

DIRECTOR'S DECISION

- APPLICANT:** John "Richard" and Rosemary Hoyt
- LANDOWNER:** Same as applicant
- FILE NO.:** C10-0009-K-G-11
- REQUEST:** To (1) construct a new 30 x 40 accessory building, (2) place a shipping container to be used as an accessory building and (3) place a second shipping container to be used as an agricultural building.
- LOCATION:** The subject parcel is located in the NE ¼ of Section 33, Township 3N, Range 12E, Willamette Meridian, Klickitat County, Washington (Klickitat County Parcel Number 03-12-3351-0001/00).
- LAND USE DESIGNATION:** The subject parcel is in the General Management Area and is designated Small-Scale Agriculture.

DECISION:

Based upon the findings of fact in the Staff Report for Director's Decision C10-0009, the land use application by Mr. and Mrs. Hoyt to construct two accessory buildings and an agricultural building 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. Locations for all new structures shall be staked for Commission inspection prior to grading or excavation. The applicant shall notify the Commission once staking is complete to arrange for an inspection. Grading and excavation may begin after Commission inspection and approval of staking.
2. The development shall be sited and constructed as shown on the approved site plan and elevation drawings.
3. Existing tree cover screening the 1,200 square foot accessory building from the key viewing

area (KVA) shall be retained as shown on the approved site plan. If reviewed and approved by the Executive Director, an exception can be made to remove and replace hazard trees.

4. All exterior building materials shall be colored a dark earth-tone color. The flat-finish dark green color sample submitted a license plate as an example of the final finish is approved by this decision.
5. All exterior building materials shall be non-reflective or have low reflectivity. Approved exterior building materials include metal siding and roofing for the larger accessory building and the metal prefabricated containers. South facing facades of the three buildings and all three roofs shall be painted with the approved texture treatment to reduce the reflectivity of the metal visible from KVAs to a low-reflective material. The approved texture treatment is a mixture that includes the approved dark earth-tone flat-finish paint mixed with coarse rock sand. This mixture should contain enough rock sand to effectively coat the entire surface (no areas of low texture should remain). The surface shall be abraded prior to application of the paint mixture to prevent future chipping or peeling. The paint-rock sand mixture shall be maintained to ensure the roofs and south facing building facades have low reflectivity.
6. No outdoor lights are shown on the development plans. Any new outdoor lights shall be submitted for review and approval by the Executive Director prior to installation. If any outdoor lights are installed, they shall be directed downward and sited, hooded and shielded so as to not be highly visible from KVAs. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
7. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for an inspection to confirm compliance with conditions of approval. Project completion means final placement of all buildings and completion of all work on exteriors of structures (including painting).
8. 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.
9. 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 22 day of November, 2010 at White Salmon, Washington.



Jill Arens
Executive Director

EXPIRATION OF APPROVAL:

This decision of the Executive Director becomes void on the 22 day of November, 2012.
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 22 day of December, 2010.

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.

AMB
DEC0009.10

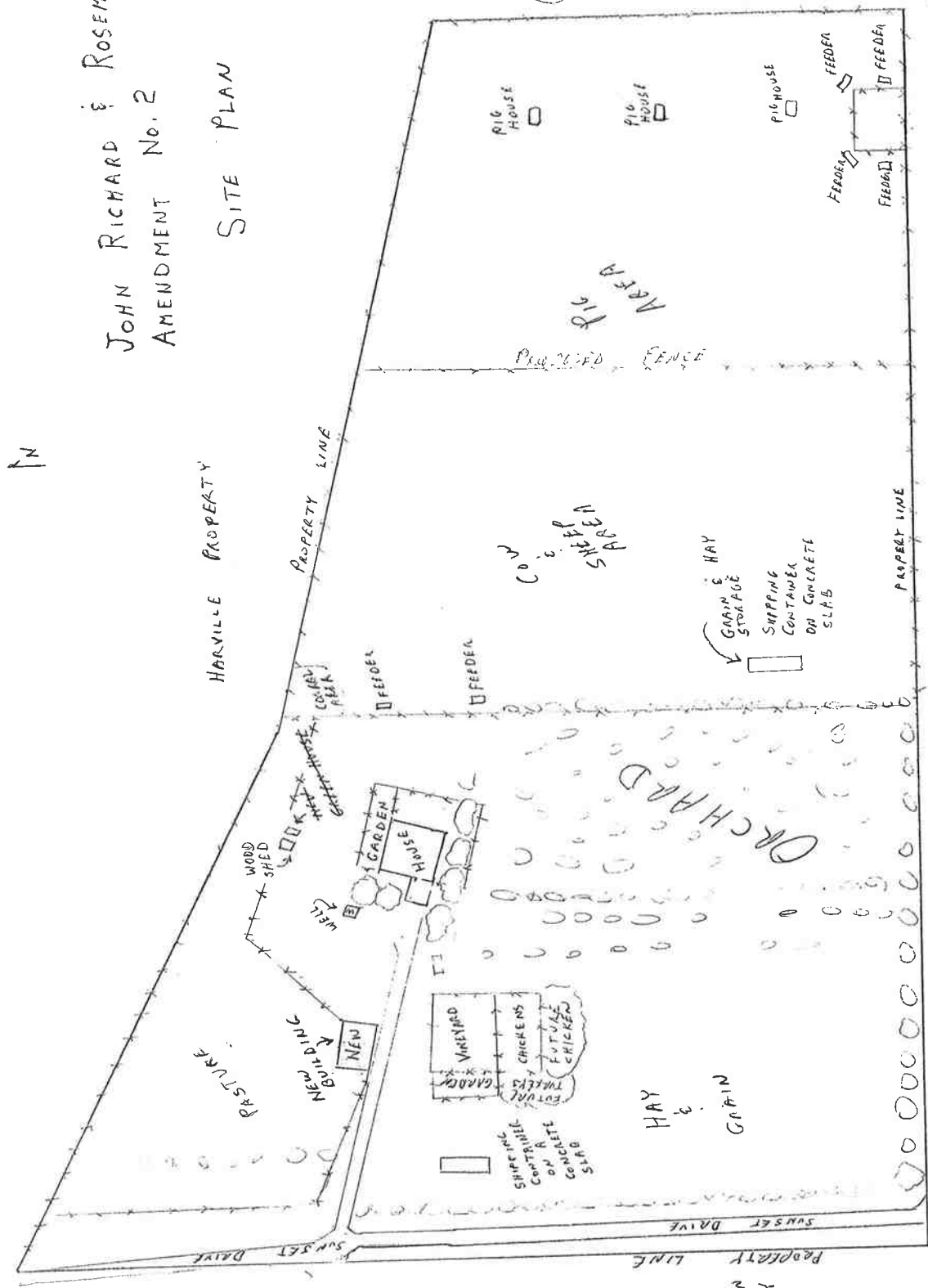
JOHN RICHARD & ROSEMARY I. HOYT
AMENDMENT No. 2

RECEIVED

AUG 18 2010

COLUMBIA RIVER GORGE COMM.

SITE PLAN



PIG HOUSES
GET MOULD
EVER 2 YEARS

COLE
PROPERTY

APPROVED
4/22/2010

PANORAMA COSTAL

DICKERSON
PROPERTY

MAUL PROPERTY

PUTNAM PROPERTY

DICKERSON PROPERTY



APPROVED
11/22/2010

Trees
to be
retained

PROPERTY LINE

PROPERTY LINE

RECEIVED

AUG 18 2010

COLUMBIA RIVER GORGE COMM.

Columbia River Gorge Commission

1 inch = 182 feet



Created by:

Date: **Tree Retention Plan**



Disclaimer: The Columbia River Gorge National Scenic Area/ Columbia River Gorge Commission data, information, and maps are provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This information is intended for general planning purposes and is not intended for site specific planning or analysis. Original data was compiled from various sources and that all information should be verified with those sources. Spatial information may not meet National Map Accuracy Standards. The requester acknowledges and accepts all limitations, including the fact that the data, information, and maps are dynamic and in a constant state of maintenance, correction and update.

JOHN RICHARD & ROSEMARY I. HOYT - PROPERTY LINE

AMENDMENT No. 2

JOHN RICHARD & ROSEMARY I. HOYT

RECEIVED

AUG 18 2010

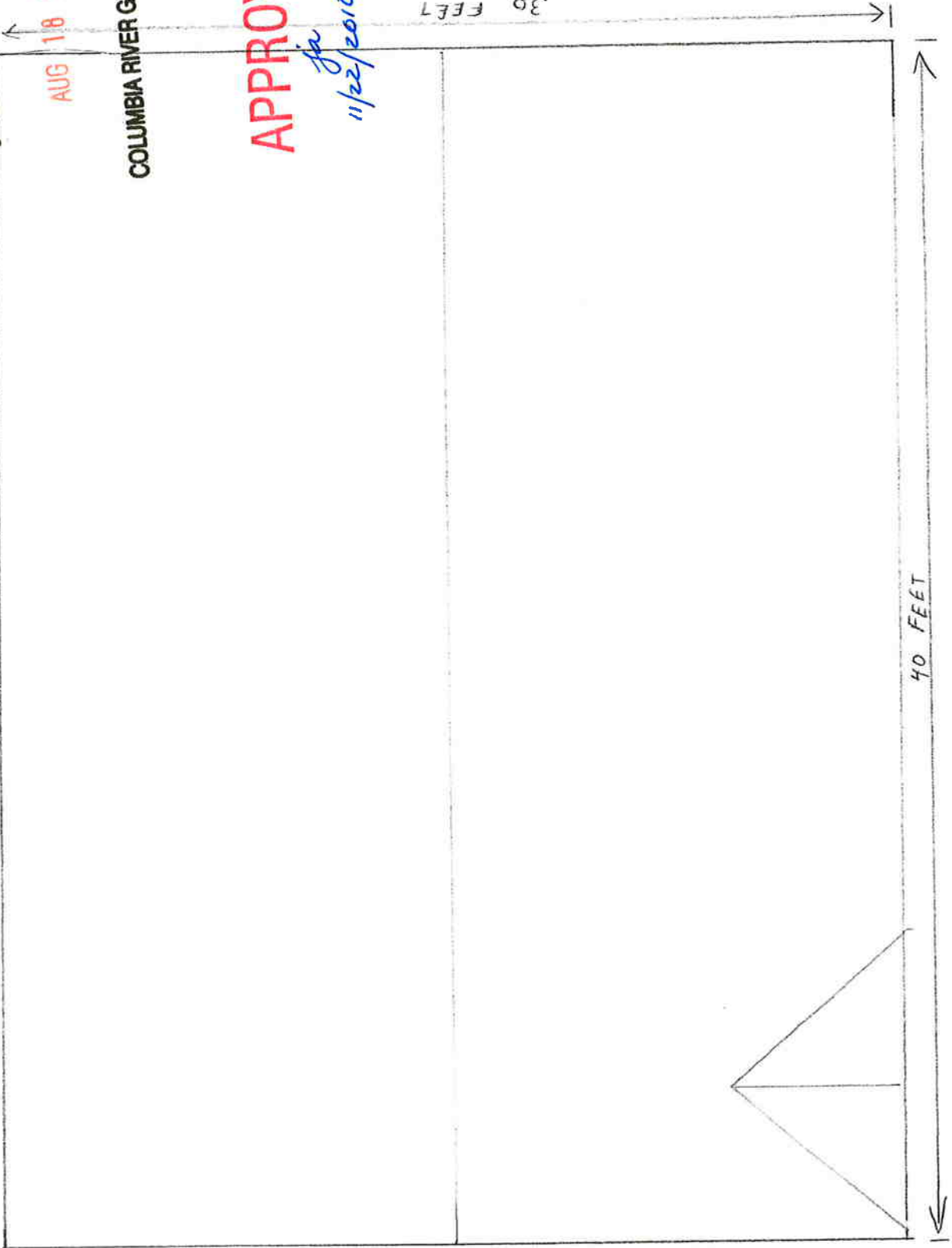
COLUMBIA RIVER GORGE COMM.

APPROVED

JR
11/22/2010

30 FEET

40 FEET



ROOF LINE
NEW BUILDING

JOHN RICHARD & ROSEMARY I. HOYT AMENDMENT No. 2

RECEIVED

APPROVED

AUG 18 2010

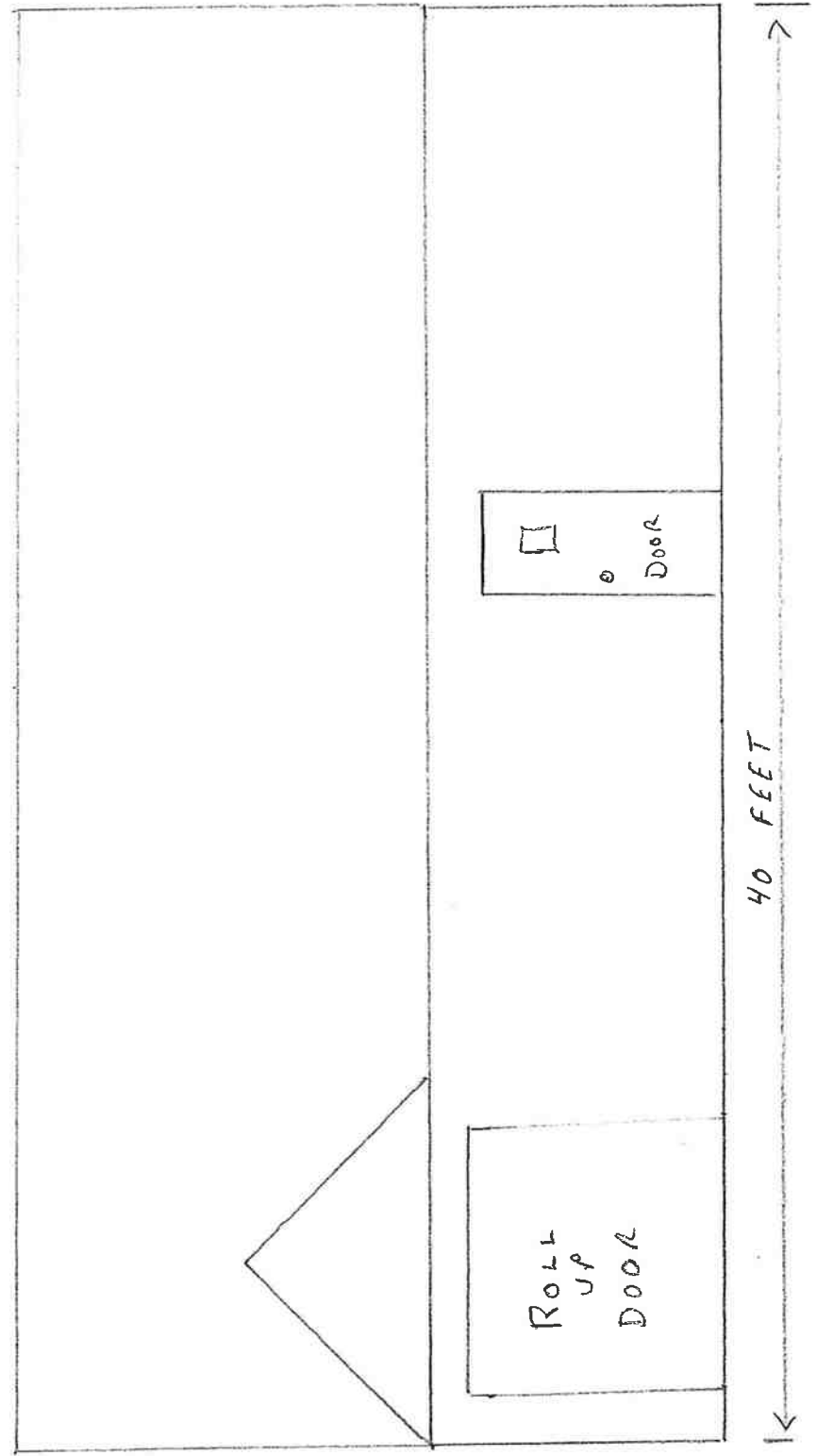
for 11/22/2010

COLUMBIA RIVER GORGE COMM.

WEST

EAST

NEW BUILDING



JOHN RICHARD & ROSEMARY I. HOYT AMENDMENT No. 2

RECEIVED

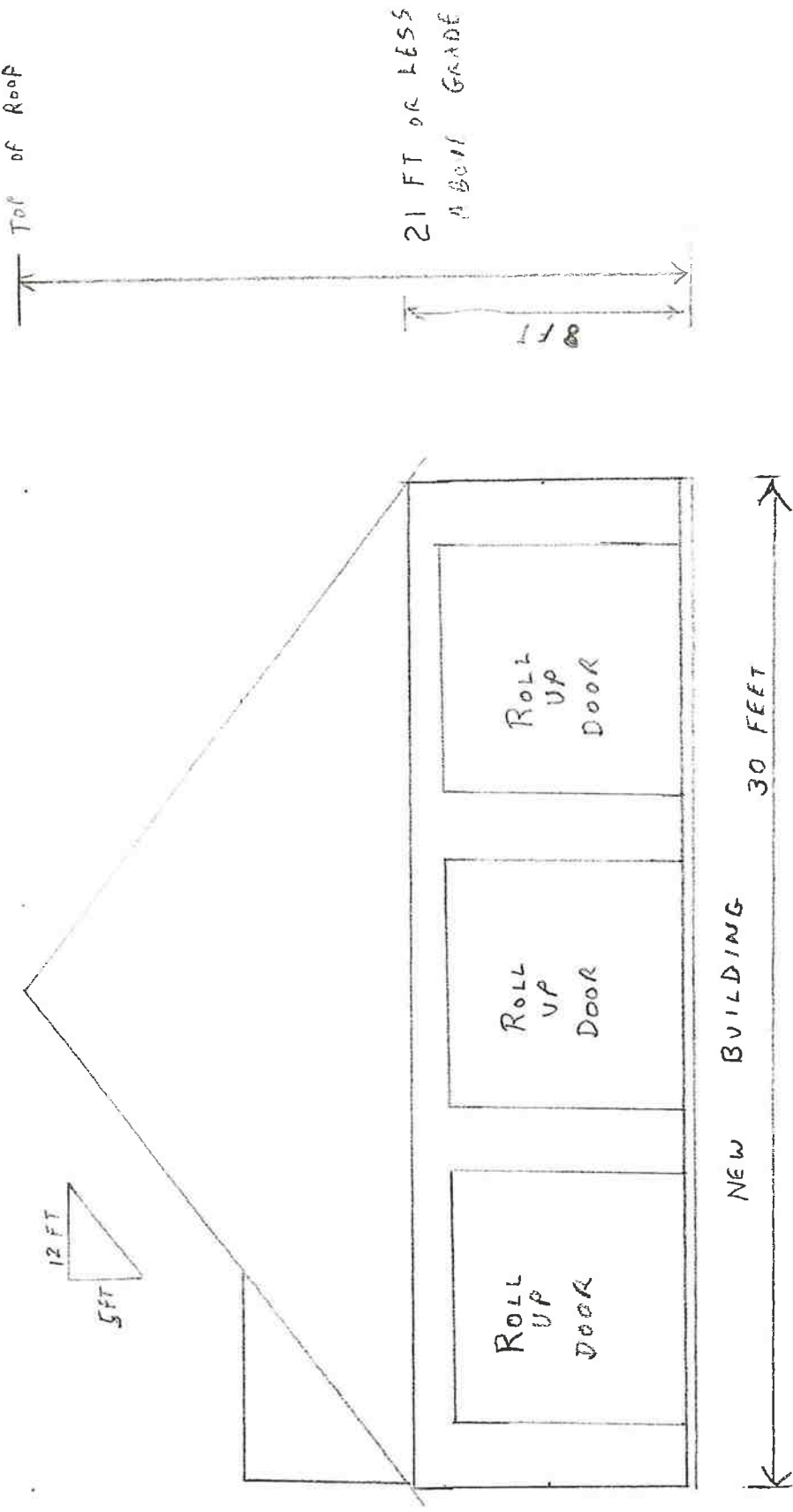
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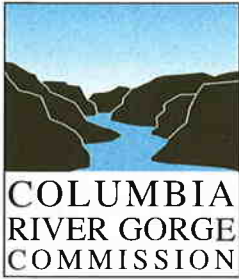
COLUMBIA RIVER GORGE COMM.

NORTH

APPROVED

for 11/22/2010





PO Box 730 • #1 Town & Country Square • White Salmon, Washington 98672 • 509-493-3323 • fax 509-493-2229
www.gorgecommission.org

STAFF REPORT

APPLICANT: John "Richard" and Rosemary Hoyt

LANDOWNER: Same as applicant

FILE NO.: C10-0009-K-G-11

REQUEST: To (1) construct a new 30 x 40 accessory building, (2) place a shipping container to be used as an accessory building and (3) place a second shipping container to be used as an agricultural building.

LOCATION: The subject parcel is located in the NE ¼ of Section 33, Township 3N, Range 12E, Willamette Meridian, Klickitat County, Washington (Klickitat County Parcel Number 03-12-3351-0001/00).

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

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 Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Health Department
Klickitat County Assessor
Washington Department of Fish and Wildlife
Washington Department of Natural Resources Natural Heritage Program
Friends of the Columbia Gorge

Written comments were received from Richard Till with the 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. John "Richard" and Rosemary Hoyt have proposed to construct a new 30' x 40' (1,200 square feet) accessory building, place an 8' x 45' (360 square feet) shipping container

to be used as an accessory building and place an 8' x 42' (336 square feet) shipping container to be used as an agricultural building to store animal feed and hay for an existing agricultural use. The shipping container to be used as an accessory building was previously placed without a permit. The after-the-fact review of this structure is to resolve this violation (enforcement file E10-K-G-142).

2. The subject 13.17 acre property is in the General Management Area and is designated Small-Scale Agriculture with a 40-acre minimum parcel size. Existing development on the parcel includes a single family dwelling (approved through Director's Decision C98-0003), three small accessory buildings and a chicken coop. Existing vegetation on the parcel includes an approximately 2 acre fruit orchard located south of the dwelling, mixed wind rows of pines and deciduous trees along the west and south property lines and scatterings of young pines throughout the west half of the property. The east half of the property is maintained as an enclosed pasture for livestock.
3. Commission Rule 350-81-190(1)(c) allows agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).
4. Commission Rule 350-81-020(8) defines "agricultural use". It states:

Agricultural Use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

- (a) *The operation or use of farmland subject to any agriculture-related government program.*
- (b) *Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.*
- (c) *Land planted in orchards or other perennials prior to maturity.*
- (d) *Land under buildings supporting accepted agricultural practices.*

Agricultural use does not include livestock feedlots.

5. Commission Rule 350-81-090(1) states:

The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

Mr. and Mrs. Hoyt raise specialty-diet egg laying hens (eggs sold locally) and between two and four cattle each year to be sold at auction. This spring, the applicants will be adding sheep and hogs to their livestock operation. As proposed, the 336 square foot shipping container will provide dry storage for hay and animal feed and will not exceed the size needed to serve the current and proposed agricultural use, consistent with this rule.

6. Commission Rule 350-81-190(1)(f) allows accessory buildings larger than 200 square feet for dwellings on legal parcels larger than 10 acres in size, subject to the following standards:

(A) *The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 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 footprint of any individual accessory building shall not exceed 1,500 square feet.*

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

Existing accessory buildings on the subject parcel include an 8' x 10' wood shed, a 5' x 11' valve-room, a 4' x 4' well-house (all accessory to the dwelling), and an 8' x 8' foot chicken coop (agricultural use). Excluding the chicken coop, the total combined footprints of all existing accessory buildings is 151 square feet. When combined with the proposed 1,200 and 360 square foot accessory buildings, the total combined footprints would be 1,711 square feet. The largest of these buildings has a proposed footprint of 1,200 square feet. This building would also be the tallest, and is proposed to have a maximum height of 21 feet from the peak to the final adjacent grade. Based on this information, the proposed accessory buildings are consistent with Commission Rule 350-81-190(1)(f).

7. Commission Rule 350-81-076(1) contains setbacks from adjacent properties for buildings on lands adjacent to parcels designated Large-Scale or Small-Scale Agriculture. This rule states:

All new buildings in the GMA shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use....

Adjacent parcels to the west and south are zoned GMA Residential and therefore do not require setbacks for the protection of agricultural uses. Parcels located immediately north and east of the subject parcel, are zoned GMA Small-Scale Agriculture and require setbacks. Although vineyards exist in the nearby area, the predominant use of the adjacent properties has historically been livestock grazing and haying. Currently, the adjacent parcel to the north contains a corral and existing barns and outbuildings near the shared property line. A steep slope and row of large trees occur just north of the applicant's fence line, separating the two properties topographically and visually.

The rest of the adjacent parcel was previously used for livestock and horses but is currently unoccupied. The agricultural property to the east appears to be used for haying and grazing uses. Currently, an orchard and planted wind rows are located along the south and western property lines of the subject property. Although fenced, no vegetated barrier or terrain barrier currently exists along the eastern property line.

Pursuant to Commission Rule 350-81-076(1) grazing requires a 100 foot buffer on lands that is open or fenced. As proposed, the 1,200 square foot accessory building would be located 120 feet from the northern property line and approximately 850 feet from the eastern property line. The 360 square foot accessory container building would be 310 feet from the northern property line and approximately 950 feet from the eastern property line. Similarly, the agricultural container building would be approximately 400 feet from the northern property line and approximately 550 feet from the eastern property line. As proposed, all three buildings are consistent with Commission Rule 350-81-076(1).

8. Commission Rule 350-81-084(1) lists guidelines for Indian Tribal Treaty Rights and Consultation within the General Management Area. Commission Rule 350-81-084(1)(a) lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments. This proposal is not near the Columbia River or other streams and would not affect Indian treaty rights. Notice of the proposal was mailed to the four tribal governments and 20 days provided for comments.
9. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. A letter from Johnson Meninick of the Confederated Tribes and Bands of the Yakama Nation was received September 27, 2010. The letter recommended monitoring by a professional archaeologist during ground disturbing activities. It did not request consultation or suggest that treaty rights would be affected by the proposal. Section C of this decision for more information on the protection of cultural resources.
10. Commission Rule 350-81-084(c)(B) states:

The treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-81-084(c)(B). Cultural resource survey requirements are addressed in Section C of this decision.

Conclusion:

The proposed accessory buildings and agricultural building are allowed review uses, 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 lists scenic resource protection guidelines. 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.

The subject parcel is relatively level with a gentle north facing slope that gradually increases on the parcel from the west to the east. Proposed development sites have slopes of less than 5%. Minimal grading will be needed for foundations of the proposed buildings. No new access roads or modifications to existing roads are proposed. Given this information, grading activities have been minimized to the maximum extent practicable, 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...

Nearby development consists of dwellings, accessory buildings and agricultural buildings that range in size from 80 square feet to 3,520 square feet. Most buildings are one and two-stories that range in height from 10 feet to 27 feet tall. As proposed, the larger accessory building would have a finished size of 1,200 square feet and would be 21 feet tall at its peak. The proposed container buildings would have footprints of 336 and 360 square feet with finished heights of 9 feet. The proposed development is compatible with the general scale 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.

Director's Decision C98-0003 approved a replacement dwelling on the subject parcel under Administrative Rule 350-80. Following the issuance of this decision, Mr. and Mrs. Hoyt challenged staff's findings and conclusions regarding the visibility of the proposed development from key viewing areas (KVAs). After conducting additional field work, Commission staff provided a letter to Mr. and Mrs. Hoyt stating that the site of the replacement dwelling would not be visible from the Rowena Plateau or the Historic Columbia River Highway (letter dated February 12, 1999). The 1998 decision was amended to reflect the new information. Findings of facts and conclusion were

corrected to describe the site as fully screened by a mixture of vegetation, topography and an existing dwelling to the south. A new finding was added however, that states "The upper portion of the dwelling would be visible from the Nature Conservancy Viewpoint atop Tom McCall Point, at a distance of over two miles."

Under Commission Rule 350-81, scenic resource protection guidelines apply to proposed development occurring on sites topographically visible from KVAs. Under this guideline, screening from vegetation and other existing development do not exempt proposed development from scenic resource protection guidelines. On July 28, 2010 Commission staff visited The Rowena Plateau and Nature Conservancy Viewpoint, including Tom McCall Point. Using a telephoto camera zoom lens for clarification, staff confirmed that although well screened by existing vegetation, the subject parcel is topographically visible from Tom McCall Point, which is part of the Rowena Plateau and Nature Conservancy Viewpoint KVA. To be clear, the site is not visible from the Rowena Plateau observation area (automobile roundabout) or the Historic Columbia River Highway, consistent with staff conclusions in 1999. However, the site is topographically visible from the top of Tom McCall Point. Therefore, Commission Rule 350-81-520(2) is applicable.

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

Each development shall be visually subordinate to its setting as seen from key viewing areas.

5. Commission Rule 350-81-020(170) defines visually subordinate as follows:

Visually subordinate: A description of the relative visibility of a structure where the structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a Key Viewing Area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.

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

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

As previously explained in Finding B.4 above, the subject parcel is topographically visible from one KVA (Tom McCall Point) in the far middle-ground at a distance of more than two miles. The proposed buildings have been sited and designed to be visually subordinate as seen from this KVA, with dark, low reflective materials and minimal grading. Other developments similarly sized, designed and distant from KVAs would not cause adverse scenic impacts. As designed and conditioned by this decision, the proposed development would not generate adverse cumulative scenic impacts.

7. Commission Rule 350-81-520(2)(d) states 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 key viewing areas.
8. Commission Rule 350-81-520(2)(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).*

As proposed the shipping containers would be sited perpendicular to the KVA so only the short sides of the buildings are visible (8' vs. 40'+ lengths). The 1,200 square foot accessory building is proposed to be placed near the existing dwelling, and will be partially screened by existing vegetation to the south. The visual impact of the proposed development is mitigated by the distance from the KVA, minimizing the building building orientation and size, existing screening vegetation and by the use of dark earth-tone colors and low-reflective materials.

9. 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.*

As discussed below, the size of the proposed buildings, distance to KVAs, siting to use existing vegetation on the subject parcel and other design considerations make it unnecessary to apply conditions for new landscaping to achieve visual subordination.

The proposed siting, along with conditions of approval to retain screening trees for the larger accessory building, require dark earth-tone colors and low reflective materials ensure that the proposed development will be visually subordinate, consistent with Commission Rule 350-81-520(2)(d).

10. 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 buildings are sited and oriented to minimize the amount of building facade exposed to the KVA from which they are visible. Specifically, the container buildings will be sited so that the short sides of the containers are facing south toward the KVA. The accessory container building (360 square feet) is proposed to be located west of the dwelling, near the property entrance. The agricultural container building (336 square feet) is proposed to be placed east of the orchard within the pasture area used by livestock. The 1,200 square foot accessory building would be located just west of and clustered with the dwelling where there is existing screening vegetation. These siting choices help the proposed development achieve visual subordination as seen from KVAs, consistent with Commission Rule 350-81-520(2)(e).

11. 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.

Because views experienced from the top of Tom McCall Point are higher in elevation than the subject parcel, no other site on the parcel offers more effective topographic screening than what has been proposed. The larger accessory building has been sited near the dwelling to cluster the development and utilize existing screening vegetation. Because of the small size of the containers, along with the distance from the KVA and used of dark colors and low reflective materials, screening vegetation is not needed to achieve visual subordination. With a condition of approval to retain screening vegetation near the larger accessory building, the proposed siting choices are consistent with Commission Rule 350-81-520(2)(f).

12. 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).

Findings for the Landscape Settings Design Guidelines are addressed below in B.21 through B.24.

13. 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

The subject property is located on a plateau situated just above State Route 14 and the Columbia River. According to Commission inventories, the subject parcel has an approximate elevation of 600 feet above sea level. After slightly decreasing in elevation near County Road 1230, the topography rises to the north, containing peaks approximately 1,250 feet above sea level. The proposed buildings will not break the skyline as seen from the KVA and are therefore consistent with Commission Rule 350-81-520(2)(h).

14. Commission Rule 350-81-520(2)(j) lists guidelines that apply to new landscaping used to screen development from key viewing areas.

All three proposed buildings have been designed and sited to achieve visual subordination. Although the larger accessory building will utilize existing vegetation for partial screening, no vegetation is required to be retained for the container buildings. With conditions to require the use of dark earth-tone colors, low reflective materials, and the retention of existing vegetation to screen the larger accessory building, no new landscaping is required to make the development visually subordinate from the KVA. As proposed, the development has been sited to avoid the need for new landscaping, consistent with Commission Rule 350-81-520(2)(j).

15. Commission Rule 350-81-520(2)(l) 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 proposed color for all exterior surfaces of all three buildings is a dark green similar to A-3 in the "recommended colors" of the *Scenic Resources Implementation Handbook*. A sample of the paint color was submitted to staff for approval on a sheet of metal siding. During site visits by staff, dark green colors were observed in the existing vegetation including a windrow of ponderosa pines, orchard trees and naturally occurring oak and pine trees. As proposed, the dark green exterior color is consistent with Commission Rule 350-81-520(2)(l).

16. 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... Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination.

The proposed exterior materials for the 1,200 square foot accessory building are metal siding and roofing. The container buildings are pre-fabricated metal shipping containers. In order to meet the standard of no or low reflective materials, the applicants submitted samples of metal painted with coarse rock sand mixed in to a flat-finish dark green paint. Commission staff evaluated the sample with multiple light sources and at different angles. Staff concluded that the coarse rock sand added a level of texture to the metal siding that sufficiently reduced its reflectivity to a low reflective material suitable for well screened or shaded areas located outside the foreground of KVAs.

Because the proposed developments are only visible in the far middle-ground from one KVA to the south; staff has determined that only the south aspects and roofs of the buildings would be topographically visible from the KVA. The other aspects of the proposed buildings do not rely on vegetation or other structural development for screening because they do not face the KVA. Given this information, conditions of approval will require the use of the coarse rock sand mixture to be used on the south facing aspects of the three buildings and all three roofs. With a condition of approval to ensure a flat-finish dark earth-tone paint color is used in conjunction with the rock sand mixture, and that the finish is well maintained, the proposed materials have low reflectivity, consistent with Commission Rule 350-81-520(2)(m).

With the exception of one small window on the door of the larger accessory building, no windows are proposed for any of the three buildings. The proposed buildings minimize continuous surfaces of unscreened glass, consistent with this guideline.

17. 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.

The applicant has not shown any exterior lighting on the proposed buildings. A condition of approval will require all outdoor lights to be hooded and shielded to screen them from key viewing areas. With this condition, the proposal is consistent with Commission Rule 350-81-520(2)(p).

18. Commission Rule 350-81-520(2)(y) states:

New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent.

Building sites are relatively flat with slopes of less than 5 percent. Thus, no new buildings would be constructed on lands visible from KVAs with slopes in excess of 30 percent, consistent with Commission Rule 350-81-520(2)(y).

19. Commission Rule 350-81-520(2)(z) states:

Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.

No new driveways or modifications to existing driveways are proposed. Proposed building sites are relatively level and will only require minimal grading in preparation of the concrete foundations. No cut banks or fill slopes are proposed. No grading will be visible from key viewing areas. The development is consistent with Commission Rule 350-81-520(2)(z).

20. Commission Rule 350-81-520(2)(aa) states:

All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan.

The proposed development involves only minimal grading to prepare the sites for concrete footings. Because less than 200 cubic yards of grading is proposed, a grading plan is not required, consistent with this guideline.

21. The Landscape Settings map in the Management Plan classifies the subject parcel as Rural Residential/Pastoral. Commission Rule 350-81-520(3)(f) contains guidelines for new development in this landscape setting. It states:

(A) *New development in this setting shall meet the design guidelines described for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.*

(B) *In the event of a possible conflict between the two sets of guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable...*

Consistency with the Rural Residential and Pastoral landscape setting guidelines are discussed below. Because no new landscaping is required for the proposed development to achieve visual subordination from the KVA, there are no conflicts between the two sets of guidelines. Findings B.23 and B.24 below discuss how the proposed development is consistent with both applicable landscape setting guidelines and therefore, consistent with Commission Rule 350-81-520(3)(f).

22. Commission Rule 350-81-520(3)(a) contains landscape setting guidelines for properties designated Pastoral. It states:

- (A) *Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.*

As proposed, two of the accessory buildings are sited west of the house, clustered near other existing development in the northeast corner of the property. The agricultural building is proposed to be located east of and adjacent to the orchard near the southern property line. This site is located near the livestock area toward the western edge of the pasture area. The site is also easily accessed from an existing gravel driveway that parallels the southern property line – reducing the need for additional access ways. As proposed, the development has been clustered with existing development or toward the edge of the pasture, consistent with this guideline.

- (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) *Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.*
 - (ii) *Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.*
 - (iii) *At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).*
 - (iv) *At least one-quarter of any trees planted for screening shall be coniferous for winter screening.*

No trees are proposed to be removed as a result of this application. With a condition to retain existing tree cover providing screening south of the larger accessory building, no new screening vegetation is required for the proposed development to achieve visual subordination from the KVA.

In sum, the proposed development is consistent with the landscape setting guidelines for lands designated Pastoral.

23. Commission Rule 350-81-520(3)(e) contains landscape setting guidelines for properties designated Rural Residential. It states:

- (A) *Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.*

(B) *In portions of this setting visible from key viewing areas, and not exempt from visual subordination guidelines (see 350-81-520(3)(k)), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:*

- (i) *Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.*
- (ii) *At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.*
- (iii) *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

No trees are proposed to be removed as a result of this application. No screening vegetation is required for the two container buildings to achieve visual subordination from the KVA. With a condition to retain existing screening vegetation for the larger accessory building, no new vegetation would be required to achieve visual subordination from the KVA.

In sum, the proposed development is consistent with the landscape setting guidelines for lands designated Rural Residential.

24. Commission Rule 350-81-520(3)(f)(C) contains guidelines for recreation uses on lands designated Rural Residential/Pastoral. Because no new recreation uses are proposed at this time, Commission Rule 350-81-520(3)(f)(C) is not applicable.

Conclusion:

With conditions of approval for color, reflectivity, outdoor lighting and retention of existing screening vegetation, the proposed development is consistent with applicable scenic resource protection guidelines in Commission Rule 350-81-520.

C. Cultural Resources

1. Commission Rule 350-81-540(1) lists cultural resource protection guidelines. 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.
2. In her October 1, 2010 Heritage Resource Inventory Report, US Forest Service Heritage Program Manager Marge Dryden determined that a reconnaissance survey was required because the development would be occurring in a high probability area that has not previously been surveyed. Ms. Dryden also determined that historic survey was not required because the existing development on the property is less than 50 years old and is not historic.

3. Pursuant to Commission Rule 350-81-540(1)(c)(C) Ms. Dryden conducted a reconnaissance survey of the site on September 17, 2010 and concluded in her October report that there are no prehistoric or historic-period archaeological resources within the area of potential effect.
4. Pursuant to Commission Rule 350-81-540(2)(b), Ms. Dryden's cultural resource reconnaissance survey was submitted to the Washington State Historic Preservation Officer and the Indian tribal governments on October 6, 2010. Gretchen Kaehler, Assistant State Archaeologist for the Washington Department of Archaeology and Historic Preservation submitted comments on November 4, 2010 concurring with Ms. Dryden's recommendations and conclusions of no affect. No other comments were received during the 30-day comment period.

A comment from Johnson Meninick of the Confederated Tribes and Bands of the Yakama Nation was received September 27, 2010. In his letter, Mr. Meninick recommended the use of an onsite monitor during ground disturbing activities and a request for notification if cultural sites are discovered in the project area. Since the project involves minimal ground disturbance and no cultural resources were discovered at the site, an on-site monitor is not required for this project. A condition is included requiring Commission notification if any cultural resources are discovered during project construction. No other comments were received regarding cultural resources.

5. 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. The September 27, 2010 letter from Mr. Meninick did not request consultation with the project applicants.
6. 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 explained above, a reconnaissance survey demonstrates that cultural resources were not found in the project areas. A comment was received from the Yakama Nation as described above. The concerns raised in the letter have been addressed pursuant to the cultural resource protection process in Commission Rule 350-81-540. The proposed development will have no effect on any known cultural resources. Pursuant to Commission Rule 350-81-540(2)(c)(B)(ii), the cultural resource protection process may conclude.

7. 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.

8. 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 Rules 350-81-540 that protect cultural resources from adverse effects.

D. Natural Resources

1. Commission Rules 350-81-560 through 590 contain natural resource protection guidelines. 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 do not identify any wetlands, streams, ponds, lakes, or riparian areas within 1,000 feet of the development sites. A site visit by a Gorge Commission Planner confirmed this information. Commission Rules 350-81-560 and 570 are not applicable.
3. Commission Rule 350-81-580 contains guidelines to protect sensitive wildlife areas and sites. Gorge Commission inventories do not identify sensitive wildlife areas or sites within the vicinity of the proposed development sites. Commission Rule 350-81-580 is not applicable.
4. Commission Rule 350-81-590 contains guidelines to protect sensitive plants. According to Gorge Commission inventories, the proposed development would occur within 1,000 feet of sensitive plants. Therefore, Commission Rule 350-81-590 applies the proposed development.
5. Commission Rule 350-81-590(3) states that review uses may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-81-590(4) and reviewed under the applicable provisions of 350-81-520 through 620.
6. Commission Rule 350-81-590(4)(a) states:

Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

Commission staff provided application information to Joseph Arnett of the Washington Natural Heritage Program. Mr. Arnett concluded that no known sites of sensitive plants occurred within 200 feet of the proposed development and that the likelihood of impacts to unknown plant sites was low due to the level of disturbance (agricultural activities) on the property.

7. Commission Rule 350-81-590(4)(b) states that the rare plant protection process may conclude if the Executive Director, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

Commission staff consulted with Natural Heritage Program staff and confirmed that the proposed development would not occur within 200 feet of any known sensitive plant site. Given this information, the rare plant protection process may conclude pursuant to Commission Rule 350-81-590(4)(b).

Conclusion:

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

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. Commission Rule 350-81-086 is not applicable.

Conclusion:

The proposed development 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
Washington Department of Fish and Wildlife
Washington Department of Natural Resources Natural Heritage Program

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