

[Email received 6/30/20. Comment letter included below. Resolution posted separately on website.]

Please accept the attached comment letter and copy of Resolution 2020-23 from the Skamania County Board of Commissioners.

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June 30, 2020

Robert Liberty, Chair
Columbia River Gorge Commission
1 Town & Country Square
57 NE Wauna Avenue
White Salmon, WA 98672

(BY EMAIL TO gorge2020@gorgecommission.org)

RE: Gorge 2020 Draft Management Plan Comments

Dear Mr. Liberty and Commissioners,

Thank you for the opportunity to provide comments on the "Gorge 2020" Draft Management Plan for the Columbia River Gorge National Scenic Area. Skamania County has supported the Gorge Commission since the early stages of Gorge 2020 by participating in scoping meetings, listening sessions, focus topic groups, meetings with Gorge Commission staff, and by providing comments at various stages of the update process. As the Gorge Commission embarked on this process, Skamania County asked the commission to consider the impacts of any revisions to those who own property within the Scenic Area and on the counties who administer the Management Plan's regulations. The proposed revisions to the Management Plan will be felt most strongly by Gorge counties and our citizens, especially those in Skamania County.

Our Community Development Department has administered the Management Plan through the County's National Scenic Area Ordinance for almost three decades and has reviewed hundreds of applications for development in both the General Management and Special Management Areas. Because of our extensive experience in implementing the National Scenic Area Act and Management Plan, we hope that the Gorge Commission will carefully consider our comments as well as those of the five other Gorge counties.

We also note that a 30-day period is a short amount of time to afford the public the opportunity to review and comment on the proposed Management Plan. While the County has actively participated in this process and is able to provide comment within the 30-days, there are many individuals and interested parties for whom 30 days may not be enough time. We request that you provide at least 30 additional days to allow the public time to provide comment to the Gorge Commission, especially in light of the ongoing COVID-19 pandemic.

We offer the following suggestions, organized by section of the Management Plan:

Scenic Resources

The revisions around landscape settings and their enhanced descriptions provide additional clarity to the significance of these dynamic landscapes in scenic resource protection. These changes will assist landowners in designing their proposals and will be helpful to County staff in reviewing project applications.

Many of the additional technical changes add clarity for both review agencies and applicants while still ensuring for a high level of scenic resource protection. However, some recommendations made by our staff and other county planners have been ignored and other changes move policy in the wrong direction.

- Definition of "Skyline" – Page 485
 - o The proposed revision to the definition of "skyline" is unnecessary and adds confusion to an existing clear definition that is consistent with the commonly understood meaning of what a skyline is. There are few places in the western part of the Columbia River Gorge where "the surface of the earth meets the sky" as much of the skyline is created by the top of the forested canopy. The revised definition is more confusing, more restrictive, and offers no additional resource protection than the current definition. This definition should not be changed.
- Definition of "Visually Subordinate" – Page 488
 - o The proposed revision to the definition of "visually subordinate" at page 488 includes edits that better correlate to the new emphasis on landscape settings, however the standard is changed significantly by the addition of language that states visually subordinate structures "would be difficult to discern to the common viewer". This language should be removed and the original "They are not visually dominant in relation to their surroundings" should be added back in.
- Compatibility standards – Page 36
 - o These revised guidelines will assist with ensuring more consistent application of the Management Plan's compatibility requirements, but will likely lead to additional work for review agencies. The Gorge Commission can less the burden for review agencies and provide some predictability to applicants by requiring compatibility studies only for the largest development proposals. Homes under a certain size limit (2,500 sq. ft. for example) should be deemed compatible outright. For accessory buildings, the land use designations already limit building size to 1,500 sq. ft. No compatibility study should be required for buildings that comply with this limit.
- Skyline development – Page 42
 - o Removal of existing variance language may result in takings claims if this standard prohibits any viable economic use of a property.
- Standards on reflectivity – Page 42
 - o Removal of the statement "on lands seen from key viewing areas" may inadvertently affect the ability for applicants to use more reflective materials on elevations facing away from key viewing areas. Applicants may sometimes include large windows or metal roofing on elevations that are screened from KVAs by the building itself even when the site itself is otherwise visible from key viewing areas.

- Like the standards for use of existing colors on building additions of less than 100%, applicants should be allowed to use the same roofing material on additions of less than 100%.

Cultural Resources

- Resources discovered during construction – evaluations of significance – Page 83
 - It is unclear why the proposal transfers the burden of paying for an evaluation of discovered resources from the Gorge Commission to the applicant. This may inadvertently discourage compliance. The Gorge Commission should pay for evaluations of significance. Applicants should pay for mitigation plans.

Natural Resources

Formatting and editorial changes in this chapter help with readability and clarity for applicants and review agencies. Changes to definitions and terms used better align with those used by resource agencies in Washington State. However, the County is very concerned with changes proposed to approval criteria for certain uses in water resources and their buffer zones.

The Management Plan currently makes a clear distinction between certain defined review uses (those involving modifications to existing serviceable structures and minor water-related or water-dependent structures) and all other review uses. Modifications to existing serviceable structures and minor water-related or water-dependent structures are currently subject to a reasonable set of performance criteria and review standards, including a practicable alternative test, while other uses are subject to a public interest test and mitigation plan. Proposed edits - while appearing minor – now confuse the reader and require that even those modifications to existing serviceable structures and minor water-related or water-dependent structures now will also require both a public interest test and a mitigation plan. This now means that these specific uses will be subject to more rigorous review than all other uses. We are sure these changes were inadvertent.

- Review Uses in Water Resources and Buffer Zones – Page 110
 - Section 1 lists three specific uses (modifications to existing serviceable structures and minor water-related or water-dependent structures) that are subject to "Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Wetlands" (Note: "Wetlands" should be changed to "Water Resources" to be consistent with other changes in this chapter).
 - Section 2 includes provisions for all other uses "except uses allowed outright and review uses in Guidelines 1A through 1C" which are subject to "Approval Criteria for Other Review Uses in Wetlands Water Resources."
- Approval Criteria for Modifications to Serviceable Structures and Minor Water- Dependent and Water-Related Structures in Water Resources – Page 111
 - These criteria apply only to modifications to existing serviceable structures and minor water-related or water-dependent structures.
- Approval Criteria for Other Review Uses – Page 112
 - Section 1 has been edited as follows:

Approval Criteria for Other Review Uses in ~~Wetlands, Aquatic, and Riparian Areas~~ Water Resources

1. The uses identified in Guideline ~~21~~ under "Review Uses," above, may be allowed only if they meet all of the following criteria:
 - This change now subjects modifications to existing serviceable structures and minor water-related or water-dependent structures to the more stringent requirements for all other uses. The edit also suggests that those other uses are not subject to this section. In addition to requiring a costly mitigation plan, this would also require that these uses satisfy a public interest test. As proposed, even a modest home addition would need to demonstrate a public need in order to be considered.

Land Use and Development Reviews

- Large-Scale and Small-Scale Agriculture Review Uses – Page 200
 - (A) Language has been added to require that new cultivation demonstrate "that the landowner has sufficient water to support the use". This addition subjects agricultural uses to a standard not required by the Management Plan for any other use within the National Scenic Area, despite the fact that other land uses may also require water. No specific standards are provided to determine what is specifically meant by "sufficient water", making this a difficult standard to implement.
 - A. New cultivation, subject to compliance with guidelines for the protection of cultural resources (Part I, Chapter 2: Cultural Resources) and natural resources (Part I, Chapter 4: Natural Resources), and upon demonstration that the landowner has sufficient water to support the use.
 - (B) It is unclear what these edits are intended to accomplish. Agricultural buildings and new cultivation are already listed separately in (A) and (C) as independent review uses. Language regarding this land use differs in other sections of the Plan. If the intent is to allow new agricultural structures in conjunction with an existing agricultural use or a proposed agricultural use, then using existing language in the plan would be clearer ("in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year").
 - B. Agricultural structures, ~~except buildings,~~ in conjunction with agricultural use, including new cultivation.
- Agricultural Buffer Zones – Page 207
 - A new standard is imposed to maximum the agricultural buffer width, even when adjacent lands are not used for agriculture. This language would require the buffer needed for an open or fenced setback, without consideration for other types of natural or terrain buffers that may already exist on the applicant's property. Those lesser buffers should be available when these other buffer types exist on a property. This standard may also have the unintended consequence of discouraging agricultural uses when a buffer on an adjacent property is maximized when no crops are present.

2. New buildings adjacent to lands designated Large-Scale or Small-Scale Agriculture that are suitable, but currently not used for agriculture, shall use the open or fenced setback associated with the dominant type of agriculture in the vicinity. If more than one type of agriculture is dominant, the setback shall be the larger width.

- Commercial Forest Land or Large or Small Woodland Review Uses – Page 228
 - o The review use for agricultural structures below differs from language used in agricultural and residential designations, but properly excepts buildings from this land use. New cultivation is already a distinct land use and not a structure. If the intent is to allow new agricultural structures in conjunction with an existing agricultural use or a proposed agricultural use, then using existing language in the plan would be clearer.

U. Agricultural structures, except buildings, in conjunction with agricultural use, including new cultivation, subject to the "Approval Criteria for Fire Protection" in this chapter.
- Residential Review Uses – Page 265
 - o Agricultural buildings and new cultivation are separate review uses. If the intent is to allow new agricultural structures in conjunction with an existing agricultural use or a proposed agricultural use, then using existing language in the plan would be clearer.

F.G. Agricultural structures, except buildings, in conjunction with agricultural use, including new cultivation.
- Commercial Land Goals – Page 273
 - o Remove addition of "limited" in reference to new commercial uses.
- Rural Center Review Uses – Page 276
 - o "Travelers' accommodations" has been removed as a review use and replaced with the new term "overnight accommodations". These are not the same land use. Overnight accommodations are appropriate in residential zones, but traditional commercial lodging establishments and bed and breakfast inns should continue to be allowed in Rural Center designations.
- Commercial Review Uses – Page 278
 - o "Travelers' accommodations" has been removed as a review use and replaced with "overnight accommodations". These are very different land uses. Commercial lodging establishments and bed and breakfast inns should continue to be allowed in Rural Center designations.
- Existing Uses and Discontinued Uses – Page 307
 - o The Gorge Commission should retain existing language regarding production of mineral resources in the GMA. Mining is not like other uses and applying the same expiration standards to these uses will be negatively impact mining operations in the NSA.
- Land Divisions – Page 340
 - o Requiring new land divisions in areas of deer and elk winter range or turkey habitat to be 40 acres or larger in the west end of the Gorge and 80 acres or larger in the east end of the Gorge is overly restrictive and does not necessarily enhance resource protection. These habitats are better protected through existing regulations on structural and fence development. If the Gorge Commission desires

larger lot sizes, then this should be accomplished through amendment of land use designation maps.

- Temporary Use Hardship Dwellings – Page 244
 - o Proposed revisions to the Management Plan would allow for the use of a “dwelling structure” in addition to mobile homes already allowed for use as temporary hardship dwellings. Given the temporary nature of these hardship dwellings, these types of structures are inappropriate and may lead to compliance issues. Mobile homes can be costly and difficult to remove, and it is not clear what is meant by a “dwelling structure” that does not require a permanent foundation. Instead, use of recreational vehicles or tiny homes should be allowed as hardship dwellings. These self-contained units do not require foundations and can be easily removed from a property once a hardship no longer exists.
 - o Hardships arrive with little advanced notice and should not require full development reviews. New hardship dwellings and subsequent renewals can be approved under the expedited review process.
- Overnight Accommodations – Page 347
 - o The County appreciates the Commission’s acknowledgement of this emerging land use and believes that overnight accommodations can be compatible with resource protection by adhering to existing resource protection standards.
 - o Like home occupations, overnight accommodations should be allowed in conjunction with any single-family dwelling in the GMA and should be allowed within an existing single-family dwelling or accessory building. At a minimum they should be allowed in Residential 2 zones in addition to Residential 5 and Residential 10 zones.
 - o Homeowner occupancy should not be required during rentals. Instead, a local manager or contact person should be available at all times to respond to guest inquiries and complaints.
 - o Monitoring and enforcement of overnight accommodations can occur without the need for the renewal of an NSA permit every two years. Requiring a full review every two years is unnecessary, inefficient, and poor use of staff resources. The Management Plan instead should allow counties to develop their own compliance monitoring programs or permit systems that can be renewed through a more ministerial process.
 - o The 500 ft. notice is redundant with the required public notice of development review.
- Commercial Events – Page 356
 - o Operators should be required to maintain records on events and event attendance, but annual submission of a report including copies of catering contracts is unnecessary and overly burdensome for both the review agency and applicant. Furthermore, review agencies should maintain the ability to revoke or not renew permits, but should not be required to do so because of past violations.
 - o Requiring a full review every two years is unnecessary, inefficient, and poor use of staff resources. Two-year renewals should be allowed through the expedited development review process or a more ministerial process developed by the review agency.

- Variances from setbacks and buffers – Page 357
 - o The County strongly recommends reconsidering the draft’s restrictions on the location of variance requests and prohibition of encroachments within a setback. The purpose of requesting a variance is specifically to obtain relief from standard setback or buffer requirements and the Plan should not predetermine when or where setback variances are appropriate. This restriction likely places review agencies in conflict of the Americans with Disabilities Acts requirements for granting of reasonable modifications. Many variances are requested by property owners with disabilities who may wish to stay in their home but require accessibility improvements such as wheelchair ramps, covered entrances, or other accommodations.
- Renewable Energy Production – Page 373
 - o We are pleased that the Gorge Commission is adopting standards for solar and wind energy production, but find the proposed regulations regarding limits on the amount of power generated, sales to the grid, and restrictions on use to be unnecessarily restrictive. Existing electric services and propane powered generators exist in the NSA and currently provide power to homes and businesses, yet no such restrictions on their usage or output exist. Commercial uses must not be prohibited from utilizing solar or wind energy.
- Other Comments
 - o Outright/Expedited Development Review Uses
 - Skamania County requested that the Gorge Commission allow other land uses to be permitted outright or to be permitted through the expedited development review process. We are pleased that the Gorge Commission considers roof mounted solar panels to be an expedited review use, but are disappointed that no other land uses have been added as either outright allowed or expedited review uses. The expedited development review process encourages compliance by streamlining the review process without compromising protected resources.
 - Residential accessory buildings 200 sq. ft. or less in size should be allowed outright as long as they do not include plumbing or electricity.
 - Accessory buildings and structures up to 1,500 sq. ft. in size should be allowable through the expedited development review process, at least within those landscape settings that already include development (such as residential or rural residential).
 - Minimal site investigative work required for a future development or associated with scientific or archaeological research, such as surveys, soil explorations, percolation tests, and other related activities should be allowable through the expedited development review process.
 - o Allow conditional uses
 - Land use is currently evolving at an incredible rate; property owners now wish to use their land in ways that were not contemplated thirty years ago. The long-term implications of the COVID-19 pandemic on land use is unknown. Given the scarcity of Management Plan reviews and the Gorge Commission’s reluctance to consider plan amendments, the Management Plan should allow for some reasonable discretion or a clear path to considers uses that are not specifically listed in the Management Plan, but

can be determined to be consistent with uses that are allowed in the Management Plan. This can be accomplished in many ways, including providing review agencies discretion to make determinations of similar uses or providing a conditional use process whereby uses can be requested and approved subject to compliance with specific criteria.

- Accessory Dwelling Units

- The Gorge Commission continues to ignore the continued proliferation of accessory dwelling units within the National Scenic Area. The Commission could adopt reasonable policies to limit their growth and ensure that accessory dwelling units are developed consistent with resource protection provisions. Instead, by ignoring this issue and continuing to prohibit them, landowners will continue to develop accessory dwelling units illegally without the benefit of any NSA development review or building code inspections. Enforcement of this use is extremely difficult, as accessory dwelling units are usually developed from illegal conversions of legally permitted structures.

Economic Development

The County appreciates edits to this chapter and the recognition of economic vitality of the National Scenic Area as one of two purposes of the Act. However, this chapter alone does not satisfy this purpose of the Act. Economic development can occur outside of urban areas while ensuring protection of the Gorge's resources. Unfortunately, many proposed revisions addressed in the Management Plan discourage economic activity by imposing or retaining regulatory burdens.

Climate Change

Climate change is not one of the deep-dive focus topics chosen by the Gorge Commission during Gorge 2020. Instead, our understanding is that all aspects of plan review would be considered through a "climate" lens. However, it appears that the Gorge Commission has changed course with the creation of a brand-new climate change chapter that calls for the creation of a Climate Change Action Plan. This new task will require a significant devotion of resources at a time when agency budgets are threatened by the impacts from COVID-19. Following adoption of the revised Management Plan, the Gorge Commission's focus should be on implementation of the new plan and working with counties to adopt these changes into their local ordinances.

Skamania County requests that this chapter not be included in the final revision to the Management Plan. If the Gorge Commission proceeds with the adoption of the chapter, the automatic imposition of wider stream buffers for cold water refuge streams and prohibition on certain conversions of forest land should be removed from this chapter. Any further policy considerations should be considered only when the Gorge Commission has the time and resources to fully study this issue and when the public is provided adequate opportunity to comment.

Urban Area Boundaries – Page 415

There are four urban areas within Skamania County. While we do not foresee any requests to amend the boundaries of these areas in the near future, we are very concerned with the policy revisions as proposed. While we recognize the work that has been done to prepare this draft and

appreciate those changes that have been made in response to comments from us and others, more needs to be done before we can fully support the proposal.

- The draft defers important policymaking decisions to future rulemaking or application reviews
 - o Several policies (7, 8, 10, 12 13) will be decided on a “case-by-case” basis after future coordination with other agencies. The lack of clear standards will hinder applicant’s abilities to prepare successful applications.
- Policy #4 should include a specific timeframe for counties to inform the Gorge Commission of their intent to seek a boundary revision. “In time for the Gorge Commission to seek sufficient funding” is not a clear timeframe. Instead notification could be required six months before submittal, or be made by a certain date of the year.
- Policy #6 references state-required periodic plan updates. These may not be relevant, especially to those counties in Washington that are not subject to the Growth Management Act.
- Policy #8 is both vague and overly prescriptive at the same time. Minor changes should not be limited to a predetermined arbitrary number.
- Policy #10 says that the Commission will generally follow process and ranges found in Oregon Administrative Rule 660-038. Gorge residents in Washington have no say over Oregon law which could be changed in the future. If the Gorge Commission prefers standards in OAR 660-038, then this language should be adopted directly into the Plan.
- We have serious concerns about the Policy #10 which requires an urban area to consider the buildable lands of another, particularly if the analysis requires consideration of land in a different state.

The ability for urban communities in the Gorge to grow is essential to the economic vitality of Gorge communities and has the added benefit of reducing development pressures of those areas that remain in the General Management Area. It is important that the Commission take the time to get these policies right. The “no growth” policies moving forward at this time are inconsistent with the Act and are not reflective of the recommendations and input made by partners, stakeholders, and the public. The proposed changes must not be adopted.

The draft plan states:

The Gorge Commission believes that timely public involvement is key to the long-range success of the National Scenic Area Act. The Gorge Commission strives to provide for and consider a variety of viewpoints in decision making, encourages an informed public, and commits to consult and coordinate with other governmental jurisdictions, including, but not limited to the Forest Service, Indian tribal governments, county boards, city councils, and other local, state and federal agencies.

We strongly agree that public involvement is key to the success of the Act and of the Management Plan. We again request that the Gorge Commission provide an additional 30 days to allow for members of the public to provide comments on the proposed Management Plan revisions. We also ask that the Gorge Commission carefully consider these comments, the comments of other Gorge counties, and the comments of Gorge landowners. The proposed

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revisions to the Management Plan affect many, but will be felt most strongly by those who live and work within the National Scenic Area and are its stewards.

Thank you for this opportunity to provide comments and we hope to continue to work with you to ensure that the Plan works to protect the Scenic Area while protecting the economies of its counties and the rights of its citizens to enjoy its resources.

Sincerely,



Bob Hamlin, Chair



Richard Mahar, Commissioner



Tom Lannen, Commissioner

cc: Tamara Kaufman, Columbia River Gorge Commission
Krystyna Wolniakowski, Executive Director, Columbia River Gorge Commission