

DIRECTOR'S DECISION

CASE FILE: C18-0005

PROPOSAL: The Columbia River Gorge Commission received an application for the construction of a 1200 sq. ft. metal accessory building, after the fact review of a 200 sq. ft. accessory building, driveway extension, and the removal of two (2) accessory buildings.

APPLICANT: John Nickols

LANDOWNER: John Nickols

LOCATION: The subject parcel is 8.13 acres in size and located at 206 Old Lyle Highway, Lyle, WA 98635, in the Southwest 1/4 of Section 28, Township 3 North, Range 12 East, W.M., Klickitat County Tax Lot Number 03-12-28-0000-17/00.

LAND USE

DESIGNATION: The subject parcel is designated Residential in the General Management Area.

DECISION:

Based upon the following findings of fact, the land use application by John Nickols is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, 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 C18-0005, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. **Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director at the Commission.**
2. This decision does not exempt the proposal from other non-National 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 size, height, design, and siting of the proposed accessory structures shall occur as shown on the approved site plan and elevation drawings. The height of the building's walls shall not exceed 16ft. The roof shall have a low pitch to reduce visibility and reflectivity from Key Viewing Areas. Any modifications will require a new application and review.
5. The exterior of the accessory buildings shall be composed of materials with low reflectivity. The exterior includes, but is not limited to: sides, all doors, gutters, roofs, decks, railings, and trim. Approved exterior building materials consist of dark earth tone colored sheet metal for the 1,200 square foot accessory building, and wood siding with asphalt shingle roofing for the 10' x 20' "portable" accessory building. Exterior metal materials shall be painted with low-gloss paint and maintained as necessary to ensure the material is non-reflective. All windows shall be composed of low-reflective glass. Any proposed changes from the approved exterior building materials shall be submitted for review and approval before construction begins.
6. The color of the accessory buildings shall be dark earth tone colors. The new 1,200 sq. ft. accessory building will be manufactured by Worldwide Steel Buildings (www.worldwidesteelbuildings.com). The approved manufacturer's colors for the 1,200 sq. ft. accessory building are "Brown," "Burnished Slate," "Burgundy" and "Black" according to the Worldwide Steel Buildings Color Selector Tool. All exterior metal materials shall be painted with low-gloss paint and maintained as necessary to ensure that the material is non-reflective. Any proposed color changes from the approved exterior color shall be submitted for review and approval by the Executive Director before construction begins.
7. The roofing material needs to have a matte finish or granular finished look to ensure the material is non-reflective. A sample of the roofing material shall be submitted for review and approval by the Executive Director before construction begins. The approved manufacturer's color for the roof of the 1,200 sq. ft. accessory building is "Black." Any proposed color changes from the approved exterior color shall be submitted for review and approval by the Planning Manager before construction begins.
8. Existing trees located to the south of the accessory building that screen the residence and accessory building from Key Viewing Areas shall be retained and replaced if they are damaged or die as stipulated in Director's Decision C09-0006. The area subject to this condition is indicated on the approved site plan.
9. If more than 200 cubic yards of grading is necessary, the applicant shall submit a new land use application for grading activities including a grading plan and narrative, consistent with Commission Rule 350-81-520(2)(aa); and revised elevation drawings, including the natural grade and finished grade surrounding the proposed structures and other improvements if applicable, consistent with Commission Rule 350-81-032(5) to the Executive Director for review and approval.
10. Two of the existing accessory buildings, the 8' x 8' "temporary shed" and 8' x 20' accessory building approved in Director's Decision C09-0006 shall be removed within 90 days of completion of the 1,200 sq. ft. building.

11. All outdoor lights shall be directed downward and sited, hooded, and shielded such that illumination from the lights is not highly visible as seen from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective opaque materials. Any new lighting that is not shown on the approved site plan or building design drawings must be shown on a revised site plan and approved by the Executive Director.
12. 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.
13. 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.
14. 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 [20] day of September 2018 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 20 day of September 2020 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 20 day of October 2018.

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.

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:

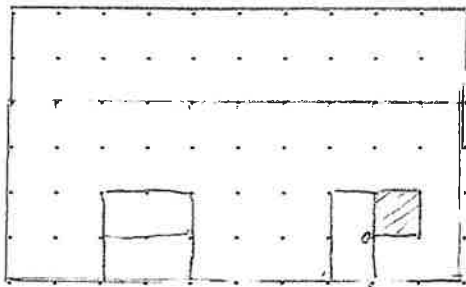
Staff Report for C18-0005
Approved site plan

APPROVED*KW*

*Please use this template or attach a separate Elevation and Landscape plan

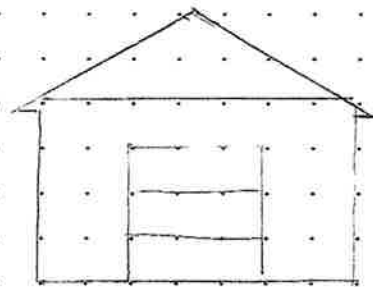
Elevations and Landscape Details:

North



40'

West

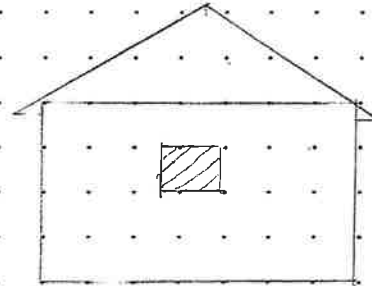


30'

South



East



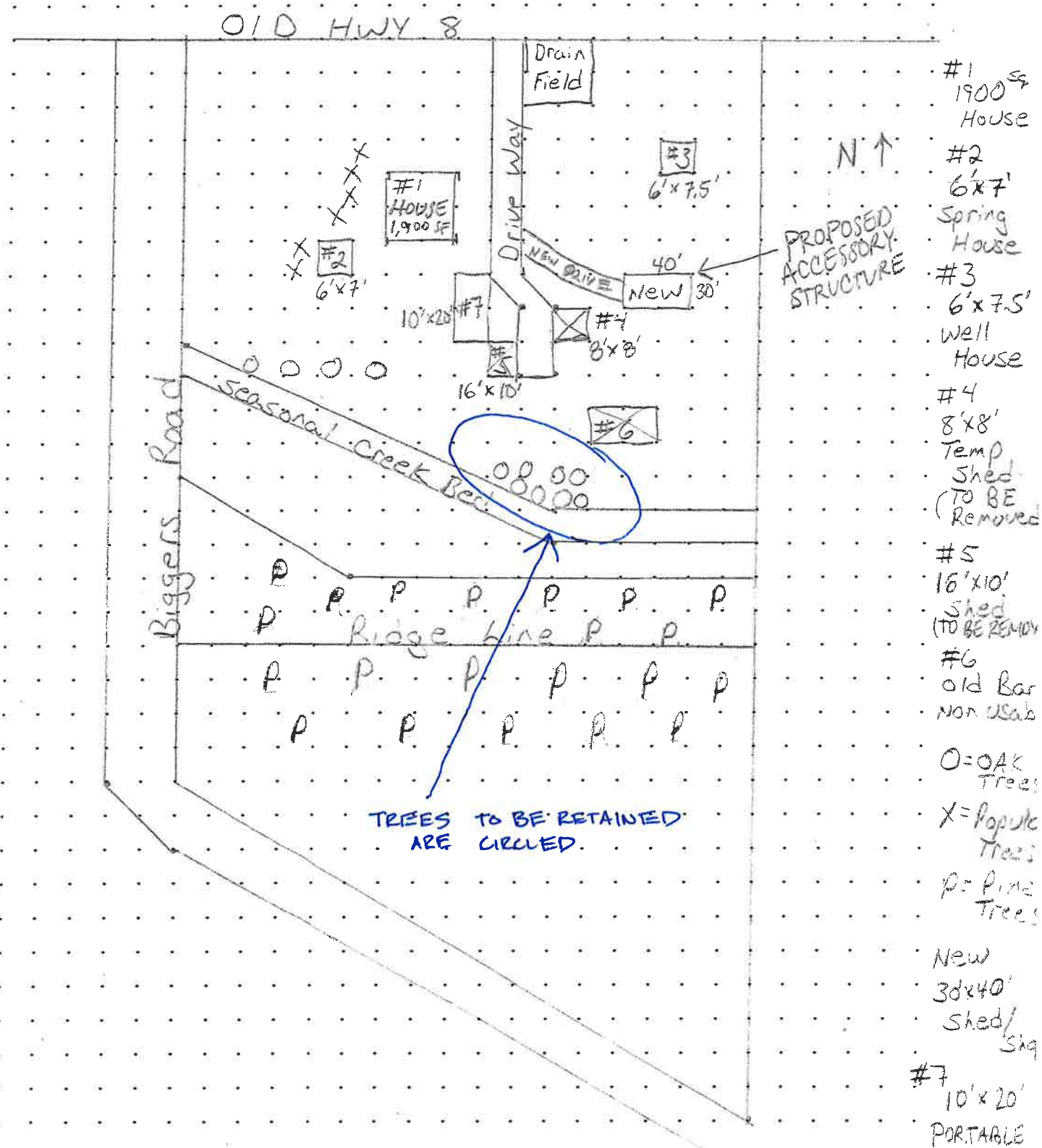
Each grid equals 50' x 50' at scale of 1" = 200'.

APPROVED

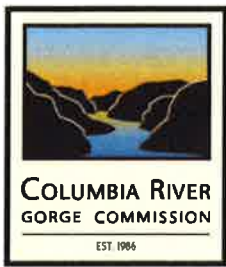
kw

*Please use this template or attach a separate site plan

Site plan (continued):



Each grid equals 50'x 50' at scale of 1" = 200'.



STAFF REPORT

CASE FILE: C18-0005

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LAND USE

DESIGNATION: The subject parcel is designated Residential in the General Management Area.

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

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

Written comments were received from the Friends of the Columbia River Gorge and Jim Minick.

FINDINGS OF FACT:

A. Land Use

1. The Land Use Designation map in the Management Plan for the Columbia River Gorge National Scenic Area designates the subject parcel Residential in the General Management Area with a 10-acre minimum parcel size.
2. The subject parcel is 8.13 acres in size and located approximately 2 miles west of Lyle, WA on County Road 1230 (Old Highway 8). Director's Decision C05-0001 approved a manufactured home, which is located on the subject property in compliance with the Director's Decision. An 8' x 20' accessory building was approved after-the-fact in Director's Decision C09-0006. Four other accessory buildings exist on the subject parcel.
3. Two of the four accessory buildings are less than 60 square feet in size. One is a 6' x 7' "spring house," and the other is a 6' x 7.5' "well house." These two buildings are legally-existing Uses Allowed Outright pursuant to Commission Rule 350-81-074(1)(a)(E).
4. The applicant indicated on the site plan two other accessory buildings.
5. One accessory building is a 10' x 20' "portable," built within the last five years, which was not reviewed under Commission Rule 350-81. This building is reviewed after-the-fact in this Director's Decision and Staff Report (C18-0005).
6. The other accessory building is an 8' x 8' "temporary shed." This temporary shed was also not reviewed under Commission Rule 350-81 and is being removed as a Condition of Approval in this Director's Decision (C18-0005).
7. The site plan also indicates the presence of an old barn. The barn was identified in Director's Decision C05-0001 as being over 50 years old. The barn was determined to be no longer serviceable in Director's Decision C09-0006. The walls and roof have collapsed. The building is pile of rubble and no longer meets the definition of structure or building in Commission Rule 350-81-020 and is not an existing use on the subject property and is not eligible for replacement or use pursuant to Commission Rule 350-81-082.
8. Commission Rule 350-81-365(1) allows all the uses listed in "Expedited Development Review Process" (Commission Rule 350-81-050) on lands designated Residential.
9. Commission Rule 350-81-050(1)(a) lists "accessory structures between 60 and 200 square feet in area and 10 feet or less in height" as development that may be reviewed using the expedited review process, provided they comply with the resource protection and procedural guidelines contained in Commission Rule 350-81-050.

Although the 10' x 20' "portable" may qualify for review under the expedited review process, the proposed 1200 square foot metal shed does not qualify under the expedited review use process. Where an applicant proposed some development that qualifies for expedited review and some development that does not, the Commission reviews all proposed development under the standard "review uses" process. The 10' x 20' "portable" accessory building is thus being reviewed under full review, pursuant to Commission Rule 350-81-050(1)(a).

10. Commission Rule 350-81-370(1)(c) allows the following on lands designated Residential:

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

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

The site plan shows four existing accessory buildings on the parcel. Two of the existing accessory buildings, the 8' x 8' "temporary shed" and 8' x 20' accessory building approved in Director's Decision C09-0006, are being removed as Conditions of Approval in this Director's Decision (C18-0005).

The collapsed old barn is not included in the limitation on combined footprint of all accessory buildings pursuant to Commission Rule 350-81-370(1)(c).

The proposed structures have a footprint of 1,200 square feet, and 200 square feet. Including the "spring house" and "well house," the total of all accessory structures on the parcel is 1,487 square feet, which is not larger than the 1500-square foot maximum specified in Commission Rule 350-81-370.

The proposed accessory structures are an allowed use in the Residential designation and are consistent with Commission Rule 350-81-370(1)(c), subject to compliance with guidelines that protect scenic, natural, cultural and recreational resources (350-81-540 through 620).

Conclusion:

The proposed uses are allowed review uses in the Residential land use designation, subject to compliance with guidelines that protect scenic, natural, cultural and recreational resources (350-81-540 through 620).

B. Scenic Resources

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

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

The site is level and grading is not necessary to site either building. The proposed project is consistent with Commission Rule 350-81-520(1)(a).

2. Commission Rule 350-81-520(1)(b) states:

New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development.

Staff looked at building in the Residential Land Use Designation of the subject parcel and surrounding lands which encompasses an area of 141 acres and contains 27 parcels. According to Klickitat County Assessor records, accessory structures in the vicinity range from 60 to 2,560 square feet in size, and 12 feet to 24 feet tall. Commission Rule 350-81-370(1)(c) limits the size of

accessory structures to 1,500 sq. ft on parcels 10 acres or smaller. According to county records the average total square footage for accessory buildings per parcel in the area is 1,192 sq. ft. The proposed structures are within this range and therefore 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.

No new vegetation is required by the guidelines of this chapter.

4. Commission Rule 350-81-520(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.

The landscape setting for the subject parcel is Rural-Residential in Pastoral. Findings B.5 through B.18 address visual subordination. Findings B.20 through B.22 address the landscape setting.

5. Commission Rule 350-81-520(2) contains guidelines that apply to new development on sites that are topographically visible from Key Viewing Areas (KVAs).

The proposed 1,200 square foot accessory building is topographically visible from the Nature Conservancy Viewpoint. The 10' x 20' "portable" accessory building is not visible from any KVAs. The 1,200 square foot accessory building is subject to the scenic resource guidelines in Commission Rule 350-81-520(2) to ensure visual subordination to as seen from KVAs.

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

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

The proposed 1,200 sq. ft. building would be topographically visible when viewed from the Nature Conservancy KVA. Findings B.5 through B.18 provides an analysis of the potential visual impacts of the proposed development as seen from KVAs. These findings show the proposed development would be consistent with Commission Rule 350-81-520(2)(b).

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 effect" 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.

To address cumulative effects of the proposed developments staff looked at both the Land Use Designation and Landscape Setting of the parcel and surrounding lands. The Landscape Setting of the subject parcel and surrounding lands is Rural Residential in Pastoral.

The Residential Land Use Designation of the subject parcel and surrounding lands encompasses an area of 141 acres and contains 27 parcels, most of which are around 5 acres in size. In this Land Use Designation, dwellings are a Reviewable Use on any legally established parcel. Of the 27 parcels, 2 tax lots are publicly owned and undeveloped, and 2 tax lots are privately owned and undeveloped. The remaining 23 parcels each have a dwelling with an accessory building.

The Rural Residential in Pastoral Landscape Setting extends for approximately one mile along Old Highway 8, on a plateau above SR-14. The landscape is rolling hills on the plateau above the Columbia River, less than a mile west of Lyle, WA. The vegetation in the area is a mix of open grasslands with clustered oak woodlands. The area encompasses approximately 250 acres and contains 44 tax lots, 36 of which have a single-family dwelling as a principal use outright. Of the remaining 8 parcels, 2 tax lots are publicly owned and undeveloped, and 6 tax lots are privately owned and undeveloped.

The area observed is generally reaching the limits of development allowed under Rule 350-81. According to county records the average total square footage for accessory buildings in the area is 1,192 sq. ft. Commission Rule 350-81-370(1)(c) limits the size of accessory structures to 1,500 sq. ft on parcels 10 acres or smaller. Because most of the parcels are under 10 acres and already have dwellings and accessory dwellings, it is likely that development of new accessory buildings in this area will be limited to replacements and smaller buildings because most parcels already have some accessory structures or have already reached the square footage limit. The subject parcel will not be eligible for any more accessory structures.

The new accessory buildings will create a cumulative effect of additional development and buildings within the area. However, the new buildings will not have a cumulative effect on scenic resources because they fit into the surrounding landscape and have similar characteristics to other parcels in the area whose principal use is as a residence. The Nature Conservancy Viewpoint is located 3 miles away, so development in the area will only be seen in the background.

Conditions addressing siting and color ensure visual subordination from KVAs. These conditions, along with land use designations and the minimum lot sizes in the area, prevent this development from creating an adverse cumulative effect. The proposed development is consistent with Commission Rule 350-81-520(1)(c).

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

The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from key viewing areas.

(A) Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:

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

The amount of area of the building site exposed to Key Viewing Areas.

The proposed building site is exposed to the Nature Conservancy Viewpoint from the south. The proposed structure has 16-foot walls and is up to 24 feet in height. Trees provide screening for

most of the structure. The roof line of the structure will be partially visible from the Nature Conservancy Viewpoint.

The degree of existing vegetation providing screening.

A slight topographic rise to the south of the building site is covered with a mixture of oak and pine trees which almost completely screen the structure as seen from the Nature Conservancy Viewpoint.

The distance from the building site to the Key Viewing Areas from which it is visible. The proposed building site is approximately three miles from the Nature Conservancy Viewpoint.

The linear distance along the Key Viewing Areas from which the building site is visible. The Nature Conservancy Viewpoint is not a linear KVA.

The extent and type of conditions applied to the proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. The proposed building site is visible from one KVA at a distance of three miles. Topography and existing trees provide substantial screening. Overall, the site is only slightly visible from one KVA, and the potential visual impact of the development is low. With conditions addressing color, reflectivity, retention of existing vegetation, and lighting, the proposed development would be visually subordinate as seen from KVAs.

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

Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from 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 below, conditions for siting, design, and retention of existing vegetation are applied to ensure that the development is visually subordinate to its setting as seen from KVAs.

Siting (location of development on the subject property, building orientation, and other elements)
The proposed 1,200 sq. ft. building has been sited to the southeast of the existing dwelling and driveway. The 200 sq. ft. "portable" building has been sited to the south of the existing dwelling and adjacent to the driveway. Nearby trees to the south provide screening from KVAs. With a Condition of Approval to ensure the siting of the structure is as shown on the site plan, the siting is consistent with this guideline.

Retention of existing vegetation

A mixed stand of coniferous and deciduous trees located to the south of the project site provides screening for the proposed structures. The proposed siting allows for the retention of trees that contribute to the proposed development meeting the visually subordinate standard. A condition of approval requiring retention of these trees is included, consistent with this guideline.

Design (color, reflectivity, size, shape, height, architectural and design details and other elements)

The applicant proposes the new 1,200 sq. ft. accessory building will be a manufactured building, manufactured by Worldwide Steel Buildings (www.worldwidesteelbuildings.com). The approved

manufacturer's colors for the 1,200 sq. ft. accessory building are "Brown," "Burnished Slate," "Rustic" and "Black" according to the Worldwide Steel Buildings Color Selector Tool. A Conditional of Approval ensures the colors of the accessory are the approved colors.

New landscaping

No new landscaping has been proposed by the applicant. Due to existing screening trees and the great distance from KVAs, no new landscaping is required.

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

New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

The proposed buildings are both located in a previously cleared area near existing development on the parcel. This location is suitable to achieve visual subordination when viewed from KVAs, as explained in Findings B.5 through B.18, and is consistent with Commission Rule 350-81-520(2)(e).

11. 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.

As described in Findings B.1, B.7 and B.9, a suitable site for development was chosen. The proposed development is sited to utilize topographic features and existing vegetation to screen the proposed development from KVAs to the south. The proposed development would be consistent with Commission Rule 350-81-520(2)(f).

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

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

The proposed sites retain the existing vegetation to the south that partially screens the development. A condition of approval protecting the existing vegetation ensures the proposed development is consistent with Commission Rule 350-81-520(2)(g).

13. 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...

The 1,200 sq. ft. accessory building is visible from The Nature Conservancy Viewpoint. Both KVAs are located higher in elevation than the accessory building. From this KVA, the accessory building remains well below the hills to the north of the parcel and does not create a silhouette, consistent with Rule 350-81-520(2)(h).

14. Commission Rule 350-81-520(2)(j) lists guidelines that apply to new landscaping used to screen development from key viewing areas. No new landscaping is required for screening. This rule does not apply.

15. Commission Rules 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 approved colors for the 1,200 sq. ft. accessory building are "Brown," "Burnished Slate," "Burgundy" and "Black" according to the Worldwide Steel Buildings Color Selector Tool. These colors are approved as the primary color, trim, and roof. The roof needs to have a matte paint color or granular finish to reduce reflectivity. These colors are dark earth tones and will blend in with the shadows and other dark tones of the landscape. A condition of approval is included requiring the exterior surfaces of the proposed structures, including the support posts, window trim, and exterior doors and windows selected are approved dark earth-tone colors and that the roof be a matte or granular finish. With this condition, the proposed structures would be consistent with Commission Rule 350-81-520(2)(l).

16. Commission Rule 350-81-520(2)(m) states:

The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features...

The 1,200 sq. ft. building is composed of metal siding and visible from one KVA, The Nature Conservancy Viewpoint, to the south in Oregon. However, due to existing topography on the southern end of the subject parcel the building is almost completely screened. The parcel's relative distance from the KVAs help the building blend into the landscape. A Condition of Approval requires all colored aspects of the building, including roof, be chosen from the approved colors in B.14.

17. Commission Rule 350-81-520(2)(p) required exterior lighting to be hooded, shielded, and directed downward. No exterior lighting is proposed. A Condition of Approval requires that this guideline be met if any new lighting is proposed. Examples of acceptable and unacceptable lighting fixtures is also included with this Director's Decision.

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

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

The additional driveway is the minimum length necessary to serve the 1,200 sq. ft. building. The building site is also flat, requiring minimal grading and not resulting in any visible cut banks or fill slopes consistent with this rule.

19. Commission Rule 350-81-520(2)(aa) requires grading plans for development involving more than 200 cubic yards of grading. This development does not require more than 200 cubic yards of grading and is exempt from this rule. A Condition of Approval is included in this Decision stating that a grading plan is necessary should more than 200 cubic yards of grading be required, consistent with this rule.

A letter from Jim Minick, dated June 12, 2018, alleged John Nickols plans to build a large dam using the soil removed from this project. Staff explained the concern to Mr. Nickols and explained this rule as well as the sizes and types of structures that require National Scenic Area review.

20. The Landscape Settings Map in the *Management Plan for the Columbia River Gorge National Scenic Area* classifies the building site as Rural Residential in Pastoral. Commission Rule 350-81-520(3)(f) contains applicable guidelines for proposed development in this landscape setting. The applicable guidelines require new development to meet the design guidelines described for both the Rural Residential setting and the more rural Pastoral setting with which it is combined.

21. Commission Rule 520-81-520(3)(a) describes the Pastoral landscape setting:

- (A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.*
- (B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:*
 - (i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.*
 - (ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.*
 - (iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).*
 - (iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.*
- (C) Compatible recreation uses include resource-based recreation of a very low-intensity or low-intensity nature (as defined by 350-81-610) occurring infrequently in the landscape.*

The proposed siting allows for the retention of screening vegetation and also requires clustering of accessory buildings. The proposed 200 sq. ft. building is near the existing residence along an existing driveway. The 1,200 sq. ft. building is also sited near the existing residence to minimize the extending the existing driveway. The proposed siting is consistent with all applicable landscape setting guidelines for the Pastoral landscape setting.

22. Commission Rule 520-81-520(3)(e) describes the Rural Residential landscape setting:

- (A) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.*
- (B) In portions of this setting visible from key viewing areas, and not exempt from visual subordination guidelines (see 350-81-520(3)(k)), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:*
 - (i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.*
 - (ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.*
 - (iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*
- (C) Compatible recreation uses should be limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as scenic overlooks).*

The proposed siting allows for the retention of screening vegetation, although none is required. The proposed siting is consistent with all applicable landscape setting guidelines for the Rural Residential landscape setting.

23. Commission Rule 350-81-520(4) requires that all review uses within Scenic Travel Corridors be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. The proposed development is not adjacent to or near a Scenic Travel Corridor.

Conclusion:

With conditions regarding siting, tree retention, color, use of non-reflective materials and exterior lighting, the proposed development would be consistent with the guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. Commission Rule 350-81-540(1)(c)(A)(ii) requires a cultural resources reconnaissance survey for all proposed uses except those in 350-81-540(1)(c)(A)(ii)(I) through(VI).
2. Chris Donnermeyer, Heritage Resource Program Manager for the Columbia River Gorge National Scenic Area, reviewed the new land use application and determined in a Cultural Resources Survey Determination, dated June 12, 2018, that pursuant to Commission Rule 350-81-540(1)(c)(A)(ii) a reconnaissance survey was not required because the site was adequately surveyed previously (Dryden, 2005).
3. Commission Rule 350-81-540(1)(c)(A)(i) states:

A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those listed as exceptions in 350-81-540(1)(c)(A)(ii).

According to the Cultural Resources Survey Determination by Mr. Donnermeyer, because a reconnaissance survey was completed in 2005, a new survey is not required.

4. Commission Rule 350-81-540(1)(c)(B) states:

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

The applicant does not propose to alter any structures or 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. Therefore, a historic survey was not required for the proposed use.

5. Commission Rule 350-81-540(2)(c)(B)(i) states:

The cultural resource protection process may conclude when one of the following conditions exists...

- (i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were*

voiced by interested persons within 21 calendar days of the date that a notice was mailed.

Neither a reconnaissance nor a historic survey is required. No substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding cultural resource impacts were voiced by the State Historic Preservation Officer or Indian tribal governments during the comment period. Therefore, the cultural resource protection process may conclude.

6. Commission Rules 350-81-540(6) and (7) protect cultural resources and human remains discovered during construction. They require that if cultural resources or human remains 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. Conditions of Approval are included in the Director's Decision alert the applicant to these requirements.

Conclusion:

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

D. Recreation Resources

1. Commission Rule 350-81-086 states:

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

No recreation sites or facilities exist on parcels that are adjacent to the subject parcel, therefore, no buffers are required pursuant to Commission Rule 350-81-086.

Conclusion:

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

E. 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).
2. The Gorge Commission's natural resource inventories do not show any wetlands, streams, ponds, lakes, riparian areas, or resource buffer zones in the project vicinity.
3. During a site visit to the property, on March 20, 2018, staff noticed the area where the 1,200 square foot accessory building is sited seemed unusually saturated with water.
4. Commission Rule 350-81-020(150) defines wetland as:

Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

On May 10, 2018, Commission staff contacted the Underwood Conservation District (UCD) to do an initial review of the site. After consultation, it was determined that the area was not a wetland because there was no wetland vegetation observed during the previous staff visit, historical aerial imagery shows the area being dry most of the year, and the area was not mapped in the national wetlands inventory.

5. Commission Rule 350-81-560(7) requires a wetland buffer based on the dominant vegetative community. As proposed, the buildings would not be constructed within the buffer zones of any wetland, consistent with Commission Rule 350-81-560(7).
6. John Minick, submitted a letter with comments to the Gorge Commission, dated June 12, 2018, that expressed concern about a seasonal watercourse running onto the Nickols property from his property to the east, potentially near where the 1,200 sq. ft. accessory building would be located.
7. Commission Rule 350-81-020(150) defines streams as:

Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

Staff contacted Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (DNR), Washington Department of Ecology to help make a determination about the water course. None of the agencies had any data related to the water course.

Mr. Minick owns two properties that form part of the eastern boundary of Mr. Nickols's property. On Mr. Minick's properties, the water course has a channel and a silt bed consistent with the definition of "stream" in the Commission's rules. The water course flows onto Mr. Minick's property through a culvert under Wilkins Drive, the Minick property's eastern boundary, and originates somewhere on the parcel to the east. Aerial photography confirms the presence of the water course on both of Mr. Minick's properties, and on the parcel directly to the east of Mr. Minick's properties.

However, once the water flows onto the Nickols property, the bed becomes undiscernible by both visual observation and aerial photography. There are two ditches running north and south on Mr. Nickols's property, which look to have diverted the water at one time, but they are no longer functioning. The water is currently pooling and seeping into the earth in the area between the Minick and Nickols properties. This is also the reason the site was unusually saturated during the staff visit on March 20, 2018. Staff contacted the Underwood Conservation District (UCD) for help identifying a reasonable solution. On August 7, 2018 & August 13, 2018, Jan Thomas met with Mr.

Minick and Mr. Nickols and walked their properties to assess the water course. Ms. Thomas concluded that the water course was not a stream, but best described as a small water course.

Based on these Findings of Fact, and the Commission's definition of stream, the water course described in Mr. Minick's comments is not a stream. Staff contacted both Mr. Minick and Mr. Nickols and discussed ways to enhance the long-term health of water course.

8. Commission Rule 350-81-570(7) requires a 50-foot stream buffer as measured from the ordinary high-water mark. As proposed, the developments would not occur within the buffer zones of any streams, consistent with Commission Rule 350-81-570(7).
9. The Gorge Commission's natural resource inventories indicate that sensitive wildlife habitat areas for Western pond turtle and Lewis' woodpecker are located within 1000 feet of the project area. Commission Rule 350-81-580(3) allows review uses to occur within 1,000 feet of a sensitive wildlife area or site when approve pursuant to Commission Rule 350-81-580(4).
10. Commission Rule 350-81-580(1)(c) states:

Determination of potential effects to significant natural resources shall include consideration of cumulative effects of proposed developments within 1000 feet of sensitive wildlife areas and sites.

The development will have limited cumulative impacts to sensitive wildlife areas. The chosen sites for the new buildings are clustered together near the home and other accessory buildings to minimize the footprint of development. No existing vegetation will be removed, and no development will take place within the buffer zones of any natural resources. As such, the cumulative impacts of the developments will be minimized to not adversely affect sensitive wildlife habitat or sites, consistent with this rule.

11. Commission Rule 350-81-580(4) requires that the site plan for the development is submitted to the Washington Department of Fish and Wildlife for review and determination whether the proposed use may compromise the integrity of the wildlife site or whether the activity would occur during the time of year when wildlife species are sensitive to disturbance.

On May 24, 2018 Commission staff sent notice and site plan to the Washington Dept. of Fish and Wildlife. They have not indicated that they have any concerns regarding this development proposal.

12. The Gorge Commission's sensitive plant inventory does not show any sensitive plant sites within 1,000 feet of the proposed development. Therefore, the proposed development would be consistent with the standards in Commission Rule 350-81-590 that protects sensitive plants.

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.

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.

2. 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 May 24, 2018. The notice included a comment period of 21 days that ended on June 14, 2018.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No comments were received. Given this information, the proposed dwelling is consistent with Commission Rule 350-81-084(1)(b).
4. 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 and does not contain First Foods. 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 Native American tribe.

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