

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C19-0008

PROPOSAL: The Columbia River Gorge Commission received an application for additions to an existing building including living space and a garage.

APPLICANT: Scott Myers

LANDOWNER: Scott Myers

LOCATION: The subject parcel is located at 360 Rowland Road, Lyle, Washington, in the South West Quarter of Section 31, Township 3 North, Range 13 East, W.M., Klickitat County Tax Lot Number 03-13-3100-0021/00. The parcel is 1.60 acres in size.

LAND USE

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

DECISION:

Based upon the following findings of fact, the land use application by Scott Myers to make additions to an existing building 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**.

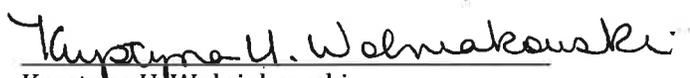
CONDITIONS OF APPROVAL:

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 C19-0008, 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-National Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and 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 and 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. Except for safety purposes or forest management practices, existing tree cover shall be retained.
6. 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.
7. 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.
8. 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 8th day of August 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 ___ day of August 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 4th day of September 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.

COPIES OF THIS DECISION SENT TO:

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

Attachments:

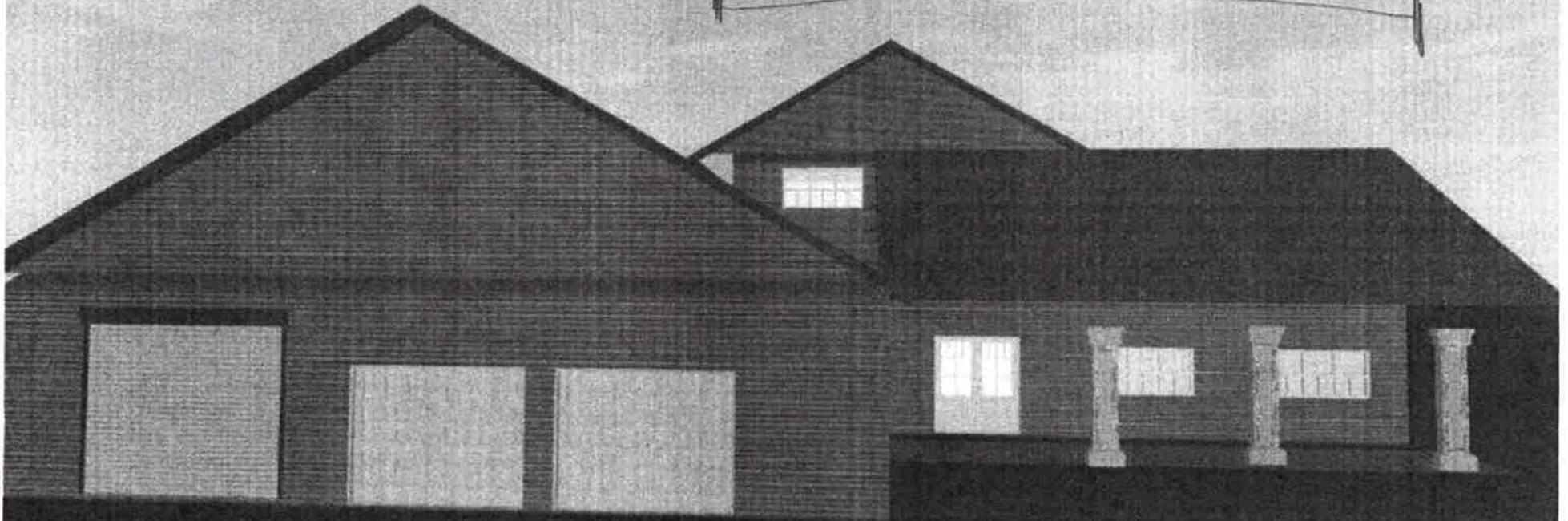
Staff Report C19-0008
Approved Site Plan

Front

APPROVED

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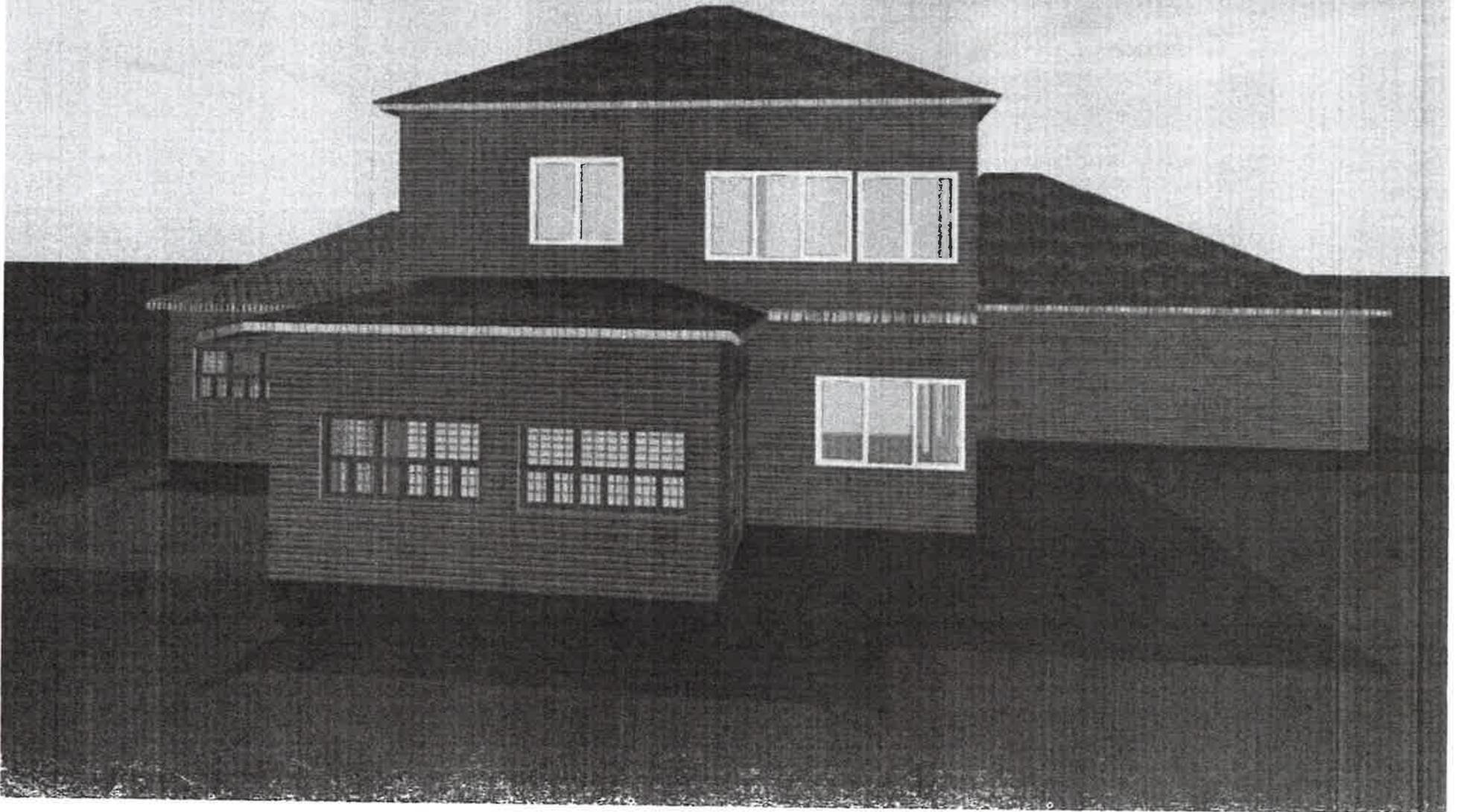
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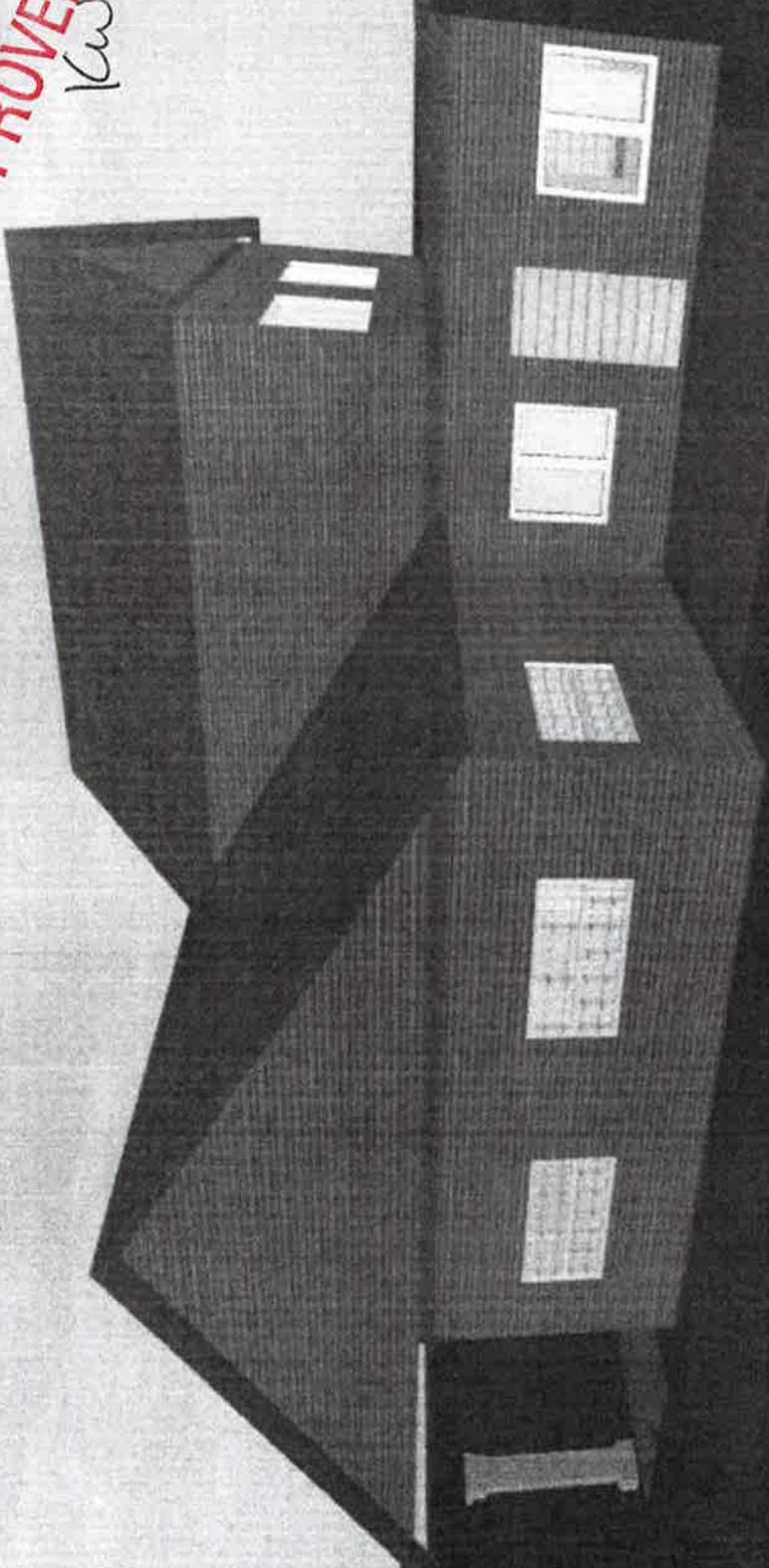
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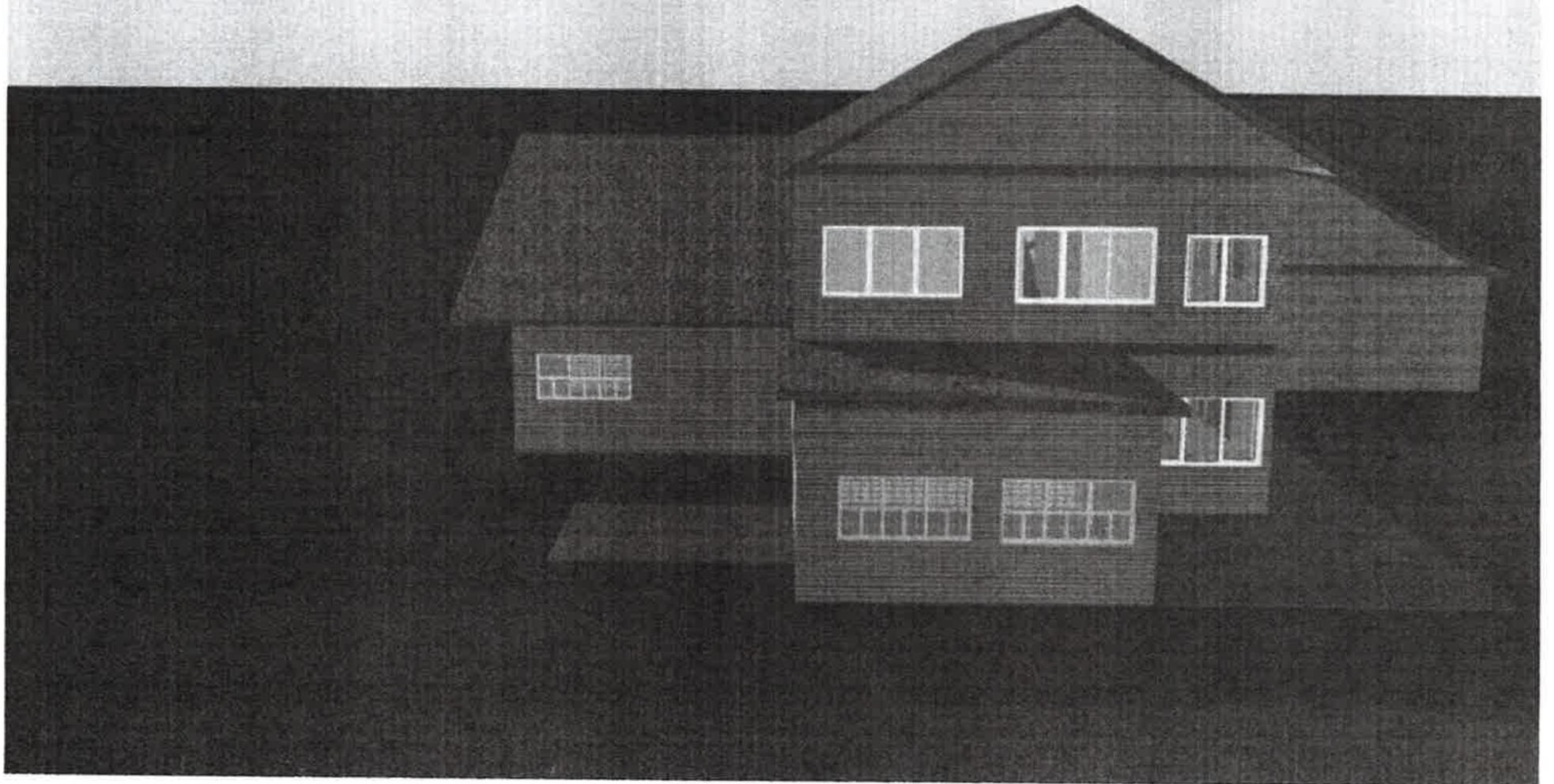
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House Side



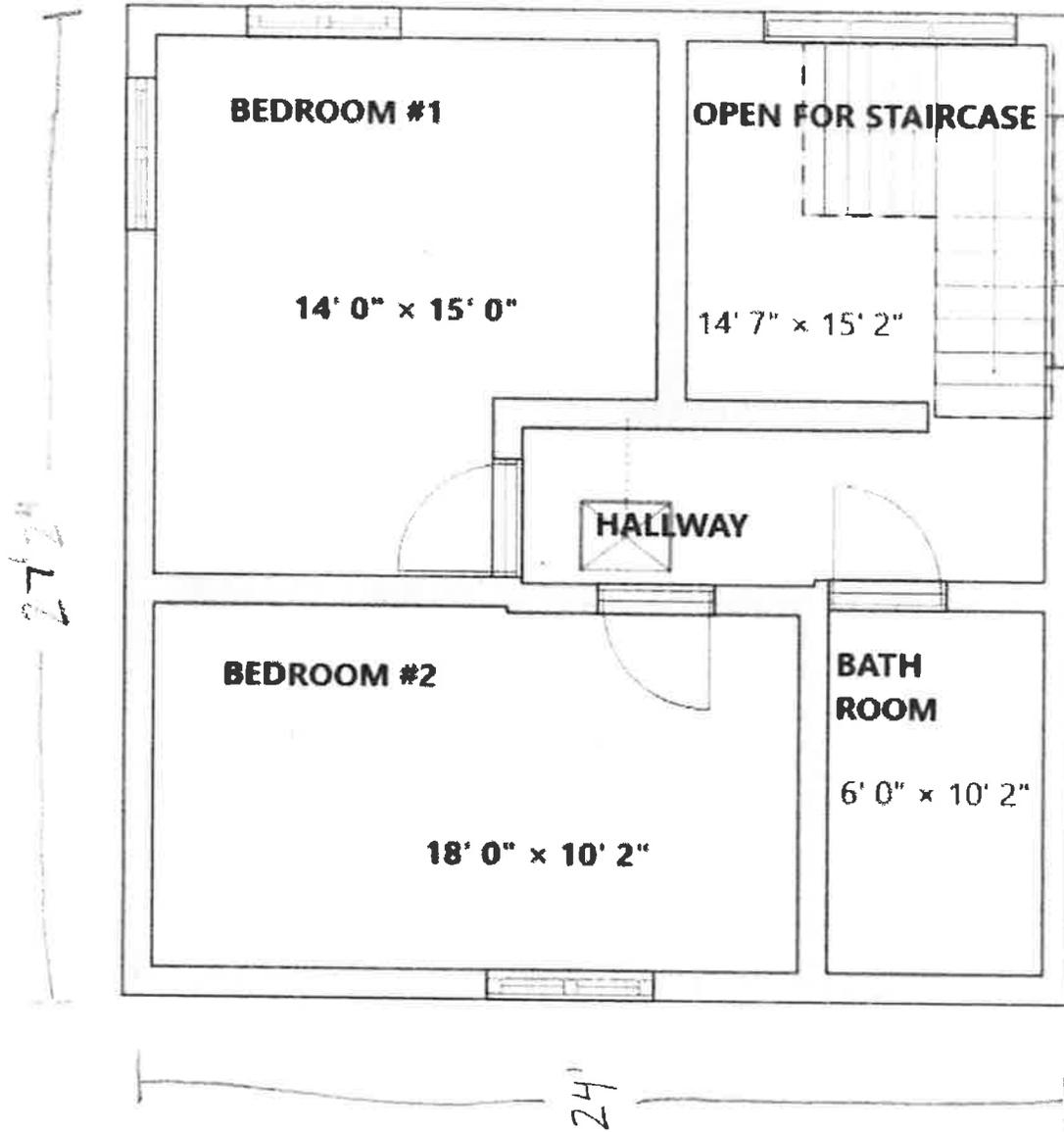
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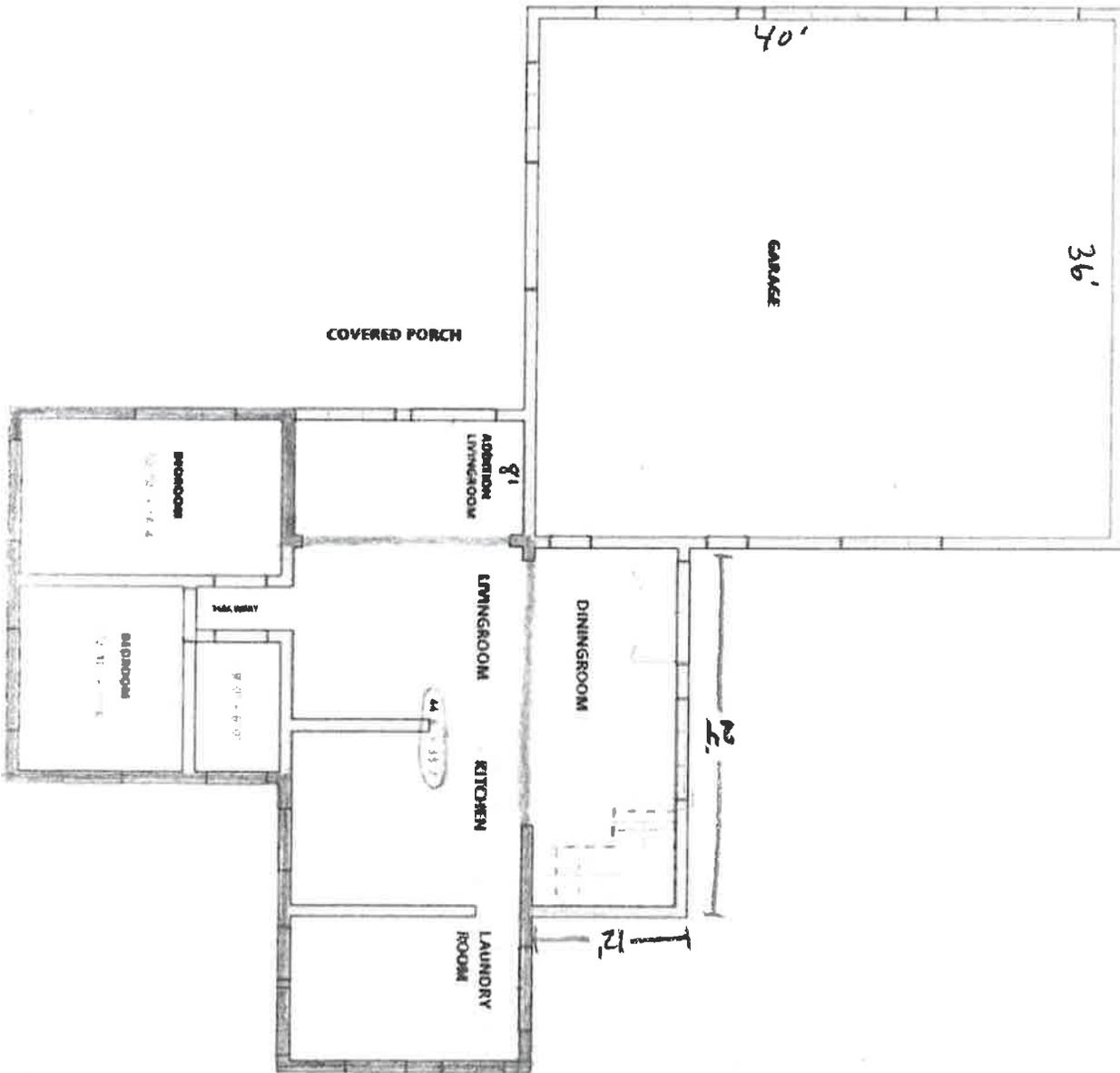


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Front →



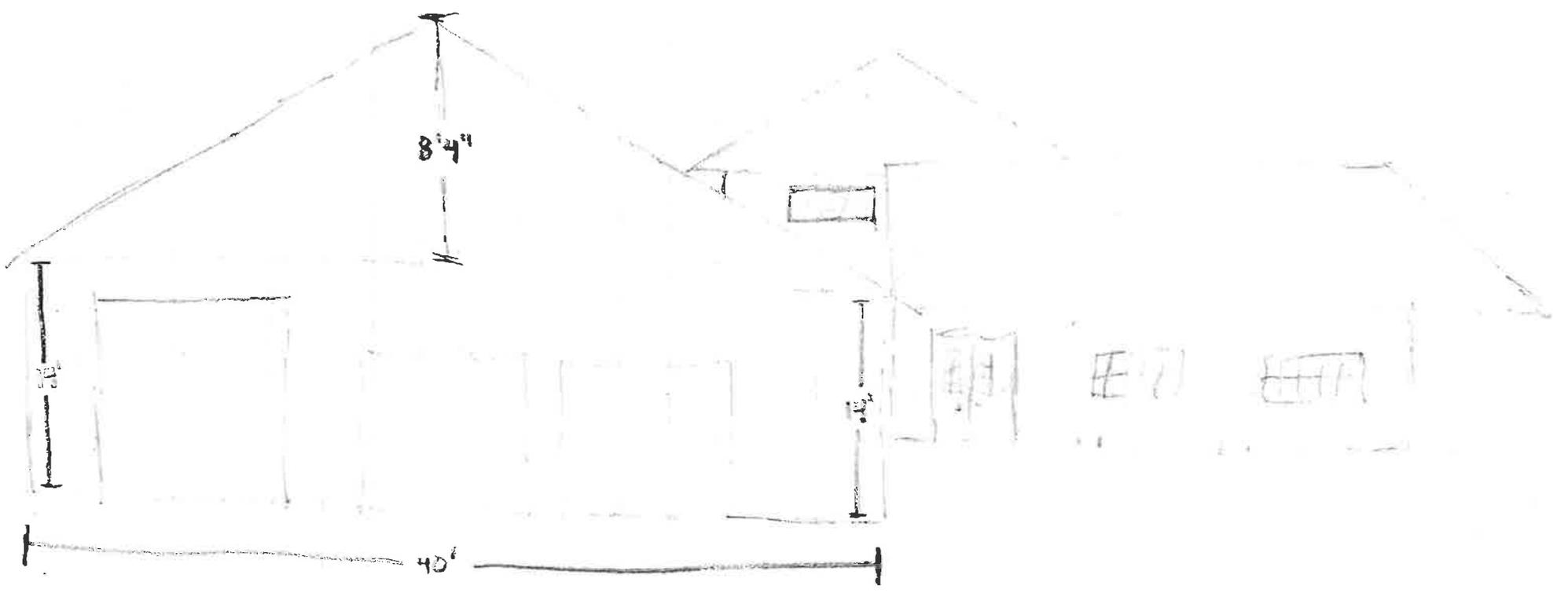
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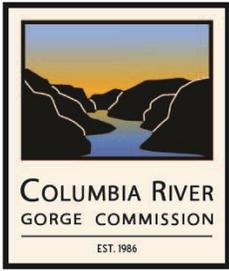


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22'5"

APPROVED
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COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C19-0008

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APPLICANT: Scott Myers

LANDOWNER: Scott Myers

LOCATION: The subject parcel is located at 360 Rowland Road, Lyle, Washington, in the South West Quarter of Section 31, Township 3 North, Range 13 East, W.M., Klickitat County Tax Lot Number 03-13-3100-0021/00. The parcel is 1.60 acres in size.

LAND USE

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

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

FINDINGS OF FACT:

A. Land Use

1. The subject parcel is in the General Management Area (GMA) and is designated Residential, with a minimum parcel size of 10 acres.

2. The subject parcel is 1.60 acres in size and is located at 360 Rowland Road, Lyle, Washington.
3. The applicant requests approval to build new additions to an existing dwelling. The proposed additions expand the living space and add a new attached garage. The existing dwelling was constructed and established in 1974 prior to the National Scenic Area Act.
4. Commission Rule 350-81-020(4) defines an addition as “an extension or increase in the area or height of an existing building.”
5. Existing development on the property includes a 1,008 square foot dwelling and two accessory buildings, which are a pump house and a shed with an attached lean-to, and which combined are 256 square feet. The total interior space on the property is 1264 square feet. There are no prior Director’s Decisions that apply to the parcel.
6. Commission Rule 350-81-370(1)(m) allows additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building, provided that the additions are consistent with the guidelines to protect scenic, cultural, natural, and recreation resources.

The proposed living space addition would add 128 square feet (8’ x 16’) to the north side of dwelling and 288 square feet (12’ x 24’) to the east side of the dwelling, for a total of 416 square feet. The proposed attached garage would add 1,440 square feet (36’ x 40’) to the northeast corner of the dwelling. The total area of the proposed additions is 1,856 square feet, of which 416 square feet would be conditioned interior space, and 1,440 square feet would be unconditioned interior space.

The existing dwelling is 22.6 feet high. The height of the proposed attached garage is 22.5 feet, in line with the existing peak height of the existing dwelling. The height of the living space addition is in line with the existing first floor and will not be higher than the existing second floor or garage addition.

Conclusion:

The additions are a review use on lands designated GMA-Residential, subject to the guidelines to protect scenic, cultural, natural, or recreation resources in the National Scenic Area.

B. Scenic Resources

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

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

The proposed development is for additions to an existing building. Therefore, Commission Rule 350-81-520(1)(a) does not apply.

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

New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

The proposed development site is in an area designated GMA Residential and along the northern border of the National Scenic Area. The area designated GMA Residential roughly forms a right triangle, with a height of approximately .5 miles and a width of approximately .5 miles, with the

proposed development site at its center. There are eight residential developments within a quarter mile of the proposed development site and within the border of the National Scenic Area.

According to property data from the Klickitat County Assessor's Office, total interior assessed area for nearby developments ranges from 1,404 square feet to 3,898 square feet. One nearby development has the appearance of a two-story building. The remaining nearby developments are either one story or 1.5 stories. Nearby developments are all dwellings, most with detached accessory buildings such as detached garages or pole buildings close to the dwelling.

The proposed development will increase the total interior assessed area from 1,264 square feet to 3,120 square feet, smaller than four of the nearby developments. The height of the proposed development is in line with the peak height of the existing dwelling. Overall, the proposed development is compatible with the general scale of existing nearby development.

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

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

No plantings are required by the guidelines in this chapter. Commission Rule 350-81-520(1)(c) does not apply.

4. Commission Rule 350-81-520(2)(a) states:

The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

The proposed development site is topographically screened from key viewing areas by higher elevation lands located to the west, south, and east. A site visit on July 24, 2019 confirmed that intervening topographic features screen the development site from most areas to the west, south, and east. Viewshed analysis using Google Earth Pro demonstrated that the proposed additions at their peak height would only be topographically visible from scattered areas to the south and east of the development site within .75 miles, and would be completely topographically screened from all key viewing areas. The proposed developments are located on a site that is not topographically visible from key viewing areas. Commission Rule 350-81-520(2) does not apply.

5. The proposed development is within the Rural Residential in Coniferous Woodland Landscape Setting, which is described in Commission Rule 350-81-520(3)(f):

(A) New development in this setting shall meet the design guidelines described for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the two sets of guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

The applicable design guidelines mentioned in Commission Rule 350-81-520(3)(f)(A) are described in Commission Rules 350-81-520(b) and (e), which are addressed below. Commission

Rules 350-81-520(3)(f)(B) and (C) do not apply because the two applicable guidelines do not conflict, and there is no recreation use proposed as part of this application.

6. The applicable design guidelines for development in the Coniferous Woodland landscape setting are described in Commission Rule 350-81-520(b):

“Structure height shall remain below the forest canopy level.”

The height of the proposed attached garage is 22.5 feet, in line with the existing peak height of the existing dwelling. The height of the living space addition is in line with the existing first floor and will not be higher than the existing second floor or new garage. A site visit on July 24, 2019 found that mature Oregon white oak and ponderosa pine trees form a canopy over fifty feet high on site. Topography further increases the elevation of the surrounding canopy relative to the building site. The height of the proposed addition is lower than the forest canopy level.

7. The applicable design guidelines for development in the Rural Residential landscape setting are described in Commission Rule 350-81-520(e):

Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

The proposed development does not require removing any trees. Three lilac bushes are adjacent to the existing building. The applicant stated during a July 24, 2019 site visit that he intends to remove the lilacs farthest from the dwelling, and replant the lilac closest to the home to the south side of the dwelling. One mature ponderosa pine exists approximately sixty feet east of the existing dwelling, and twenty feet east of the proposed garage addition. The applicant stated that he does not intend to remove the tree. A condition of approval requiring existing tree cover to be retained, except for safety purposes or forest management practices, is included with this Director’s Decision.

Conclusion:

Based on these findings, and with the condition that existing tree cover is retained, the proposed development is consistent with the guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

C. Cultural Resources

1. Commission Rule 350-81-540 provides guidelines to determine when cultural resource reconnaissance surveys and historic surveys are required for proposed developments.
2. Chris Donnermeyer, Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area, provided a cultural resources survey determination for the proposed development on June 26, 2019.
3. Mr. Donnermeyer determined that the proposed development does not require a reconnaissance survey pursuant to Commission Rules 350-81-540(1)(c)(A) because the proposed use: (1) would involve the modification, expansion, replacement, or reconstruction of existing buildings and structures; (2) occurs on a site that has been determined to be located in a low probability zone; and (3) does not occur within 500 feet of a known archaeological site.
4. Mr. Donnermeyer determined that the proposed development does not require a historic survey pursuant to Commission Rule 350-81-540(1)(c)(B) because the proposed use: (1) would not alter

the exterior architectural appearance of significant buildings and structures that are 50 years old

or older; and (2) would not compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older.

5. Commission Rules 350-81-540(6) and (7) provide guidelines for the inadvertent discovery of cultural resources or human remains during construction activities. These guidelines are included in the Director's Decision as conditions of approval.

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.

The proposed development is an addition to an existing building. Therefore, Commission Rule 350-81-086 does not apply. While no new buildings or structures are proposed, the proposed development is located approximately .7 miles north of the boundary of Doug's Beach State Park, far enough away to ensure that the development or use of the parcel would not detract from the use or enjoyment of the site. Further, the majority of Doug's Beach State Park is undeveloped, and all established recreation use is concentrated on the windsurfing and picnicking site at the south end of the park. The proposed development is approximately 1.4 miles from this area of the park. With intervening topography screening the proposed development, and with the proposed use not expected to create any other kind of disturbance, the proposed addition would not detract from the use and enjoyment of the established recreation site.

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 350-81-560 provides guidelines for protecting wetlands in the General Management Area. Review of Gorge Commission resource inventories show that there are no wetlands on site. Commission Rule 350-81-560 does not apply.
2. Commission Rule 350-81-570 provides guidelines for protecting streams, ponds, lakes, and riparian areas in the General Management Area.

Review of Gorge Commission resource inventories show that there is an unnamed perennial stream east of the proposed development on the adjacent parcel. Commission Rule 350-81-570(7)(a)(A) states that the buffer for a perennial stream is 100 feet. The closest part of the proposed development is approximately 120 feet from the stream, as it shows in the Gorge Commission inventory. During staff's July 24, 2019 site visit, staff were not able to identify any defined stream channel or bed on the adjacent property. Additionally, in 1992 the Gorge Commission issued Director's Decision C92-0094 for the adjacent parcel. The 1992 decision determined that there were "no wetlands or streams" in the area. Based on the review of Gorge

Commission resource inventories and review of the 1992 Director's Decision, staff determined for this current decision that the inventoried stream does not exist, and no buffer is required.

No other water resources are shown in the Commission's inventory.

3. The applicant included a "seasonal stream" and associated culverts on the site plans in a different location from the inventoried stream discussed above. Staff conducted a site visit on July 24, 2019 to determine if there were unmapped water resources on site. The applicant stated that the area indicated on the site plan as a seasonal stream is an area where water from snowmelt collects in the spring.

Commission Rule 350-81-020(152) defines the word "stream" to mean:

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

During the site visit staff examined the area indicated on the applicant's site plan to determine if there was a defined channel or bed. This area contains lawn grasses, wild grasses, blackberry bushes, and Oregon white oak and ponderosa pine trees. The area where water collects was visible, but only as a slight dip in the topography on site.

Staff emailed Rainer Hummel, Forest Practices District Manager for the Washington State Department of Natural Resources. Given the information that staff provided, he advised that the depression is likely an area of seasonal runoff that would not meet the WDNR definition of a stream, though he could not make a stream determination without a site visit to examine the area.

4. Further north on the property, a culvert under the driveway drains from and into areas that have become slightly downcut. This area is covered in upland grasses and does not form a defined channel beyond the culvert site. As defined above, this area is part of an artificial watercourse to manage periodic water flow.
5. Commission Rule 350-81-580 provides guidelines for protecting wildlife habitat in the General Management Area.

Review of Gorge Commission resource inventories show that the existing dwelling and proposed development is entirely within an area mapped as Western Gray Squirrel priority habitat and black-tail deer winter range by the Washington Department of Fish and Wildlife. This same area is also Oregon white oak priority habitat. The application and site plan were sent to Amber Johnson with WDFW on June 13, 2019 for review and comment. No comments were received.

Washington Department of Fish and Wildlife publishes management recommendations for some priority species and habitats. For Western Gray Squirrel, WDFW recommends that the squirrels' primary habitat of well-connected canopy cover be left standing. For Oregon white oak, WDFW recommends that the trees be left standing. The applicant is not proposing to remove any Oregon white oak, nor will the proposed development disconnect any existing canopy cover. Only three lilac bushes in an area of existing disturbance will be moved or removed.

WDFW does not provide management recommendations for black-tail deer. Commission Rule 350-81-580(6) provides guidelines for new fences in deer and elk winter range. No fencing is proposed as part of this development. As proposed, the development will have no adverse impact on wildlife habitat.

6. Commission Rule 350-81-590 provides guidelines for protecting rare plants in the General Management Area. Commission Rule 350-81-590(1)(c) states:

Proposed uses within 1,000 feet of a sensitive plant shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

Review of Gorge Commission resource inventories show that there are no known sensitive plants within 1000 feet of the proposed development.

Conclusion:

The proposed development is consistent with the Commission Rules 350-81-560, 350-81-570, 350-81-580, and 350-81-590, protecting natural resources in the National Scenic Area.

F. Treaty Rights Protection

1. Commission Rule 350-81-084(1) provides protection of tribal treaty rights 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 June 13, 2019. The notice included a comment period of 21 days that ended on July 4, 2019.

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 during the 21-day comment period. 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 for protection of tribal treaty rights in the National Scenic Area.

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