

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C18-0012

PROPOSAL: The Columbia River Gorge Commission has received an application for the after-the-fact review of an accessory structure.

APPLICANT: Gabriel Burgess & Esina Alic

LANDOWNER: Gabriel Burgess & Esina Alic

LOCATION: The subject parcel is located at 7171 Hwy 8, White Salmon, Washington, in the North East Quarter of Section 36, Township 3 North, Range 11 East, W.M., Klickitat County Tax Lot Number 03-11-3600-0003/00. The parcel is 18.42 acres in size.

LAND USE

DESIGNATION: The subject parcel is in the Special Management Area and designated Agriculture.

DECISION:

Based upon the following findings of fact, the land use application by Gabriel Burgess & Esina Alic, for the after-the-fact review of an accessory structure and associate utilities, 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).

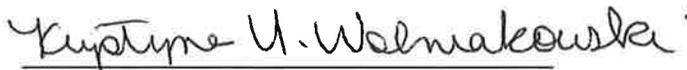
1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C18-0012, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded documents 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 to 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 development shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
5. The yurt shall not be used as a dwelling. The kitchen as currently constructed, including the range and other appliances for food preparation and storage, shall be removed.
6. Only approved dark earth-toned colors for exterior materials shall be used. The following colors submitted by the applicant are consistent with this condition and are hereby approved: The approved colors for the development are BEHR *Little Black Dress* (PPU24-23), *Shadow Mountain* (PPU24-22) and *Black Boudair* (PPU26-23). Any proposed changes to these colors shall be submitted for review by the Executive Director for consistency with this condition of approval. The color of the development shall be maintained by re-painting and re-staining as necessary to maintain the approved color.
7. All exterior building materials including the roof, deck and pergola shall be nonreflective or have low-reflectivity. The exterior of the yurt will be composed of non-reflective vinyl fabric, wood, metal. The metal, including the stovepipe, will be painted with a non-reflective matte black paint.
8. No exterior lighting is proposed. If outdoor lights are proposed on the subject parcel, the applicants shall show them on a revised site plan and submit the proposed design and placement of the lights to the Gorge Commission for the review and approval. All outdoor lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible as seen from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials. Any seasonal lighting displays on or around the dwelling shall not exceed 3 months.
9. Screening vegetation shall be implemented as specified in the approved landscaping plan. The approved plan includes eleven plantings: five ponderosa pines and six willows. The ponderosa pines need to be a minimum of 3 feet tall, ball and burlap, at time of planting. Willows shall be 2 feet tall, ball and burlap, at time of planting. Maintenance and survival of the vegetation is required. Changes to the landscaping plan must be provided to the Executive Director for review and approval.
10. Maintenance and survival of the vegetation is required, and an irrigation plan shall to be submitted to the Executive Director for review before landscaping vegetation is planted. Changes to the landscaping plan must be provided to the Executive Director for review and approval.
11. Except for dead trees or other dead vegetation that may serve as a fire hazard, all existing vegetation on the site shall be retained and maintained for screening purposes, or as indicated on the approved landscaping plan.
10. All disturbed areas shall be reseeded with grasses from the approved Recommend Seed Mixes for East Side Environments, which is included as part of the approved landscaping plan.
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 27 day of June 2019 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 27 day of June 2021 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 26 day of July 2019.

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

Attachments:

Staff Report for C18-0012
Approved site plan
Approved landscape plan
Approved Handout: Recommended Seed Mixes in East Side Environments

Site Plan

1:2400 scale: Overview of 7171 Hwy 14, Lyle, WA



Irrigation, Electrical, Water, and Waste Lines



The green lines show irrigation lines, the blue lines show drinking water supply lines. The purple shows known septic systems.

Elevation drawings must show the sides of proposed buildings which would be visible from key viewing areas, including:

View of Yurt from Highway 14



Landscape details must show how your project will be screened from key viewing areas, including:

Currently the yurt is screened primarily by Oak trees and Ponderosa Pine Trees. During the Spring, Summer, and Fall seasons the yurt is successfully screened from Hwy 14, The Columbia River, and I-84; However, in winter when the Oak leaves fall off, the yurt is visible from Hwy 14 and the Columbia River.



Current view from the front door of the yurt



To ensure the yurt is adequately screened all year we are planning to add native Ponderosa Pine and Salix/Willow in front of and in-between existing oaks and ponderosa pine trees. These selections were based upon recommendations made during meetings at the CRGC offices and by referencing the Recommended Plants for Screening Docs for the SMA. Our plan is to space these additional trees 8'-12' apart in natural looking clusters. We will add as many trees and/or shrubs and/or grasses as CRGC planners recommend in addition to the plan outlined in the picture below:

A markers = Ponderosa Pine; B markers = Salix/Willow



**Recommended Seed Mixes, Mulch, and Fertilizer
for Temporary and Permanent Revegetation in East Side Environments**
Based on recommendations from Andrea Ruchty, district botanist, GPNF, Mt. Adams Dist.,
and Robin Dobson, CRGNSA botanist

<i>Native Seed Mixture #1: Recommendations for Composition and Application Rates</i>		
Species	Hand Seeding including Handheld Spreaders	Hydromulcher
blue wildrye (<i>Elymus glaucus</i>)	20 lbs/acre	15 lbs/acre
California brome (<i>Bromus carinatus</i>)	20 lbs/acre	15 lbs/acre
slender hairgrass (<i>Deschampsia elongata</i>)	10 lbs/acre	5 lbs/acre
broadleaf lupine (<i>Lupinus latifolia</i>)		
Idaho fescue (<i>Festuca idahoensis</i>)		
Total	50 lbs/acre	35 lbs/acre

<i>Native Seed Mixture #2: Recommendations for Composition</i>	
Species	% by wt.
California Brome (<i>Bromus carinatus</i>)	20
Sheep fescue (<i>Festuca ovina</i>)	40
Blue wildrye (<i>Elymus glaucus</i>)	10
Canada bluegrass (<i>Poa compressa</i>)	10
Blue bunch wheatgrass (<i>Agropyron spicatum</i>)	20
Sickle-keeled lupine (<i>Lupinus albicaulis</i>)	5 oz./100# seed
America vetch (<i>Vicia Americana</i>)	5 oz./100# seed

<i>Non-Native Seed Mixture: Recommendations for Composition and Application Rates</i>	
Species	Application Rate
Annual ryegrass (<i>Lolium multiflorum</i>)	10 lbs/acre (fine seed)
Perennial ryegrass (<i>L. perenne</i>)	10 lbs/acre (fine seed)
Soft white winter wheat (<i>Triticum aestivum</i>)	40 lbs/acre
Sickle-keeled lupine (<i>Lupinus albicaulis</i>)	10 lbs/acre
TOTAL	70 lbs/acre

Herbaceous plants can be added after seeding:

Chrysothamnus nauseosus (rabbitbrush)	1 -2 oz./ac.
Achillea millefolium (Yarrow)	1 -2 oz./ac.
Eriogonum strictum	1 -2 oz./ac.
Lupinus bicolor or latifolius var. thompsonianus	1 -2 oz./ac.
Eriophyllum lanatum (Oregon sunshine)	1 -2 oz./ac.
Bitter brush (Purshia tridentate)	10 small plants/ac.
Arrowleaf Balsam root	

Notes:

Application Method: Hand or machine, ideally in the fall. Machines such as hydromulchers, usually have agitators which keep the seed well mixed and applied evenly. In hand-seeding operations it is more difficult to achieve an even distribution of seed. For this reason more lbs /acre have been prescribed to compensate for inadvertent patchiness. Hand seeding should utilize two passes of the area: 1 pass for small, fine seed such as slender hairgrass, and a second pass for the larger seeded species such as blue wildrye and California brome. Rice hulls may need to be added to the DEEL to get dispersion distance. Contact with the soil is very important, best results are achieved when the seed is lightly raked or pressed into the soil.

Seed Storability: Generally grass and forb species will hold reasonable germination (>80%) for 6-7 years in uncontrolled conditions. Thin-coated species such as *Bromus* will hold only 2-3 years or so.

Seed Source: Try to use appropriate local seed source for natives. Some flexibility for elevation is ok in a pinch. One native seed source is Bolson Seed Company, La Grande, OR (541)965-8285. Milestone Nursery (Lyle), Inside Passage Seed Co., Oregon Wholesale Seed Company (<http://www.oregonwholesaleseed.com/>), Rainier Seeds, Hughes Feed and Grain (the Dalles) and Dallesport Seed are other possible sources of seed, as well.

Fertilizer: Where there is a good "A" horizon probably don't need fertilizer. For sites with little organic matter use 200 lbs 16-20-0 /ac.

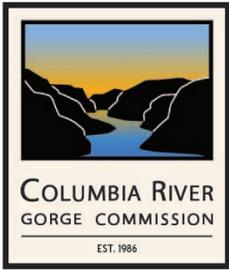
Mulch: Use certified weed free straw mulch whenever possible. Only 1-2" (2 tons/ac.) is needed and should be evenly applied. **Too deep can be more detrimental than none at all.** Ideally, it should be chopped and applied by machine. To further reduce the chance of introducing non-natives in to project areas, straw derived from native species is preferred. If not available, then straw from short-lived or non-persistent mulch sources such as annual rye or cereal grain seed production fields would be the next choice.

Using weed-free straw mulch is an important component in our strategy to control the spread of invasive species on the Forest. Weed-free straw is still a developing resource and its availability may be variable. Finding it will likely take some looking around. Oregon and Washington currently have weed-free certification programs. See the following websites for current lists of weed-free straw suppliers:

- ✓ http://www.nwcb.wa.gov/WWHAM/WWHAM_suppliers.htm
- ✓ http://oregon.gov/ODA/CID/weed_free_forage.shtml

The following are some more potential contacts for weed-free straw:

- Elwyn Crutcher, Stanwood, WA, 360-939-2334 (he will deliver for a charge, is generally sold out by spring).
- Wallowa County Hay Growers Association:
<http://www.certifiedwallowacountyhay.com/>
- John Williams, OSU Extension in Wallowa County, 541-426-3143.
- Randy Black, Oregon Dept of Agriculture, 503-986-4620.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.



COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C18-0012

PROPOSAL: The Columbia River Gorge Commission has received an application for the after-the-fact review of an accessory structure.

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LANDOWNER: Gabriel Burgess & Esina Alic

LOCATION: The subject parcel is located at 7171 Hwy 8, White Salmon, Washington, in the North East Quarter of Section 36, Township 3 North, Range 11 East, W.M., Klickitat County Tax Lot Number 03-11-3600-0003/00. The parcel is 18.42 acres in size.

LAND USE

DESIGNATION: The subject parcel is in the Special Management Area and designated Agriculture.

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 Steve McCoy, Attorney for Friends of the Columbia River Gorge and the Confederated Tribes of the Warm Springs Reservation of Oregon

FINDINGS OF FACT:

A. Land Use

1. The subject parcel is in the Special Management Area (SMA) and is designated Agriculture.
2. The subject parcel is 18.42 acres in size and located approximately 3 miles east of Bingen, WA on County Road 1230 (Old Highway 8).
3. The applicant requests the after the fact approval of a yurt with a deck and pergola, and utility improvements to the dwelling, garage and yurt, including improvements to irrigation, septic, and water lines.
4. Two previous Director's Decisions apply to the parcel. Director's Decision C98-0004 approved a recreational vehicle garage. Director's Decision C00-0024 approved new cultivation of grapes and an expanded irrigation system.
5. Current development on the property includes the previous Director's Decisions, a dwelling and a barn.
6. Commission Rule 350-81-190(2)(c) allows one single-family dwelling necessary for and accessory to agricultural use. Commission Rule 350-81-020(53) defines dwelling unit as:

A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

As currently constructed, the yurt has a cooking area. The parcel already has one dwelling, constructed in 1986. A condition of approval requires the removal cooking facility from the yurt, so that the yurt does not meet the Commission's definition of dwelling unit.

7. Commission Rule 350-81-190(2)(i) allows accessory buildings on lands designated SMA-Agriculture. Commission Rule 350-81-190(2)(i) states:

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

- (A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.*
- (B) The footprint of any individual accessory building shall not exceed 1,500 square feet.*
- (C) The height of any individual accessory building shall not exceed 24 feet.*

Director's Decision C98-0004 approved a recreational vehicle garage on the parcel. That building is 30 feet wide and 48 feet long, or 1,440 square feet in area. The proposed yurt is 24 feet in diameter with an attached 68 square foot deck and pergola, which is 520 square feet in area. Combined, the square footage of the two buildings is 1,960 square feet, under the total area of 2,500 square feet allowed, pursuant to this rule.

The yurt is 15' 2" from ground level to its tallest point, under the 24-foot height limit required by this rule.

Conclusion:

With a condition of approval ensuring the yurt is an accessory building and not a dwelling, the yurt is a reviewable use on lands designated SMA-Agriculture, provided it does not adversely affect scenic, cultural, natural, or recreation resources in the National Scenic Area. These additional reviews are below.

B. Scenic Resources

1. Commission Rule 350-81-530(1)(a) includes design guidelines for lands within Special Management Areas based on Landscape Settings, regardless of visibility from Key Viewing Areas (KVAs). The subject parcel is in the Pastoral Landscape Setting, and Commission Rule 350-81-530(1)(a)(A) states that Pastoral areas shall retain the overall appearance of an agricultural landscape.

The parcel contains a vineyard of approximately 1 acre located in the northwest portion of the property. The applicants' proposal is located over 500 feet from the existing vineyard and will not affect the operation of the vineyard. Conditions of approval are included in the Decision to retain existing vegetation around the yurt to retain the parcel's overall appearance of an agricultural landscape.

2. Commission Rule 350-81-530(2) includes guidelines for development and uses visible from KVAs. 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 development is topographically visible from five Key Viewing Areas: The Historic Columbia River Highway, Interstate 84 (I-84), the Columbia River, Rowena Plateau and the Nature Conservancy Viewpoint, Washington State Route 14 (SR 14), and County Road 1230 (Old Highway 8). Commission Rule 350-81-530(2) guidelines apply.

3. 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) requires the scenic standard for all developments and uses on lands designated Agriculture in the Pastoral Landscape Setting to be *visually subordinate*.

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

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 development is visible from the following Key Viewings Areas at the following distances:

<u>KEY VIEWING AREAS</u>	<u>DISTANCE ZONE</u>		
	FOREGROUND	MIDDLEGROUND	BACKGROUND
	0 - 1/4 Mile	1/4 - 3 MILES	Over 3 Miles
Historic Columbia River Highway		X	X
Interstate 84		X	X
Columbia River	X	X	X
Washington State Route 14	X	X	
Old Highway 8	X	X	

As discussed in Findings B.6 and B.7, Commission Rule 350-81-530(2)(f) requires written findings addressing the degree of visibility and conditions of approval applying to siting, design, landscaping and retention of existing vegetation needed to ensure development is visually subordinate as seen from Key Viewing Areas. Additionally, Commission Rule 350-81-530(2)(k) and Commission Rule 350-81-530(2)(l), require the yurt be constructed of low-reflective materials that are dark earth-tone colors (see Findings B.11 and B.12 below).

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

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

As seen from key viewing areas, the subject parcel is in an area where existing dwellings, accessory buildings, and vineyards are seen scattered throughout the landscape. Dwellings and other structures are sited near existing stands of trees which serve to partially screen the development, making them visually subordinate as viewed from Key Viewing Areas.

To determine cumulative effects, staff analyzed the existing development and development potential of the subject parcel and the adjacent and nearby SMA land also in the Pastoral Landscape Setting within a half mile of the subject parcel. This area was chosen because it is managed as SMA, which contains different development standards from nearby GMA and tribal land, and because all the parcels are subject to the design requirements of the Pastoral Landscape Setting. The subject parcel is surrounded by state and federal government lands to the north, east, south and west. Government-owned land in the SMA is not typically developed, so staff assumes that government lands near the subject parcel will not be developed. Within the study area there are two privately-owned parcels, one of which is the subject parcel. Both parcels are currently developed with a single-family dwelling and accessory structures.

Commission Rule 350-81-190(2) allows on lands designated SMA Agriculture a combined footprint of 2,500 square feet for accessory buildings on parcels larger than 10 acres, and a combined accessory building footprint of 1,500 square feet on parcels less than or equal to 10 acres. The subject parcel, which is over 10 acres, has an accessory building with a footprint of 1,440 square feet in area. The proposed yurt is 24 feet in diameter with an attached 68 square

foot deck and pergola, which is 520 square feet in area. Combined, the square footage of the two buildings is 1,960 square feet, under the total area of 2,500 square feet allowed. Therefore, an additional accessory building of approximately 540 square feet is allowable on this parcel. Following SMA standards, any new development would need to be sited to reduce visibility from Key Viewing Areas. The design guidelines for the Pastoral Landscape Setting within the SMA require that development retain the overall appearance of an agricultural landscape by using existing development and vegetation to screen the development from view, a design that fits with the landscape setting, and exterior materials that are dark, earth-toned, and low- or non-reflective, there would be no significant increase in visibility of the potential new development. If a new accessory building were built to support the use of the parcel, and if it was designed in a similar manner to existing development, the development would be consistent with the guidelines of the landscape setting.

There would be minimal cumulative effects from Key Viewing Areas in the foreground because potential buildings would be clustered together with other development and a traveler along Old Highway 8 and SR 14 will only encounter one of the two developed sites at a time because of the quarter mile distance between them. From Key Viewing Areas 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. At this distance, the cumulative visual impact of the current development is insignificant. If any new development on the subject parcel and the adjacent parcel were to be sited near existing development, the visual impacts of the combined activities would be collectively insignificant.

4. 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 adjacent natural landscape to the proposed development is characterized by a mix of mature Oregon white oak and ponderosa pine trees mixed with seasonally light green and brown grass, and dark grey/brown basalt cliffs and outcroppings. The yurt is located at the base of "Rowland Wall," a large massive basalt cliff which rises to the east of Rowland Lake.

The colors of the yurt and retention of vegetation ensure the yurt will blend well with the adjacent natural landscape elements and achieve visual subordination. The exterior of the yurt and the deck will be finished with colors that are as dark or darker than the shadows of natural elements in the surrounding landscape.

5. 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 yurt has been sited adjacent to a preexisting road in a previously disturbed location reducing the need for any additional visible grading. The adjacent natural landscape to the proposed development is characterized by a mix of mature Oregon white oak and ponderosa pine trees mixed with seasonally light green and brown grass, and dark grey/brown basalt cliffs and outcroppings. The trees are a mix of evergreen and deciduous trees. The evergreens provide screening year-round, while the deciduous trees provide decreased screening during the time of year when the leaves on these trees are gone. This existing vegetation helps to screen the new development from Key Viewing Areas to the south and achieve the visually subordinate scenic standard. A condition of approval ensures that existing vegetation will be retained to ensure continued screening.

However, to ensure adequate screening all year, the applicant's submitted a landscape plan which includes eleven additional tree plantings. The landscape plan and maintained health of the vegetation is required as a condition of approval.

6. Commission Rule 350-81-530(2)(f) states:

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.*

Old Highway 8 is the closest Key Viewing Area, approximately 200 feet from the proposed development site. However, from that point, the yurt is located at the base of "Rowland Wall," a large massive basalt cliff which rises to the east of Rowland Lake. The approximate elevation of the yurt is 160 feet. Rowland Wall rises behind the yurt to the north to an elevation of 290 feet. The yurt is approximately 130 feet below the edge of the wall, effectively screening the proposed development from view from Old Highway 8. The proposed site is topographically visible from Old Highway 8 for a stretch of approximately 0.4 miles in the middleground as the highway heads northeast, around Rowland Lake and the proposed parcel, to the top of Rowland Wall and towards Catherine Creek.

SR 14 is the Key Viewing Area from which the proposed site will be most visible and is approximately 300 feet south at the nearest point where the site is topographically visible. The

site is visible in the foreground of SR 14 for approximately .25 miles. The proposed site is intermittently visible from SR 14 in the middleground for approximately .75 miles. The elevation of the SR 14 varies from 125 feet to 110 feet during this stretch of road from which the site is topographically visible. Existing trees on the subject parcel help partially screen the proposed development from view of SR 14, but the development is intermittently visible through gaps in coverage as passersby travel down the highway. A condition of approval requires these trees be retained, and others planted to maintain visual subordination

The Columbia River is approximately 650 feet south from the proposed development site at its nearest point where the site is topographically visible. The proposed site is intermittently visible from the Columbia River for a linear distance of approximately 3 miles. The elevation of the Columbia River in the Bonneville Pool is approximately 80 feet. Existing trees on the subject parcel help partially screen the proposed development from view from Columbia River, but the development is partially visible through different gaps in vegetative coverage depending on the vantage point. A condition of approval requires these trees be retained, and others planted to maintain visual subordination

Interstate 84 is approximately .65 miles south from the proposed development site at its nearest point where the site is topographically visible. The proposed site is intermittently visible from I-84 for a linear distance of approximately 4 miles. I-84 is approximately 30 feet lower in elevation than the proposed development site. The distance between the proposed development site and I-84 aids the yurt in being visually subordinate in relation to its surroundings. Existing trees on the subject parcel also effectively help screen the proposed development from I-84 and blend the development into the surrounding landscape.

The Historic Columbia River Highway is approximately 1 mile south from the proposed development site at its nearest point where the site is topographically visible. The proposed site is intermittently visible from the Historic Columbia River Highway for a linear distance of approximately 5 miles. The elevation of the Historic Columbia River Highway varies from 102 feet to 650 feet during this stretch of road from which the development site is topographically visible.

The distance between the proposed development site and I-84 aids the yurt in being visually subordinate in relation to its surroundings as viewed from Key Viewing Areas. Existing trees on the subject parcel also effectively help screen the proposed development from the Historic Columbia River Highway and blend the development into the surrounding landscape.

7. 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 350-81-600.

8. 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.

The yurt is located at the base of “Rowland Wall,” a large massive basalt cliff which rises to the east of Rowland Lake. The approximate elevation of the yurt is 158 feet. Rowland Wall rises behind the yurt to the north to an elevation of 290 feet. The height of the yurt is 12 foot 6 inches, and from all KVAs, the yurt is well below the skyline of the wall.

9. Commission Rule 350-81-530(2)(i) states,

Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

The nearby trees to the site are a mix of mature ponderosa pine and Oregon white oak, with an average tree canopy height of approximately 40 feet.

10. Commission Rule 350-81-530(2)(j) includes guidelines for 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).*

The yurt is partially screened from Key Viewing Areas by existing vegetation on the subject parcel. The adjacent natural landscape to the proposed development is characterized by a mix of mature Oregon white oak and ponderosa pine trees mixed with seasonally light green and brown grass, and dark grey/brown basalt cliffs and outcroppings. The trees are a mix of evergreen and deciduous trees. The evergreens provide screening year-round, while the deciduous trees provide decreased screening during the time of year when the leaves on these trees are gone. This existing vegetation helps to screen the new development from KVAs to the south and achieve the visually subordinate scenic standard. A condition of approval ensures that existing vegetation will be retained to ensure continued screening.

However, to ensure adequate screening all year, the applicant’s submitted a landscape plan which includes eleven additional plantings. The landscape plan and maintained health of the vegetation is required as a condition of approval. According to *Scenic Resources Implementation Handbook*,

the recommended character of new screening plantings in the Pastoral Landscape Setting should “retain an open character.” In the SMA, the handbook specifies that new screening vegetation be common plant species. The applicant has chosen six willow trees and five ponderosa pine trees. The ponderosa pine trees are found on at the development site, and the willow trees are native to the National Scenic Area in eastern environments. A condition of approval requires the ponderosa pines to be a minimum of 3 feet tall at time of planting and willows need to be 2 feet tall at time of planting.

With conditions requiring the planting and maintenance of additional vegetative screening and the use of only the approved materials and colors, the dwelling will meet the visually subordinate scenic standard of the Pastoral landscape setting.

11. Commission Rule 350-81-530(2)(k) states, “Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape.”

The applicants provided colors and samples for the proposed exterior material colors. Staff approved those colors that are consistent with the dark earth-tones found at the site and surrounding landscape and with the recommendations provided in the *Scenic Resources Implementation Handbook*. The approved colors for the development are BEHR *Little Black Dress* (PPU24-23), *Shadow Mountain* (PPU24-22) and *Black Boudair* (PPU26-23). All the exterior material colors are grey and black colors found in the shadows of the surrounding landscape, consistent with this rule.

12. Commission Rule 350-81-530(2)(l) states, “The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity.” The exterior of the yurt will be composed of non-reflective vinyl fabric, wood, metal. The metal, including the chimney, will be painted with a non-reflective matte black paint. No windows or glazing is proposed.

13. 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 applicants’ site plan. A condition of approval states that if outdoor lights are proposed on the subject parcel, the applicants shall show them on a revised site plan and submit the proposed design and placement of the lights to the Gorge Commission for the review and approval.

14. Commission Rule 350-81-530(3) contains guidelines for all new developments and land uses within KVA foregrounds and immediately adjacent to scenic routes. SR 14 is listed as a Scenic Travel Corridor in Commission Rule 350-81-020(133). The yurt will be set back more than 300 feet from SR 14 and more than 200 feet from Old Highway 8, and not within the developed prism of either road, or in the immediate foreground of a KVA. Commission Rule 35081-530(3) does not apply.

Conclusion:

Based on these findings, which include conditions of approval applying to design, the retention of existing vegetation, and additional landscaping, the proposed yurt will be visually subordinate to the surrounding landscape and will not noticeably contrast. With the conditions of approval addressing color, reflectivity, landscaping, and retention of existing vegetation, the proposed development, the proposed development is consistent with the guidelines in Commission Rule 350-81-530 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. Except as specified in Commission Rule 350-81-540(1)(c)(A)(iii), new development requires a reconnaissance survey. Commission Rule 350-81-540(3) requires that, if cultural resources are discovered, an evaluation of the significance shall be conducted. Commission Rule 350-81-540(3)(d)(C) states that if it is determined that the cultural resources are significant, the effects of the proposed use shall be assessed. Commission Rule 350-81-540(5)(a) requires mitigation plans when proposed uses would have an adverse effect on significant cultural resources. Mitigation plans shall reduce an adverse effect to no effect or no adverse effect.
2. Chris Donnermeyer, Heritage Resource Program Manager for the U.S.D.A. Forest Service Columbia River Gorge National Scenic Area, reviewed the new land use application and determined in a Cultural Resources Survey Determination, dated December 20, 2018, that pursuant to Commission Rule 350-81-540(1)(c)(A)(ii) a reconnaissance survey is required because the project occurs within 500 feet of a known archeological site.
3. Katie Boula, with *Kathryn M. Boula, Cultural & Natural Resources Consultant (Assumed Business Name)*, was retained by the Gorge Commission and conducted a field survey and prepared a Reconnaissance Survey Report of the proposed development, titled *Heritage Resource Inventory Report*. The report is confidential because it gives site specific information about cultural resources near the development.
4. Mr. Donnermeyer received and reviewed the *Heritage Resource Inventory Report* for compliance with the requirements for reconnaissance surveys and survey reports for Small-Scale Uses in Commission Rules 350-81-540(1)(c)(D) and (E) and submitted his comments in a letter on April 26, 2019. Mr. Donnermeyer concurred with Katie Boula's findings that the proposed development has no adverse effect on known cultural resources and agrees that no additional archeological work is necessary.
5. 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.

6. Commission Rule 350-81-540(2)(a)(A) and (B) allow interested parties who so request during the comment period to consult with the applicant and request ethnographic research regarding cultural resources. No such consultation or research was requested of the applicant during the comment period.
7. Commission Rules 350-81-540(2)(b) and (3)(b) require the Executive Director to submit a copy of all cultural resource survey reports and assessments of effect to the State Historic Preservation Officer (SHPO) and the Indian tribal governments for their review. The rules provide for a 30-day comment period to submit written comments. The reports were mailed on April 29, 2019. The comment period ended on May 29, 2019. No comments were received following the notice.
8. Commission Rule 350-81-540(4)(c)(B) states:

The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

Mr. Donnermeyer concurred with Ms. Boula's recommendation of no adverse effect for the project. Initial notice of the proposed development was mailed on October 10, 2018 to interested parties. No concerns were voiced within 21 calendar days of that notice. Staff provided the *Heritage Resource Inventory Report* and Mr. Donnermeyer's letter to the State Historic Preservation Office and the four Columbia River Treaty Tribes on April 29, 2019, and no substantiated concerns were voiced during the 30-day comment period.

9. Commission Rule 350-81-540(1)(g) requires consideration of cumulative effects of proposed developments that require a reconnaissance or historic survey, a determination of significance, an assessment of effect, or a mitigation plan. Commission Rule 350-81-020(40) defines "cumulative effects" as:

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

In his report, Ms. Boula makes the determination that the proposed development has no adverse effect on cultural resources conditions. Mr. Boula's determination of no adverse effect to cultural resources, also means no adverse cumulative effects to cultural resources.

10. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100-feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval implementing this requirement is included in this decision.
11. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval requiring adherence to these measures if human remains are discovered is included in this Director's Decision.

Conclusion:

With conditions 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.

There are multiple recreational sites near the development. Rowland Lake Recreational Area and the parcel are adjacent to each other and are separated by SR 14 and County Road 1230 (Old Highway 8) to the parcel's north, west, and south sides. The Catherine Creek Recreational Area lies east and north of the parcel and is also adjacent in certain areas.

The USFS Catherine Creek Interpretative Trail (#4400) crosses the parcel for approximately 37 feet at the parcel's far east side. However, the yurt is located 900 feet away from nearest section of trail and is not currently visible from the trail. The yurt is located at approximately 157 feet elevation and the trail is located above the yurt approximately 200 feet elevation above the yurt. The yurt is located at the base of "Rowland Wall," a large massive basalt cliff which rises to the east of Rowland Lake. The trail is located on a flat east of the wall. The yurt is not visible from the trail, and will not affect the use of the trail. No buffer is required.

The parcel is also located adjacent to the trailhead for the Loose Lucy trail, also part of the Catherine Creek Recreational Area. The yurt is located 900 feet from the trailhead. The yurt will not affect the use of the trailhead and does not require a buffer.

The yurt is located .6 miles away from the parking lot for the Rowland Lake Recreational Area and .44 miles away from the edge of Rowland Lake. The yurt will not affect the recreational uses of Rowland Lake and no buffer is required.

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 350-81-600 provides guidelines for protecting water resources, wildlife and plants in Special Management Areas.
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.

The development is located greater than 300 feet away from Rowland Lake and greater than 650 feet away from the Columbia River, further than the required buffer of 200 feet. The yurt is

located outside the buffer of any of the nearby water resources. The proposed use would not impact protected wetlands, streams, ponds, lakes, riparian areas, or buffers; therefore, it is consistent with Commission Rules 350-81-600.

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 yurt is within 1,000 feet of the following sensitive wildlife/plant areas and sites:
 - Mule and black-tailed deer winter range
 - Lower Catherine and Major Creeks Natural Area
 - Rowland Lake
 - Columbia River
 - Talus slopes of the Columbia River and Rowland Wall
 - Western ladies tresses (*Spiranthes romanzoffiana* var. *porrifolia*)
 - Narrow-leaf onion (*Allium amplexans*)
 - Few-flowered collinsia (*Collinsia sparsiflora* var. *bruciae*)
 - Alumroot (*Heuchera* spp)
 - Barrett's penstemon (*Penstemon barrettiae*)
4. Commission Rule 350-81-600(3)(b) requires that the USFS, in consultation with state biologists review the site plan and field survey records. Commission Rule 350-81-600(3)(c) includes site plan review criteria to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse effects to the wildlife or plant areas or sites.

The Forest Service, Washington Department of Fish and Wildlife, and the Washington Natural Heritage Program received the site plans for review on November 8, 2018. The current proposed development is located within 200 feet of a known occurrence of Barrett's penstemon. Robin Shoal, Natural Resources Planner for the USFS, reviewed the most up to date data on sensitive plants in the area commented that Barrett's penstemon is primarily associated with cliff faces, and since the proposed development is sited on a previously disturbed site with no additional encroachment into wildlife areas, no adverse impacts are anticipated to Barrett's penstemon or other wildlife sites or sensitive plants areas. For mitigation Ms. Shoal recommended that all disturbed areas be revegetated using an appropriate plant mix. That requirement is included as a Condition of approval in this decision.

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 development is sited on a previously disturbed area, and the only soil moved during the construction of the development is for trenching, which is less than 15 percent of the project area.

Conclusion:

With conditions addressing development within the affected buffer zone of Barrett's penstemon, the proposed use would be consistent with applicable natural resource protection guidelines in Commission Rule 350-81.

F. Treaty Rights Protection

1. Commission Rule 350-81-084(1) provides protection of 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 November 8, 2018. The notice included a comment period of 21 days that ended on November 22, 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 development 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. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use does 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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