

PO Box 730 • #1 Town & Country Square • White Salmon, Washington 98672 • 509-493-3323 • fax 509-493-2229  
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## DIRECTOR'S DECISION

**APPLICANT:** Charles Ernst

**LANDOWNER:** Same

**FILE NO.:** C10-0013-K-G-19

**REQUEST:** To remove two buildings (a garage (25' x 45') and a barn (35' x 40')) that are more than 50 years old.

**LOCATION:** The subject property is located south of and adjacent to State Route 14 in the SW ¼ of Section 16 and the SE ¼ of Section 17, Township 2 North, Range 14 East, W.M., Klickitat County, Washington (Klickitat County Assessor's ID# 02141700000400 and 02141600001000).

**LAND USE DESIGNATION:** The subject property is in the General Management Area and is designated Large -Scale Agriculture.

### DECISION:

Based upon the findings of fact in the Staff Report for Director's Decision C10-0013, the land use application by Charles Ernst to remove a garage and a barn 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. Ground disturbance shall be limited to the footprints of the garage and barn to be removed and shall be limited to disturbance necessary for building material removal. No grading is approved.
2. 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 removal of the garage and barn and clean up of the ground beneath the building footprints.
3. If cultural resources are discovered during construction activities, all activities within 100 feet

3. 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.
4. 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 26<sup>th</sup> day of January, 2011 at White Salmon, Washington.

  
\_\_\_\_\_  
Jill Arens  
Executive Director

**EXPIRATION OF APPROVAL:**

***This decision of the Executive Director becomes void on the 26<sup>th</sup> day of January, 2013.***

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 indicate 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 25<sup>th</sup> day of February, 2011.***

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 grading, 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.

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C10-0013-K-6-19

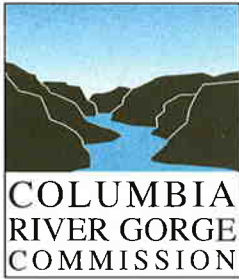
**APPROVED**

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RECEIVED

COUNTY OF SANTA CRUZ  
PLANNING AND ZONING DEPARTMENT



## STAFF REPORT

**APPLICANT:** Charles Ernst

**LANDOWNER:** Same

**FILE NO.:** C10-0013-K-G-19

**REQUEST:** To remove two buildings [a garage (25' x 45') and a barn (35' x 40')] that are more than 50 years old.

**LOCATION:** The subject property is located south of and adjacent to State Route 14 in the SW ¼ of Section 16 and the SE ¼ of Section 17, Township 2 North, Range 14 East, W.M., Klickitat County, Washington (Klickitat County Assessor's ID# 02141700000400 and 02141600001000).

**LAND USE DESIGNATION:** The subject property is in the General Management Area and is designated Large -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  
Friends of the Columbia Gorge

Written comments were received from Richard Till with the Friends of the Columbia Gorge, Gretchen Kaehler of the Washington Department of Archaeology and Historic Preservation, and Johnson Meninick with the Confederated Tribes and Bands of the Yakama Nation.

### FINDINGS OF FACT:

#### A. Land Use

1. Charles Ernst is seeking approval to remove two existing buildings – a garage (25' x 45') and a barn (35' x 40'). Both buildings are more than 50 years old. The applicant

proposes to clean up the ground beneath the building footprints to allow natural revegetation. No grading is proposed.

2. The subject property is approximately 16.47 acres and is designated Large-Scale Agriculture in the General Management Area. Other existing development on the property includes a dwelling and a vineyard.
3. Commission Rule 350-81-190(1)(x) allows for the removal or demolition of structures that are 50 or more years old. The exact ages of the garage and barn to be removed are unknown. Klickitat County Assessor records indicate the subject structures may have been constructed in about 1930. The dwelling on the property was constructed in 1934 and the barn may have been constructed at the same time. No one disputes the structures are more than 50 years old. The removal of the garage and barn is allowed pursuant to Commission Rule 350-81-190(1)(x), subject to consistency with guidelines for the protection of scenic, cultural, natural, and recreation resources.
4. 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. The subject property does not provide access to the Columbia River or fish bearing tributaries and would not affect Indian treaty rights. Notice of the proposal was mailed to the four tribal governments and 20 days provided for comments.
5. 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 December 1, 2010. The letter recommended monitoring during ground disturbing activities and inquired about required permits from the State Historic Preservation office. It did not suggest treaty rights would be affected by the proposal.
6. 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 350-91-084(c)(B). Cultural resource survey requirements are addressed in Section C of this decision.

Conclusion:

The removal of the garage and barn 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 lists scenic resource protection guidelines for review uses. The proposal does not include the construction of any new buildings, roads, fences or other structures. The applicant proposes to clean up the ground beneath the building footprints to allow for natural revegetation, but no grading is proposed. Because no new development is proposed, the scenic resource protection guidelines in Commission Rule 350-81-520 do not apply.

Conclusion:

No new development is proposed with this application. Scenic resource protection guidelines in Commission Rule 350-81-520 are not applicable to the proposed removal of the barn and garage. A condition of approval will ensure that no ground disturbance is permitted beyond the footprints of the buildings to be removed.

C. Cultural Resources

1. Commission Rules 350-81-540(1)(c)(A)(i) requires a cultural resource reconnaissance survey (archaeological resources) for all proposed uses within 500 feet of a known cultural resource. Margaret Dryden, Heritage Resources Program Manager with the USDA Forest Service National Scenic Area, reviewed the applicant's land use application and determined a reconnaissance survey was required pursuant to Commission Rule 350-81-540(1)(c)(A)(i). In a Heritage Resource Inventory Report dated December 9, 2010, Ms. Dryden concluded there are no prehistoric or historic-period archaeological resources within the project area.
2. Commission Rule 350-81-540(1)(c)(B) is used to determine a historic survey is required. Ms. Dryden reviewed the application and determined a historic survey was required for the barn because it would alter (dismantle and remove) the exterior of a building more than 50 years old. The garage, also more than 50 years old, was previously surveyed in 1997. The 1997 survey determined the garage was not eligible for listing on the National Register of Historic Places. In a Heritage Resource Inventory Report dated December 9, 2010, Ms. Dryden recommended that the barn is not eligible for the National Register.
3. Pursuant to Commission Rule 350-81-540(2)(b), Gorge Commission staff sent the "Heritage Resource Inventory Report," which included the reconnaissance and historic surveys, to the State Historic Preservation Officer and the Indian tribal governments on December 13, 2010. They were provided a 30-day comment period.

In a letter dated December 15, 2010, the State Office of Archaeology and Historic Preservation concurred that the barn is not eligible for the National Register of Historic Places. The tribal governments did not comment on the report.

4. 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. A comment from Johnson Meninick of the Confederated Tribes and Bands of the Yakama Nation was received December 1, 2010. The letter recommended a professional archaeologist monitor the site during ground disturbing activities. The letter did not request consultation with the project applicant. Since the project involves minimal

ground disturbance and no cultural resources were found in the project area, an on-site monitor is not required for this project. A condition is included requiring Commission notification should any cultural resources be discovered during project construction

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

*(ii) 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.*

*(iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because...the State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation."*

As explained above, a reconnaissance survey revealed no archaeological resources in the project area; no concerns about the reconnaissance survey were submitted by the State or Indian tribal governments; and the State Office of Archaeology and Historic Preservation determined the project would have no effect on significant historic buildings or structures. A comment was received from the Yakama Nation as described above. The concerns raised in the letter were addressed pursuant to the cultural resources protection process in Commission Rule 350-81-540. Pursuant to Commission Rule 350-81-540(2)(c)(B), the cultural resource protection process may conclude.

6. 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.
7. 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:

The proposed demolition of the garage and barn would not adversely affect known archaeological or historic cultural resources. With a condition protecting unknown cultural resources or human remains discovered during construction, the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protect cultural resources in the National Scenic Area from adverse effects.

D. Natural Resources

1. Commission Rules 350-81-560 through 590 contain natural resource protection guidelines. Commission Rule 350-81-560 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 or sensitive plants within 1,000 feet of the development site. Therefore, Commission Rules 350-81-560 and 350-81-590 are not applicable.
3. Commission Rule 350-81-570 includes guidelines to protect streams, ponds, lakes and riparian areas. Gorge Commission inventories do not identify and ponds or lakes on the subject property. Gorge Commission inventories and past development reviews identified two intermittent streams on the eastern portion of the property. Director's Decision C97-0019 requires 50-foot buffers with no cultivation for these streams. The buildings proposed to be removed are located more than 1,000 from the closest intermittent stream – well outside the required 50-foot buffer zones. The Columbia River shoreline is located more than 200 feet and across a railroad track from the project area – also outside the required 100 foot buffer zone for the river. The proposed removal of the garage and barn is consistent with the riparian protection guidelines in Commission Rule 350-81-570.
4. Commission Rule 350-81-580 contains guidelines to protect sensitive wildlife areas and sites. The Gorge Commission's sensitive wildlife inventory identifies the project area is within 1,000 feet of peregrine falcon and golden eagle habitat. Commission Rule 350-81-580 (1)(a)(A) defines the peregrine falcon as a "sensitive wildlife area" and Commission Rule 350-81-580(1)(a)(B) includes the golden eagle as "sensitive wildlife site."
5. Commission Rule 350-81-580(4) contains guidelines for review of proposed uses within 1,000 feet of sensitive wildlife areas and sites. Subsection (a) of this section requires that site plans for such uses be submitted to the Washington Department of Fish and Wildlife to review the application and: (A) verify the location of the wildlife area or site; (B) ascertain whether the wildlife area or site is active or abandoned; and (C) determine if the proposed use may compromise the integrity of the wildlife area or site or occur at a time when wildlife species are sensitive to disturbance. The application and site plan were submitted to David Howe, Region 5 Habitat Program Manager for the Washington Department of Fish and Wildlife on November 22, 2010 for review, pursuant to Commission Rule 350-81-580(4). On January 3, 2011, Anne Friesz, Assistant Regional Habitat Program Manager, sent an email stating "WDFW has no concerns or comments for this project."
6. 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.*

Comments received from the Washington Department of Fish and Wildlife confirmed that the proposed demolition of the barn and garage would not compromise sensitive wildlife areas or sites. Consistent with Commission Rule 350-81-580(4)(c), the wildlife protection process concluded.

Conclusion:

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

E. Recreation Resources

1. Commission Rule 350-81-086 prevents adverse impacts to existing recreation sites. It 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.*

No new buildings or structures are proposed with this application. 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: Johnson Meninick, 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  
Rick Till, Friends of the Columbia Gorge  
Washington Department of Fish and Wildlife  
Washington Department of Archaeology and Historic Preservation

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