



MEMORANDUM

TO: Columbia River Gorge Commission

FROM: Joanna Kaiserman, Land Use Planner

DATE: November 12, 2019

SUBJECT: **Work Session*:** Gorge 2020 – Land Uses and Development Reviews Status Update and Discussion Questions

Summary

The purpose of this memo and presentation is to update the Gorge Commission on progress made for the Land Uses and Development Reviews Focus Topic as part of the Gorge 2020 Management Plan review process, and to request Commission discussion and guidance related to key themes of this Focus Topic that have emerged from our engagement with county planners and the public. Commissioners last heard a presentation on the Land Uses and Development Reviews Focus Topic at the November 13, 2018 Commission meeting, which outlined the main issues for this focus topic that the Commission directed staff to address following the September 11, 2018 Commission meeting. The staff report from the November 2018 meeting is attached to this memo. This memo is an update on staff's work following the November 13, 2018 Commission meeting. It summarizes the conversations that Commission and Forest Service staff have had at meetings with county planners regarding key issues of the Land Uses and Development Reviews Focus Topic. It also summarizes input received from landowners and other local stakeholders at public meetings held to discuss this Focus Topic on August 14, September 12, and October 3, 2019. Input received from all of these meetings informed the questions that staff will discuss with the Commission today.

Perspectives Requested

Discuss four key questions and provide perspectives to Commission staff at the November 12, 2019 Gorge Commission meeting. Staff seeks input in order to move forward with the next round of staff, county planner, and stakeholder meetings to develop recommendations for Management Plan revisions.

Background

At the September 11, 2018 Commission Meeting, staff summarized the development of the Land Uses and Development Reviews focus topic, and shared public comments received during scoping and at other Commission meetings that related to the topic. Staff identified five issues that emerged from those comments: wind and solar power generation; master planning for phased development; expirations and conditional uses; expedited reviews; and existing and emerging uses not currently addressed in the Management Plan. Staff also revisited the Consider.It statements posted in February 2018 regarding Land Uses and Development Reviews.

Staff recommended that the Commission consider the issues of expedited reviews and of conditional uses and permit renewals, and that the Commission review the Consider.It statements for potential revisions or additions. The Commission deferred conversation of those issues to a later meeting. With a unanimous vote, the Commission directed staff to provide more information on the five previously-identified issues and on the following topics: mining and quarries; commercial uses; land use designations for public lands; cluster developments; accessory structures used as dwelling units; coal trains; climate change as it related to land uses; and enforcement.

At the November 13, 2018 Commission Meeting, staff presented a summary of each of these key issues and suggested next steps for staff to take to address these issues. Staff recommended engaging with county planners, affected individuals and organizations, and the public at large about these topics. Staff determined that some topics were not ready for Commission discussion at that time or were better suited for conversation outside of the Gorge 2020 Management Plan review process. A brief summary of staff's recommended next steps for each key issue presented at the November 2018 Commission meeting are listed below, along with an update of where staff currently is in addressing these issues.

Solar and Wind Power. Staff recommended discussion with county planners, recent applicants, and other interested persons to gather information to consider in the development of clear and consistent standards for reviewing solar and wind power proposals.

Update: Staff consulted with county planners and planning directors about how counties are reviewing applications for small-scale solar and wind power generation. The county planners provided suggestions about ways of ensuring that these uses are strictly for residential or agricultural use and do not generate power in excess of the minimum necessary required for the primary use. The planners had no objections to allowing solar and wind power as long as it complies with all resource protections and is verified as not for commercial use. This issue was also discussed at the August 14th and September 12th Land Use public workshops. At both workshops, participants were generally in favor of allowing solar in some capacity for both residential and agricultural uses. Some expressed concern that scenic guidelines would impede wind power projects, but generally supported allowing the use if it complied with resource protections and power generation limits. Staff will work with the counties to develop draft addressing solar and wind power generation developments.

Master Planning and Phased Development. Staff recommended discussion with county planners and local landowners, as well as interested entities such as agricultural interests, state DOTs, and railroads, to identify potential benefits and drawbacks of master planning permitting in the National Scenic Area.

Update: Staff consulted with county planners and planning directors and gathered agency and public feedback on this issue at the October 3rd stakeholder meeting. The county planners shared how they review for phased development, and different methods for permitting a master plan. The planners were generally in favor of allowing the option for master planning or phased development for specific developments, as it allows the reviewing agency to more accurately review potential impacts of the project. They also noted that allowing this is particularly beneficial to agricultural producers, who often would prefer a phased development approach and longer permit window to allow for crop establishment. This approach is more realistic because the landowner does not have to complete all stages of the project within the current 2-year permit period or complete separate applications for each component of a multi-phase project. Landowners at the public meeting agreed that planning ahead by submitting a master plan would streamline the process. For example, this could support farmers who might not have all the resources initially to sustain their operation long-term and could account for the time needed for the establishment of crops. Based on this feedback, staff will continue developing potential draft provisions for allowing master plans for review. These draft provisions will also address master planning and phased development for non-agricultural uses.

Existing and Emerging Uses. Staff recommended discussing the issue with county planners.

Update: Staff gathered input from county planners and planning directors about existing and emerging uses not currently in the Management Plan. The planners generally agreed that clear and objective standards are beneficial for implementation and applicant understanding. They suggested that uses can be folded into the existing guidelines of other similar uses, for example, including cideries and distilleries under the guidelines for wineries. Staff will continue to work with the counties to draft updated language to address uses that have emerged or grown since the last Management Plan update and to draft language that provides more direction for planners implementing the Management Plan as new and emerging uses are proposed in the future.

Mining and Quarries. Staff recommended postponing discussion on this issue until litigation regarding mining activity is resolved.

Commercial Events. Staff recommended discussing the issue with county planners.

Update: Staff discussed this topic with county planners, planning directors, and the public. The standards and definitions for commercial events and uses are not clear in the Management Plan, and that has led to challenges in implementation at the permitting level. Monitoring and compliance of commercial events is also challenging because it is difficult to enforce existing limits on attendees and parking.

The other key issue raised is the desire by some to expand and by others to limit the types of commercial uses allowed, particularly on agricultural land. Planners are generally in favor of allowing commercial events and uses at venues other than wineries and adding provisions for agritourism activities on agricultural land. Planners agreed that the Management Plan needs to be clearer about when a temporary use represents a commercial event, and to provide various guidelines and review processes depending on the size and number of events being held. The public had conflicting views on this issue. From the feedback gathered at the public meetings, participants were split on whether to allow more and different types of commercial events and uses. Many cited nuisance issues of amplified noise and traffic and lack of enforcement of existing attendance and

parking limits to be their greatest concerns. Others are in favor of allowing other commercial uses of their properties to generate additional income beyond the production of crops. Staff will continue to discuss this issue with county planners to determine if allowing additional types of commercial events and uses could be consistent with resource protections.

Land Use Designation Policies for Public Lands. This idea was raised in public comment: to consider requiring future acquisitions by public entities to be designated Open Space or Recreation, consistent with the existing Land Use Designation policies. Staff recommended consultation with public agencies and internal review of the existing designation policies.

Update: Staff did an initial consultation with federal and state agencies. The agencies were not interested in changing land use designation policies because the intent and benefit of doing so is unclear. Staff is also uncertain that changing land use designation policies for public agencies would better support the purposes of the Act. The land use designations were carefully considered and identified during the initial designation. Staff does not recommend any further pursuit of this proposal.

Cluster Developments. The Management Plan allows for land divisions smaller than the minimum parcel size in some land use designations, allowing for higher development density, upon a showing that the new developments will be clustered together leaving at least 75% of the land undeveloped. The purpose of cluster development is to limit impacts to protected resources. Cluster developments are rarely proposed, and opportunities for these kinds of land divisions are limited. Staff recommended internal study on the few remaining opportunities for cluster development in the National Scenic Area.

Residential Use of Accessory Buildings. Staff recommended discussing the issue with county planners.

Update: Staff discussed this issue with county planners and planning directors and gathered public feedback at the public workshops. The planners all agreed that whether the Commission decides to continue prohibiting accessory dwelling units (ADUs), ADUs should be explicitly addressed in the Management Plan. Concern about short-term rentals also emerged. Short-term rentals can potentially be allowed as a use in single-family dwelling units or in accessory buildings. Public feedback was mixed on whether to allow or prohibit ADU developments or short-term rental uses in the NSA, but most agreed that clear language would improve the Management Plan. Staff will continue to work with the counties to draft revised language for the Management Plan that would help to clarify this.

Coal Trains. Staff recommended postponing discussion on this issue until litigation regarding railroads is resolved.

Climate Change. Staff recommended postponing this specific discussion until the Commission had an opportunity to discuss climate change in the National Scenic Area more generally. This presentation took place at the October 8, 2019 Commission meeting.

Update: Staff discussed climate change as it relates to land use topics with county planners, planning directors, and the public. Feedback received included: to consider that climate change influences all land use topics; the Commission and Management Plan should promote and incentivize energy efficiency; and to include language in the Management Plan that promotes

energy efficiency that also helps to address climate change. Staff will continue to incorporate the information synthesized in the Climate Change Report¹ into this focus topic. Based on the feedback and guidance given by the Commission at the October 2019 Commission meeting, staff is creating a list of potential climate change adaptation and mitigation actions the Commission can consider. Some relate to potential Management Plan updates relating to this Focus Topic.

Enforcement. Staff recommended discussing the issue outside of the Gorge 2020 Management Plan review process. The Commission has heard three presentations from Commission staff and county planning directors regarding enforcement in the National Scenic Area since November 2018.

Improving monitoring and addressing impediments to compliance and enforcement is an ongoing discussion with Commission staff, county planning directors and the Commission, and we will continue finding ways to increase our effectiveness. We will be reporting back to the Commission on progress addressing impediments periodically.

Technical Clarifications. In addition to the policy issues described in this memo, staff has been reviewing our internal list of items that may warrant technical updates. These are primarily items that have required staff interpretation or legal opinion to clarify in the past, and that can be clarified with minor changes to the existing policy language.

Consultation with County Planners

Following the November 13, 2018 Commission Meeting, staff met with county planners to discuss these priority topics. Staff generated a list of discussion questions for each of these key issues to generate feedback from the county planners and planning directors. The intent of these discussion questions was to identify obstacles presented by the Management Plan, gather ideas for technical fixes to land use and development review guidelines in the Management Plan, and to discuss potential policy changes to address these issues.

- On February 19, 2019 staff met with county planners to discuss the topic questions. Staff received feedback from the planning staff of each of the six counties in the National Scenic Area.
- On August 5, 2019, staff met with the county planning directors to discuss technical revisions to the Management Plan related to the Land Uses and Development Reviews Focus Topic and to get their feedback on staff's public engagement roadmap for this Focus Topic. A full summary of the feedback from county planners and county planning directors is attached.

The feedback received during this stage helped to highlight the issues that could be better informed by additional input from the public. The topics that staff and county planners discussed as warranting more public engagement were accessory dwellings, agriculture-based tourism facilities and events, residential solar and wind power generation, wineries and tasting rooms guidelines.

¹ This report can be found online at <http://www.gorgecommission.org/meeting/october-2019-monthly-crgc-meeting>

Public Engagement to Date

Staff have hosted three public meetings to involve residents and regional stakeholders in the conversation around some of the key issues identified for potential policy change and gather public input on ideas for potential draft revisions to address these issues. On August 14th, staff held a public workshop to discuss the following topics: accessory dwellings, agriculture-based tourism, solar and wind generation, and wineries and tasting room guidelines. Through discussions with county planners, staff identified these topics as the ones that we wanted public feedback on the most. These are the topics that require more than a technical change to the Management Plan, and these topics are the ones that we continually heard about during scoping as needing to be updated or revised in the Management Plan. The workshop used a “World Cafe” model in which each topic was assigned to its own table and participants were invited to spend 15-20 minutes discussing a topic at a table, with the opportunity to switch tables after the time period and engage in the discussions at every table. At least one Commission staff, Forest Service staff, or county planner sat at each table, acting as the table “host”, introducing the topic and recording notes. The combined summarized notes for all of the topics of discussion are attached to this report.

Staff took the recorded input from the August 14th workshop and discussed how best to address participants’ ideas and concerns in draft suggested edits to the Management Plan. On September 12th, staff invited the public to an open house to continue the discussion on the Land Use topics and to gather ideas for targeted solutions. The intent of the open house was to give a brief review of what staff heard at the previous workshop, to share ideas and questions that staff is considering in response to what was heard, to facilitate additional discussion, and to gather ideas from participants for solutions that would best support resource protections.

Staff found that from the discussion of the various land use topics at the workshop and open house that several related themes around agriculture emerged. Staff decided that it would be productive to convene a meeting for ag producers, professionals, and industry interests to help give more perspective on some of these topics that staff is considering for policy changes in the Management Plan. Staff reached out to county planners, landowners in the scenic area who have expressed interest in this issue area, soil and water conservation districts, university extension offices, wine growers and fruit growers associations, and MCEDD, among others to invite participants. This meeting was held on October 3rd. The conversation focused on agriculture-related policy issues for potential Management Plan revisions. Staff gathered input from participants about what in the Management Plan impacts producers and markets, participants’ values and concerns related to agricultural land uses in the Gorge, and what opportunities there are for improved policies that protect the scenic, natural, cultural, and recreation resources and support economic development.

Summarized notes from all of these public workshops are attached to this staff report and summarized in the discussion of the Foundational Questions below.

Discussion Model

To help identify and discuss appropriate policies and guidelines, staff requests Commissioners' perspective on the existing Management Plan guidelines related to these Land Use topics. Your conversation will help staff and county planners to draft revised policy and guidelines.

At the Commission meeting, staff recommends you use the ***PRES model*** for your discussion. This model was last used during the Recreation Focus Topic discussions at the September 10, 2019 Gorge Commission meeting. PRES stands for Point, Reason, Example, and Summary. Please see the attached document for a more thorough overview of the PRES model.

Process for answering each question:

1. Staff will present background information and a question.
2. You will have 2 minutes to write down your thoughts and then you will give a 45–60 second statement to share your thoughts in the PRES format. Commissioners will present their statements one at a time, allowing only for clarifying questions until everyone has spoken.
3. After each Commissioner presents their PRES statement, there will be an opportunity for facilitated discussion on the question and how the topic could be addressed within the framework of the Gorge 2020 Management Plan review and revision process.
4. Staff will record Commissioners' perspectives on flip charts.

Land Uses Questions for the Commission

Residential Use of Accessory Structures

What's the issue?

The Management Plan does not currently allow accessory buildings to be used as dwelling units. ADUs are beginning to be allowed in other jurisdictions, and some Gorge landowners have expressed interest in allowing them. There is also some concern that allowing accessory dwellings in the NSA would have negative impacts to resources.

What the Management Plan currently says:

The Management Plan does not allow accessory dwelling units (attached or detached). Dwelling units are defined in the Management Plan as: "A single unit designed for occupancy by one family and having not more than one cooking area or kitchen."

The Management Plan typically allows only one single family dwelling per parcel, except for unique circumstances including hardship dwellings, life estates, a dwelling for farm operator's relative, agricultural labor housing, or duplexes in Rural Center land use designations. The Management Plan defines a single-family dwelling as: "A detached building containing one dwelling unit and designed for occupancy by one family only."

Input we've received:

- The Management Plan should have a policy addressing accessory dwelling units.
- Accessory dwelling units, if allowed, should only be permitted in the Rural Center land use designation.

Draft Recommendation:

1. Consider adding language to the Management Plan to explicitly allow or deny accessory dwelling units as review uses.

Question: Accessory dwelling units are not currently allowed in the National Scenic Area. Should the Management Plan explicitly address ADUs? If the commission wants to consider allowing them, should the staff invest time to develop resource protection measures for allowing accessory dwelling units in the National Scenic Area?

Short-Term Rentals**What's the issue?**

There is a growing interest among NSA residents in renting out accessory buildings or rooms in existing residences as short-term or vacation rentals as a means of supplemental income generation. The standards for Bed and Breakfast Inns in the Management Plan can be restrictive to landowners who wish to rent rooms in their residence on a daily or weekly basis.

What the Management Plan currently says:

The Management Plan does not allow short-term rentals but does allow Bed and Breakfast Inns in Rural Center and Commercial land use designations, in 5-acre Residential and 10-acre Residential designations, and in historic dwellings in other areas.

The Management Plan also allows travelers' accommodations in Rural Centers and Commercial designations. Travelers accommodations are defined as: "Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities."

Input we've received:

- Allowing short-term vacation rentals in the NSA would allow landowners to have a means of supplemental income without having to satisfy the requirements of a Bed and Breakfast.
- Vacation rentals, aside from bed and breakfasts, should not be allowed in the NSA.

Draft Recommendations:

1. Review the policies for Bed and Breakfast Inns to ensure that the standards are still relevant and protecting resources.
2. Consider adding language to the Management Plan to explicitly allow or deny short-term rentals.
3. Clarify the intent of allowing travelers' accommodations in certain Land Use Designations or remove this use from the Management Plan.

Question: Bed and Breakfasts and "travelers' accommodations" are allowed uses in some Land Use Designations, but other types of short-term rentals are not allowed anywhere in the NSA. Should short-term rentals be allowed? If so, what are key considerations to guide staff in developing possible Management Plan language?

Commercial Facilities and Events

What's the issue?

Many landowners in agricultural land use designations wish to expand the allowed review uses on agricultural land to include a wider variety of commercial facilities (such as cideries) and events (such as farm-to-table dinners). There is concern that commercial uses on agricultural land is changing the character of agricultural lands in the National Scenic Area.

What the Management Plan currently says:

The Management Plan allows commercial events (defined as, “weddings, receptions, parties and other small-scale gatherings that are incidental and subordinate to the primary use on a parcel”) as a review use on most agricultural lands in the GMA in conjunction with a lawful winery, wine sales/tasting room, bed and breakfast inn, existing commercial use, or historic dwelling. The Management Plan does *not* regulate noise and traffic.

Fruit and produce stands may be allowed in certain land use designations, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region. Fruit and produce stands are not considered a commercial development/use.

Input we've received:

- Expand the allowed review uses on agricultural lands to include uses such as cideries, distilleries, concerts, food sales, farm-to-table style dinners, and bike tours, along with other value-added ag opportunities not related to tourism and recreation. Allowing for more and different value-added uses on agricultural lands supports economic development.
- Limit the size and number of events allowed based on the size of the parcel. Small parcels should not be allowed the same number of guests as larger ones.
- Agricultural lands should be used strictly for agricultural activities, not for commercial use. Events and commercial activities impact the quality of life of other residents in the area.
- Address cumulative impacts on resources, communities and neighbors of commercial events allowed in the NSA.

Draft Recommendations:

1. Review the definitions for commercial events and consider revising to clarify what is and is not allowed.
2. Consider expanding the allowance for wineries to also include cideries and distilleries. Apply the same restrictions that are on wineries, including that the facility be in conjunction with existing agricultural use and the inputs are sourced from the subject property and local area.

Question: Should the Management Plan allow and regulate cideries and distilleries in a manner similar to wineries?

Question: What goals should the Management Plan be achieving related to commercial uses on agricultural lands and others in the National Scenic Area?

Next Steps

Staff will incorporate your responses to these questions into further discussions on these topics with county planners and stakeholders. Using this feedback, staff will develop proposed revisions to the Management Plan over the winter and bring these proposals to Commissioners review and public comment at the Commission meeting scheduled for March 10th, 2020.

ATTACHMENTS

Attachment A: November 2018 Staff Memo on Land Uses and Development Reviews Focus Topic

Attachment B: Combined responses of County Planners and Planning Directors on Key Questions

Attachment C: Notes from August 14, 2019 Public Workshop

Attachment D: Notes from September 12, 2019 Public Open House

Attachment E: Summary of Meeting on October 3, 2019