

DEVELOPMENT REVIEW

Director's Decision

APPLICANT: Brian Aaron

FILE NO.: C08-0014-K-G-11

REQUEST: The applicant is seeking approval to construct an accessory building, a driveway, and install associated utilities on the subject parcel.

LOCATION: The subject parcel is located at 165 Lyle-Snowden Road in the SW ¼ of Section 21, Township 3N, Range 12E, W. M., Klickitat County, Washington.

LAND USE

DESIGNATION: The subject parcel is in the General Management Area and is designated Small-Scale Agriculture.

DECISION:

Based upon the following findings of fact, the land use application by Brian Aaron to construct an accessory structure, a driveway, and install associated utilities is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act (Public Law 99-663), and the Management Plan for the Columbia River National Scenic Area (Management Plan), and approvable under Commission Rule 350-81 and is hereby approved.

CONDITIONS OF APPROVAL:

The following conditions of approval ensure that the subject request is consistent with the standards of Section 6 and the purposes of the P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. **These conditions must be recorded in county deeds and records to ensure notice of the conditions to successors in interest.**

1. The first two pages of this decision shall be recorded in county deeds and records (Klickitat County Auditor's Office) to ensure notice of the conditions to successors in interest. The applicants shall submit a copy of the recorded decision to the Planning Manager prior to commencing the activity authorized by this approval.
2. The applicant shall contact the Klickitat County Building Department, the Klickitat County Health Department, and Washington State Department of Ecology and obtain any necessary permits from those agencies for the activity proposed in the application prior to commencing the work authorized by this approval.

3. The development shall be sited and constructed as shown on the site plan submitted with the application, dated September 4, 2008 and stamped "APPROVED". If changes to the location or design of the uses approved are proposed, a revised site plan and elevation drawings shall be submitted to the Planning Manager for review and approval prior to commencing the activity authorized by this approval.
4. A vegetated 50-foot buffer area from agricultural uses on adjacent property shall be maintained. All trees within 50 feet of the north and south property lines in and within 150 feet of the accessory building shall be retained and replaced if necessary. Removal of trees for safety reasons within this buffer may be allowed only with authorization by the Planning Manager.
5. If cultural resources are discovered during construction, all construction activities within 100 feet of the cultural resources shall cease and the applicants shall notify the Gorge Commission within 24 hours. The cultural resources shall remain as found; further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
6. If human remains are discovered during construction activities, all activities shall cease upon their discovery. Local law enforcement, the Planning Manager and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Planning Manager of the Gorge Commission.

DATED AND SIGNED THIS 9th day of October, 2008, at White Salmon, Washington.



Brian Litt
Planning Manager

EXPIRATIONS OF APPROVALS:

This decision of the Executive Director becomes void on the 9th day of October, 2010.

As per Commission Rule 350-81-044(6), an extension of the validity of a development approval may be requested. Such a request shall be submitted in writing prior to the expiration of the approval. The Planning Manager may grant an extension if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing the proposed development within the original time limitation. The Planning Manager shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

APPEAL PROCESS:

The appeal period ends the 8th day of November, 2008.

The decision of the Planning Manager shall be final unless a Notice of Intent to Appeal and Petition is filed with the Commission within thirty (30) days of the date of this decision by the applicant or any person who submitted comment. Information on the appeal process may be obtained at the Commission office.

NOTES:

Any new land uses or structural development such as residences; garages, workshops, or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review.

COMMENTS FROM OTHER INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the subject request was mailed to property owners within 200 feet of the subject parcel and the following individuals/agencies/governments:

- Yakama Nation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of Warm Springs Reservation of Oregon
- Nez Perce Tribe
- U.S. Forest Service National Scenic Area Office
- Washington Office of Archaeology and Historic Preservation
- Klickitat County Planning Department
- Klickitat County Building Department
- Klickitat County Health Department
- Klickitat County Assessor
- Friends of the Columbia River Gorge

Written comments were received from Ryan Couch, Legal Intern for Friends of the Columbia Gorge; Marge Dryden, Heritage Program Manager for the USDA Forest Service Scenic Area Office; Johnson Meninick, Manager of the Cultural Resource Program for the Confederated Tribes and Bands of the Yakama Nation; Mo-chi Lindblad, Klickitat County Planning Department, and Lu-Anne Stevens and Jim McColgin, adjacent property owners.

FINDINGS OF FACT:

A. Land Use

1. The Land Use Designation map in the *Management Plan for the Columbia River Gorge National Scenic Area* designates the subject 5.0 acre parcel Small-Scale Agriculture. The applicant is proposing to construct a barn to shelter horses. This structure would be an accessory use to the existing dwelling on the parcel. A short (approx. 20') extension of an existing road within the parcel is necessary to access the barn. An electrical power line is proposed to be extended from an existing pole near the dwelling to the barn.
2. Commission Rule 350-81-020(112)(a) defines "Parcel" to be any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. The parcel was legally created in 1982 as Lot 2 of Klickitat County Short Subdivision # 82-02. In 1991, boundary line adjustment #BL-91-03 decreased the size of the parcel from 7.26 acres to the current 5.0 acres. A mobile home was placed on the property in 1972 and is a legally established use on the parcel.

3. Commission Rule 350-81-020(2) defines “accessory structure/building” as:

A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use.”

The proposed barn is a detached structure that will be used to house horses owned by the resident of the parcel. The proposed utility line and driveway will serve this structure. The proposed barn and utility line meet the definition of accessory structure/building.

4. Commission Rule 350-81-190(1) states:

The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-540 through 350-81-590):...

(e) Accessory building(s) larger than 200 square feet in area and taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

The proposed accessory building measures 30’ x 36’, or 1080 square feet in area, and 16 feet in height. It is subject to the standards of 350-81-190(1)(e)(A) and (B). The existing accessory buildings on the subject parcel are a 16’ x 16’ garage and a 12’ x 12’ shed. The combined footprints of the existing (400 sq. ft.) and proposed (1080 sq. ft.) accessory structures totals 1480 square feet. The proposed building complies with the standards of 350-81-190(1)(e)(A) and (B).

4. Commission Rule 350-81-190(1)(d) lists other accessory structures and Commission Rule 350-81-190(1)(l) lists the construction of roads not in conjunction with agriculture as review uses. The proposed utility line and extension of the driveway to serve the barn are allowed review uses in the small-scale agriculture designation.
5. Commission Rule 350-81-076 includes setback guidelines for all new buildings proposed to be located on a parcel adjacent to lands designated Large-Scale or Small-Scale Agriculture and currently used for or suitable for agricultural use. Parcels on all sides of the subject parcel are designated Small-Scale Agriculture. Thus, new buildings

on the subject parcel must comply with the setback guidelines of Commission Rule 350-81-076.

Owners of the parcel to the north plan on installing a vineyard along the subject parcel's north property line, in the vicinity of the proposed barn. Commission Rule 350-81-076 requires a 50-foot buffer adjacent to vineyards if there is a natural or created vegetation barrier. The parcel to the south could also be used for vineyard production. A 50-foot natural vegetation barrier is specified from that parcel as well. The proposed building site is over 100 feet from the north and south property lines, and more than 200 feet from the east and west lines. Scattered pines and oaks between the building site and the property lines provide effective buffering from agricultural uses. A condition of approval will specify the minimum setback and the retention and maintenance of the existing trees between the proposed structure and the property lines.

Conclusion:

The subject parcel is a separate legal parcel, designated Small-scale Agriculture in the General Management Area. The proposed accessory building, access road and power line are allowed review uses subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

B. Scenic Resources

1. Commission Rule 350-81-520(1)(a) states:

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

A new building is included in this proposal, and a short (<20') driveway from an existing access road is proposed. The building site and driveway area will retain the existing topography and require only small amounts of grading activities due to the local topography. No major cuts or fills are required. The proposed siting is consistent with Commission Rule 350-81-520(1)(a).

2. Commission Rule 350-81-520(1) (b) states:

New buildings shall be compatible with the general scale (heights, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

The proposed structure measures 30' x 36'(1080 sq. feet) and is 16' in height. Other structures in the vicinity, including several residences and accessory buildings, range from less than 200 square feet to 3240 square feet in size. At least four of these are

larger than 2500 sq. feet and greater in height than the proposed building. The proposed barn is consistent with Commission Rule 350-81-520(1) (b).

3. Commission Rule 350-81-520(2)(a) states:

The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

The proposed barn location is not visible from KVAs due to topography. Ridges to the south and to the west block the proposed building site from view. Thus, the guidelines of Commission Rule 350-81-520(2) are not applicable.

4. The Landscape Settings map in the Management Plan classifies the subject parcel as Oak-Pine Woodlands. Commission Rule 350-81-520(3)(c) contains guidelines for new development in this landscape setting.

5. Commission Rule 350-81-520(3)(c)(A) states:

Structure height shall remain below the tree canopy level in wooded portions of this setting.

The barn will be approximately 16 feet in height. The tree canopy level is approximately 30 feet tall. The proposed structure is lower than the tree canopy level and is thus consistent with Commission Rule 350-81-520(3)(c)(A).

6. Commission Rule 350-81-520(3)(c)(B) lists guidelines for new development in portions of the Oak-Pine Woodland Landscape Setting visible from KVAs. Since the site is not visible from KVAs, these guidelines do not apply.

7. Commission Rules 350-81-520(3)(c)(C) states:

Resource-based recreation uses of varying intensities may be compatible with this setting...

No recreation uses are proposed. Commission Rule 350-81-520(3)(c)(C) is not applicable.

Conclusion:

The proposed development is consistent with applicable scenic resource protection guidelines in Commission Rule 350-81-520.

C. Cultural Resources

1. Commission Rules 350-81-540(1)(c)(A) and (B) include guidelines to determine when a cultural resource reconnaissance survey and a historic survey are required. Margaret

Dryden, U.S. Forest Service Archaeologist, reviewed the proposed use pursuant to these rules. Ms. Dryden determined that the proposed use did not require a historic survey as the use would not alter the exterior architecture of buildings or structures that are 50 years old or older nor would it compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older, pursuant to Commission Rule 350-81-540(1)(c)(B).

Ms. Dryden determined a reconnaissance survey of the proposed use was not required as the use would occur on a site that had been adequately surveyed in the past. A survey conducted in 2007 did not find any historic or archaeological resources on the subject property. The proposed use is thus exempt from reconnaissance survey requirements pursuant to Commission Rule 350-81-540(1)(c)(A)(ii)(V).

2. Commission Rule 350-81-540(2)(a)(A) allows interested parties who so request during the comment period to consult with the applicant regarding cultural resources. Johnson Meninick, Cultural Resource Program Manager of the Confederated Tribes and Bands of the Yakama Nation, requested that all proposed areas where new ground disturbance would occur be surveyed by a professional archaeologist and a determination for the protection of archaeological resources be made. The 2007 survey cited by Ms. Dryden meets this request.
3. Commission Rule 350-81-540(2)(c)(B)(i) states the cultural resource protection process may conclude when the following conditions exist:

The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.

As described above, the use does not require a reconnaissance survey, no resources are known to exist on the subject parcel, and all concerns voiced by interested persons were addressed. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

4. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval will alert the applicant to this requirement.
5. Commission Rule 350-81-540(7) protects human remains discovered during construction. It requires that if human remains are discovered after construction begins, all construction activities shall cease and the Gorge Commission, local law enforcement officials and the Indian tribal governments shall be contacted immediately. A condition of approval will alert the applicant to this requirement.

Conclusion:

With conditions requiring the cessation of work and Commission notification if cultural resources or human remains are discovered during construction, the proposed development is consistent with applicable cultural resources guidelines in Commission Rule 350-81-540.

D. Natural Resources

1. Commission Rule 350-81 protects wetlands (350-81-560); streams, ponds, lakes and riparian areas (350-81-570); sensitive wildlife areas and sites (350-81-580); and sensitive plants (350-81-590).
2. Gorge Commission inventories did not identify any wetlands or wetland buffer zones in the project area. Commission Rule 350-81-560 is not applicable.
3. Gorge Commission inventories identified an intermittent stream on the subject parcel that is not used by anadromous or resident fish. Commission Rule 350-81-570(7)(a)(B) requires a 50-foot buffer zone on each side of intermittent streams. The distance from the intermittent stream to the project area is greater than 50 feet. The project location is outside of the required buffer zone and consistent with Commission Rule 350-81-570.
4. The Gorge Commission's sensitive wildlife inventory identifies the subject property is within deer and elk winter range. Commission Rule 350-81-580(1)(a)(A) lists deer and elk winter range as a sensitive wildlife area. Commission Rule 350-81-580(4) contains guidelines for review of proposed uses within 1000 feet of sensitive wildlife areas and sites. Subsection (a) of this section requires that site plans for such uses be submitted to the Washington Department of Fish and Wildlife to review the application and: (A) verify the location of the wildlife area or site; (B) ascertain whether the wildlife area or site is active or abandoned; and (C) determine if the proposed use may compromise the integrity of the wildlife area or site or occur at a time when wildlife species are sensitive to disturbance. The application and site plan were submitted to Bill Weiler, Habitat Biologist for the Washington Department of Fish and Wildlife on July 14, 2008 and September 8, 2008 for review, pursuant to Commission Rule 350-81-580(4).
5. Commission Rule 350-81-580(4)(c) states:

The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

In an email on August 18, 2008, Mr. Weiler stated that he had “no fish and wildlife concerns” regarding the proposal. Mr. Weiler confirmed this by phone on September 15, 2008. Pursuant to Commission Rule 350-81-580(4)(c), the wildlife protection process may conclude.

6. Gorge Commission inventories did not identify any sensitive plants within 1000 feet of the subject property. Commission Rule 350-81-590 is not applicable.

Conclusion:

The proposed development is consistent with the applicable guidelines in Commission Rules 350-81-560 through 350-81-590 that protect natural resources.

E. Recreation Resources

1. Commission Rule 350-81-086 states:

If new buildings or structures may detract from the use and enjoyment of established recreation sites, an appropriate buffer shall be established between the building/structure and the parcel.

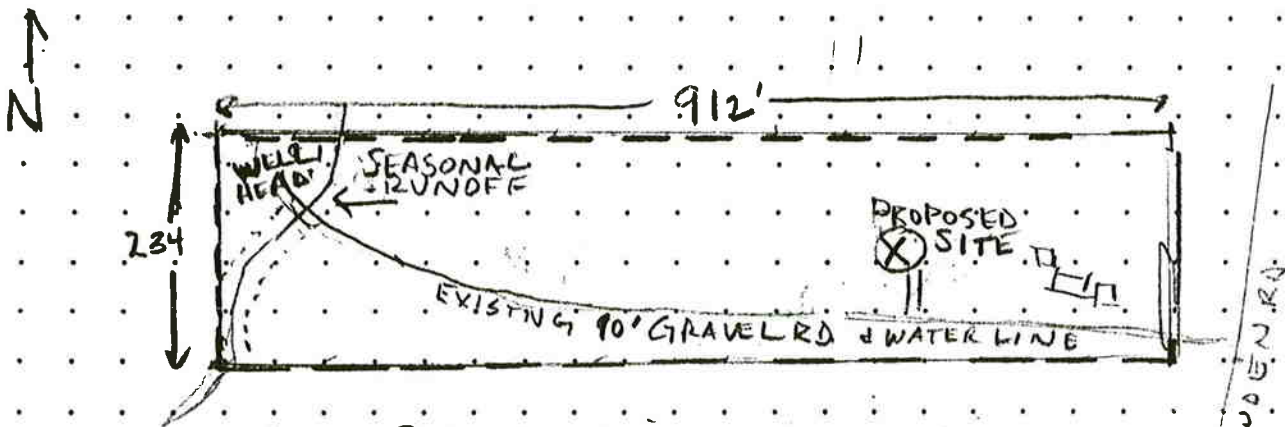
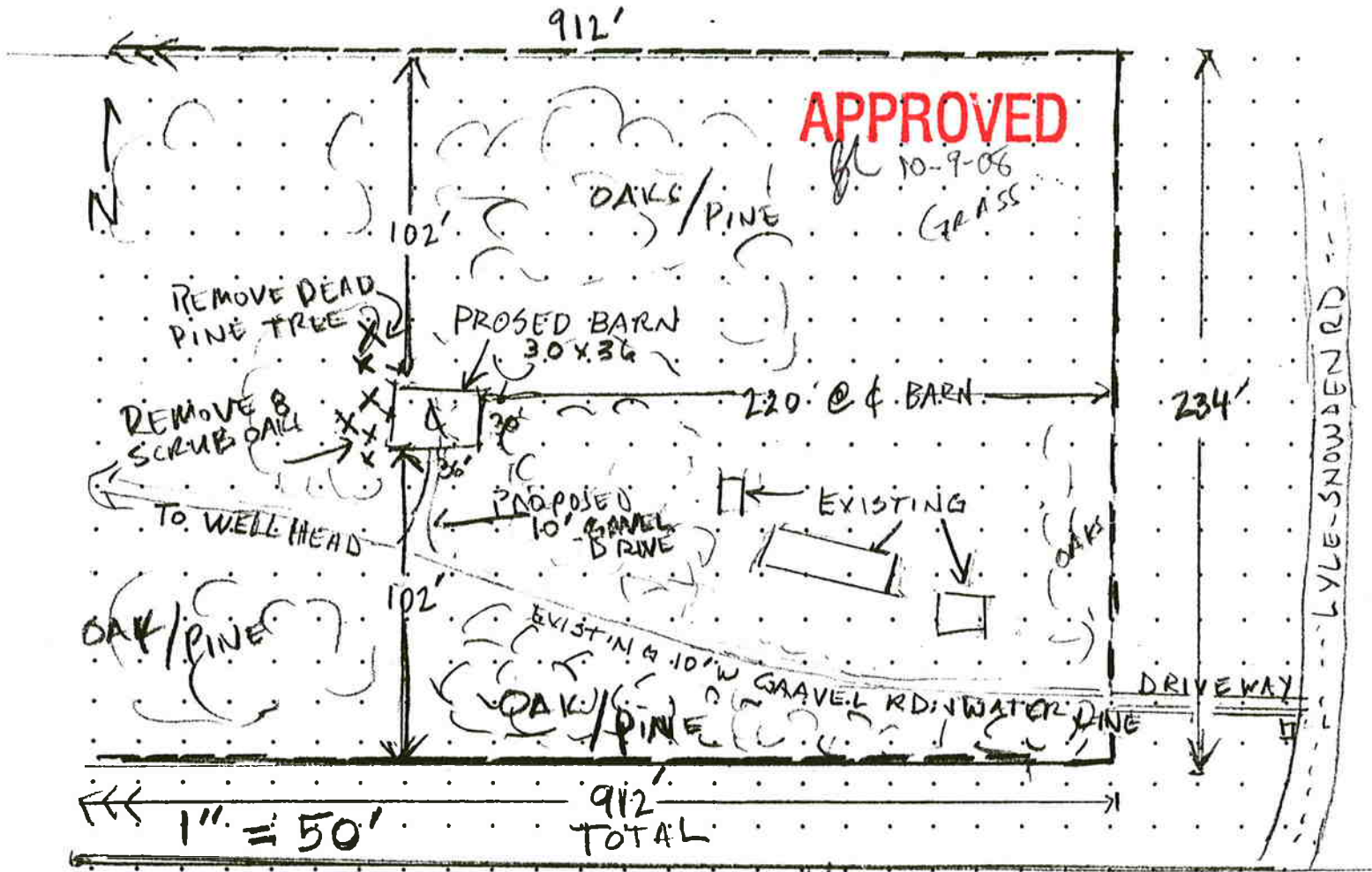
No recreation sites or facilities exist on parcels that are adjacent to the subject parcel.

Conclusion:

The proposed accessory building, driveway, and utility line would be consistent with Commission Rule 350-81-086 that protects recreation resources in the National Scenic Area.

cc: Confederated Tribes and Bands of the Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation
Nez Perce Tribe
Klickitat County Planning
Klickitat County Building
Friends of the Columbia Gorge
Bill Weiler, WDFW
Lu-Anne Stevens and Jim McColgin

TA
FIND0014.08



PROPERTY IS LOCATED @
16.5 LYLE-SNOWDEN RD.
LYLE WA. 98635.
APP; BRIAN D. MARON

MURDOCK RD

Each grid equals 50' x 50' at a scale of 1" = 200'.