

## MODIFIED DIRECTOR'S DECISION FOLLOWING REMAND

**Case File:** C19-0004

**Proposal:** The Columbia River Gorge Commission received an application to remove an existing single-family dwelling, rehabilitate the existing dwelling site into pastureland, construct a replacement dwelling, and expand the existing driveway.

**Applicant:** Charles & Valerie Fowler

**Landowner:** Charles & Valerie Fowler

**Location:** The subject parcel is located at 381 Old Highway 8, Lyle, WA, in Section 30, Township 3 North, Range 12 East. Klickitat County Parcel Number 03123000000400.

### Land Use

**Designation:** The subject parcel is designated Agriculture in the Special Management Area (SMA) and is 55.95 acres in size.

### DECISION:

The original Executive Director's Development Review Decision No. C19-0004, issued on April 3, 2019, was appealed by the applicants. On appeal, the Columbia River Gorge Commission remanded the matter back to the Executive Director. The Commission directed Commission staff to work with the applicants and interested parties to resolve the issues of the appeal. The applicants worked with Commission staff and submitted a revised proposal. Commission staff reviewed the new proposal and consulted with Friends of the Columbia Gorge and the Forest Service. Staff then modified the Director's Decision and Staff Report findings, addressing all of the issues raised in the appeal. This is not a consensus decision. The majority of the modifications are found in Section B of the staff report findings, reflecting the reduced height and new design of the proposed dwelling. Based upon the following findings of fact, the land use application by Charles and Valerie Fowler to remove an existing single-family dwelling, rehabilitate the existing dwelling site into pastureland, construct a replacement dwelling, and expand the existing driveway 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 with conditions**. This modified decision supercedes the remanded decision.

### 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).

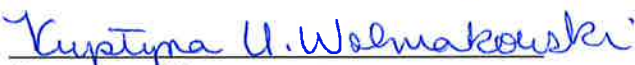
1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C19-0004, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. **Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director at the Commission.**
2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws; and obtain necessary approvals, including utility easement approvals.
3. Any new land uses or structural development such as new buildings, accessory structures, additions to existing buildings, or grading not included in the approved application or site plan will require a new application and review.
4. The final development shall be sited and constructed as described in the staff report and as shown on the approved site plan and elevation drawings. Any changes must be reviewed and approved by the Executive Director pursuant to Commission Rule 350-81-046 (Changes or Alterations to an Approved Action).
5. All exterior building materials, including roofing, railings, trim, and siding, shall be nonreflective or have low-reflectivity. Any exterior metal materials shall be painted with low-gloss paint and maintained as necessary to ensure that the material is non-reflective. All windows shall be composed of low-reflectivity glass.
6. Only the 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: Sherwin-Williams "English Ivy" (SW 2935) for the exterior siding and trim; Eldorado Stone Bluffstone in "Coos Bay" for the exterior stonework; and 'Onyx Black' shingles by Owens for the roofing. Any proposed changes to these colors shall be submitted for review by the Executive Director for consistency with this condition of approval.
7. All exterior lighting shall be as described in the project description as shown in the approved exterior lighting plan submitted by the applicant. All outdoor lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible as seen from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
8. All areas of continuous unscreened surfaces of glass on the south, west, and east sides of the dwelling shall be limited to a combined area of no more than 50 square feet.
9. Any seasonal lighting displays on or around the dwelling shall not exceed 3 months.
10. New coniferous trees shall be planted to screen the proposed dwelling as seen from KVAs as shown in the approved planting plan. The applicant shall plant three ponderosa pines, a recommended tree species native or common to the Pastoral setting in the eastern Gorge, to provide additional screening of the proposed dwelling from I-84, the Historic Columbia River Highway, and Old Highway 8 to the south and southwest of the subject parcel. The three ponderosa pines shall be planted to the southwest, south, and southeast of the of the proposed dwelling, to soften the edges of the dwelling and to screen the windows at the southwest and southeast corners of the dwelling.

The trees shall be sized to provide sufficient screening within 5 years of the start of construction of the proposed dwelling. The applicant is responsible for the establishment, proper maintenance, and

survival of all screening trees, and replacement of screening trees as necessary.

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.
12. The applicant shall implement the approved wildlife and rare native plant mitigation and rehabilitation plan as described.
  - The applicant shall establish native plants, including Thompson's broad-leafed lupine, few-flowered collinsia, poet's shooting star, and alumroot, as described in the approved plant rehabilitation plan. Native shrubs shall be planted along draws and identified movement corridors to enhance habitat for deer.
  - The applicant shall complete all plant rehabilitation actions within 2 years from the date of approval. The applicant shall ensure that the planted area maintain at least 75 percent live native plant cover. Shrubs that do not survive shall be replaced; consultation with professional botanists may be required to identify more suitable species, locations, or conditions for survival.
  - Vehicle travel and grazing within the planted area shall be minimized to the greatest extent practicable.
  - For each of the 5 years following implementation of this replanting plan, the applicant shall prepare and submit to the Executive Director an annual report documenting survival rate and additional necessary actions taken by the applicant. The reports shall be completed by a professional ecologist or botanist and include georeferenced photographs. Each report shall demonstrate how the conditions of approval above have been met and maintained.
13. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or [guy.tasa@dahp.wa.gov](mailto:guy.tasa@dahp.wa.gov). The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
14. 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.
15. **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 7 day of October 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 4 day of October 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 6 day of November 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.

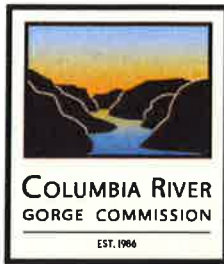
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Confederated Tribes and Bands of the Yakama Nation  
Confederated Tribes of the Umatilla Indian Reservation  
Confederated Tribes of Warm Springs Reservation of Oregon  
Nez Perce Tribe  
U.S. Forest Service National Scenic Area Office

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

**Attachments:**

MODIFIED Staff Report for C19-0004



## **MODIFIED STAFF REPORT FOLLOWING REMAND**

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**Land Use**

**Designation:** The subject parcel is designated Agriculture in the Special Management Area (SMA) and is 55.95 acres in size.

### **COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:**

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

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

Written comments were received from the following parties:

Casey Gatz, U.S. Forest Service, National Scenic Area  
Steve McCoy, Friends of the Columbia Gorge

## FINDINGS OF FACT:

### A. Land Use

1. The subject parcel is approximately 55.95 acres and is designated Agriculture in the Special Management Area (SMA).
2. The subject parcel has south and west facing slopes ranging from approximately 5 to 50 percent grade. The parcel is characterized by open pastureland and cultivated vineyards, interspersed with mixed stands of native Oregon white oak, Douglas fir, and ponderosa pine. According to information provided by the Klickitat County Assessor, the subject parcel is managed for agricultural use (orchard, cropland, and grazing land/rangeland). The parcel includes an existing single-family dwelling, access road, driveway and parking area, garage, barn, two sheds, a rock wall, a water reservoir, and approximately 16 acres of vineyard planted in 2018.
3. The subject parcel is recognized by the Commission as a legally-existing parcel. The Commission recognized the subject parcel as a legal parcel on November 2, 2017 with the approval of Commission decision C17-0011. This decision resolved a prior discrepancy between Klickitat County's and the Commission's recognition of the subject parcel as a legal parcel.
4. The applicants propose to remove an existing single-family dwelling, rehabilitate the site of the existing dwelling to pastureland, construct a replacement dwelling, and expand the existing driveway. The applicants propose to completely remove the foundation of the existing dwelling and rehabilitate the site into pastureland for grazing sheep. The proposed replacement dwelling is sited approximately 300 feet east of the existing dwelling. The replacement dwelling has a main floor of 2,809 square feet, and a lower floor of 1,433 square feet. The height of the dwelling from the finished grade to the top of the roof ranges from 15 feet, 2 inches to 19 feet, 2 inches at the highest point of the roof. The applicants also propose to remove one 3-meter section of the existing rock wall to allow for a single-lane driveway entry and exit from the existing driveway to the new parking area of the proposed dwelling.
5. Commission Rule 350-81-082(2)(a) allows for the replacement of existing structures not damaged or destroyed by disaster. Commission Rule 350-81-020 (60) defines *existing structure* as any structure that was legally established. Commission Rule 350-81-082(2)(a) states:

*An existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:*

- (A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.*
- (B) The replacement structure may have a different size and/or location than the original structure.*
- (C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.*
- (D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one-year time frame.*

According to records provided by the Klickitat County Building Department, the existing dwelling on the parcel was legally established on the subject parcel with a County building permit issued on July 30, 1984. The proposed replacement single-family dwelling will also be used as a residence. The applicants propose to replace the existing dwelling with a dwelling that is larger in size and located in a different site than the original dwelling. Subsection (C) requires the replacement dwelling is subject to all rules applicable to new structures. The original structure is currently being used as a residence and is therefore considered a continued, existing use.

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

The applicants propose to construct the replacement dwelling in an abandoned orchard area. The proposed development site is in an area deemed “potentially plantable” in a soil survey report conducted on the property in 2017<sup>1</sup>. Commission Decision C17-0007 approved the development of a vineyard at the proposed dwelling site. The applicants elected to not develop the vineyard on the proposed dwelling site, instead developing it on the approved land just to the south of the proposed dwelling site. The proposed development site is currently used as a staging area for vineyard workers and is not being used for agriculture or livestock.

To mitigate loss of suitable agricultural land caused by the siting of the replacement dwelling, the applicants proposes to rehabilitate the site of the existing dwelling to pastureland for grazing sheep. The applicants propose to rehabilitate the site by removing the concrete foundation of the existing dwelling, rebuilding the soil under the existing footprint, and seeding the area with a native forage mix. The applicants also propose to reconfigure existing fence lines to increase the area available for grazing.

During review of a prior application submitted by the applicants, C18-0002, Commission staff consulted with Resource Technicians from Underwood Conservation District to determine the feasibility of the applicants’ request to rehabilitate the existing homesite. On June 27, 2018 Jan Thomas and Carly Lemon of Underwood Conservation District provided staff with a report of findings and recommendations based on observations made during a site visit to the property on June 13, 2018. The report states that because the new grazing area already has well-established grass cover and that the soils are suitable for grazing and forage production, the applicants’ rehabilitation proposal is feasible. Furthermore, as proposed, the new rehabilitated grazing area is significantly larger than the area of the new dwelling, and therefore would not only minimize the loss of agricultural land on the property but would increase the amount of land suitable for agriculture. The estimated area of the proposed development, including the house, driveway, and parking apron, is approximately 0.33 acre (14,374 square feet), and the proposed new pasture area is approximately 1 acre (42,698 square feet)<sup>2</sup>. The report includes recommendations to the applicants for successful site rehabilitation and maintenance. If these recommendations are followed, the amount of land newly available for grazing from the rehabilitation of the of the existing dwelling site will more than offset the area of land being developed for the proposed replacement dwelling.

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<sup>1</sup> Site and Soils Evaluation: Vineyard Development for Fowler Family Vineyards, Lyle WA. Prepared by Alan Busacca, PhD, Vinitas Consultants, LLC. February 1, 2017.

<sup>2</sup> Memo to the Commission from Jan Thomas and Carly Lemon, Resource Technicians, Underwood Conservation District. Dated June 27, 2018.



In prior development review C18-0002, Commission staff found the applicants' proposal to rehabilitate the existing homesite into a usable pasture sufficient to mitigate the amount of agricultural land taken up by the new development. The applicants have made no changes to the proposal to rehabilitate the existing homesite to pasture. As a condition of approval to this decision, the applicants are required to implement this rehabilitation plan.

**Conclusion:**

The proposed replacement dwelling replaces a legally-established structure on the subject parcel and is an allowed review use on lands designated SMA Agriculture. The use may be allowed provided it does not adversely affect scenic, cultural, natural, or recreation resources in the National Scenic Area.

**B. Scenic Resources**

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

The subject parcel proposed replacement dwelling is in the Pastoral Landscape Setting. The dwelling is sited amongst existing development, near a barn and adjacent to the vineyard, and does not detract from the area's overall appearance as an agricultural landscape. Single-family dwellings in conjunction with agricultural use are common elements in the Pastoral Landscape Setting. As such, the proposed replacement dwelling is compatible with surrounding uses as a residence in a working agricultural landscape. Because the dwelling is sited behind the existing vineyard, as viewed from all KVAs, the development will not conceal the agricultural feature of the landscape. Furthermore, the proposed dwelling site is a previously-disturbed site not currently used for agricultural use. The applicant's proposal to remove the existing dwelling and rehabilitate the site for agricultural use will enhance the area's overall appearance as 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."

To determine the topographical visibility of a site from KVAs, Commission staff first uses a Composite Seen Areas dataset mapping tool which indicates areas potentially visible from KVAs. This data indicates that the proposed development site may be visible from six KVAs. Next, staff uses Google Earth mapping tools to determine potential topographic visibility of the development site from each of the identified KVAs. Staff then uses observations made during visits to the subject parcel and the indicated KVAs to ground-truth the mapping tool information.

Observations made during these site visits confirmed that the proposed development site and the site of the existing dwelling topographically visible from the Columbia River, Historic Columbia River Highway (HCRH), Interstate 84, and Old Highway 8 (County Road 1230), and Washington State Route 14 (SR-14). There is no potentially developable site on the subject property that would be fully topographically screened. Therefore, 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." The required scenic standard for all development and uses in the Pastoral Landscape Setting is "visually subordinate." Commission Rule 350-81-020(170) defines "visually subordinate" as follows:

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

As discussed in the findings below, conditions of approval are needed for aspects of the proposed development to ensure that it is visually subordinate as seen from KVAs. These aspects include reflectivity, exterior lighting, landscaping (including retention of existing vegetation), color and building materials.

Old Highway 8 is the closest KVA. The proposed development at the proposed site will be visible west of the subject parcel along Old Highway 8 at approximately 0.4 miles from the proposed development site to the nearest point on the Highway where the site is visible. The Highway at this point is approximately 160 feet lower in elevation than the proposed development site. At the proposed site, the dwelling will be visible from this KVA, screened only by a single coniferous tree. The proposed site is topographically visible from Old Highway 8 for a stretch of approximately 0.25 miles.

State Route 14 is the second-closest KVA to the proposed development site, at approximately 0.5 miles from the proposed development site to the nearest point on the KVA where the site may be visible. After several site visits taking photos from SR-14 looking up to the proposed development site, staff was unable to conclude whether the proposed development would be visible from the KVA. Staff was not able to see the proposed development site due to screening from vegetation located between the proposed development site and State Route 14.

The Interstate 84 KVA is approximately 1.3 miles from the proposed development site at its nearest point where the site is topographically visible. The proposed site is visible from I-84 for a linear distance of approximately 3/4 of a mile. I-84 is approximately 200 feet lower in elevation than the proposed development site, allowing for topography and vegetation on the subject parcel to partially screen the proposed development from view. From this KVA, staff estimates that the main level of the dwelling will be visible.

The distance from points on the HCRH KVA from which the proposed development site is topographically visible ranges from approximately 1.5 to 2.4 miles from the subject parcel. The nearest point, the Memaloose Overlook off the HCRH, is approximately 1.5 miles from the subject parcel and is approximately 100 feet above the proposed development site in elevation. From this viewpoint, the row of existing mature evergreen trees to the southeast of the proposed development site would help to screen much of the proposed dwelling from view. The proposed development site is topographically visible from the HCRH west of the Memaloose Overlook for a linear distance of approximately 0.5 miles, however existing topography and trees along the HCRH and existing topography and trees on the subject parcel help to screen the proposed development site from view for some of this linear distance.

Staff considered the visual subordination of the proposed dwelling at the proposed site versus the visual subordination of placing the proposed dwelling at the site of the existing dwelling. From observations and photos taken during site visits and visits to the KVAs to determine visibility, staff concluded that the proposed dwelling sited at the site of the existing dwelling would be visually subordinate from all KVAs but State Route 14. As described in Finding B.8 below, the existing

dwelling protrudes above the skyline as seen from State Route 14. Staff estimates that if the proposed dwelling were placed at the site of the existing dwelling, it would also protrude above the skyline as viewed from State Route 14, and therefore would not be visually subordinate.

The proposed dwelling at the proposed development site would be visually subordinate as seen from KVAs within three miles due to distance, vegetation, design, and building materials. The distance between the proposed development site and the KVAs, as well as the short linear distance that the site is visible from KVA roads, ensures that the proposed dwelling will not be visually dominant in relation to its surroundings as viewed from KVAs. Existing mature trees on the subject parcel effectively screen the proposed development at the approved site from view from KVAs. A condition of approval requires these trees be retained, and others planted as needed to maintain visual subordination (see Finding B.10 below). Another condition of approval will ensure compliance with SMA Guidelines for Development and Land Uses Visible from KVAs Commission Rule 350-81-530(2)(k) and Commission Rule 350-81-530(2)(l), requiring the dwelling shall be constructed as described in the application and this staff report, using non-reflective and low-reflective materials that are dark earth-tone in color (see Findings B.11 and B.12 below). Based on these findings, the proposed development will not noticeably contrast with the surrounding landscape, and therefore is visually subordinate as seen from KVAs.

With conditions of approval requiring the retention of existing vegetation, the planting of additional screening trees, and construction of the dwelling as proposed in the application and described in this staff report, including the use of low-reflectivity glass, dark earth-tone colors, non-reflective materials other than the glass on the exterior of the dwelling, the proposed replacement dwelling placed at the approved site would be visually subordinate to the surrounding landscape.

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. Development in the area consists of dwellings, vineyards, and accessory structures. 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 KVAs. As discussed in the findings above about visual subordination, the retention of existing vegetation, the distance from KVAs, and the use of exterior building materials and colors that blend with the landscape will ensure the proposed development will not cause adverse impacts to scenic resources as viewed from key viewing areas. These elements are necessary to ensure the proposed dwelling will have no cumulative effects on scenic resources.

To determine cumulative effects, staff analyzed the existing development and development potential of the subject parcel and the 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 southwest, south and southeast. Government-owned land in the SMA is not typically developed, so staff assumes that government lands near the subject parcel would 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 three accessory buildings with a combined footprint of 1,400 square feet and would therefore be eligible for an additional accessory building of 1,100 square feet. The adjacent parcel to the east is over 10 acres and has one accessory building of 1,432 square feet. Therefore, an additional accessory building of approximately 1,000 square feet is allowable on this parcel. The existing development on the subject parcel and the adjacent parcel is approximately one quarter of a mile apart. 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.

Following SMA standards, any new development would need to be sited to reduce visibility from KVAs. The sites on the subject parcel and adjacent parcel that would be least visible for new development are behind existing development as viewed from KVAs to the south. There would be no cumulative effect from KVAs in the foreground because the potential buildings would be clustered together with other development and a traveler along Old Hwy 8 would only encounter one of the two developed sites at a time because of the quarter mile distance between them. From KVAs further away, such as I-84 or the Historic Columbia River Highway, the two clusters of buildings would be seen in the same viewshed, but the accessory structures would be clustered together with other buildings and appear to be part of the existing scattered rural residential development.

The design guidelines for the Pastoral Landscape Setting within the SMA require that development retain the overall appearance of an agricultural landscape. According to this guideline, if new accessory buildings were built to support the agricultural use of the parcel, and if they were designed in a similar manner to the proposed dwelling, the development would be consistent with the guidelines of the landscape setting. 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.

With compliance with the conditions of approval in this report, the proposed development will not cause adverse scenic impacts, including cumulative effects, consistent with Commission Rule 350-81-530(2)(b).

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 new development is characterized by open grazing fields of seasonally light green and brown grass, punctuated with scattered Ponderosa pine and oak trees with shadows of dark green, and dark grey/brown basalt cliffs and outcroppings. In this landscape, there is a high contrast of light and dark. The shadows of the trees and rocks are very dark and recede into the landscape, while the lighter colors of the grass and rock faces are highlighted by the sun's reflection and visually stand out in the landscape.

The design of the dwelling is key to ensuring that it will blend well with the adjacent natural landscape elements and achieve visual subordination. The landscape adjacent to the proposed development is generally flat, with little change in topography other than an overall gentle southwesterly slope. Accordingly, the applicants worked with Commission staff to come up with a revised design that has a flat roof, with a low, horizontal appearance. The dwelling is designed to remain visually subordinate to the surrounding trees in the landscape by keeping the height below the average tree canopy level. Commission staff worked with the applicants to reduce the overall height of the house from 26 feet, as originally proposed, to 19 feet. 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. The top of the highest point of the roofline of the dwelling measures approximately 19 feet from the finished grade, keeping the structure well below the average height of the canopy. The exterior of the dwelling will be constructed of non-reflective materials and of colors that are as dark or darker than the shadows of natural elements in the surrounding landscape to ensure that nothing about the dwelling will be highlighted in the landscape. The wood siding will be painted a dark green to emulate the dark green of the shadows of the adjacent evergreen trees. The roof will be composite shingles in a black color that is as dark as the darkest shadows found in the adjacent trees and rocks. The color of the rock in the stonework on the house was selected to match the dark grey colors of the basalt found in the surrounding area.

With the condition of approval requiring the use of only the Commission-approved non-reflective exterior materials and dark earth-tone colors, the new development is consistent with Commission Rule 350-81-530(2)(d).

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 subject parcel is situated on a gradual south-facing slope. Approximately 60 percent of the subject parcel is a gentle southerly and southwesterly slope of 5 to 15 degrees.<sup>3</sup> The other approximately 40 percent of the parcel, at the western and southern edges, consists of steep and cliffed slopes of exposed basalt and talus that are unsuitable for development of any kind. Of the area on the parcel suitable for development, over half is planted with the vineyard, which takes up the lower 1/2 of the property. The vineyard is sited south of the rock wall that runs east-west across the property at approximately the 430-foot elevation. With the slope of the land rising gradually toward the north, anything sited north of the rock wall will be more topographically visible from KVAs to the south, and therefore siting new development south of the wall will be more visually subordinate. Based on visits made to the site and observations made from Key Viewing Areas, staff determined that there are few significant topographical features on the land aside from two narrow gullies that run north-south and some low rock outcroppings of shallow bedrock. The lack of significant topographical features provides little opportunity for any development on the property to be screened by existing topography.

Most of the parcel is open pastureland or vineyard. Some stands of trees exist on the edges of the pastures and adjacent to existing development. The trees are a mix of evergreen and deciduous

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<sup>3</sup> Site and Soils Evaluation: Vineyard Development for Fowler Family Vineyards, Lyle WA. Prepared by Alan Busacca, PhD, Vinitas Consultants, LLC. February 1, 2017.

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. Some opportunity exists to use existing vegetation to screen new development from KVAs to the south.

The proposed dwelling site is immediately northwest of a row of mature ponderosa pine and oak trees, which help to screen the development from view from KVAs to the southeast. The height of the proposed dwelling, which ranges from approximately 15 to 19 feet from finished grade, will not exceed the height of the surrounding existing trees, which are approximately 30-60 feet high. This existing vegetation minimizes the visual impacts of the dwelling when viewed from the HCRH at the Memaloose Overlook. The trees effectively screen the proposed development site from view from I-84 and the HCRH east of the Memaloose State Park.

The proposed dwelling and access drive are aligned with the slope to blend well with surrounding land forms and avoid excessive grading. Grading for the extension of the existing driveway will not be visible from any KVAs, because it will be directly to the north of the rock wall, with the wall completely blocking the driveway from view. The portion of the driveway that extends to the proposed dwelling will effectively be hidden from view from all KVAs by the dwelling, which is sited between the driveway and KVAs to the south.

The applicants propose excavating to sink the dwelling 5 feet into the ground as a means of reducing the overall height of the dwelling to comply with scenic resource guidelines. The grading proposed for the dwelling is the minimum necessary to achieve the visual subordination standard. Once the dwelling is constructed, there will be no visible grading as the structure will fill the area excavated for the foundation of the dwelling. All grading material cut from the site will be placed in the southern end of the eastern vineyard block on the subject property. This excess material will be used to lessen the slope at the end of the vineyard block and extend the tractor turnaround area.

6. Commission Rule 350-81-530(2)(f) addresses visual impacts of the proposed development from KVAs. It states that conditions of approval to achieve the scenic standard shall be proportionate to its potential visual impacts as seen from KVAs and lists the factors.

The proposed dwelling at the proposed site is partially screened from KVAs to the south and southeast by existing vegetation. It is sited directly to the northwest of a row of mature ponderosa pine trees which helps to screen the development when viewed from KVAs to the south and southeast.

The HCRH is the KVA from which the proposed site will be most visible. At approximately 2.2 miles from the proposed development, the site can be viewed for a linear distance of approximately 0.3 miles. At this distance, the visible portions of the dwelling would be visually subordinate in the landscape with the use of dark earth-toned colors and non-reflective materials. From the Memaloose Overlook and eastward on the HCRH, the proposed dwelling is partially screened from view by existing vegetation. From I-84, which runs parallel to the north of the HCRH, but is approximately 300 feet lower in elevation, the dwelling can be seen intermittently through breaks in the trees along the north side of the highway. Based on analysis of the site plans and elevation drawings submitted and observations made during site visits, staff estimates that from points along I-84 where the dwelling is visible, the top two-thirds of the dwelling will be visible. Existing vegetation and topography on the south end of the parcel help to screen the bottom third of the dwelling. From Old Highway 8, the proposed site is approximately 0.4 miles away and is topographically visible for a linear distance of approximately 0.25 miles. Staff estimates that the top one third of the proposed dwelling will be visible from this KVA.

The proposed dwelling is designed to blend with the surrounding Pastoral landscape. The dwelling height is below the canopy of trees in the surrounding landscape and has a horizontal appearance. The north side of the dwelling is one story, measuring approximately 15 feet tall from the finished grade. This side of the dwelling is not visible from KVAs. The roofline on the south side of the dwelling ranges from approximately 15 to 19 feet high from the finished grade. The applicants also propose deep 16 to 23-foot eaves overhanging the windows, which will eliminate reflection from direct sunlight. Potential visual impacts will be lessened by using dark, earth-toned colors, and low or non-reflective materials.

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 definition of skyline in the Commission's land use ordinance is:

*The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.*

In the review of previous decision C18-0002 for a replacement dwelling on this parcel, staff failed to observe that the proposed dwelling would protrude above the skyline as viewed from a section of the Old Hwy 8 KVA. The approval decision for C18-0002 was subsequently withdrawn after this new factual information was discovered.

Staff worked the applicants to evaluate several other sites on the property where the house might be sited to comply with resource guidelines. However, physical limitations due to shallow bedrock and drainage issues at the alternative sites led staff to conclude that the only sites on the property feasible to build on that are visually subordinate are the proposed site and the existing dwelling site.

In February 2019, the applicants submitted a new application (C19-0004) for a substantially similar home in nearly the same site as the first proposed location in C18-0002. Staff again determined that the proposed dwelling would protrude above the skyline as seen from the Old Highway 8 Key Viewing Area. Staff approved the proposal with a condition of approval requiring the proposed dwelling be sited at the existing dwelling site.

The applicants appealed staff's decision for C19-0004. An appeal hearing was held at the June 11, 2019 Gorge Commission meeting. The Commission remanded the decision of C19-0004. The Commission directed staff to work with the applicants and other interested parties to consider all

necessary design and location options to find an approvable design and location in full compliance with the Commission's Rules.

Following the remand of the decision, the applicants worked with their architect to come up with an alternative design for the dwelling at the proposed location that reduced the overall height of the proposed dwelling by approximately 4 feet. Staff reviewed the new plans and after conducting a visual assessment determined that the proposed dwelling would still protrude above the skyline. The applicants then went back to their architect and came up with the current proposal in which the house is reduced in height an additional 2 feet by redesigning the roof to a shed roof design. The current proposal reduces the height of the roof by a total of 6 feet from the original proposal in C19-0004. This is achieved by the new proposal of sinking the dwelling 5 feet into the ground and reducing the ceiling height of the lower level by one foot.

Staff conducted a visibility analysis of the new proposed dwelling at the proposed location, and also analyzed the site of the existing dwelling to determine which location would best meet the visual subordination standard. At all KVAs across the river to the south, the proposed development is visually subordinate and will not protrude above the skyline at both the proposed site and the existing dwelling site. From the Old Highway 8 KVA, the proposed dwelling at the existing dwelling site is heavily screened by a mix of deciduous and coniferous trees to the south of the site, and the roof does not protrude above the canopy of the trees. The proposed dwelling at the proposed site as viewed from Old Highway 8 is partially screened by on and off-site vegetation and is also below the skyline of vegetative canopy. The vegetative canopy at the proposed location is formed by a mix of deciduous and coniferous trees that are all at least 20 feet tall.

From the State Route 14 KVA, the existing dwelling protrudes above the skyline. There is a gap in the vegetation surrounding the existing dwelling when viewed from State Route 14, and from this view, the existing dwelling clearly protrudes above the skyline. From staff's observation of this view from State Route 14, it appears that the proposed dwelling placed at or near the site of the existing dwelling site will protrude above the skyline. Therefore, staff determined that the cannot be visually subordinate when viewed from all KVAs if placed at or near the existing dwelling site.

The proposed dwelling site as viewed from State Route 14 does not appear to protrude above the skyline. The proposed dwelling site is further north and east of the existing dwelling site and is screened by existing topography and coniferous trees between State Route 14 and the proposed site. Therefore, staff determined that the only site where the proposed dwelling is visually subordinate from all KVAs is the proposed dwelling site.

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."

As discussed above, the dwelling is designed to remain visually subordinate to the surrounding trees in the landscape by keeping the height below the average tree canopy height of the natural vegetation adjacent to 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. The top of the highest point of the roofline of the dwelling measures approximately 19 feet from the finished grade, keeping the structure well below the average height of the canopy, consistent with this rule.

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).*

According to *Scenic Resources Implementation Handbook*, the recommended character of new screening plantings in the Pastoral Landscape Setting should “retain an open character.” The native or common tree species identified in the handbook for the Pastoral setting are Douglas fir, Lombardy poplar, Oregon white oak, big leaf maple, and black locust. In the SMA, the handbook specifies that new screening vegetation be common plant species placed in rows as common in the landscape.

The proposed dwelling at the proposed site is partially screened from KVAs by existing vegetation both on and off the subject parcel. To provide additional screening of the proposed dwelling from Old Highway 8, I-84, and the Historic Columbia River highway to the south and southwest of the subject parcel, a condition of approval states that three new ponderosa pines shall be planted to screen the proposed dwelling as seen from KVAs as shown in the approved planting plan. The plantings will provide additional screening of the proposed dwelling from I-84, the Historic Columbia River Highway, and Old Highway 8 to the south and southwest of the subject parcel. The three ponderosa pines shall be planted to the southwest, south, and southeast of the of the proposed dwelling, as shown on the approved planting plan, to soften the edges of the dwelling and to screen the windows at the southwest and southeast corners of the dwelling.

These new trees will provide effective year-round screening of the proposed dwelling at the approved site as seen from KVAs to the south and southwest, and southeast. The condition of approval will require the vegetation to be sized to provide sufficient screening within 5 years of construction of the proposed dwelling and to be planted as soon as practicable. The applicant is responsible for the establishment, proper maintenance, and survival of all screening trees.

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 color for the siding and trim of the dwelling is Sherwin-Williams "English Ivy" (SW 2935). The approved color for the window trim and deck railing is black. The approved color for the wood deck stain is dark brown. The color approved for the exterior stonework is Eldorado Stone Bluffstone in "Coos Bay." The approved color for the roofing shingles is 'Onyx Black' Owens Corning. All the exterior material colors are dark green, brown, 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."

As described in Finding B.2, the subject parcel is topographically visible from five Key Viewing Areas. Therefore, the exterior of the proposed dwelling must be composed of non-reflective materials or materials with low reflectivity. The exterior of the proposed dwelling will be composed of non-reflective wood, stone, and composite shingles. The metal of the window trim and deck railing will be painted with a non-reflective matte black paint. The applicants propose to use windows with an external reflectivity rating of 11%.

The *Scenic Resources Implementation Handbook* recommends limiting continuous unscreened glass to 50-square-feet to prevent adverse impacts to scenic resources but suggests larger areas of glass may be used if visual impacts are reduced by other measures. Although all of the proposed windows facing KVAs are less than 50 square feet, the applicant has taken steps to reduce the impact of the proposed windows including deep structural eaves overhanging the deck on the south side of the dwelling, which extend 16 to 23 feet out from these windows, effectively screening them from view. The non-screened windows at the southwest corner of the house are all less than 50 square feet of continuous glass and are screened by existing vegetation to the south and east of the approved dwelling site. The applicants also worked with staff to create a planting plan to plant three ponderosa pine trees to further screen the south-facing windows from Key Viewing Areas.

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."

The applicants submitted an exterior lighting plan, that is approved by the Executive Director. In the project description, the applicants describe that all exterior lighting fixtures will be downward-facing, hooded, and shielded, and approved by the International Dark Skies Association. The Executive Director encourages applicants to refer to the International Dark Skies Association for information about placement and types of fixtures.

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 proposed replacement dwelling at the proposed site will be set back more than 1,000 feet from SR 14 and therefore not immediately adjacent to SR 14 or in the immediate foreground of a KVA. Commission Rule 35081-530(3) does not apply.

### **Conclusion:**

As proposed, the replacement dwelling is visually subordinate. With the implementation of conditions addressing color, reflectivity, landscaping, retention of existing trees, and outdoor lighting, the

proposed development at the proposed site would be visually subordinate as seen from Key Viewing Areas.

### C. Cultural Resources

1. Commission Rule 350-81-550(2) states that the procedures and guidelines in Commission Rule 350-81-540 (General Management Area Cultural Resource Review Criteria) shall be used to evaluate new developments on non-federal lands in Special Management Areas. The proposed development falls within this category.
2. Commission Rules 350-81-540(1)(c)(A) and (B) contain provisions regarding when reconnaissance and historic surveys are required. Proposed uses that occur on sites that have been adequately surveyed in the past may not require an additional reconnaissance survey.

The proposed development site was surveyed for prior Commission decision C17-0007. On May 19, 2017, Marge Dryden, Heritage Program Manager, U.S. Forest Service, Columbia River Gorge National Scenic Area Office, provided a letter of review for the completed cultural resources survey. No prehistoric archaeological resources were found within the current project area. However, a historic-era (c1930) stacked stone wall was identified and recorded on a Department of Archaeology and Historic Preservation (DAHP) archaeological site inventory form. Regarding the rock wall, the cultural survey states: “[The] site is unevaluated for the NRHP (National Register of Historic Places) as not enough information has been collected on the stacked rock wall to make a recommendation of NRHP eligibility... No other historic period or pre-contact cultural material was observed during the survey. Based on this information, AINW recommends a finding of “No Historic Properties Affected” for the project and no further archaeological work is required (Swanson and Tisdale 2017:11).”<sup>4</sup> Because the rock wall site had not been evaluated for significance, a condition of approval for C17-0007 required that no activity take place within 3-foot buffer of the rock wall. The staff report for C17-0007 states, “If the applicant wants to undertake any activities within the site buffer, the applicant shall contact the Gorge Commission to discuss requirements for an evaluation of significance and subsequent requirements to ensure protection of this cultural resource. The evaluation of significance and subsequent requirements are the financial responsibility of the applicant.”

For the current proposed development, the applicants propose to modify the rock wall, and therefore an evaluation of significance was required. The proposal is to remove two 3-meter sections of the rock wall to allow for a single-lane driveway entry and exit from the existing driveway to the new parking area of the proposed dwelling. Pursuant to the conditions of prior decision C17-0007, the applicants hired the archaeological consulting firm Archaeological Investigations Northwest, Inc. (AINW), to conduct a survey to evaluate the historical significance of the rock wall.

On February 6, 2018, the Commission received a report on the evaluation of a cultural and historic survey conducted by AINW on January 31, 2018 (Evaluation of Historic-Period Rock Wall Site for the Fowler Farm Vineyard Project, Klickitat County, Washington AINW Report No. 3994). AINW drafted and submitted a revised *State of Washington Archaeological Site Inventory Form* to the Washington Department of Archaeology and Historic Preservation (DAHP) as part of their reporting requirements. AINW conducted a NRHP evaluation of the wall on the site form and in their report and determined the site is “not eligible” for inclusion in the NRHP.

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<sup>4</sup> Swanson, Ryan and Lucie Tisdale. 2017. “Cultural Resources Survey for the Development of the Fowler Farm Vineyard, Klickitat County” DAHP Project number 2017-04-02909.

In his review letter to the Commission dated April 12, 2018, Chris Donnermeyer, U.S. Forest Service archaeologist, concluded that the survey report complies with the guidelines for small-scale projects as outlined in Gorge Commission ordinance for Klickitat County, and concurred with the AINW finding of “No Historic Properties Affected” (36 CFR 800.4 (d)(1)).

For the current application, staff sent a notice of the proposed development to Mr. Donnermeyer. On April 1, 2019, Mr. Donnermeyer replied with a survey determination that reads: “I have reviewed the proposed undertaking and area of potential effect as stated on the development review application, against the National Scenic Area records and inventories. These inventories include the cultural resource site inventory maintained by the State Historic Preservation Office.”<sup>5</sup> Based on the information in the inventories, Mr. Donnermeyer recommends that neither a cultural reconnaissance survey nor a historic survey are required.

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

The cultural survey report and letter of review were provided to the four treaty tribes and the state Department of Archaeology and Historic Preservation (DAHP) for review on April 19, 2018. No comments were received from any party during the cultural survey report comment period.

4. Commission Rule 350-81-540(2)(b) requires that copies of the reconnaissance survey be submitted to the State Historic Preservation Office and Indian tribal governments, and that all comments received be recorded and addressed. Staff submitted copies of the historic survey on April 19, 2018. No comments were received.
5. Commission Rule 350-81-540(2)(c)(B)(ii) states:

*The cultural resource protection process may conclude when a reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantial concerns were voiced by interested person within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the state Historic Preservation Officer or Indian tribal governments during the 30-day comment period.*

On April 12, 2018, the Executive Director received a letter from the Forest Service Heritage Program Manager, confirming review of the cultural resource survey report prepared by Archaeological Services LLC for the proposed project. In the letter, Mr. Donnermeyer states that he concurs with the recommended determination of “No Historic Properties Affected” (36 CFR § 800.4 (d)(1)) for the project, which includes consultation with treaty tribes. No concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns were voiced by the State Historic Preservation Officer or Indian tribal governments regarding the reconnaissance survey during the 30-day comment period. Therefore, pursuant to Commission Rule 350-81-540(2)(c)(B)(ii), the cultural resource protection process may conclude.

6. Commission Rules 350-81-540(6)(a) and (b) require that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource

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<sup>5</sup> Donnermeyer, Chris. “Columbia River Gorge National Scenic Area USDA Forest Service, Klickitat County Cultural Resources Survey Determination.” File no: C19-0004. 1 April 2019.

shall cease, further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery.

7. Commission Rule 350-81-550(5) requires a condition of approval that if cultural resources are discovered during construction or development, all work in the immediate area of discovery shall stop, and immediate notification shall be given to the Forest Service or the Executive Director. If the discovered material is suspected to be human bone or a burial, the applicant shall stop all work in the vicinity of the discovery and immediately notify the Executive Director, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

**Conclusion:**

The proposed development is consistent with applicable cultural resource protection guidelines in Commission Rule 350-81-540 and 550 with conditions of approval requiring 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.

**D. Natural Resources**

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

The Gorge Commission's natural resource inventory and National Wetland Inventory do not indicate any wetlands, streams, ponds, lakes, or riparian areas located on the subject property. The nearest water resource to the proposed development site include Major Creek, a perennial stream/river, located approximately 1,000 feet to the west of the site, and an intermittent stream/river approximately 1,100 feet to the southeast.

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 proposed dwelling 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 350-81-560 and 350-81-570.

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

The natural resource inventory indicates that the proposed dwelling 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
- Thompson's broad-leafed lupine (*Lupinus latifolius*)
- Few-flowered collinsia (*Collinsia sparsiflora*)
- Poet's shooting star (*Dodecatheon poeticum*)
- Alumroot (*Heuchera spp*)

In accordance with Commission Rule 350-80-600(3)(b), staff submitted site plans for the development proposed by the applicants in prior application C18-0002. The Forest Service, Washington Department of Fish and Wildlife, and the Washington Natural Heritage Program received the site plans for review on March 28, 2018. No comments were received. The current proposed development is in approximately the same location as the previous proposal, and therefore no new comments were solicited from these agencies.

According to prior Commission decision C17-0007, which approved the development of a vineyard on the subject parcel, state and federal agencies had no concerns about impacts of the proposed development on sensitive wildlife and/or plants on the subject parcel. Jasa Holt, with the Washington Natural Heritage Program, in an email to Commission staff sent on May 16, 2017 indicated that there are occurrences for few-flowered collinsia on the subject parcel. However, if individual plants are growing within the proposed vineyard, the impact to these large populations as a whole would be very small. In a follow up conversation in August 2017, Ms. Holt provided additional information about the rare plant populations in the immediate area, primarily in the Lower Catherine and Major Creeks Natural Area and reiterated that the proposed project was not likely to adversely affect those populations. Because the replacement dwelling is sited in the area referred to by Ms. Holt, in the site previously approved for vineyard development, the same findings of no likely adverse impacts to rare and sensitive plant species in the area apply.

To mitigate any potential adverse impacts of the vineyard development approved in C17-0007, the US Forest Service botanist at the time, Robin Dobson, reviewed the application materials and assisted the applicants in developing a mitigation plan to increase both native rare plant cover and deer winter forage shrubs on the property. A plant survey was not required, given the applicants' proactive approach to address potential impacts to rare plants and the loss of deer winter range habitat. With additional input from Commission staff, USFS, and professional plant restoration ecologists, the applicants' rehabilitation plan was included as a condition of approval. The condition in C17-0007 states, "A final replanting plan, including species, number of plants, precise locations, irrigation plan, and description of monitoring techniques shall be submitted to the Commission for review within 9 months of the Director's Decision [July 2018]." On June 14, 2018, the applicants submitted the wildlife and rare native plant mitigation and rehabilitation management plan to Commission staff. Following consultation with technicians from the Underwood Conservation District, the applicants amended this plan to include a pasture restoration and management plan for the rehabilitation of the existing dwelling site to pastureland. Commission staff received and approved the updated plan on June 27, 2018. Staff received documentation from the applicants that the first round of plantings of native plants occurred on October 19, 2018. A condition of approval requires that the applicants implement the approved wildlife and rare native plant mitigation and rehabilitation plan and provide updates to Commission staff as required in the plan.

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

Wildlife biologists from both the Forest Service and Washington Department of Fish and Wildlife visited the site to determine whether the proposed use would result in adverse effects to the wildlife or plant areas on the site. Because the proposed project elements will all take place on previously disturbed sites and no additional encroachment will occur into wildlife areas, and no new fences are proposed, no adverse impacts are anticipated on Winter Range. As stated in Finding D.3 above, the USFS reviewed the site plan and field surveys for prior approval C17-0007 and for the current proposed development on the same site. As a condition of approval, the applicants will

implement the USFS-approved wildlife and rare plant mitigation plan. Staff consulted WDFW to review the current site plan and development proposal. On August 7, 2018, WDFW habitat biologist Amber Johnson sent an email to the commission stating that she had no concern about the proposed development having adverse effects on winter range habitat.

The proposed development site is a previously-disturbed former orchard. The information provided by the Heritage program and the history of land use indicate that the project is not likely to have adverse impacts to existing rare plant populations. The applicants have proactively sought local and regional expertise related to native plants and the overall impact of the project is expected to benefit rare native plant species. As documented in the applicants' wildlife and rare native plant mitigation and rehabilitation plan, the following rare plants, which have been documented within 1,000 feet of the project area, will be re-established on the property: Thompson's broad-leafed lupine, few-flowered collinsia, poet's shooting star, and alumroot.

The conditions of approval from Director's Decision C17-0007 regarding the implementation of the approved wildlife and rare native plant mitigation and rehabilitation plan are carried over as conditions of approval for this decision. Some of these conditions have already been met by the applicants. The list of conditions is as follows:

- The applicant shall establish native plants, including Thompson's broad-leafed lupine, few-flowered collinsia, poet's shooting star, and alumroot, as described in the attached plant rehabilitation plan. Native shrubs shall be planted along draws and identified movement corridors to enhance habitat for deer.
- The applicant shall complete all plant rehabilitation actions within 2 years. The applicant shall ensure that the planted area maintain at least 75 percent live native plant cover. Shrubs that do not survive shall be replaced; consultation with professional botanists may be required to identify more suitable species, locations, or conditions for survival.
- Vehicle travel and grazing within the planted area shall be minimized to the greatest extent practicable.
- For each of the 5 years following implementation of this replanting plan, the applicant shall prepare and submit to the Executive Director an annual report documenting survival rate and additional necessary actions taken by the applicant. The reports shall be completed by a professional ecologist or botanist and include georeferenced photographs. Each report shall demonstrate how the conditions of approval above have been met and maintained.

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 area of the proposed development is approximately 0.33 acres, which is less than 15 percent of the 55.95-acre parcel. The disturbed soil area of the development site will be covered with the new dwelling, driveway, and new plantings. All cut slope will be used to fill within the development site. New vegetation as proposed by the applicants and included as a condition of approval will control soil erosion. To further prevent soil erosion, within 1 year of project completion, the disturbed project area that is undeveloped shall be established with native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

## **Conclusion:**

With the conditions of approval applied to ensure protection of natural resources, the proposed development is consistent with the guidelines in Commission Rule 350-81-560 through 600 that protect natural resources in the National Scenic Area.

**A. Recreation Resources**

1. Commission Rule 350-81-086 states, "If new buildings or structures may detract from the use and enjoyment of established recreation sites on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel."

No recreation site or facility exists on the subject parcel. The Catherine and Major Creeks Natural Area is the nearest recreational site. However, the off-site impacts associated with the proposed dwelling are not expected to detract from the use and enjoyment of the Catherine and Major Creeks Natural Area or any established recreation sites.

**Conclusion:**

The proposed development is consistent with Commission Rule 350-81-086.

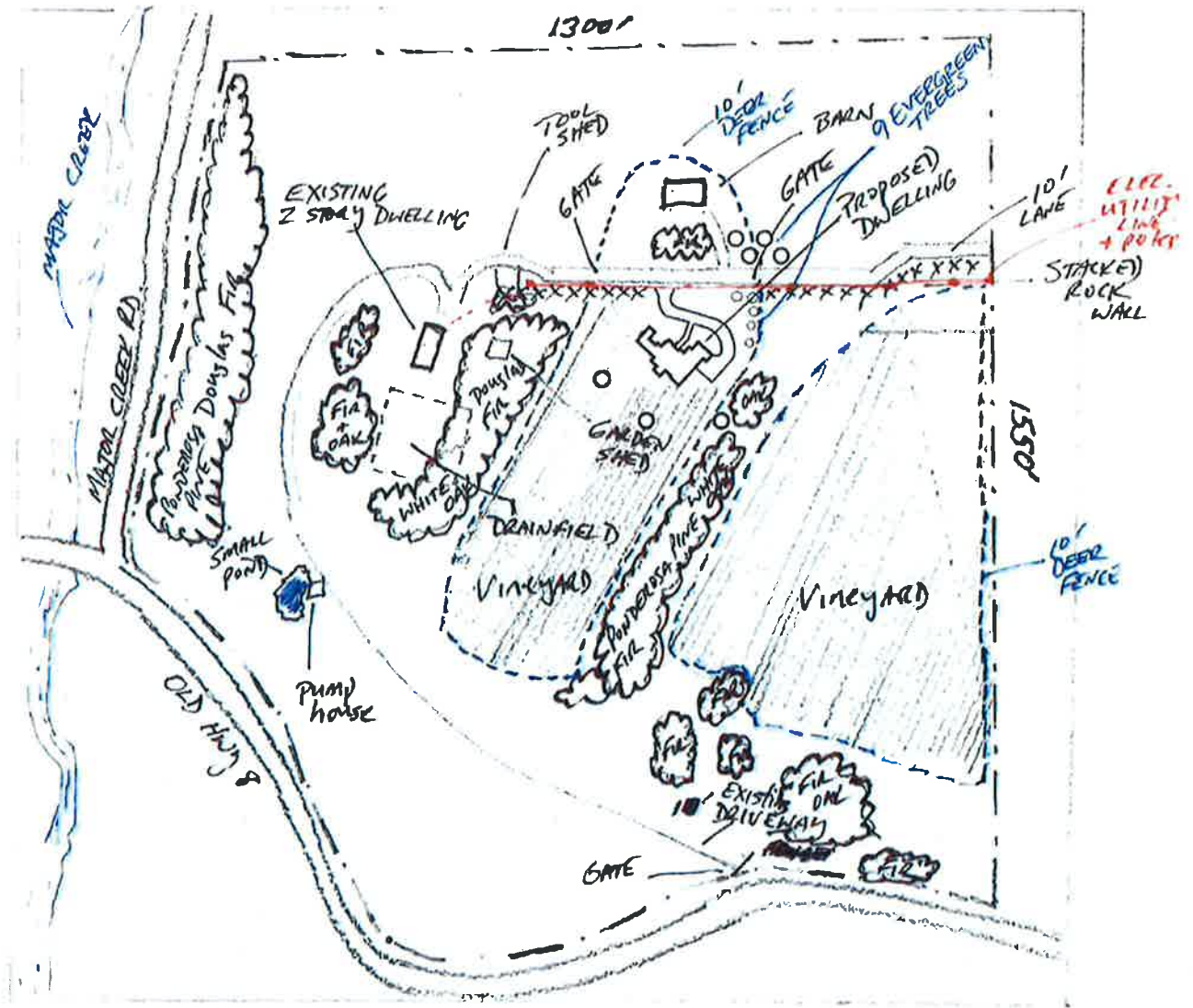
JK

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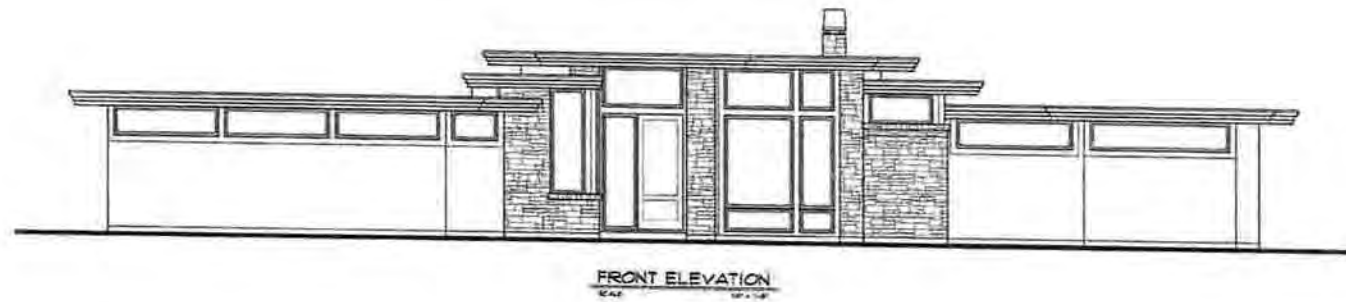
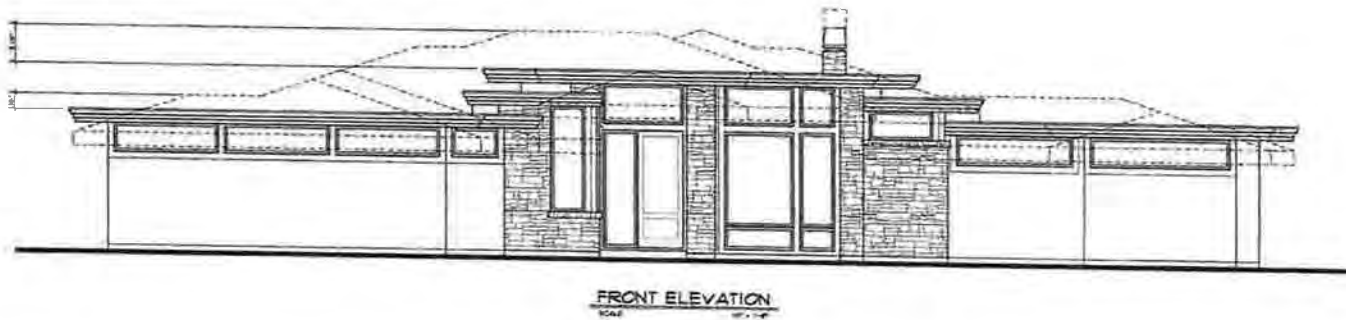
FOWLER SITE PLAN 55.95 ACRES



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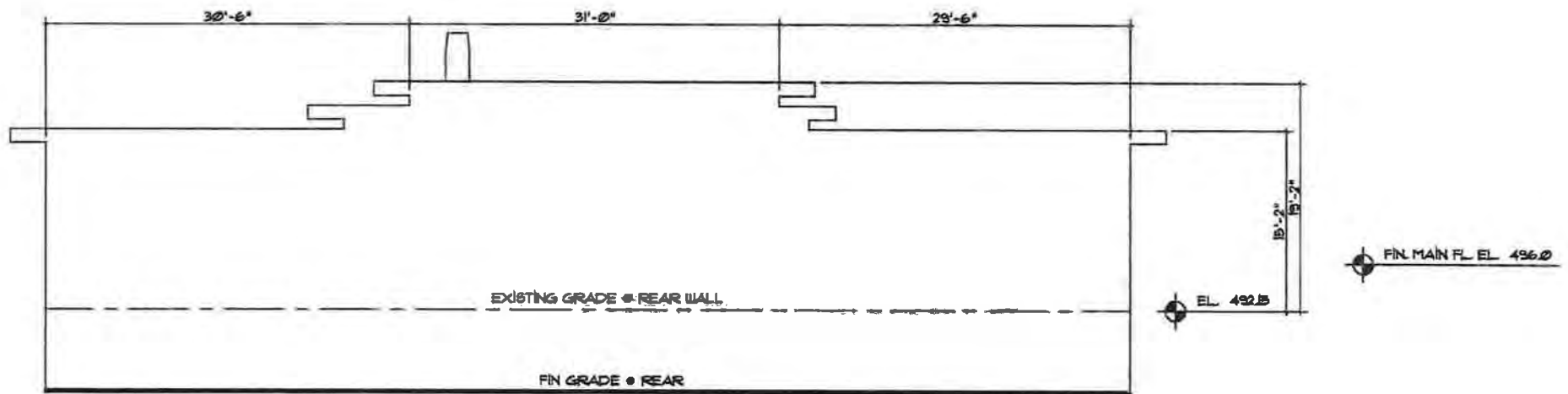
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RW





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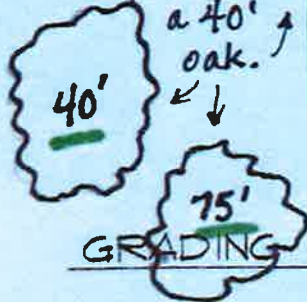
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## Landscape Plan.

To plant: 3 Ponderosa pines (in red),  
sited to enhance visual subordination  
from KVAs.

### Please Note:

The 17 existing  
mature trees (in  
green) average 33  
feet in height. The  
tree canopy also  
includes 120' + 75'  
Ponderosa pines and  
a 40' oak.

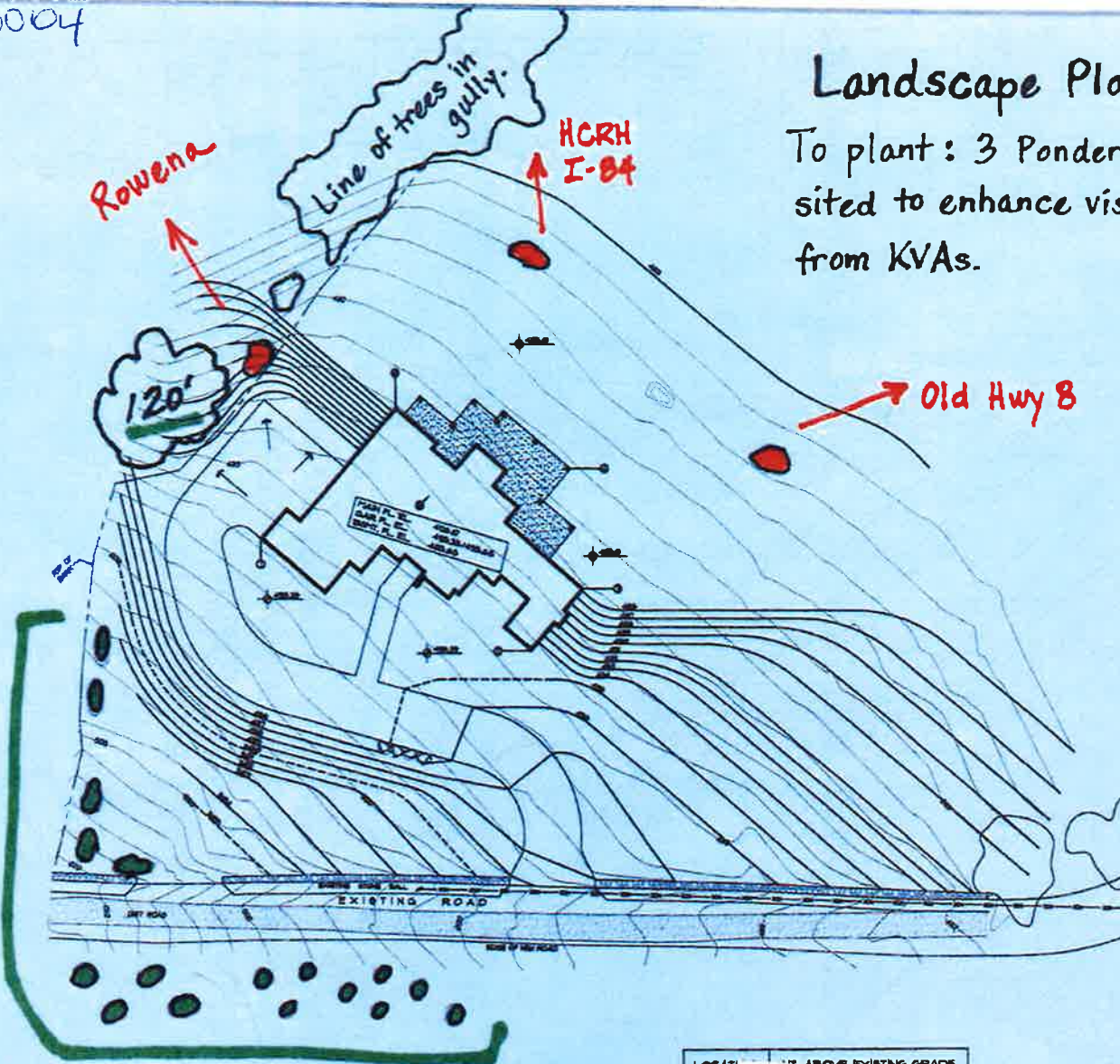


GRADING PLAN

BARN

SCALE: 1" = 20'

PROPOSED FOWLER RESIDENCE

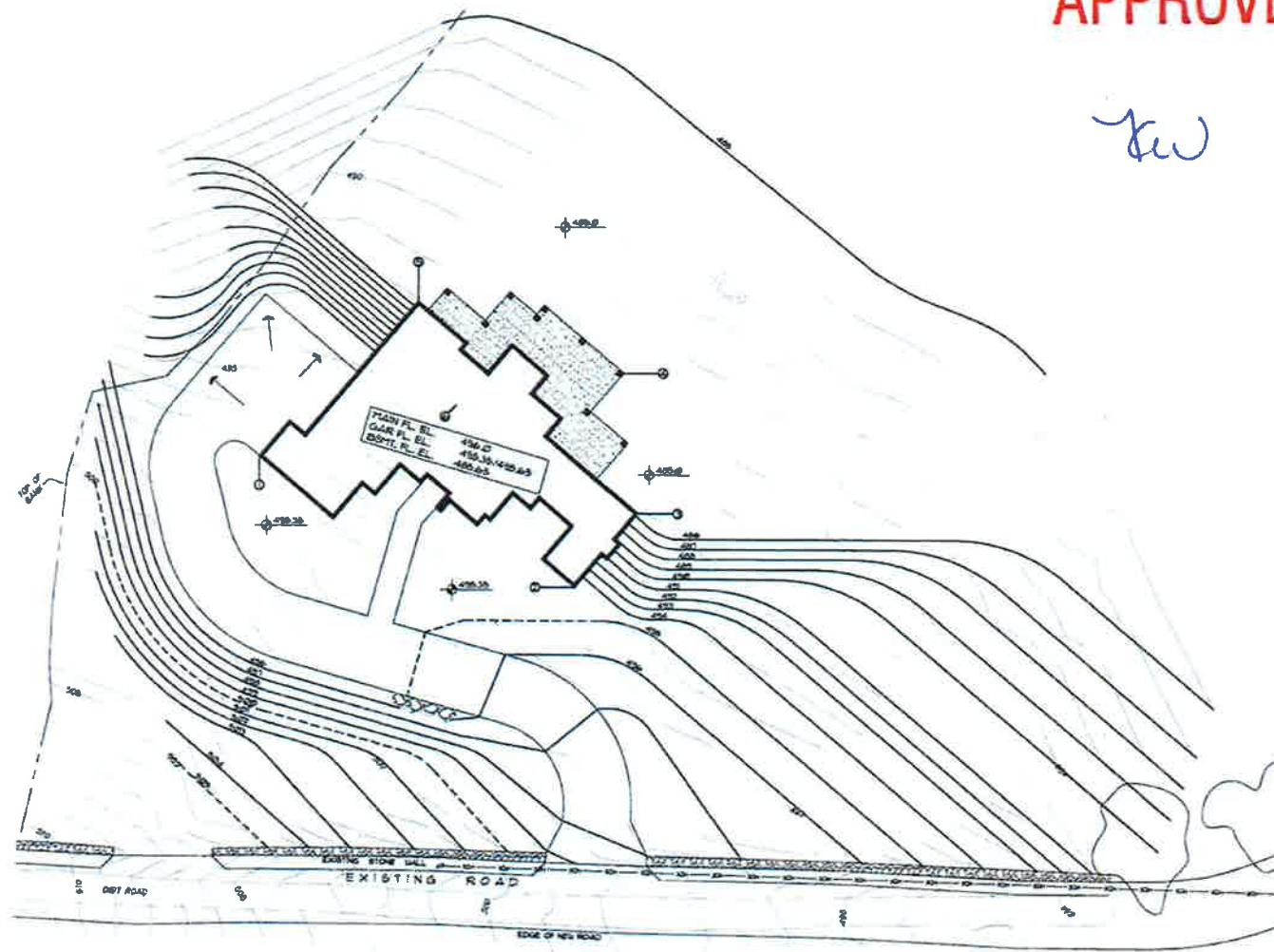


| LOCATION | FEET ABOVE EXISTING GRADE |
|----------|---------------------------|
| ①        |                           |
| ②        |                           |
| ③        |                           |
| ④        |                           |
| ⑤        |                           |
| ⑥        |                           |



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SCALE: 1" = 20'

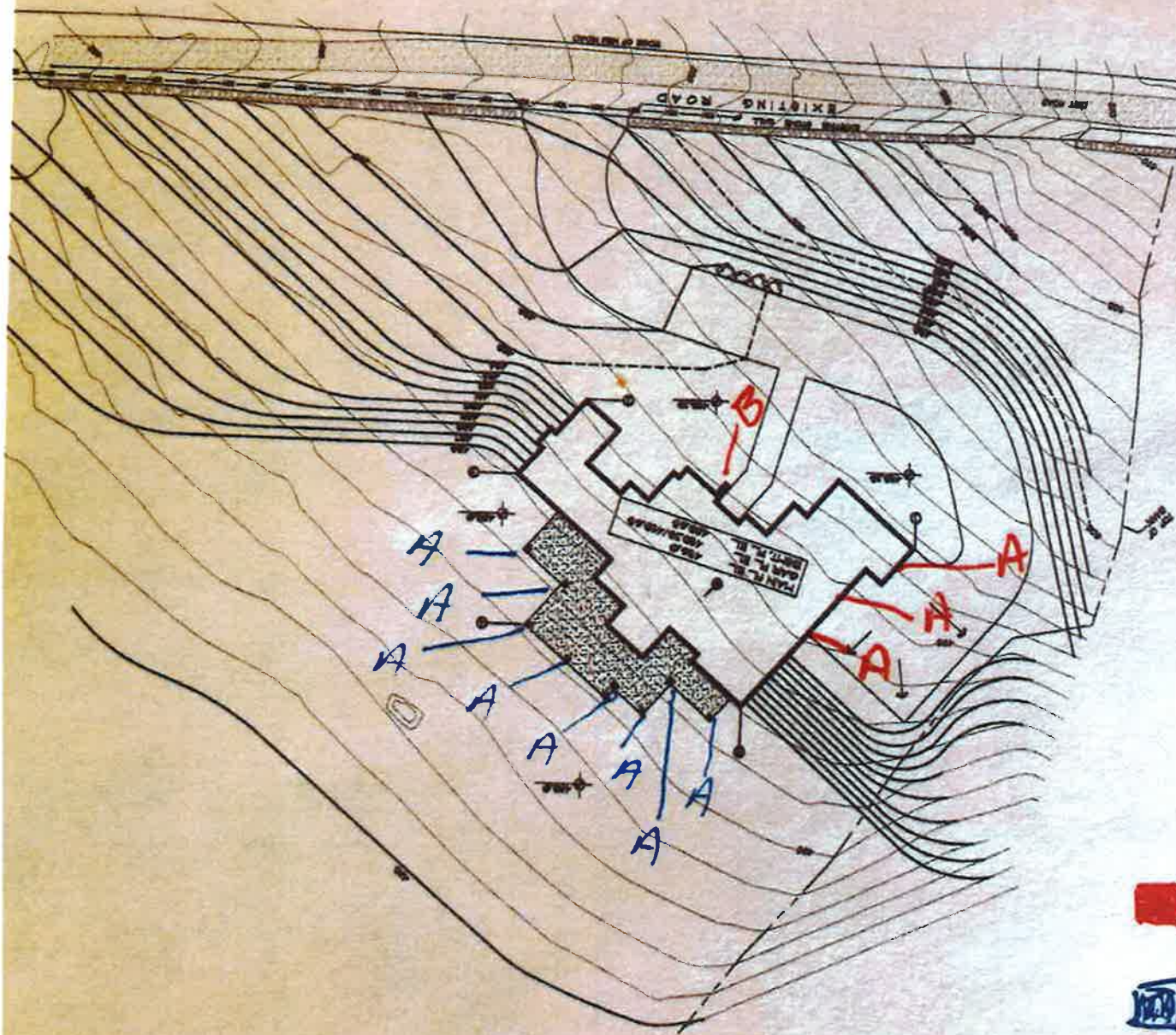
# PROPOSED FOWLER RESIDENCE

| LOCATION | HT. ABOVE EXISTING GRADE |
|----------|--------------------------|
| ①        | 15' 2"                   |
| ②        | 15' 2"                   |
| ③        | 15' 2"                   |
| ④        | 19' 2"                   |
| ⑤        | 15' 2"                   |
| ⑥        | 19' 2"                   |





MODIFIED C19-0004





APPROVED

rw

↑  
North

DARK SKIES  
EXTERIOR  
LIGHTING

-  - MAIN FLOOR
-  - SUNKEN  
BASEMENT