COLUMBIA RIVER GORGE COMMISSION
DIRECTOR’S DECISION

CASE FILE: C20-0001

PROPOSAL: The Columbia River Gorge Commission has received an application for construction of a new single-family dwelling with attached garage and associated utilities.

APPLICANT: Brian and Nissa Huber

LANDOWNERS: Brian and Nissa Huber, Gail Sorensen (formerly Gail Castle)

LOCATION: The subject parcel is located at 168 Lyle-Snowden Road, Lyle, WA 98635. It is within the SE ¼ of Section 21 and Section 22, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.

LAND USE DESIGNATION: General Management Area (GMA) – Small-Scale Agriculture (80)
General Management Area (GMA) – Large-Scale Agriculture (160)

DECISION: Based upon the following findings of fact, the land use application by Brian and Nissa Huber, for a new 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 C20-0001, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor’s Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.

2. This decision does not exempt the proposal from other non-National Scenic Area rules and regulations. It is the applicants’ 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 dwellings, 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. All development shall be constructed as shown in 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. If Ms. Sorensen or any future landowner wants to build a single-family dwelling on the subject
property west of Canyon Road, Ms. Sorensen or a future landowner will need to submit a land use
application for a land division to the Gorge Commission that meets the minimum parcel size at the
time of the application (160 acres as of the date of this decision) for all new parcels, including the
portion of the subject parcel where this decision approves a new dwelling.

6. All exterior building materials, including doors, siding, trim, window sash, and 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 applicants for the exterior of the house are consistent with
this condition and are hereby approved:

<table>
<thead>
<tr>
<th>Exterior:</th>
<th>Benjamin Moore Cromwell Gray (HC-103)</th>
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</thead>
<tbody>
<tr>
<td>Trim:</td>
<td>Benjamin Moore Midsummer Night (2134-20)</td>
</tr>
<tr>
<td>Roof:</td>
<td>Pabco Antique Black</td>
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</tbody>
</table>

Any proposed changes to these colors shall be submitted to the Gorge Commission for consistency
review with this condition of approval. The color of the development shall be maintained by
painting and staining as necessary to maintain the approved color.

7. All exterior building materials, including doors, siding, trim, window sash, and roofing shall be
nonreflective or have low reflectivity. All exterior metal materials shall be painted with low-gloss
black colored finish and maintained as necessary to ensure the material is non-reflective.

8. All outdoor lighting shall be directed downward and sited, hooded, and shielded. 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.

9. Landscaping shall be implemented as specified in the approved site plan. At least half of the
proposed trees shall be ponderosa pines or another similar evergreen. At the time of planting,
trees shall be three to five-feet-tall, with the root ball wrapped in burlap.

10. Maintenance and survival of the landscaping vegetation is required, and an irrigation plan shall be
submitted to the Executive Director for review before landscaping vegetation is planted. Changes
to the landscaping plan must be provided to the Executive Director for review and approval.

11. All disturbed areas shall be reseeded with native grasses and forbs. Disturbed areas shall be
revegetated immediately upon completing the project (or as soon as possible thereafter if the
project is completed during the winter months) with at least 80 percent vegetative coverage
within 1 year. The Commission encourages the applicant to use a seed mix from the
Recommended Seed Mixes for East Side Environments, which is included as an attachment to this
Director's Decision.

12. Except for dead trees or other vegetation that may pose a safety hazard, existing vegetation on the
site shall be retained and maintained as indicated on the approved site plan.
13. All replacement cattle fencing shall adhere to the following specifications:
   A. The top wire is not more than 42 inches high, to make it easier for deer to jump over the fence;
   B. A gap of at least 10 inches is maintained between the top two wires to make it easier for deer to free themselves if they become entangled;
   C. The bottom wire is a smooth wire, placed at least 16 inches above the ground to allow fawns to crawl under the fence;
   D. Stays, or braces placed between strands of wire, are positioned between fence posts where deer are most likely to cross, creating a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

14. 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.

15. 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.

16. The applicants 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@gorgecommission.org. Each inspection may take up to seven business days from the time of calling for the inspection.

DATED AND SIGNED THIS 27TH day of October 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 27TH day of October 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 21<sup>st</sup> day of November 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
Steve McCoy, Friends of the Columbia Gorge

Attachments:
- Staff Report for C20-0001
- Approved site plan
- Recommended Seed Mixes for East Side Environments handout
- International Dark-Sky Association example sheet of acceptable & unacceptable light fixtures
Recommended Seed Mixes, Mulch, and Fertilizer for Temporary and Permanent Revegetation in East Side Environments
Based on recommendations from Andrea Ruchty, district botanist, GPNF, Mt. Adams Dist., and Robin Dobson, CRGNSA botanist

| Native Seed Mixture #1: Recommendations for Composition and Application Rates |
|---------------------------------|-----------------|-----------------|
| Species                        | Hand Seeding including Handheld Spreaders | Hydromulcher |
| blue wildrye (Elymus glaucus)   | 20 lbs/acre     | 15 lbs/acre     |
| California brome (Bromus carinatus) | 20 lbs/acre     | 15 lbs/acre     |
| slender hairgrass (Deschampsia elongata) | 10 lbs/acre     | 5 lbs/acre     |
| broadleaf lupine (Lupinus latifolia) |                     |                 |
| Idaho fescue (Festuca idahoensis) |                     |                 |
| **Total**                      | **50 lbs/acre** | **35 lbs/acre** |

<table>
<thead>
<tr>
<th>Native Seed Mixture #2: Recommendations for Composition</th>
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<tbody>
<tr>
<td>Species</td>
</tr>
<tr>
<td>California Brome (Bromus carinatus)</td>
</tr>
<tr>
<td>Sheep fescue (Festuca ovina)</td>
</tr>
<tr>
<td>Blue wildrye (Elymus glaucus)</td>
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<tr>
<td>Canada bluegrass (Poa compressa)</td>
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<tr>
<td>Blue bunch wheatgrass (Agropyron spicatum)</td>
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<tr>
<td>Sickle-keeled lupine (Lupinus albicaulis)</td>
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<tr>
<td>America vetch (Vicia Americana)</td>
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<table>
<thead>
<tr>
<th>Non-Native Seed Mixture: Recommendations for Composition and Application Rates</th>
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<tbody>
<tr>
<td>Species</td>
</tr>
<tr>
<td>Annual ryegrass (Lolium multiflorum)</td>
</tr>
<tr>
<td>Perennial ryegrass (L. perenne)</td>
</tr>
<tr>
<td>Soft white winter wheat (Triticum aestivum)</td>
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<tr>
<td>Sickle-keeled lupine (Lupinus albicaulis)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
</tr>
</tbody>
</table>

Herbaceous plants can be added after seeding:
- Chrysothamnus nauseosus (rabbitbrush) 1-2 oz./ac.
- Achillea millefolium (Yarrow) 1-2 oz./ac.
- Eriogonum strictum 1-2 oz./ac.
- Lupinus bicolor or latifolius var. thompsonianus 1-2 oz./ac.
- Eriophyllum lanatum (Oregon sunshine) 1-2 oz./ac.
- Bitter brush (Purshia tridentate) 10 small plants/ac.
- Arrowleaf Balsam root
Notes:

**Application Method:** Hand or machine, ideally in the fall. Machines such as hydromulchers, usually have agitators which keep the seed well mixed and applied evenly. In hand-seeding operations it is more difficult to achieve an even distribution of seed. For this reason more lbs/acre have been prescribed to compensate for inadvertent patchiness. Hand seeding should utilize two passes of the area: 1 pass for small, fine seed such as slender hairgrass, and a second pass for the larger seeded species such as blue wildrye and California brome. Rice hulls may need to be added to the DEEL to get dispersion distance. Contact with the soil is very important, best results are achieved when the seed is lightly raked or pressed into the soil.

**Seed Storability:** Generally grass and forb species will hold reasonable germination (>80%) for 6-7 years in uncontrolled conditions. Thin-coated species such as *Bromus* will hold only 2-3 years or so.

**Seed Source:** Try to use appropriate local seed source for natives. Some flexibility for elevation is ok in a pinch. One native seed source is Bolson Seed Company, La Grande, OR (541)965-8285. Milestone Nursery (Lyle), Inside Passage Seed Co., Oregon Wholesale Seed Company (http://www.oregonwholesaleseed.com), Rainier Seeds, Hughes Feed and Grain (the Dalles) and Dallesport Seed are other possible sources of seed, as well.

**Fertilizer:** Where there is a good “A” horizon probably don’t need fertilizer. For sites with little organic matter use 200 lbs 16-20-0/acre.

**Mulch:** Use certified weed free straw mulch whenever possible. Only 1-2” (2 tons/acre) is needed and should be evenly applied. Too deep can be more detrimental than none at all. Ideally, it should be chopped and applied by machine. To further reduce the chance of introducing non-natives in to project areas, straw derived from native species is preferred. If not available, then straw from short-lived or non-persistent mulch sources such as annual rye or cereal grain seed production fields would be the next choice.

Using weed-free straw mulch is an important component in our strategy to control the spread of invasive species on the Forest. Weed-free straw is still a developing resource and its availability may be variable. Finding it will likely take some looking around. Oregon and Washington currently have weed-free certification programs. See the following websites for current lists of weed-free straw suppliers:

- [http://www.nwweb.wa.gov/WWHAM/WWHAM_suppliers.htm](http://www.nwweb.wa.gov/WWHAM/WWHAM_suppliers.htm)

The following are some more potential contacts for weed-free straw:

- Elwyn Crutcher, Stanwood, WA, 360-939-2334 (he will deliver for a charge, is generally sold out by spring).
- Wallowa County Hay Growers Association: http://www.certifiedwallowacountyhay.com/
- John Williams, OSU Extension in Wallowa County, 541-426-3143.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.
Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged
Fixtures that produce glare and light trespass

- Unshielded Floodlights or Poorly-shielded Floodlights
- Unshielded Wallpacks & Unshielded or Poorly-shielded Wall Mount Fixtures
- Drop-Lens & Sag-Lens Fixtures w/ exposed bulb / refractor lens
- Unshielded Bollards
- Unshielded Barn Light
- Louvered 'Marine' style Fixtures
- Unshielded PAR Floodlights

Acceptable
Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night

- Full Cutoff Fixtures
- Fully Shielded Wallpack & Wall Mount Fixtures
- Fully Shielded Fixtures
- Full Cutoff Streetlight
- Fully Shielded Barn Light
- Fully Shielded Walkway Bollards
- Fully Shielded Decorative Fixtures
- Fully Shielded Period Style Fixtures
- Flush Mounted or Side Shielded Under Canopy Fixtures
- Shielded / Properly-aimed PAR Floodlights

Illustrations by dioo Creative © 2005, Rendered for the Town of Southampton, NY. Used with permission.
Site Plan:

APPROVED

Location on Parcel:

- Septic
- Well
- House
- Garage
*Please use this template or attach a separate site plan

Site plan (continued): See Attached

**Diagram of a house with different elevations:**
- Front Elevation (Northeast)
- Rear Elevation (Southwest)
- Left Elevation (Southeast (Side Facing Rowena Plateau))

**Note:**
- Lights are represented by circles.

**Approval:**
- Marked "APPROVED" with a signature.
Key Viewing Areas:

Key viewing areas are important public viewpoints and areas that afford opportunities to view the Gorge scenery. Key viewing areas are listed below.

Please check those sites which can be seen from your property:

- Historic Columbia River Highway
- Old Highway 8 (County Road 1230)
- Highway I-84
- Washington State Route 142
- Washington State Route 14
- Washington State Route 141
- Panorama Point Park
- Columbia River
- Rowena Plateau and Nature Conservancy Viewpoint (3.30 miles as the crow flies)
- Cook-Underwood Road

If your project would be visible from one or more key viewing areas, then you must submit elevation drawings and landscaping details.
below (for fire safety, we are limiting the brush & trees right near the house) and native bushes will be planted around the property to provide a friendly habitat.

*Please use this template or attach a separate Elevation and Landscape plan

Elevations and Landscape Details: Please see attached picture.
Green = Grass
Brown = Plant Beds
Gray = Driveway & Sidewalks
Blue = Covered Patios
Black = House
Light Blue = Attached Garage
Detailed House View & Surrounding Features:

- **HOUSE**
  - 2416 Sq. Ft.

- **ATTACHED GARAGE**
  - 720 Sq. Ft.

- **DRIVEWAY w/ SIDEWALKS**
  - 838 Sq. Ft.

- **COVERED PATIO w/ CONCRETE**
  - 20 Sq. Ft.

- **COVERED PATIO w/ CONCRETE**
  - 180 Sq. Ft.

- **PLANT BED**

**APPROVED**
CASE FILE: C20-0001

PROPOSAL: The Columbia River Gorge Commission has received an application for construction of a new single-family dwelling with attached garage and associated utilities.

APPLICANTS: Brian and Nissa Huber

LANDOWNERS: Brian and Nissa Huber, Gail Sorensen (formerly Gail Castle)

LOCATION: The subject parcel is located at 168 Lyle-Snowden Road, Lyle, WA 98635. It is within the SE ¼ of Section 21 and Section 22, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.

LAND USE DESIGNATION: General Management Area (GMA) – Small-Scale Agriculture (80)
General Management Area (GMA) – Large-Scale Agriculture (160)

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 Juliet & Alexis Pouillon, neighbors.
A. **LAND USE**

1. The applicants propose to build a new single-family dwelling, driveway, and associated utilities on a 19-acre property that lies approximately 1.5 miles north on Lyle-Snowden Rd. from the intersection with Canyon Road. The parcel is rectangular in shape, and primarily covered with a mix of naturally occurring grasses and scattered ponderosa pine and Oregon white oak. The western half of the parcel is flat; the eastern half of the parcel has a five-degree slope to the east and has denser tree coverage than the western half. The dwelling will be near the middle of the western half of the parcel.

2. Commission Rule 350-81-190(1)(j) allows on lands designated Small-Scale Agriculture a single-family dwelling on any legally existing parcel, subject to consistency with guidelines for the protection of scenic, cultural, natural, and recreation resources. Commission Rule 350-81-020(112)(b) defines *parcel* as:

   *Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.*

From January 1, 1983 through May 10, 1995, land divisions in Klickitat County were subject to the “Klickitat County Subdivision and Short Platting Ordinance, As Amended.” Section 4.00 of this ordinance included the following definition:

   *“Lot” is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts, parcels, building sites, or divisions. A lot shall be considered as all contiguous land under single ownership unless legally platted or short platted. Property bisected by a public road or river shall not be deemed contiguous.*

The subject 19-acre property is originally part of a larger landholding by Gail Sorensen (formerly Castle), who also currently owns the adjacent property to the east, which includes lands both in and out of the National Scenic Area. The subject property and other property were purchased by John C. Castle and Gail L. Castle on July 10, 1975 (Book 171, Page 8). The subject property was first separately described by deed June 5, 1978, when John C. Castle and Gail L. Castle divided 40 acres, retaining the subject parcel in its current configuration and selling approximately 21 acres to Winston Bailey and Eunice Bailey, using a Real Estate Contract (Book 185, Pages 244–245). On the date of National Scenic Area Act, November 17, 1986, the subject parcel and the parcel to the east, were not separate parcels as defined by Commission Rule 350-81-020(112)(b). Mr. Castle died on November 23, 1995.

On February 16, 2001, the Gorge Commission issued the Final Opinion and Order for C99-0017-K-G-11. The case was the appeal of the decision that denied Ms. Gail (Castle) Sorensen’s application to construct a replacement dwelling at a proposed site on her 1,500 acre parcel, which includes lands both in and out of the National Scenic Area. In her appeal, Ms. Sorensen contended she owned nine separate parcels pursuant to the Management Plan. The Final Order reversed the original decision and found the land Ms. Sorensen owned east of Canyon Road was a single parcel on the date of the National Scenic Area Act.
The lands west of Canyon Road are comprised of two Klickitat County tax lots, 03-12-2200-0002/00 (460+ acres west of Canyon Road), and the subject property, 03-12-2100-0011/00 (19 acres). Currently, there are no dwellings on either of the tax lots west of Canyon Road. Ms. Sorensen still currently owns the 460+ acres west of Canyon Road.

On March 21, 2018, Gail L. Sorensen, sold the property as currently described to Brian and Nissa Huber using a Statutory Warranty Deed (Auditor’s File No. 1128120). Commission Rule 350-81-190(t) allows land divisions on land designated Large-Scale or Small-Scale Agriculture subject to the minimum lot sizes. The subject 19 acres is designated Small-Scale Agriculture with an 80-acre minimum parcel size; the remainder of the parcel (the land west of Canyon Road) is designated Large-Scale Agriculture with a 160 acre minimum parcel size. Neither Ms. Sorensen nor the applicants applied to the Gorge Commission for a land division before selling the subject 19 acres, and they are not seeking a land division as part of this application. They are thus considered co-owners of the entire parcel for the purpose of the National Scenic Area standards. Thus, if Ms. Sorensen, or future landowners, want to build a single-family dwelling on the remainder of the parcel (again, any of the 440-acre property west of Canyon Road), they will need to submit a land use application to the Gorge Commission for a land division that includes at least 160 acres for both subsequent parcels, including 160 acres for the subject parcel. Ms. Sorensen signed the application acknowledging her ownership stake.

According to the documentation reviewed by staff, the subject 19 acres is part of a larger separate legal parcel, and the proposed single-family dwelling may be allowed pursuant to Commission Rule 350-81-190(1)(j).

![Google Earth Image](image_url)

*Figure 1* The subject parcel owned jointly by the Hubers and Ms. Sorensen. The tax lot where the Hubers intend to construct the proposed dwelling is shown in red (19 acres, tax lot 03-12-2100-0011/00), and the remainder is shown in blue (440 acres, tax lot 03-12-2200-0002/00). Canyon Road is shown in white.
3. Commission Rule 350-81-076(1) contains setbacks from adjacent properties for buildings on lands adjacent to parcels designated Large-Scale or Small-Scale Agriculture. This rule states:

All new buildings in the GMA shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use...

The four parcels surrounding the subject parcel are all designated GMA Small-Scale or Large-Scale Agriculture and privately owned. To determine if the adjacent lands are suitable for agricultural use, staff considered characteristics of the land, existing uses, and looked at soil data and crop production data in the Commission’s natural resources database. Commission Rule 350-81-154 defines suitability as:

The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

According to the latest data provided by the Natural Resources Conservation Services, the USA Soils Farmland Class rating for the soil of the subject parcel and adjacent parcels is “Farmland of Statewide Importance.” Staff observed during site visits to the subject parcel that the adjacent parcels have similar characteristics including mixed tree coverage and grasses as the dominant vegetation. Staff looked at other parcels in the vicinity to see what types of agricultural uses the subject parcel and adjacent parcels might be suitable for. In general, the types of agriculture found on nearby land with similar terrain are livestock grazing and pasturelands, and vineyards. Currently, the subject parcel is fenced along its northern, western, and southern boundaries. According to Commission rule 350-81-076, the setback requirement for vineyards is 150 ft. As currently proposed, the dwelling is sited 950 ft. from the eastern boundary, 250 ft. from the northern boundary, 205 ft. from the western boundary, and 275 ft. from the southern boundary. The proposed siting complies with Commission rule 350-81-076.

4. Commission Rule 350-81-190(1)(l) allows for the construction of roads not in conjunction with agriculture. Construction of the proposed driveway on the subject parcel is an allowable review use, subject to compliance with the scenic, cultural, natural, and recreation resource guidelines of Commission Rule 350-81, Sections 520 through 620.

CONCLUSION:

The proposed development is a review use on lands designated GMA Small-Scale Agriculture, subject to compliance with Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and 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 applicants propose to site the dwelling on a relatively flat portion of the parcel, and minimal grading is necessary to site the dwelling. This is the flattest area of the parcel and helps retain...
existing topography and conform with agricultural buffer requirements. The driveway will partially utilize an existing road. The siting of the development is designed consistent with this rule.

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.

To determine compatibility of the proposed development, Commission staff looked at development within a quarter mile of the surrounding subject parcel using tax assessor records collected from Klickitat County. Staff chose the quarter mile study area because all the parcels are within the same landscape setting as the subject property and have similar visibility from KVAs. Additionally, most of the parcels in the study are of a similar size to the subject parcel, and are developed with single-family dwellings. Of the 26 parcels in the study area, staff identified 21 parcels with development. There are currently 24 known dwellings and 75 buildings total in the study area. Buildings in the study area include single-family dwellings, mobile homes, garages, agricultural structures, and smaller accessory structures. According to Klickitat County records, buildings range in mass up to 3,655 sq. ft. and are varying in height up to three stories.

As proposed, the dwelling will be one story building with 2,416 sq. ft. of interior living space, 720 sq. ft. of attached garage space and 420 sq. ft. of covered patio space, for a total mass of 3,556 sq. ft. At its tallest point, the house will be 20 ft. tall. Staff finds that the proposal fits within the general scale of existing nearby development, 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 applicants have proposed new landscaping as part of the development. Plantings include trees to the south of the proposed dwelling, as well as native shrubs scattered throughout. The applicants also propose to seed, fertilize, and mulch all exposed and bare soils. Staff is providing the handout, List of Recommend Seed Mixes for East Side Environments, which is an attachment to the Director’s Decision. The List of Recommend Seed Mixes for East Side Environments has options of seed mixes available locally that applicants can use to identify the appropriate seeds and grasses for drier eastern gorge climates. Reseeding will offset the visual impact from the exposed earth.

A condition of approval is appropriate to require the applicants complete the seeding, fertilizing and mulching activities within a specified time after approval and that the vegetation survives. All disturbed areas shall be reseeded with grasses from the approved Recommend Seed Mixes for East Side Environments. Disturbed areas shall be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year. With a condition of approval requiring an irrigation plan and the proper maintenance and survival planted vegetation, the proposal is consistent with Commission Rule Commission Rule 350-81-520(1)(c).
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 Oak-Pine Woodlands. Commission Rule 350-81-520(3)(c) contains the design guidelines for proposed uses in the Oak-Pine Woodlands landscape setting. A site plan was provided consistent with Commission Rule 350-81-032 (Application for Review and Approval). 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.

5. Commission Rule 350-81-520(2) contains guidelines that affect developments on sites visible from KVAs. Staff determined with site visits and geospatial map tools that the subject parcel is topographically visible from Rowena Plateau in the background. Because the proposed development is topographically visible from a KVA, the guidelines of Commission Rule 350-81-520(2) are applicable.

6. Commission Rule 350-81-520(2)(b) requires new development to be visually subordinate to its setting when viewed from KVAs.

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.*

Factors contributing to the visual subordinance of the development include the distance from KVAs, dark earth tone colors, building materials, and new and existing vegetation. The KVA from which this development is topographically visible is more than 4 miles away. The Director’s Decision contains requirements and conditions of approval to ensure the development is *visually subordinate*. As discussed in Findings B.8 and B.9, Commission Rule 350-81-530(2)(f) requires the extent and type of conditions applied to a development to achieve the scenic standard of *visually subordinate* be proportionate to the building’s degree of visibility from KVAs. Additionally, as discussed in Findings B.15 and B.16, Commission Rule 350-81-530(2)(k) and Commission Rule 350-81-530(2)(l) require all proposals to be constructed of low-reflective materials and dark earth-tone colors.

7. Commission Rule 350-81-520(2)(c) states that the determination of potential visual effects and compliance with visual subordinance 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 determine cumulative effects of the proposed development, staff analyzed existing development and development potential of the subject parcel and adjacent and nearby lands also.
in the Oak-Woodland Landscape Setting within a quarter mile of the subject parcel. As seen from Rowena Plateau KVA, the subject parcel is in an area where existing homes and accessory buildings are prevalent but are sparsely visible throughout the landscape or are indistinguishable in the landscape due to the distance from the KVA, existing vegetation and topography. Development in the vicinity of the proposal includes 24 single-family dwellings. The dwellings range in size up to 3,655 sq. ft. and are up to three stories tall. The total square footage of the proposed dwelling is be 3,556 sq. ft., which would make it one of the largest dwellings in the vicinity. For analysis, staff assumes that all existing dwellings on surrounding lots could be replaced in the future, subject to review.

There will not be any visual cumulative effects from KVAs in the foreground and midground because the development will not be visible from any KVA at those distances. The development will only be visible from Rowena Plateau. From this KVA, the development is almost three miles away and will be indistinguishable from its surroundings.

Several factors ensure the proposed building will not cause adverse scenic impacts as viewed from Rowena Plateau, including distance, colors, non-reflective and low reflectivity building materials, and screening vegetation. The proposed dwelling is compatible in size with existing development and will not create any consequential cumulative effects to scenic resources because the building is indistinguishable from the KVA. If new buildings are built according to applicable Land Use Designation guidelines on each parcel in the vicinity of the proposed development, and if they are designed in a similar manner to existing development and consistent with the guidelines of this chapter, they will be held to the same visual resource protection standards and will be required to be visually subordinate. The design guidelines for the Oak-Pine Woodland landscape setting in the GMA recommend that development be clustered and sited to maximize screening of existing topography and vegetation to keep the character of the setting. If new developments are built in a comparable manner to the proposal, there would be no cumulative effects to scenic resources. By using existing topography and vegetation, a design that fits with the landscape setting, and exterior materials that are dark, earth-toned, low- or non-reflective there will be no significant increase in visibility of new development. Development designed and sited to achieve the standard visually subordinate will not generate adverse cumulative scenic impacts.

According to data from Klickitat Assessor Records, within the study area there are 26 parcels; 5 of those parcels are undeveloped. 24 parcels are designated GMA Small-Scale Agriculture with an 80-acre minimum parcel size, and all but four of those parcels are developed with dwellings. Staff assumes for this analysis those parcels will someday be developed with dwellings and accessory structures. Two parcels are designated GMA Large Scale Agriculture with a 160-acre minimum; one parcel is developed and the other is not. The developed parcel is an estimated 233 acres and is not eligible for future land divisions. The other undeveloped parcel is 558 acres and would be eligible for a future land division. Staff assumes this undeveloped parcel could potentially have two dwellings in the future. All told, 22 parcels are developed with dwellings, accessory structures, and various agricultural uses, and five parcels (potentially six parcels in the future) are undeveloped.

It is unlikely that there would be multiple similar developments on the ‘same piece of ground’, given the limitations on the number of dwellings and the size of accessory buildings on the parcel. While additional dwellings for agricultural labor housing or an agricultural operator’s relative are allowed uses on the subject property, the need for any such additional dwellings would be based on an existing or approvable agricultural use.

For the reasons above, the proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).
8. Commission Rule 350-81-520(2)(d)(A) states:

The extent and type of conditions applied to a proposed development to achieve visual
subordinance 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 project is visible from five KVAs at the following distance zones:

<table>
<thead>
<tr>
<th>KEY VIEWING AREAS</th>
<th>DISTANCE ZONE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FOREGROUND</td>
</tr>
<tr>
<td></td>
<td>0 - 1/4 Mile</td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td></td>
</tr>
</tbody>
</table>

As described above, the property is topographically visible from Rowena Plateau in the
background, approximately 4 miles away from the subject property. From the Rowena
Plateau/Tom McCall trailhead parking lot (700 ft. elevation), the parcel (1,050 ft. elevation) is not
visible because hills screen the parcel completely from view. However, the hills do not provide
complete screening from higher elevations of Rowena Plateau while hiking Tom McCall trail. From
the top of Tom McCall trail, (1,700 ft. elevation), the parcel is lower in elevation than the KVA and
topography visible, but is indistinguishable in the landscape because of distance, existing tree
coverage, and topography.

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 dwelling is sited on the subject parcel with minimal visibility from KVAs. No other
location on the subject property would have afforded additional topographic or vegetation
screening. The applicants have chosen dark earth tone colors for the primary and secondary
colors of the dwelling which are included as conditions of approval. The applicants have proposed
a landscaping plan that includes trees to the north of the development and native shrubs. The
landscaping plan is included as a condition of approval. The applicants do not propose to remove
any trees as part of the development proposal. Consistent with the Landscape Settings Designs
Guidelines, a condition of approval requires existing vegetation on the parcel be retained except
for safety. Another condition of approval requires the proper maintenance, care and survival of the landscaping. Another condition of approval requires that all disturbed areas, including trenching for the undergrounded utilities, be reseeded immediately upon completing the project with at least 80 percent vegetative coverage within 1 year. With these conditions included in the Director's Decision, the proposal will be *visually subordinate* as viewed from all KVAs. Staff finds these conditions to be proportionate to the developments potential visual impact as seen from KVAs.

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

   *New development shall be sited to achieve visual subordinance 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.*

   As discussed in Section E below, the development is located within the buffer of sensitive wildlife sites habitat but does not conflict with natural resource guidelines. Similarly, as discussed in Section C, the development does not conflict with cultural resource guidelines. The proposed development is consistent with Commission Rule Commission Rule 350-81-520(2)(e).

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 subordinance from Key Viewing Areas.*

   No other location on the subject property would have afforded the proposal more topographic or vegetative screening because the building will be indistinguishable in the landscape.

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 for the Landscape Settings Design Guidelines are addressed below. No trees are proposed to be removed as part of this application. According to Commission Rule 350-81-520(3)(c)(B)(iii), in substantially wooded portions of the landscape, existing tree cover screening the proposed development from KVAs shall be retained in compliance with Commission Rule 350-81-520(3)(c)(B)(iii). This requirement is included as a condition of approval.

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.*

   The subject property is at an elevation of 1,050 ft., part way up a slope of hills rising above Lyle that reach an elevation of approximately 2,500 ft. Because the land continues to rise behind the development as seen from the KVA, the proposed dwelling will not break the skyline. The development is consistent with Commission Rule 350-81-520(2)(h).
14. 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 subordinance. 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).

In order to achieve the scenic standard of visually subordinate and ensure the development blends with its setting as seen from the KVA, the following conditions of approval are required pursuant to this rule: All disturbed areas shall be reseeded with grasses from the approved Recommend Seed Mixes for East Side Environments. Disturbed areas shall be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year.

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 applicants have proposed Benjamin Moore Cromwell Gray (HC-103) for the exterior walls, and Benjamin Moore Midsummer Night (2134-20) for the trim. These dark earth-tone browns are found within the shadows of the surrounding landscape. The roof will be composite asphalt shingles, and the color will be Antique 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).
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._

The proposed exterior materials for the replacement dwelling are fiber cement siding, glass windows and asphalt shingles. The fiber cement and board and batten siding and asphalt shingles have minimal reflectivity and will also be an approved dark earth tone color. The applicants have proposed a modest fenestration plan. As proposed, none of the glass arrangements are larger than 50 sq. ft. as suggested in the _Building in the National Scenic Area Handbook_. The proposed development is consistent with Commission Rule 350-81-520(2)(m).

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._

The applicants propose nine exterior lighting fixtures. A condition of approval is included in the decision ensuring lights are directed downward, hooded and shielded such that they are not highly visible from the KVA, consistent with this rule. Staff is also providing the applicants with examples of acceptable light fixtures from International Dark-Sky Association as an attachment with this decision.

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._

The driveway and dwelling will be indistinguishable from the natural landscape, as seen from the KVA. Consistent with this rule however, the dwelling and road have been sited on moderately flat portions of the property that limit cut banks and 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 KVAs to include a grading plan containing specific plan elements.

Because the proposed buildings will be on flat ground, there will not be in excess of 200 cubic yards of grading for the structural development. A grading plan is not required.

20. The Landscape Settings Map for 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._

In wooded portions of this setting in the vicinity of the subject parcel trees vary in height from 30 to 50 ft. Trees present on the parcel are a mix of ponderosa pines and Oregon white Oak. The height of the proposed dwelling is 20’ 2”, lower than the tree canopy level in wooded portions of the Oak-Pine woods landscape setting.
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 subordinance 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 applicants have proposed landscaping, including screening vegetation, as part of the development proposal. No other location on the subject property would have afforded the applicants more topographic screening. The applicants propose a stand of trees to the north of the proposed development and native bushes scattered throughout. A condition of approval requires at least half of the trees to be ponderosa pines. The property is substantially wooded. Consistent with this rule, a condition of approval is included requiring the applicant to retain existing tree cover on the property except for safety purposes including, but not limited to, fire protection and hazard tree removal.

CONCLUSION:

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.

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. Forest Service Columbia River Gorge National Scenic Area, reviewed the new land use application and determined in a Cultural Resources Survey Determination, dated January 24, 2020, that pursuant to Commission
Rule 350-81-540(1)(c)(A)(ii) a reconnaissance survey is required because the project occurs on a site that has been determined to be within a high probability zone.

3. Mr. Donnermeyer conducted a field survey and prepared a Heritage Resource Inventory Report of the proposed development. In the report, dated March 19, 2020, Mr. Donnermeyer concluded that the proposed development would have no effect on significant cultural resources if conditions of approval are included addressing the incidental discovery of cultural material and human remains.

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 applicants do not propose to alter any structures that are 50 years old or older. The proposed development does not 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 Heritage Resource Inventory Report was mailed on April 1, 2020. The comment period ended on April 30, 2020.

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 assessed the effect of the proposed development in the Cultural Resources Inventory Report. Mr. Donnermeyer’s report concludes that the proposed development would have no adverse effect on significant cultural resources.

   Initial notice of the proposed development was mailed on January 9, 2020 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, 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 his report, Mr. Donnermeyer makes the determination that the proposed development has no effect on cultural resources conditions. Mr. Donnermeyer’s determination of no effect to cultural resources, also means no cumulative effects to cultural resources. The development does not create opportunities for more development or land uses on the parcel, any additional development will require review.

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 in this Director’s Decision requires these procedures be followed.

11. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval in this Director’s Decision requires these measures to be employed if human remains are discovered.

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. 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, the proposal is consistent with Commission Rule 350-81-560 that protects wetlands.

3. The Gorge Commission’s natural resource inventories do not show any streams, ponds, lakes, riparian areas, or resource buffer zones on the parcel or in the project vicinity. Therefore, the proposal is consistent with Commission Rule 350-81-570 that protect streams, ponds, lakes, and riparian areas.

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 this area.
5. Commission Rule 350-81-580(4)(a) requires the Gorge Commission to notify the Washington Department of Fish and Wildlife and submit a site plan when a new development or land use is proposed within a sensitive wildlife area.

Commission staff notified Washington Department of Fish and Wildlife of the proposed development and sent a copy of the site plan on January 9, 2020.

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. Pursuant to Commission Rule 350-81-580(4)(c), staff does not believe the proposed development compromises the integrity of the parcel as wildlife site due to the project location, lack of trees being removed, and lack of proposed fencing.

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.

As noted in finding D.4 above, the development site is located within winter range and western gray squirrel habitat. To consider the cumulative effects, staff considered similarly zoned land in the subject winter range and western gray squirrel habitat areas mapped by the Washington Department of Fish & Wildlife. To determine cumulative effects of the proposed development, staff analyzed existing development and development potential of the subject parcel and the adjacent and nearby lands also in the Oak-Woodland Landscape Setting. Staff also considered the existing conditions of the study area and the likelihood of other similar development in the area.

The Klickitat River Winter Range is nearly 123,000 acres spanning three to four miles on either side of the Klickitat River. The Klickitat River Winter Range also straddles the Scenic Area boundary to the east of the subject property. Existing conditions in the study area can be described as rural with dispersed structural development. Corridors of trees exist in the study area, primarily along stream corridors which have protected buffers. The subject property has a fence along the perimeter. No new fences are proposed to reduce winter range habitat.

WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will have little, if any, effect on existing deer habitat. Pursuant to Commission Rule 350-81-580(1)(c), staff does not believe the proposed development creates any adverse effects,
including cumulative effects, to the integrity of the parcel as wildlife site, due to the location and the nature of the development and the lack of new fences.

5. Commission Rule 350-81-580(6) states:

   New fences in deer and elk winter range
   (a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.
   (b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:
      (A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.
      (B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.
      (C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.
      (D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.
   (c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

The project narrative does not identify new fencing for installation. However, the property is used for cattle grazing, and the applicants intend to continue to graze cattle and use the property as grazing ground. A condition of approval in the Director’s Decision requires any replacement fencing to comply with this rule.

6. The Gorge Commission’s sensitive plant inventory does not show any sensitive plant sites within 1,000 feet of the proposed development. Therefore, the proposal is consistent with 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.

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 PROTECTION

1. Commission Rule 350-81-084(1) provides protection of tribal 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 Native American 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 January 9, 2020. The notice included a comment period of 21 days that ended on January 30, 2020.

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.

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, that protects treaty rights in the National Scenic Area.