

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

- CASE FILE:** C19-0011
- PROPOSAL:** The Columbia River Gorge Commission received an application for a new single-family dwelling and attached garage.
- APPLICANT:** George Allison
- LANDOWNERS:** George & Patty Allison
- LOCATION:** The subject parcel is located on Bertha N Orchard Road, Lyle, WA, 98613, in the North West ¼ of Section 3, Township 12 North, Range 09 East, W.M., Klickitat County Tax Lot Number 03-12-09-5202-01/00. The tax lot is 11.19 acres in size.
- LAND USE DESIGNATION:** The subject parcel is in the General Management Area and designated Small Woodland.

DECISION:

Based upon the following findings of fact, the land use application by George Allison, for a single-family dwelling, 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 C19-0011, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.
3. 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 changes are implemented. Any new land uses or structural development such as dwellings, garages, workshops, or other accessory structures, additions or alterations, or grading not included in the approved application or site plan may require a new application and review.

4. The Columbia River Gorge Commission will conduct at least one siting inspection during construction to verify the staked location of all structures. A site visit for Final Inspection shall also be conducted (see Condition 10). The applicant shall arrange each inspection by calling the Gorge Commission at 509-493-3323 or by emailing info@gorgecommissin.org. Each inspection may take up to seven business days from the time of calling for the inspection. The following minimum lot line setbacks shall apply to the primary dwelling:
 - a. Eastern Property Line: two-hundred (200) feet
 - b. Northern Property Line: two-hundred (200) feet
 - c. Southern Property Line: two-hundred (200) feet
 - d. Western Property Line: two-hundred (200) feet
5. All exterior building materials, including doors, siding, trim, window sash, and roof roofing shall be dark earth-tone colors. Only approved dark earth-tone 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 paint color, "Allison Dark Brown Exterior Satin" (sales number #6403-92387). The roof shall be composed of black asphalt shingles, and the driveway is shall be dark gravel. The trim of the house, including the fascia and gutters, shall be black. Any proposed changes to these colors shall be submitted for review by the Executive Director for consistency with this condition of approval. The color of the development shall be maintained by re-painting and re-staining as necessary to maintain the approved color.
6. All outdoor lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible as seen from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials. Any seasonal lighting displays on or around the dwelling shall not exceed 3 months.
7. All windows shall be composed of low-reflectivity glass. A reflectivity rating of 11% is required.
8. The landowner shall submit a written statement to the Commission specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted forest practices on lands designated Commercial Forest Land, Large or Small Woodland. **This statement shall be recorded into county deeds and records for the subject parcel and submitted to the Gorge Commission before construction begins.**
9. The proposed development shall comply with the following fire protection criteria. The applicant shall submit a written statement and amended site plan addressing each criterion to the Gorge Commission for review and approval by the Executive Director, before construction begins. The applicant shall notify the Commission when construction is complete, so an inspection of the dwelling can be made to verify compliance with the fire safety guidelines.
 - a. All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire-resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.
 - b. Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structures.
 - c. A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water

system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separated from the dwelling.

- d. Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent.
 - e. Telephone and power supply systems shall be underground.
 - f. Roofs of structures shall be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.
 - g. Any chimney or stovepipe on any structure for use with a woodstove or fireplace shall be screened with no coarser than ¼ inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.
 - h. All structural projections such as balconies, decks and roof gables shall be built with fire resistant materials equivalent to that specified in the Uniform Building Code. **The applicant shall submit alternative building materials for the deck of the development to the Gorge Commission for review and approval.**
 - i. Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4-inch mesh metal screen that is noncombustible and corrosion resistant.
10. The following mitigation measures are required to enhance habitat for western gray squirrel:
- a. Reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands. Do not cut Oregon white oak, except for habitat enhancement.
 - b. Promote “oak release” by removing overtopping and encroaching conifers from the vicinity of oak trees on the subject parcel, thereby reducing the competition for light, water, and nutrients.
11. The applicant shall follow the recommendations in the oak woodland habitat enhancement plan titled, “Allison Property Recommendations for Oak Removal Mitigation/Oak Habitat Enhancement,” which is included as a an attachment with this Decision.
12. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
13. If human remains are discovered during construction activities, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
14. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for an inspection to confirm compliance with conditions of approval. Project completion means completion of all work on exteriors of structures (including painting).

DATED AND SIGNED THIS 5th day of November 2019 at White Salmon, Washington.


for 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 5th day of November 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 5th day of December 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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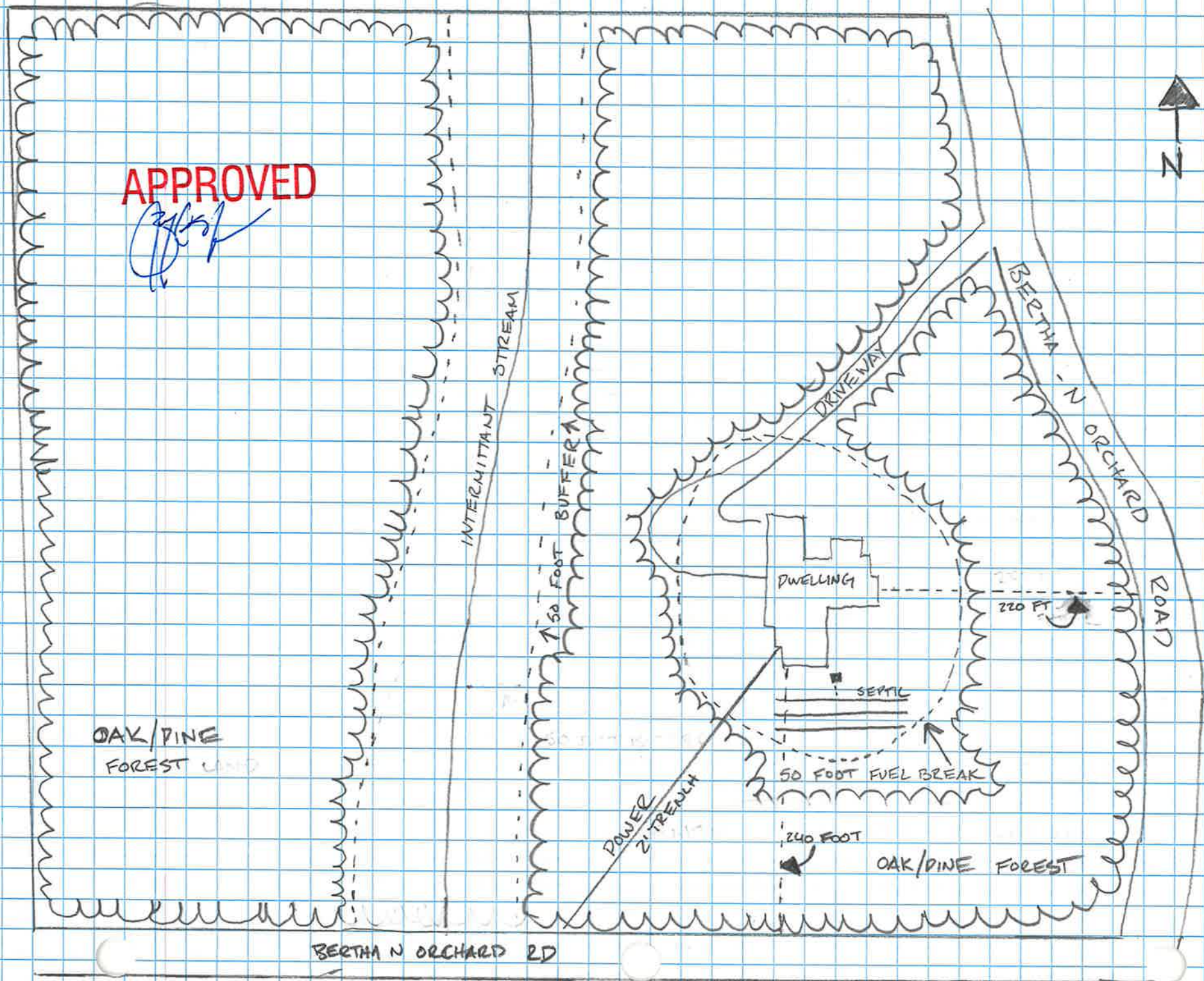
Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office
Washington Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Public Works Department
Klickitat County Health Department
Klickitat County Assessor
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Steve McCoy, Friends of the Columbia Gorge

Attachments:

Staff Report for C19-0011
Approved site plan
Allison Property Recommendations for Oak Removal Mitigation/Oak Habitat Enhancement

APPROVED

[Handwritten signature]



OAK/PINE
FOREST LAND

INTERMITTENT
STREAM

50 FOOT BUFFER

DWELLING

SEPTIC

50 FOOT FUEL BREAK

240 FOOT

OAK/PINE FOREST

DRIVEWAY

BERTHA N ORCHARD

ROAD

220 FT

BERTHA N ORCHARD RD

300 FEET



Underwood Conservation District
170 NW Lincoln • Park Center Building
PO Box 96 • White Salmon WA 98672 • 509.493.1936

Allison Property Recommendations for Oak Removal Mitigation/Oak Habitat Enhancement

To: Bryce Guske, Columbia River Gorge Commission
From: Jan Thomas, Underwood Conservation District
Subject: Recommendations for Oak Habitat Enhancement on Allison Property, Lyle, WA
Date: October 14, 2019

Background

Oak Habitat in Washington State

Quercas garryana, also known as Garry oak or Oregon White Oak, is the only native oak in Washington State. It is a deciduous broadleaved tree with extensive value to wildlife. A wide variety of bird, mammal, reptile, and amphibian species use the oak trees for forage, shelter, and breeding. Countless invertebrate species also rely on the white oak for successful completion of their life cycles. Oak trees often experience death or decay of one or more limbs, offering the opportunity for cavity nesting by a variety of species. Where oak trees intersect with conifer species, these connected canopies can provide essential aerial pathways for small mammals, primarily squirrels.

Oregon White Oak needs an open, sunny position to thrive and is easily shaded out by faster growing conifer trees. Historically, a regular natural fire regime would have reduced conifer numbers and allowed for a mixed canopy. Under current fire management, mechanical thinning of encroaching conifers is needed to maintain adequate access to light for oaks. Oregon White Oak can grow on a wide variety of soil types and with a range of soil moistures; on severe sites, growth will tend toward a scrub forest. On sites with adequate soils and moisture, Oregon White Oak will respond with an open growth form and tend toward fewer, larger trees.

Oregon White Oak populations are in decline throughout Washington State, primarily due to forest management practices and land use changes; Klickitat County is an important remaining area for conservation and enhancement of oak populations. Washington Department of Fish and Wildlife offers the recommendation that *“Remaining oak stands >0.4 ha (1 ac) west of the Cascades and >2.0 ha (5 ac) east of the Cascades should be maintained or enhanced, regardless of age-class or composition of the stand.” (Larsen & Morgan, 1998).*

Allison Property

Mr. Allison proposes to remove 100+ small diameter (<6” diameter) and a handful of larger diameter (6”-12”) oak trees during pre-construction and construction of a new house and related infrastructure on his property on Bertha-N-Orchards

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Underwood Conservation District

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Rd, Lyle, WA. At the request of Bryce Guske, CRGC, and with the permission of the landowner, the following recommendations were developed to help enhance the remaining oak woodland habitat on the Allison property.

Recommendations

Generally, oak trees greater than 8" diameter should be retained wherever possible. This also applies to dead trees (snags). Specific recommendations are as follows:

- At the entrance to the proposed driveway from Bertha-N-Orchards Rd, an oak tree was observed with a nest. This tree should be retained, and the small diameter (<4") fir tree under its canopy removed.
- Half a dozen notable oaks were observed along the east and west sides of the proposed driveway entry into the homesite. Tree diameters of 8"-13" were measured; these oaks should be retained wherever possible.
- A clump of three oak snags was noted to the west of the proposed driveway path, approximately 11.5" in diameter each. The snags provide valuable wildlife value and should be retained if possible. If removal is required, consider leaving high-stumps (20'+ tall).
- There are multiple areas to the west and east of the proposed driveway and homesite that have thick patches of small diameter even-aged oaks, primarily less than 5" in diameter. In these areas, thinning can create enhanced structural diversity in the stand. One approach would be to retain 2-3 of the largest diameter (>5") stems in each clump, with the remaining stems removed by cutting. Note that the cut stumps will re-sprout, allowing for new growth and a more diverse age-class.
- Immediately south of the homesite, retain the largest oak stems in each clump and thin the remaining stems, as above.
- On the southeast corner of the property, along the road; retain four 10"+ oaks and remove encroaching firs.
- Along the length of the eastern border of the property, along Bertha-N-Orchard Rd; thin small diameter conifer trees (Douglas fir and Ponderosa pine) to release existing larger-diameter oaks.

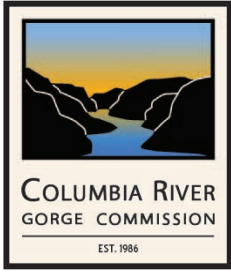
Resources

Harrington, Constance A.; Devine, Warren D. 2006. A practical guide to oak release. Gen. Tech. Rep. PNW-GTR-666. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 24 p.

Larsen, E. M., and J. T. Morgan. 1998. Management recommendations for Washington's priority habitats: Oregon white oak woodlands. Wash. Dept. Fish and Wildlife, Olympia. 37 pp.

Vesely, D.G. and G. Tucker. 2004. A landowner's guide to restoring and managing Oregon white oak habitats. Report prepared for USDI Bureau of Land Management, Salem District. Pacific Wildlife Research, Corvallis, OR.

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COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C19-0011

PROPOSAL: The Columbia River Gorge Commission received an application for a new single-family dwelling and attached garage.

APPLICANT: George Allison

LANDOWNER: George & Patty Allison

LOCATION: The subject parcel is located on Bertha N Orchard Road, Lyle, WA, 98613, in the Northwest $\frac{1}{4}$ of Section 3, Township 12 North, Range 09 East, W.M., Klickitat County Tax Lot Number 03-12-09-5202-01/00. The tax lot is 11.19 acres in size.

LAND USE

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

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

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

Written comments were received from Steve McCoy, Attorney for Friends of the Columbia River Gorge and from the Confederated Tribes of the Warm Springs Reservation of Oregon.

FINDINGS OF FACT:

A. Land Use

1. The subject parcel is in the General Management Area and designated Small Woodland. The subject parcel is approximately 11-acres in size. The parcel is densely vegetated with a mixture of mature oaks and pine trees.
2. The applicant requests the review of a single-family dwelling, driveway, and associated utilities.
3. Commission Rule 350-81-270(1) specifies uses that may be allowed on lands with forest designations in the GMA subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620).
4. Commission Rule 350-81-270(1)(b) states:

On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the appropriate state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300). A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

Finding B.5 address the legality of the parcel. Finding B.6 addresses the *Approval Criteria for the Siting of Dwellings on Forest Land* (350-81-310). Finding B.7 address the *Approval Criteria for Fire Protection* (350-81-300).

The Washington State Forest Assessment Program implements RCW 84.33, and is administered in Klickitat County by the Klickitat County Assessor's Office under the Designated Forest Land Program. The program encourages healthy forest practices on privately owned timber lands by offering tax incentives to landowners. Staff contacted the Klickitat County Assessor's office and, in an email dated June 24, 2019, were informed that the subject parcel met the criteria for eligibility in the Washington State Forest Assessment Program. The applicant submitted their application to the Klickitat County Assessor's Office on October 4, 2019.

As a condition of approval pursuant to this rule, the landowners, Mr. & Mrs. Allison shall sign a declaration and record it into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

5. Commission Rule 350-81-020(114) defines *parcel* to include:

Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

The subject 11-acre parcel is Lot 1 of a nine-lot subdivision created in 1911 (Unit A, Berth-N Orchard Homes, recorded September 6, 1911, Klickitat County Auditor's No. 270084). The subject parcel is a legal parcel, consistent with the definition.

6. Commission Rule 350-81-310 lists the Approval Criteria for the Siting of Dwellings on Forest Land:

(a) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.

Staff visited the property on September 5, 2019 after the applicant staked the property for inspection and approval. As proposed, the dwelling will be located 250 feet north of the southern property line and 215 feet west of the eastern property line. The western and northern parcel boundaries are much more distant than 200 feet from the dwelling site.

(b) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing non-forest uses, adjacent dwellings, or land productivity.

The applicant proposes to leave the majority of the mature trees on the property while also complying with the Approval Criteria for Fire Protection (Commission Rule 350-81-300). The new dwelling is located as close to existing public roads as possible to both comply with Commission Rule 350-81-310(a) and to minimize the amount of forest land used to site the dwelling.

(c) Dwellings shall be located to minimize the risks associated with wildfire. Dwellings should be located on gentle slopes and in any case not on slopes that exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty of gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

Consistent with this rule, the dwelling is located on a 10% slope.

(d) A local government may grant a variance to the siting guidelines contained within this section upon a demonstration that the guidelines in "Variances from Setbacks and Buffers" (350-81-078) have been satisfied.

The dwelling does not require a variance from these standards; subsection (d) of this rule is not applicable.

7. Commission Rule 350-81-300 lists the Approval Criteria for Fire Protection on Forest Land. All uses must comply with the following fire safety guidelines.

(a) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire-resistant vegetation may be planted within the fuel break. This could include green lawns

and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

A condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(b) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).

A condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(c) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

A condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(d) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district and the Washington Department of Natural Resources in Washington or the Oregon Department of Forestry in Oregon.

The proposed access drive is 250 feet long and 12 feet wide, and has an overall grade of 10%, consistent with this rule. However, a condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(e) Within 1 year of the occupancy of a dwelling, the local government shall conduct a review of the development to assure compliance with these guidelines.

A condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(f) Telephone and power supply systems shall be underground whenever possible.

The proposal is consistent with this requirement; a condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(g) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

The proposal is consistent with this requirement; the applicant proposes using fire-resistant composite shingles. A condition of approval is also included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(h) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4-inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

A condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

(i) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

The primary dwelling has an attached deck and porch landing and proposes cedar wood or Trex composite decking, neither of which are fire resistant. A condition of approval requires the applicant to submit alternative building materials for the deck and landing, and is included in the decision to ensure compliance with this criterion.

(j) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4-inch mesh metal screen that is noncombustible and corrosion resistant.

A condition of approval is included in the decision to make the landowner aware of this requirement and to ensure compliance with this criterion.

Conclusion:

With conditions of approval that require multiple documents to be recorded with the property deeds, and compliance with the fire protection criteria and siting criteria listed in Commission Rules 350-81-300 and 310, the proposed dwelling and associated utilities are reviewable uses on lands designated GMA-Small Woodland, subject to compliance with the guidelines in Commission Rules 350-81-520 to 350-81-590 that protect scenic, cultural, natural and recreation resources.

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 site is on land that slopes to the south with 10% gradient. The applicant proposes a full 8-foot basement for the dwelling. As proposed, the dwelling is sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable, consistent with Commission Rule 350-81-520(1)(a).

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

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

Existing nearby development consists of 16 dwellings and 32 accessory buildings within approximately 0.75 miles of the subject parcel. The dwellings are one and two-stories tall and range from 200 to 3,743 square-feet in visible mass and are 12 to 29 feet-tall. These calculations include all interior living space, including daylight or above-ground basements, attached garages, and covered decks or terraces.

The proposed dwelling has a visible mass of 3,363 square-feet and is 26 feet-tall. The dwelling space is 2,475 square feet, the garage is 735 square feet, covered deck space is 152 square feet, and uncovered deck space is 480 sq. ft. The dwelling also has a full 8-foot basement under the footprint of the house comprising 2,084 sq. ft. As proposed, the basement is completely underground without any clearstory windows or doors, and thus does not contribute to the visible mass of the development. The visible mass of the proposed development is compatible with existing development in the vicinity and consistent with Commission Rule 350-81-520(1)(b).

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

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

The development is fully screened from all Key Viewing Areas. No new vegetation is required by the guidelines of this chapter.

4. Commission Rule 350-81-520(1)(d) requires a site plan to be submitted for proposals to construct new buildings. The site plan, submitted on July 11, 2019, meets the application requirements. The notice materials for this application included a copy of the site plan.
5. Commission Rule 350-81-520(1)(e) states:

For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

The landscape settings for the subject parcel are Oak Woodlands and Coniferous Woodlands. The applicant submitted a site plan on July 11, 2019. The compatibility of the proposed development and its compatibility with the design guidelines for the Oak Woodland & Coniferous Woodlands is discussed in Findings B.21 through B.24.

6. Commission Rules 350-81-520(1)(f) and (g) apply only to mineral resource production and quarries, which are not proposed with this project.
7. Commission Rule 350-81-520(2) contains guidelines that apply to new development on sites that are topographically visible from Key Viewing Areas (KVAs). The site is visible from the following Key Viewing Areas: Historic Columbia River Highway, Interstate 84, Columbia River and Rowena Crest. A mixed grove of conifers and oaks surrounds the development on the site and effectively screens the proposed development from view. Since the proposed development is topographically visible from Key Viewing Areas, the guidelines of Commission Rule 350-81-520(2) are applicable.
8. Commission Rule 350-81-520(2)(b) requires new development to be visually subordinate to its setting when viewed from Key Viewing Areas. Commission Rule 350-81-020(170) defines visually subordinate as:

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.

Findings B.7 through B.26 below address consistency with Commission Rule 350-81-520(2)(b). The proposed development is topographically visible from Key Viewing Areas in the back ground

at distances over 4.5 miles. As seen from Key Viewing Areas, due to the forested nature of the parcel and the surrounding area, the dwelling is completely screened. The dwelling is designed to be visually subordinate as seen from Key Viewing Areas, with dark, low reflective materials. Factors contributing to the visual subordination of the development include the distance from Key Viewing Areas, the use of dark earth tone colors found on the site, non-reflective and low reflectivity building materials, and screening vegetation. The Director's Decision contains requirements and conditions of approval to ensure the development is visually subordinate to the maximum extent practicable.

9. Commission Rule 350-81-520(2)(c) states that the determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

Commission Rule 350-81-020(40) defines "cumulative 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.

To consider the cumulative effects associated with the proposed development, staff considered parcels within .75 miles of the subject parcel. This area is primarily used for residences near McGowen Rd., Bertha-N Orchard Rd., and Lyle-Snowden Rd. at the northern edge of the National Scenic Area in Klickitat County. The parcels in this area are designated GMA Small-Woodland and GMA Commercial Woodland.

Within this area, there are twenty-two parcels. Existing development in the study area consists of sixteen dwellings and thirty-one accessory buildings within approximately 0.75-miles of the subject parcel. The dwellings in this vicinity are one and two-stories tall and range from 200 to 3,743 square-feet in size, and 12 to 29 feet-tall. These calculations include all interior living space, including daylight or above-ground basements, attached garages, and covered decks or terraces.

Fifteen of the parcels are developed, and the remaining seven are undeveloped. Four of the seven undeveloped parcels are approximately the same or smaller in size than the subject property and staff assumes residential dwellings and accessory buildings will be proposed in the future. The parcels adjacent to the subject parcel to the west, east, and south are developed; the parcel adjacent to the north is owned by SDS Lumber Company and was clear-cut approximately 5 years ago. Another of the undeveloped parcels is owned by Washington Department of Natural Resources and staff assumes this parcel will remain undeveloped. The other large undeveloped parcel is currently engaged in agricultural activities.

Several factors ensure the proposed building will not cause adverse scenic impacts as viewed from Key Viewing Areas. Distance from Key Viewing Areas, use of exterior building materials and colors that blend with the landscape, and the presence of screening vegetation should ensure future development will not cause adverse scenic impacts as viewed from Key Viewing Areas. Staff has not evaluated the visibility of possible building sites on other properties, however, given the heavily wooded areas and the large size of half of the undeveloped parcels in the vicinity, it is unlikely that other similarly sited, sized, and designed accessory buildings would create a visually developed area. The proposed development combined with existing and possible future development would not create an adverse scenic impacts or adverse cumulative scenic impacts.

The Key Viewing Areas from where the dwelling is topographically visible are over 4.5 miles away. The subject parcel is heavily wooded with pine and oak trees. The applicant proposes to leave the majority of the mature trees on property while also complying with Approval Criteria for Fire Protection (Commission Rule 350-81-300). As proposed, the dwelling will be fully screened

from Key Viewing Areas by existing trees. The dwelling will be a custom Sherwin Williams paint color, "Allison Dark Brown Exterior Satin" (sales number #6403-92387). This dark earth-tone brown color is found within the shadows of the surrounding landscape. The roof will be composed of black asphalt shingles, and the with black composition shingles. These are materials with low or no reflectivity. The southern facade of the development will contain six small windows (less than 20 sq. ft. of glass each) that will not reflect as seen in the background from Key Viewing Areas. In the event the vegetation on the subject property is lost, the proposed dwelling may be visible in the background from Key Viewing Areas, but would still be visually subordinate.

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

The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas.

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

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

These factors are addressed below:

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

While the proposed dwelling is topographically visible from Key Viewing Areas at the proposed site, the proposal is completely screened from Key Viewing Areas by existing vegetation both on and off the subject parcel. As seen from Key Viewing Areas, the entire dwelling is screened by intervening topography and existing vegetation both on and off the subject parcel.

(ii) The degree of existing vegetation providing screening.

The proposed dwelling site is screened from Key Viewing Areas by existing vegetation both on and off the subject parcel. While the proposed dwelling is topographically visible from Key Viewing Areas at the proposed site, the proposal is completely screened from Key Viewing Areas by existing vegetation both on and off the subject parcel. The closest Key Viewing Areas from which the development is visible are all over 4.5 miles away, and trees and existing topography between the parcel and Key Viewing Areas help to provide screening.

(iii) The distance from the building site to the Key Viewing Areas from which it is visible.

KEY VIEWING AREAS	DISTANCE ZONE		
	FOREGROUND 0 - 1/4 Mile	MIDDLEGROUND 1/4 - 3 MILES	BACKGROUND Over 3 Miles
Historic Columbia River Highway			X
Interstate 84			X
Columbia River			X
Rowena Crest			X

(iv) The number of Key Viewing Areas from which the site is visible.

The proposed development site for the dwelling can be seen from the following four Key Viewing Areas: Columbia River, Interstate 84, Historic Columbia River Highway and Rowena Crest.

(v) The linear distance along the Key Viewing Areas from which the building site is visible.

The proposed dwelling is screened from Key Viewing Areas by existing vegetation both on and off the subject parcel. While the proposed dwelling is topographically visible from Key Viewing Areas at the proposed site, the proposal is completely screened from Key Viewing Areas by existing vegetation both on and off the subject parcel.

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

Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from Key Viewing Areas, including but not limited to:

(i) Siting (location of development on the subject property, building orientation, and other elements).

No other location on the subject property would have afforded additional topographic or vegetation screening. The proposed dwelling and driveway are sited on portions of the subject parcel that minimize visibility from Key Viewing Areas.

(ii) Retention of existing vegetation.

The Key Viewing Areas from which the dwelling is topographically visible are approximately 4.5 miles away. The subject parcel is heavily wooded with fir, pine and oak trees. The applicant only proposes to remove trees for the purposes of thinning the property for fire protection and as necessary for the Forest Plan. A condition of approval also requires the applicant to follow the recommendations included in "Allison Property Recommendations for Oak Removal Mitigation/Oak Habitat Enhancement" by Jan Thomas, with the Underwood Conservation District, dated October 14, 2019. In part, these recommendations ensure retention of existing screening vegetation.

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

Finding B.2 finds the development to be compatible in size, height, and mass with existing nearby development. Finding B.17 addresses the colors of the development, and Finding B.18 addresses the reflectivity of the building materials including windows.

The applicant has proposed dwelling with a steeply pitched gable roof design. This design emphasizes vertical lines, and has a maximum final height of 26 feet from the lowest adjacent grade. The proposed dwelling has a total visible mass of 3,363 square-feet and is 26 feet-tall. The dwelling space is 2,475 square feet, the garage is 735 square feet, and the covered deck space is 594 square feet.

Factors contributing to the visual subordination of the development include the distance from which the development will be viewed, dark earth tone colors found on the site, and the retention of existing vegetation that screens the development from view of Key Viewing Areas.

(iv) New landscaping.

The development is fully screened from all Key Viewing Areas. No new vegetation is required by the guidelines of this chapter.

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

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

The Key Viewing Areas from which the dwelling is topographically visible are approximately 4.5 miles away. The subject parcel is wooded with mature fir, pine and oak trees. The applicant only proposes to remove trees for the purposes of thinning the property for fire protection and as necessary for the Forest Plan. As proposed, the chosen building site allows the buildings to be visually subordinate from Key Viewing Areas, consistent with Commission Rule 350-81-520(2)(e).

13. Commission Rule 350-81-520(2)(f) states:

New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from Key Viewing Areas.

While the proposed dwelling is topographically visible from Key Viewing Areas, at the proposed site it is completely screened from Key Viewing Areas by existing vegetation both on and off the subject parcel.

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

Existing tree cover screening proposed development from Key Viewing Areas shall be retained as specified in the Landscape Settings Guidelines in 350-81-520(3).

Findings for the Landscape Settings Design Guidelines are addressed below in Findings B.21 through B.23.

15. Commission Rule 350-81-520(2)(h) states:

The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

The subject property is approximately 2100' above sea level part way up a slope of hills rising above Lyle that reach an elevation of approximately 2500' above sea level. There are no cliffs, bluffs or ridges in vicinity of the subject property. The proposed dwelling will not exceed 27' feet in height. The tree canopy rises to 40 feet. The silhouette of the proposed new buildings would not be seen from Key Viewing Areas, consistent with Commission Rule 350-81-520(2)(h).

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

The following guidelines shall apply to new landscaping used to screen development from Key Viewing Areas:

- (A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in 350-81-520 is not sufficient to make the development visually subordinate from Key Viewing Areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.*
- (B) If new landscaping is required to make a proposed development visually subordinate from Key Viewing Areas, 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 make the development visually subordinate within five years or less from the commencement of construction.*
- (C) Unless as specified otherwise by provisions in 350-81-520, 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 350-81-520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).*

The proposed dwelling at the proposed site is completely screened from Key Viewing Areas by existing vegetation both on and off the subject parcel. No new landscaping is required to screen the development from Key Viewing Areas.

17. Commission Rules 350-81-520(2)(l) states:

Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from Key Viewing Areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval.

The applicant has proposed a custom Sherwin Williams paint color, “Allison Dark Brown Exterior Satin” (sales number #6403-92387) as the exterior color for the dwelling and garage. This dark earth-tone brown color is found within the shadows of the surrounding landscape. The roof will be composed of black asphalt shingles, and the driveway is will be dark gravel. The trim of the house, including the fascia and gutters, will be black. A condition of approval requires all exterior surfaces of the proposed development, including doors, siding, trim, window sash, and roof to be dark earth-tone colors to ensure consistency with Commission Rule 350-81-520(2)(l).

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

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

While the proposed development will be fully screened from all Key Viewing Areas, the subject parcel is topographically visible from four Key Viewing Areas. Therefore, the exterior of the proposed dwelling must be composed of non-reflective materials or materials with low reflectivity. The proposed exterior materials for the dwelling are concrete board and batten and concrete faux cedar shake. The roof will be composite asphalt shingles. These materials all have minimal reflectivity and will be dark earth tone colors. These low reflective materials are consistent with Commission Rule 350-81-520(2)(m).

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. The southern facade of the development will contain six small windows (less than 20 sq. ft. of glass each). All of the windows are spaced apart from each other, less than 50 sq. ft. of continuous glass, and are screened by vegetation on the parcel. A condition of approval requires the use of low glare glass with a reflectance rating of 11% or less.

In sum, with conditions of approval requiring low or non-reflective materials, the proposed development is consistent with Commission Rule 350-81-520(2)(m).

19. Commission Rule 350-81-520(2)(p) states:

Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

The applicant provided an outdoor lighting plan which includes ten exterior lighting fixtures. A condition of approval ensures that any outdoor lighting is directed downward, hooded and shielded such that lights are not highly visible from Key Viewing Areas, consistent with this rule. Staff provided the applicant with examples of acceptable light fixtures from International Dark-Sky Association consistent with Commission Rule 350-81-520(2)(p).

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

Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas

Due to the location of the building site and the trees existing on the subject parcel, the driveway and dwelling will not be visible from Key Viewing Areas. The driveway and dwelling are located on gently sloping ground, and the applicant proposes grading activities including a basement for the dwelling, but all cut banks and fill slopes will not be visible from Key Viewing Areas.

21. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from Key Viewing Areas to include a grading plan containing specific plan elements.

The applicant provided a grading plan consistent with this rule. The house and driveway are sited on a slope of 10%. Excavation will be required for the basement. Approximately 65-70% of the cut for the basement will be used for the parking area in the front of the garage and be compacted with a gravel base. The remained 30-35% of the cut for the basement will be placed around the north and south sides of the development. The driveway will require minimal grading, as it will follow the natural topography of the area. Estimated total grading is 514 cubic yards.

22. The Landscape Settings map in the Management Plan classifies the subject parcel as Coniferous Woodland and Oak-Pine Woodland. Commission Rule 350-81-520(3) contains the landscape settings for the National Scenic Area and applicable development guidelines.
23. Commission Rule 350-81-520(3)(b) contains the applicable guidelines for proposed uses in the Coniferous Woodland landscape setting. Commission Rule 350-81-520(3)(b)(A) states:

Structure height shall remain below the forest canopy level.

The height of the proposed dwelling is 26 feet from the peak of the roof to finished grade. The average tree canopy height on the parcel is over 40 feet, with a mix of Douglas fir and Ponderosa pine creating the tree canopy. The average height of the surrounding tree canopy is approximately 40 feet. The proposed development is consistent with Commission Rule 350-81-520(3)(b)(A).

24. Commission Rule 350-81-520(3)(b)(B) states:

In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

- (I) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.*
- (II) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas-fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).*
- (III) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

The development is fully screened from all Key Viewing Areas. No new vegetation is required by the guidelines of this chapter. The Key Viewing Areas from which the dwelling is topographically visible are approximately 4.5 miles away. The subject parcel is heavily wooded with fir, pine and oak trees. The applicant only proposes to remove trees for the purposes of thinning the property for fire protection and as necessary for the Forest Plan. A condition of approval also requires the applicant to follow the recommendations included in the "Allison Property Recommendations for Oak Removal Mitigation/Oak Habitat Enhancement," by Jan Thomas, with the Underwood Conservation District, dated October 14, 2019. In part, these recommendations ensure retention of existing screening vegetation. The proposed development is consistent with Commission Rule 350-81-520(3)(b)(B).

25. Commission Rule 350-81-520(3)(c) contains the applicable guidelines for proposed uses in the Oak-Pine Woodland landscape setting. Commission Rule 350-81-520(3)(c)(A) states:

Structure height shall remain below the tree canopy level in wooded portions of this setting.

The height of the proposed dwelling is 26 feet from the peak of the roof to finished grade. The average tree canopy height on the parcel is over 40 feet, with a mix of Douglas fir and Ponderosa pine creating the tree canopy. The average height of the surrounding tree canopy is approximately 40 feet. The proposed development is consistent with Commission Rule 350-81-520(3)(c)(A).

26. Commission Rule 350-81-520(3)(c)(B)(iii) applies to new development in portions of the Oak-Pine Woodland Landscape Setting visible from KVAs that are substantially wooded. Commission Rule 350-81-520(3)(c)(B)(iii) states:

Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

As described in Finding B.24 above, only trees and vegetation immediately around the building site for fuel break will be removed for this project. The existing tree cover screening the sites from Key Viewing Areas will be retained, consistent with Commission Rule 350-81-520(3)(d)(c)(B)(iii).

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

Conclusion:

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. Except as specified in Commission Rule 350-81-540(1)(c)(A)(iii), new development requires a reconnaissance survey. Commission Rule 350-81-540(3) requires that, if cultural resources are discovered, an evaluation of the significance shall be conducted. Commission Rule 350-81-540(3)(d)(C) states that if it is determined that the cultural resources are significant, the effects of the proposed use shall be assessed. Commission Rule 350-81-540(5)(a) requires mitigation plans when proposed uses would have an adverse effect on significant cultural resources. Mitigation plans shall reduce an adverse effect to no effect or no adverse effect.
2. Chris Donnermeyer, Heritage Resource Program Manager for the U.S.D.A. Forest Service Columbia River Gorge National Scenic Area, reviewed the new land use application and determined in a Cultural Resources Survey Determination, dated July 16, 2019, that pursuant to Commission Rule 350-81-540(1)(c)(A)(iii) a Cultural Resource Reconnaissance Survey is not required because the development would occur on a site that has been determined to be located within a low probability zone, is not within 100 feet of a high probability zone, and does not occur within 500 feet of a known archeological site.
3. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his July 16, 2019 determination, Mr. Donnermeyer also concluded that a historic survey was not required because the use would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older and would not compromise other historic features in the surrounding area that are important in defining the historic or architectural character of significant historic structures. Given this information, a historic survey was not required, consistent with Commission Rule 350-81-540(1)(c)(B).

4. Commission Rule 350-81-540(2)(c)(B)(i) states the cultural resource protection process may conclude when the following conditions exist:

The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.

The project notice was mailed on July 15, 2019, and the comment period ended on August 5, 2019. As explained above, the proposed use did not require a reconnaissance or historic survey and no comments were received regarding cultural resource concerns. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

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

Conclusion:

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

D. Recreation Resources

1. Commission Rule 350-81-086 states:

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

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

Conclusion:

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

E. Natural Resources

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).
2. The Gorge Commission's natural resource inventories do not show any wetlands in the project vicinity. Therefore, Commission Rule 350-81-560 that protect wetlands does not apply.

3. The Gorge Commission's natural resource inventories identify an intermittent stream crossing the subject property.

Commission Rule 350-81-570(7)(a) defines stream, pond and lake buffer zones. It states:

Buffer zones shall generally be measured landward from the ordinary high water-mark of horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

- (A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet*
- (B) Intermittent streams provided they are not used by anadromous or resident fish: 50 feet*
- (C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by 350-81-560(7)(b), substituting the term pond or lake as appropriate.*

Jan Thomas, with the Underwood Conservation District, visited the site on August 27, 2019. Ms. Thomas looked for the location of the stream identified in the Commission's resource inventories. She did not identify a stream or stream bed, but only a depression in the general vicinity. The stream is protected by a culvert on Bertha N Orchard road. The stream is intermittent on the subject parcel, to the west of the proposed development. Intermittent streams require a 50-foot buffer. As proposed, the development is located greater than 200 feet away from the intermittent stream, further than the required 50-foot buffer. Due to the siting of the development, Commission Rule 350-81-570, that protect streams, ponds, lakes and riparian areas is satisfied.

4. Commission Rule 350-81-580 contains criteria for the review of potential impacts to sensitive wildlife. The Gorge Commission's sensitive wildlife inventory shows the development site is located within Deer and Elk Winter Range and western gray squirrel habitat. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include these areas. Commission Rule 350-81-580
5. Commission Rule 350-81-580(4) provides guidelines for uses proposed within 1,000 feet of a "sensitive wildlife area." Commission Rule 350-81-580(4)(a) requires the Gorge Commission to notify the Washington Department of Fish and Wildlife (WDFW) when a new development or land use is proposed within a sensitive wildlife area, in this case, deer and elk winter range.

On July 15, 2019, Gorge Commission staff sent Washington Department of Fish and Wildlife (WDFW) a copy of the applicant's land use application and site plan. Staff also completed a site visit on September 5, 2019 with Amber Johnson, wildlife biologist with WDFW.

6. According to Commission Rule 350-81-580(4)(c) and (d) the wildlife protection process may conclude if the proposed use would not compromise the integrity of the wildlife area or if the proposed use would have only minor effects that can be eliminated by simply modifying the applicant's site plan. According to Commission Rule 350-81-580(4)(e) the applicant must prepare a Wildlife Management Plan if the proposed use will adversely affect the wildlife area.

In a subsequent email dated September 10, 2019, Ms. Johnson recommended mitigation measures to help offset the impacts Pursuant to Commission Rule 350-81-580(4)(d). Due to the size and nature of the development, Ms. Johnson does not believe the proposed development compromises the integrity of the parcel as a wildlife site. She recommended the following measures on the subject parcel to mitigate for the development in western gray squirrel habitat:

1. Reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands.
2. Do not cut Oregon white oak, except for habitat enhancement.
3. Promote “Oak Release” by removing overtopping and encroaching conifers from the vicinity of oak trees on the subject parcel, thereby reducing the competition for light, water, and nutrients.

To ensure the health of western gray squirrel habitat on subject parcel in accordance with the recommendations made by Amber Johnson, Commission Staff worked with Jan Thomas, Underwood Conservation District, to develop a habitat enhancement plan titled, “Allison Property Recommendations for Oak Removal Mitigation/Oak Habitat Enhancement,” dated October 14, 2019. A condition of approval requires the applicants to follow the recommendations, and the plan is included as an attachment to the Decision.

As noted above in Finding E.3, the western gray squirrel is a state-listed threatened species. A condition of approval shall require the applicant to retain Oregon white oaks on the subject parcel excluding those trees required to be removed to maintain a 50-foot fuel break around the dwelling, pursuant to Commission Rule 350-81-300(a). If this measure is carried out, as required in the conditions of approval, then the proposed use does not compromise the integrity of the wide area, consistent with Commission Rule 350-81-850(d).

8. Commission Rule 350-81-580(1)(c) states:

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

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.

To consider the cumulative effects associated with the proposed development, staff considered parcel within .75 miles of the subject parcel. This area is primarily used for residences near McGowen Rd., Bertha-N Orchard Rd., and Lyle-Snowden Rd. at the northern edge of the National Scenic Area in Klickitat County. The parcels in this area are designated GMA Small-Woodland and GMA Commercial Woodland. This is the same vicinity that staff considered for cumulative effects to scenic resources.

Within this area, there are twenty-two parcels. Fifteen of the parcels are developed, and the remaining seven are undeveloped. Four of the seven undeveloped parcels are approximately the same or smaller in size than the subject property and staff assumes residential dwellings and accessory buildings will be proposed in the future. The parcels adjacent to the subject parcel to the west, east, and south are developed; the parcel adjacent to the north is owned by SDS Lumber Company and was clear-cut approximately 5 years ago. Another of the undeveloped parcels is owned by Washington Department of Natural Resources and staff assumes this parcel will remain undeveloped. The other large undeveloped parcel is currently engaged in agricultural activities.

Existing conditions in the study area, as indicated above, can be described as rural with dispersed structural development. Corridors of trees exist in the study, primarily along stream corridors. The area is mapped by the Washington Department of Fish and Wildlife as deer and elk winter range and western gray squirrel habitat and several landowners in the area have requested and received approval for fences to protect agricultural uses from deer predation.

Washington Department of Fish and Wildlife staff suggested mitigation measures on the subject parcel to mitigate for the development in western gray squirrel habitat. WDFW did not believe a Wildlife Management Plan was necessary to mitigate for adverse effects to wildlife. For undeveloped parcels without existing open areas, development will occur in a way in where mitigation measures are necessary to protect for habitat issues. However, if mitigation measures are proposed for similar residential development, cumulative adverse impacts can be avoided.

8. The Gorge Commission's sensitive plant inventory does not show any sensitive plant sites within 1,000-feet of the proposed development. Therefore, Commission Rule 350-81-590 that protects sensitive plants does not apply.

Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-81, Sections 560 through 590, that protect natural resources in the National Scenic Area.

F. Treaty Rights Protection

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

The subject parcel has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on July 15, 2019. The notice included a comment period of 21 days that ended on August 5, 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. Given this information, the proposed development is consistent with Commission Rule 350-81-084(1)(b).
4. Commission Rule 350-81-084(c)(B) states,

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

The subject parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use does not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-91-084(c)(B).

Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-81-084, which provides protection for treaties and any other rights of any Native American tribe.

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