



## MEMORANDUM

**TO:** Columbia River Gorge Commission

**FROM:** Joanna Kaiserman, Land Use Planner  
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**DATE:** April 29, 2020

**SUBJECT:** **Work Session\***: Gorge 2020 – Land Uses & Development Reviews proposed revisions

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### Summary

This memo presents the Gorge Commission with proposed revisions related to the Gorge 2020 Land Uses and Development Reviews Focus Topic. Part II, Chapter 7: General Policies and Guidelines for uses in Land of Use Designations in the National Scenic Area Management Plan has been reviewed for policy and technical revisions, with a focus on clarifying policies and improving implementation of the guidelines. Staff is seeking Commission agreement on these proposed revisions, to be shared for public comment June 1 – July 1, 2020 as part of the Draft Revised Plan. Staff is also reviewing all the Goals, Objectives, and Policies in the rest of the Land Use Designation chapters in Part II of the Management Plan. Additionally, staff reviewed this part of the Plan for non-policy revisions such as redundancies and places where language can be clarified to streamline implementation. These minor technical revisions will be included in the final draft of Part II, Chapter 7 that is released along with the other proposed revisions to the Management Plan, for public comment June 1 – July 1, 2020.

### Background

In October 2016, the Gorge Commission and Forest Service National Scenic Area Office initiated the Gorge 2020 process to cooperatively review and determine necessary revisions to the National Scenic Area Management Plan. Informed by broad scoping, the agencies identified a set of focus topics and technical reviews to prioritize during the effort. The deep dive focus topics are Urban Area Boundary policy, Recreation, Economic Vitality, and Land Use and Development Reviews. The technical topics are Scenic and Natural

Resources. Commissioners also identified climate change as a topic to prioritize in all aspects of Gorge 2020.

Through public scoping, staff meetings with state and federal agencies, and discussions with county planners, the Commission received many comments related to language and policies in the plan that are perceived to cause unnecessary confusion and inefficiencies in the development review process. We also heard suggestions about specific land uses and activities that might need to be added to or revised in the Plan. Through our permitting duties in Klickitat County, Commission staff identified areas in the development review process that could be clarified, and we have heard similar feedback from planners working in the other NSA counties. At a series of public open houses held for this focus topic from August to October 2019, staff gathered input received from landowners and other local stakeholders. Input received from all of the public meetings along with feedback and guidance from the Commission informed the proposed revisions that staff will discuss with the Commission today.

At the January 21, 2020 Commission meeting, staff presented a checklist of remaining issues and tasks for each of the Focus Topics and Technical Reviews for completing the Gorge2020 Management Plan review and revision process. The Commission reviewed the inventory of issues for the Land Uses and Development Reviews Focus Topic and identified the issues that Commissioners believed required more discussion before providing policy direction. At the April 14, 2020 Commission meeting, staff presented the recommendations for Plan revisions for Commission discussion and public comment. The draft presented today reflects the feedback and policy guidance received at the April 14, 2020 meeting.

Throughout the Gorge 2020 process, climate change has been considered as a “lens” through which staff is approaching the focus topics and technical reviews. The Commission produced a climate change impacts report and a draft set of potential climate change strategies and actions to pursue during and after the Gorge 2020 process. In the General Policies and Guidelines for Land Use Designations chapter, the policies and guidelines have been reviewed with climate change impacts in mind. One of the actions identified to address climate change impacts is to simplify the permitting process for residential and agricultural solar. Staff proposes this as a draft revision to the Plan, along with explicitly allowing non-commercial solar and wind production. Adding this to the Plan supports the Commission’s draft climate change strategy of supporting renewable energy.

### **Summary of Proposed Updates and Revisions**

Incorporating Commission feedback, county planner input, and public comment, staff suggests the revisions to Part II, Chapter 7: General Policies and Guidelines of the Management Plan. In this section, we summarize Commission discussion and guidance for several topics from the April 14, 2020 Commission meeting and describe the nature of edits proposed in each section of the chapter.

## Uses Allowed Outright

### **Proposed Update:**

- Add new use allowed outright for roof-mounted solar: *“Additions to existing buildings or structures that generate solar power for approved uses, provided that the panels and hardware are non-reflective black or dark earth tone colors and do not increase the overall roof height. This category does not include free-standing solar arrays, which are subject to review as new structures under the guidelines in “Renewable Energy Production” (Part II, Chapter 7: General Policies and Guidelines).*

## Land Divisions and Cluster Development

### Discussion questions:

- Should the provision for cluster developments be removed from the Plan?

### Commission Discussion:

Chair Liberty asked Commissioners to indicate support for the staff recommendation to remove the cluster development provision from the Management Plan.

### Commission Policy guidance proposal:

The majority of Commissioners supported the staff recommendations to eliminate existing provision for cluster developments.

### **Proposed Update:**

- Remove the provision for Cluster Developments from the Plan.

## Home Occupations and Cottage Industries

The only regulatory difference between “home occupation” and “cottage industry” in the Plan is home occupations can only employ the residents of the home. Cottage industries may employ up to three outside employees.

### **Proposed Revisions:**

- Combine Cottage Industries and Home Occupations, keeping the term “home occupations”.
- Allow home occupations to employ up to 3 outside employees.
- Add definition of “home occupation” in the Glossary. **“Home Occupation:** *A small-scale commercial use conducted in a legal single-family dwelling, employing the residents of the dwelling and up to three outside employees. Periodic use of home offices, studios, and other work areas used only by the residents of the dwelling are not a home occupation.”*

## Bed and Breakfast Inns

### Discussion questions:

- Would allowing Short-Term Rentals (STRs) support the purposes of the Act of allowing economic development in a way that is consistent with resource protections?

- Is there a reason to continue allowing Bed & Breakfasts but not Short-Term Rentals?

#### Commission Discussion:

- *STRs are equitable if treated the same way as Bed & Breakfasts.*
- *Allowing STRs outside of urban areas and commercial rural residential areas has the potential to promote development in rural areas and cause enforcement concerns.*
- *STRs in rural areas increase negative impacts to agriculture and forestry operations.*
- *Support for STRs for homeowners on a limited basis and including a grandfather clause for existing B&B permits similar to City of Hood River ordinances.*
- *Concern about impacts to agriculture and forestry and supply of affordable housing.*
- *Concern for current B&B permittees being affected by proposed changes and recommends conducting a survey of B&B owners to better understand existing use.*
- *Request for legal clarification on whether a B&B permit is tied to the parcel or the owner.*
- *Request for additional information on how the Commission would monitor STRs (e.g., online advertising monitoring similar to City of Hood River).*

#### Commission Policy guidance proposal:

Eliminate existing provision for Bed & Breakfasts and replace it with an authorization of Short-Term Rentals only in single family residential, commercial, and rural center zones; maintain the requirement that STRs be clearly incidental to primary use and that the owner be a resident; authorization of 90 days per year rental limit; clarify existing authorization for the continuation of use or have a policy recommendation to address concerns about 2-year permit period; a request for whatever background information staff can provide on existing B&B use based on consideration of staff workload.

The majority of Commissioners supported staff proposing a policy change to remove “Bed and Breakfast Inns to the Management Plan”, replacing it with “Overnight Accommodations” and updating requirements for this use. While the majority were supportive of this proposal, they also expressed reservations about approving until the exact requirements are proposed, or concerns about how monitoring will be performed.

#### Proposed Revisions:

- Change “Bed and Breakfast Inns” to: “Overnight Accommodations”
- Add definition of “overnight accommodations” to the Glossary. ***Overnight Accommodations:*** *The rental of three or more rooms located in legal single-family dwelling. Overnight accommodations are clearly incidental to the use of a structure as a single-family dwelling and are owner-operated and occupied.”*
- Make distinction between this provision and the “overnight accommodations” provision in the GMA Commercial Recreation Land Use Designation.
- Add: *“In the GMA, an overnight accommodation that is two bedrooms or less is a home occupation and shall meet the guidelines for Home Occupations in addition to the guidelines for Overnight Accommodations, except that the sign may be 4 square feet in area as allowed by Guideline 1.B. above.”*

- Only allow Overnight Accommodations in the following Land Use Designations: GMA Commercial, GMA Rural Center, and GMA 5-Acre and 10-Acre Residential.
- Add limit on number of rental days per year: *"The owner of the subject parcel may rent rooms in the dwelling for up to 90 days per year."*
- Add provision to protect existing Bed and Breakfasts: *"Bed and Breakfast Inns permitted prior to [DATE] shall be allowed to operate as a continued use under the guidelines for Bed and Breakfast Inns prior to [DATE]."*

### Commercial Events

#### Discussion questions:

- Should the language in the Management Plan be changed to allow for cideries in a manner similar to wineries?
- What goal is achieved by allowing commercial uses such as value-added agriculture? And different commercial uses on rural lands

#### Commission Discussion:

- *Does not support allowing cideries outside of urban areas and considers cideries an industrial use.*
- *Wineries and cideries are similar enough to compare for permitting purposes.*
- *Concerned about keeping commercial use as incidental and subordinate to primary use of the land and supports limiting number of events to regulate this.*
- *Existing winery space and infrastructure function to limit scale of possible events.*

#### Commission Policy guidance proposal:

The majority of Commissioners were not comfortable with a proposal to allow cideries in a manner similar to wineries in the Management Plan. Therefore, staff is not moving forward with this topic.

#### Staff response:

The Management Plan already supports processing of agricultural products in the National Scenic Area in certain Land Use Designations. The Commission can discourage commercial operations by not allowing commercial events at these facilities.

#### **Proposed Revisions:**

- Add definition of "commercial events" to the Glossary. ***"Commercial events: A gathering in conjunction with a lawful commercial use where the venue is hired for a private or commercial function. Such events include weddings, receptions, concerts, farm dinners, or events similar in size and activity and must be incidental and subordinate to the primary use on a parcel."***
- Add: *"A yearly report shall be submitted to the reviewing agency by December 31st of each year including the number of events held, how many people were in attendance, and copies of catering contracts or other vendors used."*
- Add: *"Permits will not be renewed if there have been past violations, including failure to file."*

- Add a definition for “fruit and produce stand” which is mentioned throughout the Plan but not defined. The Plan currently states that fruit and produce stands are not a commercial use. ***Fruit and Produce Stand:*** *A venue on a property selling unprocessed or value-added products from agricultural products produced on the subject parcel. Fruit and produce stands are not a commercial use.*”

## Renewable Energy Production

### **Proposed Updates:**

- Add the following new guidelines to this Chapter for renewable energy production systems accessory to the primary use of the parcel as a review use in the GMA, subject to all Scenic, Natural, Cultural and Recreation resource protections:
  1. *Production of electrical power, including, but not limited to wind and solar production, for commercial purposes is considered an industrial use and is prohibited.*
  2. *Solar and wind power generation for residential use is not considered an industrial use and may be permitted provided that the capacity for power generation is limited to the expected annual electrical power need of the residential use on the property and the generating equipment is located on the same parcel as the residential use. The generating equipment may serve only the parcel on which it is located. Sale of power back to the electrical grid is permitted provided that it is an occasional event, not ongoing over the course of the year.*
  3. *Equipment attached to an existing structure is an addition to the structure on which it is located.*
  4. *Free-standing equipment is a new accessory structure or building.*
- Add definition of “Renewable energy system” to the Glossary. ***Renewable energy system:*** *A system accessory to a primary structure or allowed use on the parcel that converts energy into a usable form such as electricity or heat and conveys that energy to the allowed structure or use. An accessory renewable energy system is a solar thermal, photovoltaic, or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the primary use on the subject parcel.”*

## Mining

### Discussion questions:

- Does Section 6d(d)(9) of the National Scenic Area Act require the Commission to permit mining in the National Scenic Area?
- Should the definition of what constitutes mining in the Management Plan more expressly include the transportation of materials offsite?
- Should other business activities, such as maintaining state permits, reporting, leasing, maintenance, etc. be added to the glossary definition?
- Are there other changes the Commission wishes to make regarding the authorization and conditions of operation of surface mines?

#### Commission Discussion:

- *Section 6d(d)(9) does require the Commission to consider mining, but SNCR protection standards mean it will be very restrictive.*
- *Section 6d(d)(9) does not preclude the Commission from permitting new mines.*
- *The definition should include specifics on transport as well.*
- *Enforcement is important and does not oppose mining outright because there are some areas that are not visible from Key Viewing Areas.*
- *Request for clarification on how the Commission's role would relate to Counties' current role if transportation were included in definition.*
- *This change would allow the Commission to consider transportation of material as subject to review of SNCR impacts.*
- *Support for including transportation because of resource impacts but does not support including reporting and leasing in the definition.*
- *Recommendation that staff clarify the exact language to be used.*
- *A recommendation for adopting the SMA standard in the GMA.*
- *SMA guideline regarding rock and gravel being used for forest uses is too restrictive for GMA.*
- *Support for a more rigorous standard applied to GMA.*
- *Support for limited expansion of use beyond forest roads, but these should be clearly identified.*
- *Local sources of gravel are important to have.*
- *The requirement to meet SNCR protections and limiting use to inside the Scenic Area boundary are adequate.*
- *Comfortable with restricting use of gravel to within the Scenic Area boundary, but outside of Urban Areas.*
- *Desire for legal clarification of the Commission's authority to specify where a company transports and sells its gravel product.*

#### Commission policy guidance proposal:

The majority of Commissioners expressed the opinion that Section 6d(d)(9) of the National Scenic Area Act does not require the Commission to permit mining in the National Scenic Area. The Commission agreed to include transportation in the definition of what constitutes mining in the Management Plan and to not include business activities such as reporting and leasing. The majority of Commissioners want to limit mining in GMA to production of gravel and rock for use within the National Scenic Area including the Urban Areas, but also seek legal clarification about the Commission's authority to make this change.

#### Staff response:

Staff confirmed that the Commission does not have authority to restrict where the materials from mining are transported to.

#### Proposed Revision:

- Replace "to" with "and" to include transportation in the definition. ***"Exploration, development (extraction and excavation), and production of mineral resources:***

*Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource and transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.”*

### **Next Steps for the Land Uses and Development Reviews Focus Topic**

Following the presentation and today’s public comment opportunity, staff requests agreement among Commissioners to proceed with the proposed revisions to Part II of the Management Plan. The next draft the Commission sees of this chapter will include the other technical edits staff is considering including reducing redundancy and clarifying language that has caused confusion for planners and inconsistency in implementation. These are things staff has tracked for some time and are minor changes to help streamline implementation of the Plan. Staff recommends that the revisions presented today be provided, along with the other proposed revisions to the Management Plan, for public comment June 1 – July 1, 2020.