

Dear Columbia River Gorge Commissioners,

April 26, 2019

We are writing to appeal Decision Directive C19-0004, issued on April 3 by the Executive Director of the Columbia River Gorge Commission. The directive approves our proposal to build a home on our property at 381 Old Highway 8 in Lyle, conditioned upon locating the new house at the site of the existing home because the roofline of the proposed house would break the skyline from a portion of one curve on a KVA.

We respectfully appeal the condition requiring us to build at the approved location because this site is highly vulnerable to wildfire. We understand that the Commission's guidelines do not place any one resource protection over another, and that sometimes certain considerations may be at odds with other resource protections – in this case, fire protection with a scenic resource. We respect the Commission's historic role in protecting scenic resources, but in this time of warming temperatures and increased fire danger, we respectfully request that you prioritize fire protection as the most important consideration for this and future development.

Commission Rule 350-81-082(2)(a)(C) states the replacement dwelling must meet approval criteria for fire protection. As the Commission works to codify criteria for fire protection in agricultural settings, we designed and located our proposed home in accordance with Firewise Community Program guidelines. We acknowledge that the approved site is the location on our property that would best protect the scenic views; however, our proposed site is the location that would best protect us, first responders, and the environment – and thus provides the best balance for resource protection. We ask that you grant our appeal to build at our proposed site.

We strongly support the mission of the Columbia River Gorge Commission to protect and enhance the scenic, natural, cultural, and recreational resources of this magnificent area. We both have long loved the beauty of the Gorge: Valerie grew up in suburban Portland, and Chip first visited the Gorge when he served two tours of duty at Naval Air Station Whidbey Island, Washington. We recently retired following careers in service to our country; combined, we served over 62 years in the U.S. Navy and U.S. Foreign Service, much of it overseas. We have long dreamed of returning to the area and building our retirement home here in the Gorge.

We take seriously our responsibility as custodians of our land. Since we purchased the property in July 2016, we have promoted agriculture by establishing a 16-acre vineyard that will be farmed organically and seasonally supports up to 20 jobs; enhanced animal habitat by planting deer-friendly plants in the western gully; and practiced environmental stewardship by creating a rare native plant conservancy, planting native trees, working toward eliminating non-native species such as Himalayan blackberry and yellow star thistle, and removing and recycling tons of trash and debris.

For 14 months, we worked closely with Gorge Commission staff on potential locations for our home. Our architect's letter (Attachment A) details our extensive efforts and explains why our proposed home site is the best site for scenic and fire safety considerations. Attachment B illustrates the complexities of site selection on our property, and highlights potential sites we surveyed, including the approved site. We base our appeal on the following:

1) Our proposed home site and design fulfill Firewise Communities Program best practices for construction, access, defensible space, and maintenance of a home. In contrast, the approved site is highly vulnerable to wildfire; building a new home at this site would run counter to Firewise guidelines that reduce the risk of wildfire to residents, structures, and the greater environment. (Please see Attachments A, B and C.)

2) Our proposed home site is the most visually subordinate location on our ranch that (1) meets Firewise guidelines and (2) best meets the requirements for building in the Special Management Area. Our proposed home location meets every scenic requirement for 25 of the 26 Key Viewing Areas. (Please see Attachments D and E.)

3) We appreciate the importance of precedent in Gorge Commission decisions. We believe the approval in 1999 of a shop building near our proposed home location provides precedent for approving our project based on the 1999 findings regarding (1) visibility from the Old Highway 8 KVA, and (2) the structure and the skyline. We believe these findings suggest that in 1999 the Executive Director did not consider a brief glimpse of the barn roof forming the skyline to be disqualifying with respect to approving the project. (Please see Attachment F.)

4) The Scenic Resources Implementation Handbook states on page 3:

*“On rare occasions, a proposed project cannot meet scenic standards. When this happens, the review agency will look at all options (location, design, color, material selection, and landscaping) to make sure the development will blend in as much as possible.”*

The design, color, material selection and landscaping of our proposed house ensure that the structure will blend in to the natural setting as much as possible. As the trees that provide the canopy and screening continue to grow, the house will blend into the setting even more. By following Firewise recommendations in locating our home site, we aim to protect both ourselves and the greater environment and, by extension, scenic and natural resources as well.

As you weigh your responsibility to protect and enhance resources in the Gorge, we respectfully request that you put safety and fire protection ahead of a momentary scenic consideration. We feel sure that the rule that a proposed structure must not break the skyline from any section of any KVA was not intended to force property owners to build homes in vulnerable locations for the sake of perfect visual subordination.

We are grateful for your consideration of our appeal to build our home at our proposed site rather than at the approved location.

With Best Regards,

Handwritten signatures in blue ink. The first signature is "Charles W. Fowler" and the second is "Valerie C. Fowler".

Attachments:

- A) Architect Mike Barclay's letter of February 16, 2019 to Columbia River Gorge Commission Executive Director Krystyna Wolniakowski
- B) PowerPoint slide of our property and potential house locations
- C) Firewise guidelines with respect to site selection for our home

- D) Careful site selection and house design with respect to protecting scenic resources
- E) PowerPoint slide showing location of vulnerability on Old Highway 8
- F) 1999 Director's Decision as precedent for our proposed site location



## ***Barclay Home Design***

***12112 S. New Era Rd.***

***Oregon City, OR 97045***

February 16, 2019

Re: Fowler Residence 381 Old Highway 8, Lyle, Washington

To: Columbia River Gorge Commission

This letter regards the proposal by Charles and Valerie Fowler to build a home on their property at 381 Old Highway 8 in Lyle, Washington. I have been working with the Fowlers for the past year to design and site a home that meets all the requirements detailed in the Columbia River Gorge Commission's handbook, "Building in the Scenic Area".

I have personally walked the Fowler property several times, and together we have commissioned three separate topographical and engineering studies for potential house site. The Fowlers have worked closely with planning staff on the Columbia River Gorge Commission (hereafter "the Commission") throughout this year-long process.

The first topographical and engineering study covered the area around the original proposed home site, which met all the requirements for Key Viewing Areas (KVAs) from the Oregon side of the Columbia River. The building proposal linked to this site was initially approved by the Commission in an approval memo dated October 4, 2018.

The Commission planning staff subsequently identified a curve on the Old Highway 8 (County Road 1230) KVA from which the proposed home would break the skyline, and accordingly the Executive Director rescinded the building approval in late October.

Following this decision, the Fowlers commissioned an extensive topographical and engineering study that covered the area west of the barn north of the rock wall; additionally, this study covered the area west of the original site south of the rock wall, extending into the western gully and line of trees and continuing to the vicinity of the existing ranch house.

With respect to the area north of the wall and west of the barn, the engineering and topographical teams determined the shallow bedrock and above-ground flow of water down the mountain would make this an almost impossible construction site.

## ATTACHMENT A

The area extending into the western gully is also subject to the flow of the water that comes through the rock wall and through subterranean fissures. Over time, this regular flow of water effectively created the gully and today sustains a line of Oregon Oak and Ponderosa Pines. The engineers believe this water flow would hazard a house foundation and basement, leading to destabilizing water leaks and mold.

Additionally, I am concerned that placing the home in close proximity to the grove of trees in the gully would create vulnerability to wildfire, which could easily envelop the house if a forest fire were to sweep across Catherine Creek and jump Major Creek. In my professional opinion, this site is dangerous, unprotectable, and would put the family at high risk.

The area around the existing ranch house does not have the water flow problems associated with the first two options detailed here; however, it is encircled by more than 60 trees within 150 feet of the current home, rendering the home and its residents vulnerable to wildfire approaching from the south or west.

Recognized guidelines for protection against wildfires, such as the National Firewise Community Program, recommend creating a defensible space around residential structures by limiting the level of flammable vegetation, and positioning structures away from slopes.

The increasing trend of wind-driven fire has been recognized as a threat as far back as 1985, when the National Fire Protection Association and the USDA Forest Service formed what is now the National Wildland/Urban Interface Fire Program. Recent catastrophic fires in the Columbia Gorge National Scenic Area highlight the critical importance of pro-actively incorporating Firewise techniques when selecting where to build projects in the Gorge.

Accordingly, I strongly believe the safest and best location to construct the Fowler home is the area slightly east of the original location. This site would embed the home within the existing irrigated vineyard, creating an effective firebreak to any wildfire approaching from the south or west. This supports the Firewise landscape best practice of fuel reduction by increasing the moisture content of vegetation around the home site, including during the drier months when wildfire danger is highest.

As part of their careful site selection the Fowlers commissioned a third topographical and engineering study focused on this site. The water flow down the mountain follows its centuries-old path to the gullies on each side of this site to the east and west, protecting the foundation from water hazard. The original house design fits precisely on the same east-west contours as the original site and mitigates the need for excessive excavation.

This location takes advantage of the large gully to the east to screen the house from the Oregon KVA's. In addition, there is a canopy of mature, existing trees that screens the roofline of this house site, ensuring that the roofline does not form the skyline-including from the KVA on Old Highway 8. This existing tree canopy directly addresses the issue that generated the Executive Director's revocation of the Commission's approval of the original Fowler proposal. Trees to

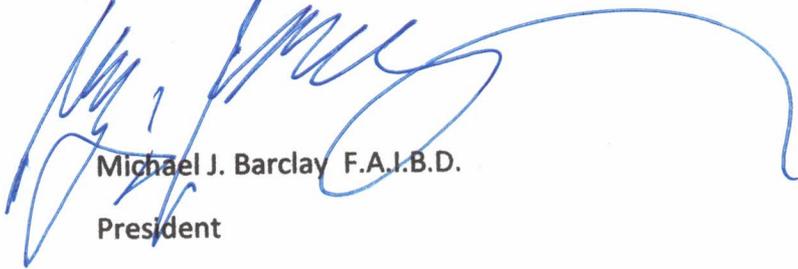
## ATTACHMENT A

the immediate north and west of the site further enhance the visual subordination of the house from all KVAs.

In my professional opinion, based on extensive study of the Fowler property, the site proposed by the Fowlers in this building application is the only site on the Fowler property that meets all the required scenic protections while also adhering to Firewise guidelines for protection against wildfire.

I strongly urge the Columbia River Gorge Commission to approve the Fowler's application to build their home on the new proposed site. They have done extensive due diligence to carefully select this site, and there are simply no other good alternatives that meet scenic and safety considerations.

Respectfully yours,



Michael J. Barclay F.A.I.B.D.

President

Barclay Home Design

503-970-4257

barclayhomedesign@gmail.com

# Attachment B

Property Line  
(Approx) - - - - -

Potential  
Location 3

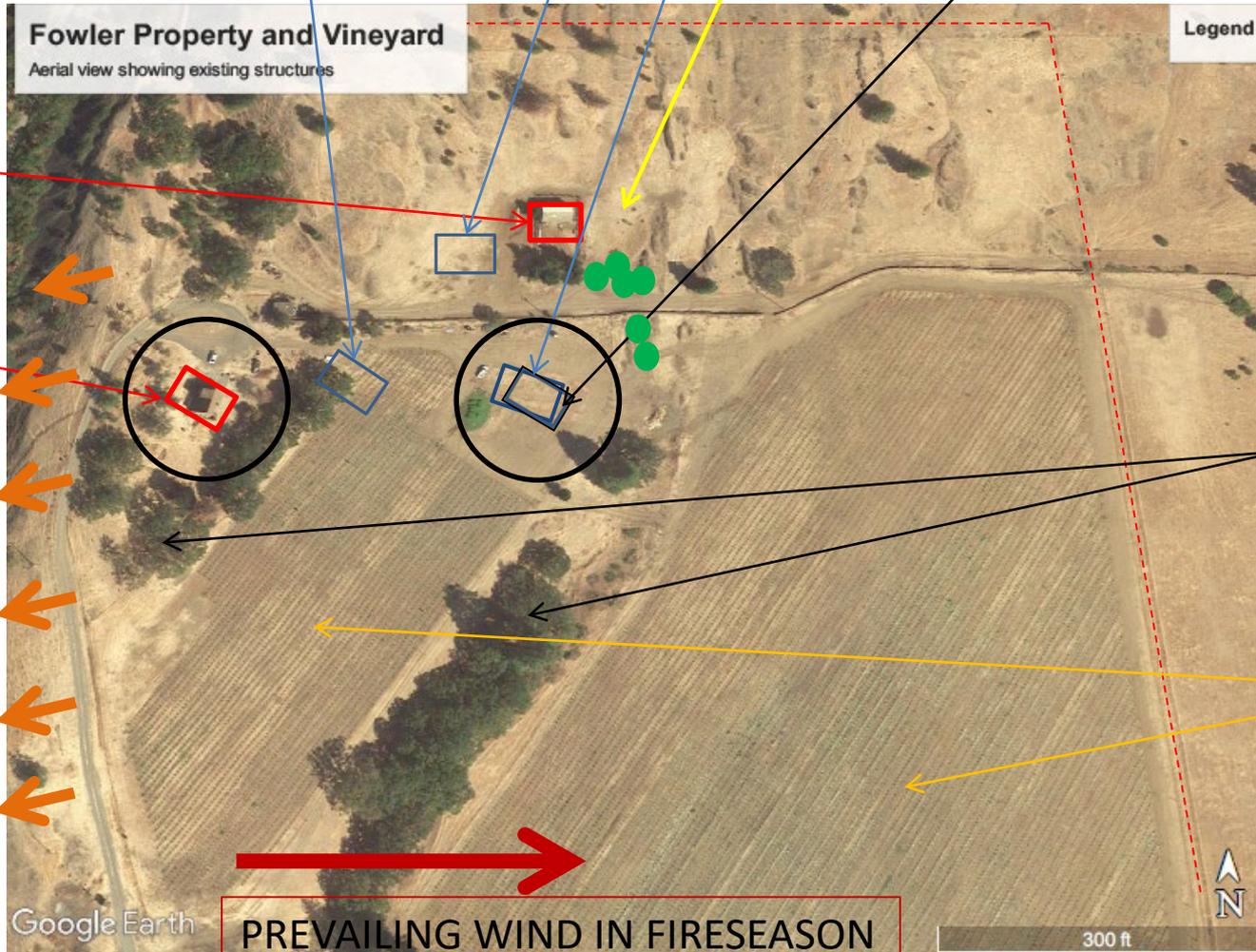
Potential  
Location 2

Potential  
Location 1

Due to slope, the area North, NE  
and NW of barn is highly visible  
from multiple KVAs

**Location 4  
(Proposed Site)**

Trees added 



PREVAILING WIND IN FIRESEASON

150 foot  
radius Home  
Ignition Zone  
(Ref: Firewise)

Trees screen  
proposed location  
from KVAs

Vineyard  
Agricultural  
Area  
Visible  
From KVAs

## Attachment C — Applying Firewise Guidelines in Site Selection

In submissions received by the Commission in March 2017 for Gorge 2020, fire departments and planning departments throughout the Gorge urged the Commission to emphasize Firewise guidelines when updating the Implementation Handbook. The tremendous damage in the Columbia Gorge from major wildfires in the past two years underscores the importance of all Gorge residents doing their part to mitigate the risk of wildfire.

We understand that the Commission is actively discussing the inclusion of Firewise guidelines in the Gorge 2020 plan, as you look ahead to protecting and enhancing the resources of the Gorge against devastating fire. We want to do our part to help create a safer environment.

According to the 2018 Washington State Department of Natural Resources' Wildland Fire Protection Strategic Plan, our property is rated "very high" for current wildfire risk, highlighting the importance of implementing Firewise best practices. Firewise guidelines urge homeowners to attend to construction, access, defensible/survivable space, and maintenance.

We designed every aspect of our home construction in accordance with Firewise guidelines to limit the ways fire could ignite the structure, including the use of non-flammable, fire-resistant, and non-combustible materials. Our architect and builder further consulted with the local fire department to ensure easy access and turnarounds for emergency responders.

Firewise principles state,

*"When preparing your house for wildfire, the area directly around the home is the most important. Many people call this area the Home Ignition Zone. ... It is the ignitability of a home in relation to its immediate surroundings that has the most influence on home survivability."*

Placing our home at our proposed site within an irrigated vineyard substantially reduces the amount of flammable material within the home ignition zone and creates significant defensible/survivable space around the house.

Locating our home within the vineyard also maintains the defensible space around the structure, as the vines will continue to be irrigated and carefully tended. Moreover, when the fire danger is at its peak during the windy, dry summer and early fall, the grapevine canopies will be green, full of moisture, and laden with grapes that would form an effective fire break for an advancing wildfire. A key lesson learned from the devastating Napa and Sonoma fires in 2017-18 is that homes located within vineyards were significantly more likely to survive the flames than homes located outside vineyards. This lesson informed the site selection for our home, with acres of irrigated grapevines to the west, south, and east of the proposed location.

Our proposed home design and location fulfill Firewise best practices for construction, access, defensible space, and maintenance of a home. We believe our proposed location best meets the intent of Commission Rule 350-81-082(2)(a)(C), which states the replacement dwelling must meet approval criteria for fire protection.

In contrast, locating the house at the approved site is not consistent with Firewise guidelines in

three significant ways.

First, insufficient defensible/survivable space. The approved site is almost entirely encircled by trees within the home ignition zone, and this close proximity to flammable vegetation would put those in the home and the structure itself at great risk. Moreover, should a fire begin in the home at this location, it could quickly spread to the trees close to the structure, creating risk of the fire spreading beyond the property and causing greater environmental loss.

Second, location at the crest of a very steep slope. Firewise guidelines recommend placing structures away from slopes and ridges because fire moves rapidly up hill; the approved location sits at the top of a slope of about 50 degrees, where the western edge of our property drops down to the Major Creek ravine. Western native grasses, deciduous and conifer trees permeate the slopes, providing abundant fuel for fires. In contrast, our proposed home location is on an expansive gentle slope that descends to the southern edge of our property.

Third, vulnerability to wind-borne fire. Firewise materials state that most catastrophic wildfires are driven by high winds, a regular feature in the Gorge. Our property is remote, with the nearest fire stations located 3.5 miles away (Lyle) and 5.6 miles away (Bingen). A wildfire started by a lightning strike in the Major Creek ravine or on the U.S. Forest Service lands immediately to the southwest and south of our property, for example, could rapidly move up hill and engulf the approved house site.

Finally, we note Condition 11 of the Director's Decision of April 3, 2019:

*“Except for dead trees or other dead vegetation that may serve as a fire hazard, **all existing vegetation on the site shall be retained and maintained for screening purposes, or as indicated on the approved landscaping plan.**”*

In effect, this means that we have to build our home in the middle of trees encircling the current home site without the ability to remove any existing trees and vegetation, regardless of proximity to the structure. This condition maintains the integrity of the screen as seen from KVAs, but it also significantly magnifies the threat of wildfire to the home and its inhabitants.

Our proposed house location is the site on our property which best meets Firewise guidelines. When the Implementation Handbook was written, the risk of wildfires was not as significant as it is today. As this risk continues to increase and the Commission works to codify criteria for fire protection in agricultural settings, we maintain that the life safety of the residents should be an increasing imperative and higher priority in the guidance for selecting a home site. We do not feel that any family should be compelled to build a home at the location on their property where the vulnerability to fire is highest.

By following Firewise recommendations in placing our home at the proposed location, we are pro-actively protecting both our family and the greater environment and – by extension – the scenic and natural resources of the Gorge.

## Attachment D — Site Selection and Design to Protect Scenic Resources

We worked closely with Commission staff from February through September 2018 to identify a location for a new house on our property that met the requirements for building in the Special Management Area. On October 4, 2018, we were delighted to receive the Executive Director's approval of our project [Case File C18-0002]. The Conclusion of the Staff Report stated:

*“The proposed replacement dwelling is visually subordinate as seen from KVAs. The planned retention of existing trees and the planting of new evergreen trees will provide adequate visual screening of the site.”*

This remains true today. Every aspect of our house design is crafted specifically to comply with the guidelines in the Commission's Scenic Resources Implementation Handbook. The proposed home site is nestled behind a thick line of mature trees that effectively screens the house from most of the parks, trails, public vantage points, and picnic areas across the Columbia River.

We reduced the size of the house and agreed to use colors selected by the Gorge Commission for the house, roof, and stone to ensure the home blends in with the natural setting. The pitch of the roof over the main floor is the minimum allowed by code (4" x 12") given the typical snow loads of the region. We designed the basement to be mostly underground (a daylight basement) to take advantage of the gentle slope on the proposed site and to be effectively screened by the eight-foot grape vine canopies and trellis support posts to the south, west, and east of the house. All of the south-facing windows are extensively screened to eliminate reflection. With the landscape plan that we submitted in 2018 we – and Gorge Commission staff – believed the home would be visually subordinate from all of the KVAs.

We were ready to record the decision in county deeds and records with Klickitat County in mid-October 2018 when we learned that the Executive Director needed to withdraw her approval based on new information provided by Commission staff. The staff had determined that part of the roofline of our house could break the skyline from a KVA located to the southwest, specifically from a curve on Old Highway 8 (Klickitat County Road 1230). Attachment E highlights the spot of vulnerability. Our approval was subsequently withdrawn.

We then worked closely with Commission staff from October to March to locate our home where it is more completely screened from the curve. We conducted topographical and geological surveys of an additional three potential sites suggested by the Commission (see Attachment B). Ultimately, after conducting bucket tests, considering the risk of fire, and analyzing each mature tree on our skyline as viewed from Old Highway 8, we moved our proposed site slightly to the east of the location approved in October 2018. This maximizes the screening provided by the vineyard, large, mature oak, Ponderosa pine, and Douglas fir trees in the foreground as well as a mature tree canopy that rises behind the house. We also added mature trees native to the area to provide additional canopy behind the house.

The Implementation Handbook details scenic standards that contribute to visual subordination, described on page 6 as *“Development is visible but **not what you see first or remember best** about the landscape.”* Per the April 2019 Staff Report, our proposed site meets all of the scenic

standards except one, *“At the site proposed by the applicant, the proposed dwelling would not be visually subordinate because it would protrude above the skyline as viewed from a KVA.”*

We appreciate that all of Old Highway 8 is a KVA, and acknowledge that on one short stretch of the road (see Attachment E) a small portion of the roofline of our proposed home could break the skyline otherwise formed by a mature tree canopy that rises in front of and behind the proposed house. From any point along this curve, the majority of the roofline is below the skyline: this matches the guideline drawing (Figure 3 on page 8) in the Implementation Handbook, which shows a small portion of the roofline forming the skyline.

Upon receipt of the Staff Report, the photo listed as Figure 1 seemed to us to portray inaccurately the size and height of the roofline at both the approved and proposed sites. We subsequently re-conducted bucket tests at both sites. Our results suggest that there may be two spots at the approved site where the roofline of our house would break the tree canopy. Moreover, we believe the actual roof height at our proposed site is closer to half of the size projected in Figure 1.

As the April 2019 Staff Report notes, *“the dwelling is designed to remain visually subordinate to the surrounding trees in the landscape by keeping the height below the average tree canopy height of the natural vegetation adjacent to the structure.”* Any glimpse of our house from this curve would be fleeting and unlikely. For example, as a vehicle heads into the sharp turn that descends to Major Creek, a passenger might briefly spot the black roof of a dark green house nearly 2,000 feet away tucked behind a vineyard and trees. Two Washington State Department of Transportation “No Trespassing” signs are posted just prior to the curve, and there are no hiking trails, scenic overlooks, or picnic areas close to the curve which would facilitate a more sustained view of our house. It would be dangerous to stop a car on the road or narrow shoulder, except at one place in the curve where the shoulder widens; notably, from this spot our roofline **would not break the skyline**. For the rest of the 6.2 miles of the Old Highway 8 KVA, our proposed home location is not visually evident.

Put together, we believe our proposed home would not be **what you see first or remember best** about the landscape from any point on any KVA, making our proposed site visually subordinate.

Finding 3 of the Scenic Resources section of the Director’s Decision states that both the approved and proposed sites are visible for a linear distance of approximately 0.75 miles on Interstate 84 and for a linear distance of approximately 0.5 miles on the Historic Columbia River Highway. For these distances and from all the scenic overlooks, picnic areas, and rest areas along Interstate 84 and the Historic Columbia River Highway at which travelers might stop to enjoy the gorgeous views, our proposed home site is visibly subordinate or not visually evident and does not break the skyline. This is also true from any point along Washington State Route 14, on the Columbia River, and from the hiking and biking trails along these southern KVAs.

Not only are these KVAs the longest stretches from which our proposed site might be viewed, they are also the most traveled KVAs. Per information provided to the Commission in early 2016 by the Oregon and Washington State Departments of Transportation, there were over 28,000 average daily trips on Interstate 84 and 9,800 average daily trips on SR 14. (Those

numbers are likely higher today.) Indeed, over 84% of travelers to the Gorge use these two roads, per the 2011 Gorge Resident Visitor Study, with another 11.8% using the Historic Columbia River Highway. In contrast, Old Highway 8 is lightly trafficked, and many travelers stop at the Catherine Creek hiking area to the west of our property, never reaching the curve highlighted by the Commission staff.

As you consider our appeal with respect to the scenic resources of the Gorge, we ask that you weigh the potential of a brief glimpse of a portion of our roofline from a lightly traveled KVA with the view of our property that tens of thousands of travelers would more easily see from scenic overlooks, picnic areas, trails, rest stops, and other less fleeting vantage points. From all these locations, our proposed home site meets all criteria detailed in the Commission's guidelines for building in the Special Management Area of the Columbia Gorge National Scenic Area.

We appreciate and support the Commission's desire to maintain glorious scenic views for the National Scenic Area. Our proposed home site is the most visually subordinate location on our ranch that meets Firewise guidelines, and we respectfully request approval to build our home there. In terms of protecting our scenic resources we must look to the future and not the past.

# Attachment E



## Attachment F — 1999 Approval as Potential Precedent

The previous owner of our property received Gorge Commission approval in August 1999 [File C98-0033-K-S-15] to build a shop building (barn) near our proposed home location. Given the close proximity of the barn to our proposed home site, we believe this approval provides precedent for approving our project.

The 1999 approval affirms that a small portion of the roof and west side of the proposed barn would be briefly visible from the curve on Old Highway 8, and averts the question of skyline by referencing the prominent south-facing slope which provides a backdrop for the site; however, this slope does **not** provide a backdrop from the curve when traveling east on Old Highway 8. Taken together, we believe these findings suggest that in 1999 the Executive Director declined to disapprove the barn location based on a momentary glimpse of the structure and its roofline.

Here are the relevant references. Finding 5 of the 1999 Director's Decision notes,

*“Regarding Klickitat County Road 1230, a small portion of the building site is visible from a 300-foot segment of the road located about 1/2 mile from the building site.”*

In Finding 8, the memo states,

*“Some parts of the proposed shop building would be more visible than others as seen from the Key Viewing Areas.... Based on Finding 5, the west side of the proposed shop would be least visible. Only a small portion of the roof and west wall would be visible for a brief instance from Klickitat County Road 1230.”*

Though the Commission considered the Old Highway 8 curve, the previous owner of our property tells us that the Commission never mentioned screening the barn from the curve on Old Highway 8. The approval was conditioned on the planting of screening trees for KVAs to the south, where no existing trees or landforms screened the shop building from KVAs.

The 1999 Director's Decision cites the requirement that structures not break the skyline, and immediately 'answers' this by highlighting the south-facing slope behind the barn location. The decision does not specifically reference any backdrop for the building site from the Old Highway 8 curve located to the west-southwest, where the south-facing slope does **not** rise above the barn.

Here is the relevant portion in full:

*“9. Commission Rule 350-80-530 (1)(a) states:*

*Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.*

*10. A south-facing slope provides a backdrop for the building site as seen from the Key Viewing Areas. The line of the ridge is above the building site. The proposed shop building would not protrude above the skyline as seen from the Key Viewing Areas.”*

Today, the barn is screened from the curve by the combination of a line of trees to the southwest, trees in front of the existing house, and trees planted immediately to the south of the barn as a condition of the Commission's 1999 approval. It is hard to know definitively how much screening the line of trees to the southwest and the trees around the house provided for the barn site in 1999; the previous owner tells us the trees have grown significantly larger over the past 20 years. The 8-foot screening trees planted in front of the barn in 1999 are now over 35 feet high.

If we could view the barn and screening trees through the lens of 1999, we believe a part of the barn roof would break the skyline from the same short stretch of the curve cited by the Executive Director in her April 3 decision.

The location of the curve on Old Highway 8 and the slope of the hillside at the barn location are the same as when the approval was granted. In photos we (and Commission staff) have taken from the curve, the hillside does not rise as a backdrop behind the location of the barn. Thus it is likely that a portion of the barn roof formed the skyline until the growth of screening trees formed a new canopy.

We appreciate that we do not know how much consideration the Executive Director in 1999 gave to the barn roof breaking the skyline momentarily from this curve. We read the wording of the Findings 8, 9, and 10 taken together to suggest that priority was given to scenic considerations for the KVAs to the south. We understand others may read the decision differently.

Given the proximity of our proposed home location to the existing barn and the similar silhouette of the hill for both sites as viewed from the curve, we see precedent in the 1999 Director's Decision for you to grant our appeal. We hope you will consider this possibility.