

DEVELOPMENT REVIEW

Director's Decision

APPLICANT: Jim McColgin and Lu-Anne Stevens

FILE NO.: C08-0019-K-G-22

REQUESTS: 0.64 acres of new cultivation for a vineyard, above ground irrigation, vineyard fences and trellis structures as well as 1,700 linear feet of livestock fencing to enclose the rest of the parcel.

LOCATION: The proposed use is located in the SE ¼ of Section 21, Township 3N, Range 12E, W.M., Klickitat County, Washington (parcel number 03-12-2151-0001/00).

LAND USE

DESIGNATION: The 10.98 acre parcel is designated General Management Area Small-Scale Agriculture with an 80 acre minimum.

DECISION:

Based upon the following findings of fact, the land use application by Jim McColgin and Lu-Anne Stevens plant 0.64 acres of grapes, install related vineyard structures and enclose the parcel with livestock fencing, is found to be consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act P.L. 99-663, and the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and approvable under Commission Rule 350-81 and is hereby **approved**.

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-96).

1. The proposed vineyard, associated agricultural structures and fencing shall be constructed as shown on the approved site plan. Any changes to the height, design or location of the proposed development shall be submitted to the Planning Manager for review prior to construction.
2. Pursuant to Commission Rule 350-81-570(6)(f), it is the responsibility of the applicant to comply with all other applicable federal, county, laws and regulations. The applicant shall obtain all other applicable permits prior to commencing the actions approved in this decision.

3. Any new outdoor lighting associated with this use shall not be installed until first reviewed and approved by the Planning Manager, and the site plan revised to reflect such fixtures.
4. If at any time cultural resources are discovered, all construction activities within 100 feet of the cultural resources shall cease. Further disturbance is prohibited and the applicants shall notify the Gorge Commission within 24 hours.

DATED AND SIGNED THIS 17th day of October, 2008 at White Salmon, Washington.



Brian Litt
Planning Manager

This decision of the Executive Director becomes void on the 17th 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 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 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 Commission offices.

The appeal period ends the 16th day of November, 2008.

NOTES

Any new residential development, related accessory structures such as garages, workshops and satellite dishes and additions or alterations not included in the approved 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
Skamania County Planning Department

Written comments were received from Richard Till, Friends of the Columbia Gorge; Margaret Dryden, Heritage Program for the Forest Service Scenic Area Office; Bill Weiler, Washington Department of Fish and Wildlife; and Robert Whitlam, Washington State Department of Archaeology and Historic Preservation.

FINDINGS OF FACT:

A. Land Use

1. The subject property is 10.89 acres in size and currently contains an existing dwelling and accessory building. The western half of the parcel is dominated by the dwelling and extensive landscaping to the north and an existing cow pasture to the south.

The applicants have proposed approximately 0.64 acres of new cultivation to plant a small vineyard. The vineyard would begin inside the western edge of the existing cattle pasture, measuring 75 feet wide. Once outside of the pasture, the vineyard would continue east along the southern property line but would become narrower, measuring 50 feet wide. The total length of the vineyard would be 525 feet. This configuration minimizes tree loss and captures the south facing hillside of the property, a desirable condition for vineyards in the Gorge.

The applicants have also proposed to add onto existing livestock fencing that now partially encloses the eastern half of the parcel. By enclosing the entire parcel, additional livestock grazing could be possible. On average, the applicants graze two to three cows in the east pasture, but would like to graze a slightly larger number of cattle in the future and will require a larger pasture.

2. The Land Use Designation map in the *Management Plan for the Columbia River Gorge National Scenic Area* designates the subject parcel Small-Scale Agriculture in the General Management Area with an 80 acre minimum parcel size.
3. Commission Rule 350-81-190(1) permits the following review uses to occur on lands in the General Management Area designated Small-Scale Agriculture subject to compliance with scenic, cultural, natural and recreation resources guidelines:
 - (a) *New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).*

- (b) *Agricultural structures, except buildings, in conjunction with agricultural use.*

The applicant has proposed 0.64 acres of new cultivation to plant a vineyard along the southern property line of the parcel. The associated agricultural structures included in this application include an above ground drip irrigation system, three-strand bare wire trellis system mounted on seven foot wooden posts; a seven and a half foot polypropylene mesh deer fence mounted on ten foot wooden posts to contain the vineyard; and approximately 1,700 linear feet of wire livestock fencing to enclose the western half of the parcel to allow for additional cattle grazing. As proposed, the livestock fencing will be smooth wire strand and will utilize six foot steel t-posts every 12 feet, six inch diameter six foot long round wooden posts every 100 feet for stability and three feet wide five feet tall rock cribs in the corners and as needed for additional support in the more difficult terrain. Pursuant to Commission Rule 350-81-190(1)(a) and (b), the proposed uses are allowed review uses subject to Commission Rules 350-81-520 through 620 for the protection of scenic, natural, cultural and recreation resources.

Conclusion:

The proposed vineyard , associate agricultural structures and fences are allowed review uses pursuant to the guidelines in Commission Rules 350-81-190, subject to guidelines found in Commission Rules 350-80-520 to 350-80-620 that protect scenic, cultural, recreation, and natural 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.

No new buildings, road construction or grading activities are proposed at this time. Therefore, Commission Rule 350-81-520(1)(a) does not apply.

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

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

No new buildings are proposed at this time. Therefore, Commission Rule 350-81-520(1)(b) does not apply.

3. Commission Rule 350-81-520(2)(a) contains guidelines for proposed developments on sites topographically visible from key viewing areas.

The subject parcel occupies a southwest facing slope. Existing ridges to the south and to the west topographically screen the western half and southern property line from KVAs. North of the proposed vineyard site, the parcel climbs slightly in elevation to the north and east, and becomes more visible to KVAs. These portions of the property are topographically visible in the background when viewed from the west along the Historic Columbia River Highway and Interstate 84. Therefore the proposed fences occurring along the eastern half of the northern property line would be topographically visible from KVAs and will be reviewed for consistency with the guidelines under Commission Rule 350-81-520 pursuant to this rule.

4. Commission Rule 350-81-520(2)(b) states that each development shall be visually subordinate to its setting as seen from Key Viewing Areas (KVAs). Due to intervening topography the trellis structures, drip irrigation lines, deer fencing and majority of the livestock fencing will not be visible from KVAs. As a result, only that portion of the livestock fencing that will be following the northern property line east will be reviewed for consistency with the scenic protection guidelines.

The proposed livestock fencing would consist of smooth wire livestock fencing supported by six foot steel t-posts every 12 feet, six foot treated wooden posts every 100 feet as necessary for stability and five foot rock cribs in the corners as needed for stability. Extra support for the livestock fence is needed due to the diverse terrain of the property. The proposed fence support structures are small in scale and are located approximately five miles from the nearest KVA from which they are visible. Given this information, the livestock fencing would be able to blend within the landscape and reach visual subordination, consistent with Commission Rule 350-81-520(2)(b).

5. Commission Rule 350-81-520(2)(c) states:

Determination of potential effects and compliance with visual subordination policies shall include consideration of the cumulative effects of the proposed development.

As previously described in Finding A.4 above, the nature of the proposed structures are small and will not add to the cumulative impacts of the area's existing visual development. No cumulative effects are expected, consistent with this rule.

6. Commission Rules 350-81-520(2)(d)(A) and (B) include guidelines to ensure that the extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from KVAs. Rule 520(d)(A) states:

Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:

- (i) *The amount of area of the building site exposed to key viewing areas.*

- (ii) *The degree of existing vegetation providing screening.*
- (iii) *The distance from the building site to the key viewing areas from which it is visible.*
- (iv) *The number of key viewing areas from which it is visible.*
- (v) *The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).*

The number of key viewing areas from which it is visible.

The northeastern portion of the parcel (including the area containing the existing development) is topographically visible from the Historic Columbia River Highway and Interstate 84. This area includes a portion of the proposed livestock fencing.

The amount of area of the building site exposed to key viewing areas.

Due to intervening topography a majority of the proposed livestock fence would not be visible from KVAs. As proposed, the eastern half of the northern fence line, approximately one quarter of the proposed fence, would be visible from KVAs.

The degree of existing vegetation providing screening.

A majority of the parcel is forested with a mixture of mature oak and ponderosa pine and a dense understory of young trees and shrubs. This existing vegetation creates a very effective vegetative screen for those portions of the parcel that are visible from KVAs, including areas that will contain the proposed fence. Although the existing vegetation provides screening, it is not needed to allow the proposed livestock fences along the northeastern property line to reach visual subordination.

The distance from the building site to the key viewing areas from which it is visible. At the closest point from which it is topographically visible, the location of the fences would be topographically visible in the far background, approximately five miles from either KVA.

The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

Portions of the subject parcel are topographically visible from a segment along Interstate 84 and the Historic Columbia River Highway that extends approximately one mile west of Mosier, Oregon.

7. Commission Rule 350-81-520(2)(d) (B) states:

Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:

- (i) *Siting (location of development on the subject property, building orientation, and other elements).*
- (ii) *Retention of existing vegetation.*
- (iii) *Design (color, reflectivity, size, shape, height, architectural and design details and other elements).*
- (iv) *New landscaping.*

Siting (location of development on the subject property, building orientation, and other elements). As proposed, the livestock fencing is sited along the existing property lines to enclose the western half of the parcel. As previously explained, the proposed fence would be visually subordinate to its surrounding landscape when viewed from KVAs. Therefore, conditions of approval regarding the siting of the proposed fencing are not needed to be consistent with this guideline.

Retention of existing vegetation.

Although the existing canopy coverage effectively screens the proposed fencing, it is not necessary to reach visual subordination. Because the livestock fencing will be visually subordinate to its surrounding landscape when viewed from KVAs with or without the existing trees, conditions are not necessary, consistent with Commission Rule 350-81-520(2)(d)(B).

Design (color, reflectivity, size, shape, height, architectural and design details and other elements).

As described in Finding B.4 above, the fence posts will consist of steel t-posts, treated wooden posts and rock cribs filled with rock found on the premises. The wood and rock are natural earth tones that will blend with the landscape. The t-posts measure only inches thick and will be a dark green color. The visible surface of the t-posts will be subordinate to the landscape, consistent with this rule. Therefore, the use of these materials will not affect the fence's ability to be visually subordinate when viewed from KVAs.

New landscaping.

No new landscaping has been proposed.

8. Commission Rule 350-81-520(2)(e) states:

New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

As proposed, the visible portion of the fence follows the northern property line to the eastern property line. This portion of the proposed fence achieves visual subordination when viewed from KVAs and does not place it within a specified resource protection buffer, consistent with this rule.

9. Commission Rule 350-81-520(2)(f) states:

New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.

As previously discussed, a majority of the proposed development would utilize existing topography so as to not be visible from KVAs. The eastern half of the northern livestock fence line would be topographically visible in the far background when viewed from KVAs, but would be able to achieve visual subordination. As proposed, the development is consistent with this rule.

10. Commission Rule 350-81-520(2)(g) states:

Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines in 350-81-520(3).

No vegetation removal has been proposed. Most of the proposed development would not be visible from KVAs while the visible portions of the livestock fence are small enough in nature that vegetative screening is not needed to reach visual subordination when viewed from KVAs located five miles away.

11. Commission Rule 350-81-520(2)(h) states:

The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

No new buildings are proposed. Therefore this guideline does not apply.

12. Commission Rule 350-81-520(2)(j) and (k) contain guidelines for new landscaping and the retention of existing landscaping for new developments visible from KVAs. This rule requires the use of new landscaping only if the use of all other available means (design, site/location, color etc.) does not make the development visually subordinate to its setting. The proposed development does not require the removal of any existing vegetation or the addition of new screening vegetation to achieve visual subordination, consistent with this rule.

13. Commission Rule 350-81-520(2)(l) regarding the exterior colors of new developments visible from KVAs. It states:

Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

As proposed, the livestock fence will utilize three kinds of posts, including a dark green steel t-posts, treated wood posts and rock cribs using rocks from the surrounding landscape. All of these materials are acceptable earth-tone colors found at the specific site or in the surrounding landscape, consistent with this rule.

14. Commission Rule 350-81-520(2)(m) states:

The exterior of buildings on lands seen from key viewing areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The Scenic Resources Implementation Handbook will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook (once they are created). Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.

No new buildings are proposed in this application. Thus, Commission Rule 350-81-520(2)(m) does not apply.

15. Commission Rule 350-81-520(2)(p) states:

Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

No exterior lighting has been proposed in this application. A condition of approval will require any new lighting to be reviewed and approved by the Planning Manager prior to installation.

16. The Landscape Settings map in the Management Plan classifies the subject parcel as Oak-Pine Woodland. Commission Rule 350-80-520(3)(c) contains guidelines for new development in this landscape setting. Rule 520(3)(c)(A) states:

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

The fence and trellis posts would range in height from five feet to ten feet. As previously explained the landscape contains a forest of mature oak and pine trees. The canopy height of the surrounding trees measure more than 30 feet in height, much higher than the tallest proposed fence post, consistent with this rule.

17. Commission Rule 350-80-520(3)(c)(B) states:

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

No new trees are required to achieve visual subordination from KVAs. The proposed fencing does receive large amounts of screening from existing vegetation, but would be able to reach visual subordination without them. Because the proposed use would be visually subordinate with its surrounding landscape, it is consistent with Commission Rule 350-80-520(3)(c)(B).

Conclusion:

As proposed, the development is consistent with the guidelines for the protection of scenic resources found in Commission Rule 350-81-520.

C. Cultural Resources

1. Commission Rule 350-81-540(1)(c)(A) and (B) include guidelines to determine when a cultural resource reconnaissance survey and a historic survey are required. Pursuant to Commission Rule 350-81-540(1)(c)(A)(ii)(III), new fences are exempt from reconnaissance survey requirements. The new cultivation however, would be occurring in an area that is not previously disturbed and entails a large enough level of ground disturbance that a reconnaissance survey is required.
2. Margaret Dryden, U.S. Forest Service Archaeologist surveyed the proposed vineyard area and on September 8, 2008, submitted a Heritage Resource Inventory Report titled *Heritage Resource Inventory Report for the McColgin-Stevens New Cultivation Project*. Ms. Dryden's report concludes that the site revealed no pre-historic or historic-period archaeological resources.
3. Commission Rule 350-81-540(2)(a)(A) allows interested parties to consult with the applicant regarding cultural resources. No substantiated comments regarding cultural resources on the subject parcel were received during the comment period.
4. Commission Rule 350-81-540(2)(b)(A) and (B) require Commission staff to submit a copy of the survey report to the State Historic Preservation Officer and the Indian tribal governments for a 30 day comment period.

On September 8, 2008, Commission staff sent copies of Ms. Dryden's survey report to the State Historic Preservation Officer and the Indian tribal governments for comment. On September 15, 2008 comments were received from Robert Whitlam, State Archaeologist for the Washington Department of Archaeology and Historic Preservation. In his letter, Mr. Whitlam states: "We concur with her [Ms. Dryden] professional recommendations and determination of No Historic Properties Affected". No comments were received from the tribal governments.

5. Commission Rule 350-81-540(2)(c)(B)(ii) states the cultural resource protection process may conclude when the following conditions exist:

A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the State Historic Preservation Officer or Indian tribal governments during the 30-day comment period required in subsection 2(b)(B) above.

As stated above, comments were received from the State Historic Preservation Office concurring with Ms. Dryden's survey report. No substantiated concerns were voiced by the Indian tribal governments or any other interested parties. Therefore, pursuant to

Commission Rule 350-81-540(2)(c)(B)(ii), the cultural resource protection process may conclude.

6. Commission Rules 350-81-540(6)(a) and (b) require that, if cultural resources are discovered during project construction, all construction cease within 100' of the discovered resource and the Commission notified within 24 hours of the discovery.

A condition of approval will alert the applicant of this guideline.

Conclusion:

With a condition requiring the cessation of work and Commission notification if cultural resources are discovered during construction, the proposed addition is consistent with applicable cultural resources guidelines in Commission Rule 350-81.

D. Natural Resources

1. Commission Rule 350-81 contains guidelines that protect 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. The Gorge Commission's natural resource inventories do not show any wetlands near the applicant's building site. Therefore, the rules pertaining to wetlands in Commission Rule 350-81-560 do not apply.
3. Two intermittent streams cross the eastern half of the property from north to south. Commission Rule 350-81-570(7)(a)(B) requires a 50-foot buffer zone on each side of intermittent streams to extend landward from the ordinary high water mark on each bank of the creek.

Commission staff verified the distance between the proposed vineyard and vineyard fencing and the nearest stream. At the closest point, the proposed vineyard and vineyard fencing would be approximately 70 feet from the ordinary high water mark of the stream, exceeding the 50-foot stream buffer requirement. The proposed livestock fencing however, will cross over the streams in four places (along the property line) in order to enclose the entire parcel.

4. Commission Rule 350-81-570(6) allows for uses inside streams and stream buffers subject criteria (a) through (g).
5. Commission Rule 350-81-570(6)(a) states:

The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by 350-81-560(6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.

6. Commission Rule 350-81-560(6)(a) allows non water-dependent uses that have no practicable alternative subject to the following criteria:

(A) *The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands [streams];*

(B) *The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetland [streams]; and*

(C) *Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.*

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

The applicants currently graze a small number of cattle (2 to 3) in an existing pasture located in the southeastern corner of the parcel. As proposed, the new livestock fencing would connect to existing fences to enclose the western half of the parcel, enabling the applicants to graze additional cattle on their property. The two streams each cross the northern and southern property line as they travel from higher elevations. The streams cross a large portion of the eastern half of the parcel. Because the basic purpose of the fence is to enclose the property, it cannot be accomplished at any other site. Reconfiguring the proposed livestock fence to avoid the streams and their buffers would result in the loss of approximately one half of the property suitable for grazing. Given this information, the basic purpose of the proposed project cannot be reasonably accomplished in any other site, consistent with Commission Rule 350-81-560(6)(a).

7. Commission Rule 350-81-570(6)(b) states:

The proposed use is in the public interest as determined by 350-81-560(6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.

8. Commission Rule 350-81-560(6)(b) determines whether the proposed use is in the public interest. Determining factors include:

- (A) *The extent of public need for the proposed use.*
- (B) *The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.*
- (C) *The functions and size of the wetland [stream] that may be affected.*
- (D) *The economic value of the proposed use to the general area.*
- (E) *The ecological value of the wetland [stream] and probable effect on public health and safety, fish, plants, and wildlife.*

The subject property is designated General Management Area Small-Scale Agriculture. The intent of this designation is to protect agricultural land for agricultural uses. The proposed livestock fencing would enable the applicants to use their property for an agricultural use, consistent with its designation. It is in the public's interest to allow agricultural uses on agricultural land, thus permitting an economic use consistent with the resource protection provided by the Management Plan.

The stream channels are somewhat narrow and will not require posts within the channel. Inevitably, several posts will be located within the buffer of the streams. As proposed the applicant would be utilizing t-posts and several rock cribs to support the fencing material.

On September 5, 2008, Commission staff and Bill Wieler, Habitat Biologist for the Washington Department of Fish and Wildlife visited the site to determine the effects of the fencing on the ecological value of the streams. Given that the fences have been designed in a manner that is consistent with Commission Rule 350-81-580(6) (see Finding D.17) and will be safe for the migration of deer, elk and other migratory species, Mr. Wieler concluded that functions and size of the streams would not be affected by the proposed fencing. Based on this information, the proposed livestock fencing would not have a probable effect on public health and safety, fish plants or wildlife, consistent with Commission Rule 350-81-560(6)(b).

9. Commission Rule 350-81-570(6)(c) contains guidelines to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.

As proposed, the applicant would be using t-posts and several rock cribs with wire strand fencing that is consistent with rules for new fencing within deer and elk winter range (see Finding D.23 below). The proposed posts do not require any digging or grading that could affect the streams functions, existing contour, vegetation, wildlife resources or hydrology. Thus, the proposed fencing would be consistent with Commission Rule 350-81-570(6)(c).

10. Commission Rule 350-81-570(6)(d) states:

Groundwater and surface-water quality will not be degraded by the proposed use.

As previously described above, no grading or digging will be necessary for the installation of the proposed fence. Given this information, stream water quality will not be degraded by the installation of the proposed fence, consistent with this rule.

11. Commission Rule 350-81-570(6)(e) states:

Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

The fence is not water dependent, but as previously explained in Finding D.6 above, cannot be relocated to any other location(s) and still serve the same purpose, consistent with this rule.

12. Commission Rule 350-81-570(6)(f) states:

The proposed use complies with all applicable federal, state, and county laws.

It is the responsibility of the applicant to comply with all other applicable federal, state and county laws. A condition of approval will be included in this decision to ensure compliance with this guideline.

13. Commission Rule 350-81-570(6)(g) contains guidelines for the rehabilitation and enhancement of unavoidable impacts to aquatic and riparian areas. As proposed, no grading, ground disturbance or unavoidable impacts to the stream or stream buffers will be occurring. Therefore, Commission Rule 350-81-570(6)(g) does not apply to the proposed development.
14. The Gorge Commission's sensitive wildlife inventory shows that the parcel is located within mule deer and black tailed deer winter range habitat. Commission Rule 350-81-580(1)(a) defines sensitive wildlife areas to include deer and elk winter range.
15. Commission Rule 350-81-580(4)(a) requires the Gorge Commission to submit site plans to the Washington Department of Fish and Wildlife (WDFW) when a new development or land use is proposed within a sensitive wildlife area. WDFW reviews the site plan and determines if the proposed use would compromise the integrity of the wildlife area or site.

On August 18, 2008 Gorge Commission staff sent Washington Department of Fish and Wildlife (WDFW), a copy of the applicant's land use application and site plan.

16. 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.*

Staff accompanied Bill Weiler, Area Habitat Biologist with WDFW on a site visit of the property with the applicants to determine potential resource impacts. Mr. Weiler provided suggestions to the applicants regarding oak woodland habitat and management but voiced no concerns regarding the proposed uses. It was determined that the proposed development would not compromise the integrity of sensitive wildlife areas or sites, consistent with Commission Rule 350-81-580(4)(c).

17. Commission Rule 350-81-580(6) contains guidelines for new fences located in deer and elk winter range. They include:

- (a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.*

The applicant has proposed two fences. The first fence is intended to enclose the proposed vineyard and would be comprised of a black polypropylene mesh grid. It is the minimum size necessary to encompass the vineyard and protect it from livestock and wildlife. The second fence, a wire strand livestock fence, would connect to existing livestock fences, to enclose the entire parcel, including the fenced vineyard. The proposed livestock fencing would connect to existing livestock fencing on either side of the parcel and is the minimum necessary to complete the enclosure. As proposed, both fences are necessary for the enclosure of livestock and the exclusion of wildlife from the vineyard, consistent with this rule.

- (b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:*

- (A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.*
- (B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these*

wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

- (C) *The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.*
- (D) *Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.*

The livestock fencing will be constructed using six foot steel t-posts spaced approximately 12 feet apart. Every 100 feet, a six inch diameter, six foot pole placed two feet in the ground, will be placed to add stability. Five feet tall and three feet wide wire cages filled with rock (rock cribs) will be placed at the corners and areas needing additional stability in the hilly terrain. The fencing material will be smooth wire strand. The top wire will be no more than 42 inches high with a gap of 10 inches between the top two wires. The bottom wire will be at least 16 inches above the ground. Stays will be placed between strands near any known deer crossings. As proposed, the livestock fencing complies with this guideline.

- (c) *Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.*

The proposed vineyard fencing will be woven polypropylene grid mesh. The fence would measure seven and half feet tall and will be attached to ten foot wooden posts spaced 12 feet apart. The fence will serve the immediate need of keep wildlife out of the vineyard, consistent with this guideline.

18. The Gorge Commission's sensitive plant inventory does not show any sensitive plants within 1,000 feet of the subject property.

Conclusion:

With a condition to ensure compliance with all other applicable federal, state and county always, the proposed vineyard, associated structures and livestock fencing is consistent with the guidelines in Commission Rules 350-80-560 through 350-80-590 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 on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel.

Established recreation sites do not exist on parcels that adjoin the subject parcel. Therefore, no buffer is required pursuant to Commission Rule 350-81-086.

Conclusion:

The proposed development is consistent with the applicable recreation resource guidelines in Commission Rule 350-81.

FIND0019.08

AK

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
Robert Whitlam, WA DAHP

Applicant: Jim McColgia
LuAnne Stevens

APPROVED
7/24/08

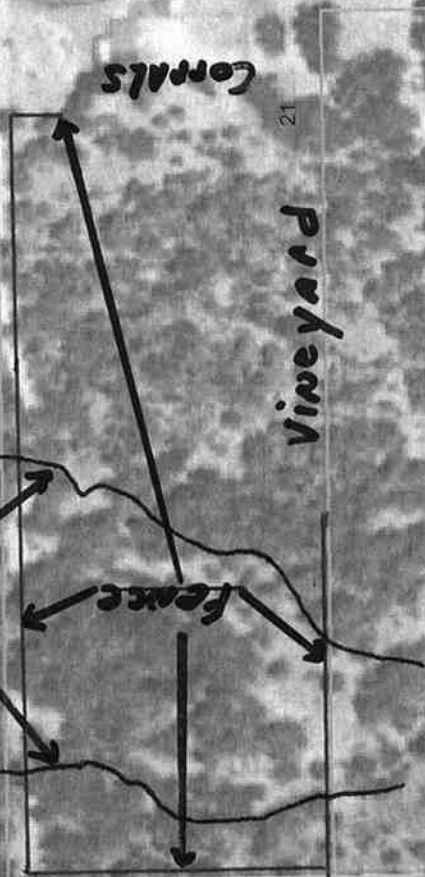
Seasonal Creeks

Cornfields

21

Vineyard

Lyle Snowden Rd.



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Created by: TA
Date: 7/24/2008

Columbia River Gorge Commission

1 inch equals 200 feet

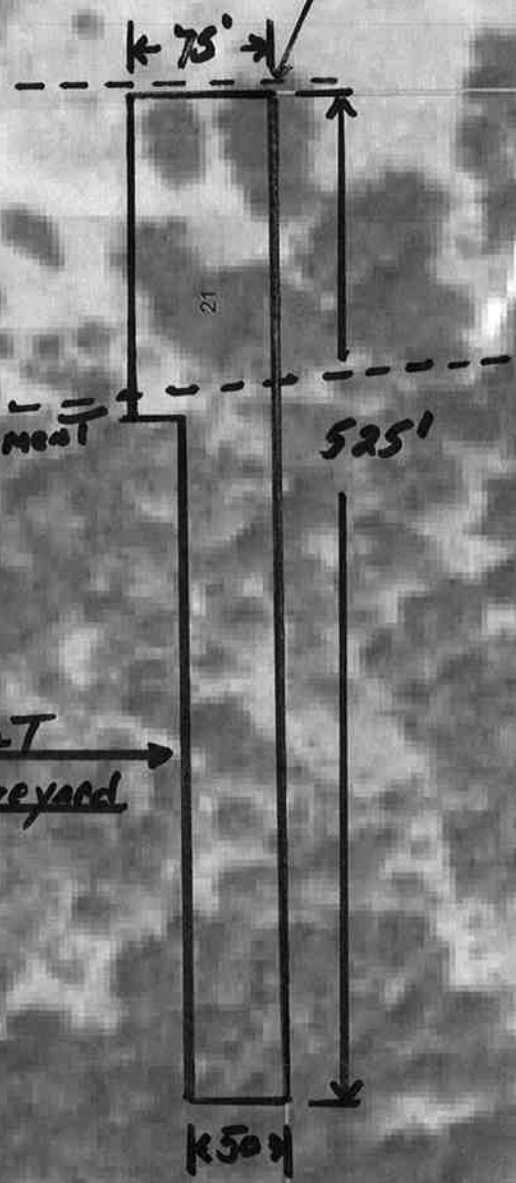


Applicant: Jim McColgin
Lo Howe Stevens

APPROVED
8/2/10
10/17/10

Lyle - Snowden Road

Existing Water Supply For Vineyard



Proposed Project
.64 AC Grape Vineyard

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Created by: T4
Date: 7/21/2008

Columbia River Gorge Commission

1 inch equals 100 feet

