

## DIRECTOR'S DECISION

- Proposal:** The Columbia River Gorge Commission received an application to construct a new single-family dwelling with attached garage and shop, driveway, septic, utilities, and improvements to an existing access road.
- Applicant:** Charles Moore
- Landowner:** Charles and Lana Moore
- Location:** The subject parcel is located at 490 Hwy 141 in Section 11, Township 3 North, Range 10 East, Klickitat County, Washington. Klickitat County Parcel Number 03101100002400.
- Case File:** C17-0005
- Zoning:** The subject property is designated Large-Scale Agriculture in the General Management Area and is 56.46 acres in size.

### DECISION:

Based upon the findings of fact in the Staff Report for Director's Decision C17-0005, the land use application by Charles Moore to construct a new single-family dwelling with attached garage and shop, driveway, septic, utilities, and improvements to an existing access road 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:

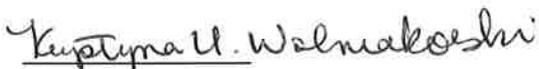
The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. Compliance with them is required. **This decision must be recorded in county deeds and records to ensure notice of the conditions to all successors in interest** (Management Plan, Review Uses Guideline 1, pg. II-96).

1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C17-0005, and approved site plan, shall be recorded in county deeds and records at the Klickitat County Assessor's Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws; and obtain necessary approvals, including utility easement approvals.

3. Any new land uses or structural development such as residences; garages, workshops, or other accessory structures; additions or alterations; or grading not included in the approved application or site plan will require a new application and review.
4. A revised site plan showing an accurate scale, dimensions, and setbacks; and required landscaping shall be provided to the Gorge Commission Development Review Officer for review and approval. The development shall be constructed as shown on the approved project description, site plan, and elevation drawings. Any changes must be reviewed and approved by the Executive Director before the changes are implemented.
5. Accessory structures shall meet maximum footprint and height standards consistent with Commission Rule 350-81-190(1)(f). The proposed shop shall be no more than 24 feet in height.
6. Structures shall be set back from adjacent property lines consistent with Commission Rules 350-81-076, 350-81-190(1)(q)(C), 350-81-310(1)(a), 350-81-520(4)(b). The proposed dwelling shall be set back at least 100 feet from the boundary line of the adjacent parcels to the south, west, and east and 200 feet from the adjacent parcel to the north. All new buildings shall be set back at least 100 feet from the edge of pavement of SR 141.
7. To reduce necessary grading to the maximum extent practicable consistent with Commission Rule 350-81-520(1)(a), the dwelling shall be sited in the southwest corner of the subject parcel, no more than 400 feet from SR 141.
8. If over 200 cubic yards of grading is necessary, the applicant shall submit a new land use application for grading activities including a grading plan and narrative, consistent with Commission Rule 350-81-520(2)(aa); and revised elevation drawings, including the natural grade and finished grade surrounding the proposed structures and other improvements if applicable, consistent with Commission Rule 350-81-032(5) to the Gorge Commission Development Review Officer for review and approval.
9. The landowners shall sign and record a declaration specifying that they and their 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, consistent with Commission Rule 350-81-190(1)(q)(D).
10. Existing trees on the subject parcel between the development and the highway shall be retained in their existing condition, not cut or limbed. Existing oak trees on the subject parcel shall be retained in their existing condition, not cut or limbed.
11. The applicant shall plant three (3) conifer trees native to the site setting, such as Ponderosa Pine or Douglas fir, at the south, southwest, and west corners of the developed area. The trees shall be installed as soon as practicable and prior to project completion. The applicant is responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
12. Consistent with Commission Rule 350-81-520(2)(l), the exterior of the dwelling, garage, and shop shall be dark and either natural or earth-tone colors to ensure that these structures are visually subordinate to the surrounding landscape setting. The approved colors of the exterior of the buildings are dark brown and black. Should changes to the approved exterior colors be proposed, new color samples will need to be submitted to and approved by the Gorge Commission. Only dark earth-tone colors that are present at the site, such as greens, grays, and browns, may be used.

13. Exterior building materials approved as part of this application include Cerber Rustic Fiber Cement Siding (only in a dark earth-tone color) and Windsor® Black Oak roof shingles. Any changes to the materials approved to be used on the exterior of the proposed dwelling and accessory building shall require additional approval by the Gorge Commission, unless otherwise deemed consistent with those approved by this review.
14. All proposed exterior building materials, such as roofing and siding, shall be nonreflective or have low-reflectivity and all windows facing key viewing areas be composed of low-reflective glass (i.e., glass with a light reflectivity rating around 11%).
15. All outdoor lights shall be directed downward, hooded, and shielded so as not to be highly visible as seen from SR 141. If outdoor lights are proposed on the subject parcel, the applicant shall show them on the revised site plan and submit the proposed design and placement of the lights to the Gorge Commission for the review and approval of the Development Review Officer to ensure consistency with Commission Rule 350-81-520(2)(j).
16. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
17. If human remains are discovered during construction activities, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
18. If the applicant proposes to return repair the fence along the northern boundary of the subject parcel, or if new fencing is planned anywhere on the subject parcel, an application must be submitted to the Gorge Commission for Development Review Officer review and approval. The construction of any such fencing shall follow the guidelines in Commission Rule 350-81-580(6).

DATED AND SIGNED THIS 6 day of June, 2017 at White Salmon, Washington.



Krystyna U. Wolniakowski  
Executive Director (Interim)

**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 6 day of June, 2019 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 the 6 day of July, 2017.*

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 the date 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 such as residences, garages, workshops, or other accessory structures, or additions or alterations not included in the approved application or site plan will require a new application and review.

**Attachments:**

Staff Report for C17-0005  
Approved site plan

Site Plan for C17-0005

Existing Driveway 1430ft



APPROVED *Yes*





## STAFF REPORT

- Proposal:** The Columbia River Gorge Commission received an application to construct a new single-family dwelling with attached garage and shop, septic, utilities, driveway, and improvements to an existing access road.
- Applicant:** Charles Moore
- Landowner:** Charles and Lana Moore
- Location:** The subject parcel is located at 490 Hwy 141 in Section 11, Township 3 North, Range 10 East, Klickitat County, Washington. Klickitat County Parcel Number 03101100002400.
- Case File:** C17-0005
- Zoning:** The subject property is designated Large-Scale Agriculture in the General Management Area and is 56.46 acres in size.

### COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

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

Written comments were received from the Friends of the Columbia River Gorge, Washington Natural Heritage Program, and Washington Department of Fish and Wildlife (WDFW).

## **FINDINGS OF FACT:**

### **A. Land Use**

1. The subject property is in the General Management Area (GMA) and is designated Large-Scale Agriculture with a 160-acre minimum parcel size for new land divisions.
2. The subject parcel is approximately 56.46 acres in size and occupies a steep southwest-facing slope on the east side of State Route 141 (SR 141). The parcel is vacant with the exception of Bonneville Power Administration (BPA) an access road, which run southeast from its intersection with the highway and north up the slope, additional access roads, and three sets of transmission towers that support high-tension wires. The parcel includes a 15.16-acre BPA easement.
3. The proposed development would construct a single-family dwelling of approximately 1,760 square feet, with a maximum height of 24 feet. The proposal includes a 952 square-foot attached garage, with a flat roof deck, and a maximum height of 10 feet; and 784 square-foot shop, with a maximum height of 26 feet. A septic system, utilities, driveway, and improvements to an existing access road are also proposed.

Access to the proposed dwelling would occur from an existing BPA access road. The proposed driveway would extend from the BPA road at a point approximately 400 feet from its intersection with SR 141. From that point, the driveway would extend east toward the dwelling site along an existing driveway. The proposed driveway would be approximately 600 feet long and 20 feet wide.

4. The Gorge Commission's Land Use Ordinance (350-81), Section 190(1), lists the review uses that may be allowed on lands designated Large-Scale Agriculture in the GMA, subject to compliance with scenic, cultural, natural, and recreation resources guidelines of the Commission Rule 350-81, Sections 520 through 620.
5. Commission Rule 350-81-190(1)(f) allows 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.

The proposed garage and shop would be accessory to the proposed dwelling and would each be greater than 200 square feet in area. Both are allowed uses, subject to compliance with scenic, cultural, natural, and recreation resources guidelines of the Commission Rule 350-81, Sections 520 through 620. The proposed garage would be 952 square feet, with a height of 10 feet. The applicant proposes the shop to be 784 square feet with a proposed height of 26 feet,

two feet above the maximum height limitation. The combined accessory building square footage is 1,736, which is less than the maximum square footage allowed. In accordance with Commission Rule 350-81-190(1)(f), the proposed shop shall be no more than 24 feet in height.

6. Commission Rule 350-81-190(1)(l) allows construction, reconstruction, or modification of roads not in conjunction with agriculture.

Improvements to the existing BPA road and construction of the proposed driveway on the subject parcel are allowable review uses, subject to compliance with the scenic, cultural, natural, and recreation resource guidelines of Commission Rule 350-81, Sections 520 through 620.

7. Commission Rule 350-81-190(1)(q) states that a single-family dwelling not in conjunction with agriculture may be allowed on a parcel that was legally created and existed before November 17, 1986, if 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 utilized 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 in Commission Rule 350-81-076, or any abutting parcel designated Commercial Forest Land or Large or Small Woodland, as required in Commission Rule 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, or Large or Small Woodland.
- (E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, of Large or Small Woodland 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.

8. The subject parcel is a legal parcel, created before November 17, 1986.
9. Whether the proposed dwelling would force a change in or increase the cost of accepted agricultural practices on surrounding lands

Several large parcels occupy the area to the north, east, and south of the subject parcel and share the same southwestern-facing slope. Timber production and residential use

predominate in this area. Of these, only one parcel to the north of the subject parcel has been in recent agricultural use.

To the west of the subject parcel, an adjacent parcel of approximately 2.3 acres is under the same ownership as the subject parcel.

Another adjacent parcel two to the west is 1.9 acres, contains a single-family dwelling, wooded, and is not managed for agriculture.

To the northwest of the subject parcel are two parcels, 13.5 acres and 7.8 acres (not adjacent). Both contain single-family dwellings and are not managed for agriculture.

An adjacent approximately 51.5-acre parcel to the northwest has been intermittently grazed for the last several years. It is assessed as farm/agricultural land by the Klickitat County Assessor. The proposed dwelling would be approximately 1,400 feet from the southern boundary of this adjacent parcel, which is adequately fenced for the protection of grazing animals. Because the agricultural use on this parcel is sporadic and of very limited intensity (two horses are grazed two months in 2017), no agriculturally-related noise, spraying, or development would conflict with the proposed dwelling. The distance between the proposed dwelling and this agricultural use further mitigates any potential conflicts. There are other residences in closer proximity to this parcel. Consequently, the proposed dwelling would not introduce a new land use that does not already exist adjacent to the parcel. For these reasons, the proposed dwelling would not force a change in or increase the cost of accepted agricultural practices on this adjacent parcel.

To the north and east of the subject parcel, an adjacent approximately 230.8-acre parcel is currently used for timber production, and are assessed as such by the Klickitat County Assessor. A phone conversation with the owner of these adjacent parcels confirmed that the land had not been grazed for 30 years or more.

To the northeast of the subject parcel are four contiguous parcels of approximately 79.9, 143.9, 120.0, and 280.0 acres (that are used exclusively for timber production). These parcels are designated as forest land by the Klickitat County Assessor.

East of the subject parcel but not adjacent to it are three parcels, two of which are contiguous parcels under one ownership. This land is used for grazing and timber production. The closest extent of this ownership would be more than 2,000 feet east of the proposed dwelling. This active grazing operation area is adequately fenced and separated from the subject parcel by 70-acre portion of the 230.8-acre parcel used exclusively for timber production. The proposed dwelling would be separated from these parcels by sufficient distance and steep terrain so as to not force a change in or increase the cost of accepted agricultural practices on these parcels.

South of and adjacent to the subject parcel are three parcels of approximately 9.1, 2.0, and 38.2 acres. Two contain single-family dwellings and one is under the same ownership and contiguous with one of the parcels. None of the parcels are managed for agriculture.

The parcels that lie to the west and southwest of the subject parcel on the west side of SR 141 differ in terrain and use from those parcels to the east of the highway. Orchards are the dominant agricultural use on these flatter lands with more productive, less erodible soils than those of the subject parcel. To the west of the subject parcel are several parcels in active

agricultural use as orchards: 8.4 acres, 8.6 acres, 14.6 acres, 13.5 acres, 19.9, 8.2, and 5.4. The majority have single-family residences and accessory structures associated with agricultural use. The proposed dwelling would be located across SR 141, more than 500 feet from the nearest of these orchards. The agricultural use of these parcels is therefore buffered by the highway, by the distance between the orchards and the proposed dwelling, and by the difference in terrain from one side of the highway to the other. The proposed dwelling would not force a change in use and would not increase the cost of agricultural practices on these orchard lands.

10. Whether the subject parcel is predominantly unsuitable for the production of farm crops and livestock

**Soils/Terrain:** Three soils are found on the subject parcel. Seventy-three percent of the parcel is composed of Leidl extremely cobbly ashy loam (65). This soil supports annual grasses and brushes. Twenty-four percent of the parcel is composed Oreoke-Beezee complex (42), which supports Oregon white oak, Ponderosa pine, grasses, and shrubs. Three percent of the parcel is composed of Leidl-Oreoke complex (25B) and supports primarily grasses, brushes, and some Oregon white oak. Less than one percent of the parcel is composed of Hood loam, which supports grand fir and shrubs. The U.S. Department of Agriculture (USDA), National Resource Conservation Service (NRCS) Web Soil Survey soils information describes these soils as typically found on slopes of between 30 and 75 percent, with the exception of the Hood loam which is typically found on slopes of between three and eight percent<sup>1</sup>.

The USDA, Soil Conservation Service, has established a land capability classification system. This system rates soils primarily for agricultural purposes, with classifications ranging from I to VIII. In general, classes I through VI are suitable for cultivation. Increased limitations on agricultural practice are reflected with ratings at the upper end of the classification scale. Class V through VIII soils are generally not suitable for cultivation. Three soils found on the subject parcel, Leidl extremely cobbly ashy loam, Oreoke-Beezee complex, and Leidl-Oreoke complex, have a land capability classification of VIIe (Table 1). Class VII soils are defined by the land capability classification system as having "severe limitations that make them unsuited to cultivation and that restrict their use largely to grazing, woodland, or wildlife".<sup>2</sup> One soil, Hood loam, has a land capability classification of IIe (Table 1). Class II soils are defined by the land capability classification system as having "some limitations that reduce the choice of plants or require moderate conservation practices." While Hood loam can support cultivation, only 0.2 acres of the site located only in a narrow strip at the access road intersection with SR 141, consists of this soil type.

The parcel contains slopes of 20 to 45 percent, with the majority of the parcel having slopes of over 30 percent. The steep slopes on the subject parcel are reflected in the capability subclass rating of "e" for all of the soils on the parcel. This rating shows that the principal limitation on the soils' use is erosion, due primarily to steep slopes. In addition to the soils' propensity to erode, thus preventing effective cultivation practices, use of farm equipment on these slopes would be possible only through extraordinary manipulation of the slope and custom equipment design. Such practices are not found in this region. Steep slopes and severe soil limitations, including erodibility, are the factors which make the parcel unsuitable for cultivation.

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<sup>1</sup> USDA, NRCS. 2017. Web Soil Survey.

<sup>2</sup> USDA, Soil Conservation Service. 1961. Land Capability Classification, Agriculture Handbook No. 210.

Although the subject parcel is predominantly unsuitable for cultivation, its soils can sustain permanent vegetation cover such as grasses or trees. All of the soils are rated by the NRCS for potential range production. However, the Web Soil Service provides pasture yields expressed in terms of animal unit months (AUM)<sup>3</sup>. Three of the soils are not rated for AUMs and the Hood loam soil has a AUM capacity of 1.8 to three AUMs, depending on irrigation. This AUM figure means the parcel can sustain one cow if the land is not irrigated and three cows if the land is irrigated for one month. In the context of annual usage, the parcel's carrying capacity of up to three AUM is the equivalent of sustaining ¼ of a cow per year. However, while Hood loam can support limited grazing, the soil type comprises only 0.2 acres of the site and is located only in a narrow strip at the access road intersection with SR 141, part of which is already developed as the existing access road.

**Table 1: Soils, Land Capability Classification, and Potential Range Production for Moore Parcel (56.46 acres)**

Soil Type	Map Symbol	Acres*	Capability Class	Potential Range Production Normal Year (dry wt lb/ac)	AUM
Leidl ext. cobbly ashy loam	65	29.9 (72.6%)	VIIe	713	Not rated
Oreoke-Beezee complex	42	9.8 (23.6%)	VIIe	312	Not rated
Leidl-Oreoke complex	25B	1.4 (3.4%)	VIIe	555	Not rated
Hood loam	90	0.2 (0.4%)	Ile	540	1.8-3

Source: USDA, NRCS. 2017. Web Soil Survey.

\*Soil acreage does not include the BPA easement area.

Emma Barnett, Washington Department of Natural Resources, Rangeland Manager, reported that the current price of one AUM for dryland grazing is approximately \$13.20 annually<sup>4</sup>. On the subject parcel, a year's grazing lease would potentially gross up to approximately \$40.

Soil type and limited water-holding capacity constrain the season of available forage on the subject parcel to two months of the year. Mike Blakeley, USDA Soil Conservationist, reports that the southwest-facing slope and soil conditions on the subject parcel support cheat grass, bulbous bluegrass, and similar annual/bulb grasses, typical of disturbed sites<sup>5</sup>. Due to the available precipitation and the limited water-holding capacity of the shallow, rocky soils, and the types of plants supported in the current disturbed condition, the subject parcel would support grazing in the months of April and May only, after which the soil becomes too dry. This assessment is confirmed by James Fritchey in 2017, owner of an adjacent parcel, who grazes horses and cattle on an intermittent basis<sup>6</sup>. With land located on the same southwest-facing slope as the subject parcel, Mr. Fritchey reported that he is able to graze his parcel during the months of April to June, after which the forage begins to lose its nutrient value.

In summary, the soils on the subject parcel are too poor and the terrain too steep to be cultivated. These characteristics make the parcel capable of supporting a very limited number of livestock for a two-month period during any given year. However, there are serious

<sup>3</sup> An AUM is the amount of forage (790 to 1,000 pounds of dry matter) required by one mature cow of approximately 1,000 pounds, with or without a calf, for 1 month.

<sup>4</sup> Barnett, Emma. 2017. Telephone Conversation. May 5, 2017.

<sup>5</sup> Blakeley, Mike. 2017. Telephone Conversation. May 4, 2017.

<sup>6</sup> Fritchey, James. 2017. Telephone Conversation. May 4, 2017.

obstacles to management of the subject parcel for livestock independent of other similar agricultural operations in the surrounding area.

**Parcel Size/Location:** Commission Rule 350-81-190(1)(q)(B) directs that to allow a non-farm dwelling, the parcel must be determined to be "predominantly unsuitable for the production of farm crops and livestock," and that part of the analysis consider the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area. In addition to consideration of the parcel's size and location, the size and use of parcels in the surrounding area must therefore be considered.

Successful grazing operations require large land holdings of hundreds and oftentimes thousands of acres. The subject parcel is 56.46 acres. It is capable of supporting only one to three AUM, the equivalent of  $\frac{1}{4}$  of a cow per year. It is too small to be managed for livestock grazing independently of other parcels. The use of the subject parcel in conjunction with other operations depends on the existence of compatible agricultural operations in the area.

The nearby agricultural operations to the west and southwest of the subject parcel are orchards. These orchards occupy land with very different terrain and soil capability than the vast majority of the subject parcel. These soils are land capability class II and III, suitable for production of farm crops, pasture, and woodland. The subject parcel cannot support row crops or fruit trees. As such, it cannot be managed in conjunction with these orchards.

The properties adjacent to the subject parcel to the north, northeast, and east (230.8, 79.9, 143.9, 107.6, 120.0, and 280.0 acres) are in exclusive timber production. These parcels have not been grazed for more than 30 years.

Many of the parcels that are both adjacent to and near the subject parcel are less than 10 acres and committed to residential use. Other larger nearby residential parcels are 13.5 and 38.2 acres, which are not currently used for agriculture.

There are four properties in the surrounding area where cattle grazing is taking place, a 51.5-acre parcel, and three parcels under one ownership totaling 514 acres. The 51.5-acre parcel, to the north of the subject parcel, is currently grazed although on an intermittent basis. This property shares the same slope and poor soils as the subject parcel, and does not have substantial capacity for agricultural use. In 2017, the owner Mr. Fritchey, grazes two horses, but could graze five head of cattle, for up to three months.

The only substantial grazing operation in the surrounding area is taking place on the 107.6-acre Cox property located east of but not adjacent to the subject parcel. A 70-acre portion of the 230.8-acre parcel used exclusively for timber production separates the subject parcel from this existing agricultural operation. It is very unlikely that this 70-acre sub-parcel would be converted to agricultural use, thus providing a "bridge" from the on-going grazing operation to the subject parcel. The soils on this 70-acre sub-parcel are Jebe (36), Leidl-Oreoke complex (25B), Oreoke-Beezee complex (42), and Underwood (76A). While the Leidl-Oreoke complex soil is not rated for timber production, the other three have Forestland Productivity site index and volume growth values that indicate that the soils on this 70-acre parcel are well-suited to timber production (Table 2)<sup>7</sup>. Its suitability for its current use, and the fact that it shares the

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<sup>7</sup> Potential productivity of merchantable or common trees on a soil is expressed as a site index and as a volume growth rate number. The site index is the average height, in feet, that dominant and codominant

same disadvantages of steep terrain and erosive soil as the subject parcel, indicate that the conversion of this adjacent parcel to livestock grazing in the future is improbable.

**Table 2: Soils and Potential Range Production for adjacent 70-acre Subparcel**

Soil Type	Map Symbol	Common Trees	Site Index	Volume of Wood Fiber (cu ft/ac)
Jebe	36	Douglas-fir	92	120
Oreoke-Beezee complex	42	Ponderosa Pine	80	48
		Douglas-fir	101	-
Underwood	76A	Grand fir	115	-
		Ponderosa Pine	105	110

Source: USDA, NRCS. 2017. Web Soil Survey.

The subject parcel is not suitable for cultivation. While it can be minimally grazed, its small size, low capacity for range production, and limited season for that use make it unsuitable for livestock grazing independent of another compatible agricultural operation. The surrounding area contains many small parcels with non-agricultural uses. The larger parcels in the area are committed to timber production. The subject parcel's limited capacity for range production and the isolated nature of livestock grazing operations in the area eliminate the possibility of managing the subject parcel in conjunction with another livestock operation. In summary, the subject parcel is predominantly unsuitable for the production of farm crops and livestock, and is not capable of being used for agriculture in conjunction with other agricultural operations in the area.

#### 11. Required setback

Commission Rule 350-81-190(1)(q)(C) requires that new dwellings comply with Commission Rule 350-81-076, which specifies agricultural buffer zones for new buildings proposed on a parcel abutting lands designated Large-Scale Agriculture and currently used for or suitable for agricultural use.

Abutting parcels to the west, south, and east of the subject parcel are all designated Large-Scale Agriculture. The width of agricultural buffer zones required in Commission Rule 350-81-076 varies according to the specific agricultural use on the abutting parcels, and conditions between these and the subject parcel.

Several parcels to the west and southwest are used as orchard land. Commission Rule 350-81-076, states that new buildings shall be set back 250 feet when the adjacent agricultural operation is orchard land. This required buffer is reduced to 100 feet where there is a natural or created vegetation barrier between the proposed buildings and the agricultural operation and 75 feet where there is an eight-foot berm or terrain barrier. The wooded slope on the subject parcel, and woody (non-orchard) vegetation on adjacent parcels forms an existing natural barrier between the proposed buildings and these orchards. The highway also forms a

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trees of a given species attain in a specified number of years. The Volume Growth Rate is the maximum wood volume growth rate likely to be produced by the most important tree species. This number, expressed as cubic feet per acre per year and calculated at the age of culmination of the mean annual increment (CMAI), indicates the amount of fiber produced in a fully stocked, even-aged, unmanaged stand. Higher site index values indicate greater potential productivity for growing a given species. (USDA, NRCS. 2017. Web Soil Survey).

terrain barrier. The applicable requirement in Commission Rule 350-81-076 is therefore a setback of 75 feet from these adjacent orchard parcels to the west and southwest. The proposed dwelling would be set back over 500 feet from the boundary lines of the orchards to the west and southwest.

Abutting parcels to the west and south are designated Large-Scale Agriculture. The parcels are forested with single-family residences. Because there is a natural vegetation buffer on the subject parcel between the proposed dwelling site and the abutting parcels to the west and south, the applicable requirement in Commission Rule 350-8181-076 is a setback of 50 feet. The proposed dwelling would be set back 111 feet from the boundary line of the adjacent parcels west and 50 feet from the adjacent parcel to the south.

An abutting parcel to the east is designated Large-Scale Agriculture but is currently used exclusively for timber production. The parcel is forested. Because there is a natural vegetation buffer on the subject parcel between the proposed dwelling site and the abutting parcels to the east, the applicable requirement in Commission Rule 350-8181-076 is a setback of 50 feet. The proposed dwelling would be set back at least 1,300 feet from the boundary line of this adjacent parcel.

Commission Rule 350-81-190(1)(q)(C) also requires that new dwellings and structures comply with Commission Rule 350-81-310 where an abutting parcel is a forest operation. Commission Rule 350-81-310(1)(a) specifies that new structures must be set back at least 200 feet from adjacent forest properties to minimize impact on nearby or adjacent forest operations.

The abutting parcels to the north of the subject parcel are designated Forest. The proposed dwelling would be set back at least 900 feet from the boundary line of this adjacent parcel to the north.

The building area proposed by the applicant is consistent with Commission Rule 350-81-190(1)(q)(C). The required dwelling setbacks from adjacent property lines shall be a condition of approval.

## 12. Declaration of acceptance of agriculture and forest practices

Commission Rule 350-81-190(1)(q)(D) requires that the landowner(s) sign a declaration that is then 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, or Large or Small Woodland. The execution of this declaration shall be a condition of approval to ensure compliance with Commission Rule 350-81-190(1)(q)(D).

## 13. Comment of landowners within 500 feet

As documented in "Comments from Individuals/Agencies/Governments" section above, landowners within 500 feet of the subject parcel were notified of the applicant's land use application. These landowners had 21 days to submit comments to the Gorge Commission. No written comments were received from these adjacent landowners. The steps taken satisfy Commission Rule 350-81-190(1)(q)(E).

## **Conclusion:**

The subject parcel is a legal parcel that was created before November 17, 1986. It is designated Large-Scale Agriculture. A single-family dwelling that is not in conjunction with agriculture may be allowed on the parcel if all of the criteria listed in Commission Rule 350-81-190(1)(q) are satisfied, and the dwelling will not adversely affect scenic, cultural, natural, or recreation resources.

Commission Rule 350-81-190(1)(q) contains five criteria (A through E):

- Criterion A is satisfied: the proposed single-family dwelling would not force a change or increase the cost of agricultural practices on surrounding lands.
- Criterion B is satisfied: an analysis of the parcel's characteristics and its capability to be used in conjunction with other agricultural operations in the area has shown that the subject parcel is predominantly unsuitable for the production of farm crops and livestock.
- Criterion C is satisfied: the dwelling would be set back at least 50 feet from adjacent parcels designated Large-Scale Agriculture to the west, south, and east, and at least 200 feet from adjacent parcels designated Forest to the north. To ensure this criterion is met, the dwelling shall be setback from adjacent property lines in accordance with Commission Rules Commission Rules 350-81-076(1), 350-81-190(1)(q)(C), 350-81-310(1)(a), 350-81-520(4)(b); and the proposed dwelling shall be constructed at the location shown on the approved site plan. Additionally, a continuous vegetative, conifer screen shall be maintained along the western property line. The vegetative screen shall be continuous and reach an ultimate height of at least 15 feet. With the application of this condition of approval, the proposed development would be consistent with Commission Rule 350-81-190(1)(q)(C).
- Criterion E is satisfied: landowners within 500 feet of the subject parcel were notified of and allowed to comment on the applicant's land use application.
- Criterion D will be satisfied when the landowner(s) sign and record a declaration specifying that they and their 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. With the application of this condition of approval, the proposed development would be consistent with Commission Rule 350-81-190(1)(q)(D).

With the application of the conditions described above, the proposed development is allowable by the Gorge Commission's Land Use Ordinance (Commission Rule 350-81), provided that it is found consistent with the land use ordinance guidelines that protect scenic, cultural, natural, and recreation resources in the National Scenic Area.

## **B. Scenic Resources**

1. Commission Rule 350-81-520(1)(a) states, "New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable."

The area of the subject parcel where the dwelling is proposed has a slope of between 20 and 25 percent, in an area that has previously been disturbed. The dwelling is proposed in the only accessible area of the subject parcel with slopes under 30 percent. The applicant indicated that cut and fill on the building site was completed 15 years ago and additional grading is not

necessary for the proposed dwelling. Therefore, locating the building site in this proposed location would retain more of the existing topography of the parcel than any alternative building sites. The slope in the southwest corner of the subject parcel increases further to the northeast away from SR 141. In order to reduce necessary grading to the maximum extent practicable consistent with Commission Rule 350-81-520(1)(a), the dwelling shall be sited in the southwest corner of the subject parcel, no more than 400 feet from SR 141.

The proposed access route utilizes a 400-foot segment of the existing BPA road. The route of the proposed driveway would leave the BPA road to travel along an existing driveway to the site, parallel to the contour of the hillside, for an estimated distance of 600 feet. The proposed driveway ascends a 20-percent slope for approximately 200 feet to the building area. However, because the driveway is existing and has previously been improved, grading would not be required.

An alternative access route to the proposed building area would ascend the 30 to 35 percent slope directly northeast from the highway to the proposed building area. The bank on the east side of the highway is six to seven feet high. A driveway here would necessitate cutting back this bank. Making such a route level enough for vehicles would require the construction of switch-backs. While more direct, establishing access to the proposed building area from this point on the highway would disrupt the existing topography and require more grading than the proposed access route.

Construction of the driveway as proposed effectively minimizes necessary grading to the maximum extent practicable, consistent with Commission Rule 350-81-520(1)(a).

2. Commission Rule 350-81-520(1)(b) states, "New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development..."

The surrounding area contains moderately-sized single-family dwellings and accessory structures that are associated with both residential and agricultural uses. The applicant proposes a dwelling that would be approximately 1,760-square feet and no more than 24 feet in height. The attached garage would be 952 square feet with a height of 10 feet. The attached shop would be 784 square feet with a conditioned maximum height of 24 feet. The proposed buildings would be similar in height and size to existing nearby development, consistent with Commission Rule 350-81-520(1)(b).

3. Commission Rule 350-81-520(1)(d) includes that the "site plan and application shall include all information required in the site plan guidelines in "Review Uses" 350-81-032(5)." Commission Rule 350-81-520(1)(c) states, "Determination of compatibility with the landscape setting shall be based on information submitted in the site plan."

The applicant provided an application form, project description, site plan, and elevations drawings, consistent with Commission Rule 350-81-032(5). The applicant indicated that grading of the building site and driveway was previously completed; therefore, additional grading is not necessary for the proposed dwelling. As a condition of approval, if over 200 cubic yards of grading is necessary, the applicant shall submit a new land use application for grading activities including a grading plan, consistent with Commission Rule 350-81-520(2)(aa); and revised elevation drawings, including the natural grade and finished grade surrounding the proposed structures and other improvements if applicable, consistent with

Commission Rule 350-81-032(5) to the Gorge Commission Development Review Officer for review and approval.

4. Commission Rule 350-81-520(2) contains guidelines for all review uses visible from key viewing areas.
5. 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 can be seen in the foreground from SR 141, which forms a portion of its southwestern boundary. The northeastern portion of the parcel, at the top of the slope, can also be seen in the background views from the Columbia River and Interstate 84 (I-84). These three features are key viewing areas listed in Commission Rule 350-81-020(91).

6. Commission Rule 350-81-520(2)(b) states, "Each development shall be visually subordinate to its setting as seen from key viewing areas."

In the proposed building area, the dwelling would be visible from SR 141. The route of the existing driveway is also visible from the highway. The area proposed for development is not visible from the Columbia River or I-84.

The proposed building area is substantially screened from views from State Route 141. The bulk of the screening is provided by a relatively dense stand of oak and pine trees, 200-feet deep, between the highway and the proposed building area. Half of these existing trees are on adjacent parcels to the south and west. If these screening trees on the adjacent parcel were cut, existing trees on the subject parcel would partially screen the proposed structures. The applicant's site plan includes that no vegetation would be removed as a part of the proposed development.

Regardless of the situation on adjacent parcels, additional factors would help screen the proposed structures, rendering them only partially visible as seen from the highway. The structures would be located up-hill from the highway, making them visible only through at least 200 feet of underbrush that would screen the lower story of the proposed dwelling and most of the garage from view. In addition, any view of the structures would be mitigated by a background of relatively dense forest which covers the hillside behind the building site, reducing their impact on the view from SR 141.

Factors similar to those listed above also reduce the visibility of the existing driveway. Existing trees, many of which are on the adjacent parcels to the south and west, would substantially screen the proposed driveway from views from SR 141, rendering it not visible through most of the year and only partially visible in the winter. However, if these trees were cut, the driveway would be partially visible from the highway in all seasons. If this were the case, the partial visibility would be mitigated by the distance between it and the highway (approximately 200 feet), and the brush occupying the uphill slope from the highway.

The proposed building area for the dwelling would be 300 feet or more from SR 141. The existing driveway is at least 200 feet or more from SR 141. These developments would therefore be in the foreground as seen from this key viewing area.

The proposed dwelling and driveway would be visible for the short distance of approximately 800 feet along SR 141 as it passes the proposed building area. Because these structures would be in the foreground, they would be visible from three angles along the highway, to the south, southwest, and west of the building area. The driveway is also visible from the highway for the same distance.

The applicant proposes a dwelling with a maximum height of 24 feet and approximately 1,760 square feet. An attached garage and shop are also proposed. A dwelling of that size in the building area proposed would be visually subordinate to its surrounding landscape if the conditions of approval to protect scenic resources seen from SR 141 are implemented as required.

7. 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 developments."

The cumulative effects of this project will be minimized based on the size and height of the proposed dwelling being generally consistent with other similar structures already existing in the area, location within an area where single-family dwellings and accessory structures are present, and siting so that existing vegetation will provide screening from SR 141.

8. Commission Rule 350-81-520(2)(d) states, "The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from key viewing areas." Commission Rule 350-81-520(2)(d)(A) includes that primary factors influencing potential visual impact include: the amount of area of the building site exposed to key viewing areas, the degree of existing vegetation providing screening, the distance from the building site to the key viewing areas from which it is visible, the number of key viewing areas from which it is visible, and the linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads). Commission Rule 350-81-520(2)(d)(B) includes that 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 siting, retention of existing vegetation, design, and landscaping.

In accordance with Commission Rule 350-81-520(2)(d), conditions of approval shall address the location of the dwelling, retention of existing trees, the color and reflectivity of exterior building materials, outdoor lights, and species and location of additional screening trees to ensure that the proposed structures are visually subordinate as seen from SR 141.

9. Commission Rule 350-81-520(2)(e) states, "New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas."

The majority of the subject parcel extends up a very steep and exposed slope from the level of SR 141. In the southwest corner of the subject parcel adjacent to the highway there is a small valley with more moderate, 20 to 25 percent slopes. The development is proposed within this area. Building in this location would take advantage of existing screening trees and would not require grading, minimizing the development's visibility from SR 141. Development in any other area of the subject parcel would force construction onto slopes of up to 40 percent,

necessitating extensive grading without the benefit of existing trees to screen the development. Consequently, locating the development in the southwest corner of the parcel as proposed effectively minimizes its visibility from SR 141, consistent with Commission Rule 350-81-520(2)(e).

10. 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 guidelines in 350-81-520(3)."

The proposed development (dwelling, garage, shop, septic system, and driveway) shall be sited at least 200 feet from SR 141 to retain a sufficient buffer of existing trees between the development and State SR 141. Existing trees on the subject parcel between the development and the highway shall be retained in their existing condition, not cut or limbed, so that these trees can help screen the dwelling and driveway from views from SR 141.

11. Commission Rule 350-81-520(2)(h) states, "The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas. 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.

The majority of the subject parcel is located on a steep southwest-facing slope. The proposed building site is located in the southwest corner of the subject parcel in a small valley with more moderate, 20 to 25 percent slopes. Behind the dwelling, the topography extends further upward on the slope to provide a vegetated backdrop that will keep the development below the skyline as seen from key viewing areas.

12. Commission Rule 350-81-520(2)(j) includes guidelines applicable to new landscaping used to screen development from key viewing areas.

The proposed dwelling is screened from key viewing areas by existing mature trees located both on and off the subject parcel. As a result, no new landscaping is needed in order to achieve visual subordination in this instance. However, to ensure the development's continued visual subordination as seen from SR 141, as a condition of approval the applicant shall plant three conifer trees native to the site setting, such as ponderosa pine or Douglas-fir, at the south, southwest, and west corners of the developed area. These additional trees would thicken the screen of existing trees and understory growth that lies between the highway and the proposed development, and would make the proposed structures visually subordinate in the event that the existing screening trees on the adjacent parcel to the southwest were cut.

Because trees that grow under power lines are cut regularly by the power company for safety reasons, the required trees shall be planted so as to not interfere with the power line along a portion of the southwestern boundary of the subject parcel. In accordance with Commission Rule 350-100-520(2)(j)(C), the applicant shall install the trees as soon as practicable and prior to project completion. The applicant is responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

13. 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 Scenic Resources Implementation Handbook* will include a recommended palette of colors."

The exterior of the dwelling, garage, and shop shall be dark and either natural or earth-tone colors to ensure that these structures are visually subordinate to the surrounding landscape setting. The applicant has proposed to use a Cerber Rustic Fiber Cement Siding and Windsor® Black Oak roof shingles. To ensure compliance with applicable color and material requirements, conditions of approval include:

- The approved colors of the exterior of the buildings are dark brown and black. Should changes to the approved exterior colors be proposed, new color samples will need to be submitted to and approved by the Gorge Commission Development Review Officer. Only dark earth-tone colors that are present at the site, such as greens, grays, and browns, may be used.
- Exterior building materials approved as part of this application include Cerber Rustic Fiber Cement Siding (only in a dark earth-tone color) and Windsor® Black Oak roof shingles. Any changes to the materials approved to be used on the exterior of the proposed dwelling and accessory building shall require additional approval by the Gorge Commission Development Review Officer, unless otherwise deemed consistent with those approved by this review.

14. Commission Rule 350-81-520(2)(m) states, "The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. *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*."

As a condition of approval to ensure the visual subordination of the proposed structures, all proposed exterior building materials, such as roofing and siding, shall be nonreflective or have low-reflectivity and all windows facing key viewing areas be composed of low-reflective glass (i.e., glass with a light reflectivity rating around 11%).

15. Commission Rule 350-81-520(2)(n) states, "In addition to the site plan requirements in 350-81-032(5), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes)."

The applicant has provided a description, elevation drawing, and material samples portraying the proposed dwelling height, shape, color, and exterior building materials. No exterior lighting or landscaping are indicated on the applicant's site plan.

16. 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."

No exterior lighting is indicated on the applicant's site plan. If outdoor lights are proposed on the subject parcel, the applicant shall show them on the revised site plan and submit the proposed design and placement of the lights to the Gorge Commission for the review and approval of the Development Review Officer to ensure consistency with Commission Rule 350-81-520(2)(j). All outdoor lights shall be directed downward, hooded, and shielded so as not to be highly visible as seen from SR 141.

17. Commission Rule 350-81-520(2)(y) states, "New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent. 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."

The dwelling is proposed in the only accessible area of the subject parcel with slopes of under 30 percent.

18. Commission Rule 350-81-520(2)(z) states, "Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from key viewing areas."

The majority of the subject parcel extends up a very steep and exposed slope from the level of SR 141. The development is proposed to be located in the southwest corner of the subject parcel adjacent to the highway in a small valley with more moderate, 20 to 25 percent slopes. The access to the proposed dwelling would be approximately 1,000 feet long, utilizing 400 feet of the existing BPA road and approximately 600 feet of existing driveway, 20-foot wide. The route of the driveway from the BPA road to the proposed building area would travel along the existing driveway, parallel to the contour of the hillside and then ascending a slope of approximately 20 percent to the dwelling. The existing driveway would not require additional grading, would be set back from the highway approximately 200 feet, and would be screened by existing trees.

The steep slopes and limited availability of existing trees on all other areas of the subject parcel are such that any alternative building area and access route would necessitate extensive grading and would be more visible from SR 141 than the building area proposed. In addition, by building in the proposed location, a portion of the existing BPA road and the existing driveway can be used to access the dwelling, precluding the need to construct a new access point from the highway. The proposed building area and driveway would minimize necessary grading and limit the visibility of cut banks and fill slopes from SR 141, consistent with Commission Rule 350-81-520(2)(z).

19. Commission Rule 350-81-520(2)(aa) states, "All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the local government for compliance with key viewing area policies..."

The proposed dwelling and driveway would be visible from SR 141, a key viewing area; however, as the site has previously been graded, additional grading in excess of 200 cubic yards would not be required. Therefore, Commission Rule 350-81-520(2)(aa) does not apply. As a condition of approval, if over 200 cubic yards of grading is necessary, the applicant shall submit a new land use application for grading activities including a grading plan and narrative, consistent with Commission Rule 350-81-520(2)(aa).

20. The subject parcel is located in an Oak-Pine Woodland landscape setting (Management Plan Landscape Settings Map). Commission Rule 350-81-520(3)(c) contains guidelines for all review uses within this landscape setting.

21. Commission Rule 350-81-520(3)(c)(A) states, "Structure height shall remain below the tree canopy level in wooded portions of this setting."

The proposed structures would stand within the most heavily wooded area of the subject parcel. The applicant proposes a dwelling of approximately 24 feet in height, with an attached garage of 10 feet in height, and shop with a conditioned maximum height of 24 feet. The structures, as proposed, would be lower in height than the surrounding tree canopy, consistent with Commission Rule 350-81-520(3)(c)(A).

22. Commission Rule 350-81-520(3)(c)(B)(i) states, "At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir."

The three trees that are required to be planted as a condition of this approval shall be species native to the setting. Ponderosa pine and Douglas-fir are both species native to the setting and well-adapted to the conditions on the subject parcel.

23. Commission Rule 350-81-520(3)(c)(B)(ii) states, "At least half of any trees planted for screening purposes shall be coniferous to provide winter screening."

All three of the required trees shall be coniferous to provide winter screening. Ponderosa pine and Douglas-fir would be appropriate species.

24. Commission Rule 350-81-520(3)(c)(B)(iii) states, "Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained."

Existing trees that screen the development from views from SR 141 shall be retained as a condition of approval.

25. Commission Rule 350-81-520(4) contains-guidelines for all review uses within Scenic Travel Corridors.

SR 141 is listed as a Scenic Travel Corridor in Commission Rule 350-81-020(133).

26. For the purposes of implementing this rule, Commission Rule 350-81-520(4)(a) states that "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." Commission Rule 350-81-520(4)(b) states

that "All new buildings shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway."

The proposed structures would be set back at least 200 feet from the edge of the pavement on SR 141, which lies southwest of the proposed building area. The proposed building area is consistent with Commission Rule 350-81-520(4)(b).

### **Conclusion:**

Conditions of approval must be applied to mitigate the impact of the development on scenic resources to ensure that the proposed structures are visually subordinate as seen from SR 141, a key viewing area. These conditions shall address the location of the dwelling, retention of existing trees, species and location of additional screening trees, the color and reflectivity of exterior building materials, and outdoor lights. With these conditions, the proposed development would be consistent with the guidelines in 350-81-520 that protect scenic resources in the National Scenic Area.

Without implementing these conditions, the proposed use would individually adversely affect scenic resources, and in combination with other similar developments in the area, would have a cumulative adverse effect on scenic resources in the National Scenic Area.

### **C. Cultural Resources**

1. Commission Rule 350-81-540(1)(c)(A)(ii) requires that a reconnaissance survey be conducted for proposed development.

On April 14, 2017, Marge Dryden, Heritage Program Manager, U.S. Forest Service, Columbia River Gorge National Scenic Area Office, conducted a cultural resource review for the proposal. Ms. Dryden determined through her review that the proposed development does not require a cultural resource reconnaissance survey because it would occur on a site that has been adequately surveyed in the past (Boynton 1995<sup>8</sup>), would occur on a site that has been determined to be located within a low probability zone and is not within 100 feet of a high probability zone, and does not occur within 500 feet of a known archaeological site.

A proposed dwelling was previously approved in the same location on the subject parcel (C95-0052). On November 22, 1995, Thomas Turck, Archaeologist with the U.S.D.A. Forest Service National Scenic Area Office in Hood River, Oregon conducted a cultural resources reconnaissance survey of the subject request. Mr. Turck did not find any cultural resources. On February 23, 1996, the applicant proposed an alternative area for development in the southwest corner of the subject parcel. Because this area of the parcel had not been surveyed by Mr. Turck, Michael Boynton, Archaeologist with the U.S.D.A. Forest Service, conducted a cultural resource reconnaissance survey in the southwestern corner of the parcel on March 8 and 12, 1996. Mr. Boynton did not find any cultural resources.

2. Commission Rule 350-81-540(1)(c)(B) requires a historic survey for proposed uses "that would alter the exterior architectural appearance of buildings and structures that are 50 years

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<sup>8</sup> Boynton, Michael. 1995 Columbia River Gorge National Scenic Area Cultural Resources short form for the Karen Beckman Single Family Dwelling Project. Gorge Commission project number C95-0046-K-G-11. Manuscript on file with the US Forest Service in Hood River, Oregon.

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."

Ms. Dryden determined through her review that the proposed development does not require a historic survey because it would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older. The proposed development would not 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.

3. Commission Rule 350-81-540(2)(a)(A) allows that within the comment period, an interested party may request consultation with the project applicant regarding cultural resources.

No substantiated comments regarding cultural resources existing on the subject parcel were submitted and no consultation was requested.

4. Commission Rule 350-81-540(2)(b)(A) requires that a cultural resources reconnaissance survey be submitted to the State Historic Preservation Office and Indian tribal governments. The State Historic Preservation Office and tribes have 30 days in which to comment on the survey.

The previous reconnaissance survey was sent on December 13, 1995. The 30-day comment period ended January 12, 1996. No comments on the survey were received. Because no cultural resources were found during previous surveys of the subject parcel, no cultural resources were recorded previously in the area, and no comments on the November 22, 1995 survey were submitted, Mr. Boynton advised that another 30-day comment period was not necessary for the second cultural resource reconnaissance survey.

As previously mentioned, Ms. Dryden determined through her review that the proposed development does not require another cultural resource reconnaissance survey.

5. Commission Rules 350-81-540(6)(a) and (b) require that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease, further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery.

#### **Conclusion:**

With the implementation of a condition protecting unknown cultural resources, the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protect cultural resources in the National Scenic Area.

#### **D. 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 rare plants (350-81-590).

2. Commission inventories show that there are no wetlands located in the project vicinity and therefore Commission Rule 350-81-560 is not applicable. There are no ponds or lakes protected by Commission Rules 350-81-570 located in the project vicinity. However, the National Wetland Inventory shows a seasonal stream on the parcel, crossing the northwest corner of the subject parcel and the existing BPA access road. The access road is existing and the proposed dwelling site is located over 1,000 feet to the southeast and would not impact the stream of buffer.
3. Commission Rule 350-81-580 contains provisions for the protection of sensitive wildlife areas and sites within 1,000 feet of the proposed development.

The subject parcel is within "deer and elk winter range" and "turkey habitat". These sensitive wildlife areas are recorded on the wildlife inventory map maintained by the Gorge Commission.

In an email dated May 9, 2017, Amber Johnson of the WDFW, reported that the project site includes mapped deer and oak forest priority habitat<sup>9</sup>. Ms. Johnson determined that the deer habitat was not a concern unless fencing would be installed, which is not proposed. Ms. Johnson recommended that cutting down oak trees is avoided when possible. As a condition of approval, existing oak trees on the subject parcel shall be retained in their existing condition, not cut or limbed.

4. Commission Rule 350-81-580(4)(a) requires that the proposed development within 1,000 feet of a sensitive wildlife area or site be reviewed by the appropriate state wildlife agency. The applicant's site plan was submitted to the WDFW on May 4, 2017.
5. Commission Rule 350-81-580(4)(c) states that the wildlife protection process may terminate if the Development Review Officer, in consultation with the appropriate state wildlife agency, determines: (A) the sensitive wildlife area is not active; or (B) the proposed use would not compromise the integrity of the wildlife area, or occur during the time of the year when wildlife species are sensitive to disturbance.

Ms. Johnson indicated that the proposed development would not compromise the integrity of the wildlife area.

6. Commission Rule 350-81-580(6) contains guidelines for new fences in deer and elk winter range.

A seriously dilapidated fence is located along portions of the northern boundary of the subject parcel. This existing fence is not a barrier to wildlife due to its poor condition, and is not considered an existing use. No additional fences are proposed by the applicant. If the applicant proposes to return this fence to a serviceable condition, or if new fencing is planned anywhere on the subject parcel, an application must be submitted to the Gorge Commission for Development Review Officer review and approval. The construction of any such fencing shall follow the guidelines in Commission Rule 350-81-580(6).

7. Commission Rule 350-81-590 contains provisions for the protection of sensitive plants within 1,000 feet of the proposed development.

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<sup>9</sup> Johnson, Amber. 2017. Email. May 9, 2017.

The Gorge Commission's Sensitive Plant Inventory map shows a Washington "sensitive" plant species approximately 3,516 feet from the proposed development. Proposed development may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-81-590(4).

Commission Rule 350-81-590(4)(a) requires that the Washington Natural Heritage Program staff examine the proposed development and field survey records. They are required to identify the exact location of sensitive plants and delineate a 200-foot buffer zone around them.

The applicant's site plan was submitted to the Washington Natural Heritage Program on May 4, 2017.

Commission Rule 350-81-591(4)(b) states that the rare plant protection process may conclude if the Development Review Officer, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of the plant buffer zone.

Jasa Holt, of the Washington Natural Heritage Program, reported that the program's records show two sensitive plant species north of the subject parcel, more than 1,700 feet north of the proposed development area<sup>10</sup>. The proposed development would be outside of the required 200-foot buffer zone for these plants, consistent with Commission Rule 350-81-590(4)(b).

**Conclusion:**

The proposed development is consistent with the guidelines in Commission Rule 350-81, Sections 560 through 590, that protect natural resources in the National Scenic Area.

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 on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel."

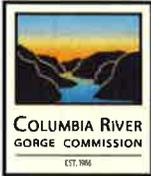
No recreation site or facility exists on, or in the vicinity of, the subject parcel.

**Conclusion:**

The proposed development is consistent with the guidelines in Commission Rule 350-81-086 to protect recreation resources in the National Scenic Area.

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<sup>10</sup> Holt, Jasa. 2017. Email. May 4, 2017.



**EXPIRATION OF APPROVAL:**

**This decision of the Executive Director becomes void on the 6th day of June, 2019.**

As per Commission Rule 350-81-044(6), an extension of the validity of a development approval may be requested. Such a request shall be submitted in writing prior to the expiration of the approval. The Executive Director may grant an extension if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing the proposed development within the original time limitation. The Executive Director shall not grant an extension if the site characteristics or new information indicate that the proposed used may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

**APPEAL PROCESS:**

**The appeal period ends the 6th day of July, 2017.**

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 the date 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 such as residences; garages, workshops, or other accessory structures; additions or alterations; or grading not included in the approved application or site plan will require a new application and review.

cc:

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