

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C19-0012

PROPOSAL: The Columbia River Gorge Commission has received an application for trenching and the installation of electric, water, and waste lines for an approved replacement garage, and the after-the-fact review of a replacement septic system

APPLICANT: Debra Ross

LANDOWNER: Crow-Donnell Family Trust, Melinda G. Walsh, and Debra J. Ross.

LOCATION: The subject parcel is located on Ramsay Lane, White Salmon, Washington, in the North West Quarter of Section 28, Township 3 North, Range 11 East, W.M., Klickitat County Tax Lot Number 03-11-2800-0006/00. The parcel is 10 acres in size.

LAND USE

DESIGNATION: The subject parcel is in the General Management Area and designated Small-Scale Agriculture.

DECISION:

Based upon the following findings of fact, the land use application by Debra Ross for trenching and the installation of electric, water, and waste lines for an approved replacement garage, and the after-the-fact review of a replacement septic system 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**.

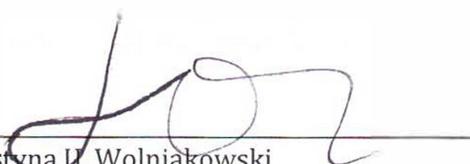
CONDITIONS OF APPROVAL:

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 C19-0012, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director.
2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.

3. Any new land uses or structural development such as residences, garages, workshops, or other accessory structures, additions or alterations, or grading not included in the approved application or site plan will require a new application and review.
4. The development shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
5. Upon completing construction, all trenching shall be filled and disturbed areas shall be restored to their pre-existing condition.
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 6th day of November 2019 at White Salmon, Washington.



Krystyna J. 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 6th 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 6th 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.

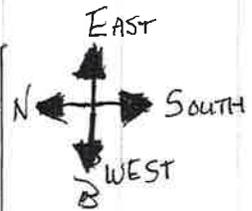
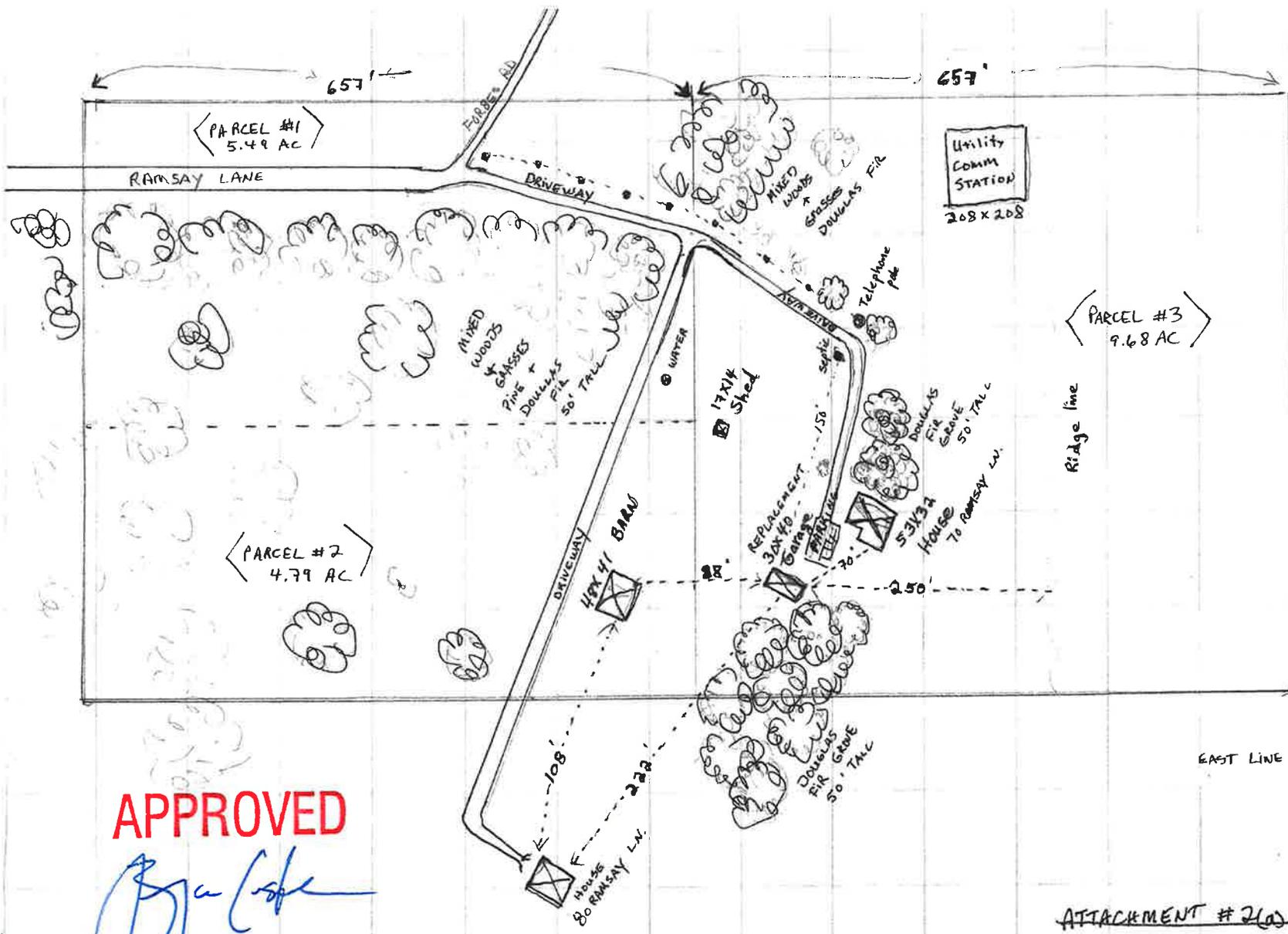
cc:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Christian Nauer, 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 C19-0012
Approved site plan

Attachment #1



1" = 100 ft. approx

SITE PLAN:

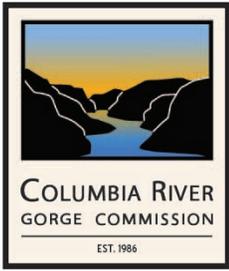
70 RAMSAY LANE,
WHITE SALMON, WA.
Klickitat County

OWNERS:
CROW-DONNELL FAMILY TRUST
MELINDA WALSH
DEBRA ROSS

EXTRACTED FROM REFERENCE SURVEY IN PART
EAST LINE OF N¹/₂ NW¹/₄ SECTION 28, T.3N, R. 11E, W. M

APPROVED
[Signature]

ATTACHMENT #2(a) SITE PLAN



COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C19-0012

PROPOSAL: The Columbia River Gorge Commission has received an application for trenching and the installation of electric, water, and waste lines for an approved replacement garage, and the after-the-fact review of a replacement septic system.

APPLICANT: Debra J. Ross

LANDOWNER: Crow-Donnell Family Trust, Melinda G. Walsh, and Debra J. Ross.

LOCATION: The subject parcel is located on Ramsay Lane, White Salmon, Washington, in the North West Quarter of Section 28, Township 3 North, Range 11 East, W.M., Klickitat County Tax Lot Number 03-11-2800-0006/00. The parcel is 10 acres in size.

LAND USE

DESIGNATION: The subject parcel is in the General Management Area and designated Small-Scale Agriculture

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

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

Written comments were received from Steve McCoy, Attorney for Friends of the Columbia River Gorge and Christian Nauer, Archeologist 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 (GMA) and is designated Small-Scale Agriculture. It is approximately 10 acres in size. There is a discrepancy between the size of the parcel according to the applicant and Klickitat County records. For future land use applications, a survey may be required.
2. Debra Ross has applied for trenching and the installation of electric, water, and waste lines for an approved replacement garage (C19-0002), and the after-the-fact review of a replacement septic system. The electric trench will be approximately 3 feet deep and 2 feet wide and 150 feet long. The septic trench will be approximately 2 feet wide by 2 feet deep and 70 feet long. Excavated soil will be saved and used as fill after lines are completed.
3. Commission Rule 350-81-190(d) lists as a review use on lands designated Small-Scale Agriculture:

Accessory structures for an existing or approved dwelling...

The project replaces a septic system for an already existing dwelling and provides electrical service to an approved replacement garage. All elements of this development support the primary residential use on the property and are accessory to the use.

CONCLUSION:

The proposed development is a reviewable use on lands designated GMA Small-Scale Agriculture, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620).

B. SCENIC RESOURCES

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

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

The proposed development does not include any new dwellings, buildings, or roads. The proposal is only for a replacement septic system, trenching and the installation of underground utilities. The applicant proposes to retain all existing topography, and minimize grading activities to only what is necessary to complete the development.

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 does not include any new buildings, or expansion of existing development. Commission Rule 350-81-520(1)(b) does not apply.

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

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

No new vegetation is proposed or required. Commission Rule 350-81-520(1)(c) does not apply.

- 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.

A site plan was provided consistent with Commission Rule 350-81-032 Application for Review and Approval. The landscape setting for the subject parcel is Oak-Pine Woodlands. Commission Rule 350-81-520(3)(c) contains the design guidelines for proposed uses in the Oak-Pine Woodlands landscape setting. Findings B.20 through B.22 address the applicable guidelines in Commission Rule 350-81-520(3)(c) using information submitted in the site plan, consistent with this rule.

- Commission Rule 350-81-520(2) contains guidelines that affect developments on sites visible from Key Viewing Areas. Using Commission inventories and Google Earth, staff determined the subject parcel is topographically visible from the following Key Viewing Areas:

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

The proposed development will be topographically visible from three Key Viewing Areas (KVAs). Therefore, the guidelines of Commission Rule 350-81-520(2) apply to the proposed development.

- 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 follows:

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

The proposal is only for a replacement septic system, trenching and the installation of underground utilities. The proposal does not include any permanent above-ground structures; all completed work will be underground and not visible. The nature of the development renders it visually subordinate, despite its visibility and proximity to Key Viewing Areas. Conditions of approval require that disturbed areas are returned to pre-existing conditions.

- 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.

As discussed above, the proposal itself has no permanent visual impact because of the nature of the development. There will be no scenic impacts because of the nature of the development and thus no cumulative impacts to scenic resources.

8. 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).*

The proposed development includes only the replacement septic system, trenching and the installation of underground utilities. The applicant proposes to retain all existing topography, and minimize grading activities to only what is necessary to complete the development. The proposal does not include any permanent above-ground structures or development. The nature of the development will render the development visually subordinate, despite its visibility and proximity to Key Viewing Areas. The potential for visual impacts as seen from the Key Viewing Areas is minimal. Conditions of approval require that disturbed areas are returned to their pre-existing conditions.

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

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

- (i) Siting (location of development on the subject property, building orientation, and other elements).*
- (ii) Retention of existing vegetation.*
- (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).*
- (iv) New landscaping.*

The proposed development includes a replacement septic system, trenching and the installation of underground utilities. The proposal does not include any permanent above-ground structures. The applicant proposes to retain all existing topography, and minimize grading activities to only what is necessary to complete the development. The nature of the development will render the development visually subordinate, despite its visibility and proximity to Key Viewing Areas. No trees are proposed to be removed, and no new landscaping is required by this Decision.

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

New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or

would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

The proposal will be visually subordinate by its nature. The development is not located within the sites or buffers of sensitive natural resources (See Section E. Natural Resources below).

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

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

The proposal will be visually subordinate by its nature. No grading is required for the trenching.

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

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

The subject parcel is in the Oak-Pine Woodlands landscape setting. Findings B.20 through B.22 address the applicable guidelines for proposed development in this landscape setting.

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

The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from Key Viewing Areas. 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.

No new buildings are proposed. This rule does not apply.

14. Commission Rule 350-81-520(2)(j) applies to new landscaping. No new landscaping is required to render the development visually subordinate. The rule does not apply.

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

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

The proposed development does not include any new structures. This rule does not apply.

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

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

There are no buildings proposed in this application.

17. 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.

There are no structures proposed in this application, including exterior lighting.

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

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

No new roads or buildings are proposed as part of this application. This application does not include any cut banks or fill slopes.

19. 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.

This application does not include any grading including cut banks or fill slopes. No new buildings, driveways, or roads are proposed with this application. A grading plan is not required.

20. The Landscape Settings Map in the Management Plan for the Columbia River Gorge National Scenic Area classifies the subject parcel as Oak-Pine Woodlands. Commission Rules 350-81-520(3)(c)(A) and (B) contain applicable guidelines for the proposed development in this landscape setting.

21. Commission Rule 350-80-520(3)(c)(A) states:

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

The proposed development does not include any new structures. Commission Rule 350-81-520(3)(c)(A) does not apply.

22. Commission Rules 350-81-520(3)(c)(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) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

(iii) 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.

For treeless portions or portions with scattered tree cover:

(iv) Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

(v) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be

partly screened with trees in small groupings and openings between groupings.

- (vi) *Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.*

The proposed development does not include any new dwellings, buildings, or roads. Staff finds that the project will retain the overall appearance of the landscape by retaining existing vegetation and topography to the maximum extent possible and restoring all disturbed areas to pre-existing conditions. No trees are proposed to be removed, and no new landscaping is required by this Decision.

CONCLUSION:

With conditions of approval, the proposed development is consistent with the applicable policies of the Management Plan and guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

B. 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 22, 2019, that pursuant to Commission Rule 350-81-540(1)(c)(A)(ii) a reconnaissance survey is required because the project would occur on a site that has been determined to be located within a high probability zone.
3. Katie Boula, with Kathryn M. Boula, Cultural & Natural Resources Consultant (Assumed Business Name), was retained by the Gorge Commission and conducted a field survey and prepared a Reconnaissance Survey Report of the proposed development, "Heritage Resource Inventory Report" on September 9, 2019. The report is confidential because it gives site specific information about cultural resources near the development. Ms. Boula concluded that the proposed development will have no effect on significant cultural resources.
4. Mr. Donnermeyer received and reviewed the Heritage Resource Inventory Report for compliance with the requirements for reconnaissance surveys and survey reports for Small-Scale Uses in Commission Rules 350-81-540(1)(c)(D) and (E) and submitted his comments in a letter dated September 11, 2019. Mr. Donnermeyer concurred with Katie Boula's findings that the proposed development will have no effect on known cultural resources.
5. Commission Rule 350-81-540(1)(c)(B) states:

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

The applicant does not propose to alter any structures or compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older. Therefore, a historic survey was not required for the proposed use.

6. Commission Rule 350-81-540(2)(a)(A) and (B) allow interested parties who so request during the comment period to consult with the applicant and request ethnographic research regarding cultural resources. No such consultation or research was requested of the applicant during the comment period.
7. Commission Rules 350-81-540(2)(b) and (3)(b) require the Executive Director to submit a copy of all cultural resource survey reports and assessments of effect to the State Historic Preservation Officer (SHPO) and the Indian tribal governments for their review. The rules provide for a 30-day comment period to submit written comments. The reports were mailed on September 18, 2019. The comment period ended on October 18, 2019. No comments were received following the notice.
8. Commission Rule 350-81-540(4)(c)(B) states:

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

Mr. Donnermeyer concurred with Ms. Boula's recommendation of no effect for the project. Notice of the proposed development was mailed on September 16, 2019 to interested parties. No concerns were voiced within 21 calendar days of that notice. Staff provided the Heritage Resource Inventory Report and Mr. Donnermeyer's letter to the State Historic Preservation Office and the four Columbia River Treaty Tribes on September 18, 2019, and no substantiated concerns were voiced during the 30-day comment period.

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

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

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

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

CONCLUSION:

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

C. 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 protects wetlands does not apply.
3. The Gorge Commission's natural resource inventories do not show any streams, ponds, lakes, riparian areas, or resource buffer zones in the project vicinity or on the approximately 10-acre parcel. Therefore, Commission Rule 350-81-570 that protect streams, ponds, lakes and riparian areas does not apply.
4. The Gorge Commission's sensitive wildlife inventory shows the applicant's development site is within 1,000-feet of deer and elk winter range. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include these areas. According to the Commission's inventories, the project site is approximately 800-feet away from the nearest winter range boundary area. On September 16, 2019, Gorge Commission staff sent WDFW a copy of the applicant's land use application and site plan. No comments were received.
5. 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.

E. 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.

F. TREATY RIGHTS PROTECTIONS

1. Commission Rule 350-81-084(1) provides protection of tribal treaty rights from new development in the National Scenic Area. Pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on September 16, 2019. The notice included a comment period of 21 days that ended on October 7, 2019.

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 is located 1.30 miles away from the Columbia River and has no river access, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on September 16, 2019. The notice included a comment period of 21 days that ended on October 7, 2019.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No substantive comments were received. Given this information, the proposed dwelling is consistent with Commission Rule 350-81-084(1)(b).
4. Commission Rule 350-81-084(c)(B) states,

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

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

CONCLUSION:

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

BG
FIND0012_19