DIRECTOR’S DECISION

APPLICANT:  Josef Vacek
LANDOWNER:  Josef Vacek
FILE NO.:  C13-0007
REQUEST:  The application requests approval to construct: 1) an addition to an existing single-family dwelling to add an attached garage and mud-room, 2) a horse stable and fenced enclosure, and 3) an after-the-fact review of a cedar fence to enclose garden
LOCATION:  The subject parcel is located at 71 Bertha Orchard Road in the NW 1/4 of Section 9, Township 3 North, Range 12 East, W.M., Klickitat County, Washington (Klickitat County Parcel Number 03120952030400).

LAND USE DESIGNATION:  The 9.8-acre parcel is located in the General Management Area and is designated Small Woodland.

DECISION:  Based upon the findings of fact in the Staff Report for Director’s Decision C13-0007, the land use application by Josef Vacek to construct an addition to an existing single-family dwelling, a horse stable and fenced enclosure, and a garden fence, is consistent with the purposes of the Columbia River Gorge National Scenic Area Act (Act) and the standards in Section 6 of the Act, 16 U.S.C. §§ 544(a), 544d(d), the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and Commission Rule 350-81, and is hereby approved with conditions.

CONDITIONS OF APPROVAL:  The following conditions of approval are necessary to ensure that the request is consistent with the Act, the Management Plan, and Commission Rule 350-81. The applicant must record this decision document, including conditions of approval, in Klickitat County deeds and records to ensure notice to successors in interest (Management Plan, Review Uses Guideline 1, pg. II-7-58).

1. The applicant shall comply with all fire protection guidelines in 350-81-300 (see Finding A.8 in the staff report).

2. Locations for the addition to the dwelling and new breezeway, new pole barn stable, fencing, and other ground-disturbing development, and the 50-foot fuel break around the dwelling, addition, and new pole barn stable shall be staked for Commission inspection prior to grading or excavation or
removal of fire break fuels. The applicant shall notify the Commission once staking is complete to arrange for an inspection. **Prior to the Commission conducting this inspection, the applicant shall provide the Commission a copy of the recorded Director’s Decision document.** Grading, excavation, and fire break fuels may begin only after Commission inspection and approval of staking.

3. For the horse stable, the applicants propose to use wood siding with a dark green stain (Duckback Pacific Pine 2220 color stain) with black composition shingles for the roof. The applicant shall use these colors. If the applicant wants to use different colors, the applicant shall submit a sample of the color applied to the appropriate building material to the Executive Director for review and approval.

4. For the cedar fence, the applicant must make the fence a dark earth tone color. Using the same color chart that the applicant submitted for approval for the stable, the applicant may use the following colors: Olive, No. 2219; Pacific Pine, No. 2220; Fig, No. 2317; Teak No. 2318; English Walnut, No. 2319; or Cape Blackwood, No. 2320. The applicant is not limited to these colors. The applicant may propose a different finish or color, or may allow the fence to weather to approximately one of the colors listed above. The applicant must receive approval from the Executive Director to use a different color or for the final weathered finish of the fence.

5. Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

6. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery. The cultural resources shall remain as they were discovered; further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

7. If human remains are discovered during construction activities, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

8. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for an inspection to confirm compliance with conditions of approval. Project completion means completion of all work on exteriors of structures.

DATED AND SIGNED THIS _11_ day of February 2015 at White Salmon, Washington.

Darren J. Nichols  
Executive Director

**EXPIRATION OF APPROVAL:**  
*This decision of the Executive Director becomes void on the _14_ day of February 2017.*

Commission Rule 350-81-044(6) allows the Executive Director discretion to grant an extension of the validity of a development approval. A request shall be submitted in writing prior to the expiration of the approval. The Executive Director may grant an extension if he determines that conditions for which the applicant was not
responsible prevent the applicant from commencing the proposed development within the original time limitation. The Executive Director shall not grant an extension if the site characteristics and/or new information indicate that the proposed use may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

APPEAL PROCESS:
*The appeal period ends on the 13th day of March 2014.*
The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

LIMITS OF DECISION:
Any new land uses or structural development such as driveways, parking areas, garages, workshops, or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review.

This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

COPIES OF THIS DECISION SENT TO:
  - Confederated Tribes and Bands of the Yakama Nation
  - Confederated Tribes of the Umatilla Indian Reservation
  - Confederated Tribes of Warm Springs Reservation of Oregon
  - Nez Perce Tribe
  - U.S. Forest Service National Scenic Area Office
  - Washington Department of Archaeology and Historic Preservation
  - Klickitat County Planning Department
  - Klickitat County Building Department
  - Klickitat County Health Department
  - Klickitat County Assessor
  - Klickitat County Public Works
  - Washington Department of Fish and Wildlife
  - Friends of the Columbia Gorge

TC
DEC0007.13
STAFF REPORT

APPLICANT: Josef Vacek

LANDOWNER: Josef Vacek

FILE NO.: C13-0007

REQUEST: The application requests approval to construct: 1) an addition to an existing single-family dwelling to add an attached garage and mud-room, 2) a horse stable and fenced enclosure, and 3) an after-the-fact review of a cedar fence to enclose garden

LOCATION: The subject parcel is located at 71 Bertha N Orchard Road in the NW 1/4 of Section 9, Township 3 North, Range 12 East, W.M., Klickitat County, Washington (Klickitat County Parcel Number 0312095203030400).

LAND USE DESIGNATION: The 9.8-acre parcel is located in the General Management Area and is designated Small Woodland.

COMMENTS FROM OTHER INDIVIDUALS/AGENCIES/GOVERNMENTS:
Notice of the subject request was mailed to property owners within 200 feet of the subject parcel and the following individuals/agencies/governments:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office
Washington Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Health Department
Klickitat County Assessor
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

Written comments were received from Marge Dryden of the U.S. Forest Service National Scenic Area office; Amber Johnson, Washington Department of Fish and Wildlife; and Richard Till, Friends of the Columbia Gorge.
FINDINGS OF FACT:

A. Land Use

1. The subject parcel is approximately 9.8 acres in size and square in shape. Vegetation consists of a mixture of mature oaks and pine trees that surround an open grassy area in the center of the property. Topography gently slopes down generally from the north to the south. Existing development consists of a single-family dwelling and detached garage. A driveway begins at the north side of the parcel close to the east end and extends approximately 200 feet to the southwest to a circular turnaround.

Currently there is a 2240 square-foot dwelling (which includes a covered walk), a 960 square-foot garage/shop, and a 60 square-foot well house. These three buildings are generally clustered around the southwest end of a circular driveway. Between the dwelling and garage/shop is the septic tank and drainfield.

2. The applicant proposes to construct a 36’ x 40’ x 24’ high addition to the existing dwelling that is connected by an enclosed 8’ x 8’ x 16’ high breezeway. The applicant also proposes to construct a 16’ x 30’ x 16’ high horse stable with a 343-foot wire strand fence, 60 inches in height, and black in color enclosing approximately 8400 square feet for an enclosed pasture attached to the proposed stable building. The applicant is also seeking after the fact approval of a previously constructed 20’ x 17’ fenced area surrounding a garden.

3. The Land Use Designation map in the Management Plan for the Columbia River Gorge National Scenic Area designates the subject parcel as Small Woodland in the General Management Area (GMA). Small Woodland is a forest designation.

4. Commission Rule 350-81-270(1) specifies uses that may be allowed on lands with forest designations in the GMA subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620).

5. Commission Rule 350-81-270(1)(c) allows additions to existing buildings greater than 200 square feet in area. The proposed addition is 1568 square feet (the total of the addition plus the attached breezeway). The proposed addition may be permitted if it is consistent with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620). Consistency with those guidelines is reviewed in Section B through E, below.

6. Commission Rule 350-81-270(1)(l) allows accessory buildings with specified restrictions:

   **Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land"** (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300) and the following additional standards:

   (A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all
accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

Two accessory buildings are currently on the subject parcel. One building is 24’ x 40’ (960 square feet) and is used as a garage/shop. There is a 60 square-foot well building. The proposed 16-foot by 30-foot horse stable has a footprint of 480 square feet. The finished height of the stable will be 16 feet. With the proposed horse stable, the total of all accessory buildings on the subject parcel would be 1500 square feet. The application complies with Commission Rule 350-81-270(1)(l).

7. Commission Rule 350-81-310 lists Approval Criteria for the Siting of Dwellings on Forest Land. This rule requires all new dwellings and accessory structures on forest lands to comply with the following guidelines:

(a) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.

(b) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings, or land productivity.

(c) Dwellings shall be located to minimize the risks associated with wildfire. Dwellings should be located on gentle slopes and in any case not on slopes that exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty of gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

(d) A local government may grant a variance to the siting guidelines contained within this section upon a demonstration that the guidelines in "Variances from Setbacks and Buffers" (350-81-078) have been satisfied.

The proposed addition is part of a dwelling and the proposed horse stable is an accessory building. The proposed addition will be located in an open, grassy area and there are no nearby or adjoining forest operations. The addition will be connected to the northeast corner of the existing dwelling via the proposed breezeway. The revised site plan, submitted on January 8, 2015, shows the addition will be 200 feet or more from adjacent property lines.
The proposed horse stable will be located 256 feet south of the northern property line and 217 feet east of the western property line. The east and southern parcel boundaries are much more distant than 200 feet from the proposed addition and horse stable. There is no road proposed to access the horse stable. The horse stable will be in the open grassy area and the attached enclosed pasture will be partially in the open grassy area and partially in the forest portion of the property.

The proposed horse stable complies with Commission Rule 350-81-310(a) through (c). Neither the addition to the dwelling nor the accessory structure require a variance from these standards, so subsection (d) is not applicable.

8. Commission Rule 350-81-300(1) lists approval criteria for fire protection in GMA forest designations. All uses must comply with the following fire safety guidelines:

(a) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

(b) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).

(c) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

(d) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district and the Washington Department of Natural Resources in Washington or the Oregon Department of Forestry in Oregon.

(e) Within 1 year of the occupancy of a dwelling, the local government shall conduct a review of the development to assure compliance with these guidelines.

(f) Telephone and power supply systems shall be underground whenever possible.

(g) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.
(h) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

(i) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

(j) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4-inch mesh metal screen that is noncombustible and corrosion resistant.

The application does not address these standards. The site plan shows that both the proposed addition and the proposed horse stable are in open areas, but may be within 50 feet of currently wooded areas and other site vegetation, i.e., fuels. The application can comply with these standards; a condition of approval is necessary to ensure the applicant provides a 50-foot fuel break around both of these structures.

9. Commission Rule 350-81-050(1)(c) allows solid fences accessory to existing dwellings as eligible for review under the expedited review process if the fence is less than or equal to 6 feet in height and less than 100 feet in length. The existing fence surrounding the applicant’s garden in a solid wood panel fence that was constructed without benefit of permits. The fence encloses a garden that measures 20’ x 17’ for a total fence length of 74 feet. The applicant states the fence is 6 feet in height. Because the review of the fence is combined with the review for a new accessory building and addition, staff used the procedural guidelines for standard reviews instead of Commission Rule 350-81-054 to review this garden fence.

10. Commission Rule 350-81-074(1)(a)(F) allows without review wire-strand or woven wire fences used for yards, livestock, and similar uses less than or equal to 500 feet in length if the height is less than 10 feet and the posts and fences are brown or black when visible from key viewing areas. The revised site plan (submitted January 8, 2015) shows a 334-foot fence and describes the fence as “Poly Plus HTP.” The applicant did not revise the color description for the fence. This fence product is a wire strand that comes in silver, brown, and black colors. The proposed fence is less than 500 feet in length, less than 10 feet tall, and black in color. The proposed fence complies with Commission Rule 350-81-074(1)(a)(F) and is allowed without review.

Conclusion:

The proposed addition to an existing single-family dwelling and horse stable are allowed review uses subject to compliance with the guidelines in Commission Rules 350-81-520 to 350-81-590 that protect scenic, cultural, natural and recreation resources. The proposed garden fence is allowed as an expedited use, subject to compliance with the standards in Commission Rule 350-81-052. The wire strand fence for the enclosure attached to the horse stable is allowed without review. With a condition of approval to ensure compliance with the fire protection standards, the application proposes land uses that are allowed.
B. Scenic Resources

1. Commission Rule 350-81-520(1)(a) states:

   New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.

   The proposed addition and accessory building will be sited in open areas that require only minimal grading for the footings. As proposed, the addition and stable are sited and designed to retain the existing topography and reduce necessary grading to the extent practicable, consistent with Commission Rule 350-81-520(1)(a).

2. Commission Rule 350-81-520(1)(b) states:

   New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development.

   Within approximately one-half mile of the subject parcel, nearby development consists of dwellings, accessory buildings and agriculture buildings that range in size up to 3,749 square feet, and 1 to 1-1/2 stories in height. The proposed addition, including the additional breezeway would be 1568 square feet in size. The total size of the dwelling with the addition would be 3,808 square feet and would continue to be 1-1/2 stories in height.

   Although the total square foot size would be slightly larger than the upper end of the range of buildings in the vicinity, the final size of the dwelling would be compatible with existing nearby development in this particular case. The applicant is proposing to connect the addition to the existing dwelling via a breezeway. This is necessary because no other options are available to the applicant. The addition cannot be attached to the north side of the dwelling without covering windows and thus creating a room with no windows. To the east is the driveway; to the south is the septic system, and to the west is a two-story cathedral design element. Placing the addition to the west would increase the mass of the dwelling without adding usable area. The size of the addition is the minimum necessary to accommodate the applicant’s proposed use—RV storage.

   The applicant cannot construct another detached accessory building because he has an existing garage and another accessory building would violate Commission Rule 350-81-270(1)(l). So, the applicant is in an unusual situation where the land use ordinance allows him to construct an addition to the dwelling, but the design of the existing dwelling and the existing uses of the site adjacent to the dwelling preclude a shared wall. In order for the applicant to construct the addition to serve his purpose, he must use a breezeway configuration to connect the existing dwelling and the addition. This configuration adds 128 square feet to the overall size of the dwelling. Without the breezeway, the size of the dwelling would be less than the upper end of the range of buildings in the vicinity.

   Thus, the way the Commission has implemented this standard in the past (using square foot size as a proxy for compatibility) causes an absurd result for this application. Because the application proposes a building very close in size to the upper range (and would be within range without the need to use a breezeway configuration); the height is the same as nearby
development; the dimensions are similar; and the overall mass is similar, the final size of the
dwelling with the proposed addition is compatible with the height and size of existing nearby
development, and is consistent with Commission Rule 350-81-520(1)(b).

3. Commission Rule 350-81-520(1)(c) states:

   Project applicants shall be responsible for the proper maintenance and survival
   of any planted vegetation required by the guidelines in this chapter.

No new vegetation will be required to protect scenic resources viewed from key viewing areas.
This rule does not apply.

4. Commission Rule 350-81-520(1)(d) requires a site plan to be submitted for proposals to
   construct new buildings.

   The applicant submitted a revised site plan on January 8, 2015 that meets the application
   requirements. The notice materials for this application included a copy of an earlier version
   of the site plan. The revised site plan makes only minor changes to the locations and sizes of the
   proposed buildings to comply with the standards in the land use ordinance.

5. Commission Rule 350-81-520(1)(e) refers to the compatibility of the proposed development
   with the designated landscape setting. This is discussed below in Findings B.23 through B.26.
   Commission Rules 350-81-520(1)(f) and (g) apply only to mineral resource production and
   quarries, which are not proposed with this project.

6. Commission Rule 350-81-520(2)(a) states:

   The guidelines in this section shall apply to proposed developments on sites
   topographically visible from key viewing areas.

   The subject property is topographically visible from two key viewing areas, the Historic
   Columbia River Highway and the Rowena Plateau. A mixed grove of conifers and oaks
   surrounding the development on the site effectively screens the proposed development from
   view. Since the proposed development is topographically visible from key viewing areas, the
   guidelines of Commission Rule 350-81-520(2) are applicable.

7. Commission Rule 350-81-520(2)(b) states:

   Each development shall be visually subordinate to its setting as seen from key
   viewing areas.

Commission Rule 350-81-020(170) defines visually subordinate as follows:

   Visually subordinate: A description of the relative visibility of a structure where
   the structure does not noticeably contrast with the surrounding landscape, as
   viewed from a specified vantage point (generally a Key Viewing Area, for the
   Management Plan). As opposed to structures that are fully screened, structures
that are visually subordinate may be partially visible. They are not visually
dominant in relation to their surroundings.

Commission Rule 350-81-520(2)(c) states:

_Determination of potential visual effects and compliance with visual
subordinance policies shall include consideration of the cumulative effects of
proposed developments._

The key viewing areas from which the proposed addition and horse stable are topographically
visible are approximately 4-1/2 miles distant. The subject parcel is wooded with pine and oak
trees. No vegetation between the proposed buildings and key viewing areas is proposed to be
removed. As proposed, the addition and horse barn would be fully screened from key viewing
areas by existing trees. As well, the proposed addition would be located on the back side of
the existing dwelling as seen from the key viewing areas and would thus be screened in part by
the existing dwelling. The proposed horse barn will be a dark green stain wood color
(Duckback, Pacific Pine 2220 color stain) with black composition shingles. These are materials
with low or no reflectivity. Facing the key viewing areas would be two windows each 1-foot by
3-foot in size. These are very small windows that would not reflect as seen in the background
from key viewing areas. In the event the vegetation on the subject property is lost, the
proposed addition and horse barn may be visible from key viewing areas, but they are
designed so they would be visual subordinate.

Within approximately one-half mile of the subject parcel, there are 21 parcels. Eleven of the
parcels are currently developed with dwellings, accessory buildings and agriculture buildings
that range in size up to 3,749 square feet, and 1 to 1-1/2 stories in height. The adjacent
parcels to the north, east, and south are developed; the parcel adjacent to the west is not
developed. Four of the ten undeveloped parcels are approximately the same or smaller in size
than the subject property and staff assumes other residential and accessory buildings will be
proposed in the future. The distance from key viewing areas, use of exterior building materials
and colors that blend with the landscape, and the presence of screening vegetation ensure the
proposed buildings will not cause adverse scenic impacts as viewed from key viewing areas.
The other six undeveloped parcels are much larger than the subject parcel; they range in size
from approximately 23 acres to approximately 472 acres in size. Staff has not evaluated the
visibility of possible building sites on other properties, however, given the heavily wooded
areas and the large size of half of the undeveloped parcels in the vicinity, it is unlikely that
other similarly sited, sized, and designed accessory buildings would create a visually developed
area. The proposed development combined with existing and possible future development
would not create an adverse scenic impacts or adverse cumulative scenic impacts.

8. Commission Rule 350-81-520(2)(d) states:

_The extent and type of conditions applied to a proposed development to achieve
visual subordinance shall be proportionate to its potential visual impacts as seen
from key viewing areas._

(A) _Decisions shall include written findings addressing the factors
influencing potential impact, including but not limited to:_

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(i) The amount of area of the building site exposed to key viewing areas.

(ii) The degree of existing vegetation providing screening.

(iii) The distance from the building site to the key viewing areas from which it is visible.

(iv) The number of key viewing areas from which it is visible.

(v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

As described above, the portion of the property where the proposed development would be located is topographically visible from the Historic Columbia River Highway and the Rowena Plateau. It is visible in the background, approximately 4-1/2 miles from the key viewing areas. The prior development review decision for the original dwelling, Commission File No. C96-0041-K-G-11, stated the proposed development would not be clearly visible from either of the two key viewing areas so long as the existing vegetation that screen it from view, located south-southeast of the proposed building area, is maintained. That decision also required the exterior elements be non-reflective and dark natural or earth tone color. The dwelling remains the same color that the Commission approved as part of the prior decision; the applicant has retained the required vegetation; and there is no change to the visibility of the proposed development. The proposed addition would be located to the north of the existing dwelling, so it would screened by the dwelling.

The earlier decision for this parcel required an area of tree retention. The revised site plan shows a slightly increased area of tree retention that would screen the proposed horse stable. The application thus complies with Commission Rule 350-81-520(2)(d).

9. Commission Rule 350-81-520(2)(d)(B) states:

   (B) Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:

   (i) Siting (location of development on the subject property, building orientation, and other elements).

   (ii) Retention of existing vegetation.

   (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).

   (iv) New landscaping.
These factors are applied in other findings for compliance with other applicable standards. There is no need to apply additional conditions of approval specifically responsive to this rule.

10. Commission Rule 350-81-520(2)(e) states:

   New development shall be sited to achieve visual subordinance from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

The key viewing areas from which the proposed addition and horse stable are topographically visible are approximately 4-1/2 miles distant. The subject parcel is wooded with pine and oak trees. The applicant does not propose to remove any vegetation between the proposed buildings and key viewing areas. As proposed, the addition and horse barn would be fully screened from key viewing areas by existing trees. As proposed, the chosen building sites will allow the buildings to be visually subordinate from key viewing areas, consistent with Commission Rule 350-81-520(2)(e).

11. Commission Rule 350-81-520(2)(f) states:

   New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordinance from key viewing areas.

As described in Finding B.10 above, no portion of the property is highly visible from key viewing areas and existing vegetation screens the accessory building sites. The siting choices are consistent with Commission Rule 350-81-520(2)(f).

12. Commission Rule 350-81-520(2)(g) states:

   Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines in 350-81-520(3).

Findings for the Landscape Settings Design Guidelines are addressed below in B.23 through B.26.

13. Commission Rule 350-81-520(2)(h) states:

   The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas.

The subject property is approximately 2100’ above sea level, part way up a slope of hills rising above Lyle that reach an elevation of approximately 2500’ above sea level. Because the land continues to rise behind the development as seen from the key viewing areas, the 24’ tall horse stable will not break the skyline as seen from any key viewing area. The development is consistent with Commission Rule 350-81-520(2)(h).
14. Commission Rule 350-81-520(2)(j) lists guidelines that apply to new landscaping used to screen development from key viewing areas. The proposed development is well screened from key viewing area by existing trees, and application of other guidelines in this section, such as those relating to color and reflectivity are sufficient to make the proposed buildings visually subordinate from the adjacent key viewing area. Therefore, no new landscaping is required and the proposed development is consistent with Commission Rule 350-81-520(2)(j).

15. Commission Rule 350-81-520(2)(l) states:

    Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval.

For the horse stable, the applicants propose to use wood siding with a dark green stain (Duckback Pacific Pine 2220 color stain) with black composition shingles for the roof. The applicants submitted a color chart showing the proposed color, which is a semitransparent dark green color. Although green stain does not work for all developments in all locations, it will work for this building on this site because of its wooded setting and distance from key viewing areas. As proposed, the siding and roof colors area consistent with Commission Rule 350-81-520(2)(l).

For the addition, the applicant proposes to use the same materials and colors as the existing dwelling. This is permitted in accordance with Commission Rule 350-81-520(2)(q) (discussed below).

16. Commission Rule 350-81-520(2)(m) states:

    The exterior of buildings on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordinance.

The proposed exterior materials for the horse stable is wood siding and composition shingle. These materials have low reflectivity. The horse stable will have one 1-foot by 3-foot window facing the key viewing areas. This small size, combined with the existing screening, ensures the building will be visually subordinate consistent with Commission Rule 350-81-520(2)(m).

17. Commission Rule 350-81-520(2)(n) states:

    In addition to the site plan requirements in 350-81-032(5), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).
The application describes the proposed development as a 36' x 40' x 24' high addition to the existing dwelling that is connected to by an enclosed 8' x 8' x 16' high breezeway. The applicant also proposes to construct a 16' x 30' x 16' horse stable with an approximately 343-foot long wire fence, 60 inches in height, and black in color. The wire fence will create an enclosure.

The addition would be the same color as the existing dwelling and use similar materials. The horse stable will be wood siding stained with a dark green color and will have a back composition shingle roof. No exterior lighting is shown or described, and there are no landscaping details.

18. Commission Rule 350-81-520(2)(p) states:

   *Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hoisting materials shall be composed of non-reflective, opaque materials.*

The applicant has not shown any exterior lighting on the proposed accessory buildings. A condition of approval is appropriate to require all outdoor lights, if any, must be hooded and shielded so as to screen them from key viewing areas. With this condition, the proposal is consistent with Commission Rule 350-81-520(2)(p).

19. Commission Rule 350-81-520(2)(q) states:

   *Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building.*

The proposed addition is smaller in total square area than the existing building. The applicant proposes to match the color of the existing building. The proposal is consistent with Commission Rule 350-81-520(2)(q).

20. Commission Rule 350-81-520(2)(y) states:

   New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent.

Mapping information indicates the building site for the proposed addition is flat and the building site for the horse stable is sloping, but less than 30%. The precise site of the horse stable, however, is flat. Thus, no new buildings would be constructed on lands visible from key viewing areas with slopes in excess of 30 percent, consistent with Commission Rule 350-81-520(2)(y).

21. Commission Rule 350-81-520(2)(z) states:

   *Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.*
Both the addition and the proposed stable would be on relatively flat ground. The applicant will need to do some grading for foundation work for both buildings, but there would not be any cut banks or fill slopes.

22. Commission Rule 350-81-520(2)(aa) states:

   *All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan.*

Because the proposed buildings will be on flat ground, there will not be in excess of 200 cubic yards of grading. A grading plan is not required.


24. Commission Rule 350-81-520(3)(c)(A) states:

   *Structure height shall remain below the tree canopy level in wooded portions of this setting.*

As proposed, the addition will be 24 feet in height and the horse stable will be 16 feet in height. The surrounding trees are mostly pine with some oaks. The average height of the surrounding tree canopy is approximately 40 feet. The prior application, C96-0041, concluded that the vegetation on site was adequately high enough to cover the structures. The same vegetation remains on site (with nearly 20 years of additional growth). Given this information, the proposed development is consistent with Commission Rule 350-81-520(3)(c)(A).

25. Commission Rule 350-81-520(3)(c)(B) lists guidelines for new development in portions of the Oak-Pine Woodland Landscape Setting visible from KVAs. Commission Rules 350-81-520(3)(c)(B)(i) and (ii) state:

   (i) *At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.*

   (ii) *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

As described in Finding B.8, no new landscaping is required. Therefore, Commission Rules 350-81-520(3)(c)(B)(i) and (ii) are not applicable.

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

Only trees and vegetation immediately around the building sites for fuel break will need to be removed for this project. The existing tree cover screening the sites from key viewing areas will be retained, consistent with Commission Rule 350-81-520(3)(d)(c)(B)(iii).

27. Commission Rule 350-81-520(4) includes guidelines applicable to development located on land within ¼ mile of Scenic Travel Corridors. The closest scenic travel corridor is Washington State Route 14, located well over ¼ mile to the south. Therefore, Commission Rule 350-81-520(4) is not applicable.

28. The applicant is seeking after the fact approval of a previously constructed 20' x 17' cedar fenced area surrounding his garden. As discussed in Section A above, this is a use that is allowed pursuant to the standards for expedited uses in Commission Rule 350-81-052. Commission Rule 350-81-052(1)(a)(B) states, "Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth tone colors found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval."

The application materials, Picture 3, shows a natural wood fence around the garden, which is light in color. The applicant must, therefore make the fence a dark earth tone color. Natural weathering may achieve this. Using the same color chart that the applicant submitted for approval of the Pacific Pine stain for the stable, the applicant may use the following colors: Olive, No. 2219; Pacific Pine, No. 2220; Fig, No. 2317; Teak No. 2318; English Walnut, No. 2319; or Cape Blackwood, No. 2320. These colors will be mentioned in the conditions of approval. The applicant is not limited to these colors. The applicant may propose a different finish or color, or may allow the fence to weather to approximately one of the colors listed above. The applicant must receive approval from the Executive Director to use a different color or for the final weathered finish of the fence.

Conclusion:

With conditions of approval regarding outdoor lighting and use of the colors stated in the application, the proposed development is consistent with applicable guidelines in Commission Rule 350-81-520 that protect scenic resources from adverse effects.

C. Cultural Resources

1. Except as specified in Commission Rule 350-81-540(1)(c)(A)(ii), new development requires a reconnaissance survey. Commission Rule 350-81-540(3) requires that, if cultural resources are discovered, an evaluation of the significance shall be conducted. Commission Rule 350-81-540(3)(d)(C) states that if it is determined that the cultural resources are significant, the effects of the proposed use shall be assessed. Commission Rule 350-81-540(5)(a) requires mitigation plans when proposed uses would have an adverse effect on significant cultural resources. Mitigation plans shall reduce an adverse effect to no effect or no adverse effect.
Margaret Dryden, Heritage Resources Program Manager with the USDA Forest Service National Scenic Area, reviewed the land use application and determined a reconnaissance survey is not required for either cultural or historic resources pursuant to Commission Rule 350-81-540(1)(c)(A)(ii). In a Cultural Resource Survey Determination dated June 11, 2013, Ms. Dryden determined that the proposed development does not require a reconnaissance survey pursuant to Commission Rule 350-81-540(1)(c)(A)(i), (II), (IV), (V) and (VI) because the proposed use: 1) involves the expansion of an existing building, 2) would involve minor ground disturbance (fence construction), 3) occurs on sites that have been disturbed by human activities, 4) occurs on a site that has been adequately surveyed in the past, 5) occurs on a low-probability site, 6) is not within 100 feet of a high probability zone, and 7) does not occur within 500 feet of a known archaeological site.

Additionally, Michael Boynton, a prior Archaeologist for the U.S. Forest Service, conducted a reconnaissance survey for the dwelling, garage and other prior development approved in application no. C96-0041. This survey covered approximately 10 acres and included the area where the applicant here proposes the horse stable. Mr. Boynton did not find any cultural resources at that time.

2. Commission Rule 350-81-540(1)(g) states that the determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed development that are subject to any of the following: 1) a reconnaissance or historic survey, 2) a determination of significance, 3) an assessment of effect, or 4) a mitigation plan.

Commission Rule 350-81-020(40) defines “cumulative effects” as:

\[ \text{The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.} \]

As described above, this development proposal did not require a reconnaissance or historic survey. Additionally, because no known cultural resources are affected by the proposal, no determination of significance, assessment of effect or mitigation plan is required. No cumulative effects analysis is required, pursuant to Commission Rule 350-81-540(1)(g). As proposed, the development is consistent with Commission Rule 350-81-540(1)(g).

3. Commission Rule 350-81-540(2)(c)(B)(i) states the cultural resource protection process may conclude when reconnaissance and historic surveys are not required, there are no known cultural resources in the project area, and no substantive concerns were raised by interested parties.

As explained in Findings C.1 and 2 above, new surveys were not required for the project and past surveys there are no known resources in the immediate project area. No comments of concern were received regarding cultural resources. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

4. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction
activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval implementing this requirement is included in this decision.

5. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval requiring adherence to these measures if human remains are discovered is included in this Director’s Decision.

Conclusion:

With conditions to protect unknown cultural resources or human remains discovered during construction the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protect cultural resources in the National Scenic Area from adverse effects.

D. Natural Resources

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).

2. There are no wetlands, stream, ponds, lakes, riparian areas of sensitive plant on the subject parcel or within 1000 feet of the proposed development. The proposed development is consistent with Commission Rules 350-81-560, 350-81-570 and 350-81-590.


The application of standards to protect Deer and Elk Winter Range applies to the proposed addition and to the proposed stable. Commission Rule 350-81-052(1)(d)(8)(l) excludes expedited uses (in this case, the garden fence) from natural resource review criteria even if the proposed development is located within 1000 feet of deer winter range. The wire strand fence is allowed without review even though it is within deer and elk winter range.

4. Commission Rule 350-81-580(4)(a) requires the Gorge Commission to notify the Washington Department of Fish and Wildlife when a new development or land use is proposed within a sensitive wildlife area. The Commission provided notice of the application to Washington Department of Fish and Wildlife. On January 14, 2015, the Commission followed up with WDFW. On January 15, 2015, Amber Johnson, Wildlife Biologist for the Washington Department of Fish and Wildlife, stated that the application was within two polygons for two different sensitive species and that other priority habitats exist in the vicinity. However, Ms. Johnson noted that she had no concerns about project impacts on wildlife species because the applicant was retaining existing trees.

5. Commission Rule 350-81-580(1)(c) requires the determination of potential effects of significant natural resources to include the consideration of cumulative effects of proposed developments within 1,000 feet of sensitive wildlife areas and sites.
Commission Rule 350-81-020(40) defines “cumulative effects” as:

_The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time._

The Klickitat River Winter Range covers nearly 123,000 acres spanning three to four miles on either side of the Klickitat River. To consider the cumulative effects associated with the proposed development, staff considered the small woodland enclave (used primarily for rural residences) in the McGowen Rd., Bertha N. Orchard Rd., and Lyle-Snowden-Rd. vicinity at the northern edge of the National Scenic Area. This is the same vicinity that staff considered for cumulative effects to scenic resources. Staff selected this vicinity because other surrounding properties are designed Commercial Forest and can not be similarly developed.

Within this vicinity, which is approximately there are 21 parcels. Eleven of the parcels are currently developed with dwellings, accessory buildings and agriculture buildings that range in size up to 3,749 square feet. Based on aerial photos and information from the Klickitat County Assessor’s office the adjacent parcels to the north, east, and south are developed; the parcel adjacent to the west is not developed. Four of the ten undeveloped parcels are approximately the same or smaller in size and staff assumes other residential and accessory buildings will be proposed in the future. The other six undeveloped parcels range in size from approximately 23 acres to approximately 472 acres in size. Staff has not evaluated possible building sites on other properties.

Two of the parcels in this vicinity may be divided. One parcel, approximately 304 acres in size, may be divided into three parcels. The other parcel, approximately 472 acres in size, may be divided into 5 parcels. Thus there is potential of 27 total parcels in this vicinity, 16 of which are currently undeveloped.

Existing conditions in the study area, as indicated above, can be described as rural with dispersed structural development. Corridors of trees exist in the study, primarily along stream corridors. The area is mapped by the Washington Department of Fish and Wildlife as deer and elk winter range and several landowners in the area have requested and received approval for fences to protect vineyards and other agricultural uses from deer predation.

The proposed addition would be in an area that is committed to a residential use. There is an existing dwelling, a small outbuilding, a garage, and a circular driveway. Additional additions to existing dwellings on other parcels would have no effect, either individually or cumulatively because they are not using any substantial amount of habitat land. The proposed horse stable will be in an open area west of the existing development on the property. It would be located in an area that is not already committed to another use.

To assess the likelihood of future similar development in the Klickitat River Winter Range, staff considers the addition and the horse stable separately. The addition onto an existing dwelling may only occur on parcels where there is an existing dwelling and the dwelling is of a size that would allow an addition (see finding B.2). Of the eleven developed parcels, two of the parcels (the subject parcel and one other) have dwellings of approximately 3750 square feet. The
other nine parcels have smaller dwellings and thus have the ability to add onto the dwellings. Additions to those nine dwellings would occur on land already committed to a residential use and would be approximately 10,000 to 20,000 total square feet of new building area spread across those nine large-lot parcels.

Including the subject property, five of the developed parcels have accessory buildings that, according to Klickitat County records, are greater than 1500 square feet (or 2500 square feet depending on size of the parcel) and thus those parcels could not be further developed with a similar horse stable and fenced area. The six other parcels, combined with the sixteen underdeveloped (and potential) parcels, means that 22 parcels in the study area may be further developed with a horse stable.

Washington Department of Fish and Wildlife staff determined that the application did not raise any concerns because the applicant is retaining existing trees. As noted above, there are four undeveloped parcels that are approximately the same size as the subject parcel. None of these four parcels have a similar existing open area where a future applicant could place development in a manner that retains existing vegetation. Placement of accessory buildings on these parcels is thus dissimilar to the current proposal and will require different analysis at the time an application is submitted. All of the other parcels in the vicinity have open areas where future applicants can place accessory buildings that meet WDFW’s concern.

In short, any new similar addition would occur on land already committed to residential use and any new accessory building could be in open areas, which WDFW stated is its main concern. For the undeveloped parcels without existing open areas, additions to existing dwellings is not a land use that would occur (because there are no existing dwellings on those parcels), and new accessory buildings would not be similar to the proposed use because those new accessory buildings would involve creating new open areas. For these reasons, the proposed development would not generate adverse cumulative winter range impacts.

6. Commission Rule 350-81-580(4)(c) states:

The wildlife protection process may terminate if the Development Review Officer, in consultation with the appropriate state wildlife agency, determines: the sensitive wildlife area is not active; or the proposed use would not compromise the integrity of the wildlife area, or occur during the time of the year when wildlife species are sensitive to disturbance.

After consulting the Washington Department of Fish and Wildlife, it was determined that the proposed use would not compromise the integrity of the wildlife area. Given this information, the proposed development is consistent with Commission Rule 350-81-580(4)(c) and the wildlife protection process may terminate, consistent with Commission Rule 350-81-580(4)(c).

Conclusion:

As proposed, the development is consistent with guidelines in Commission Rules 350-81-560 through 350-81-590 that protect natural resources from adverse effects.
E. Recreation Resources

1. Commission Rule 350-81-086 states:

   *If new buildings or structures may detract from the use and enjoyment of established recreation sites, an appropriate buffer shall be established between the building/structure and the parcel.*

   No recreation sites or facilities exist on parcels that are adjacent to the subject parcel, consistent with this rule.

Conclusion:

The proposed development is consistent with applicable recreation resource guidelines in Commission Rule 350-81-086 that protect recreation resources from adverse effects.

F. Treaty Rights Protection:

1. Commission Rule 350-81-084(1) provides protection of Tribal treaty rights from new development in the National Scenic Area. Commission Rule 350-81-084(1)(a) lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments. The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on May 23, 2013. The Commission did not receive any comments.

2. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No comments were received. Given this information, the proposed accessory building is consistent with Commission Rule 350-81-084(1)(b).

3. Commission Rule 350-81-084(c)(B) states:

   *The treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.*

   The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-91-084(c)(B).

4. Commission Rule 350-81-052(1)(c)(A) applies to the garden fence. This rule states, “The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.” There are no established recreation uses on adjacent parcels. The proposed garden fence complies with this standard.
Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-81-084, which provides protection for treaties and any other rights of any Indian tribe.

TC
FIND0007.13

cc: Confederated Tribes and Bands of the Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation
Nez Perce Tribe
Marge Dryden, US Forest Service National Scenic Area
Klickitat County Planning
Klickitat County Building
Klickitat County Health
Klickitat County Public Works
Richard Till, Friends of the Columbia Gorge
Amber Johnson, Washington Department of Fish and Wildlife