

## DIRECTOR'S DECISION

**APPLICANT:** Cheryl Park and Charles Guthrie

**LANDOWNER:** Cheryl Park and Charles Guthrie

**FILE NO.:** C16-0005

**REQUEST:** To bury an overhead power line, bury a 500-gallon propane tank, install an emergency generator, construct a courtyard with a railing and gate between the existing single-family dwelling and the garage, and to pave the currently graveled driveway. This application is also for an after-the-fact review of an emergency water line replacement.

**LOCATION:** The subject property is located at the intersection of SR-141 and 141 Alt Route in the SW  $\frac{1}{4}$  of Section 11, Township 3N, Range 10E, Willamette Meridian, Klickitat County, Washington (Klickitat County Parcel 03101151000100).

**LAND USE DESIGNATION:** The subject 5.76 acre parcel is in the General Management Area and is designated Large-Scale Agriculture.

### DECISION:

Based upon the following findings of fact, the land use application by Cheryl Park and Charles Guthrie to bury an existing power line, bury a propane tank, construct a courtyard and to pave the existing driveway as described above 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, and approvable under Commission Rule 350-81 and is hereby **approved**.

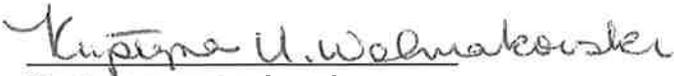
### CONDITIONS OF APPROVAL:

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.

1. **To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C16-0005, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director at the Commission.**
2. The development shall be constructed as shown on the approved project description and site drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.

3. All exterior building materials shall be dark earth tone colors and non-reflective. Approved exterior materials include "Roca Stone" pavers in "Charcoal" manufactured by Western Interlock Inc. and a black matte railing and gate for the proposed courtyard. If changes to these materials are proposed, samples must be submitted and approved to the Executive Director.
4. No outdoor lighting is approved in this Director's Decision. Any future proposed outdoor shall be submitted for review and approval by the Executive Director prior to installation.
5. 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.
6. 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.
7. 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).

DATED AND SIGNED THIS 5<sup>th</sup> day of December 2016 at White Salmon, Washington.



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 5<sup>th</sup> day of December 2018 unless construction has commenced in accordance with 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 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 12-month extension of the time period to commence construction and one 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 requests an extension of time to complete construction after commencing construction, the applicants shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicants 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 recreation resources in the National Scenic Area.

**APPEAL PROCESS:**

*The appeal period ends on the 4<sup>th</sup> day of January, 2016.*

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

**NOTES:**

Any new land uses or structural development such as driveways, parking areas, garages, workshops, fences or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. New cultivation also requires a new application and review.

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

**COPIES OF THIS DECISION SENT TO:**

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

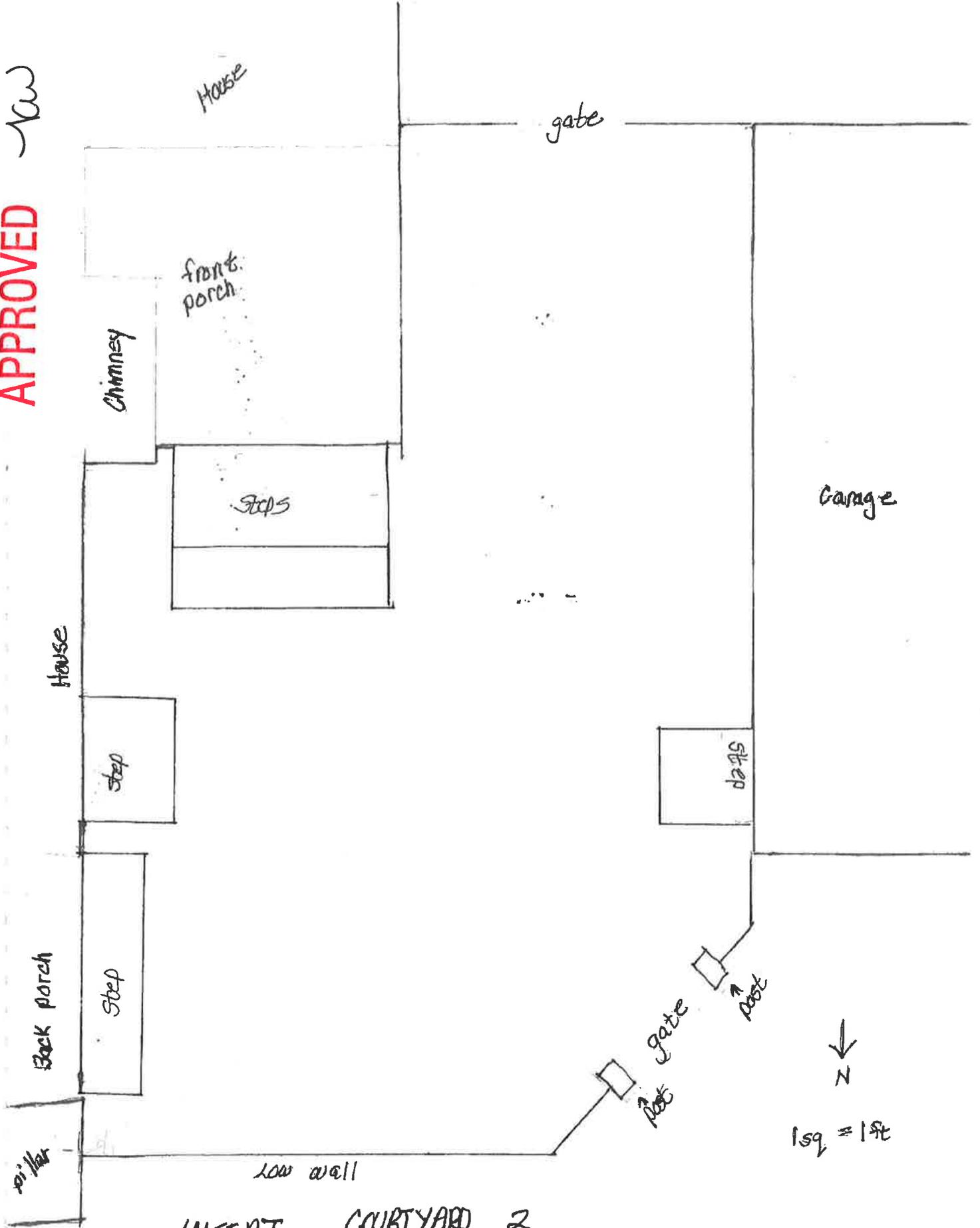
RM

DEC0005.16



APPROVED

W

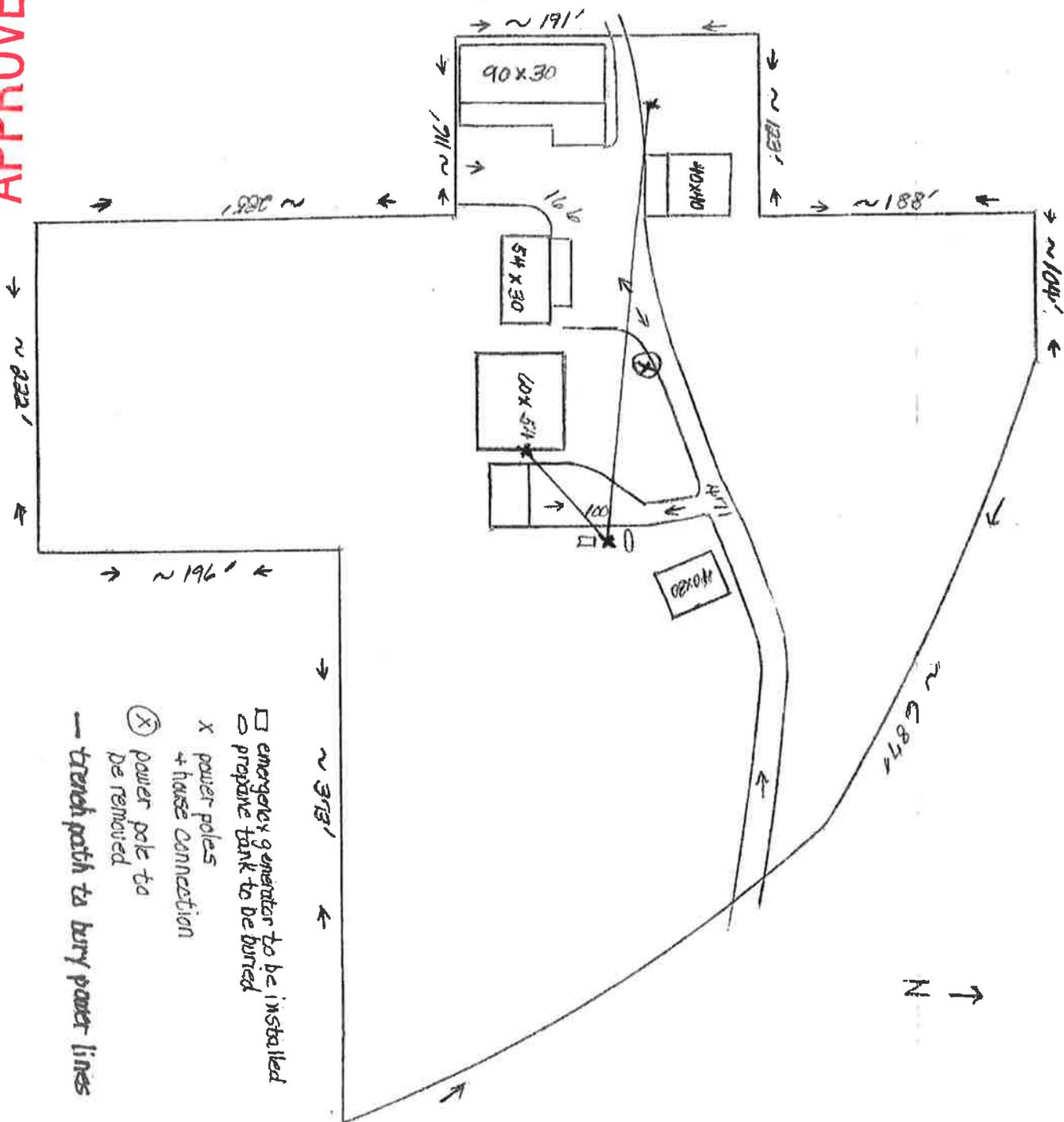


INSERT - COURTYARD 2



APPROVED

kw



L10-0005  
Site Plans

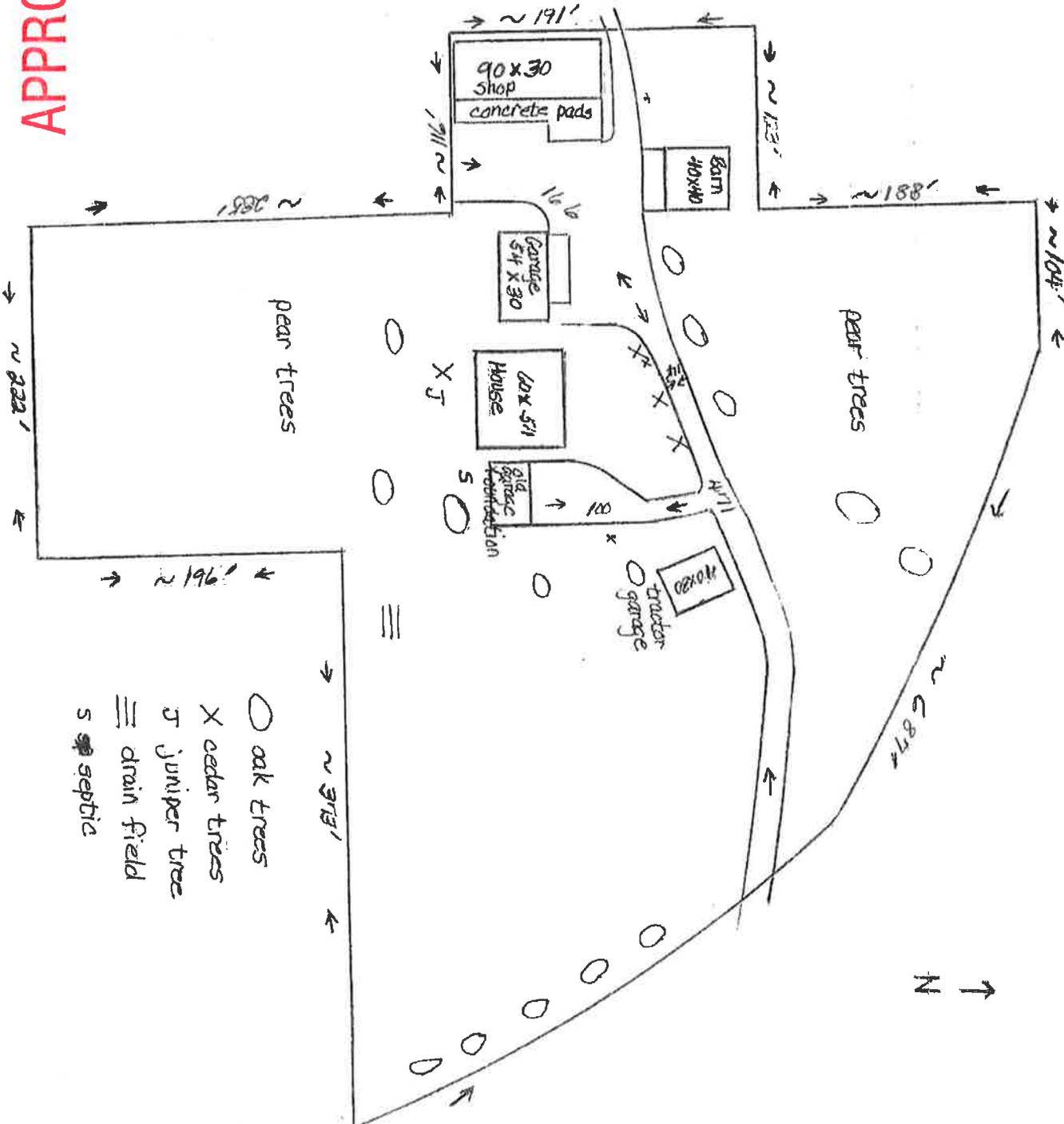
1 square = ~20 ft      1" = ~80'

N ↑



APPROVED

W



- oak trees
- X cedar trees
- J juniper tree
- ≡ drain field
- S septic

1 square = ~20 ft

1" = ~80'

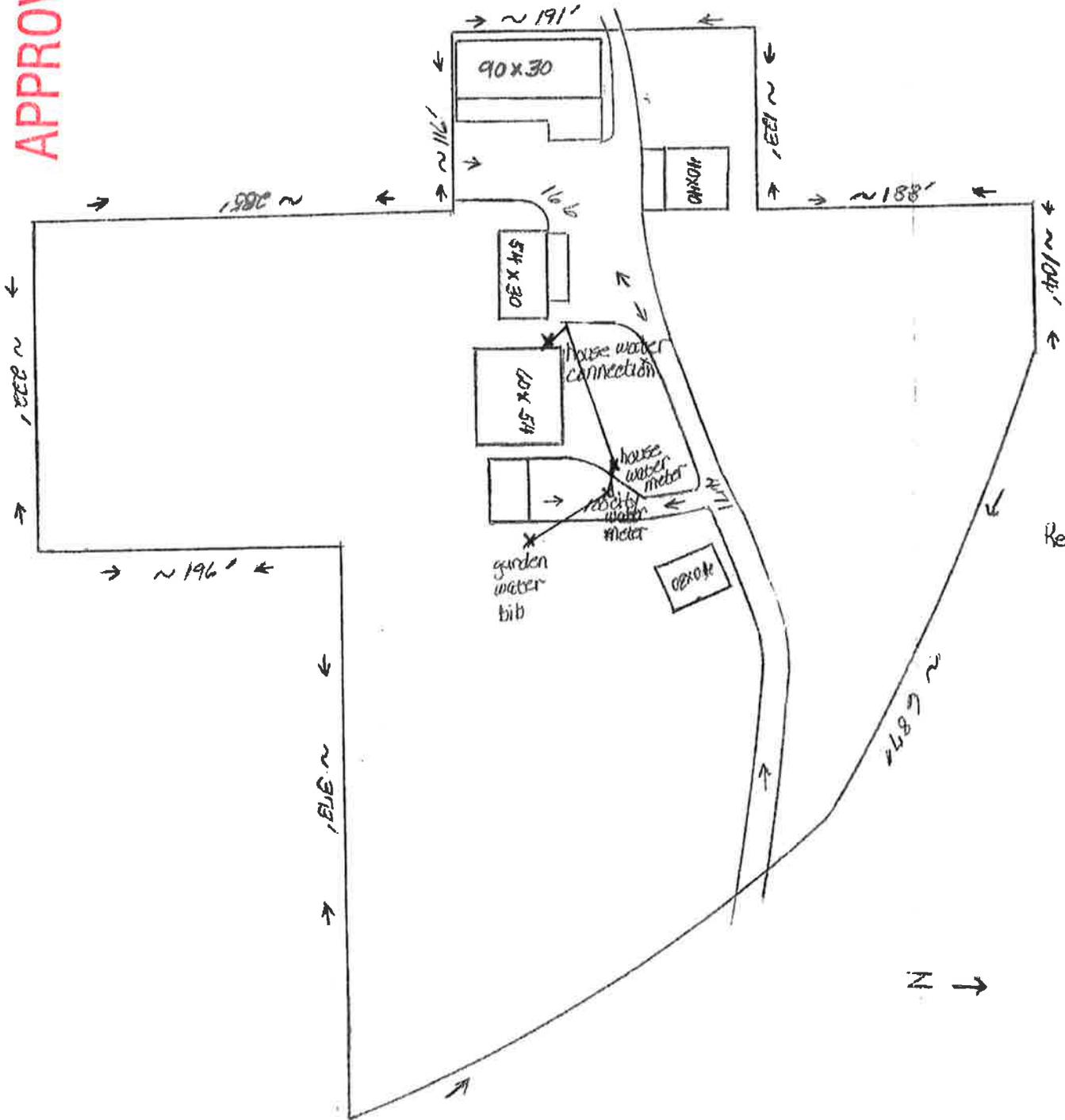
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CLC-000-5  
Site Plans



APPROVED

kw



Replace water r.  
house and ga

N →

1 square = ~20 ft

1" = ~80'

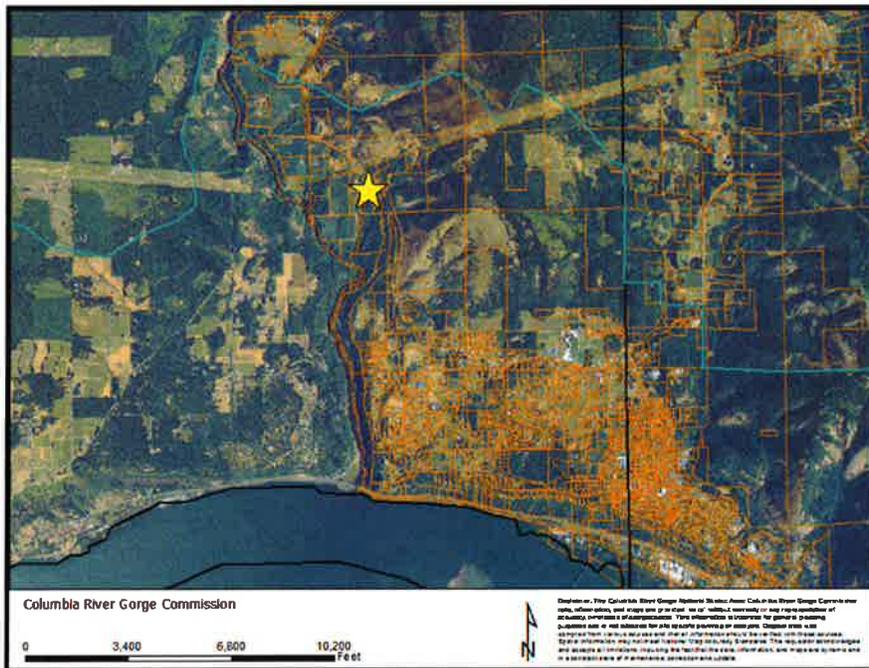
CLG-0005  
SITE PLAN





## FACTS AND FINDINGS COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

- APPLICANT:** Charles Guthrie and Cheryl Park
- LANDOWNER:** Charles Guthrie and Cheryl Park
- FILE NO.:** C16-0005
- REQUEST:** To bury an existing overhead utility line, bury a 500-gallon propane tank, install an emergency generator, construct a courtyard with a gate between the existing single-family dwelling and garage, and to pave the existing gravel driveway and parking areas. This application is also for an after-the-fact review of an emergency water line replacement.
- LOCATION:** The subject property is located at the intersection of SR-141 and 141 Alt Route in the SW  $\frac{1}{4}$  of Section 11, Township 3N, Range 10E, Willamette Meridian, Klickitat County, Washington (Klickitat County Parcel 03101151000100). A portion of the driveway paving will also be on an adjacent lot, Klickitat County No. 03101100002500. As discussed below, this adjacent lot is not a separate legal parcel.
- LAND USE DESIGNATION:** The subject 5.76 acre parcel is in the General Management Area and is designated Large-Scale Agriculture.



*Aerial view of parcel 03101151000100.*

**COMMENTS FROM OTHER INDIVIDUALS/AGENCIES/GOVERNMENTS:**

Notice of subject request was sent to property owners within 500 feet of the subject parcel and the following individuals/ agencies/ governments:

Confederated Tribes and Bands of the Yakama Nation  
Confederated Tribes of the Umatilla Indian Reservation  
Confederated Tribes of Warm Springs Reservation of Oregon  
Nez Perce Tribe  
Friends of the Columbia Gorge  
Klickitat County Planning Department  
Klickitat County Building Department  
Klickitat County Health Department  
Klickitat County Auditor  
U.S. Forest Service National Scenic Area Office  
White Salmon Library

Written comment period started on June 30, 2016 and ended on July 21, 2016. Comments were received from Marge Dryden, the Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area and from Steven McCoy of the Friends of the Gorge.

**FINDINGS OF FACT:**

The applicant, Cheryl Park, first came into the Gorge Commission Office on October 6, 2015 to discuss a rusted waterline on her property and how she had been advised not to drink her water. On October 28, 2015 the Gorge Commission then received a letter from the White Salmon City Administrator demanding a resolution to the waterline replacement by November 2, 2015. The Commission staff at the time called the city administrator back and stated that Ms. Park could fix the problem because it posed a public health issue and apply after-the-fact. Ms. Park came back into the office on November 2, 2015 with a site plan to show the location of the water line.

After a few months of not hearing from the applicant, Gorge Commission staff sent a reminder email on February 12, 2016 asking Ms. Park about the status of the waterline and application. Ms. Park informed the staff that the waterline had been replaced, but that she wanted to combine the waterline replacement application in with an application for new landscaping. Commission staff met with Ms. Park for pre-application meetings on February 22 and May 5, 2016. On June 28, 2016, the staff accepted this application as complete.

**A. LAND USE:**

1. The subject parcel is approximately 5.76 acres and located northwest of White Salmon, WA, where State Route 141 Alternative and West Jewett Boulevard meet. The subject parcel currently contains a single-family dwelling, detached garage, a shop used to store agricultural equipment, a tractor shed, a barn and a gravel driveway and parking areas. The current owners and the prior owner, Shirley Meadows, have received numerous land use decisions for the property. This decision does not discuss those prior decisions.
2. The applicants are proposing to bury existing overhead power lines, bury a 500-gallon propane tank, install an emergency generator, construct a courtyard with a gate between the existing home and garage, and pave the existing gravel driveway. The after-the-fact review of an emergency waterline replacement is also included in this decision.

3. Commission Rule 350-81-020(88)(d) defines industrial use in part as “production of electric power for commercial purposes.” Industrial uses are prohibited in the National Scenic Area. The Executive Director has applied this definition to allow landowners to generate enough electrical power as they typically consume for personal use. The new emergency generator has a 22 kW power rating. The applicants submitted a record of their annual energy use over the last year and a half and it shows that the average amount of electricity used for the single-family dwelling was approximately 24 kwh per day and that the average was 72 kwh per day for the shop. This verifies that the emergency generator will only produce enough power to be used as backup in the event of an emergency or power outage. The generator is not a prohibited industrial use because it will not generate electrical power for commercial purposes.
4. The subject parcel is in the general management area. The Land Use Designation map in the *Management Plan for the Columbia River Gorge National Scenic Area* designates the subject parcel as Large-Scale Agriculture with a minimum parcel size of 160 acres.
5. Commission Rule 350-81-190(1) specifies uses that may be allowed on lands designated large-scale agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural and recreation resources (350-81-520 through 350-81-620).
6. Commission Rule 350-81-190(1)(l) allows the construction of, reconstruction, or modifications of roads not in conjunction with agriculture, subject to compliance with the guidelines for the protection of scenic, cultural, natural and recreation resources (350-81-520 through 590).

The applicants are proposing to pave the current gravel driveway and existing gravel parking areas. No new grading is proposed for the driveway. This paving is considered a modification to a road.

7. Commission Rule 350-81-190(1)(d) allows Accessory Structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process or allowed in 350-81-190(1)(e) and (f).

Commission Rule 350-81-020(2) defines “Accessory Structure” as the following:

*A structure whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use.*

Commission Rule 350-81-020(151) defines “Structure” as

*That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed on parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.*

The proposed courtyard will be 650 square feet in size, located between the existing single-family dwelling and the existing garage. The courtyard will be constructed of pavers. The applicant will need to excavate and place a bedding for the pavers. There will be a black matte railing and gate along the edge of the courtyard. The courtyard, railing and gate meet the definition of “structure.” They will be accessory structures; they will be located on the same parcel as the main buildings and uses and its use as outdoor living and parking space are subordinate to the main residential and agricultural uses on the parcel.

8. The burying of the overhead utility lines, installation of the emergency generator, and the burying of the propane tank are all part of residential use of the parcel; these proposals are modifications to the existing residential use. Commission Rule 350-81-190 allows residential use of a parcel designated Large-Scale Agriculture. The residential use on the subject parcel predated the National Scenic Area Act, so it is considered an existing use. Even though the land use ordinance does not specifically authorize modifications to existing residential uses, the Commission staff routinely allows such modifications.
9. There is one complexity to this land use application. The applicants propose to pave the driveway up to the garage of an adjacent dwelling on Klickitat County parcel no. 03101100002500. The Commission staff notes that the adjacent dwelling is on an area of land that the Commission has previously determined is not a separate legal parcel and not separable from the applicant's parcel. In a letter dated June 2, 1999 from the Commission staff to Terry Trantow, a surveyor hired by Shirley Meadows to obtain approval for a lot line adjustment, the Commission staff concluded that lot no. 03101100002500 (entitled Lot 8-A-1 in the letter) was not a legal parcel. The Commission staff provided a copy of this letter to Ms. Meadows and Ms. Meadows' attorney. At the time, that lot contained a dwelling that a member of the Meadows family occupied. Apparently, Ms. Meadows subsequently sold the adjacent lot and dwelling, creating an illegal parcel in the National Scenic Area.

This application for a small amount of paving on the illegal parcel is not the appropriate forum to address the illegal land division. The Executive Director encourages the applicants here and the owner of parcel 03101100002500 to speak with the Commission staff as soon as possible and seek a resolution of the illegal land division.

#### **CONCLUSION:**

All of the proposed actions are uses allowed on the parcel, subject to compliance with the guidelines to protect scenic, cultural, natural, and recreation resources.

#### **B. SCENIC RESOURCES:**

1. Commission Rule 350-81-520 lists scenic resource protection guidelines for review uses in the GMA. The proposed courtyard, modifications to the driveway, the waterline replacement, burying of the powerlines and propane tank and the installation of an emergency generator are review uses and therefore are subject to these rules.
2. Commission Rule 350-81-520(1)(a) states:

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

The road being paved is an existing driveway. Paving the driveway may require some minor smoothing, but no new cuts or fills. No other elements of this application are buildings or roads. The application is consistent with Commission Rule 350-81-520(1)(a).

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

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

The subject parcel is topographically visible within the foreground of one key viewing area: Washington State Route 141 (SR-141). The SR-141 right-of-way forms the northern and eastern boundaries of the subject parcel. No topographic screening exists between SR-141 and the proposed development. Commission Rule 350-81-520(2) is applicable.

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

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

5. Commission Rule 350-81-020(2)(b) defines visually subordinate as follows:

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

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

*Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed development.*

7. Commission Rule 350-81-020(40) defines cumulative effects as:

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

The proposed development is located within the foreground of SR-141, the only Key Viewing Area from which it is visible. Except for the paving of the existing driveway, all new development will be shielded from view from Highway 141. The courtyard, railing and gate will be located between the existing single family dwelling and garage, and will be shielded by existing the existing buildings as well as large oak trees located just to the north and south. The emergency generator will be a few feet off of the ground and screened from Highway 141 by an existing greenhouse, tractor garage and nearby oak and cedar trees. The overhead utility lines, propane tank and waterline will be buried and therefore completely hidden from view from Highway 141. The paving of the existing driveway will be visible from the key viewing area. The asphalt will be darker in color than the existing gravel, and as a result, will stand out more in comparison to the surrounding landscape. Over time, however, the color of the asphalt will fade to become more visually subordinate to its surroundings as viewed from the key viewing area.

Except for paving of the driveway, all of the proposed development will be fully screened by existing development, existing vegetation, or will be buried, and will have no impact on scenic resources. Similarly screened or buried development that may occur on other parcels would also have no impact. There would be no cumulative impact to scenic resources from construction of similar courtyards, railings, gates, emergency generators, utility lines, propane tanks, and water lines on other nearby parcels.

Because the driveway would be visible from a key viewing area, analysis of cumulative effect differs from the other proposed development on the subject parcel. Within the vicinity of Ms. Park's parcel, there are about 5 other driveways that also connect to State Route 141. Travelling south on State Route 141 (approaching White Salmon), the existing development on the Park parcel becomes visible near the driveway entrances to the Barajas property (tax lot 03101100000700) and the Cortes parcel (tax lot 03101100001000). These two driveways, as well as a third located to the northwest leading to tax lot 03101000001300, are not paved. Driving north on State Route 141 (leaving White Salmon), the existing Park development would come into view around mile marker 4. In this vicinity, one driveway, leading to the Riggleman orchards would be visible. This driveway is already paved.

Based on conditions in the vicinity of the subject parcel, cumulative impact analysis should focus on the possibility of three other driveways (in addition to the driveway on the subject parcel) becoming paved in the future.

Unpaved driveways are usually constructed of compact dirt or gravel. In the surrounding area, there are three unpaved driveways that have been constructed with gravel. These driveways start on State Route 141 and lead to the entrances of dwellings or buildings.

Paving any of these existing driveways with new asphalt would result in a darker color and therefore will contrast more against the surrounding landscape than unpaved driveways would. However, over time the color of the asphalt will fade and become just as visually subordinate as the once existing unpaved driveway.

As a result, the paving of the existing driveway and any of the surrounding driveways would only temporarily change the visual impacts. Once the new pavement becomes worn with weather and time, there will be no significant visual difference between that and the existing gravel driveways. Similarly, if the surrounding three driveways were to be paved in the future, the visual impacts would not change from that of the existing gravel driveways.

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

*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).*

The subject parcel is visible from the immediate foreground of SR-141, a designated scenic travel corridor. With the exception of the underground utility lines, waterline, propane tank, emergency generator, and courtyard, the pavement of the driveway will be topographically visible from SR-141 for approximately one mile.

Existing vegetation on the subject parcel between the highway and proposed development include rows of pear trees, several large oak trees and maple trees. To the east (and north of the driveway), two rows of small evergreens exist. These trees were planted after the driveway relocation in 2004. They are located near the highway and will not adequately screen the new driveway and parking area until they are much taller, which may take many years and strategic thinning.

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

*Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from the 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.*

As described in finding B.4 above, the proposed developments are sited to be visually subordinate. The courtyard is hidden from view by the walls of the existing single-family dwelling and trees located on the north end of the parcel, and the generator will be screened from view by an existing greenhouse, trees and shed. A condition of approval in past development review application C11-0003 for the subject parcel required screening vegetation to be retained. This condition is still applicable.

Even though the courtyard will not be visible from the Key Viewing Area, the materials of the courtyard- pavers, railing and gate will be dark earth tone colors that are non-reflective. The existing gravel driveway will be paved with asphalt and will become darker in color. As a result, the new paved driveway will contrast more with the surrounding landscape until the color fades due to weathering over time.

No new landscaping is being proposed in this application.

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

*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 possible.*

The entirety of the subject parcel is located within deer and elk winter range. The siting of the proposed development is visually subordinate as seen from key viewing areas and will be within this wildlife site. However, the proposed development will be within the envelope of existing development and will not extend any further into winter range. The proposed development is consistent with Commission Rule 350-81-520(2)(e).

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

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

As described in the above findings, the development has been sited to use existing vegetation, as well as existing development and burying underground, to achieve visual subordination from key viewing areas. The application is consistent with Rule 350-81-520(2)(f).

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

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

Findings for the Landscape Settings Design Guidelines are addressed below in findings B15 through B17.

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

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

The emergency waterline replacement, propane tank, and utility lines will all be located underneath the ground and not visible from any key viewing areas. The proposed courtyard, paving of the driveway and emergency generator will be the only structures within this application that will be above ground. The applicant submitted materials for the courtyard. The courtyard pavers are dark brown in color, similar to the native basalt rock colors found in the area. The applicant brought in samples of the courtyard materials. The railing and gate will be made of steel that has been coated with a black matte color. The emergency generator will be a 22kW Model 006552-0 and gray in color, and not seen from the key viewing area because of the location of existing screening trees and greenhouse.

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

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

The applicant has not proposed any exterior lighting in this application. A condition of approval shall require all outdoor lighting to comply with Commission Rule 350-81-520(2)(p).

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

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

There are no new buildings being proposed in this application. The driveway was altered between 2003 and 2004 as part of a larger project by Washington State Department of Transportation at

the intersection of SR-141 and 141 Alt. Route. The driveway was approved after-the-fact in Commission File No C11-0003. The applicants propose to pave the driveway and existing parking areas. The applicants may need to smooth the driveway for the pavement, but will not create any new cut banks or fill slopes. The application is consistent with Rule 350-81-520(2)(z).

15. The Landscape Settings map in the Management Plan classifies the subject parcel as Pastoral. Commission Rule 350-81-520(3)(a) contains guidelines for new development in this landscape setting.

16. Commission Rule 350-81-520(3)(d)(A) states:

*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.*

With the exception of the paving of the driveway, the accessory structures being proposed in this application will be located within the existing cluster of buildings—the existing single family home, garage, barn, tractor shed and shop. No development is proposed for existing meadows, pastures or farm fields on the subject property.

17. Commission Rule 350-81-520(3)(a)(B) states:

*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.*

The applicant is not proposing to remove any trees in this application. Existing fields and pastures on the subject property will be retained. No trees will need to be planted for screening purposes.

18. Commission Rule 350-81-520(4) contains provisions for projects located within the foreground of Scenic Travel Corridors (STCs). Pursuant to 350-81-020(133), State Route 141 is a scenic travel corridor. Therefore, Rule 350-81-520(4) applies to the proposed development. Commission Rule 350-81-520(4)(a) states:

*For the purposes of implementing this section, the foreground of a scenic travel corridor shall include those lands within ¼ mile of the edge of pavement of the scenic travel corridor roadway.*

19. Commission Rule 350-81-520(4)(b) states:

*All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway. A variance to this setback requirement may be granted pursuant to 350-81-078(2). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway, to the maximum extent practicable.*

There are no new buildings or alterations to existing buildings being proposed in this application. There are no new parking lots being proposed or expanded. Commission Rule 350-81-520(4)(b) does not apply this application.

20. Commission Rule 350-81-520(4)(c) states:

*Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of the pavement of a scenic travel corridor roadway, except in a Rural Center designation (village landscape setting), shall comply with 350-81-520(4)(b) above, to the maximum extent practicable.*

There are no additions to any existing buildings or expansions to any existing parking lots being proposed in this application.

#### **CONCLUSION:**

As proposed, the new courtyard between the existing single family dwelling and garage, the burying of overhead utility lines and a propane tank, the installation of an emergency generator, the paving of an existing gravel driveway and parking areas and an after-the-fact review of a waterline replacement, are consistent with Commission Rule 350-81-520 and will not adversely affect scenic resources.

#### **C. NATURAL RESOURCES:**

1. Commission Rules 350-81-560 through 590 contain provisions for the protection of natural resources. Commission Rule 350-81 protects wetlands (350-81-560); streams, ponds, lakes and riparian areas (350-81-570); sensitive wildlife areas and sites (350-81-580); and sensitive plants (350-81-590) for uses not eligible for the expedited review process.
2. According to Commission inventories, the nearest hydrologic feature is a linear wetland located approximately 500 feet to the south of the driveway on a separate parcel. The distance exceeds the maximum buffer of 150 feet pursuant to Commission Rule 350-560(7). Thus, the proposed development site is not located within the buffer of any wetlands, streams, ponds, lakes or riparian areas and Commission Rule 350-81-560 and 570 are not applicable.
3. Commission Rule 350-81-580 contains guidelines to protect sensitive wildlife areas and sites. As previously discussed, the Gorge Commission's sensitive wildlife inventory identifies the subject property is located within deer winter range – a sensitive wildlife area pursuant to Commission Rule 350-81-580(1)(a)(A).

Commission Rule 350-81-580(4) contains guidelines for review of proposed uses within 1,000 feet of a sensitive wildlife areas and sites. Subsection (a) of this section requires that site plans for such uses be submitted to the Washington Department of Fish and Wildlife to review the

application and: (A) verify the 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 at a time when wildlife species are sensitive to disturbance.

Gorge Commission staff contacted Emelie Mckain and Amber Johnson of the Washington Department of Fish and Wildlife on August 29, 2016 and August 10, 2016. Both biologists stated that they had no concerns regarding the proposed development on any sensitive wildlife species.

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

*The wildlife protection process may be terminated 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.*

As described above, Gorge Commission staff, on behalf of the Executive Director, in consultation with the Washington Department of Fish and Wildlife, determined that the proposed development would not compromise the integrity of deer winter range, consistent with Commission Rule 350-81-580(4)(c).

5. Commission Rule 350-81-580(1)(c) requires consideration of cumulative effects of proposed development within 1,000 feet of sensitive wildlife areas. The term 'cumulative effects' is defined in Finding B.7. The subject property is within deer and elk winter range, a sensitive wildlife area.

The development being proposed in this application consists of the burial of overhead utility lines, a waterline replacement, buried propane tank, new courtyard with a railing and gate, emergency generator and the paving of the existing gravel driveway and parking areas.

The proposed development would occur on lands in winter range area mapped by Washington Department of Fish and Wildlife, called the Lower White Salmon Winter Range. The Lower White Salmon Winter Range spans between one and four miles on either side of the White Salmon River. It covers portions of Skamania and Klickitat counties, extends beyond the National Scenic Area Boundary north of the subject parcel and into the White Salmon Urban Area south of the subject parcel. The Lower White Salmon River Winter Range unit contains more than 100 tax lots with a wide variety of parcel sizes and land use designations.

To evaluate the cumulative effects of the proposed development on the subject parcel and similar development on nearby lands, staff considered existing conditions of similarly zoned land in the Klickitat County portion of this winter range area (because the White Salmon River bisects the winter range area) and the likelihood of similar development on those lands. Zoning was used in part to define the study area because it affects the kinds of uses that are allowed under Scenic Area regulations and the rules that apply.

Staff evaluated the potential cumulative effects of the proposed development and repeated, similar activities on similarly zoned Scenic Area lands on the east side of the White Salmon River (study area). Approximately 37 tax lots designated GMA Large-Scale Agriculture are located in this portion of the Winter Range in Sections 10, 11, 12, 13 and 14. Within this study area,

properties range in size from 2.5 acres to over 100 acres. Aerial photographs indicate that dwellings or other structures exist on many of these properties. Staff is aware of orchards, a few vineyards, and grazing activities in the area, as well as rural residential properties.

The study area is split by SR-141, which forms the northern and eastern boundary of the subject property. Land to the east of the highway rises quickly in elevation and then levels out and typically contains larger parcel sizes, more open grassland areas and a mixture of naturally appearing trees and shrubs. Lands west of the highway slope down and away from the roadbed typically contain gradual variations in topography. Parcel sizes are smaller and orchards are dominant. This area is part of an agricultural valley near the White Salmon River. Several properties to the south are publicly owned for habitat conservation and contain natural vegetation. Lands closest to the river are protected from future development by an Open Space land use designation.

Land in this area is subject to 40 acre (west of SR-141) and 160 acre (east of SR-141) minimum parcel sizes. These large minimum parcel sizes were in part, implemented for the protection of deer and elk winter range (Management Plan GMA wildlife habitat policies 4 and 6, p.I-3-19). No individual tax lots appear to qualify for land divisions without lot consolidation or reconfiguration (with the exception of land divisions for conservation purposes). Therefore, staff assumes that the existing parcel pattern will remain in the future.

6. Commission Rule 350-81-590 contains provisions for the protection of sensitive plants within 1,000 feet of the proposed development. Gorge Commission inventories indicate that no known populations of sensitive plant species are located within 1,000 feet of the subject property. Given this information, Commission Rule 350-81-590 does not apply.

#### **CONCLUSION:**

The proposed development is consistent with the applicable guidelines in Commission Rule 350-81-052(1)(d) and 350-81-560 through 350-81-590 that protect natural resources from adverse effects.

#### **E. RECREATION RESOURCES:**

1. Commission Rule 350-81-086 states:

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

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

#### **CONCLUSION:**

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

#### **F. CULTURAL RESOURCES:**

1. Commission Rule 350-81-052(b) includes the following cultural resource protection criteria:

*(A) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to 350-81-540(1)(c)(A) or historic survey, pursuant to 350-81-540(1)(c)(B).*

Marge Dryden, the Heritage Resources Program Manager for the National Scenic Area, reviewed the proposed undertaking and area of potential effect and came to the conclusion that a Cultural Resource Reconnaissance Survey and a Historic Survey were not required.

*(B) The GMA guidelines that protect cultural resources and human remains discovered during construction [350-81-540(6) and (7)] shall be applied as conditions of approval for all development approved under the expedited development review process.*

### **CONCLUSION:**

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

### **G. TREATY RIGHTS PROTECTION:**

1. Commission Rule 350-81-084(1) provides protection of Tribal treaty rights from new development in the National Scenic Area. Commission Rule 350-81-084(1)(a) lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments. The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on June 30, 2016.
2. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No substantive comments were received. Given this information, the proposed development is consistent with Commission Rule 350-81-084(1)(b).
3. Commission Rule 350-81-084(c)(B) states:

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

The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no substantive treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-81-084(1)(B).

### **CONCLUSION:**

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

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  
Klickitat County Planning Department  
Klickitat County Health Department  
Klickitat County Building Department  
Klickitat County Public Works  
Klickitat County Auditor  
Friends of the Columbia Gorge  
Anthony Connors

RM  
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