

COLUMBIA RIVER GORGE COMMISSION MINOR CHANGE TO A DIRECTOR'S DECISION

CASE FILE: C17-0014

MINOR CHANGE APPLICANT: Dan Johnson & Deb Lawless

ORIGINAL APPLICANT: Dan Johnson & Deb Lawless

LANDOWNER: Dan Johnson & Deb Lawless

ORIGINAL PROPOSAL: The Columbia River Gorge Commission received an application to construct a new single-family dwelling with attached garage, septic, utilities, and driveway.

MINOR CHANGE REQUEST : The same development as in the original approved Director's Decision with changes as follows :

- 1) Reconfigure dwelling floorplan

LOCATION: The subject parcel is located at 15 Smokey Ridge Road in the NE 1/4 of Section 33, Township 3 North, Range 11 East, W.M., Klickitat County Tax Lot Number 03-11-33-0000-02/00. The parcel is 2.5 acres in size.

Land Use Designation: The subject parcel is in a Special Management Area.
Note: The parcel is managed as General Management Area Small-Scale Agriculture pursuant to the provisions of Section 8(o) of the National Scenic Area Act. The proposed development is reviewed according to the applicable GMA land use and resource protection guidelines.

AUTHORITY TO APPROVE MINOR CHANGE:

This application was received and reviewed under Commission Rule 350-81. The proposed minor changes are therefore being reviewed pursuant to Commission Rule 350-81-046.

Commission Rule 350-81-046 states:

Any change to a development action approved by the Executive Director shall be processed as a new action, except that the Executive Director may approve minor changes to findings, conclusions, and conditions of approval deemed to be consistent with the guidelines of Commission Rule 350-81 and the findings and conclusions for the original action. If the Executive Director approves a minor change, the Director shall notify all of the parties that would have standing to appeal the change, including the applicant, the Forest Service, the

four Indian tribal governments, the county planning department, and anyone who submitted comments during the comment period on the original land use application. The change itself (not the original decision) would be subject to appeal under the same time frames applicable to the original decision.

MINOR CHANGE DECISION:

Based upon the findings of fact in the Staff Report for Director’s Decision C17-0014, the request for a minor change by Dan Johnson and Deb Lawless, is consistent with the purposes of the Columbia River Gorge National Scenic Area Act (Act) and the standards in Section 6 of the Act, 16 U.S.C. §§ 544(a), 544(d), the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and 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 C17-0014, 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. 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 new buildings and accessory structures, additions to existing buildings, or grading not included in the approved application or site plan will require a new application and review.
4. The size, height, design, and siting of the proposed dwelling shall occur as shown on the approved site plan, grading plan, and elevation drawings. The dwelling shall be sited at a setback of approximately 60 feet from the southern parcel boundary and approximately 80 feet from the eastern parcel boundary, as indicated in the approved site plan. Any modifications shall be submitted as part of a new application and reviewed in compliance with Commission Rule 350-81.
5. All exterior building materials, including roofing, railings, trim, and siding, shall be nonreflective or have low reflectivity. Any exterior metal materials shall be painted with low-gloss paint and maintained as necessary to ensure that the material is non-reflective. All windows shall be composed of low-reflective glass.
6. Only the approved dark earth-toned colors for exterior materials shall be used. Should changes to the approved exterior colors be proposed, new color samples shall be submitted to and approved by the Executive Director.
7. All outdoor lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible as seen from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials

8. Except as indicated on the approved site plan, all existing trees on the site shall be retained for screening purposes. All new landscaping as shown on the approved site plan shall be established, irrigated, and maintained by the applicant to ensure survival.
9. 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 and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
10. 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.
11. 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 2 day of April 2020 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 2 day of April 2022 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 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 2 day of May 2020.

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
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
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

Attachments:

Approved site plan and elevations

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the original request was mailed to property owners within 200 feet of the subject parcel and the following individuals/ agencies/ governments:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office

Washington Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Public Works Department
Klickitat County Health Department
Klickitat County Assessor
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

Written comments were received from Casey Gatz, US Forest Service; Morai Helfen, US Forest Service; and Steve McCoy, Friends of the Columbia River Gorge.

AMENDED FINDINGS OF FACT AND CONCLUSIONS AND ANALYSIS OF CONSISTENCY OF PROPOSED CHANGES: *(Note: Findings and Conclusions with changes are shown with strikethrough text indicating deletions to the original findings and underlined text indicating additions to the original findings. Original, unchanged Findings and Conclusions are not included.)*

A. Land Use

1. ~~The applicant proposes to build a new single-family dwelling, driveway, and associated utilities. The proposed building is approximately 2,600 square feet total in area. The main level is approximately 1,710 square feet with an attached covered deck of 783 square feet. The garage underneath is 890 square feet. Also proposed is a new driveway, and associated utilities.~~

The applicant proposes to build a new single-family dwelling, driveway, and associated utilities. The proposed dwelling is 2,815 square feet with attached decks adding an additional 942 square feet, for a combined total area of approximately 3,758 square feet. The first floor of the dwelling is 1,833 square feet. The lower floor is a basement garage built and is 982 square feet. The height of the building is 24 feet from the point of lowest finished grade to the highest point of the roof.

2. According to the Land Use Designation map in the *Management Plan for the Columbia River Gorge National Scenic Area*, the subject parcel is located inside the Special Management Area but is designated General Management Area Small-Scale Agriculture with an 80-acre minimum parcel size, pursuant to Section 8(o) of the Scenic Area Act.

The Forest Service received an offer from then landowner Peter Fediy for sale of the parcel on March 29, 2001. The Forest Service rated the property a high priority for acquisition but did not acquire it. The property thus became subject to the GMA guidelines on March 29, 2004. The Forest Service designated the land GMA Small-Scale Agriculture with an 80-acre minimum parcel size.

3. The parcel is in the Oak Woodlands Landscape Setting. It is mostly covered with naturally occurring grasses with a stand of ponderosa pine trees along the northern edge of the parcel and a small group of mixed ponderosa and Oregon white oak trees in the southwestern quarter. The property is generally steeper on the north end, sloping gradually toward the south, leveling out with some flatter areas more suitable for building. The proposed development site is in the southeast quarter of the parcel.

4. Commission Rule 350-81-190(1)(j) allows on lands designated Small-Scale Agriculture a single-family dwelling on any legally existing parcel, subject to consistency with guidelines for the protection of scenic, cultural, natural, and recreation resources. Commission Rule 350-81-020(112)(b) defines *parcel* as:

Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

From January 1, 1983 through May 10, 1995, land divisions in Klickitat County were subject to the "Klickitat County Subdivision and Short Platting Ordinance, As Amended." Section 4.00 of this ordinance included the following definition:

"Lot" is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts, parcels, building sites, or divisions. A lot shall be considered as all contiguous land under single ownership unless legally platted or short platted. Property bisected by a public road or river shall not be deemed contiguous.

The landowner obtained a deed history from Chicago Title Insurance Company. The lot in question was first separately described by deed on April 23, 1979 when Alvin Heany gifted the 2.5-acre parcel to Ken Heany (Book 191, Page 635). Klickitat County's minimum zoning requirements for area and dimension were enacted on April 30, 1979. Therefore, the area and dimension requirements in the above definition of "lot" did not apply to the subject parcel because it was created 7 days before Klickitat County's minimum zoning requirements went into effect.

In December 1985, Ken Heany sold the property to Herbert & Elizabeth Walker (Book 233, Page 783). In December 1987, the property was transferred from DCBL, Inc. to Weyerhaeuser Mortgage (Book 244, Page 287.) Weyerhaeuser then transferred the property to the Federal National Mortgage Company in October 1988 (Book 249, Page 236), before it was purchased by Peter Fediay and Judith Balsam (Book 249, Page 237). Mr. Fediay and Ms. Balsam owned the property for 20 years, until it was transferred to Nicholas Fediay in March 2008 (Auditor's File No. 1075747), who then sold the property to Daniel Johnson and Deborah Lawless using a Statutory Warranty Deed (Auditor's File No. 1075743). In each of those records, the legal description is for the same 2.5-acre parcel; the NW ¼ of the SE ¼ of the NE ¼ of the NE ¼ of Section 33 Range 3N, 11 East of the Willamette Meridian.

Klickitat County provided multiple deed documents from 1982 through 1986, that were fulfillment of real estate contracts from 1973. These real estate contracts included the subject parcel and larger tracts of land in the surrounding area. It is unknown why those records were recorded at the date they were, but none of the contracts of fulfillment changed the ownership or affected the parcels as they had been previously described. According to the documentation reviewed by staff, the subject parcel is legally existing, and the proposed single-family dwelling may be allowed pursuant to Commission Rule 350-81-190(1)(j).

5. Commission Rule 350-81-190(1)(l) allows for the construction of roads not in conjunction with agriculture. Construction of the proposed driveway on the subject parcel is an allowable review use, subject to compliance with the scenic, cultural, natural, and recreation resource guidelines of

Commission Rule 350-81, Sections 520 through 620. As proposed, the grade of the subject driveway is 13%.

6. Commission Rule 350-81-076(1) contains setbacks from adjacent properties for buildings on lands adjacent to parcels designated Large-Scale or Small-Scale Agriculture. This rule states:

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

The parcels adjacent to the subject parcel are also Section 8(o) properties in the GMA Small-Scale Agriculture designation. Although none of the adjacent parcels are currently used for agriculture, staff concluded that the parcels are potentially suitable for agricultural use. To determine if the adjacent lands are suitable for agricultural use, staff considered characteristics of the land, existing uses, and looked at soil data and crop production data in the Commission's natural resources database. Commission Rule 350-81-154 defines suitability as "The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership." The land portion of the site has low capability for production due to the low quality of the soil. According to the latest data provided by the Natural Resources Conservation Service in 2017, the USA Soils Farmland Class rating for the soil of the subject parcel and adjacent parcels is "Farmland of Statewide Importance." The National Commodity Crop Productivity Index (NCCPI) ranks the inherent capability of soils to produce agricultural crops without irrigation. On a scale of 0 to 1, with 1 indicating the highest capability for crop production, the NCCPI rated the soils in the area at 0.623, which indicates that the soils on the parcels have crop production potential¹.

Staff observed during site visits to the subject parcel that the adjacent parcels have similar characteristics of low tree coverage, grasses as the dominant vegetation, hilly and rocky terrain, and high exposure to wind and sun. Staff looked at other parcels in the same land use designation and same landscape setting with similar land characteristics to see what types of agricultural uses the subject parcel and adjacent parcels might be suitable for. In general, the types of agriculture found on nearby land with rocky and hilly terrain with low tree coverage, are livestock grazing, pasture, and vineyards. According to Commission rule 350-81-076, the setback requirement for livestock grazing, pasture and haying is 100 feet, and the setback required for berries and vineyards is 150 feet if the buffer between parcels is opened or fenced. Currently, the buffers between the subject parcel and the adjacent parcels to the west, south, and east are open. The parcel buffer to the north is heavily treed, and according to the table in Commission Rule 350-81-076 that outlines setback guidelines, this treed buffer to the north would be a "natural or created vegetation barrier" type buffer. The setback for this type of buffer for berries and vineyards is 50 feet. According to these guidelines, if the adjacent parcels are suitable for berries and vineyards, all new buildings on the subject parcel are subject to a 150-foot setback from adjacent parcels to the west, south, and east, and a 50-foot setback from the adjacent parcel to the north.

¹ National Commodity Crop Productivity Index version 3.0. Source: The Gridded Soil Survey Geographic (gSSURGO) Database for Washington. United States Department of Agriculture, Natural Resources Conservation Service. <https://gdg.sc.gov.usda.gov/>. (FY2018 official release).

7. Commission Rule 350-81-078 outlines variances for setbacks and buffers in the GMA to allow a residence to be built on the subject parcel. This rule states:

In the GMA, a setback or buffer specified in the guidelines for protection of scenic, cultural, natural, recreation, agricultural, or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that all of the following conditions exist:
(a) The land use designation otherwise authorizes a residence on the tract.

As described above in Finding A.5., the subject parcel is a legally existing parcel in the Small-Scale Agriculture land use designation, and Commission Rule 350-81-190(1)(j) allows a single-family dwelling on any legally existing parcel in the Small-Scale Agriculture land use designation.

(b) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer.

As proposed, the dwelling is sited approximately 200 feet from the parcel to the north, 80 feet from the parcel to the east, 60 feet from the parcel to the south, and 220 feet from the parcel to the west. The proposal places the dwelling in compliance with the 150-foot agricultural setbacks from the parcels to the north and west but requires a variance to the setbacks from the south and the east.

The applicant consulted a structural engineer, Zac Blodget of Structural Department, LLC, to determine whether the proposed site is the only site on the parcel where a residence could practicably be placed. According to Commission Rule 350-81-20(113), *practicable* is defined as "Able to be done, considering technology and cost". Mr. Blodget assessed potential building sites on the parcel, and in a written statement to the applicant concluded, "While it can be possible to develop steeper slopes, it tends to be costly due to the extra expenses of excavation and tall retaining walls as well as potential issues with foundation drainage and erosion control. Because much of your property consists of fairly steep slopes, I believe that the only feasible location for a building site is the relatively level area in the southeast corner of the property. My recommendations are illustrated on the attached drawing, S1.00: Recommended Practicable Building Placement". The site recommended by Mr. Blodget is the area where the proposed site for the dwelling is, sited at a setback of 60 feet from the southern parcel boundary and 80 feet from the eastern boundary. The drawing included in Mr. Blodget's assessment illustrates a buried water line running east-west across the parcel just north of the proposed building site. There is a 15 foot no-build easement around the water line, effectively restricting the siting of the dwelling to 15 feet north or south of the water line. The area of the parcel north of the water line has a steep slope of 20-25 percent grade. According to Mr. Blodget, development on this slope is not recommended due to the cost and complexity of the foundation on such a slope. Therefore, the recommended area for development is south of the water line. According to the topographic survey of the property, the current proposed dwelling site is the most level ground in the southwest corner of the property. The slopes to the east of the development site range from 10 to 15 percent, and the slope to the west is approximately 25 percent. To minimize the amount of grading necessary for the development, the most practicable site for the dwelling is the relatively level area where it is currently proposed.

Due to the restrictions of steep slopes to the north of the water line and the steep slopes to the east and west of the proposed site, no other site on the tract exists on which a residence could practicably be placed in full compliance with the agricultural setback of 150 feet from the parcels to the east and south.

(c) *The variance from the specified setback or buffer is the minimum necessary to allow the residence.*

As stated above, the siting of the proposed residence is restricted by the steep topography of the parcel and the no-build easement around the buried water line. The proposed development site (including the dwelling and gravel driveway) begins just south of the waterline easement. The southern edge of the proposed development extends to approximately 60 feet from the southern boundary, and 80 feet from the eastern boundary. The project site will be within the 150-foot agricultural buffer of the parcels to the south and east. However, to remain outside of the water line easement and to minimize the amount of grading activities to the maximum extent practicable, the variance to allow the dwelling to be sited 60 feet from the parcel to the south and 80 feet from the parcel to the east is the minimum variance necessary to allow the residence to be practicably sited on the parcel.

A **condition of approval** requires that the dwelling be sited at a setback of approximately 60 feet from the southern parcel boundary and approximately 80 feet from the eastern parcel boundary, as indicated in the approved site plan.

Conclusion:

The proposed single-family dwelling is an allowed review use, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources. The Commission allows for a variance to the agricultural setbacks to allow the residence to be built on the parcel.

Analysis of Consistency of Proposed Change:

These findings are hereby amended to accurately describe the proposed changes. The amended findings continue to support the conclusion that the project will be consistent with Commission Rule 350-81.

B. Scenic Resources

1. Commission Rule 350-81-520 contains scenic review guidelines for all proposed development in the GMA. 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 proposed development is to be sited on the most level area on the subject parcel. This location on the subject parcel will result in retaining topography and minimizing grading to the maximum extent practicable. The location of the proposed development will also allow for the shortest least steep driveway to the proposed dwelling, resulting in the least amount of cut and fill to the maximum extent practicable. There are no alternative sites for the new development that would better retain the existing topography or minimize grading activities to the maximum extent practicable. Conditions of approval are included in the Notice of Decision requiring that the proposed development retain existing topography and minimize grading activities to the maximum extent practicable.

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 Commission applies this guideline by comparing development within an area that it defines based on a number of factors including nearby development, land use designations, and visibility from key viewing areas. To determine compatibility of the proposed development with existing nearby development, Commission staff looked at development within a study area of an approximately one-quarter mile radius surrounding the subject parcel. Staff chose one-quarter mile as the surrounding extent because parcels within that area are in the same land use designation as the subject parcel, are within the same landscape setting, and have similar visibility from key viewing areas. Additionally, most of the parcels in the area are developed, and all of those that are developed have a single-family dwelling.

To compare the scale of the buildings within this study area, staff consulted property valuation documents from Klickitat County's records. Many of these evaluations were found in the folders of former development reviews of projects on parcels within the study area. Staff then recorded the story height and square foot size of every building on all the parcels in the study area. Of the 12 parcels in the study area, staff identified 11 parcels with development. There are currently 29 known buildings in the study area. These buildings include single-family homes, mobile homes, garages, agricultural structures, and accessory structures.

The proposed dwelling is two stories. The existing development near the subject property consists of single-family dwellings, mobile homes, agricultural buildings and accessory buildings. The buildings range in size from approximately 64 to 5,136 square feet. The nearby single-family dwellings range in size from 1,316 to 5,136 square feet. The average size of these is 2,916 square feet. The buildings are all one or two stories in height, and three of the four single-family dwellings are two stories high.

~~The overall mass of the proposed dwelling with attached garage and covered deck is approximately 3,383 square feet. The height of the dwelling ranges from approximately 13 to 24 feet high from the finished grade. The lower level is an 890 square foot garage, the main level is approximately 1,710 square feet, and the attached, covered deck is 783 square feet. There are three other buildings that are similar in size, between 2,400 and 3,000 square feet, and one building, at 5,136 square feet, that is larger than the proposed dwelling. The general scale of the dwelling—including the square footage and the height—is compatible with the general scale of existing nearby development, consistent with Commission Rule 350-81-520(1)(b).~~

The proposed dwelling has a visible mass of approximately 2,423 square-feet and is 24 feet tall. The first floor of the dwelling space is 1,833 square feet and covered deck space is 99 square feet. The dwelling has a 9-foot tall garage under the footprint of the house comprising 982 square feet which counts as ½ of the visible mass. The uncovered deck space is 843 sq. ft. and is not considered part of the visible mass of the building. The visible mass of the proposed development is compatible with existing development in the vicinity and consistent with Commission Rule 350-81-520(1)(b).

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

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

As shown on the approved site plan, the applicant proposes to plant new vegetation in the southeast corner of the subject parcel. Finding B.8 below explains that this new vegetation is

required as a secondary screening measure. As stated in the project application, the applicant plans to irrigate all new plants by hand until they become established.

A **condition of approval** requires the applicant to establish and maintain new plantings indicated on the approved site plan included to ensure the survival of plants consistent with this rule.

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

The site plan and application shall include all information required in the site plan guidelines in "Review Uses" 350-81-032(5).

The applicant provided an application form, project description, site plan, elevation drawings, and grading plan with the required elements, consistent with Commission Rule 350-81-032(5).

5. Commission Rule 520-81-520(1)(e) states:

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

A discussion of the proposed development's compatibility with the landscape setting is found in Findings B.18-21 below, where this report discusses Commission Rule 350-81-520(3), guidelines for compatibility with the landscape setting.

6. Commission Rule 350-81-520(2) contains guidelines for proposed developments on sites topographically visible from key viewing areas (KVAs). Commission Rule 350-81-520(2)(b) states:

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

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

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

To determine the topographical visibility of a site from key viewing areas, Commission staff first uses a Composite Seen Areas dataset—a mapping tool that indicates areas potentially visible from key viewing areas. This data indicates that part of the subject parcel may be visible from Rowena Plateau, the Columbia River, Cook-Underwood Road, the Historic Columbia River Highway, State Route 14, Interstate 84, State Route 142, and Highway 35. Staff conducted site visits to the subject property and to key viewing areas to make observations and used Google Earth mapping tools to ground truth the mapping tool information. Based on observations made in the field, staff concluded that the development site is topographically visible from two KVAs: Interstate 84 (I-84) and the Historic Columbia River Highway (HCRH). Thus, the guidelines of Commission Rule 350-81-520(2) are applicable.

Interstate 84 is the nearest KVA at approximately 1.3 miles at its nearest point to the development site. The site is visible from I-84 for a linear distance of approximately 2 miles. I-84 is approximately 1,200 feet lower in elevation than the development site, allowing for

existing topographical features and vegetation on the subject parcel to screen much of the proposed development from view. With the retention of existing on-site trees and the use of dark earth-tone colors and non-reflective materials on the exterior of the dwelling, the proposed development will be visually subordinate as seen from this KVA.

The HCRH is approximately 1.5 miles from the subject parcel and is approximately 900 feet below the development site in elevation. The new development would be topographically visible from this KVA for a linear distance of approximately 4 miles, however existing topography and trees along the HCRH and existing topography and trees on the subject parcel screen the proposed development site from view for much of this linear distance. With the retention of existing on-site trees and the use of dark earth-tone colors and non-reflective materials on the exterior of the dwelling, the proposed development will be visually subordinate as seen from this KVA.

Based on the distance between the proposed development and the KVAs, existing on-site vegetation and the retention of this vegetation, the use of staff-approved dark earth-tone colors and non-reflective exterior building materials, the proposed development will blend well with the surrounding landscape and be visually subordinate as seen from the HCRH and I-84 KVAs.

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.

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

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

As seen from key viewing areas, the subject parcel is in an area where existing one-story homes and accessory buildings are visible on other parcels. Contours in the topography of the area and existing stands of oak and pine trees serve to partially screen these buildings, making them visually subordinate from KVAs. As discussed in the findings above about visual subordination of the proposed dwelling, the distance from KVAs, use of exterior building materials and colors that blend with the landscape, existing topography, and the retention of existing vegetation will ensure the proposed development will not cause adverse impacts to scenic resources as viewed from key viewing areas. These aspects are necessary to ensure the proposed dwelling will have no cumulative effects on scenic resources.

To determine cumulative effects, staff analyzed the existing development and development potential of the subject parcel and the four parcels adjacent to the subject parcel. This area, which totals approximately 40 acres, was defined because all the parcels are Section 8(o) properties within the SMA and managed as GMA land, which contains different development standards from other nearby SMA lands. The parcels are also all within the Oak-Pine Woodland landscape setting, which means that all new development in the area is subject to the same design guidelines.

Commission Rule 350-81-190(1) allows accessory buildings on parcels in the Small-Scale Agriculture land use designation, including agricultural structures and buildings, subject to limits on the combined area of the accessory buildings on any one parcel, and no individual building shall exceed 24 feet in height. On parcels less than or equal to 10 acres, the combined footprints of all accessory buildings may not exceed 1,500 square feet. On parcels larger than 10 acres, the combined footprint of all accessory buildings may not exceed 2,500 square feet. Of the parcels in the area, four are under 10 acres and one is over 10 acres. On the 20-acre adjacent parcel to the west, which already has five accessory buildings, additional accessory buildings are allowed up to a total of 785 square feet. The parcel to the north of the subject parcel has no accessory buildings and is allowed up to 1,500 combined square feet. The parcel to the east has two accessory buildings, with a remaining allowed accessory building area of up to 956 square feet. The parcel to the south has two accessory buildings and is allowed an additional 860 square feet in accessory building area. The subject parcel, which does not currently have any accessory buildings, is allowed 1,500 square feet of combined footprint area in accessory buildings.

The design guidelines for the Oak-Pine Woodland landscape setting in the GMA recommend that development be clustered and sited to maximize screening of existing topography and vegetation, to retain the character of the setting. If new accessory buildings were built in a similar manner to the proposed dwelling, there would be no cumulative effects to scenic resources. By using existing topography and vegetation, a design that fits with the landscape setting, and exterior materials that are dark, earth-toned, and low- or non-reflective, and by locating the structures in areas screened by existing development, there will be no significant increase in visibility of the new development.

With compliance with the conditions of approval in this report, the proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).

8. Commission Rule 350-81-520(2)(d) addresses visual impacts of the proposed development from KVAs. It states that conditions of approval to achieve the visually subordinate standard shall be proportionate to its potential visual impacts as seen from KVAs and lists the factors.

The proposed dwelling is sited to blend well with the surrounding landscape and achieve visual subordination. The dwelling is partially screened from KVAs to the south by existing topography on the subject parcel. It is situated in a low point between the steep slope running from the north end of the parcel and a knoll at the south end of the parcel. The dwelling is sited below a significant contour to the north, ensuring that the dwelling will not break the skyline as viewed from KVAs. The knoll to the south protrudes between the proposed dwelling and the KVAs to the south. The driveway is also screened by existing topography and is sited so that cut and fill slopes are not clearly visible. As proposed, staff determined that the development site will only be visible from two KVAs.

The HCRH is the KVA from which the building site will be most visible. Based on analysis of the site plans and elevation drawings submitted and observations made during site visits, staff estimates that from points along the HCRH where the dwelling is visible, only the top one-third of the dwelling will be visible, with the bottom two-thirds of the dwelling screened by topography on the south end of the parcel. From I-84, which runs parallel to the north of the HCRH, but is approximately 300 feet lower in elevation, the proposed dwelling is almost entirely screened from view by existing topography. Staff estimates that less than 1/4 of the dwelling will be visible at any

given point along the linear distance of I-84. The distance between the subject parcel and both the HCRH and I-84 is over one mile away. At this distance, the fraction of the proposed development that is unscreened will be barely visible because of the dark earth-toned colors and non-reflective materials. The clerestory windows near the top of the dwelling will be well shaded by the 6-foot eaves overhanging the windows on the south side of the house. By siting the dwelling behind a contour in the existing topography and by using dark, earth-toned, and low or non-reflective materials, the dwelling will be visually subordinate as viewed from key viewing areas.

A **condition of approval** requires that the dwelling be sited at a setback of 60 feet from the southern parcel boundary, as indicated in the approved site plan.

Existing vegetation minimizes the visual impacts of the dwelling when viewed from the HCRH and I-84 from the linear distance between the Hood River Urban Area boundary and the Wasco County line. The proposed dwelling is sited just east of a row of mature ponderosa pine trees on the subject parcel. The height of the proposed dwelling, which ranges from 13 feet to 24 feet from finished grade, will not exceed the height of the existing trees, which are approximately 30-50 feet in height. These trees effectively screen the entire development from view from the KVAs west of the Wasco County line. The applicant proposes to use new landscaping to minimize visual impacts of the dwelling when viewed from the KVAs from the area east of the Wasco County line to the Mosier Urban Area boundary. Commission staff approved the planting plan submitted by the applicant, finding the existing and proposed plantings to be sufficient in adding to the dwelling's visual subordination when viewed from KVAs.

A **condition of approval** requires that all existing trees on the site be retained, and new landscaping be maintained by the applicant.

The proposed dwelling is designed to blend well with the surrounding landscape. Following the design guidelines of the Oak-Pine Woodland landscape setting, the dwelling height is below the canopy of trees in the surrounding landscape and has a horizontal overall appearance. The south side of the dwelling is one story, measuring approximately 13-16 feet tall from the finished grade. As described above, much of this side of the dwelling will be screened from view at KVAs by existing topography. The east side of the dwelling is approximately 24 feet high from the finished grade, due to a natural slope in the topography. This side of the dwelling is not visible from KVAs. The main level of the dwelling, including the covered deck, has a footprint of ~~2,493 square feet~~ 2,932 square feet. The shed roof angles away from KVAs to the south, and the roof line is below the average tree canopy height. Eaves on all sides of the dwelling are designed to shade and partially screen exterior windows. On the west and east sides of the dwelling have 3-foot eaves, and the south-facing side of the house has 6-foot eaves. The proposed windows for the dwelling are low-reflectivity glass, with an external reflectivity rating of 11%. The shed roof of the dwelling is flat and angled away from key viewing areas and will not be visible from KVAs. All exterior materials of the dwelling are non-reflective or have low reflectivity and are staff-approved dark earth-toned in colors, as described in Finding 12 below.

A **condition of approval** requires the dwelling be built as specified in the approved site plan and elevations. Any modifications to the design or site plan of the dwelling shall be re-submitted to the Commission for approval.

A **condition of approval** requires all proposed exterior building materials, such as roofing and siding, to 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 at or below 11%).

Conclusion: The conditions for design, siting, materials, and color are proportional to the potential scenic impacts. The topographic visibility of above ground development from key viewing areas is limited due to the siting of the dwelling and the use of colors that blend with the landscape and vegetative screening help ensure the development will be visually subordinate as viewed from key viewing areas.

9. Commission Rule 350-81-520(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 practicable.

The proposed dwelling is sited at a low part of the subject parcel and is partially screened by existing vegetation. The dwelling is sited below a significant natural slope with mature trees upslope of the site so that the dwelling roof does not break the skyline as seen from key viewing areas.

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

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

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).

As described in Finding B.8 above, the siting of the dwelling takes advantage of existing topography as a preferred method of screening. The dwelling is also sited to take advantage of existing vegetation that helps screen the dwelling from KVAs to the southwest. The existing small grouping of ponderosa pines are being retained to achieve the Oak-Pine Woodland Landscape Setting characteristic of residences in grassy, open areas being partly screened with trees in small groupings.

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.

As Stated in Finding 9 above, the proposed dwelling is sited below a significant slope and will not break the skyline.

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

The applicant provided samples for the proposed exterior material colors. Staff approved those colors that are consistent with the dark earth-tones found at the site and surrounding landscape and with the recommendations provided in the Building in the *Scenic Resources Implementation Handbook*. The approved colors for the siding of the dwelling are 'Teak' Timber Pro stain and 'Ebony' or 'Tiger' Shou Sugi Ban treatment. The list of acceptable colors for the exterior fiber cement panels are: 'Moss Glen' (H0100N); 'Brattle Spruce' (H0098N); 'Sayward Pine (H0101N); and 'November Storms' (0543) from Miller Paint. The approved window trim color is 'Dark Bronze' from Andersen Windows and Doors. The acceptable colors for the roof are the low gloss 'Weathered Copper' (W50) and 'Felt Green' (W66) from Metal Sales Manufacturing Corp. The approved color for the proposed composite decking is 'Coffee' by Cali Bamboo.

A **condition of approval** requires that only the above approved earth-toned colors for exterior materials be used.

13. 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... Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination.

The exterior of the proposed dwelling will be composed of non-reflective wood and cement siding, and windows with low reflectivity. The applicant proposes to use low-e windows with an external reflectivity rating of 11%. The windows are all less than 50 square feet of continuous glass, as recommended in the *Scenic Resources Implementation Handbook*.

14. 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, consistent with Commission Rule 350-81-520(2)(n).

15. 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 proposes four lights on the south side of the house, and one on each of the north, east, and west sides. The proposed lighting is hooded and shielded and approved by the International Dark Skies Association.

A **condition of approval** requires that lighting will be hooded and shielded, and the shielding and hooding materials composed of non-reflective, opaque materials.

16. 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 proposed dwelling and driveway are sited to minimize the amount of grading and visibility of cut banks and fill slopes. The dwelling is sited in a low point of the property, on the backside of a knoll that sits on the southeastern corner of the property. According to the structural engineer's report discussed in Land Use Finding A.8.A. above, the dwelling is sited on the area of the property that would require the least amount of cutting and filling. The driveway leading up from Smokey Ridge Road to the dwelling is the shortest and most direct route to the dwelling and following the natural contour of the land, therefore requiring the least amount of grading. Both the dwelling and the driveway are sited behind the knoll on the south end of the property which helps to screen most of the development from view from KVAs to the south.

17. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas to include a grading plan. The proposed development involves more than 200 cubic yards of grading. The applicant prepared a grading plan on September 27, 2017. The map of the site-plan included existing and proposed final grades, the locations of the areas to be graded, and estimated dimensions of all graded areas, consistent with Commission Rule 350-81-520(2)(aa).

18. Commission Rule 350-81-520(3) contains guidelines that pertain to the landscape setting. The subject parcel is in the Oak-Pine Woodland landscape setting. Commission Rule 350-81-520(3)(c) contains standards for new development in the Oak-Pine Woodland Landscape Setting.

19. 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 development is sited near a cluster of ponderosa pine trees that range from approximately 30-50 feet tall. According to the elevation drawings submitted by the applicant, the maximum height of the proposed structure from the lowest grade is 24 feet from the ground. The existing trees on the parcel are all located at higher elevations than the lowest finished grade surrounding the dwelling, which ensures that even the shortest of the trees at approximately 30 feet will be significantly taller than the tallest point of the dwelling. The proposed dwelling will not exceed the canopy level of existing trees on the parcel.

20. Commission Rule 350-81-520(3)(c)(B) contains guidelines for development in the Oak-Pine Woodland setting on sites visible from key viewing areas. 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.

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.

The applicant proposes to plant clusters of native plants at the southeastern corner of the property as a secondary screening measure. The proposed plants are three ponderosa pine trees, three ceanothus, and two wild roses. The ponderosa pine are coniferous and native species to the setting.

21. For treeless portions or portions with scattered tree cover, Commission Rule 350-81-520(3)(c)(B)(iv) states:

Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

Commission Rule 350-81-520(3)(c)(B)(v) states:

Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

Much of the subject parcel is treeless, including the site of the proposed dwelling. As stated in Finding B.8 above, the proposed dwelling is sited to take advantage of existing topography as the primary form of screening to make the development visually subordinate when viewed from key viewing areas. The plantings proposed by the applicant as a secondary form of screening are a mix of trees and shrubs and are arranged in small groupings with openings between groupings.

Conclusion:

With conditions, the proposed development as described in the applicant's project narrative, site plan, and grading plan will not cause adverse impacts to scenic resources in the National Scenic Area. The proposed development is consistent with Commission Rule 350-81-520(2)(c).

Analysis of Consistency of Proposed Change:

These findings are hereby amended to accurately describe the proposed changes. The amended findings continue to support the conclusion that the project will be consistent with Commission Rule 350-81-520.

C. Cultural Resources

1. The Heritage Resources Program Manager for the Columbia River National Scenic Area, Marge Dryden, reviewed the development proposal and submitted a Cultural Resources Survey Determination to the Gorge Commission on January 12, 2017. Based on information in the National Scenic Area records and inventories and the requirements of the Gorge Commission's Land Use Ordinances, Ms. Dryden determined that a Cultural Resource Reconnaissance Survey is not required, and a Historic Survey is not required.

While reviewing the minor change request, Gorge Commission staff consulted with Chris Donnermeyer, U.S. Forest Service Archeologist Heritage Program Manager on March 31, 2020. After consultation, staff concluded the original Survey Determination was still applicable to the proposed development; a Reconnaissance Survey and Historic Survey are not required.

2. Commission Rule 350-81-540(1)(c)(A)(i) states, “A reconnaissance survey is required for all proposed uses within 500 feet of a known cultural resource.”

As confirmed by the Cultural Resources Survey Determination, the proposed development will not occur within 500 feet of a known cultural resource. This rule does not apply.

3. Commission Rule 350-81-540(1)(c)(A)(ii)(V) does not require a reconnaissance survey for projects that have been adequately surveyed in the past.

The proposed use will occur on a site that has been adequately surveyed in the past, as confirmed by the Cultural Resources Survey Determination.

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

A **condition of approval** implementing this requirement if cultural resources are discovered is included in this decision.

5. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction.

A **condition of approval** requiring adherence to these measures if human remains are discovered is included in this Director’s Decision.

Conclusion:

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

Analysis of Consistency of Proposed Change:

This finding is hereby amended to accurately describe the proposed changes. The amended finding continues to support the conclusion that the project will be consistent with Commission Rule 350-81-540.

D. Natural Resources

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

Commission inventories show that there are no wetlands, streams, ponds, lakes, riparian areas, or their buffer zones on the subject parcel. The proposed development is consistent with Commission Rule 350-81-560 and 570.

2. Commission Rule 350-81-580 contains criteria for the review of potential impacts to sensitive wildlife.

The Gorge Commission's sensitive wildlife inventory shows the development site is located within Deer and Elk Winter Range, a sensitive wildlife area defined by Commission Rule 350-81-580(1)(a)(A); no other sensitive wildlife area exists within 1,000 feet of the development site.

3. Commission Rule 350-81-580(4)(a) requires the Gorge Commission to notify the Washington Department of Fish and Wildlife and submit a site plan when a new development or land use is proposed within a sensitive wildlife area.

Commission staff notified Washington Department of Fish and Wildlife of the proposed development and sent a copy of the site plan. On August 7, 2018, Commission staff received an email from Amber Johnson, Habitat Biologist for the Washington Department of Fish & Wildlife, stating that she has no concern about adverse impacts of the proposed development on deer and elk winter range. The new development poses no new adverse effects to the sensitive wildlife area and is consistent with Commission Rule 350-81-580.

4. Commission Rule 350-81-580(4)(c) states that the wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency determine that either the site or area is not active, or the use would not compromise the integrity of the site.
As described above, through consultation with the state wildlife agency, it was determined that the proposed use would not compromise the integrity of deer winter range, consistent with Commission Rule 350-81-580(4)(c).
5. Commission Rule 350-81-590 contains provisions for the protection of rare and sensitive plants. The Gorge Commission's sensitive plant inventory does not show any sensitive plant sites within 1,000 feet of the proposed development. Therefore, this rule is not applicable.

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 near, 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.

F. Treaty Rights Protection

1. Commission Rule 350-81-084(1) provides protection of Tribal treaty rights from new development in the National Scenic Area. Commission Rule 350-81-084(1)(a) lists additional notice materials for

projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments.

The subject parcel 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 March 29, 2018. The notice included a comment period of 21 days.

2. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments.

No comments from tribal governments were received. Given this information, the proposed dwelling 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."

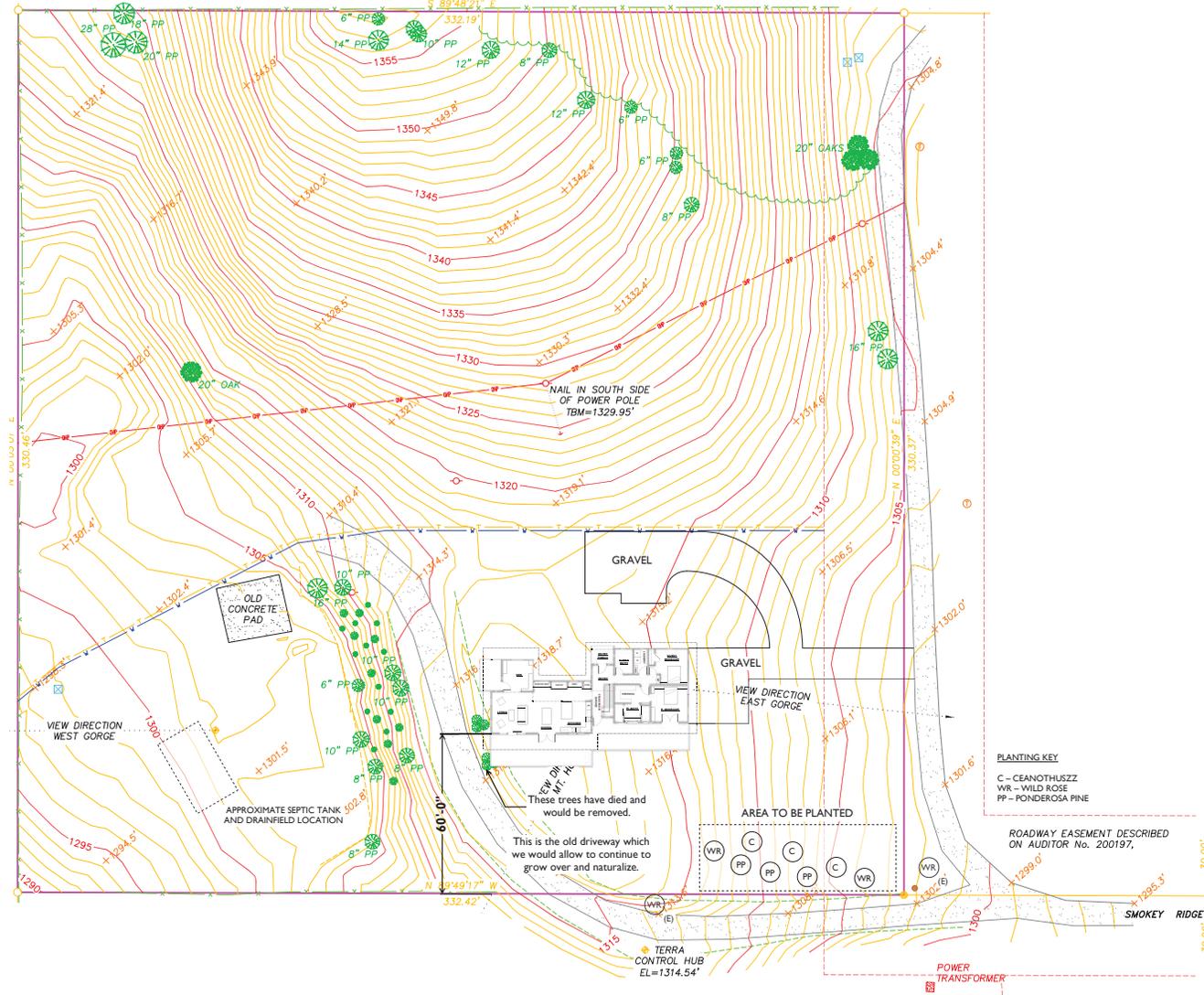
The subject parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any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

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.

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APPROVED

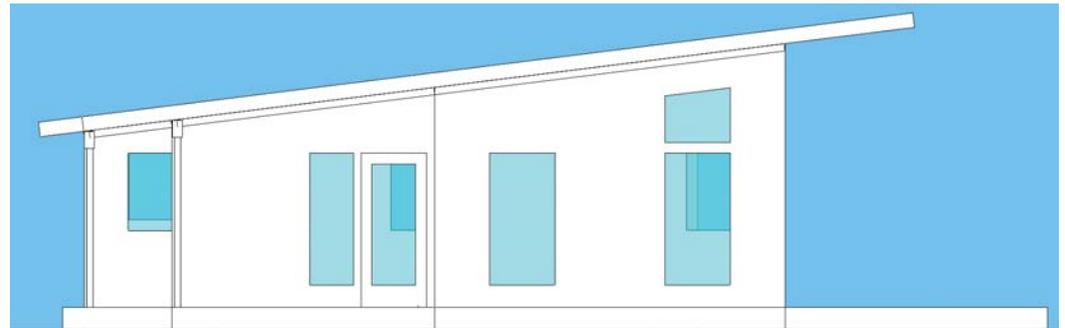


APPROVED



SOUTH ELEVATION

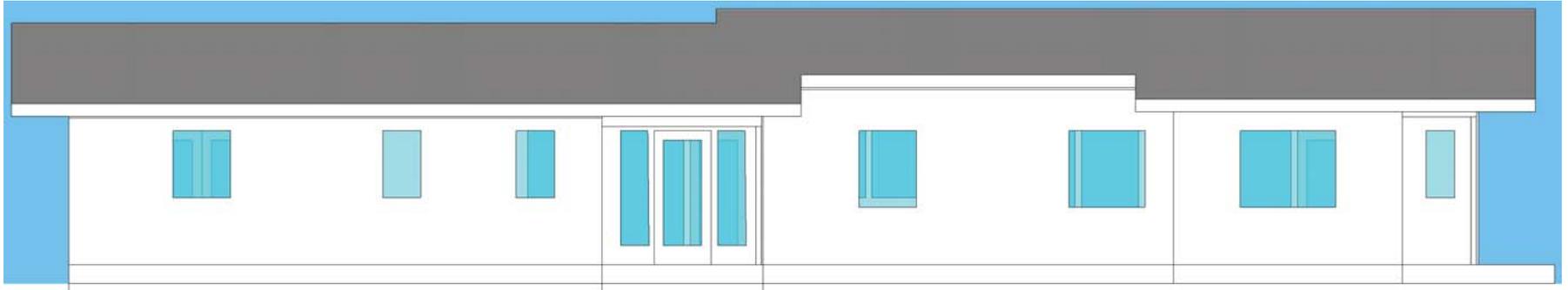
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WEST ELEVATION

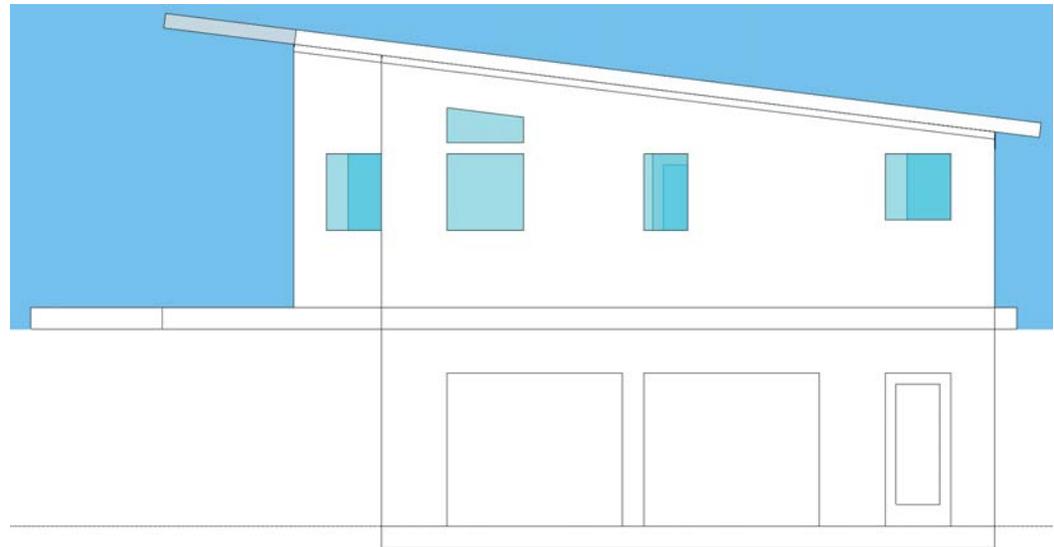
DRAWING SCALE: 1/4" = 1'-0"

APPROVED



NORTH ELEVATION

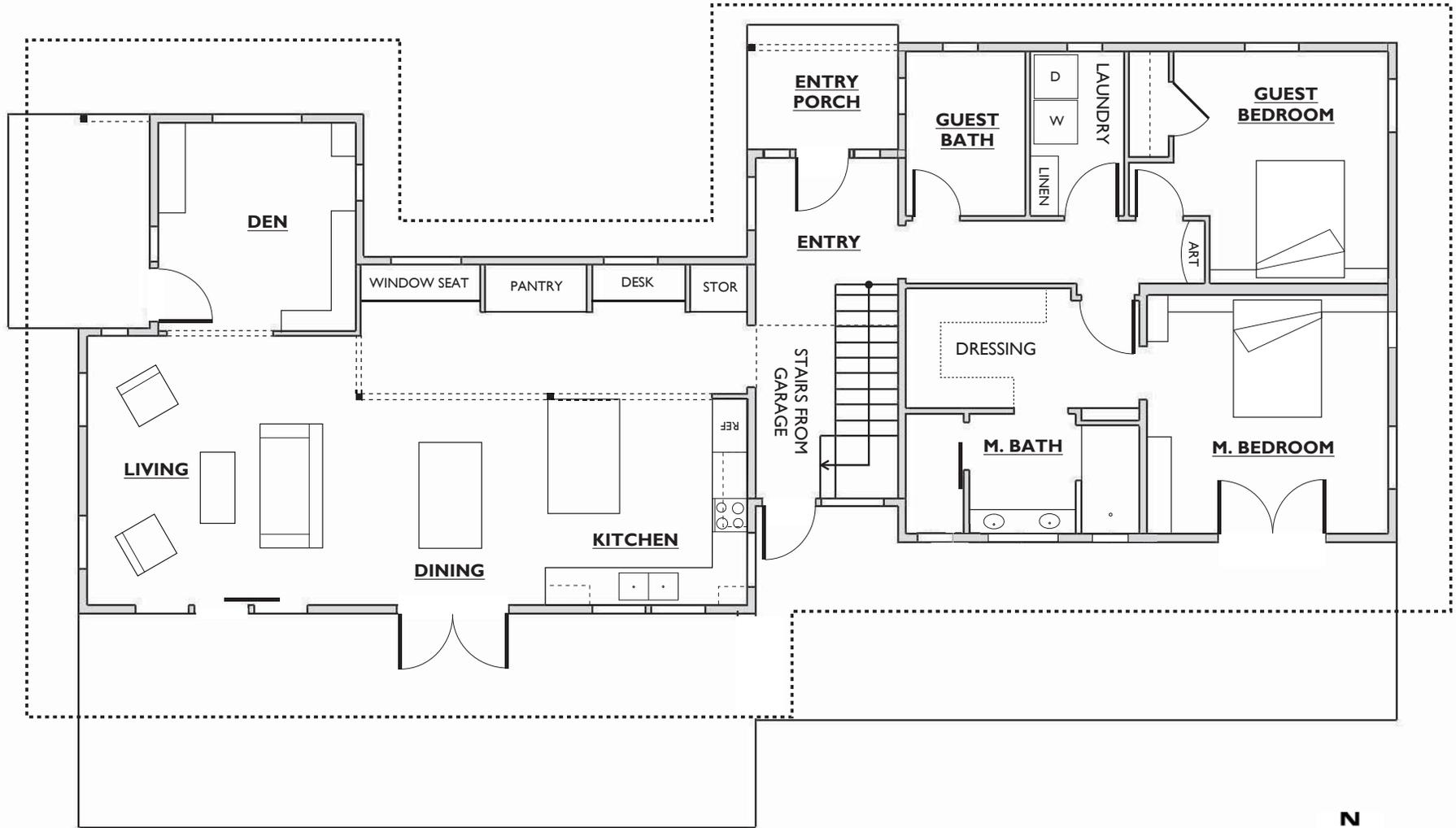
DRAWING SCALE: 1/4" = 1'-0"



EAST ELEVATION

DRAWING SCALE: 1/4" = 1'-0"

APPROVED



LAWLESS-JOHNSON RESIDENCE
CURRENT VS. PREVIOUS DESIGN PROPOSAL COMPARISON
FOR THE COLUMBIA RIVER GORGE COMMISSION REVIEW
SD • PACKAGE 5 • 02/04/2020

MAIN FLOOR PLAN



DRAWING SCALE: 1/4" = 1'-0"

APPROVED

