



MEMORANDUM

TO: Gorge Commissioners and Interested Parties
FROM: Jessica Metta, Land Use Planner
DATE: March 1, 2007
SUBJECT: Addendum to the Director's Report for Plan Amendment PA-06-04

Columbia River Gorge Commission staff has recommended amending the *Management Plan for the Columbia River Gorge National Scenic Area* by changing the definition of horse boarding to allow non-profit horse boarding and adding the revised definition as a review use with additional approval criteria in the 10-acre Residential zone. The Director's Report on this proposed amendment was issued December 27, 2006 (posted on the Commission's website). An initial hearing on this proposed amendment was held on January 9, 2007, and was continued to the March 13, 2007 Commission meeting. Several issues were raised during that hearing and in a comment letter received from Bob Leipper since the hearing (copy enclosed). This Addendum to the Director's Report provides additional information addressing these issues.

1. How would this proposed amendment affect protection of Gorge resources?

A main question raised at the hearing and through public comments was how Gorge resources would be protected on a property where horse boarding is proposed. This issue can be answered by addressing the two questions outlined below.

A. What is a "Review Use"?

A review use is a use that is allowed only if it complies with all applicable guidelines protecting scenic, cultural, natural and recreation resources. All applications for review uses are sent to the U.S. Forest Service archaeologist to assess whether cultural resources would be affected. If a proposed use is near a sensitive plant or wildlife area, the application is sent to the appropriate state agency to assess whether those resources would be affected. The county or Gorge Commission planner reviewing the application determines whether scenic resources, recreation resources, and streams, ponds or wetlands (and their buffer zones) would be affected by the proposal. The proposal could be approved only if no adverse effects to Gorge resources—scenic, cultural, natural or recreation—would occur. Therefore, adding the revised horse boarding definition as a review use to the 10-acre Residential zone means that any horse boarding proposal would only be approved if it can be shown that the use could occur without adversely affecting scenic, cultural, natural or recreation resources.

B. Should the Gorge Commission determine the number of horses per acre that could be allowed?

The *Management Plan* does not set limits to the number of animals per acre in any animal operation. This includes horse boarding operations, commercial livestock operations, and private animal ownership, which

is not regulated in the *Management Plan*. Limiting the number of horses per acre in relation to the proposed plan amendment would be a policy change from the *Management Plan*'s current treatment of animal-related uses.

Staff researched what might be an appropriate number of horses per acre. However, even among horse professionals and resource agencies there is no agreed upon appropriate number of horses per acre to prevent resource impacts. This is because the number of horses an acre of land can support varies widely depending on many factors particular to the specific parcel of land being considered and how it is managed. These contributing factors include the extent and type of vegetation, soils capability, topography and aspect of the land, climate and pasture management. Choosing a gorge-wide number or different numbers depending on these factors (which may vary even on the same parcel) would be very difficult. For these reasons, staff does not recommend this approach.

2. What uses are allowed without review in the GMA Residential zone?

Several Commissioners raised this question during the hearing, to consider if non-profit horse boarding could be allowed without review as an agricultural use, and to weigh the potential effects of horse boarding in the Residential zone compared to uses allowed without review in that zone.

All agricultural uses except new cultivation are allowed without review. "Agricultural uses" include raising, harvesting, and selling crops; feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; dairying and the sale of dairy products; or any other agricultural or horticultural use. Agricultural use does not include livestock feedlots, which are not allowed in the Scenic Area. A discussion of why non-profit horse boarding could not be reviewed as an agricultural use is found on page 3 of this addendum.

Other uses allowed without review include the installation of several types of fencing and the repair, maintenance and operation of existing structures, including dwellings, agricultural structures and roads. Although not explicitly listed in the Management Plan as a use allowed without review, private animal ownership has never been regulated within the Scenic Area and is also considered allowed without review.

3. How would neighboring properties in the Residential zone be protected from potential nuisances?

Another question raised at the hearing and through public comments was how neighboring properties within the GMA 10-acre Residential zone would be protected from potential nuisances caused by horse boarding operations. This issue can be addressed by examining the first of four additional approval criteria for GMA Residential zones. In order to be approved, any application for horse boarding in the 10-acre Residential zone would be required to satisfy four additional approval criteria, the first of which requires that "the proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area; traffic generation; and noise, dust, and odors" (*Revisions to the Management*, pg. II-67).

Review for compatibility with the surrounding area requires the planner reviewing an application to consider existing land uses occurring on nearby properties. This includes what is occurring on those properties, how those uses look, and the amount of traffic, noise, dust and odors that are already occurring in the area. The planner then considers how the horse boarding operation would affect these existing conditions by examining how the operation would impact the area's visual character and how much traffic, noise, dust, and odors would be generated by the operation.

Traffic generation would be evaluated by considering the number of trips per day horse boarding is likely to cause as compared to that caused by typical residential uses. To adequately control dust and odors, the

planner would likely consider whether the proposal includes appropriate waste and pasture management. The planner may receive assistance in reviewing a proposal by the local conservation district or extension services. The approval for such a proposal might include conditions on the handling and siting of waste, the number of horses, and dust control (e.g. establishment and maintenance of sufficient vegetative cover). If an irreconcilable negative effect would occur, the application would either be denied or modified to mitigate the adverse effect.

Staff considered requiring a setback from adjacent parcels for horse boarding in the 10-acre Residential zone in order to protect neighbors from potential nuisances. A planner reviewing a proposal for horse boarding could impose setbacks through the criterion requiring compatibility with the surrounding area. Staff recommends leaving planners discretion to determine if a setback is needed on a case-by-case basis. In contrast, a one-size-fits-all approach would dictate a single setback that would be difficult to choose and would not work for every property. Additionally, all setbacks currently prescribed by the *Management Plan* are solely for the protection of Gorge resources and farm and forest uses; the *Management Plan* does not address setbacks for mitigation of conflicting land uses. Requiring setbacks for horse boarding to address potential nuisances would therefore be a policy change from the *Management Plan*'s current requirements for setbacks.

4. How have conditions changed to support adding horse boarding to the GMA 10-acre Residential zone?

As discussed in the Director's Report, there has been a significant increase in the number of horse rescue operations and activities occurring in the Pacific Northwest since adoption of the *Management Plan*. Within the last year, staff received new information about three existing or proposed horse rescue uses on separate parcels in the 10-acre Residential zone. The 10-acre Residential zone has a low density similar to that found in agricultural zones and which is conducive to owning and housing horses. In part because there are no provisions for horse rescue facilities in the *Management Plan*, two proposed horse rescue uses were ultimately accommodated through approval of other review uses: in one case, approval of a new accessory building or, in the other, an accessory use within an agricultural building. While horse rescue activities are occurring in the 10-acre Residential zone, they are treated inconsistently due to the lack of *Management Plan* provisions for this use. The proposed amendment language would provide a consistent approach to these uses that includes review of all the potential impacts to Gorge resources rather than just review of the buildings. For reasons of providing greater oversight and consistent treatment of this use, staff has recommended the proposed amendment include adding horse boarding as a review use to the GMA 10-acre Residential zone.

5. What alternatives to the proposed amendment were considered and why are they not recommended?

Questions were raised at the hearing and through public comments related to alternatives to the proposed amendment and why the proposed language was recommended. Scenic Area rules for plan amendment approval require that there be no practicable alternative more consistent with the purposes and standards of the Scenic Area Act than the proposed amendment. The various alternatives considered are outlined below.

A. Treat Horse Boarding as an Agricultural Use

The current definition of "agricultural use" in the *Management Plan* specifies that the primary purpose of the use is to obtain a profit in money by selling some sort of agricultural product. Non-profit horse boarding operations by definition do not make a profit and also do not sell an agricultural product; therefore they would not meet the current definition of "agricultural use." Additionally, for-profit horse boarding was

given its own review use in the *Management Plan* rather than being included in the definition of an “agricultural use.” This is because horse boarding does not obtain a profit by selling an agricultural product but rather by providing a service and hence is fundamentally different than an agricultural use. Non-profit horse boarding would therefore similarly not be considered an agricultural use.

A letter from Hood River County during the January 9 hearing raised the issue of the State of Oregon’s definition of a “farm use.” Oregon State Statute 215.203(2)(a) defines farm use to include “the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines.” The *Management Plan* addresses for-profit horse boarding through its own review use and clearly did not include this use in the definition of agricultural uses. The Oregon State definition therefore differs significantly from the *Management Plan* and would also not address non-profit horse boarding facilities. Revising the *Management Plan* definition to conform to Oregon’s approach raises other policy issues beyond the scope of this plan amendment (e.g. it would allow all horse boarding without review).

B. Allow Horse Boarding as an Accessory Use

An accessory use is one that is “incidental and subordinate” to the main use of the property; when the whole of a property is considered, one use stands out as the main use occurring on that property while other uses are accessory to the main use. However, a horse boarding operation could be considered the main use because it is typically a prominent use of the property and because of the amount of activity associated with the use. Because horse boarding is typically a primary use of a property where these operations occur, it could not be considered an accessory use.

Staff also considered requiring square footage limitations on buildings dedicated to horse boarding within the 10-acre Residential zone similar to those required for accessory buildings. In the Residential zone, accessory buildings are limited to a total combined footprint of 1,500 square feet. While for-profit horse boarding can include large buildings, any buildings for a horse boarding proposal would have to satisfy the scenic standard of visual subordination, would have to be compatible in size with existing nearby development, and would have to be compatible with the visual character of the surrounding area. Because any buildings would have to meet these guidelines that would make large buildings unlikely, staff did not believe it was also necessary to impose square footage limitations. Staff therefore does not recommend this approach.

C. Address the Issue in Plan Review

The existing horse rescue facility in the Scenic Area lacks permits for its current activities. The Commission cannot approve the existing facility under the *Management Plan* because the use is currently not allowed. Because the next Plan Review process will not begin for at least several years, waiting to address the proposed amendment would mean either indefinitely delaying an enforcement action against the organization or shutting the organization down at this time. Delaying review of the existing facility until Plan Review eliminates the Commission’s ability to regulate the use during the interim period, and closing the facility could result in the landowner claiming the horses as his personal property. This latter course of action would cause the Gorge Commission to lose control over regulating the use and its impacts because the *Management Plan* does not regulate private animal ownership. Therefore, waiting for Plan Review could result in adverse impacts to Gorge resources and would be less consistent with the purposes and standards of the Scenic Area Act.

D. Create a New Review Use

Staff also considered creating a new use that would describe a horse rescue center and adding this as a review use to the GMA Agricultural, Forest and 10-acre Residential zones. When considering how the new review use would be described, the description was actually very similar to for-profit horse boarding except

that the use is not operated “for a fee.” Staff felt that because of the similarities, it was more appropriate to slightly revise the definition of horse boarding than create a new use category.

Staff also considered adding a new review use called “animal rescue center” which would include rescue of other animals such as dogs and cats. Dog and cat rescue centers, however, usually occur in urban areas.¹ On the other hand, horse rescue centers generally require larger parcels of land than is found in urban areas and typically occur in rural areas where horses are often part of the landscape. Furthermore, it is anticipated that dog and cat shelters would have a greater degree of conflicts with rural residential uses (e.g. noise levels typically associated with those uses). For all these reasons, staff did not recommend adding “animal rescue center” as a new review use.

E. Allow Horse Boarding in Other GMA Residential Zones

The three parcels with horse rescue activities within the Scenic Area are located within 10-acre Residential zones. Staff believes that horse boarding can be added to the 10-acre Residential zone as a review use with additional approval criteria without negatively impacting Gorge resources or neighboring properties in the 10-acre Residential zone.

Other GMA Residential zones have 5-, 2-, or 1-acre minimum lot sizes. Horse boarding typically requires larger acreage than is generally found in denser Residential zones. Additionally, Residential zones with smaller lot sizes are more likely to have potential compatibility conflicts with the proposed use than the 10-acre Residential zone. Staff thus did not recommend that the revised definition of horse boarding be added to other GMA Residential zones.

F. Rezone an Area in Klickitat County

Staff also considered revising the definition of horse boarding to allow non-profit horse boarding and rezoning the currently-operating horse rescue center in Klickitat County from 10-acre Residential to Small-Scale Agriculture. Rezoning the area where the existing horse rescue center is located from 10-acre Residential to Small-Scale Agriculture would be inconsistent with the land use designation policies since this area does not meet the designation policies for agricultural land. Rezoning this one area would also not address the horse rescue activities occurring elsewhere in 10-acre Residential zones that would benefit from the proposed plan amendment if they expand their operations in the future.

G. Reject the Proposed Amendment

If this plan amendment is rejected, horse rescue organizations would not be allowed within the Scenic Area and horse boarding of any kind would not be allowed within the 10-acre Residential zone. Staff therefore would begin an enforcement action to close the existing horse rescue center. As explained in analysis of the Plan Review alternative above, closing the organization could result in the owner disbanding the organization and claiming the horses as his personal property. If this were to happen, the Gorge Commission would lose control over regulating the use and its impacts because the *Management Plan* does not regulate private animal ownership. Not allowing the use could therefore result in greater impacts to Gorge resources due to the loss of Commission oversight of the use and would be less consistent with the purposes and standards of the Scenic Area Act.

Enclosure

¹ Phone interviews with the Oregon Humane Society (Feb. 21, 2007), the Humane Society of the United States (Feb. 22, 2007), and Shelter Planners of America (Feb. 22, 2007).