

## COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

**CASE FILE:** C19-0014

**PROPOSAL:** The Columbia River Gorge Commission received an application for a new accessory building and overhead utilities.

**APPLICANT:** Michael Vorce

**LANDOWNERS:** Michael & Luella Vorce

**LOCATION:** The subject parcel is located at 4 Columbia Grange Road, Lyle, WA, in the North West ¼ of Section 34, Township 3 North, Range 12 East, W.M., Klickitat County Tax Lot Number 03-12-34-2200-01/00. The parcel is .92 acres in size.

### LAND USE

**DESIGNATION:** The subject parcel is in the General Management Area (GMA) and designated Residential with a 10-acre minimum parcel size and Small-Scale Agriculture with a 40-acre minimum lot size.

### DECISION:

Based upon the following findings of fact, the land use application by Michael Vorce, for a new accessory building and overhead utilities is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and approvable under Commission Rule 350-81, and is hereby **APPROVED**.

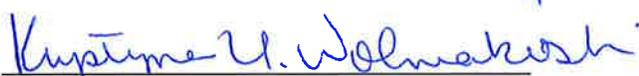
### CONDITIONS OF APPROVAL:

The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. Compliance with them is required. **This decision must be recorded in county deeds and records to ensure notice of the conditions to all successors in interest** (Management Plan, Review Uses Guideline 1, pg. II-96).

1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C19-0014, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.

3. Any new land uses or structural development such as residences, garages, workshops, or other accessory structures, additions or alterations, or grading not included in the approved application or site plan will require a new application and review.
4. The developments shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
5. Except for dead trees or other dead vegetation that may serve as a hazard, all existing vegetation on the site shall be retained and maintained as indicated on the approved landscaping plan.
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](mailto:guy.tasa@dahp.wa.gov). The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
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 a **FINAL INSPECTION** to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or [info@gorgecommissin.org](mailto:info@gorgecommissin.org). Each inspection may take up to seven business days from the time of calling for the inspection.

DATED AND SIGNED THIS 27<sup>TH</sup> day of January 2020 at White Salmon, Washington.



Krystyna U. Wolniakowski  
Executive Director

**EXPIRATION OF APPROVAL:**

Commission Rule 350-81-044 governs the expiration of this Director's Decision.

***This decision of the Executive Director becomes void on the 27<sup>TH</sup> day of January 2022 unless construction has commenced in accordance with Commission Rule 350-81-044(4).***

Commission Rule 350-81-044(4) specifies that commencement of construction means actual construction of the foundation or frame of the approved structure.

Construction must be completed within two years of the date that the applicant commenced construction. The date of the Executive Director's preconstruction inspection to confirm the location of proposed structural development as required by this decision shall be considered the date the applicant commenced construction, unless the applicant demonstrates otherwise.

Once the applicant has commenced construction of one element in this decision, the applicant will need to complete all elements in this decision in accordance with Commission Rule 350-81-044. The Commission does not use different “commencement of construction” dates for different elements in this decision.

The applicant may request one 12-month extension of the time period to commence construction and one 12-month extension to complete construction in accordance with Commission Rule 350-81-044(6). The applicant must submit the request in writing prior to the expiration of the approval. If the applicant requests an extension of time to complete construction after commencing construction, the applicants shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicants were not responsible, would prevent the applicants from commencing or completing the proposed development within the applicable time limitation. The Executive Director shall not grant an extension if the site characteristics and/or new information indicate that the proposed use may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

**APPEAL PROCESS:**

***The appeal period ends on the 26<sup>th</sup> day of February 2020.***

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

**NOTES:**

Any new land uses or structural development such as driveways, parking areas, garages, workshops, fences or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. New cultivation also requires a new application and review.

This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

cc:

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

**Attachments:**

Staff Report for C19-0014  
Approved site plan

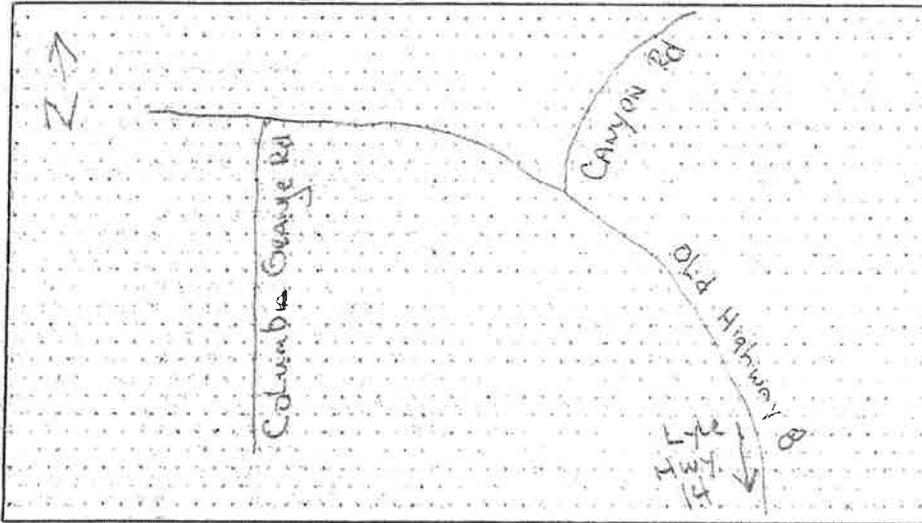
# KLICKITAT COUNTY BUILDING DEPARTMENT

APPROVED

\* If your property is located in the National Scenic Area, the Columbia River Gorge Commission requires you to comply with all National Scenic Area Regulations. They can be contacted at (509) 493-3323.

Vicinity Sketch (Show how to find your property)

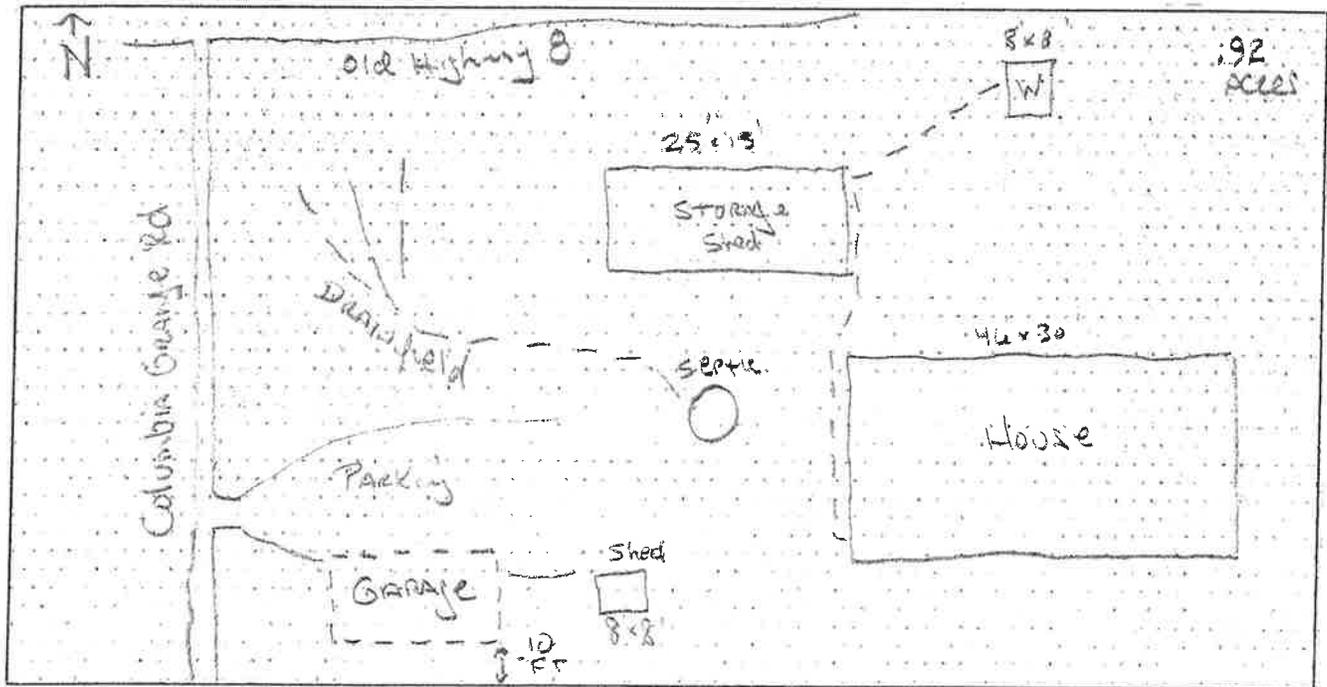
PERMIT NO. \_\_\_\_\_



**INDICATE ON LOWER GRID**

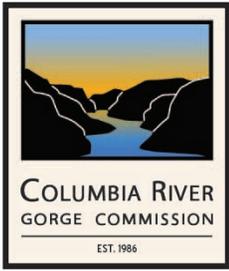
1. ALL buildings, sizes and locations
2. Driveway
3. Water systems and pipes
4. Domestic drinking water supplies within 200 ft. of building site (springs, etc.)
5. Bodies of water within 200 ft. of building site (including seasonal)
6. Property size, property lines
7. Distance of building from all property lines and other buildings
8. Adjacent roads (including names)
9. General area intended for sewage system
10. Location of existing sewage disposal system
11. Location of test holes
12. Indicate which way is North
13. Show all legal easements, rights of way, designated high water marks

Site Plan (Show how you plan to use this property)



This information is a true and correct representation of the project to the best of my ability.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_



## COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

**CASE FILE:** C19-0014

**PROPOSAL:** The Columbia River Gorge Commission received an application for a new accessory building and overhead utilities.

**APPLICANT:** Michael Vorce

**LANDOWNERS:** Michael & Luella Vorce

**LOCATION:** The subject parcel is located at 4 Columbia Grange Road, Lyle, WA, in the North West  $\frac{1}{4}$  of Section 34, Township 3 North, Range 12 East, W.M., Klickitat County Tax Lot Number 03-12-34-2200-01/00. The parcel is .92 acres in size.

### LAND USE

**DESIGNATION:** The subject parcel is in the General Management Area (GMA) and designated Residential with a 10-acre minimum parcel size and Small-Scale Agriculture with a 40-acre minimum lot size.

### 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 Kristen Tiede, Archeologist for the Confederated Tribes of the Umatilla Indian Reservation.

## **FINDINGS OF FACT:**

### **A. LAND USE**

1. The subject parcel is in the General Management Area (GMA) and designated Residential with a 10-acre minimum parcel size and Small-Scale Agriculture with a 40-acre minimum lot size. The parcel's street address is 4 Columbia Grange Road, which is located off Old Highway 8, in Klickitat County. The subject parcel is approximately .92 acres in size and rectangular in shape. Existing development on the property includes the 2,100 sq. ft. house, and three accessory buildings designated as 'shed,' 'pump house,' and 'storage shed.'
2. The applicant requests approval to build a new accessory building, a garage, to replace a previously existing garage that has been removed. The new garage would be in the same location as the old garage. The building would be 30' x 24' with a total footprint of 576 sq. ft. and a maximum height of 12 feet. The walls and roof will be constructed of metal; the color will be a dark green to match the existing dwelling.
3. The parcel is designated both Small-Scale Agriculture and Residential. The land-use designation at the location of the garage is Residential. Accessory buildings are a reviewable use in both the Small-Scale Agriculture and Residential land use designations and have identical guidelines.
4. Commission Rule 350-81-370(1)(c) allows as a review use on land designated Residential:

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

*(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.*

*(B) The height of any individual accessory building shall not exceed 24 feet.*

The total area of the proposed garage is 720 sq. ft., and the height is 12 feet. The combined footprint of all accessory building on the parcel would be 1,256 sq. ft.: the proposed garage is 720 sq. ft., the 'storage shed' is 408 sq. ft., the 'pump house' is 64 sq. ft., and the 'shed' is 64 sq. ft. According to Klickitat County Assessor's Records, all the accessory buildings were built prior to 1986, before the date of the National Scenic Area Act.

### **CONCLUSION:**

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

### **B. SCENIC RESOURCES**

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

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

The site is level and grading is not necessary because there was a garage in the same location previously. The proposed siting allows for the retention of existing vegetation and is near the existing residence and adjacent to the existing driveway. All nearby trees will remain. The proposed project is 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.*

Staff looked at buildings in the Residential land use designation of the subject parcel and surrounding lands which encompasses an area of 141 acres and contains 27 parcels. The walls of the proposed garage are 9' tall and the overall height is 12'. According to Klickitat County Assessor records, accessory structures in the vicinity range from 60 to 2,560 sq. ft. in size, and 12 feet to 24 feet tall. Commission Rule 350-81-370(1)(c) limits the size of accessory structures to 1,500 sq. ft. on parcels 10 acres or smaller. According to county records the average total square footage for accessory buildings per parcel in the area is 1,192 sq. ft. The proposed structures are within this range and therefore 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.*

No new vegetation is required by the guidelines of this chapter.

4. 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 setting for the subject parcel is Rural-Residential in Pastoral. Findings B.6 through B.8 address the landscape setting.

5. Commission Rule 350-81-520(2) contains guidelines that apply to new development on sites that are topographically visible from Key Viewing Areas (KVAs).

According to Commission inventories, the site is not visible from any Key Viewing Areas, including the Nature Conservancy Viewpoint. Staff verified in the field. The Viewpoint is located higher in elevation (1,697 feet) than the garage (576 feet). However, a topographic rise to the south of the building site completely screens the structure as seen from the Nature Conservancy Viewpoint.

6. The Landscape Settings Map in the *Management Plan for the Columbia River Gorge National Scenic Area* classifies the building site as Rural Residential in Pastoral. Commission Rule 350-81-520(3)(f) contains applicable guidelines for proposed development in this landscape setting. The applicable guidelines require new development to meet the design guidelines described for both the Rural Residential setting and the Pastoral setting with which it is combined.

7. Commission Rule 520-81-520(3)(a) describes the Pastoral landscape setting:

*(A) 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.*

*(B) 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 site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.*

- (ii) *Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.*
  - (iii) *At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).*
  - (iv) *At least one-quarter of any trees planted for screening shall be coniferous for winter screening.*
- (C) *Compatible recreation uses include resource-based recreation of a very low-intensity or low-intensity nature (as defined by 350-81-610) occurring infrequently in the landscape.*

The proposed siting allows for the retention of existing vegetation and is near the existing residence and adjacent to the existing driveway. The proposed siting is consistent with all applicable landscape setting guidelines for the Pastoral landscape setting.

8. Commission Rule 520-81-520(3)(e) describes the Rural Residential landscape setting:

- (A) *Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.*
- (B) *In portions of this setting visible from key viewing areas, and not exempt from visual subordination guidelines (see 350-81-520(3)(k)), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:*
  - (i) *Except as is necessary for site development or safety purposes, 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 or commonly found in the area.*
  - (iii) *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*
- (C) *Compatible recreation uses should be limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as scenic overlooks).*

The proposed siting allows for the retention of all vegetation. A condition of approval requires the landowner to retain the existing tree cover as much as possible. The proposed siting is consistent with all applicable landscape setting guidelines for the Rural Residential landscape setting.

9. 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:

With conditions regarding siting, tree retention, color, use of non-reflective materials and exterior lighting, the proposed development would be consistent with the 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 25, 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.*

In the Cultural Resources Survey Determination, dated July 25, 2019, Mr. Donnermeyer determined that 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, and 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 12, 2019. The comment period ended on October 12, 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 July 25, 2019 to interested parties. Kristen Tiede, archeologist with the Confederated Tribes of the Umatilla Indian Reservation, submitted comments, however no substantive concerns were raised 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 12, 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.

#### 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. Thus, the proposal is consistent with Commission Rule 350-81-560 that protects wetlands.
3. The Gorge Commission's natural resource inventories identify one stream, identified as intermittent, approximately 200 feet away from the development and not located on the subject parcel.

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.*

The project is located 200 feet away from the development, and out of the specified buffer zone, consistent with Commission 350-81-570 that protects streams, ponds, lakes, and riparian areas.

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 850 feet away from the nearest winter range boundary area.
5. 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. On July 25, 2019, Gorge Commission staff sent WDFW a copy of the applicant's land use application and site plan. No comments were received.
6. Commission Rule 350-81-580(4)(c) states:

*The wildlife protection process may terminate if the Development Review Officer, in consultation with the appropriate state wildlife agency, determines: the sensitive wildlife area is not active; or the proposed use would not compromise the integrity of the wildlife area, or occur during the time of the year when wildlife species are sensitive to disturbance.*

WDFW did not indicate any concerns with the proposed development. Staff does not believe the proposed use compromises the integrity of the wildlife site due to the location and the nature of the development, pursuant to Commission Rule 350-81-580(4)(c).

7. 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 address cumulative effects of the proposed developments to natural resources, staff used the same study area that staff considered for cumulative effects to scenic resources; staff looked at both the land use designation and landscape setting of the parcel and surrounding lands. The landscape setting of the subject parcel and surrounding lands is Rural Residential in Pastoral.

The entire study area is located outside of deer and elk winter range. The area observed is generally reaching the limits of development allowed under Rule 350-81. According to county records the average total square footage for accessory buildings in the area is 1,192 sq. ft. Commission Rule 350-81-370(1)(c) limits the size of accessory structures to 1,500 sq. ft. on parcels 10 acres or smaller. Because most of the parcels are under 10 acres and already have dwellings and accessory dwellings, it is likely that development of new accessory buildings in this area will be limited to replacements and smaller buildings because most parcels already have some accessory structures or have already reached the square footage limit. The subject parcel will not be eligible for any more accessory structures.

The development on the subject parcel will have limited cumulative impacts to sensitive wildlife areas. The chosen site for the new building is clustered together near the home and other accessory buildings to minimize the footprint of development. No existing vegetation will be removed, and no development will take place within the buffer zones of any natural resources. As such, the cumulative impacts of the developments will be minimized to not adversely affect sensitive wildlife habitat or sites, consistent with this rule

WDFW did not indicate any concerns with the proposed development. Staff does not believe the proposed use compromises the integrity of the wildlife site due to the location and the nature of the development, pursuant to Commission Rule 350-81-580(4)(c).

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

#### 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

1. Commission Rule 350-81-084(1) provides protection of treaty rights from new development in the National Scenic Area. 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 .75 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 July 25, 2019. The notice included a comment period of 21 days that ended on August 15, 2019.

2. 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).
3. 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 of treaty rights from new development in the National Scenic Area

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