

## **EXPEDITED DEVELOPMENT REVIEW**

### **Director's Decision**

**APPLICANTS:** Larry Shoman

**FILE NO.:** C08-0018-K-G-11

**REQUEST:** Approval to install three outdoor lights.

**LOCATION:** The subject parcel is located off Oak Creek Road in the SE 1/4 of Section 12, Township 2 North, Range 13 East, W.M., Klickitat County, Washington.

### **LAND USE**

**DESIGNATION:** The subject parcel is in the General Management Area and is designated Residential.

### **DECISION:**

Based upon the following findings of fact, the land use application by Larry Shoman to install three outdoor lights is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act (Public Law 99-663), Management Plan, and Commission Rule 350-81, and is hereby approved with conditions.

### **CONDITIONS OF APPROVAL:**

The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of 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 (Management Plan, Review Uses Guideline 1, pg. II-7-58).

1. The proposed outdoor lights shall be shielded, hooded and directed downward such that they are not highly visible from key viewing areas. If the yard light is used, an opaque shield or hood shall be added to satisfy this condition. If the boxed flood lights are used, they shall be directed downward (fully towards the ground) to satisfy this condition. Shielding and hooding alternatives must be submitted to the Executive Director for review and approval prior to installation.
2. If cultural resources are discovered during construction activities, all 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.

3. If human remains are discovered during construction activities, all activities shall cease upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

DATED AND SIGNED THIS 7<sup>th</sup> day of August 2008, at White Salmon, Washington.

  
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Jill Afens  
Executive Director

**EXPIRATION OF APPROVAL:**

*This decision of the Executive Director becomes void on the 7<sup>th</sup> day of August, 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 Executive Director 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 Executive Director 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 6<sup>th</sup> day of September, 2008.*

The decision of the Executive Director 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:

- Confederated Tribes and Bands of the 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 Gorge

Comments were received from adjacent property owners the Bokums, and Richard Till, Land Use Law Clerk for the Friends of the Columbia Gorge.

**FINDINGS OF FACT:**

A. Land Use

1. Larry Shoman is seeking approval to install three outdoor lights on existing buildings: one on the front of the existing garage, one on the back of the existing garage and a third on the existing dwelling's back patio.
2. The Land Use Designation map in the *Management Plan for the Columbia River Gorge National Scenic Area* designates the subject parcel Residential in the General Management Area (GMA) with a 10-acre minimum parcel size.
3. Commission Rule 350-81-050 contains a list of developments that may be reviewed using the expedited review process as long as they comply with the resource protection guidelines contained in 350-81-052. Commission Rule 350-81-050(1)(i) lists outdoor lights as a use eligible for expedited review. This proposal is eligible for expedited review pursuant to Commission Rule 350-81-050(1)(i), subject to review with the resource protection guidelines contained in 350-81-052.

Conclusion:

The outdoor lights are an allowed expedited review use, subject to Commission Rule 350-81-052 which protects scenic, cultural, natural, and recreation resources and treaty rights for uses reviewed through the expedited review process.

B. Scenic Resources

1. Commission Rule 350-81-052(1)(a) contains scenic resource protection guidelines for proposed developments being reviewed through the expedited review process. Only Commission Rule 350-81-052(1)(a)(D) applies to outdoor lights. Commission Rule 350-81-052(1)(a)(D) states:

*Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.*

The outdoor lights on the front of the garage and back patio would be visible from portions of Interstate 84, the only key viewing area (KVA) from which the property is

topographically visible. The outdoor light on the back of the garage is not visible from I-84 because it is screened by the garage. However, the general area that is illuminated by the light on the back of the garage is visible from I-84.

The proposed light on the front of the garage is a yard light-style. It would be installed under the eaves of the garage. There is no other siting option that would meet the outdoor lighting needs of the applicant while screening the light from key viewing areas. The light as proposed does not have a shield or hood to minimize visibility from key viewing areas and to direct the light downward. A condition of approval shall require the light to have a shield or hood to minimize visibility from key viewing areas and to direct the light downward.

The proposed light on the back of the garage and on the back patio are boxed flood light-style. The garage light would be screened from KVAs by the garage itself. The back patio light would be installed on a post attached to the wooden arbor covering the patio. There is no siting option for the back patio that would meet the outdoor lighting needs of the applicant while screening the light from key viewing areas. The boxed flood lights as proposed would be shielded and hooded from KVAs if the lights are directed downward (fully towards the ground). A condition of approval shall thus require these lights to be directed downward in this way.

With these conditions, the outdoor lights are consistent with Commission Rule 350-81-052(1)(a).

Conclusion:

With a condition requiring the lights to be directed downward, hooded, and shielded such that they are not highly visible from key viewing areas, the outdoor lights are consistent with the scenic resource protection guidelines in Commission Rule 350-81-052(1)(a) for expedited review uses in the National Scenic Area.

C. Cultural Resources

1. Commission Rule 350-81-052(b) includes the following cultural resource protection criteria:

(A) *The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to 350-81-540(1)(c)(A) or historic survey, pursuant to 350-81-540(1)(c)(B).*

(B) *The GMA guidelines that protect cultural resources and human remains discovered during construction [350-81-540(6) and (7)] shall be applied as conditions of approval for all development approved under the expedited development review process.*

As explained in Findings C.2 and C.3, the outdoor lights require neither a reconnaissance nor an historic survey. The GMA guidelines that protect cultural resources and human remains discovered during construction are applied in Findings C.4 and C.5 below. The proposal may therefore be reviewed through the expedited review process pursuant to Commission Rule 350-81-052(b).

2. Commission Rule 350-81-540(1)(c)(A)(ii) states:

*A reconnaissance survey shall be required for all proposed uses except:*

*(II) Proposed uses that would not disturb the ground, including land divisions and lot line adjustments; storage sheds that do not require a foundation; low intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.*

On July 8, 2008, Margaret Dryden, Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area, submitted a Cultural Resources Survey Determination. Ms. Dryden determined that a reconnaissance survey was not required as the use would not disturb the ground or occur within 500 feet of a known archaeological site. Thus, the outdoor lights do not require a reconnaissance survey pursuant to Commission Rule 350-81-540(1)(c)(A)(ii) and are consistent with Commission Rule 350-81-540(1)(c)(A).

3. Commission Rule 350-81-540(1)(c)(B) states:

*A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would 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.*

Ms. Dryden's Cultural Resources Survey Determination of July 8, 2008 also stated that a historic survey was not required as the use would not alter any structures that are fifty years old or older and would not be compromising any features of the surrounding area that are important in defining historic or architectural character of buildings or structures that are 50 years old or older. Therefore, a historic survey is not required, pursuant to Commission Rule 350-540(1)(c)(B).

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. While installation of the lights does not involve ground

disturbance, a condition of approval will alert the applicant to this requirement for any future development or construction activities on the subject parcels.

5. Commission Rule 350-81-540(7) protects human remains discovered during a cultural resources survey or 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. While installation of the lights does not involve ground disturbance, a condition of approval will alert the applicant to this requirement for any future development or construction activities on the subject parcels.

#### Conclusion:

With conditions requiring the cessation of work and Commission notification if cultural resources or human remains are discovered during any development or construction activities on the subject parcel, the outdoor lights are consistent with the cultural resource protection guidelines in Commission Rule 350-81-052(1)(b) for expedited review uses in the National Scenic Area.

#### D. Natural Resources

1. Commission Rule 350-81-052(1)(d) contains natural resource protection guidelines for review uses undergoing the expedited review process.
2. Commission Rule 350-81-052(1)(d)(A) requires that all proposed developments are outside any wetland, stream, river, pond or lake buffer zones in order to be reviewed through the expedited review process. It states:

*The development is outside buffer zones for wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.*

An intermittent stream that is not used by anadromous or resident fish on the subject parcel is approximately 150 feet from the proposed location of the outdoor lights. Commission Rule 350-81-570(7)(a)(B) requires a 50 foot buffer for intermittent streams that are not used by anadromous or resident fish. The proposed outdoor lights are outside this buffer and thus consistent with Commission Rule 350-81-052(1)(d)(A), and are therefore eligible for expedited review.

3. Commission Rule 350-81-052(1)(d)(B) contains guidelines that protect sensitive wildlife and plant species within the vicinity of the proposed development. It states:

(i) *The development meets one of the following:*

- (I) *The development is at least 1,000 feet from known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range, and turkey habitat) and known sensitive plants...*

No sensitive wildlife areas or sites or sensitive plants are within 1000 feet of the proposed outdoor lights. The proposed lights are thus consistent with Commission Rule 350-81-052(1)(d)(B)(i)(I), and are therefore eligible for expedited review.

Conclusion:

The proposed outdoor lights are consistent with the natural resource protection guidelines in Commission Rule 350-81-052(1)(d) for expedited review uses in the National Scenic Area.

E. Recreation Resources

- 1. Commission Rule 350-80-052(1)(c) states:

*The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.*

No established recreation sites exist on parcels that are adjacent to the subject parcel. The outdoor lights are therefore consistent with Commission Rule 350-80-052(1)(c).

Conclusion:

The proposed outdoor lights are consistent with the recreation resource protection guidelines in Commission Rule 350-81-052(1)(c) for expedited review uses in the National Scenic Area.

F. Treaty Protection:

- 1. Commission Rule 350-81-052(2) contains treaty rights protection guidelines for proposed developments reviewed using the expedited review process:

(a) *Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.*

(b) *The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.*

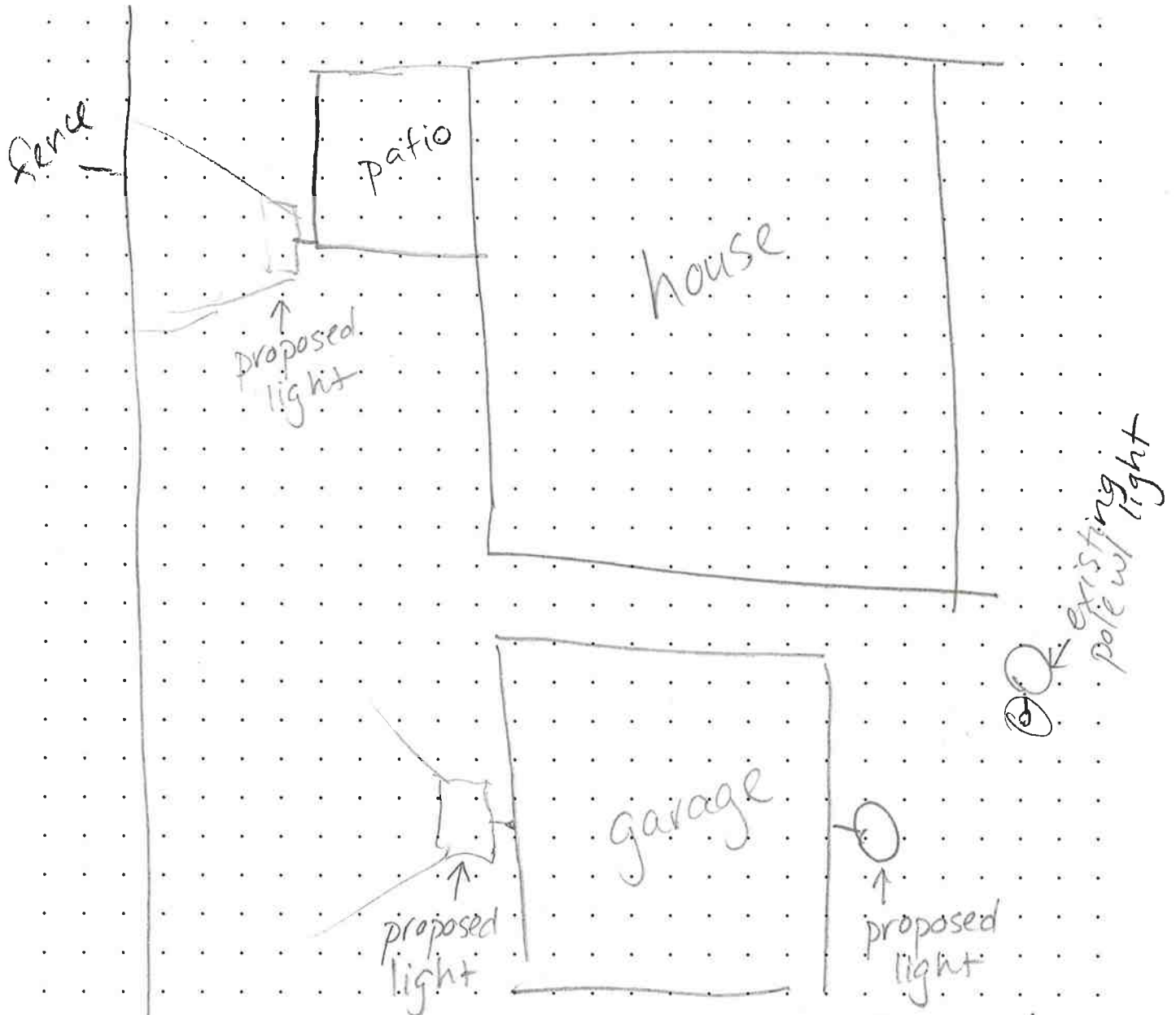
The proposed outdoor lights would not affect or modify treaty or other rights of any Indian tribe, consistent with this rule. No substantive written comments were received from any Indian tribe during the comment period. The outdoor lights are consistent with Commission Rule 350-81-052(2).

Conclusion:

The outdoor lights are consistent with Commission Rule 350-81-052(2), which provides protection for treaties and any other rights of any Indian tribe impacted or affected by review uses allowed through expedited review.

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  
The Bokums

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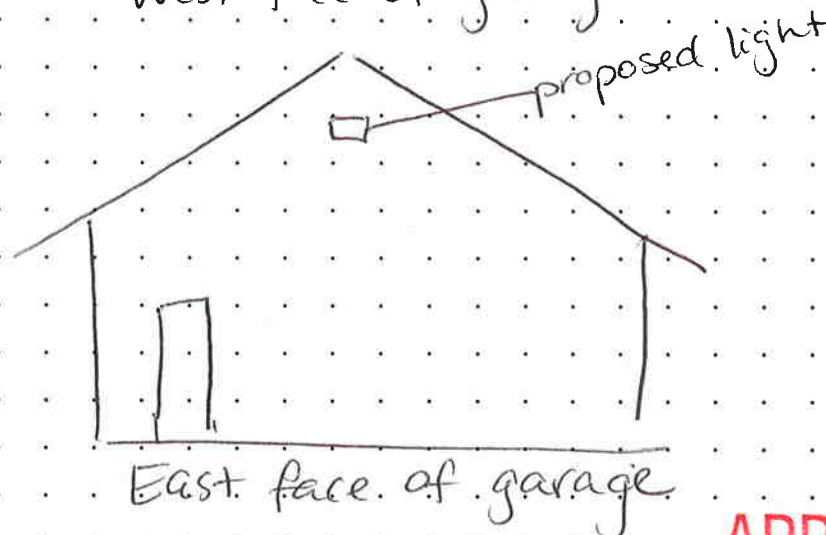
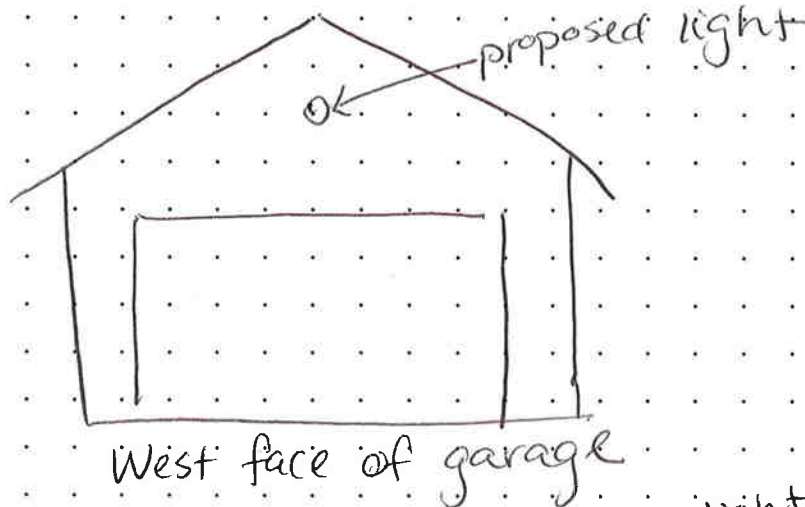
**APPROVED**

Julie Anne 8/7/08

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

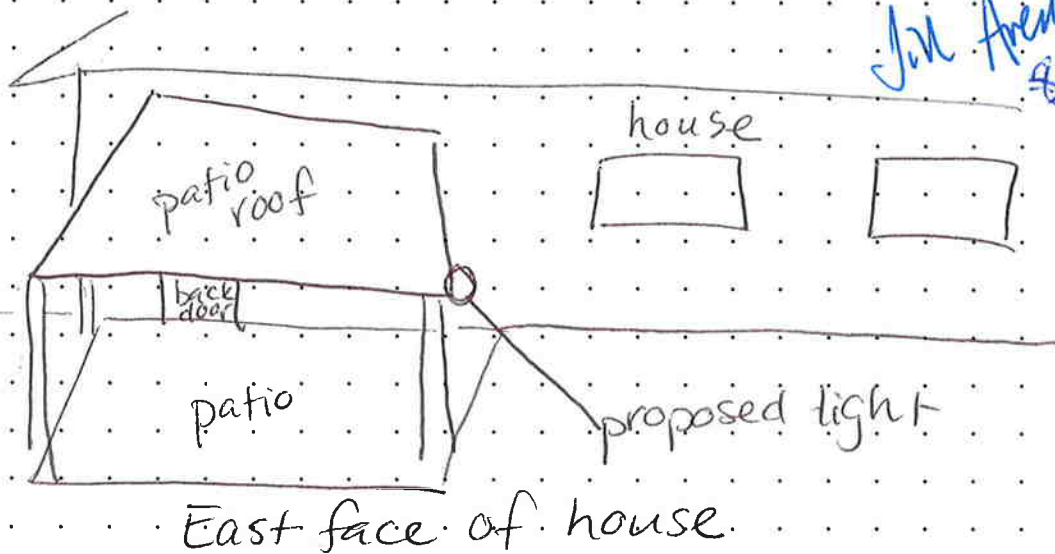
# Elevation Drawings

Elevation drawings showing the appearance of all proposed structures are required for all applications. Elevation drawings depict the entire length and width of each structure as seen from a horizontal view. The drawings must also include the natural and finished grade and be drawn to scale.



**APPROVED**

Jim Arens  
8/7/08



Each grid equals 2' x 2' at a scale of 1" = 8'.