

DEVELOPMENT REVIEW

Director's Decision

APPLICANT: Gary and Leslie Pratt

FILE NO.: C08-0020-K-G-11

REQUEST: After-the-fact review of a 14 foot by 18 foot horse shelter, removing the portion within the 50 foot stream buffer.

LOCATION: The subject parcel is located in the NW $\frac{1}{4}$ of Section 13, Township 2 North, Range 13 East, Klickitat County, Washington.

LAND USE

DESIGNATION: The subject parcel is designated Residential-10 in the General Management Area.

DECISION:

Based upon the following findings of fact, the land use application by Gary and Leslie Pratt for after-the-fact review of a 14 foot by 18 foot horse shelter, removing the portion within the 50 foot stream buffer, 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 portion of the horse shelter within the 50 foot stream buffer shall be removed within 30 days of the date of this decision. This area shall be reseeded with native grasses by December 15, 2008.
2. If cultural resources are discovered during construction activities on the property, 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 on the property, 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 31st day of October, 2008 at White Salmon, Washington.



Brian Litt
Planning Manager

EXPIRATION OF APPROVAL:

This decision of the Planning Manager becomes void on the 31st 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 30th 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 500 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 Department 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

Written comments were received from Richard Till with Friends of the Columbia Gorge and Johnson Meninick with the Confederated Tribes and Bands of the Yakama Nation.

FINDINGS OF FACT:

A. Land Use

1. Gary and Leslie Pratt are seeking after-the-fact approval for a 14 foot by 18 foot horse shelter. This shelter was constructed without a Scenic Area permit in 1991. The shelter is ten feet tall and constructed of wood posts and metal sheeting as the roof and the north side of the building. The east, west and south sides are open. This building is currently 45 feet by 18 feet but the western two-thirds are within the 50 foot buffer for the intermittent stream that runs across the property. The applicant has agreed to remove the portion of the building within the stream buffer, leaving the remainder at only 14 feet in width. The removal of the portion in the stream buffer shall be a condition of approval, as explained in Finding D.5 below. The parcel also contains a dwelling and two additional outbuildings that were constructed prior to the Scenic Area Act, as well as fencing that is allowed without review.
2. The land use designation for the subject parcel is Residential (10-acre minimum parcel size) in the General Management Area (GMA). The subject parcel is 4.14 acres in size.
3. Commission Rule 350-81-370(1) lists review uses for lands designated Residential allowed subject to compliance with scenic, cultural, natural and recreation resources guidelines. Commission Rule 350-81-370(1)(c) allows:

Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 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.

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

After the portion of the horse shelter within the stream buffer is removed, the remainder will be 14 feet by 18 feet (252 square feet) and 10 feet tall. The other two outbuildings on the subject parcel are 336 and 196 square feet. The combined footprints of all accessory buildings would be approximately 784 square feet. The horse shelter is consistent with Commission Rule 350-81-190(1)(f) and is thus an allowable review use, subject to compliance with guidelines for the protection of scenic, cultural, natural and recreation resources.

4. The proposed horse shelter is subject to the agricultural buffer requirements of Commission Rule 350-81-076 which apply to new buildings on lands adjacent to lands designated Large-

or Small-Scale Agriculture in the GMA. The parcel is bordered by lands designated Large-Scale Agriculture only to the west. These lands are used for livestock grazing. The largest setback required by Commission Rule 350-81-076 for grazing is 100 feet in open or fenced terrain. The proposed horse shelter is sited approximately 280 feet from the adjacent parcel designated Large-Scale Agriculture. Therefore, the proposed horse shelter meets the setback requirements of Commission Rule 350-81-076.

Conclusion:

The proposed horse shelter is an allowed review use, subject to compliance with the guidelines in Commission Rules 350-81-520 to 350-81-590 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.

No grading was required for construction of the horse shelter. The proposed development 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 (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

Along Oak Creek Road there are several existing one-story dwellings that range from approximately 1,500 to 2,500 square feet in area and many accessory structures that range from approximately 200 to 2,000 square feet in area. The horse shelter would be 252 square feet (after removal of the portion in the stream buffer) and single story. Therefore, the proposed horse shelter would be compatible with the height and size of existing nearby development, 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.

While portions of the subject parcel are topographically visible from key viewing areas to the south, the site of the horse shelter is in a deep draw that topographically shields it from all key viewing areas. Thus, the guidelines under Commission Rule 350-81-520(2) are not applicable.

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

5. Commission Rules 350-81-520(3)(d)(A) states:

Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

The horse shelter has been sited close to the other existing outbuildings, driveway, dwelling and fenced livestock enclosures. This siting clusters the development on the parcel and is consistent with Commission Rule 350-81-520(3)(d)(A).

6. Commission Rule 350-81-520(3)(d)(B) lists guidelines for new development in portions of the Grassland Landscape Setting visible from key viewing areas. As explained in Finding B.3 above, the shelter has been sited so that it will not be topographically visible from key viewing areas. Thus, Commission Rule 350-81-520(3)(d)(B) is not applicable.

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

Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.

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

Conclusion:

The horse shelter 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 use pursuant to these rules. Commission Rule 350-81-540(1)(c)(B) states that a historic survey is required for any development that would alter the exterior architectural appearance of buildings or structures 50 years old or older, or 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 determined an historic survey is not required because the horse shelter would not alter the exterior architectural appearance of buildings and structures that are 50 years old or older or 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.

2. Ms. Dryden determined a reconnaissance survey of the use was required because the site had not been previously surveyed for cultural resources. She conducted a field reconnaissance survey on September 22, 2008 during which she found no cultural resources.
3. Pursuant to Commission Rule 350-81-540(2)(b), notice of the survey results was sent to the State Historic Preservation Officer and the tribes for a 30-day comment period. During the comment period, no substantiated concerns regarding the reconnaissance survey were made.
4. 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.

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

5. 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.
6. 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 Rules 350-81-560 through 590 contain natural resource protection guidelines for review uses not eligible for expedited review. 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. Commission Rule 350-81-570 provides guidelines for protecting streams, ponds, lakes, and riparian areas. The Commission's resource inventory maps indicate that an intermittent stream exists on the subject parcel.
4. Commission Rule 350-81-570(7)(a)(B) provides that a buffer zone of 50 feet be established between new development and the ordinary high water-mark of intermittent streams. On April 2, 2008, staff visited the subject property with Mark Kreiter, Hydrologist with the US Forest Service, to determine the location of the ordinary high water-mark and the 50 foot stream buffer. Mr. Kreiter determined during this site visit that the western two-thirds of the existing horse shelter are within the 50 foot stream buffer.
5. Commission Rule 350-81-570(3) and (6) stipulate which uses may occur within a stream buffer. These uses include the modification, expansion, replacement, or reconstruction of serviceable structures; the construction of minor water-related recreation structures available for public use; the construction of minor water-dependent structures placed on pilings; and uses that have no practicable alternative and are in the public interest.

At the site visit on April 2, staff discussed with the applicant that the horse shelter would likely not meet any of these requirements and therefore might not be allowed within the stream buffer. The applicant agreed at that time to remove the portion of the existing building within the stream buffer. A condition of approval therefore shall require the removal of the portion of the horse shelter within the stream buffer. With this condition, no portion of the building would exist within the 50 foot stream buffer.

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

Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

The stream buffer in the area of the horse shelter is a rocky, very gently-sloped bank vegetated predominantly by grasses. The condition referenced in Finding D.5, that the portion of the shelter within the stream buffer be removed, is a prerequisite to restoring the stream buffer to its natural condition. To achieve consistency with Commission Rule 350-81-570(7)(b), this condition shall also require the buffer area to be seeded with native grasses after removal of the building. Mr. Kreiter determined that this condition will be sufficient to rehabilitate the disturbed buffer area. Implementing this condition will eliminate the impact to the buffer zone created by that portion of the building within the buffer zone. The remainder of the horse shelter would thus be consistent with Commission Rule 350-81-570 for the protection of streams, ponds, lakes, and riparian areas.

7. Gorge Commission inventories did not identify any sensitive wildlife areas or sites within 1000 feet of the subject property. Commission Rule 350-81-580 is not applicable.
8. Gorge Commission inventories not identify any sensitive plants within 1000 feet of the subject property. Commission Rule 350-81-590 is not applicable.

Conclusion:

With a condition requiring the removal of the portion of the horse shelter within the stream buffer and the reseeding of this area, the proposed development is consistent with the applicable natural resource guidelines in Commission Rules 350-81-560 through 590.

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. Thus no buffers are required pursuant to Commission Rule 350-81-086.

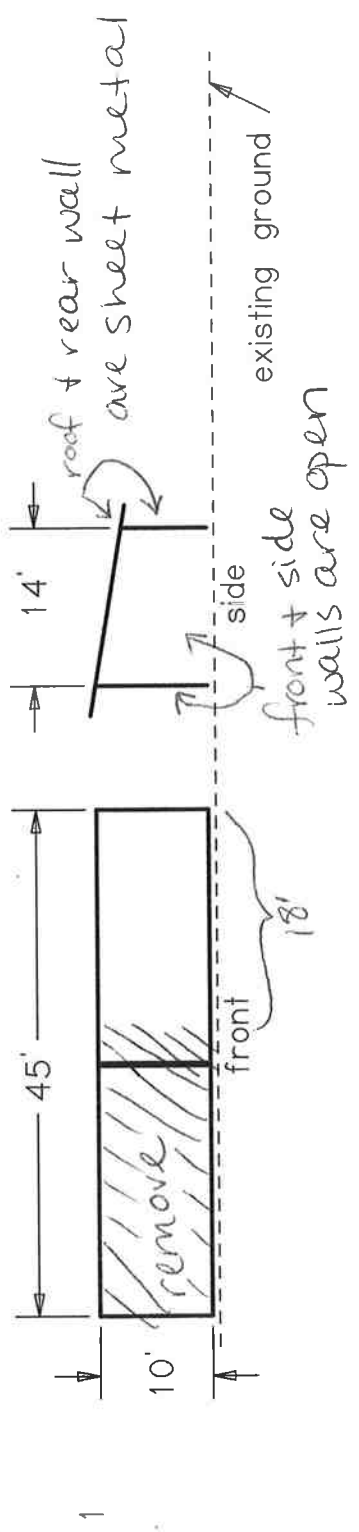
Conclusion:

The horse shelter is consistent with applicable recreation resource guidelines in Commission Rule 350-81-086.

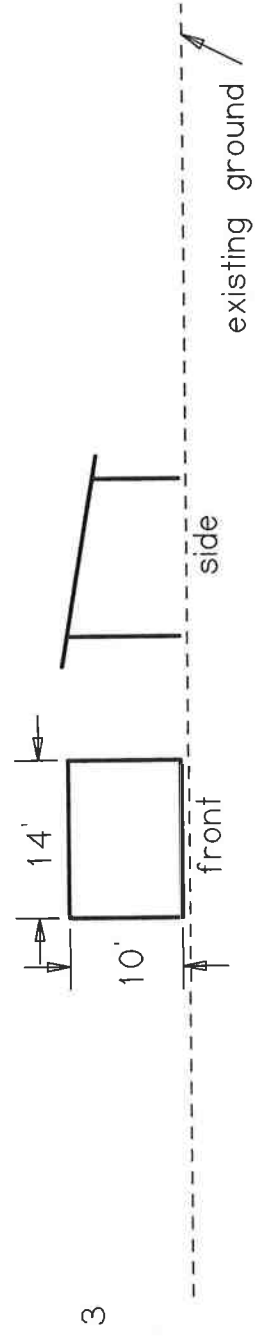
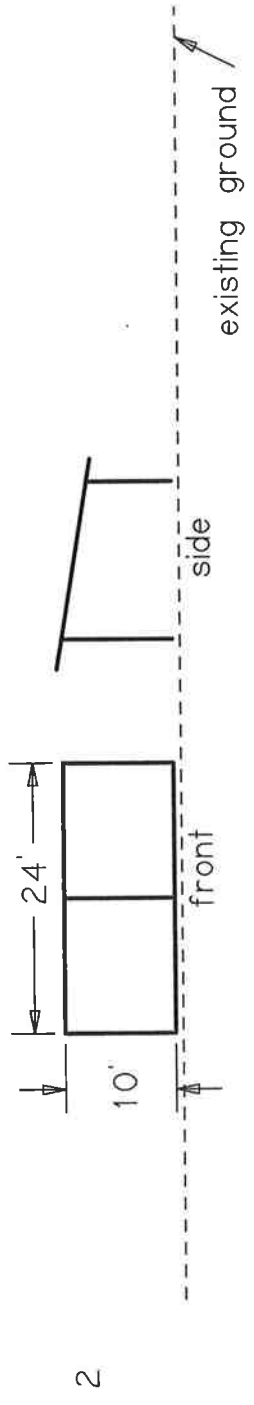
cc: Confederated Tribes and Bands of the Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation
Nez Perce Tribe
Klickitat County Planning
Klickitat County Building
Friends of the Columbia Gorge

JM
FIND0020.08

Proposed (after-the-fact) building



existing buildings



APPROVED

BL 10/31/08



Scale: 1 Inch = 200 Feet

building reviewed in this application →

EXISTING OUT BUILDINGS

- 1. 14'X45' 10' high
- 2. 14'X24' 9' high
- 3. 14'X14' 10' high

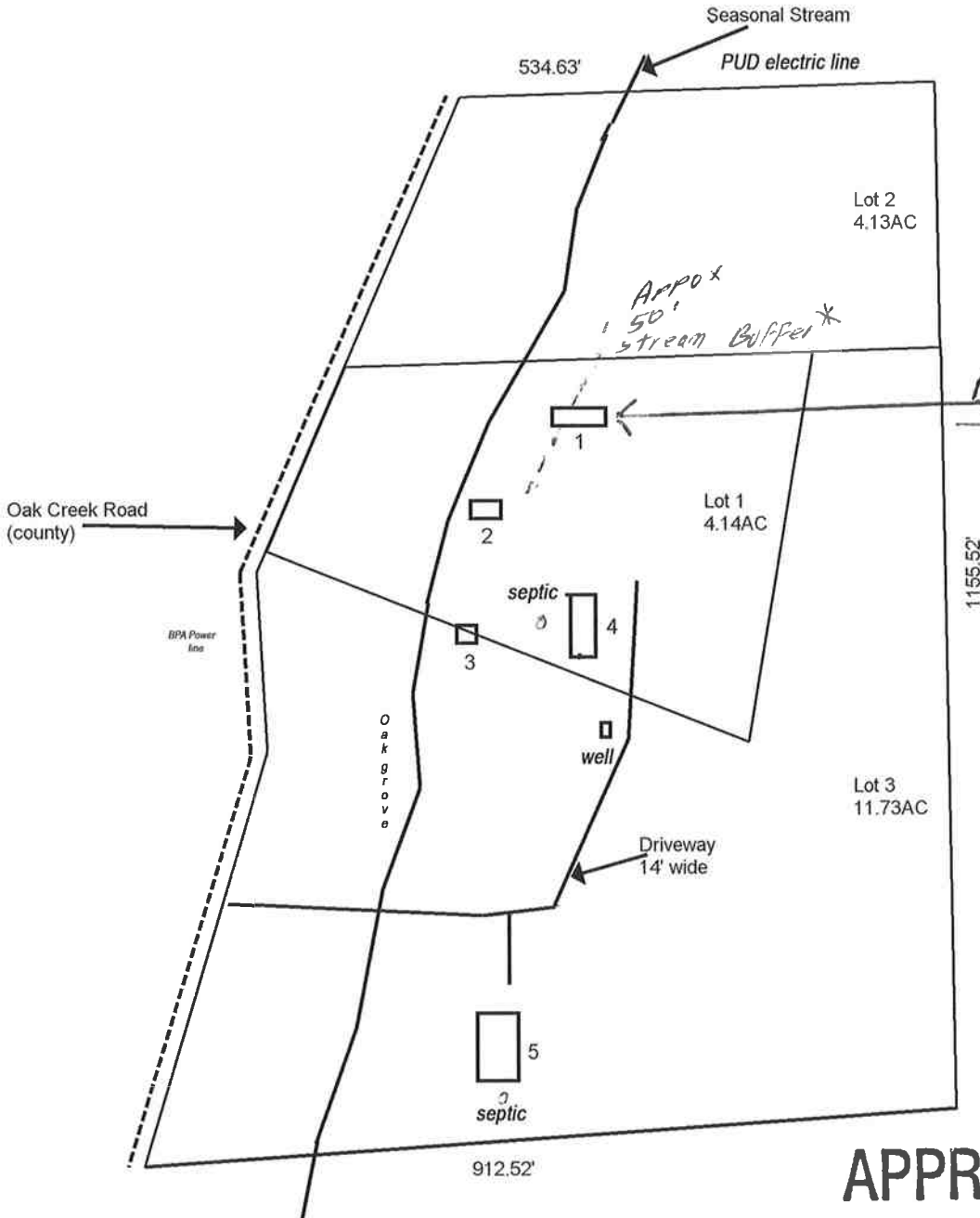
To Be 14'X18'

EXISTING MOBIL HOMES

- 4. 14'X60' 16 high
- 5. 28'X56' 20 high

Gary Pratt

Lots 1, 2,3 of Kickitat Countt BLA 92-01 in S13 T2N R13E



APPROVED

BL 10/31/08

*This site plan, submitted by the applicant, shows the approximate location of the outer boundary of the 50 foot stream buffer. The actual location of the buffer as described in this decision places the building's western two-thirds in the stream buffer and has been field checked by staff with the applicant.