

DIRECTOR'S DECISION

**APPLICANT/
LANDOWNER:**

Alfredo and Laura Cortes

FILE NO.:

C15-0001

REQUEST:

To construct a 16' x 14' deck with stairs on the South end of the existing dwelling and to pave approximately 4,640 square feet of the existing driveway in front of the existing dwelling and shop.

*The initial application for C15-0001 included a driveway, retaining wall, swimming pool, basketball court, shed, well, fenced in garden and pasture, and the planting of approximately 2 acres of grapes and berries. The applicants came in on February 17, 2016 and changed the application to just consist of the deck and asphalt.

LOCATION:

The subject parcel is located at 495 Highway 141 in the SW 1/4 of Section 11, Township 3 North, Range 10 East, W.M., Klickitat County, Washington (Klickitat County Parcel Number 03101100001000).

LAND USE

DESIGNATION:

The 5.66-acre property is located in the General Management Area and is designated Large-Scale Agriculture.

DECISION:

Based upon the following findings of fact, the land use application by Alfredo and Laura Cortes to construct a deck and pave the existing driveway is found to be consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act P.L. 99-663, and the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and approvable under Commission Rule 350-81 and is hereby **approved**.

CONDITIONS OF APPROVAL:

The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, and the Management Plan and approvable under Commission Rule 350-81. **This decision must be recorded in county deeds and records to ensure notice of the conditions to all successors in interest.**

Overall Conditions

- 1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C15-0001, and approved site plan and elevation, shall be recorded in county deeds and records at Klickitat County Assessor's Office. Once recorded, the applications shall submit a copy of the recorded document to the Executive Director.**

2. The development shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented. Please contact the Columbia River Gorge Commission staff prior to construction for a pre-construction staking inspection.
3. 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 (including painting).
4. The proposed deck will be made of TREX composite, a dark brown called "Lava Rock" and a non-reflective aluminum railing in "Charcoal Black". The proposed asphalt will be black. These materials and colors have been approved by the Commission. If any materials or colors are to change, they will need to be submitted to the Commission for approval prior to construction.

Land Use Conditions (no conditions specified)

Scenic Resources Conditions

5. All new and existing outdoor lighting must be directed downward and sited, hooded and shielded to direct light away from Key Viewing Areas. The fixtures shall be non-reflective or made with materials having low reflectivity. Any future proposed outdoor lighting shall be submitted for review and approval by the Executive Director prior to installation.
6. The existing tree cover screening the development from the key viewing areas shall be retained.

Cultural Resources Conditions

7. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall cease and the applicants shall notify the Gorge Commission within 24 hours. The cultural resources shall remain as found; further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
8. If human remains are discovered during construction activities, all activities shall cease upon their discovery. Local law enforcement, the Executive Director, Indian Tribal governments and the Washington State Department of Archaeology and Historic Preservation and the Washington State Anthropologist shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

Natural Resources Conditions (no conditions specified)

Recreation Resources Conditions (no conditions specified)

DATED AND SIGNED THIS 21st day of March, 2016 at White Salmon, Washington.

p.p.



Krystyna U. Wolniakowski, Executive Director

EXPIRATION OF APPROVAL:

Commission Rule 350-81-044 governs the expiration of this Director's Decision

This decision of the Executive Director becomes void on the 21st day of March, 2018 unless construction has commenced in accordance with the Commission Rule 350-81-044(4)

Commission Rule 350-81-044(4) specifies that commencement of construction means actual construction of the foundation or frame of the approved structure.

Construction must be completed within two (2) years of the date that the applicant commenced construction. The date of the Executive Director's preconstruction inspection to confirm the location of the proposed structural development as required by this decision shall be considered the date the applicant commenced construction, unless the applicant demonstrates otherwise.

Once the applicant has commenced construction of one element in this decision, the applicant will need to complete all elements in this decision in accordance with Commission Rule 350-81-044. The Commission does not use different "commencement of construction" dates for different elements in this decision.

The applicant may request one (1) 12-month extension of time period to commence construction and one (1) 12-month extension to complete construction in accordance with Commission Rule 350-81-044(6). The applicant must submit the request in writing prior to the expiration of the approval. If the applicant request an extension of time to complete construction, the applicant shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicant were not responsible, would prevent the applicants from commencing or completing the proposed development within the applicable 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 recreational resources in the National Scenic Area.

Appeal Process:

The appeal period ends April 20, 2016

The decision of the Executive Director shall be final unless a Notice of Intent to Appeal and Petition is filed with the Commission within thirty (30) days of this decision by the applicant or any person who submitted comment. Information on the appeal process may be obtained at the Commission Office.

NOTES:

Any new land uses or structural development or other accessory structures; or alterations not included in the approved application or site plan will require a new application and review.

Attachments:

Staff Report C15-0001

Approved Site Plan

RM

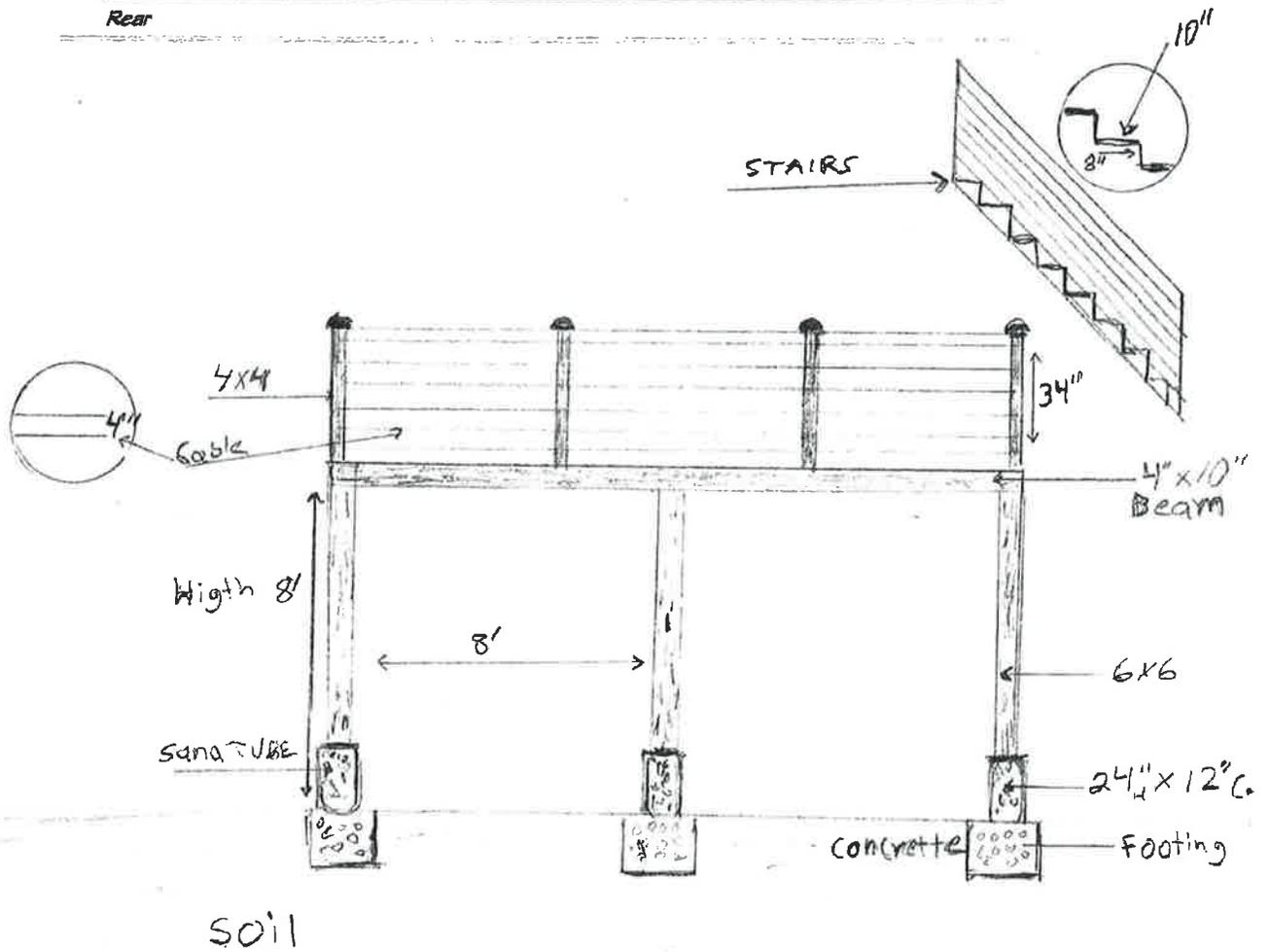
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KW

Alfredo and Laura Lortés

APPROVED

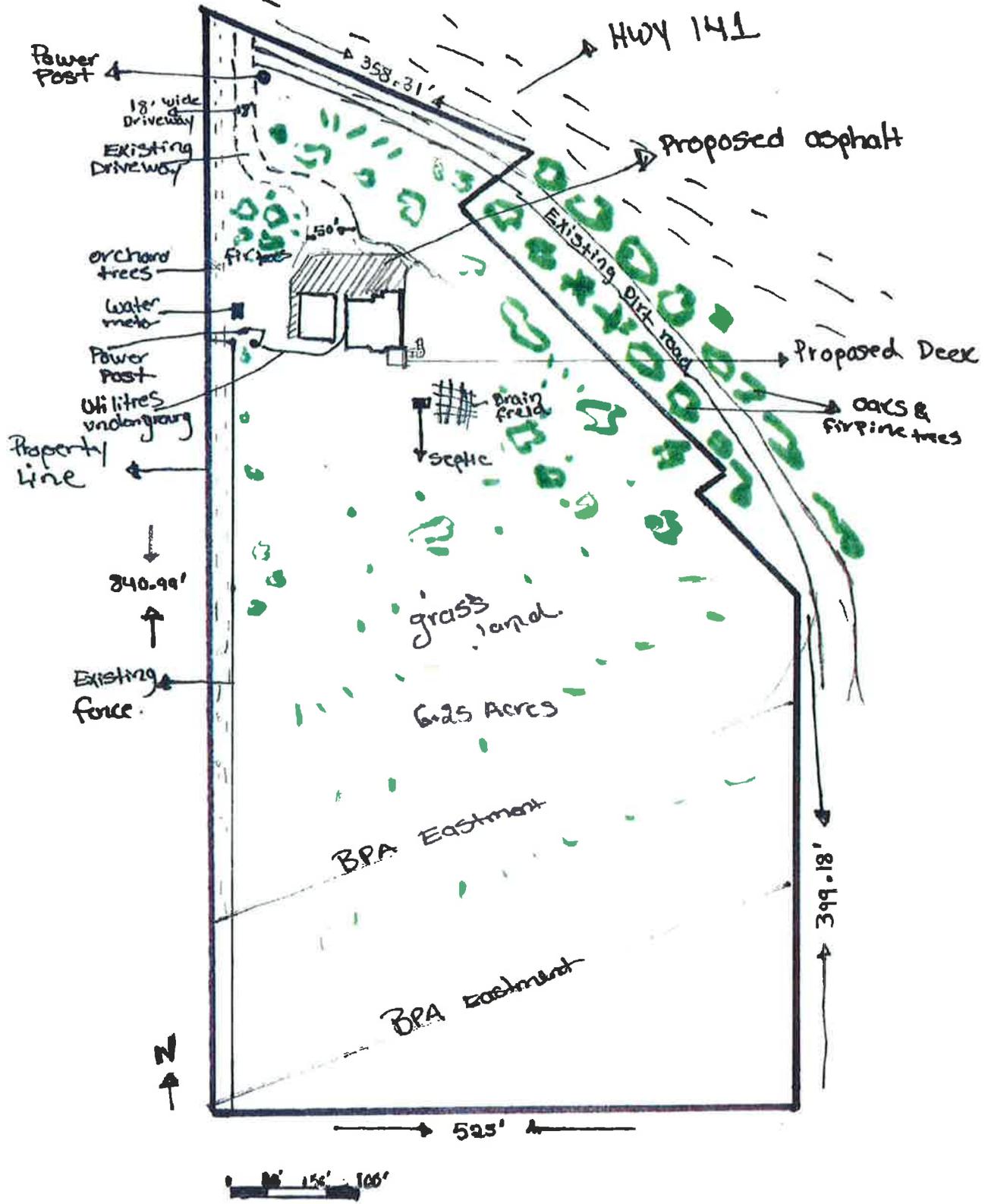
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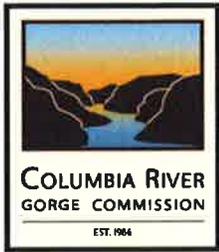


KW

Alfredo & Laura Cortes

APPROVED





FACTS AND FINDINGS COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

**APPLICANT /
LANDOWNER:**

Alfredo and Laura Cortes

FILE NO.:

C15-0001

REQUEST:

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LOCATION:

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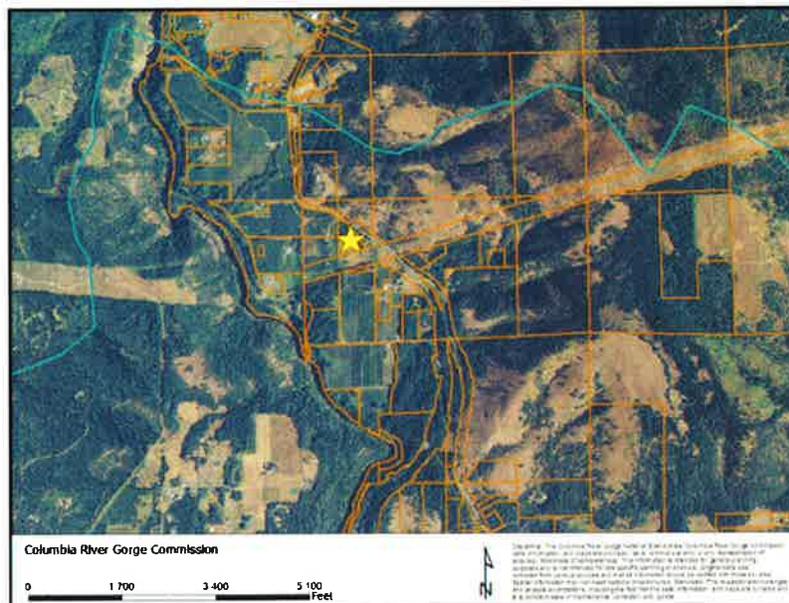


Figure 1 - Aerial View of the Cortes' property

PRIOR PERMITTING:

In 2014, the Commission approved a request for the demolition of an existing single-family dwelling and two accessory buildings, and to replace the demolished structures with one new single-family dwelling and one detached garage, relocate utilities and construct a new driveway and septic drain field. The application also included a portion of the new buildings to be used for a cottage industry. *See* Columbia River Gorge Commission No. C13-0006.

SCOPE OF REVIEW:

This Development Review Application No. C15-0001 has been reviewed for consistency with the Columbia River Gorge Commission Chapter 350, Division 81 Land Use Ordinance.

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:

Cowlitz Indian Tribe
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
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Health Department
Klickitat County Auditor
U.S. Forest Service National Scenic Area Office
Washington Department of Fish and Wildlife
Washington Department of Natural Resources Natural Heritage Program
Washington State Historic Preservation Office
Friends of the Columbia Gorge
White Salmon Library

DATE THIS REPORT WAS FINALIZED: March 15, 2016

STAFF PERSON THAT PREPARED THIS REPORT:

Riley Marcus, Klickitat County planner for the Columbia River Gorge Commission

HOW/WHERE TO OBTAIN FURTHER INFORMATION: Questions and comments should be directed to the Columbia River Gorge Commission at 57 NE Wauna Ave, P.O. Box 730, White Salmon WA 98672, (509) 493-3322.

FINDINGS OF CONSISTENCY WITH CHAPTER 350-81-LAND USE ORDINANCE, COLUMBIA RIVER GORGE COMMISSION

PURPOSE AND APPLICABILITY

Columbia River Gorge Commission Administrative Rules 350-81-010 through 350-81-018 describe the purpose and applicability of the Chapter 350-81-Land Use Ordinance.

DEFINITIONS

Columbia River Gorge Commission Administrative Rule 350-81-020 sets forth the definitions of words and word derivations used throughout Chapter 350-81-Land Use Ordinance.

Findings of Fact: The definitions were consulted and used as part of the review of this Development Review Application.

APPLICATIONS AND PROCEDURES

Columbia River Gorge Commission Administrative Rules 350-81-030 through 350-81-046 specifies the standards for the application, pre-application conference, acceptance of application, notice of development review, comment period, decision of the executive director, expiration of approvals and changes or alterations to an approved action.

350-81-030 Standards for Applications

Complete Application Required: Any proposed use, development or structure shall be reviewed according to the standards in effect on the date an applicant submitted a complete land use application. A complete application is one that the Executive Director determines meets this Land Use Ordinance's requirements for: (1) a complete application form; (2) a complete site plan; and (3) all applicable information specified in the various sections of this land use ordinance. Incomplete applications shall not be reviewed.

Findings of Fact: The file contains a complete application form, a complete site plan and all the applicable information specified in the various sections of this land use ordinance. Development Review Application C15-0001 is a complete application and staff is able to review it in accordance with Rule 350-81-030.

Conclusions of Law: Development Review Application C15-0001 is consistent with this rule requirement.

350-81-032 Application for Review and Approval

This land use ordinance sets forth all the information requirements for a Development Review Application.

Findings of Fact: Development Review Application C15-0001 was completed pursuant to this rule (350-81-032(1)). A Columbia River Gorge Commission planner, on behalf of the Executive Director, accepted Development Review Application C15-0001 and reviewed the application for consistency with guidelines specified in Rules 350-81-030 through 350-81-046 (350-81-032(2)). The Columbia River Gorge Commission may charge a fee to review Development Review Applications after a public hearing (350-81-032(3)). The Commission has not done so. As such, no fee is charged to the applicant for this Development Review Application. Standard application forms are available at Commission's offices and provided to county and city planning offices and the Forest Service (350-81-032(4)). The applicant obtained a Development Review Application from the Commission's office and submitted it as part of the overall application. There are multiple information needs that are required as part of the application and they are identified in 350-81-032(5). The applicant has submitted all necessary and applicable information per this rule.

Conclusions of Law: Development Review Application C15-0001 is consistent with this rule requirement.

350-81-034 Pre-Application Conference

An applicant may request a pre-application conference prior to submitting an application for development review. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of Commission Rule 350-81, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

Findings of Fact: An applicant may request a pre-application conference prior to submitting an application for development review. This is discretionary, not mandated and at the request of the applicant. Staff has not knowingly refused the applicant the right to request such a conference.

Conclusions of Law: Development Review Application C15-0001 is consistent with this rule requirement.

350-81-036 Acceptance of Application

The Executive Director shall review the application for completeness and if complete, shall accept the application for review.

Findings of Fact: A Columbia River Gorge Commission planner, on behalf of the Executive Director, has reviewed Development Review Application, C15-0001, has determined it is complete and has accepted the application (350-81-036(1)). Development Review Application, C15-0001, does not propose any uses that are explicitly prohibited by this ordinance (350-81-036(2)). The land use ordinance sets a goal for the Executive Director to accept the application as complete within 14 days of receipt or notify the applicant of any deficiencies.

Conclusions of Law: Development Review Application C15-0001 is consistent with this rule requirement.

350-81-038 Notice of Development Review

(1) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

- (a) The name of the applicant;
- (b) The general and specific location of the subject property;
- (c) A brief description of the proposed action;
- (d) The deadline for issuing a decision; and
- (e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(4) The notice shall be mailed to:

- (a) The Forest Service, the applicable state, the four Indian tribal governments, and the applicable county or city planning office; and
- (b) Owners of property within a radius of the subject parcel(s) as determined by 350-81-630; and
- (c) Other agencies and interested parties which request a notice or which the Executive Director determines should be notified.

(5) A copy of the notice shall be posted on the Commission's website.

1 Note: No section (3) in filings to Oregon Bulletin and Washington State Register.

Findings of Fact: Staff, on behalf of the Executive Director, issued a notice of a proposed development review on March 12, 2015. It was within 7 days of the accepted application (350-81-038(1)). The notice did contain the name of the applicant, general and specific location of the subject property, a brief description of the proposed action and a deadline for filing comments on the proposed action (350-81-038(1)(a)(b)(c)(e)). The notice did state the application and supporting documents are available for inspection at the Commission's office during normal working hours. The notice was mailed to the Forest Service, the applicable state, the four Indian tribal nations (Yakama, Umatilla, Warm Springs and Nez Perce) plus one other (Cowlitz), the applicable city or county planning office (Klickitat County Planning Department), owners within a radius as determined by 350-81-630 (determined to be 200 feet); and other agencies and interested parties which request a notice or the Executive Director determines should be notified (1 interested party, Friends of the Columbia Gorge, has a standing request to be notified of all Development Review Applications) (350-81-038(4)(a)(b)(c)). A copy of the notice was posted on the Commission's website (350-81-038(5)).

Conclusions of Law: Development Review Application C15-0001 is consistent with this rule requirement.

350-81-040 Comment Period

Interested persons shall have 21 days from the date which the notice is sent to submit written comments to the Executive Director relative to the consistency of the proposed actions with the guidelines of Commission Rule 350-81:

- (1) Based on comments received and other applicable information, the Executive Director shall determine if a wildlife management plan pursuant to 350-81-580(5), or a rare plant protection and rehabilitation plan pursuant to Commission Rule 350-81-590(5) is required.
- (2) For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the Executive Director shall forward the survey to the applicable State Historic Preservation Officer, and the four Indian tribal governments pursuant to 350-81-540(1)(b) and (2)(b)(A).
- (3) The State Historic Preservation Officers and the four Indian tribal governments shall have 30 days to submit comments on the cultural resources survey. Based on the survey results, comments received, and other applicable information, the Executive Director shall determine if an evaluation of significance pursuant to 350-81-540(3) is required.

Findings of Fact: Interested parties were given 21 days from the date the notice was sent to submit written comments to the Executive Director relative to the consistency of the proposed actions with the guidelines of Commission Rule 350-81. The notice was sent March 12, 2015 and the public comment deadline was established to be April 2, 2015. Comments were received from:

- Johnson Meninick of the Yakama Nation, dated March 17, 2015 and received March 23, 2015
- Dena Riggleman on March 20, 2015, with concerns with the proposed pool. The application has since been changed to not include a pool.

Comments were also received on June 2, 2015 from Richard Till of the Friends of the Columbia Gorge after the comment period had commenced.

Conclusions of Law: Development Review Application C15-0001 is consistent with this rule requirement.

350-81-042 Decision of the Executive Director

- (1) In making a decision on a proposed use or development the Executive Director shall:
 - (a) Consult with the applicant and such agencies as the Executive Director deems appropriate;
 - (b) Consider information submitted by the applicant and all other relevant information available;
 - (c) Consider all comments submitted pursuant to Commission Rule 350-81-040; and
 - (d) Solicit and consider the comments of the Forest Service.

- (2) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.
 - (a) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.
 - (b) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.
- (3) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81. As a goal, the Executive Director shall attempt to issue a decision within 72 days after acceptance of the application.
- (4) The Executive Director shall send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, the applicable county and/or city and each person who submitted comments under Commission Rule 350-81-040. The decision shall set forth the rights of appeal under Commission Rule 350-70.
- (5) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.
- (6) The 72-day time period in this rule is effective retroactively to all Development Review Applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

Findings of Fact: The Gorge Commission Staff, on behalf of the Executive Director, has consulted with the applicant and other agencies (350-81-042(1)). The Executive Director has approved a proposed use that is consistent with the standards of section 6, the purposes of P.L. 99-663 and Commission Rule 350-81 (350-81-042)(2). A decision has been issued which include findings of fact and conclusions of law. The 72-day time frame has been suspended (350-81-042)(3). The Executive Director will send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, and the applicable county and/or city and each person who submitted timely comments (350-81-042(4)). Comments were submitted by the neighboring land owner Dena Riggelman on March 20, 2015, Johnson Meninick of the Yakama Nation on March 17, 2015, and Marge Dryden on March 20, 2015. All have been reviewed by the Executive Director (350-81-042(1)(c)). The decision of the Executive Director shall be final unless a Notice of Appeal is filed (350-81-042(5)). The 72 day time period is not applicable and has been suspended (350-81-042(6)).

Conclusions of Law: This Development Review Application, C15-0001, is consistent with this rule requirement.

350-81-044 Expiration of Approvals

- (1) Notice Not Required: Expiration of any land use approval issued pursuant to this Management Plan shall be automatic. Failure to give notice of expiration shall not affect the expiration of a land use approval.
- (2) Land Use Approvals without Structures: Any land use approval issued pursuant to this Management Plan for a use or development that does not include a structure shall expire two years after the date the land use approval was granted, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established" means the final deed or plat has been recorded with the county recorder or auditor.
- (3) Land Use Approvals with Structures: Any land use approval issued pursuant to this Management Plan for a use or development that includes a structure shall expire as follows:
 - (a) When construction has not commenced within two years of the date the land use approval was granted, or
 - (b) When the structure has not been completed within two years of the date of commencement of construction.
- (4) Commencement of Construction: As used in subsection 3(a) above, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and

developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.

- (5) Completion of Structure: As used in subsection 3(b) above, completion of the structure shall mean (1) completion of the exterior surface(s) of the structure and (2) compliance with all conditions of approval in the land use approval.
- (6) Extension of Validity of Land Use Approvals: A request for extension of the time frames in subsections 2, 3(a) or 3(b), above, shall be submitted in writing before the applicable expiration date.
 - (a) A reviewing agency may grant one 12-month extension to the validity of a land use approval if it determines that events beyond the control of the applicant prevented commencement of the use or development (applicable to section 2 above) or commencement of construction (applicable to subsection 3(a) above) within the original two-year time frame.
 - (b) An agency may also grant one 12-month extension if it determines that events beyond the control of the applicant prevented completion of the structure (applicable to subsection 3(b) above) within the original two-year time frame.
 - (c) A request for extension shall state the reason why events beyond the control of the applicant warrant an extension.
 - (d) Approval or denial of a request for extension shall be considered an administrative decision.
- (7) Vested Rights: The laws of the states of Oregon and Washington concerning vested rights shall not apply in the National Scenic Area. A person has a vested right for as long as the land use approval does not expire.

Findings of Fact: This rule applies to the expiration of approvals; review of this application results in approval, not expiration of the approval.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-046 Changes or Alterations to an Approved Action

Any change to a development action approved by the Executive Director shall be processed as a new action, except that the Executive Director may approve minor changes to findings, conclusions, and conditions of approval deemed to be consistent with the guidelines of Commission Rule 350-81 and the findings and conclusions for the original action. If the Executive Director approves a minor change, the Director shall notify all of the parties that would have standing to appeal the change, including the applicant, the Forest Service, the four Indian tribal governments, the county planning department, and anyone who submitted comments during the comment period on the original land use application. The change itself (not the original decision) would be subject to appeal under the same time frames applicable to the original decision.

Findings of Fact: Development Review Application, C15-0001, is not a change or alteration to a development action approved by the Executive Director.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

EXPEDITED DEVELOPMENT REVIEW PROCESS

350-81-050 Development Eligible for Expedited Review

This land use ordinance sets forth all the information requirements for an expedited review.

Findings of Fact: Development Review Application, C15-0001, does not meet any of the development identified as a use that may be considered for Expedited Review 350-81-050(1). While the proposed deck will be less than 500 square feet and uncovered, it will not be less than 30 inches in height above the existing grade (350-81-050(1)(f)) and therefore does not qualify for Expedited Review.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-052 Resource and Treaty Rights Protection Guidelines

This land use ordinance sets forth expedited review process guidelines for protecting resources and treaty right.

Findings of Fact: Development Review Application, C15-0001, does not meet any of the development identified as a use that may be considered for Expedited Review (350-81-050(1)). This rule requirement applies only to proposed development reviews using the Expedited Review process.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-054 Procedures for Expedited Review Process

This land use ordinance establishes the procedures for the Expedited Review Process.

Findings of Fact: Development Review Application, C15-0001, proposes to construct 16' x 14' deck on the south end of the existing single-family dwelling and to pave approximately 4,640 square feet of existing driveway around the existing garage and single-family dwelling. This does not meet any of the development identified as a use that may be considered for Expedited Review (350-81-050(1)).

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

EMERGENCY/DISASTER RESPONSE ACTIONS

350-81-060 Emergency/Disaster Response Actions

This land use ordinance sets forth all the information requirements for an emergency/ disaster response application.

Findings of Fact: Development Review Application, C15-0001, is not an application being filed as an action in response to an emergency/disaster, as defined in Columbia River Gorge Commission Rule 350-81-020(54). (350-81-060(1)(a))

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

GENERAL POLICIES AND GUIDELINES

350-81-070 Exempt Land Uses and Activities

(1) These policies repeat and respond to direction in Section 17 of the Scenic Area Act that the Management Plan not affect certain uses that take place in the Scenic Area.

- (a) The Gorge Commission and Forest Service shall, in the Management Plan and in the implementation actions, protect treaty and other rights of Indian tribes. Nothing plan may interfere with the exercise of those rights.
- (b) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes, shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu" fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those "in lieu" sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.

- (c) Rights to surface or ground water shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act.
- (d) Water transportation activities on the Columbia River or its tributaries shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act. The term "activities" includes those facilities necessary for navigation.
- (e) The operation, maintenance, and modification of existing transmission facilities of the Bonneville Power Administration shall be exempt from regulation under the Management Plan or land use ordinances adopted by the counties or the Gorge Commission pursuant to the Scenic Area Act.
- (f) Neither the Management Plan nor land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act may affect laws, rules, or regulations pertaining to hunting or fishing.
- (g) Neither the Forest Service nor the Gorge Commission may establish any buffer zones or protective perimeters outside the boundaries of the Scenic Area.
- (h) The operation, maintenance, and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material, shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission under the Scenic Area
- (i) In the GMA, the rights and responsibilities of non-federal timber landowners under the Forest Practices Acts of Washington and Oregon, or under county regulations that supersede those acts, shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act.

Findings of Fact: Development Review Application, C15-0001, does not propose any use which is considered to be exempt from review (350-81-070(1) and Section 17, Columbia River Gorge National Scenic Area Act).

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-072 Prohibited Land Uses and Activities

(1) The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area:

- (a) Solid waste disposal sites or sanitary landfills within the Special Management Area.
- (b) New industrial development in the Scenic Area outside of the Urban Areas.

Findings of Fact: Development Review Application, C15-0001, does not propose any use that is prohibited in this rule (350-81-072(1)).

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-074 Uses Allowed Outright

This land use ordinance sets forth all the information requirements for uses allowed outright.

Findings of Fact: Development Review Application, C15-0001, does not propose any uses which may be considered as use(s) allowed outright (350-81-074(1)).

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-76 Agricultural Buffer Zones in the General Management Area

- (1) All new buildings in the GMA shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use:

SETBACK GUIDELINES			
Type of Buffer (Size in Feet)			
Type of Agriculture	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm of Terrain Barrier
Orchards	250	100	75
Row crops/ Vegetables	300	100	75
Livestock grazing Pasture, haying	100	15	20
Grains	200	75	50
Berries, vineyards	150	50	30
Other	100	50	30

- (2) Earth berms may be used to satisfy, in part, the setback guidelines. The berm shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees, and/or grasses shall be employed on the berm to control erosion and achieve a finished height of 15 feet.
- (3) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and shall be continuous.
- (4) The necessary berming and/or planting shall be completed during the first phase of development and maintained in good condition.
- (5) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.
- (6) A local government may grant a variance to the buffer guidelines upon a demonstration that the variance guidelines in 350-81-078 have been satisfied.

Findings of Fact: Development Review Application, C15-0001, does not include any new buildings. The proposal is to establish a new deck on the south end of the existing single-family dwelling and to pave the existing driveway that surrounds the existing dwelling and shop.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-078 Variances

- (1) In the GMA, when setbacks or buffers specified in the guidelines for the protection of scenic, cultural, natural, recreation, agricultural, or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that both of the following conditions exist:
 - (a) A setback or buffer specified in Commission Rule 350-81 to protect one resource would cause the proposed use to fall within a setback or buffer specified in the plan to protect another resource.
 - (b) Variation from the specified setbacks or buffer would, on balance, best achieve the protection of the affected resources.
- (2) In the GMA, a setback or buffer specified in the guidelines for protection of scenic, cultural, natural, recreation, agricultural, or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that all of the following conditions exist:
 - (a) The land use designation otherwise authorizes a residence on the tract.
 - (b) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer.
 - (c) The variance from the specified setback or buffer is the minimum necessary to allow the residence.
- (3) In the GMA, the Executive Director may grant a variance to the setback and buffer requirements contained in 350-81-610 upon a finding that all of the following conditions exist:

- (a) The proposed project is a public-use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a scenic travel corridor.
 - (b) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.
 - (c) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.
 - (d) The variance is the minimum necessary to accommodate the use.
- (4) In the GMA, the Executive Director may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that all of the following conditions exist:
- (a) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.
 - (b) The proposed use is dependent on resources present at the site.
 - (c) Reasonable alternative sites offering similar opportunities, including those in nearby Urban Areas, have been evaluated, and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.
 - (d) The proposed use is consistent with Chapter 4, Part I of the Management Plan.
 - (e) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural, or cultural resources and adjacent land uses.
 - (f) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

Findings of Fact: This rule allows for setbacks and buffers to be varied when the protection of agricultural and other types of resources overlap or conflict. A variance is not required for this application.

Conclusions of Law: The development application, C15-0001, is consistent with this rule.

350-81-080 Applying New Less-Stringent Regulations to Development Approved Under Prior Scenic Area Regulations

- (1) A landowner may submit a land use application to alter conditions of approval for an existing use or structure approved under prior Scenic Area regulations (e.g., *Columbia River Gorge National Scenic Area Final Interim Guidelines*, original *Management Plan*), subject to the following standards:
- (a) The applicant shall apply for the same development that was reviewed in the original decision.
 - (b) The development shall remain in its current location.
 - (c) The agency that currently has jurisdiction over the applicant's property shall review the application and send notice of the application to agencies and other parties entitled to receive notice under the current rules.
 - (d) The agency shall review the entire development to ensure that it would fully comply with all the current guidelines (i.e., land use, treaty rights, scenic resources, cultural resources, recreation resources and natural resources).
 - (e) The agency shall issue a new decision that supersedes the original decision.
 - (f) The new decision may remove or revise original conditions of approval or add new conditions of approval to ensure full compliance with all the current guidelines.

Findings of Fact: This Development Review Application, C15-0001, does not alter conditions of approval for an existing use or structure approved under prior Scenic Area regulations.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-082 Existing Uses and Discontinued Uses

This land use ordinance sets forth all the information requirements for Existing and Discontinued Uses.

Findings of Fact: The Development Review Application does not include any existing uses or structure (350-81-082(1)); replacement of existing structures either damaged or destroyed by disaster, or not (350-81-082(2)(3)); any changes to existing uses and structures (350-81-082(4)); or the re-establishment of any discontinued existing uses and structures (350-81-082(5)(6)).

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-084 Indian Tribal Treaty Rights and Consultation

(1) Indian Tribal Treaty Rights and Consultation in the General Management Area

(a) Tribal Government Notice

(A) New uses located in, or providing recreation river access to, the Columbia River or its fishbearing tributaries shall include the following supplemental information:

(i) The site plan map shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

(ii) The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:

(I) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

(II) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.

(III) List tribal ceremonial fishing seasons in the project vicinity.

(IV) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.

(B) Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

(C) Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the Executive Director. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

(b) Tribal Government Consultation

(A) When substantive written comments are submitted to the Executive Director in a timely manner, the project applicant shall offer to meet with the Executive Director and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government.

Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.

(B) Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.

(C) The Executive Director shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Executive Director.

(c) Conclusion of the Treaty Rights Protection Process

(A) The Executive Director shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.

The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the Executive Director must justify how it reached an opposing conclusion.

(B) 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.

(C) A finding by the Executive Director that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

(2) Indian Tribal Treaty Rights and Consultation in the Special Management Area

(a) For new development and uses in the Special Management Area, the Forest Service shall determine effects on treaty rights and shall notify the Executive Director of the determination.

Findings of Fact: These rule requirements address Tribal Government Notice, Tribal Government Consultation, Conclusion of the Treaty Rights Protection Process and Treaty Rights and Consultation in the Special Management Area. These requirements are triggered when a new use is located in, or providing recreation river access to, the Columbia River or its fish bearing tributaries. The proposed use is not located in either of these locations.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-086 Buffers from Existing Recreation Sites

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.

Findings of Fact: The subject property in Development Review Application C15-0001 does not include any established recreation sites, and its off-site impacts are not expected to detract from the use and enjoyment of any established recreation sites.

Conclusions of Law: This land use ordinance is not applicable to this Development Review Application.

USES AND STRUCTURES ALLOWED IN VARIOUS LAND USE DESIGNATIONS

350-81-090 Agricultural Buildings

(1) The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

(2) To satisfy 350-81-090(1), applicants shall submit the following information with their land use application:

(a) A description of the size and characteristics of current agricultural use.

(b) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).

(c) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

Findings of Fact: Development Review Application C15-0001 does not propose any new agricultural buildings.
Conclusions of Law: Rule 350-81-090 is not applicable to this Development Review Application.

350-81-092 Temporary Use-Hardship Dwelling

Findings of Fact: Development Review Application C15-0001 does not include hardship dwelling use.
Conclusions of Law: Rule 350-81-092 is not applicable to this Development Review Application.

350-81-094 Sewer and Water Services

- (1) Sewer lines may be extended from an Urban Area into a rural area to serve:
- (a) Areas with a documented health hazard.
 - (b) Recreation uses open to the public, only upon a demonstration by the local government that there is no practicable alternative to providing service to the area. In such cases, the lines shall be engineered and sized solely to serve the defined area or use. Such lines shall not be relied upon as the sole justification for revision to an Urban Area boundary.
- (2) New uses authorized in Commission Rule 350-81 may hook up to existing sewer and water lines in rural areas.

Findings of Fact: Sewer lines are not being extended from an Urban Area to serve this use (350-81-094(1)). 350-81-094(2) allows for consideration of new uses to be connected into existing water lines.
Conclusions of Law: Rule 350-81-094(1) is not applicable to this Development Review Application.

350-81-096 Docks and Boathouses

Findings of Fact: There are no new private docks or boathouses or public docks requested as part of Development Review Application C15-0001.
Conclusions of Law: Rule 350-81-096 is not applicable to this Development Review Application.

350-81-098 Home Occupations and Cottage Industries

Findings of Fact: There are no home occupations or cottage industries proposed in Development Review Application C15-0001.
Conclusions of Law: Rule 350-81-098 is not applicable to this Development Review Application.

350-81-100 Bed and Breakfast Inns

Findings of Fact: No bed and breakfast inns are proposed in Development Review Application C15-0001.
Conclusions of Law: Rule 350-81-100 is not applicable to this Development Review Application.

350-81-102 Small-Scale Fishing Support and Fish Processing Operations

Findings of Fact: There are no small-scale fishing support nor fish processing operations proposed in Development Review Application C15-0001.
Conclusions of Law: Rule 350-81-102 is not applicable to this Development Review Application.

350-81-104 Resource Enhancement Projects

Findings of Fact: There are no resource enhancement projects proposed within Development Review Application C15-0001.
Conclusions of Law: Rule 350-81-104 is not applicable to this Development Review Application.

350-81-106 Disposal Sites for Spoil Materials from Public Road Maintenance Activities

Findings of Fact: There are no disposal sites for spoil materials from public road maintenance activities proposed in Development Review Application, C15-0001.

Conclusions of Law: Rule 350-81-106 is not applicable to this Development Review Application.

350-81-108 Commercial Events

Findings of Fact: There are no commercial events proposed in Development Review Application C15-0001.

Conclusions of Law: Rule 350-81-108 is not applicable to this Development Review Application.

350-81-110 Columbia River Bridge Replacement

Findings of Fact: No bridge replacements are proposed in Development Review Application C15-0001.

Conclusions of Law: Rule 350-81-110 is not applicable to this Development Review Application.

350-81-112 Signs

Findings of Fact: There are no signs proposed in Development Review Application, C15-0001.

Conclusions of Law: Rule 350-81-112 is not applicable to this Development Review Application.

350-81-114 Special Uses in Historic Buildings

Findings of Fact: There are no historic buildings on site or part of Development Review Application C15-0001.

Conclusions of Law: Rule 350-81-114 is not applicable to this Development Review Application.

LAND DIVISIONS AND LOT LINE ADJUSTMENTS

350-81-120 Consolidation of Lots

Findings of Fact: Development Review Application C15-0001 does not contain or propose any consolidation of lots.

Conclusions of Law: Rule 350-81-120 is not applicable to this Development Review Application.

350-81-124 Land Divisions and Cluster Development

Findings of Fact: Development Review Application C15-0001 does not contain or propose any land divisions or cluster developments.

Conclusions of Law: Rule 350-81-124 is not applicable to this Development Review Application.

350-81-126 Lot Line Adjustments

Findings of Fact: Development Review Application C15-0001 does not contain or propose any lot line adjustments.

Conclusions of Law: Rule 350-81-126 is not applicable to this Development Review Application.

Agriculture

350-81-170 Agricultural Land Designations

Commission Rule 350-81-170 through 350-81-240 shall apply to those areas designated Large-Scale or Small-Scale Agriculture, SMA Agriculture, and Agriculture-Special on the Scenic Area Land Use Designation Map.

Findings of Fact: The land use designation for the subject property is General Management Area, Large Scale Agriculture. Columbia River Gorge Commission Administrative Rules 350-81-170 through 350-81-240 apply to the Agricultural Land Use Designations and must be considered as part of this development application. The findings and conclusions are listed below.

350-81-180 Uses Allowed Outright

This land use ordinance sets forth all the requirements for development reviews with uses that are allowed outright.

Findings of Fact: Development review C15-0001 is not considered as a use allowed outright.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

30-81-182 Uses Allowed Through the Expedited Development Review

Findings of Fact: Constructing a deck and paving a driveway are not considered uses allowed through the Expedited Development Review process.

Conclusions of Law: This rule requirement is not applicable to Development Review Application C15-0001.

350-81-190 Review Uses

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(b) Agricultural structures, except buildings, in conjunction with agricultural use.

(c) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.

(e) 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 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.

(f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 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 footprint of any individual accessory building shall not exceed 1,500 square feet.

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

(g) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(h) On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged

in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

- (B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (h)(C)(iv) below.
- (C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:
 - (i) Size of the entire farm or ranch, including all land in the same ownership.
 - (ii) Type(s) of agricultural uses (crops, livestock) and acreage.
 - (iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.
 - (iv) Income capability. The farm or ranch, and all its constituent parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula:

$$(A)(B)(C) = I$$

where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

- (i) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling that is included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria listed in 350-81-540(1)(e).
- (j) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.
- (k) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:
 - (A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.
 - (B) The dwelling would be located on the same parcel as the dwelling of the principal operator.
 - (C) The operation is a commercial enterprise, as determined by an evaluation of the factors described in 350-81-190(1)(h)(C).
- (l) Construction, reconstruction, or modifications of roads not in conjunction with agriculture.
- (m) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (n) Structures associated with hunting and fishing operations.
- (o) Towers and fire stations for forest fire protection.
- (p) Agricultural labor housing, under the following conditions:
 - (A) The proposed housing is necessary and accessory to a current agricultural use.
 - (B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.
 - (C) The housing shall be located to minimize the conversion of lands capable of production of farm crops or livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Large-Scale Agriculture, on a parcel that was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

- (A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands.
- (B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location, and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be used in conjunction with other agricultural operations in the area.
- (C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required by 350-81-076, or designated Commercial Forest Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (350-81-310).
- (D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, Large or Small Woodland.
- (E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(r) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(s) Life estates, subject to the guidelines in "Approval Criteria for Life Estates," (350-81-210).

(t) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(u) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(v) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(w) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA Agriculture subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

(a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270(2)(x).

(b) Forest uses and practices, as allowed for in 350-81-270(2)(y).

(c) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

- (A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

- (B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy C (iv) below.
- (C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:
 - (i) Size of the entire farm or ranch, including all land in the same ownership.
 - (ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.
 - (iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.
 - (iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

$$(A)(B)(C) = I$$
 where:
 A = Average yield of the commodity per acre or unit of production
 B = Average price of the commodity
 C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
 I = Income capability
- (D) Minimum parcel size of 40 contiguous acres.
- (d) Farm labor housing on a parcel with an existing dwelling under the following conditions:
 - (A) The proposed housing is necessary and accessory to a current agricultural use, and the operation is a commercial agricultural enterprise as determined by 350-81-190(2)(c)(C).
 - (B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed 9 months.
 - (C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.
 - (D) Minimum parcel size of 40 contiguous acres.
- (e) Agricultural structures, except buildings, in conjunction with agricultural use.
- (f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).
- (g) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 2(h) or 2(i), below.
- (h) 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 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.
- (i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:
 - (A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 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 footprint of any individual accessory building shall not exceed 1,500 square feet.
 - (C) The height of any individual accessory building shall not exceed 24 feet.

- (j) Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.
- (k) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.
- (l) Fruit stands and produce stands, upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.
- (m) Aquaculture.
- (n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA.
- (o) Utility facilities necessary for public service, upon a showing that:
 - (A) There is no alternative location with less adverse effect on Agriculture lands.
 - (B) The size is the minimum necessary to provide the service.
- (p) Temporary asphalt/batch plant operations related to public road projects, not to exceed 6 months.
- (q) Community facilities and nonprofit facilities related to agricultural resource management.
- (r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (s) Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.
- (t) Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in 350-81-620.
- (u) Road and railroad construction and reconstruction.
- (v) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.
- (w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).
- (x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).
- (z) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

Findings of Fact: This Development Review Application proposes a deck and the paving of a portion of the existing driveway.

Commission Rule 350-81-190 does not specifically list decks; however, in the past, the Commission has treated applications for decks as applications for additions to existing dwellings. Commission Rule 350-81-190(1)(v) allows additions to existing buildings greater than 200 square feet in area or greater than the height of the existing dwelling. The proposed deck is approximately 224 square feet and would be lower than the height of the existing dwelling. The proposed deck 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 below. The deck could also be considered an accessory structure. Commission Rule 350-81-190(1)(d) allows for consideration of "Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process."

The paving on the driveway is an accessory structure. Commission Rule 350-81-020(151) defines structure to include roads. A driveway is substantially similar to a road.

Conclusions of Law: The proposed deck and paving are allowed uses provided they comply with the standards to protect scenic, cultural, natural and recreational resources.

350-81-200 Review Uses with Additional Approval Criteria - Large Scale or Small Scale Agriculture

- (1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620) and the "Approval Criteria for Specified Review Uses," (350-81-220) below.
- (a) Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural or forest lands, and (2) the size is the minimum necessary to provide the service.
 - (b) Home occupations or cottage industries in existing residential or accessory structures, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).
 - (c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.
 - (d) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.
 - (e) Wine sales/tasting rooms, in conjunction with an on-site winery.
 - (f) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
 - (g) Exploration, development, and production of mineral and geothermal resources, subject to the guidelines in 350-81-520.
 - (h) Personal-use airstrips, including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted (except for aircraft emergencies) to use by the owner; invited guests on an infrequent and occasional basis; and commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airstrip other than those owned or controlled by the owner of the airstrip.
 - (i) Aquaculture.
 - (j) Recreation development, subject to the recreation intensity class provisions (350-81-610) and Recreation Development Plan (Management Plan, Part III, Chapter 1).
 - (k) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.
 - (l) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.
 - (m) Bed and breakfast inns in single-family dwellings, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100) and provided that the residence:
 - (A) Is included in the National Register of Historic Places, or
 - (B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or
 - (C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.
 - (n) Nonprofit, environmental learning or research facilities.
 - (o) Expansion of existing school or place of worship.

- (p) On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (350-81-102).
- (q) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

Findings of Fact: Development Review Application C15-0001 does not propose any uses that are listed or considered as Review Uses with Additional approval criteria.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application. There are no other land use designations for the subject parcel. None of the requirements in the other land use designations are reviewed in this staff report.

350-81-210 Approval Criteria for Life Estates-Large Scale or Small-Scale Agriculture Designations

Findings of Fact: Development Review Application C15-0001 does not propose any uses that are listed or considered as life estates.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-220 Approval Criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture

(1) The uses identified in 350-81-200, may be allowed only if they meet both of the following criteria:

- (a) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use.
- (b) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

Findings of Fact: Development Review Application C15-0001 does not propose any uses that are Specified Review Uses.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

RESOURCE PROTECTION GUIDELINES

350-81-520 General Management Area Scenic Review Criteria

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All review uses:

- (a) New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

Findings of Fact: No new buildings are being proposed and the applicants are not proposing to do any new grading before paving; therefore, the new pavement will retain the existing topography to the maximum extent practicable.

- (b) New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

Findings of Fact: No new buildings are being proposed.

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

Findings of Fact: No new plants are being required to be planted in this decision.

(d) A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" 350-81-032(5). Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.

Findings of Fact: A site plan and land use application have been submitted for the proposed deck and asphalt.

(e) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

Findings of Fact: The landscape setting for this application is "Pastoral." The proposed development is reviewed for the requirements of the Pastoral Landscape Setting below.

(f) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

Findings of Fact: This land use application does not propose any mineral resource developments or expansion of quarries.

(g) All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The state agency shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:

(A) Whether the proposed mining is subject to state reclamation permit requirements;

(B) If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and

(C) For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.

The Executive Director may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction.

Findings of Fact: The proposed development in this application does not include any new quarries or expansion of existing quarries and therefore a reclamation plan is not required.

(2) Key Viewing Areas

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

Findings of Fact: The proposed developments will be in an area that is partially topographically visible as seen from Highway 141, which is a key viewing area.

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

Findings of Fact: The proposed deck will be visible from Highway 141, which is a key viewing area. The deck will be located on the south side of the existing dwelling. The existing dwelling is located less than 400 feet from Highway 141 at a lower elevation (approximately 25 feet lower) for a linear distance of approximately .2 miles. The dwelling is not visible for the full .2-mile length; there are intermittent trees that screen the dwelling for portions of that .2-mile length. The deck will appear at ground level as

seen from Highway 141. The colors of the proposed deck will be TREX Composite in a dark brown, called "Lava Rock", and charcoal black (railings).

The proposed paving for the driveway will not be visible. It will be on the north side of the dwelling and detached garage, and there are coniferous trees that fully screen the portion of the driveway that will be paved. The asphalt will be black, which will appear as a shadowed area underneath the trees.

All proposed development will be visually subordinate to its setting as seen from the key viewing areas.

(c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

Findings of Fact: The proposed deck will be visible for approximately .2-mile from the key viewing area. The topography and current trees screen a portion of the existing single-family dwelling. The proposed paving for the driveway will not be visible from the key viewing area.

The existing development in the viewshed, includes approximately four other parcels that are all designated as Large-Scale Agriculture. There are neighboring residences that are much less screened than the Cortes residence, which is both partially topographically screened and visually subordinate due to its dark colors. The proposed deck will provide some shading to the lower half of the residence creating an even darker appearance of the residence from the key viewing area. The existing vegetation also partially screens the existing dwelling from the key viewing area.

There would be no negative cumulative effects from this proposal. Surrounding parcels have the same amount of opportunities for creating new shadowed areas on existing buildings and creating an addition that maintains the level of visual subordination from the key viewing area.

(d) The extent and type of conditions applied to a proposed development to achieve visual subordination 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 visual impact, including but not limited to:

- (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).

Findings of Fact: The subject property is topographically visible from one key viewing area, State Route 141. The existing dwelling is less than 400 feet away from State Route 141 and is topographically visible in the foreground for a short distance, approximately two-tenths of a mile. The highway is at a higher elevation than the existing dwelling and the difference in elevation provides some topographic screening. A mixed grove of trees provides vegetative screening.

(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.

Findings of Fact: The proposed deck will be attached to the SE side of the existing single-family dwelling and will be built out of TREX Composite with non-reflective aluminum railings. Colors will be "Lava Rock" and "Charcoal Black". The new asphalt will be black. Existing vegetation will all be retained and there will be no change to the existing vegetation on the property.

- (d) New development shall be sited to achieve visual subordination 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.

Findings of Fact: The proposed development will be visually subordinate because it is located on the southeast corner of the existing single-family dwelling that is already shielded topographically and by existing vegetation. The existing residence can be seen from one key viewing area, State Route 141, and the only portion that is visible is part of the non-reflective black roof.

- (e) New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.

Findings of Fact: The proposed deck will be attached to the existing single-family dwelling that is already visually subordinate for key viewing area, State Route 141. Proposed asphalt will not be visible from any key viewing areas.

- (f) 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 of Fact: The applicants do not propose to remove existing tree cover on the subject parcel. In a past development review for this subject property, no. C13-0006 a condition was made to retain the existing tree cover. The same condition of approval will apply for this application.

- (g) The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

Findings of Fact: No new buildings are being proposed and therefore this rule does not apply.

- (i) An alteration to a building built before November 17, 1986, that already protrudes above the skyline of a bluff, cliff, or ridge as seen from a key viewing area, may itself protrude above the skyline if:
- (A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration, and
 - (B) There is no practicable alternative means of altering the building without increasing the protrusion.

Findings of Fact: There are no buildings on the subject property that were built prior to 1986. This rule does not apply to this development review application.

- (j) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

- (A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in 350-81-520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.
- (B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.
- (C) Unless as specified otherwise by provisions in 350-81-520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest

for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

- (D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in 350-81-520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

Findings of Fact: This decision does not require new landscaping to screen the proposed development. This rule does not apply.

- (k) Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Forest shall meet both scenic guidelines and fuel break requirements in 350-81-300(1)(a).

Findings of Fact: No lands on the subject property are designated as GMA Forest and will not require any fuel break requirements.

- (l) 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. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.

Findings of Fact: Colors for the proposed deck have been submitted to the Commission and approved to be visually subordinate. The proposed deck will be made of TREX composite, a dark brown called "Lava Rock" and a non-reflective aluminum railing in "Charcoal Black". The proposed asphalt will be black. This rule requires a condition of approval specifying the approved colors. In addition, the condition of approval should mention that changes to the colors require review and approval by the Executive Director in advance.

- (m) 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. The *Scenic Resources Implementation Handbook* will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook* (once they are created). Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.

Findings of Fact: The proposed deck will be made of TREX composite, a dark brown called "Lava Rock" and a non-reflective aluminum railing in "Charcoal Black". The proposed asphalt will be black.

- (n) 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).

Findings of Fact: A site plan has been submitted and is consistent with the above requirements.

- (o) For proposed mining and associated activities on lands visible from key viewing areas, in addition to submittal of plans and information pursuant to 350-81-520(1)(f) section of this chapter, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key viewing areas.

Findings of Fact: There is no mining being proposed. This rule is not applicable to this application.

- (p) 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.

Findings of Fact: No new exterior lighting has been proposed in this application. A condition of approval is appropriate to alert the applicants that any future exterior lighting must be directed downward and sited, hooded and shielded such that it is not highly visible from key viewing areas.

The applicants should contact the Commission office to determine if review and approval is required for new lighting.

- (q) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or a list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.

Findings of Fact: The findings in response to Commission Rule 350-81-190 described the deck as an addition to the dwelling. The addition will take up a portion of the south end of the existing dwelling and will not be larger than the existing building. The deck is made from TREX Composite and is a dark brown called "Lava Rock" and the railings are a non-reflective "Charcoal Black". The asphalt will not be visible from any key viewing areas.

- (r) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from key viewing areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

Findings of Fact: There are no existing historic structures on the subject property. This rule does not apply to this development review application.

- (s) New main lines on lands visible from key viewing areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

Findings of Fact: No new main lines are being proposed in this application. This rule is not applicable.

- (t) New communication facilities (antennae, dishes, etc.) on lands visible from key viewing areas that require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

Findings of Fact: No new communication facilities are being proposed. This rule is not applicable to this development review application.

- (u) New communications facilities may protrude above a skyline visible from a key viewing area only upon demonstration that:

- (A) The facility is necessary for public service,
- (B) The break in the skyline is seen only in the background, and
- (C) The break in the skyline is the minimum necessary to provide the service.

Findings of Fact: No new communication facilities are being proposed. This rule is not applicable to this development review application.

- (v) Overpasses, safety and directional signs, and other road and highway facilities may protrude above a skyline visible from a key viewing area only upon a demonstration that:

- (A) The facility is necessary for public service, and
- (B) The break in the skyline is the minimum necessary to provide the service.

Findings of Fact: No overpasses, signs or facilities are being proposed in this application. This rule is not applicable.

- (x) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized.

Findings of Fact: There is no water-dependent development being proposed in this development review application and this rule is not applicable.

(y) New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent. Variances to this guideline may be authorized if the guideline's application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be used.

Findings of Fact: No new buildings are being proposed in this application. This rule is not applicable.

(z) Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.

Findings of Fact: The new paved section of the existing driveway will be around the existing single-family dwelling and garage only.

(aa) 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. This plan shall be reviewed by the local government for compliance with key viewing area policies. The grading plan shall include the following:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:

- (i) Existing and proposed final grades.
- (ii) Location of all areas to be graded, with cut banks and fill slopes delineated.
- (iii) Estimated dimensions of graded areas.

(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

- (i) Its purpose.
- (ii) An estimate of the total volume of material to be moved.
- (iii) The height of all cut banks and fill slopes.
- (iv) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)
- (v) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.
- (vi) A description of any other interim or permanent erosion control measures to be used.

Findings of Fact: A grading plan will not be required. No structural development is being proposed that will involve more than 200 cubic yards of grading. This rule is not applicable to this application.

(bb) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:

- (A) The site plan requirements for such proposals pursuant to 350-81-520 have been met.
- (B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any key viewing areas.
- (C) A reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 350-81-520(1)(f) and (g).
- (D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:
 - (i) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.
 - (ii) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.

- (iii) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.
- (iv) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.
- (v) The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.
- (vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

Findings of Fact: This development review application is not for the expansion of existing quarries or the development of mineral resources. This rule is not applicable.

(cc) Unless addressed by 350-81-520(2)(bb), new production and/or development of mineral resources may be allowed upon a demonstration that:

- (A) The site plan requirements for such proposals pursuant to this chapter have been met.
- (B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.
- (C) A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 350-81-520(1)(f) and (g).

Findings of Fact: No development of mineral resources is being proposed in this application and this rule is not applicable.

(dd) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(ee) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

Findings of Fact: There are no existing or proposed quarries in this development review application. This rule is not applicable.

(3) Landscape Settings

(a) Pastoral

- (A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.
- (B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
 - (i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.
 - (ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
 - (iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

(C) Compatible recreation uses include resource-based recreation of a very low-intensity or low-intensity nature (as defined by 350-81-610) occurring infrequently in the landscape.

Findings of Fact: The proposed development is within the pastoral landscape designation. No new buildings are being proposed. All existing tree cover and vegetation will be retained. No new trees will need to be planted for screening. The proposed deck will be built on the existing single-family dwelling which is already visually subordinate to its surroundings. No new recreation uses are being proposed.

Conclusions of Law: Development Review Application C15-0001 is consistent with rule 350-81-520.

350-81-530 Special Management Area Scenic Review Criteria

Findings of Fact: This Development Review Application is for property wholly contained in the General Management Area. There are no lands in this application that are located in the Special Management Area.

Conclusions of Law: This rule requirement is not applicable to Development Review Application C15-0001.

350-81-540 General Management Area Cultural Resource Review Criteria

(1) General Provisions for Implementing the Cultural Resources Protection Process.

- (a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).
- (b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

Findings of Fact: Marge Dryden, the Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area, has reviewed the proposed undertaking and area of potential effect to determine that a cultural resource survey was not required.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

- (i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exceptions in 350-81-540(1)(c)(A)(ii) below.
- (ii) A reconnaissance survey shall be required for all proposed uses, except:
 - (I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.
 - (II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.
 - (III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed

using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- Residential development that involves two or more new dwellings for the same project applicant.
- Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
- Public transportation facilities that are outside improved rights-of-way.
- Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.
- Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

Findings of Fact: Marge Dryden, the Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area, determined that a Reconnaissance Survey and a Historic Survey were not required.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

Findings of Fact: There are no buildings or structures on the subject property that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area. When archaeological resources or

traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

Findings of Fact: The Gorge Commission did not conduct a reconnaissance or historic survey. Marge Dryden determined that neither were required for the proposed developments.

For 350-81-540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Findings of Fact: This application is not proposing any large-scale uses.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

- (i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
- (ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

- (i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.
- (ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.
- (iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

Findings of Fact: A reconnaissance survey was not required as determined by Marge Dryden, the Heritage Resources Program Manager.

(F) Reconnaissance Surveys for Large-Scale Uses

- (i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.
- (ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:
 - (I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.
 - (II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.
 - (III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.
 - (IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

- (i) A description of the proposed use, including drawings and maps.
- (ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
- (iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
- (iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
- (v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
- (vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.
- (vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

Findings of Fact: This development review application is not for a large-scale use and therefore this rule is not applicable.

(H) Historic Surveys and Reports

- (i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.
- (ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
- (iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

Findings of Fact: Marge Dryden, the Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area, determined that a historic survey was not required.

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

- (A) When written comments are submitted to the Executive Director within the comment period provided in 350-81-040, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons. Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

- (B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such

research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

- (A) The Executive Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.
- (B) The State Historic Preservation Officer and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

- A) The Executive Director shall make a final decision on whether the proposed use would be consistent with 350-81-540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.
- (B) The cultural resource protection process may conclude when one of the following conditions exists:
 - (i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.
 - (ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the State Historic Preservation Officer or Indian tribal governments during the 30-day comment period required in subsection 2(b)(B) above.
 - (iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected. An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

- (iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

- (a) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or
- (b) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

Findings of Fact: Marge Dryden did not require a reconnaissance survey or a historic survey for this development review application. Therefore there were no survey results noticed, evaluations of significance or buffer zones required for this application.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

- (A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.
- (B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.
- (C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.
- (D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.
- (E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

- (A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Executive Director shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.
- (B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Cultural Resources are Culturally Significant

- (A) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.
 - (B) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Executive Director, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Executive Director within 30 calendar days from the date the evaluation of significance is mailed.
- (d) Conclusion of the Cultural Resource Protection Process
- (A) The Executive Director shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Executive Director shall justify how an opposing conclusion was reached.
 - (B) The cultural resource protection process may conclude if the affected cultural resources are not significant.
 - (C) If the project applicant or the Executive Director determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

- (A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.11.
 - (i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800. 5].
 - (ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800. 5]. Adverse effects on cultural resources include, but are not limited to:
 - (I) Physical destruction, damage, or alteration of all or part of the cultural resource.
 - (II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.
 - (III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.
 - (IV) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5.
- (B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.
- (C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:
 - (i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before

development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

- (ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results

- (A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Executive Director shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.
- (B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

- (A) The Executive Director shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.
- (B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.
- (C) A mitigation plan shall be prepared if a project applicant or the Executive Director determines that the proposed use would have an adverse effect on significant cultural resources.

Findings of Fact: Marge Dryden did not require a reconnaissance survey or a historic survey for this development review application. Therefore there were no survey results noticed, evaluations of significance or buffer zones required for this application.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Executive Director and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- (a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
- (b) Notification. The project applicant shall notify the Executive Director within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.
- (c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute [ORS] 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [350-80-540(1)(c)(G)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [350-80-540(3)(a)].

Based on the survey and evaluation report and any written comments, the Executive Director shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

Findings of Fact: If any cultural resources are discovered after construction begins, the above procedures shall be followed. A condition in the Director's Decision will be included for any cultural resources discovered during construction.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

- (a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
- (b) Notification. Local law enforcement officials, the Executive Director, and the Indian tribal governments shall be contacted immediately.
- (c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
- (d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.
- (e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs" [350-81-540(5)(a)].

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [350-81-540(5)(c)] are met and the mitigation plan is executed.

Findings of Fact: If any human remains are discovered during construction the above procedures shall apply. A condition will be included in the Director's Decision for the any discovery of human remains discovered during the construction process.

Conclusions of Law: Development Review Application C15-0001 is consistent with rule 350-81-540.

350-81-550 Special Management Area Cultural Resource Review Criteria

Findings of Fact: This Development Review Application is for property wholly contained in the General Management Area. There are no lands in this application that are located in the Special Management Area.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application C15-0001.

350-81-560 General Management Area Wetland Review Criteria

Findings of Fact: Development Review Application C15-0001 does not contain any wetlands on the subject

property.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application.

350-81-570 General Management Area Stream, Pond, Lake and Riparian Area Review Criteria

Findings of Fact: Development Review Application C15-0001 does not contain any streams, ponds, lakes or riparian areas on the subject property.

Conclusions of Law: This land use ordinance is not applicable to this Development Review Application.

350-81-580 General Management Area Sensitive Wildlife Review Criteria

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

- Bald eagle habitat
- Deer and elk winter range
- Elk habitat
- Mountain goat habitat
- Peregrine falcon habitat
- Pika colony area
- Pileated woodpecker habitat
- Pine marten habitat
- Shallow water fish habitat (Columbia R.)
- Special streams
- Special habitat area
- Spotted owl habitat
- Sturgeon spawning area
- Tributary fish habitat
- Turkey habitat
- Waterfowl area
- Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that are used by animal species that are

- (i) listed as endangered or threatened pursuant to federal or state endangered species acts,
- (ii) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,
- (iii) listed as sensitive by the Oregon Fish and Wildlife Commission, or
- (iv) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, mountain goat, and prairie falcon).

Updated lists of species included in sensitive wildlife sites can be found on the websites for the Washington Department of Fish and Wildlife (Species of Concern list) and the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(c) Determination of potential effects to significant natural resources shall include consideration of cumulative effects of proposed developments within 1,000 feet of sensitive wildlife areas and sites.

Findings of Fact: In a prior Development Review Application for the subject property, C13-0006, a small isolated patch of western gray squirrel habitat was identified. The Columbia River Gorge Commission did contact the Washington Department of Fish and Wildlife on February 26, 2014 and it was expressed to be an area of little concern due to the already high level of disturbances. The Commission again contacted the Washington Department of Fish and Wildlife for this Development Review Application, C15-0001, on February 18, 2016 and given the circumstances did not see the deck or asphalt to be significant disturbances. The deck will be built on the south end of the existing single-family dwelling and the small patch of western gray squirrel was on the very northern edge of the subject property.

(2) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

- (a) Land divisions that create four or more parcels;
- (b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
- (c) Public transportation facilities that are outside improved rights-of-way;
- (d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and
- (e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(3) Review uses may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to 350-81-580(4) and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(4) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife by the Development Review Officer. State wildlife biologists will review the site plan and their field survey records and:

- (A) Identify/verify the precise location of the wildlife area or site,
- (B) Ascertain whether the wildlife area or site is active or abandoned, and
- (C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

- (A) Biology of the affected wildlife species.
- (B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).
- (C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
- (D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.
- (E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

(c) The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines:

- (A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

- (d) If the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Executive Director will incorporate them into the development review order and the wildlife protection process may conclude.
- (e) The project applicant shall prepare a wildlife management plan if the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.
- (f) The Executive Director shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Fish and Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Executive Director.

The Executive Director shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Executive Director will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Executive Director shall justify how the opposing conclusion was reached.

The Executive Director shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

Findings of Fact: The Gorge Commission contacted the Washington Department of Fish and Wildlife and it was determined that due to the low level of disturbance that would be taking place, a Field Survey and site plan were not required.

(5) Wildlife Management Plans

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

- (a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.
- (b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.
- (c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components that are essential to maintain the long-term use and integrity of the wildlife area or site.
- (d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.
- (e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site. Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

Findings of Fact: A wildlife management plan was not required for this development review application.

(6) New fences in deer and elk winter range

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

Findings of Fact: There are no fences being proposed in this development review application.

Conclusions of Law: This Development Review Application, C15-0001, is consistent with the rule requirement.

350-81-590 General Management Area Rare Plant Review Criteria

This land use ordinance sets forth rare plant review criteria within the General Management Area.

Findings of Fact: Commission Rule 350-81- 590 contains provisions for the protection of sensitive plants

within 1,000 feet of the proposed development. Gorge Commission inventories do not identify any sensitive plants species within 1,000 feet of the subject property. No further review pursuant to Commission Rule 350-81-590 is required.

Conclusions of Law: This rule requirement is not applicable to Development Review Application C15-0001.

350-81-600 Special Management Areas Natural Resource Review Criteria

This land use ordinance sets forth natural resource review criteria within the Special Management Area.

Findings of Fact: This Development Review Application is for property wholly contained in the General Management Area. There are no lands in this application that are located in the Special Management Area.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application C15-0001.

350-81-610 General Management Areas Recreation Resource Review Criteria

This land use ordinance sets forth recreational resource criteria within the General Management Area.

Findings of Fact: The provisions in this rule requirement address recreation intensity classes, approval criteria for recreation uses and facility design guidelines for all recreation projects. There are no proposed uses in this Development Review Application that are considered to be recreation uses.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application, C15-0001.

350-81-620 Special Management Area Recreation Resource Review Criteria

The following land use ordinance sets forth the recreation resource review criteria within the Special Management Area.

Findings of Fact: This Development Review Application is for property wholly contained in the General Management Area. There are no lands in this application that are located in the Special Management Area.

Conclusions of Law: This rule requirement is not applicable to this Development Review Application, C15-0001.

350-81-630 Notice of Application Requirements

STEP 1:	Send notice of application to:
All Expedited Review Uses	Tribes, USFS, County
All Full Review Uses	Tribes, USFS, County, State
STEP 2:	Additionally send to:
<ul style="list-style-type: none"> • Single family dwellings in the GMA Residential Land Use Designation adjacent to GMA Agriculture or Forest Land Use Designations; • Commercial events and special uses in historic buildings adjacent to GMA Agriculture or Forest Land Use Designations; • Non-farm single family dwellings in the GMA Large-Scale Agriculture Land Use Designation; • Within GMA Forest Land Use Designations: utility facilities, railroads, home occupations, fruit & produce stands, wineries, wine sales/tasting rooms, ag. product processing and packaging, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/batch plants, expansion of non-profit camps/retreats/conference 	Landowners within 500 feet

centers, B&Bs, non-profit learning/research facilities, fish processing operations, road spoils disposal sites	
All other Full and Expedited Review Uses	Landowners within 200 feet
STEP 3:	Additionally send to:
All Full and Expedited Review Uses within 1000 feet of a sensitive wildlife area or site	State Department of Wildlife
All Full and Expedited Review Uses within 1000 feet of a rare plant	State Natural Heritage Program
All Full and Expedited Review Uses within Agriculture-Special Land Use Designation	State Natural Heritage Program

Findings of Fact: This is not an expedited review use. It is a full review use. Step 1 of 350-81-630 requires notice of application to: Tribes, USFS, County, State. Notice of application was sent on May 12, 2015 to representatives on record of the above listed groups.

Conclusions of Law: This Development Review Application, C15-0001, is consistent with Step 1, 350-81-630.

Findings of Fact: Step 2 of 350-81-630 requires that notice of application for all other Full and Expedited Review Uses must be sent to landowners within 200 feet. This Development Review Application meets the qualifications in Step 2, 350-81-630 to be considered of the 'other full and expedited review uses'. Notice of application was sent on May 12, 2015 to all properties of record identified by the applicant in their application within 200 feet of the subject property of this Development Review Application, C15-0001.

Conclusions of Law: This Development Review Application, C15-0001, is consistent with Step 2, 350-81-630.

Findings of Fact: Step 3 requires that notice of application be sent to the State Department of Wildlife for all Full and Expedited Review Uses within 1000 feet of a sensitive wildlife area.

Conclusions of Law: No sensitive wildlife areas or any rare plants were identified within 1000 feet of the subject site, per GIS data housed by the Columbia River Gorge Commission. The subject property of this Development Review Application is not located in land designated Agriculture-Special. As such, 350-81-630 is not applicable to Development Review Application C15-0001.

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 Department
Klickitat County Public Works
Klickitat County Auditor
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge (courtesy only, comment not timely submitted)
Dena Riggleman

END OF STAFF REPORT