

## DIRECTOR'S DECISION

- Proposal:** The Columbia River Gorge Commission received an application for a land division; lot line adjustment; improvements to an existing dwelling including roof replacement and 156 square foot addition to the dwelling; new 1,432 square foot garage, new 176 square foot deck; new 512 square foot swimming pool, and repair and replacement of an existing retaining wall.
- Applicant:** David Sauter
- Landowner:** David Sauter
- Location:** The subject parcel is located at 365 Old Highway 8, Lyle, WA, in Section 30, Township 3 North, Range 12 East. Klickitat County Parcel Numbers 03123000000400, 03123000001100, 03122900001700, 03122900001800, 03122900002500, and 03122900000600.
- Case File:** C17-0011
- Land Use Designation** The subject properties are designated Agriculture in the Special Management Area (SMA) and Small-Scale Agriculture in the General Management Area (GMA).

### DECISION:

Based upon the findings of fact in the Staff Report for Director's Decision C17-0011, the land use application by David Sauter for a land division; lot line adjustment; improvements to an existing dwelling including roof replacement and 156 square foot addition to the dwelling; new 1,432 square foot garage, new 176 square foot deck; new 512 square foot swimming pool, and repair and replacement of an existing retaining wall 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 C17-0011, 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. The applicant shall complete the land division and lot-line adjustment through the necessary state and local processes. Because the proposed detached garage is only allowed after the land division and lot-line adjustment are completed, the applicant shall complete these processes prior to construction of the proposed detached garage.
5. The size, height, design, and layout of the proposed roof, addition, garage, and other improvements shall occur as shown on the approved site plan, floor plan, and elevation drawings, unless otherwise allowed as part of a new application and reviewed in compliance with Commission Rule 350-81.
6. The approved colors of the exterior of the buildings are dark brown-stained wood siding and black roofing. Should changes to the approved exterior colors be proposed, new color samples will need to be submitted to and approved by the Executive Director. Only dark earth-tone colors that are present at the site, and would help the building blend into the landscape, may be used.
7. Exterior building materials approved as part of this application include brown-stained wood siding and trim and black roofing. 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 Executive Director, unless otherwise deemed consistent with those approved by this review.
8. All proposed building materials, such as roofing and siding, shall be nonreflective or have low-reflectivity and all windows facing key viewing areas shall be composed of low-reflective glass (*i.e., glass with a light reflectivity rating around 11%*).
9. Except as otherwise allowed, all existing screening trees located on the subject parcel shall be preserved and protected from damage. No trees shall be removed or limbed as part of this project unless determined ahead of time by the Executive Director as needing to be removed for safety purposes. Any such authorization shall be received in writing from the Executive Director before any trees are removed.
10. 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 a revised site plan and submit the proposed design and placement of the lights to the Executive Director for review and approval to ensure consistency with Commission Rule 350-81-530(2)(m).
11. 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](mailto: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.

12. 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.

DATED AND SIGNED THIS 2 day of November 2017 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 2ND day of November 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 2nd day of December 2017.***

The decision of the Executive Director shall be final unless a Notice of Appeal 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.

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

**Attachments:**

Staff Report for C17-0011  
Approved site plan

SAUTER

PARCEL # 03-12-3000001100 14.84 AC W/L  
1" = 40'



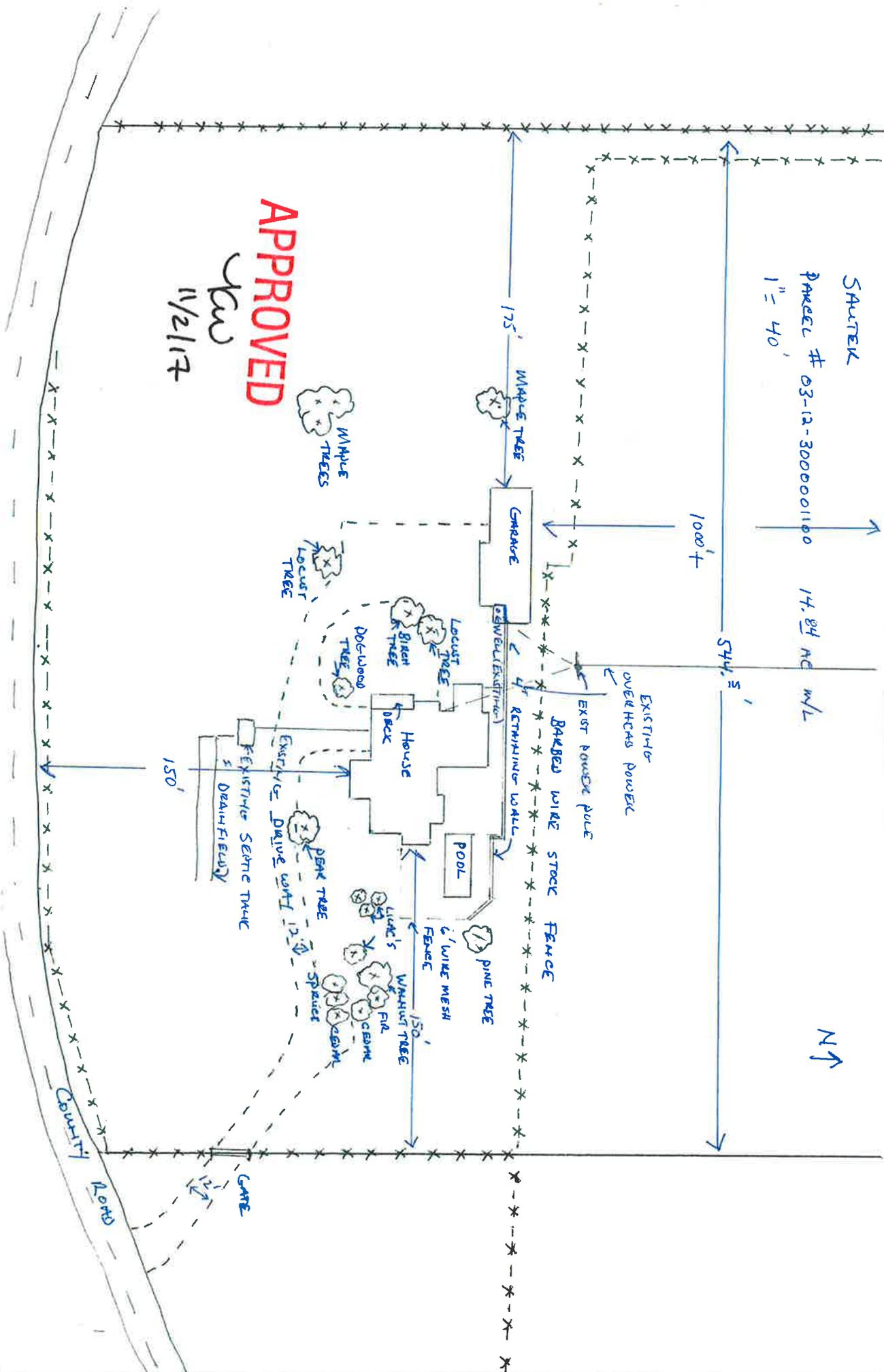
1000'

544.5'

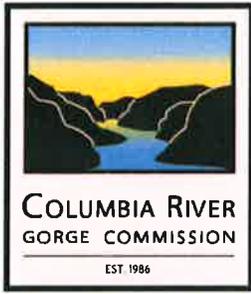
175'

**APPROVED**

YCW  
11/2/17







## STAFF REPORT

**Proposal:** The Columbia River Gorge Commission received an application for a land division; lot line adjustment; improvements to an existing dwelling including roof replacement and 156 square foot addition to the dwelling; new 1,432 square foot garage, new 176 square foot deck; new 512 square foot swimming pool, and repair and replacement of an existing retaining wall.

**Applicant:** David Sauter

**Landowner:** David Sauter

**Location:** The subject parcel is located at 365 Old Highway 8, Lyle, WA, in Section 30, Township 3 North, Range 12 East. Klickitat County Parcel Numbers 03123000000400, 03123000001100, 03122900001700, 03122900001800, 03122900002500, and 03122900000600.

**Case File:** C17-0011

### Land Use

**Designation** The subject properties are designated Agriculture in the Special Management Area (SMA) and Small-Scale Agriculture in the General Management Area (GMA).

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

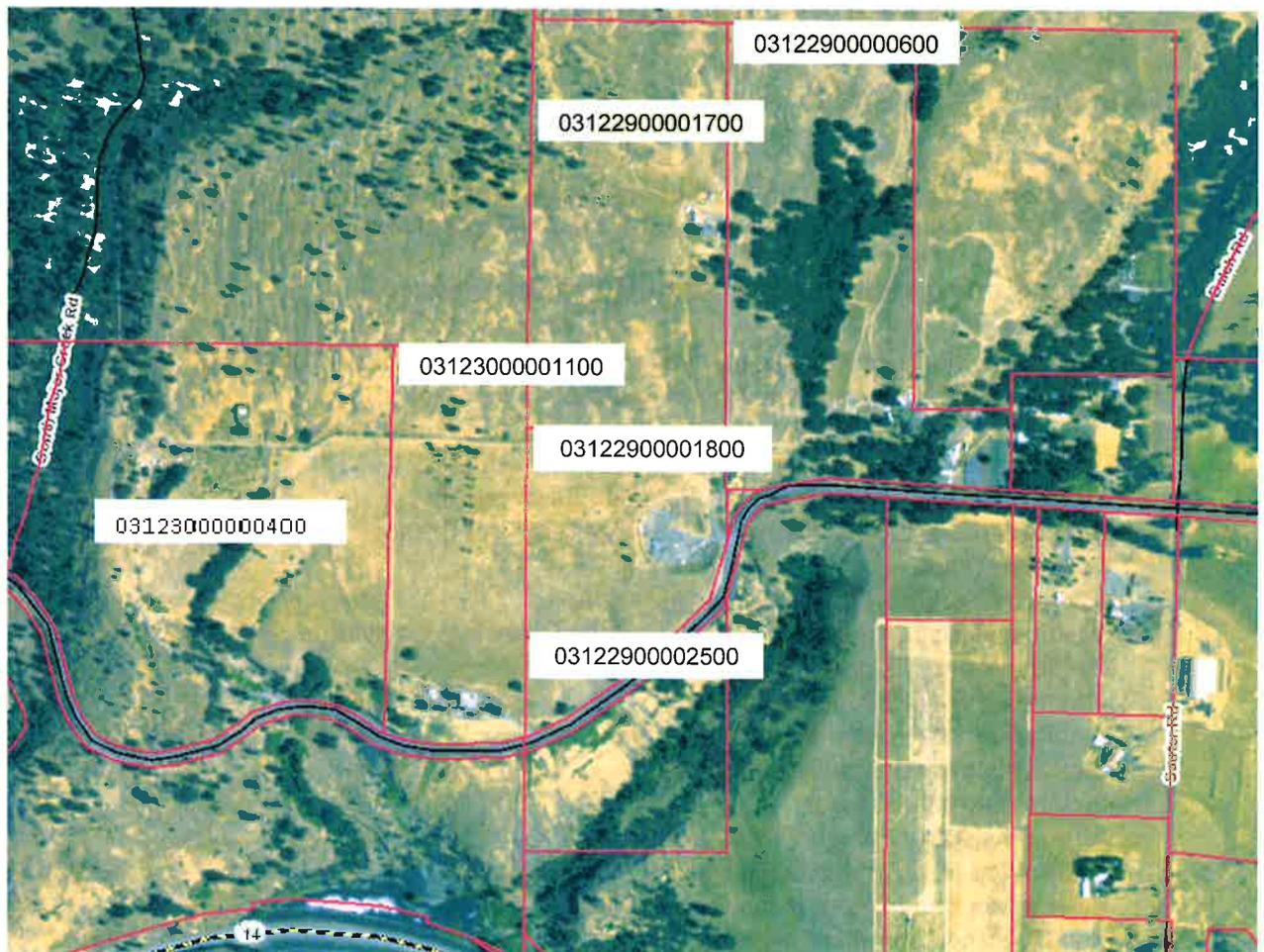
Written comments were received from the following parties:  
Marge Dryden, U.S. Forest Service, National Scenic Area  
Steve McCoy Friends of the Columbia River Gorge

The comments received are addressed in the following findings of fact.

**FINDINGS OF FACT:**

**A. Land Use**

1. The subject land is in a Special Management Area (SMA) and the general management area (GMA). The SMA land is designated Agriculture and the GMA land is designated Small-Scale Agriculture. There is no minimum parcel size for the SMA land (see finding A.6 below); the GMA land has a minimum parcel size of 80 acres.
2. Klickitat County records indicate that the subject land is six distinct parcels as shown in Figure 1 below: parcel 03123000000400, parcel 03123000001100, parcel 03122900001700, parcel 03122900001800, parcel 03122900002500, and parcel 03122900000600.



**Figure 1: Klickitat County Parcels**

3. Columbia River Gorge Commission records, however, indicate that all of these parcels are only parts of a larger 162.4-acre parcel as shown in Figure 2 below. See Commission File C91-0194.

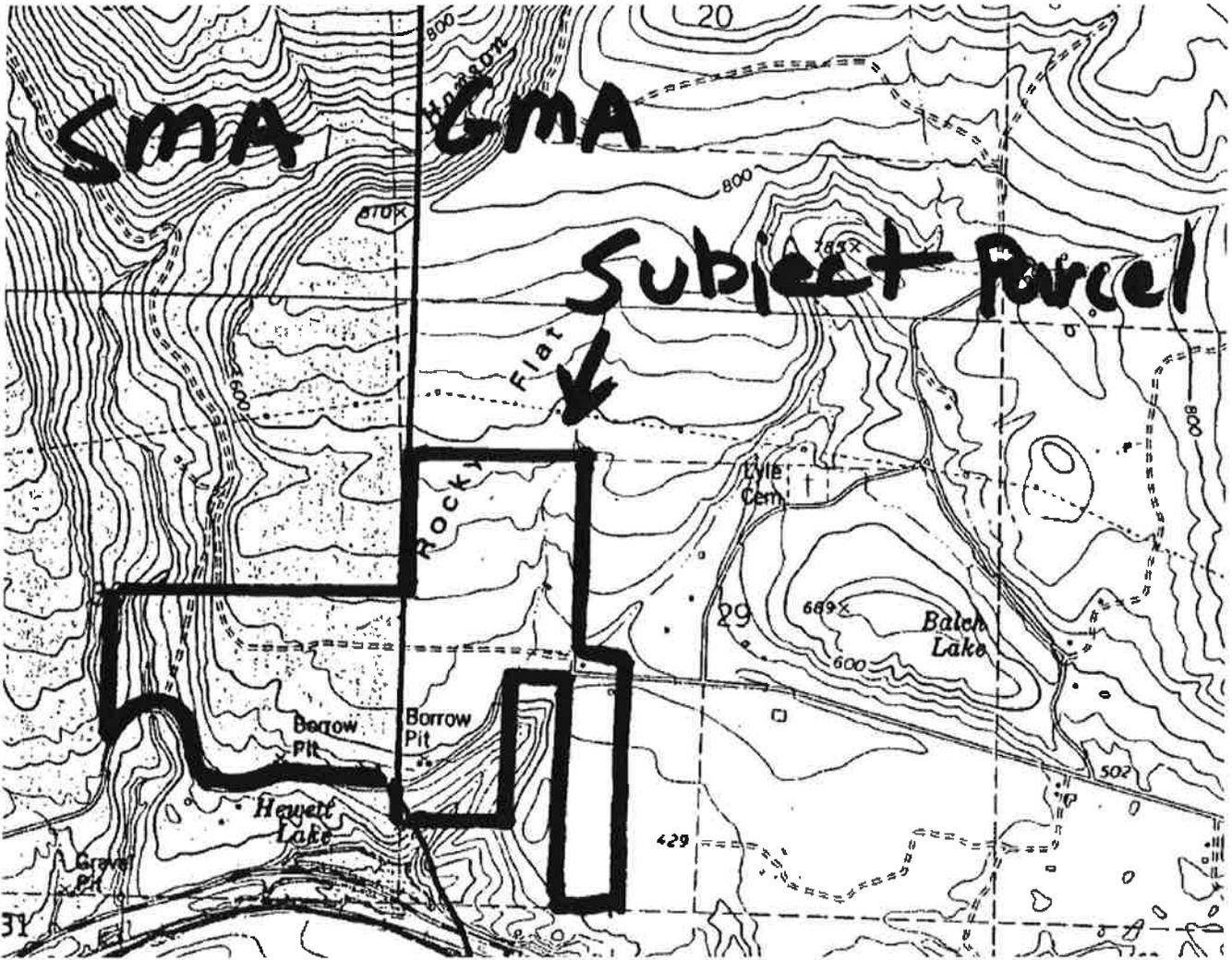
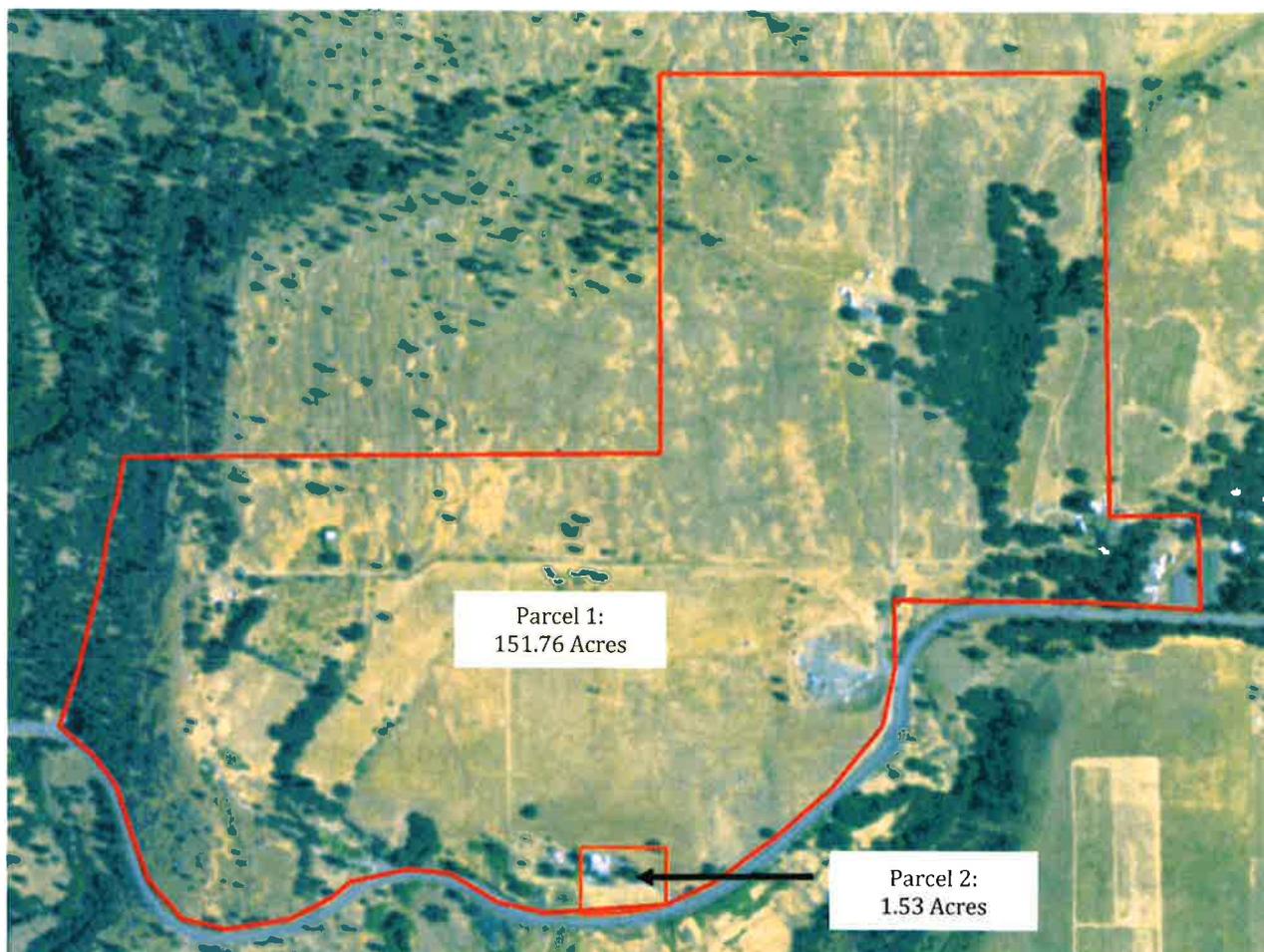


Figure 2: Map of the subject parcel from Commission File C91-0194.



**Figure 3: Columbia River Gorge Commission Parcels**

4. Commission file C91-0194 describes why the Executive Director concluded that the subject land is one parcel, but does not describe how he derived the 162.4-acre calculation in Figure 2.<sup>1</sup> There is no acreage information for these parcels on recorded deeds, and no surveys were found.
5. Further research of the deed history for the property conducted by current Gorge Commission staff revealed that a small portion of the single parcel identified in 1991 encompassing an area around the applicant's current home is actually a separate legal parcel. Hence the Executive Director believes there are two legal parcels located in the area of the applicant's proposal. None of the relevant deeds include parcel size information, so staff calculated the size of the two parcels as 151.76 acres and 1.53 acres using current GIS software. These figures will be used for this decision. Subsequent surveys or other new information may change these calculations for future land use applications.

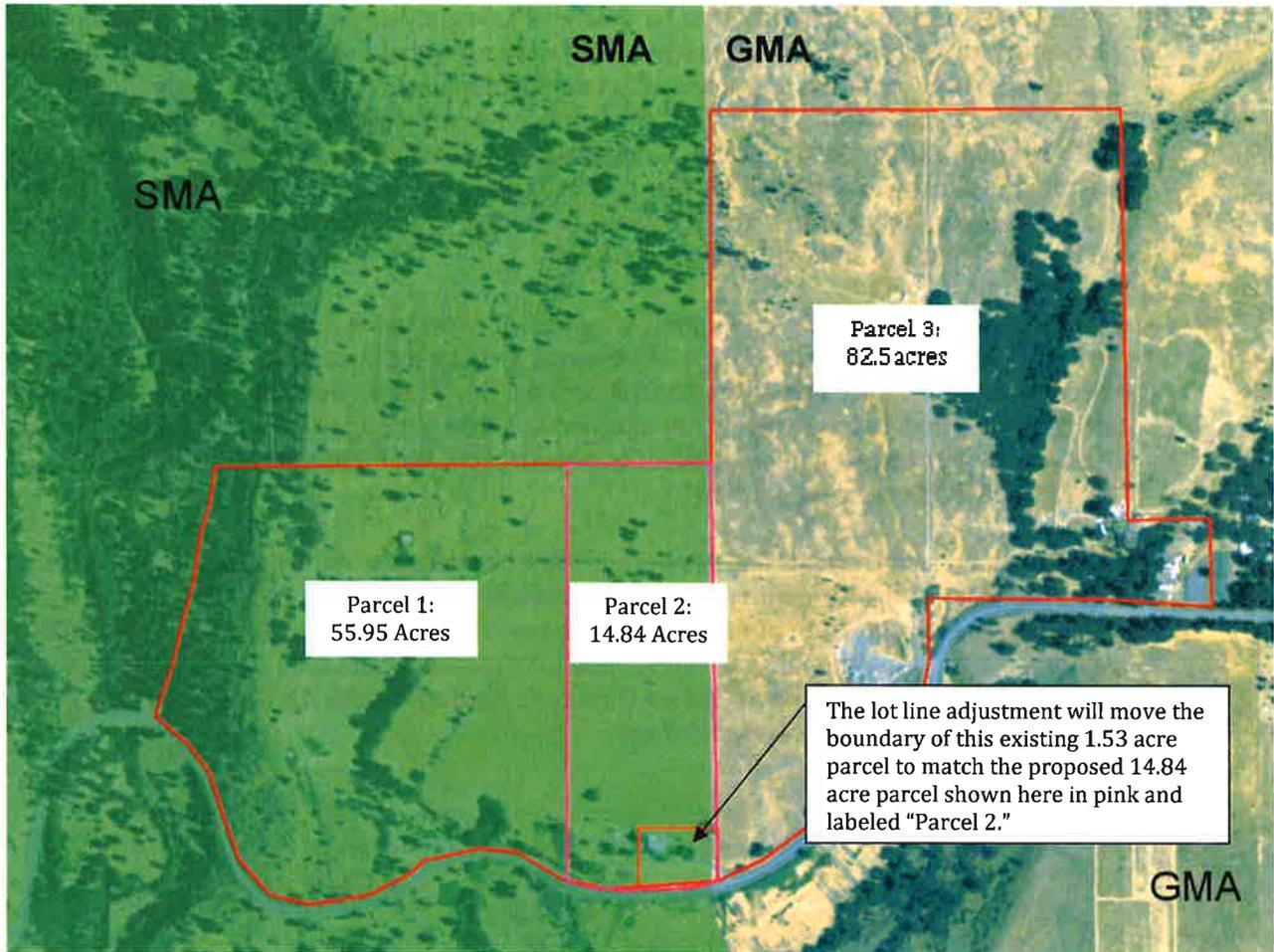
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<sup>1</sup> One difference is that the 1991 decision calculated land both north and south of Old Hwy 8. The 1991 decision was issued pursuant to the definition of parcel in the Final Interim Guidelines, which did not treat public roads as a feature that could divide lands. Subsequently, the Management Plan definition of parcel recognizes that public roads are features that can divide lands.

6. Since 1991, the applicant and other landowners have only applied for new land uses that have not required the Commission to resolve the discrepancy between Klickitat County and the Commission's recognition of parcels. This application requires the Commission to do so because the Commission's rules limit the cumulative size of all accessory buildings on a parcel to 2500 square feet. The Commission must make findings about what land area constitutes the parcel in order to make that calculation. This application, however, only resolves a portion of the discrepancy because it is not necessary to resolve the full discrepancy to reach a decision on the applicant's proposed accessory building.

To move forward with this application, the current proposal includes a land division of the 151.76-acre parcel along the SMA/GMA boundary and a lot line adjustment between the 1.53-acre parcel and the SMA portion of the 151.76-acre parcel. This is shown in Figure 4. These actions combined, resolve the discrepancy for the SMA portion of the subject land and allow the Commission to recognize Klickitat County parcels 03123000000400 and 03123000001100 as legal parcels.

The applicant is concerned that this decision not be precedent for acknowledging that there is a discrepancy for the remaining GMA portion of the 151.76-acre parcel. This decision only addresses the SMA portion of the 151.76-acre parcel. The Executive Director is not taking any position on the remaining discrepancy. New information at the time of future land use applications may change the Executive Director's findings in this decision about any discrepancy or require different findings.



**Figure 4: Proposed Land Division and Lot Line Adjustment**

7. There is no minimum parcel size for the creation of new parcels in SMAs. This is because the National Scenic Area Act does not allow land divisions in SMAs. 16 U.S.C. §§ 544d(d)(5) (prohibiting “major development actions”) and 544(j)(1) (defining “major development actions” to include subdivisions, partitions and short plat proposals). The Commission has applied these standards to allow landowners to divide a parcel on a SMA/GMA boundary provided the resulting SMA parcel is at least 40 acres in size. The reason for requiring 40 acres is because the Act defines “major development actions” to include “permits for siting or construction within a special management area of any residence or other related major structure on any parcel less than forty acres in size.” 16 U.S.C. § 544(j)(4). In other words, requiring at least 40 acres for land divisions on a SMA/GMA boundary helps ensure that the applicant is not creating a new unbuildable SMA-only parcel. The proposed land division of the 151.76-acre parcel would result in a 69.26-acre parcel in the SMA, which complies with the Commission’s application of the above provisions of the National Scenic Area Act.
8. Commission Rule 350-81-190(1) lists review uses that may be allowed on lands designated Small-Scale Agriculture (a GMA designation), subject to compliance with scenic, cultural, natural, and recreation resource guidelines of Commission Rule 350-81, Sections 520 through 620. Commission Rule 350-81-190(1)(t) allows “Land divisions subject to the minimum lot sizes on the Land Use Designation Map.”

The minimum parcel size for the portion of the subject land that is designated GMA Small-Scale Agriculture is 80 acres. The proposed land division of the 151.76-acre parcel would result in an 82.5-acre parcel in the GMA. The size of the GMA parcel exceeds the minimum parcel size in the GMA and is allowed subject to compliance with the applicable Commission Rules, which are addressed below.

9. Commission Rule 350-81-124 contains additional standards for land divisions. Subsections (1) through (3) apply to this proposal. The remaining subsections in Commission Rule 350-81-124 relate to proposals for cluster developments, which the applicant is not proposing.
  - (1) New land divisions in the SMA are not allowed, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan.
  - (2) Unless otherwise specified, creation of a parcel, regardless of size, or any division of land shall be subject to the guidelines in Commission Rule 350-81.
  - (3) At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

Subsection (1) does not apply; the proposed land division is not within a SMA; it is on a SMA/GMA boundary. Subsection (2) applies and this decision applies the applicable guidelines in Commission Rule 350-81. Subsection (3) applies, but the applicant does not need to consolidate access. Access to all the parcels would continue to occur from existing driveways. The existing development on each parcel is far apart and the creation of new consolidated driveways would require significant grading and other ground disturbing activities. Consolidation is not practicable, and would result in more visible road cuts and fills. Consolidation would not reduce adverse effect on scenic, cultural, natural, and recreation resources in this case. The proposed land division complies with the applicable subsections of Commission Rule 250-81-124.

10. Commission Rule 350-81-126(2) specifies the following applicable guidelines for lot line adjustments in a SMA.
  - (a) The proposed lot line adjustment shall not result in the creation of any new parcel(s).
  - (b) A lot line adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.
  - (c) A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.
  - ...
  - (e) The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.
  - (f) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

The proposed lot line adjustment would occur between the newly created SMA-only parcel and the existing 1.53-acre parcel, which is also in a SMA. The lot line adjustment would not create new parcels within a SMA, but rather increase the existing 1.53-acre parcel to 14.84

acres and reduce the newly divided 69.26-acre parcel to 55.95 acres (Figure 3). The lot line adjustment would not result in a parcel greater or equal to 40 acres becoming less than 40 acres, nor would it result in a parcel less than 40 acres becoming 40 acres or greater. The subject parcel contained two previously approved developments, C94-0042 and C96-0052. Staff reviewed the previously approved developments, and determined the proposed lot line adjustment does not violate conditions of approval, pursuant to subsection (e). The proposed lot line adjustment enlarges a 1.53-acre parcel to 14.84 acres, making it easier for this parcel to meet land use and resource protection guidelines, including any future resource requirements. All of the proposed improvements on the enlarged parcel also comply with applicable scenic, cultural, natural and recreation resource and protection guidelines described in findings B, C, D and E of this Staff Report. The parcel reduced in size, the 55.95-acre parcel, would be sufficiently large enough to comply with existing land use and resource protection guidelines. Consequently, the lot line adjustment will not result in a parcel that cannot comply with existing land use and resource protection guidelines. The proposed lot line adjustment is therefore consistent with Commission Rule 350-81-126(2).

11. The applicant will need to complete the land division and lot-line adjustment through the necessary state and local processes. Because the proposed detached garage is only allowed after the land division and lot-line adjustment are completed, a **condition of approval** is necessary to require the applicant to complete these processes prior to construction of the proposed detached garage.
12. The 1.53-acre SMA parcel is designated SMA Agriculture. Development on that parcel includes the existing dwelling, a swimming pool, retaining wall, driveway, utilities, septic tank and drainfield, fencing, vegetation, and access from Old Highway 8.

The proposal includes improvements to the existing dwelling including a roof replacement, a 156-square foot addition to the dwelling, a new 1,432 square foot detached garage, a new 176 square foot deck, replacement of the existing pool with a new 512 square foot swimming pool, and repair and replacement of an existing retaining wall. The building site would be located on flat ground, with less than five percent slope.

13. Commission Rule 350-81-074(1)(D) allows repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

The proposed roof replacement does not propose to enlarge or change the design, shape, or height of the roof and is thus considered repair and maintenance of an existing structure. The proposed roof replacement is an allowed use without further review.

14. Commission Rule 350-81-190(2) lists review uses that may be allowed on lands designated SMA Agriculture, subject to compliance with scenic, cultural, natural, and recreation resource guidelines of Commission Rule 350-81, Sections 520 through 620. Commission Rule 350-81-180(2) also requires, "The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock."

Commission Rule 350-81-190(2)(g) allows accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 2(h) or 2(i).

The proposed deck, swimming pool, and retaining wall are considered accessory structures rather than buildings. These accessory structures would be for an existing dwelling. Therefore, they are allowed pursuant to Commission Rule 350-81-190(2)(g).

15. Commission Rule 350-81-190(2)(i) 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 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 detached garage is an accessory building to the existing dwelling and located on a legal parcel larger than 10 acres in size, with the lot line adjustment. The proposed garage is 1,432 square feet in area and 14 feet in height, in compliance with this standard. The proposed garage is therefore allowed pursuant to Commission Rule 350-81-190(2)(i) (subject to compliance with Commission Rules 350-81-520 through 620).

16. Commission Rule 350-81-190(2)(x) allows additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

The proposed addition to the existing dwelling is 156 square feet in area and with an approximate 18.9-foot maximum height, approximately 5.7 feet taller than the existing dwelling. The proposed addition is allowed pursuant to Commission Rule 350-81-190(2)(x).

17. Commission Rule 350-81-180(2) requires, "The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock."

Based on information provided by the Klickitat County Assessor, parcel 0312300000400 is managed for agricultural use (orchard, cropland, and grazing land/rangeland) and contains a single-family dwelling, and parcels 0312300001100, 03122900001700, 03122900001800, 03122900002500 are owned by different members of a family. Each of these parcels are managed for agriculture. Parcel 0312300001100 is managed for both cropland and grazing land/rangeland and contains a single-family dwelling. The other parcels are managed for grazing land/rangeland and do not contain dwellings. Parcel 03122900000600 is managed for both cropland and grazing land/rangeland and contains a single-family dwelling. Adjacent parcels to the north, west, and south are Tribal and government properties. Three of these are undeveloped and one contains a dwelling.

With the lot line adjustment, the proposed improvements would be set back more than 1,000 feet from the northern property line, 175 feet from the western property line, and 150 feet from the southern and eastern property lines.

The proposed land division and lot line adjustment would not affect land suitable for the production of agricultural crops or livestock. The proposed accessory structures and buildings would be located within the existing developed area of the parcel, within an existing fenced area separating grazing activities to the north. As shown in the applicant's provided site plan,

these improvements would not extend beyond the footprint of the existing dwelling and associated infrastructure. Because this portion of the parcel is already developed with a dwelling and associated improvements, it is not suitable for the production of agricultural crops or livestock. Therefore, there would be no reduction in land suitable for the production of agricultural crops or livestock. Further, existing adjacent cropland and grazing activities will be able to continue.

Based on this information, the use or development is sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

**Conclusion:**

The proposed land division is allowed within the GMA designated land and allowed on a SMA/GMA line. The proposed lot line adjustment is allowed within SMA designated land. A condition of approval will ensure the applicant completes the land division and lot-line adjustment through the necessary state and local processes prior to construction of the proposed detached garage.

The roof replacement is an outright allowed use and the proposed accessory structures, accessory building, and addition are allowed uses for the existing dwelling on land designated SMA Agriculture. The proposed improvements associated with the existing dwelling would be located within the existing developed area of the parcel and thus sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

The proposal is allowable by the Gorge Commission's Land Use Ordinance (Commission Rule 350-81), provided that it is found to be 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 350-81-530(1)(a) includes design guidelines for the pastoral landscape setting within the SMA. Pastoral areas shall retain the overall appearance of an agricultural landscape.

The proposed land division, lot line adjustment, and proposed improvements to the existing dwelling are located in the Pastoral landscape setting (Management Plan Landscape Settings Map).

2. Commission Rule 350-81-530(2) includes guidelines for development and uses visible from key viewing areas (KVAs).

The proposed land division and lot line adjustment do not include a new use or development and would alter the landscape; therefore, Commission Rule 350-81-530 is not applicable. Effects to scenic resources as a result of the proposed accessory structures and buildings are addressed in the following sections.

3. Commission Rule 350-81-530(2)(a) states, "The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas."

The proposed accessory structures and buildings are proposed on land that is topographically visible from six key viewing areas (KVAs): County Road 1230 (now called Old Hwy 8), State Route 14 (SR 14), the Columbia River, Interstate 84 (I-84), Rowena Plateau, and the Historic Columbia River Highway; therefore, Commission Rule 350-81-530(2) guidelines are applicable.

4. Commission Rule 350-81-530(2)(b) states, "New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas."

Commission Rule 350-81-530(2)(c) specifies the required scenic standard for Agriculture land within the Pastoral landscape setting, as *visually subordinate*. 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.*

The proposed improvements are located a minimum of 130 feet from the nearest KVA, Old Hwy 8, and nearly three miles from the farthest KVAs, Rowena Plateau and the Historic Columbia River Highway. The existing dwelling is located on a flat bench set back from the south facing downslope, with drainages located to the west, southwest, and southeast. The proposed improvements are either intended for the dwelling or existing developed area on flat terrain, following the contours of the property, which will further help minimize the visible area from KVAs. The low heights and low sloping rooflines of the dwelling addition and garage will provide a thin, nearly horizontal plane on the relatively squat structures. Additionally, the applicant has proposed dark earth-tone colors that will ensure the buildings blend into the terrain. The applicant provided elevation drawings depicting the various proposed exterior building materials and samples. The material colors include dark browns and blacks. The west and south side of the garage and west side of the dwelling addition include windows, which can be a source of reflectivity and glare. However, they will be visually screened by topography and vegetation.

Mature vegetation on the parcel and lining the drainages south of the parcel partially screen the existing dwelling as seen from SR-14 and the Columbia River. The applicant does not propose to remove any existing vegetation. The proposed accessory structures would occur within the footprint of the existing dwelling and associated infrastructure, and would therefore not introduce a new use. The addition would be located on the north and west side of the existing dwelling and would be screened by the dwelling and existing vegetation on the parcel or would be indistinguishable from the existing dwelling. The retaining wall is existing and therefore restoration and replacement would not result in a new visual element. The pool would replace an existing pool and would be located east of the existing dwelling and screened by elevation and existing vegetation on the parcel.

The garage would introduce the most visible element of the proposed improvements. The garage is clustered near the home, above Old Hwy 8 and SR 14. Topography would effectively

screen the garage from SR 14. Existing vegetation on the parcel to the west and south would also partially screen the garage. The roof of the proposed garage might only be visible for a short distance along Old Hwy 8. The garage would be visible in the background from Rowena Plateau and the Historic Columbia River Highway. Existing vegetation, topography, colors and materials used – as described in the findings for Commission Rule 350-81-530(2)(c) below – would ensure that the garage is visually subordinate as seen from Old Hwy 8 and the more distant key viewing areas.

Cumulative Effects are defined by Commission Rule 350-81-020(40) 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 discussed in the findings above, the distance from KVAs, use of exterior building materials and colors that blend with the landscape, and the retention of existing vegetation will ensure the proposed improvements will not cause adverse scenic impacts as viewed from key viewing areas, and, as discussed below, are necessary to ensure no cumulative effects.

For an analysis of cumulative effects, staff analyzed the SMA land adjacent to, surrounding, and including the subject parcel, an area of nearly 150 acres. This area was chosen because it is managed as one category of land (SMA), which contains different development standards from adjacent GMA and Tribal land.

There would be no cumulative effect of a land division and lot line adjustment because there can be no more land divisions on the subject parcel or elsewhere in the SMA study area, and any future lot line adjustment would not create any potential for development not currently allowed as a result of the lot line adjustment that is part of this application. The addition would be located on the north and west side of the existing dwelling and would be screened by the dwelling and existing vegetation on the parcel, or would be indistinguishable from the existing dwelling. The pool and the retaining wall are replacements. Other developments that have indistinguishable elements or that propose to replace existing structures with similar new structures would not have any cumulative effect because those other developments would likewise not be increasing the visibility of development.

The proposed accessory building would likewise have no cumulative effect. Within the study area, two adjacent parcels to the north and west are Tribal properties and not subject to Scenic Area rules. The subject parcel is surrounded by government lands to the southwest, south and southeast. These parcels are predominantly in the pastoral landscape setting and are designated SMA-Agricultural. Government-owned land in this SMA is not typically developed, so staff assumes government lands in the vicinity of the subject parcel would not be built with any similar accessory building. The two parcels that would result from the proposed land division and lot line adjustment are the only privately owned parcels in the vicinity of the subject parcel. Both parcels already have dwellings, separated by approximately one-quarter mile, and are the only dwellings in the analysis area.

Commission Rule 350-81-190(2)(i)(a) allows, as a reviewable use, 2,500 sq. ft. for accessory buildings on parcels larger than 10 acres if no individual building exceeds 1,500 sq. ft. The subject parcel would be eligible for the landowner to build another accessory building of approximately 1000 sq. ft. in addition to the proposed garage. The adjacent parcel already has one 400-sq. ft. accessory building and thus is eligible for two or more accessory buildings of up to 2,100 sq. ft., for example, one 1,500 sq. ft. accessory building and one 600-sq. ft. accessory building.

In the study area, there is thus the potential for three similar accessory structures in addition to the proposed accessory building. The design guidelines for the pastoral landscape setting in the SMA only iterate that pastoral areas retain the overall appearance of an agricultural landscape. The SMA standards do not further define an agricultural landscape. Immediately adjacent to the east of the subject parcel, the land is in the general management area and a GMA pastoral landscape setting. By analogy, the Management Plan describes the GMA Pastoral landscape setting as agrarian in character with visual features that include large expanses of cultivated fields and pastures, and scattered rural residential development. The effects of additional accessory buildings would fit into the landscape for both the area of analysis and the adjacent GMA lands.

Four additional accessory buildings between two sites with existing rural residential development would not create a cumulative effect. There would be no cumulative effect from KVAs in the foreground because the potential buildings would be clustered together with other development and a traveler along Old Hwy 8 would only encounter one of the two developed sites at a time because of the quarter mile distance between them. From KVAs further away, such as I-84 or the Historic Columbia River Highway, the two clusters of buildings would be seen in the same viewshed, but the accessory structures would be clustered together with other buildings and appear to be part of the existing scattered rural residential development.

To ensure compliance with this requirement, the following **conditions of approval** are necessary:

- The size, height, design, and layout of the proposed roof, addition, garage, and other improvements shall occur as shown on the approved site plan, floor plan, and elevation drawings, unless otherwise allowed as part of a new application and reviewed in compliance with Commission Rule 350-81.
- The approved colors of the exterior of the buildings are dark brown-stained wood siding and black roofing. Should changes to the approved exterior colors be proposed, new color samples will need to be submitted to and approved by the Executive Director. Only dark earth-tone colors that are present at the site, and would help the building blend into the landscape, may be used.
- Exterior building materials approved as part of this application include brown-stained wood siding and trim and black roofing. 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 Executive Director, unless otherwise deemed consistent with those approved by this review.

- All proposed building materials, such as roofing and siding, shall be nonreflective or have low-reflectivity and all windows facing key viewing areas shall be composed of low-reflective glass (*i.e., glass with a light reflectivity rating around 11%*).
- Except as otherwise allowed, all existing screening trees located on the subject parcel shall be preserved and protected from damage. No trees shall be removed or limbed as part of this project unless determined ahead of time by the Executive Director as needing to be removed for safety purposes. Any such authorization shall be received in writing from the Executive Director before any trees are removed.

Based on the above information and conditions of approval, the proposed use will be visually subordinate from KVAs. The required scenic standard is met, and scenic resources would not be adversely affected, including consideration of cumulative effects. The proposed improvements are consistent with Commission Rule 350-81-530(2)(c).

5. Commission Rule 350-81-530(2)(d) states, "In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development."

The proposed improvements would occur within existing residential development. However, building colors and materials, and existing and new vegetation will ensure that the improvements blend with the adjacent natural elements.

6. Commission Rule 350-81-530(2)(e) states, "Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

The improvements would be located on a flat portion of the project, already developed with a dwelling and associated infrastructure. Due to the flat topography of the building site, grading would be limited to only 146 cubic yards. The proposed improvements have been sited and designed to be visually subordinate within the landscape.

7. Commission Rule 350-81-530(2)(f) includes that the extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas:

(A) Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to:

- (i) The amount of area of the building site exposed to key viewing areas,
- (ii) The degree of existing vegetation providing screening,
- (iii) The distance from the building site to the key viewing areas from which it is visible,
- (iv) The number of key viewing areas from which it is visible, and
- (v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

- (B) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for their setting as seen from key viewing areas, including but not limited to:
- (i) Siting (location of development on the subject property, building orientation, and other elements),
  - (ii) Retention of existing vegetation,
  - (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements), and
  - (iv) New landscaping.

As described in Findings B.1 through B.6, the proposed improvements have been sited and designed to be visually subordinate as seen from key viewing areas. As a **condition of approval**, exterior building materials will be composed of low reflectivity materials and dark earth tone colors. The subject building site is not highly visible from key viewing areas because of the distance from KVAs, elevation of the site above KVAs, natural topography, and presence of existing screening vegetation. The proposed improvements meet the visually subordinate standard of Commission Rule 350-81-530(2)(f).

8. Commission Rule 350-81-530(2)(g) states, "Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources."

As addressed in Sections C and D, the proposed development is consistent with the applicable cultural resource guidelines in Commission Rule 350-81-550 and natural resource guidelines in Commission Rule 350-81-560 through 600 that protect natural resources.

9. Commission Rule 350-81-530(2)(h) states, "Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas."

As the proposed improvements will be located on a south facing slope, they will not protrude above the line of a bluff, cliff, or skyline as seen from KVAs.

10. Commission Rule 350-81-530(2)(j) includes that the following guidelines applicable to new landscaping used to screen development from key viewing areas:

- (A) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.
- (B) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.
- (C) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

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

As described in Findings B.1 through B.6, the proposed improvements have been sited and designed to be visually subordinate as seen from key viewing areas. The applicant proposes no new vegetation to screen development from KVAs, and no new landscaping is necessary to make the proposed development visually subordinate; therefore, Commission Rule 350-81-530(2)(j) does not apply.

11. Commission Rule 350-81-530(2)(m) states, "Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes."

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 a revised site plan and submit the proposed design and placement of the lights to the Gorge Commission office for review and approval. All outdoor lights shall be directed downward, hooded, and shielded so as not to be highly visible as seen from key viewing areas. This decision will include this requirement as a **condition of approval** to remind the applicant of the standards for exterior lighting.

12. Commission Rule 350-81-530(3) contains guidelines for all new developments and land uses within KVA foregrounds and immediately adjacent to scenic routes.
13. Commission Rule 350-81-530(3)(d) defines immediate foregrounds as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls.

SR 14, Historic Columbia River, and I-84 are listed as a Scenic Travel Corridors in Commission Rule 350-81-020(133).

The nearest Scenic Travel Corridor is SR 14. As the proposed improvements would be set back more than 1,000 feet from SR 14, and effectively screened from SR-14, Commission Rule 350-81-530(3) does not apply.

### **Conclusion:**

As proposed, all of the proposed development except for the accessory building will be indistinguishable from the existing development. The new accessory building will be designed and sited to ensure that it is visually subordinate as seen from key viewing areas. The new accessory buildings would not cause adverse effect, including a consideration cumulative effects of other accessory buildings that would be allowed in the vicinity of the subject parcel. Conditions of approval are necessary to ensure that the applicant constructs the proposed development as shown in the application, and to ensure any new exterior lighting complies with the land use ordinance. With the conditions of approval, the proposed development would be consistent with the applicable guidelines in Commission Rule 350-81-530 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. Commission Rule 350-81-550(2) directs proposed developments in the SMA to use the procedures and guidelines in Commission Rule 350-81-540 for review. Commission Rules 350-81-540(1)(c)(A) and (B) include guidelines to determine when a cultural resources reconnaissance survey and a historic survey are required for proposed developments.
2. Commission Rule 350-81-540(1)(c)(A)(ii) requires that a reconnaissance survey be conducted for proposed development.

Margaret Dryden, Heritage Program Manager for the Columbia River Gorge National Scenic Area, conducted a cultural survey on the subject property on June 29, 2017. The survey did not reveal any cultural resources within the project area.

3. 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 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."

Margaret Dryden, Heritage Program Manager for the Columbia River Gorge National Scenic Area, conducted a cultural survey on the subject property on June 29, 2017. One historic structure, referred to in her report as "David Sauter House" was observed and recorded. Ms. Dryden submitted a Historic Property Inventory Form to the Department of Archaeology and Historic Preservation (DAHP) on 08/17/17. DAHP responded on 08/23/17 that the David Sauter House is not eligible for the National Register of Historic Places and that renovation of house will have no effect on potentially significant heritage resources and no mitigation measures will be required.

4. 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.

Ms. Dryden's report was submitted to DAHP and the four Treaty Tribes on 08/17/2017 for a 30-day opportunity to comment. No comments were received.

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.

**Conditions of approval** are necessary to ensure protection for the inadvertent discovery of cultural resources and discovery of human remains, including notification of the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or [guy.tasa@dahp.wa.gov](mailto:guy.tasa@dahp.wa.gov).

**Conclusion:**

The proposed development is consistent with the applicable cultural resource guidelines in Commission Rule 350-81-550.

#### D. Natural Resources

1. Commission Rules 350-81-560 through 600 provide guidelines for protecting wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife areas and sites, and rare plants.

The Gorge Commission's natural resource inventory and National Wetland Inventory show that there are no wetlands, streams, ponds, lakes, or riparian areas located on the subject property. The nearest waterbodies to the subject parcel include a stream approximately 300 feet to the southwest, a stream/forested-shrub wetland approximately 600 feet to the west and southwest, and a lake/pond/forested-shrub wetland complex approximately 700 feet to the south.

2. Commission Rule 350-81-600(2) includes buffers for water resources. A minimum 200-foot buffer is required for perennial or fish bearing streams and a 50-foot buffer for intermittent (including ephemeral), non-fish bearing streams. Forested-shrub wetlands/ponds/lakes require a 100-foot buffer.

The proposed improvements would be located outside of the buffer of any of these water resources. The proposed use would not impact protected wetlands, streams, ponds, lakes, riparian areas, or buffers; therefore, it is consistent with Commission Rules 350-81-560 and 350-81-570.

3. Commission Rule 350-81-600(3) allows uses within 1,000 feet of a sensitive wildlife/plant area or site subject to review under Commission Rule 350-80-600(3).

The natural resource inventory indicates that the proposed project is within 1,000 feet of a sensitive plant species. The sensitive plant is *Collinsia sparsiflora var. bruciae* (few-flowered collinsia). The location of the sensitive plant is immediately west of the west boundary of the subject property and well over 200 feet from the building site. The project area is outside of the 200-foot buffer from the sensitive plant. Additionally, the area around the shop and the area within this property up to the west boundary has been heavily grazed for many years. As a result, the habitat for this sensitive plant within the subject property has been compromised and no buffer zone is required.

The Washington Department of Fish and Wildlife's Priority Habitat and Species data shows that the proposed project is within 1,000 feet of deer and elk winter range.

Commission Rule 350-81-600(3)(d)(E) requires that in areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

The proposed development is located within a developed portion of the subject parcel and would not reduce thermal cover or forage.

4. Commission Rule 350-81-600(3)(c) requires that the USFS, in consultation with state biologists review the site plan and field survey records.

Robin Dobson, Botanist/Ecologist, for the U.S. Forest Service reviewed the site plans and field survey records. He noted the new building was clearly placed near other buildings which

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

Commission Rule 350-81-084(1)(c)(B) states:

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

The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and the cultural resources concern has been addressed. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-81-084(1)(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.

reduces potential impacts to most natural resources and to winter range for deer and other wildlife. He concluded there would be no adverse impacts to plant and wildlife.

5. Commission Rule 350-81-600(4) includes guidelines for protecting soil productivity. Projects must control all soil movement within the area shown on the site plan. The soil area disturbed by new development or land uses, except for new cultivation, must not exceed 15 percent of the project area. Within one year of completion, 80 percent of the disturbed area must be restored using effective native ground cover species.

The proposed improvements will occur within an approximately 1-acre area, less than 15 percent of the 14.84-acre parcel. Grading will be limited to 146 cubic yards and the disturbed area will be covered with new improvements. Existing and new vegetation will control soil erosion. To further prevent soil erosion, within 1 year of project completion, 80 percent of the project area with surface disturbance that is undeveloped shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

**Conclusion:**

The proposed vineyard is consistent with the guidelines in Commission Rule 350-81-560 through 600 that protect natural resources in the National Scenic Area.

E. Recreation Resources

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 the subject parcel. The Catherine and Major Creeks Natural Area is the nearest recreational site. However, the off-site impacts associated with the proposed improvements to the existing dwelling are not expected to detract from the use and enjoyment of the Catherine and Major Creeks Natural Area or any established recreation sites.

**Conclusion:**

The proposed development is consistent with applicable recreation resource guidelines and as there are no buildings or structures associated with the proposed vineyard, Commission Rule 350-81-086 does not apply.

F. Tribal Treaty Rights

Commission Rule 350-81-084(1) provides protection of tribal treaty rights from new development in the National Scenic Area. Commission Rule 350-81-084(1)(a) lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments.

The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal and cultural was mailed or emailed to the four tribal governments on June 20, 2017.