailing of the staff report.

Litt reviewed the alternative recommended by staff and the reasons for the recommendation. (see attachment A-1). He also summarized the minor revisions to Appendix A as represented by Appendix D (see attachment A-5).

Commissioner Sheffield asked about the difference between gift shops and art galleries. She said the proposal has a 100 square foot limit on gift shops but not on galleries. Litt said the 100 square foot limit would apply to a facility where an art gallery is not the primary use. It would be reasonable to expect that an art gallery would need a sales area so this limit was not placed on a gallery.

Commissioner Crow asked about wineries and how "local region" is defined. Litt said this is a term in the Management Plan under the agricultural section. He said while the term is not explicitly defined, Litt said an example of "local region" would be a winery in Dallesport could have grapes grown in Wishram, Lyle and nearby areas but would not use grapes grown in the Tri-Cities area.

Commissioner Reining asked Litt to clarify the requirements to be eligible for the National Historic Register to allow for adaptive reuse. Litt said the prerequisite is that the building be on or eligible for the Register. Eligibility for the Register is required but listing or applying to be listed on the Register is not required in the recommended modification. Commissioner Reining asked if a trailer or mobile home of over 50 years would be affected. Litt said these provisions only apply to a building that is eligible for the Register. He said it's possible but unlikely that a mobile home would qualify.

Commissioner Reining asked for clarification on the wine sales and tasting rooms and the requirement that the facility must exist on January 1, 2006. Litt said any new winery use does not have to exist on January 1st but the wine sales and tasting room must occur within the existing building footprint as the building exists on January 1, 2006.

Chair Davis asked Litt to provide clarification on what the Management Plan means when it says something is a "review use." Litt said a review use is one that must be applied for, reviewed and approved by the local government, through their land use permit process. The county provides a permit and all applicable Scenic Area regulations must be met by the application.

Chair Davis asked what is involved in getting a permit and Litt explained the procedure that an applicant would take. He said neighbors would be notified of the intended use,

would have the opportunity to comment on the proposed use and have the right to appeal.

Commissioner Jacobsen asked what neighbors would receive notice of a proposed use. Litt said a neighbor was defined somewhat differently based on the requirements of each county.

Commissioner Loehrke asked if there was a definition of a primary operator, Litt said there is no definition but an operational plan should address this aspect.

Commissioner Abbe asked if parking could be developed on an adjacent property. Litt said the intention was to address contiguous parcels of land under the same ownership. If the Commission or county approved a parking lot as part of the proposed use it must be on the subject property, which would be contiguous parcels of land under the same ownership.

Commissioner Reinig said the issue of off-site parking must be addressed. She provided an example off-site parking for the Multnomah Falls Lodge. Litt said the intent is to contain any newly developed parking to that subject property. Bennett said if the Commission wishes to prevent people from acquiring additional property to allow more parking, a date could be added to limit the impact.

Commissioner Reinig questioned the requirement that the property owner be the primary operator. She asked how the Multnomah Falls facility was operated as the Forest Service owns the property. Commissioner Harkenrider said the Forest Service only has responsibility for the Falls, the historic building and the trails. Oregon Department of Transportation (ODOT) owns all the parking area. Commissioner Reinig said she is concerned that by restricting the primary operation to the owner, opportunities may be unnecessarily restricted.

Commissioner Abbe said he is concerned about the how notice shall be provided to neighboring property owners. Bennett said the quarterly notice is intended to be a minimum but owners would be required to notify neighboring owners of all events.

Commissioner Crow asked if long term leasing of adjacent property would be considered for parking. Litt said leased property would not be considered a subject property, so parking would not be allowed on leased property.

Commissioner Crow said he found 22 historic properties in the Mosier area, 9 were covered in the Donovan and Associates report, 13 were looked at and the largest category were buildings that were too altered to be eligible. He asked if owners chose to restore an altered property with period materials, would they then be eligible. Litt said it may be possible that a building could be rehabilitated. Litt said Commissioner Crow's list was provided to Sally Donovan and Bruce Howard who reviewed these properties and found them too altered to meet the necessary criteria.

Chair Davis opened the hearing based on Commission rule 350-50-100 and asked the applicant for his testimony.

John Groen representing the owner of the Viewpoint Inn said this is a difficult situation because of the broader approach that is being considered today. He said at the October meeting, it was evident that the Commission wishes to assist the Viewpoint Inn. He provided a review of Appendix B (see attachment A-3) which is the applicant's alternative to the substantive modifications for PA-05-02. He said the applicant is willing to make a further revision and referenced page two item E. He said strike out all text from "exceed 150 guests, through calendar year" and includes the following language: "Outdoor commercial events shall not be allowed. This exclusion of outdoor commercial events does not preclude the outdoor exchange of vows in a wedding ceremony, provided that any reception take place within the restaurant facility."

He said if the Commission decides not to adopt a Gorge-wide approach, to consider the application that pertains only to the Viewpoint Inn. He referred to Appendix D (see attachment A-5) and commended staff for their work.

Mr. Groen said the primary concern expressed by FOCG was the impact of outdoor commercial events on others. His client is prepared to make the concession on outdoor events in respect to that concern. He said his client understands there is a county process that needs to take place before the Viewpoint Inn opens to the public.

Commissioner Sheffield asked Mr. Groen if the staff proposal would allow the owner to proceed with his plans and if the first part of the applicant's proposal is an operational plan. Mr. Groen said the staff proposal is sufficient and the first part of the applicant's proposal is an operational plan.

Commissioner Condit asked if he preferred the Commission approve the first part of the applicant's proposal and the staff proposal. Mr. Groen said he prefers the Commission take two actions and keep the Viewpoint Inn separate from the Gorge-wide approach, because of potential litigation.

Commissioner Condit said Appendix E (see attachment A6) appears to be the same option proposed in October. Mr. Groen said this was correct.

Commissioner Middaugh asked staff what the implications would be if the Commission made two separate actions. Bennett said staff must review this possibility and would advise the Commission after the hearing.

Mr. Thompson thanked the Commission for their votes at the last meeting both for and against the Viewpoint Inn. He said the Inn has the support of immediate neighbors who live adjacent to the property. He said the neighbors who have expressed concerns are over 1,000 feet away. He said there have been no illegal commercial events at the Inn and only private parties, weddings, reunions and other functions have been hosted. He explained what his plans were for the property.

Mr. Simione thanked the Commission for their votes at the last meeting both for and against the Viewpoint Inn. He said the issues and concerns raised at October's meeting have been addressed by the revisions. He said Multnomah County has expressed their support of the Viewpoint Inn. He said there is a difference between an adaptive reuse, such as a barn being renovated into a restaurant and this property which is already on the National Register and has a history of use as a restaurant and Inn. He pointed out the difference of how privately owned property (Viewpoint Inn) and a public property (Vista House or Multnomah Falls Lodge) is being regulated.

Chair Davis said she would first recognize the elected officials present.

Representative Patti Smith said she wrote a letter of support of the Viewpoint Inn in July, has discussed the issue with local Corbett neighbors and urged the Commission to support the Viewpoint Inn.

Senator Rick Metsger said he wrote a letter of support of the Viewpoint Inn. He expressed his support of the Inn and the importance of both conservation and economic development. He read Senator Vicki Walker's comments (see attachment B1). He urged the Commission to evaluate recreation intensity classes which was to be performed during Plan Review.

Dan Ericksen, Wasco County Judge said he had brought Todd Cornett, Wasco County Planning Director to answer questions. Judge Ericksen said the Gorge-wide approach is what the county supports as there should be an amendment that encompasses the entire Gorge and not just a single property. He said at the last meeting, Chair Davis was voting in accordance with the wishes of Wasco County. He expressed support of the staff recommendation and urged the Commission not to focus on types of events but on the impacts of events.

Charles Becker, Mayor of Gresham, Oregon spoke of the scenic beauty of the Gorge and urged the Commission to support the Viewpoint Inn and adoption of a Gorge-wide policy.

Paul Thalhofer, Mayor of Troutdale, Oregon spoke of the scenic beauty of the Corbett area. He said the Viewpoint Inn has been a restaurant and Inn and should be allowed to be operated as such. He said historic preservation and economic development should be supported. He urged the Commission to take two actions, an action on the Viewpoint Inn and an action on the Gorge-wide approach.

Emilie Wolff on behalf of Oregon State Senator, Jason Atkinson read from prepared testimony, expressing support of the Viewpoint Inn (see attachment B2).

Chair Davis recessed for a break at 11:22 a.m. and reminded the Commissioners to have no ex-parte contacts during the break. She called the meeting to order at 11:40

a.m. and asked if there were any representatives from Tribal governments. There were none. Chair Davis called for testimony from members of the public.

Steven Anderson said the owners of the Inn have support of their immediate neighbors, state senators and local officials.

Sandra Price expressed her support of the Viewpoint Inn and the owner, Geoff Thompson. She said she is engaged and hopes to have her wedding at the Viewpoint Inn. She also expressed her disappointment with the proceedings of the October meeting.

Eric Lichtenthaler said he respects preservation of historic structures. He asked the Commission to consider the distinction between preservation of historic buildings and creating an opportunity for commercial events that are taking place at a historic structure.

Dixie Stevens read from prepared testimony (see attachment C) expressing her opposition to any of the proposals being considered today.

Kim McGuire expressed her support of the Viewpoint Inn.

Sharon Hocking expressed her support of the Viewpoint Inn.

Joni Anderson said she is a former employee of the Viewpoint Inn and said Mr. Thompson is a great employer and expressed her support of the Inn.

Richard Davis said he is the closest neighbor to the Inn and expressed support of the Inn. He said to preserve the Inn, it's necessary for the Inn to generate revenue.

Rita Swyers read from prepared testimony (see attachment D), expressing support of the Inn.

Jan Franz said she is a nearby neighbor of the Viewpoint Inn and expressed her support of the Inn.

Larry Franz said he has lived adjacent to the Viewpoint Inn for over twenty years. He said the present owners of the Inn have maintained the grounds and any events have not had a negative impact.

Stephanie Rickert said she is the president of the Crown Point Country Historical Society and she supports the Viewpoint Inn. She said the Society is able to provide historical interpretive displays for the Inn and hopes the Commission will allow the Inn to reopen.

Claudia Curran read from prepared testimony and does not support a Gorge-wide approach or the proposed use of the Viewpoint Inn. She said the applicant wants to

capitalize on the beauty of the Gorge and the property. She said other private property owners purchase property with the knowledge of zoning and allowed uses, never anticipating that commercial activities would be allowed in such a setting.

Keri Baird expressed her support of the Viewpoint Inn.

Kimberlee Thorsell said she is Corbett resident and lives a little over 1,000 feet away from the Viewpoint Inn. She expressed concern that commercial events at the Viewpoint Inn would be allowed, even with the modifications announced today. She requested the Commission not allow outdoor music or large commercial activities as these activities greatly impact the neighbors of the area.

Cassie Swyers expressed her support of the Viewpoint Inn. She said the beauty of the area would not be reduced by allowing commercial use of the Viewpoint Inn property.

Phil Pizanelli said the issue of allowing commercial events in the Scenic Area is already in litigation and the Commission should not allow expanded commercial events. He urged the Commission not to support the Viewpoint Inn and said the burden of supporting the Inn is the responsibility of the owners.

Bobbie Miller read from prepared testimony (see attachment E) expressing her support of the Viewpoint Inn.

Nev Scott expressed her support of the Inn and preservation of historic properties in the Gorge.

Gary Miller said properties in the Special Management Area (SMA) should also be addressed. He said the Gorge-wide approach should encompass properties both in the General Management Area (GMA) and the SMA.

Michael Lang of Friends of the Columbia Gorge requested more time to testify for the purpose of going over the proposal Friends has submitted.. Mr. Groen said the FOCG is not the applicant and it would not be appropriate. Chair Davis said the three minute time limit applies.

Mr. Lang read from prepared testimony and submitted letters (see attachment F) from Gorge urban area business owners expressing their concern about the Gorge-wide approach and other letters of support for the FOCG proposal Appendix C (see attachment A-4). He said the FOCG proposal is a practicable alternative that was more consistent with the purposes and standards of the Act.

Nathan Baker of FOCG said FOCG is not opposed to a Gorge-wide solution but their proposal provides additional protections than what is in the staff proposal. He said the criteria for a Plan Amendment are not being met by this application because there is practicable alternative, which is the FOCG proposal.

Gary Kahn, representing FOCG said FOCG has provided the most practicable alternative and the proposed amendment will violate the Act as it violates the direction to restrict commercial activity to occur in existing urban areas or designated commercial zones. He said there was no study on the cumulative effects of a Gorge-wide approach that may apply to approximately 50 buildings.

Katy Daily, FOCG read from prepared testimony (see attachment G) from Brian and Cynthia Winter expressing their opposition to allowing commercial activity at the Viewpoint Inn.

Laurel Slater Macdonald said her family's historic property; the Bridal Veil Lodge in the Scenic Area is also a roadhouse comparable to the Viewpoint Inn. Her property is in the Special Management Area (SMA). She has operated it as a bed and breakfast for over 17 years. She said the property has been restricted by all the regulations based on the Act and the Plan. She asked if the staff proposal would restrict renovation work or alterations within the building as it exists in January 2006. Staff explained the restriction is intended to limit additions to the footprint of the building but alterations and renovations would be allowed within the existing footprint of the building as of January 1, 2006. The regulations would only apply if someone was proposing a new use.

Derrick Tokos, Multnomah County Principal Planner said the County Board of Commissioners support a Gorge-wide approach as was expressed in a letter at the October meeting. He said the issue of a GMA and SMA distinction was not discussed with the elected officials as their discussion was limited to protecting historic structures. He said the staff alternative provides a balanced approach and requested the following language added to the cultural resources section:

"Counties may limit the intensity of the use for health and safety or other reasons as provided in these guidelines, even if the use would otherwise be compatible with the historic character of the building or site."

Mr. Tokos said the reason for this request is that it's better to have clear language, clearly stating the authority of counties. He said with respect to guideline nine, it is prudent to define a time period for any extension. He said the original proposal was presented to the County Board of Commissioners, and they did not have the opportunity to review the revised staff proposal.

Jason Jobe said he is in the restaurant business and the proposed restaurant use is not a huge restaurant venture. He expressed support of the Inn and urged the Commission to consider the Inn independent of a Gorge-wide approach.

Judy Swenson expressed her support of the Viewpoint Inn.

Wayne Wooster, representing Klickitat County Economic Development expressed support of a Gorge-wide approach. He expressed concern that the applicant would get caught in litigation related to a Gorge-wide policy. He urged the Commission to adopt both a Gorge-wide approach and to adopt the applicant's proposal.

Chair Davis asked if there was anyone else wishing to testify. There was no one. Chair Davis recessed for a lunch break at 1:00 p.m. and reconvened the meeting at 2:13 p.m.

Chair Davis recognized Mr. Groen and asked him to respond to the testimony. Mr. Groen said it is significant that Multnomah County would support a Gorge-wide approach. Groen said the applicant is relying that the county will implement this policy even if FOCG files a lawsuit. He said some of the other Management Plan revisions were not enacted by the county because of possible litigation and hopes that this will not be the case with this policy. Groen said Appendix D (see attachment A5) provides a regulatory framework, protects resources and encourages historic preservation in a responsible manner. He said his applicant's proposal also achieves these goals. He suggested a severability clause is added to Appendix D to assist in protecting the applicant from litigation related to the Gorge-wide approach. He suggested specific language.

Mr. Groen responded to the public testimony. He said one comment was made that Mr. Thompson said on the Lars Larsen show that he would make millions from the Inn. Groen said Mr. Thompson had actually said there could be millions of dollars in the Oregon economy as a result of reopening the Inn. He said as to the comment that Mr. Thompson is able to afford 50 thousand dollars in attorney fees, Groen said that he had provided legal services for no fee.

Mr. Groen said FOCG asserts their proposal is a practicable alternative with a limit of 60 patrons for the restaurant. He said this is not a practicable alternative and read Carter Case's letter (see attachment H) stating the number of patrons needed for a viable restaurant operation. He said he has never written a letter to Cynthia Winter and has only met her once.

He said staff proposal is a workable option, which is acceptable to the applicant and Multnomah County supports a Gorge-wide policy. He thanked the Commission for their consideration and efforts on this matter.

Chair Davis closed the public hearing.

Commissioner Reinig said the applicants deserve an answer. She said it is a huge concession on the part of the applicant to forgo outdoor activities.

Chair Davis asked staff to comment on the possibility of creating two separate actions, one for the Viewpoint Inn and one for the Gorge-wide approach.

Bennett said staff does not believe the Commission can separate the specific actions. Mr. Groen agreed. Bennett said the Commission always has the option of returning to what was presented to the Commission in October if it does not wish to pass the substantive modifications.

Commissioner Palena said the issue is whether the Commission can resolve the Gorge-wide approach and meet the objectives of the applicant. Bennett said that Appendix D provides a Gorge-wide framework that also meets the objectives of the applicant. She said the Commission should deliberate on the recommended modification first.

Commissioner Condit said he is leaning toward the staff modification with a couple of adjustments. He said he voted in favor of the Viewpoint Inn application in October. Condit said a Gorge-wide policy is more legally defensible, and provides a better process. He favors this modification because the process provides for a local review where the impacts can be dealt with on a case by case basis. He said as to the significant change in circumstance criteria, currently under the Act, historic resources have no protection. The counties have indicated they are waiting for guidance on this issue. Under the Act, the Commission must protect cultural resources, therefore the Commission must take action on this matter.

Commissioner Condit said it's a common strategy to allow adaptive reuse of historic structures to encourage restoration and preservation of historic facilities. An economic incentive encourages people to renovate and maintain their historic buildings. He would oppose any large scale commercial use but believes this alternative provides a good regulatory framework to manage negative impacts. He said a Gorge-wide approach is the best public policy. He expressed support of the recommendations made by Multnomah County and the addition of a severability clause as requested by Mr. Groen.

Commissioner Adcock said during the nine years he has served on the Commission much progress has been made from improved relationships with private property owners to fewer legal appeals and expenses. He expressed his disappointment over the results of the October Commission meeting and said the Commission missed an opportunity. He said over 1,000 people supported the Viewpoint Inn and the Commission's decision snubbed them. He expressed his opinion, that the original Plan Amendment was hijacked and had this not occurred, it would have been approved. He thanked the applicants for their dedication and their willingness to make concessions. He said he would probably vote no on the Gorge-wide approach, in hope that the Viewpoint Inn application could be considered and he would support the Viewpoint Inn application.

Commissioner Abbe said the Commission has one application and the other owners of historic properties have been silent. He said it's gotten very complicated with the various alternatives.

Mr. Whitman clarified the options for the Commission. He said the first question for the Commission is whether the proposed staff alternative is more consistent with the goals and purposes of Act and meets the criteria for a Plan Amendment. Should the Commission decide it is not consistent with the Act and does not meet the criteria, the Commission may reconsider the original Viewpoint Inn application.

Bennett said there is evidence in the record to suggest that the issue of preservation and protection of cultural resources is more than one property owner's issue.

Commissioner Middaugh said he supports a Gorge-wide approach and the Commission should consider this alternative as it is much better public policy.

The Commission requested Bennett to review Appendix D (see Attachment A5) with the specific items that staff and/or Counsel believe the Commission should address.

Bennett referred to Appendix D; page one, item two, the second to last sentence. She said this may need some clarification as it currently reads: "The capacity of restaurant use and overnight accommodations shall be limited to that existing in the building as of January 1, 2006." Mr. Whitman said it's not clear if the term capacity refers to the restaurant and overnight accommodation as they exist in January 2006 or the building. He suggested the following sentence replace it: "The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use(s) and the use(s) must be contained within the limits of the building as it existed on January 1, 2006."

Bennett said on page two, under paragraph 4, subparagraphs A, D, E, F, G and H to replace the word "it" with "the building".

Bennett said on page three, item six B. The applicant suggested that the previous language is used and the Commission may choose to delete the adjective "planned" as in "planned events". Commissioner Middaugh said it was important that all neighbors receive notice of all events. Commissioner Sheffield asked if a neighbor could request not to receive a notice and Bennett said she was sure this could be resolved among the affected parties.

Bennett said on page four, item ten which reads "The property owner shall be the primary operator for all the above uses." She said there has been some comment that this is not necessary and the Commission may wish to discuss this issue.

Bennett said Mr. Groen suggests that a severability clause be added, perhaps by adding on another section on page four, which would be section eleven of Additional Review Uses for Historic Buildings. Mr. Whitman suggested the following language for the severability clause: "In the event, a court enters a judgment that one or more of the use authorizations provided for in paragraphs one through four of this section are invalid, the authorizations for the other uses in these paragraphs will be severed and remain in effect." He said the intent is if there is a legal challenge to a Plan Amendment and that one use is invalid, that it not necessarily invalidates all the other uses. Bennett agreed with Mr. Whitman.

Bennett said on page 3, item 8, Mr. Tokos suggests the following language:

"Counties may limit the intensity of the use for health and safety or other reasons as provided in these guidelines, even if the use would otherwise be compatible with the historic character of the building or site."

Bennett said if the Commission wishes to include such language, staff will work on the language for consistency with the rest of the Management Plan.

Bennett said Commissioner Abbe raised a concern about parking and referred to page six, item one under *Scenic Resources*. She said the Commission could set a date, such as January 1, 2006 at the end of the first sentence. This would prevent someone from purchasing adjacent property and claiming it was part of the subject property.

Bennett said on page three, item nine, the Commission could add language along the lines that the local government shall allow such use to continue for up to one year if the applicant submits a written statement and language would be added directing the local government to review the plan at the conclusion of that year.

Commissioner Middaugh said there seems to be considerable concern about the impact of outdoor events. Commissioner Sheffield said the issue seems to be the noise and perhaps outdoor events should have a limit to the noise rather than limiting the outdoor event.

Bennett said based on discussions and comments, outdoor events are a significant economic incentive but the impact of these events must be managed. During the Plan Review process, the Commission determined that Gorge counties have the right to manage these impacts on a local level.

Commissioner Condit said he favored the staff alternative as there are going to be regulatory conflicts by prohibiting outdoor events completely.

Commissioner Loehrke said limiting outdoor events is a significant issue and the counties can set their own nuisance guidelines as needed. The Commission should set a general guideline and the counties may impose additional guidelines as they see fit. Commissioner Palena concurred.

Commissioner Crow said he is indifferent about the property owner being the principal operator, supports Mr. Whitman's severability language and said there should be a way to set a cap on parking. He expressed his support to move forward with the proposal.

Chair Davis said she is favor of the Appendix D with the changes discussed as it protects historic properties, provides a Gorge-wide framework and will allow the Viewpoint Inn to move forward with their plans.

Commissioner Reinig said on page three, item nine, there should not be a change from five years to one year as this would not be fair to an applicant. She asked for clarification on this. Bennett said the extension, not the approval, is for one year. She

said the intent is should the county find there is an extenuating circumstance, the use would be allowed to continue for up to one year and then they would perform a review at the end of that year to determine the progress being made. Commissioner Reinig said the way it is written, it could be interpreted that a property owner has to go in every year and this is not reasonable or enforceable by the counties. Bennett said this is not the intention of the language as the intent was to create accountability of the property owner and allows the county to extend the use. Commissioner Reinig expressed her support of Commissioner Crow's comments that the property owner does not have to be the primary operator.

Commissioner Sheffield suggested the gift shop operation should be identified as a secondary use and not a primary use. Bennett said this language was used to simplify the code.

Commissioner Jacobsen said she supports Appendix D and is in favor of a Gorge-wide approach because she believes it will help facilitate economic development in the Gorge in a positive and responsible way. She said this was the reason for her decision at the last meeting as well.

Commissioner Condit made a motion to approve the staff proposal in Appendix D with the following revisions:

page one, item two, replace the second to last sentence as follows: "The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use(s) and the use(s) must be contained within the limits of the building as it existed on January 1, 2006."

page two, under paragraph four, subparagraphs A, D, E, F, G and H: replace the word "it" with "the building"

page three, item six B: restore the original language with the exception of the word "planned" as in planned events

page three, item nine, last sentence should read as follows: "The local government may however allow such a use to continue for up to one additional year from the date the local government determines the owner has failed to implement the actions,..."

page four, item ten: drop the guideline that requires the property owner to be the primary operator and replace it with a new item ten using the severability language as suggested by Mr. Whitman. The item should read as follows: "In the event, a court enters a judgment that one or more of the use authorizations provided for in paragraphs one through four of this section are invalid, the authorizations for the other uses in these paragraphs will be severed and remain in effect."

page three, item eight should read as follows: "Counties may limit the size, frequency or other aspects of a use allowed in this section for health, safety, or impacts to

surrounding properties as provided in these guidelines, even if the use would otherwise be compatible with the historic character of the property."

The Commission discussed how surrounding property is defined and Mr. Whitman said it generally is thought to be touching or contiguous at some point. Commissioner Condit said it's important that property owners other than properties abutting the subject property are considered as well. Commissioner Reinig expressed concern that an area neighbor who is not really close to the subject property could be significantly impacted by the subject parcel. Bennett said this problem exists in other Management Plan guidelines as well. Mr. Whitman suggested the Commission tie this to guideline eight, rather than talking about impacts on surrounding properties. He said it's an existing guideline and suggested that language is used.

Bennett suggested that Commissioner Condit move forward with his motion and staff will work on this item in the meantime.

Commissioner Condit said he would replace the first sentence on page six, item one as follows: A new parking areas associated with the proposed use shall be located on the subject property as it existed on January 1, 2006.

Commissioner Condit asked if Commissioner Middaugh wished to add a friendly amendment to the motion. Commissioner Middaugh referred to page two, item four A. He asked staff would it be possible to make changes that would make the building more in keeping with its historic character. Bennett said language in this item was developed to make the seating capacity clear and not a restriction on the renovation of the building.

Bennett suggested page three, item eight; first sentence should read as follows: "Counties may impose additional requirements to address health, safety and impacts to surrounding properties". She said surrounding properties is in the Management Plan already and guideline eight is what already exists for commercial events in the Management Plan. Commissioner Condit accepted the change as proposed by Bennett.

Commissioner Palena said there should be accountability for the property owner whether they are a primary operator of the proposed use of the subject parcel. He expressed concern that this is addressed. Commissioner Condit concurred with Commissioner Palena and said he believes that this accountability is already in place through city and county codes.

The motion was seconded by Commissioner Reinig.

Commissioner Harkenrider said the Plan Amendment will go before the Regional Forester on behalf of the Secretary of Agriculture for concurrence with the Scenic Area Act (Act) and he will recommend that the Amendment is found to be consistent with the goals and purposes of the Act. He said the discussion today reinforces to him the importance of addressing cumulative impacts in the Gorge through an indicators project.

Commissioner Adcock said there have been multiple addendums released in a short period of time and said after hours of discussion, the modifications are not clear. The original modifications discussed at the October meeting should be what the Commission is considering and not the latest proposal, Appendix D.

Commissioner Reinig moved for the previous question and vote on the main motion and Commissioner Sheffield seconded. The motion for the previous question passed 10 to 1.

Harold Abbe-aye
Kenn Adcock-no
Jeffrey Condit-aye
Doug Crow-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Jim Middaugh-aye
Joe Palena-aye
Joyce Reinig-aye
Honna Sheffield-aye

A vote was taken on the main motion and passed 10 to 1.

Harold Abbe-aye
Kenn Adcock-no
Jeffrey Condit-aye
Doug Crow-aye
Judy Davis-aye
Jane Jacobsen-aye
Walt Loehrke-aye
Jim Middaugh-aye
Joe Palena-aye
Joyce Reinig-aye
Honna Sheffield-aye

Other Business

Bennett outlined the procedure that will follow this action. She said a final order will be issued. Once the order is signed and staff has incorporated all of the changes made today into the text of the Plan Amendment, the Plan Amendment will be submitted to the Regional Forester who has been delegated authority by the Secretary of Agriculture to determine concurrence with the Act. The Regional Forester has 90 days to respond. If the Regional Forester concurs, then the ordinance will be transmitted to the Gorge counties, which have 270 days to enact any revisions. Bennett noted that staff believes that this Plan Amendment is mandatory for counties to have ordinances that are consistent with the Management Plan.

Once the counties have enacted these revisions, they will come before the Gorge Commission for consistency with the Management Plan and the Commission has 90 days to make this review. These revisions would go into effect in a local county code and then an individual may apply for a permit. Under the worst case scenario it could be 450 days before anyone may apply for a permit. The best case scenario would likely be nine months before anyone may apply for a permit. Commissioner Condit said this would have been the same process if the Viewpoint Inn application had been approved in October.

Adjourn

Chair Davis adjourned the meeting at 4:00 p.m.

The next regular meeting is scheduled for 12/13/05 at the Commission office in White Salmon, WA at 9:00 a.m.

Notes taken by Kathy Obayashi-Bartsch
Minutes approved on 12-13-05