

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C20-0008

PROPOSAL: The Columbia River Gorge Commission has received an application for an addition to an existing dwelling, and the after-the-fact review of several accessory buildings, fencing, and a roof mounted solar array.

APPLICANT: John Hadley

LANDOWNER: John Hadley

LOCATION: The subject property is 20 acres in size and found on Lyle Snowden Road, in Section 21, Township 3 North, Range 12 East, W.M., Klickitat County Tax Lot Number 03-12-2100-0001/00.

LAND USE

DESIGNATION: General Management Area – Small-Scale Agriculture (80)

DECISION:

Based upon the following findings of fact, the land use application by John Hadley, for an addition to an existing dwelling, and the after-the-fact review of several accessory buildings, fencing, and roof-mounted solar array 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 C20-0008, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
2. This decision does not exempt the proposal from other non-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 garages, workshops, or other accessory structures, additions, 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. The 103 sq. ft. (6 ft. x 17 ft.) woodshed shall be deconstructed and removed.
6. All exterior building materials, including solar panels, doors, siding, trim, window sash and casing, and roofing shall be dark earth-tone colors. Only approved dark earth-tone colors for exterior materials shall be used.
7. All exterior building materials, including solar panels, doors, siding, trim, 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 that the material is non-reflective. Solar panels shall be black, including panels and frames, to minimize reflectivity, with no bare aluminum framing or bare structural surfaces.
8. All replacement 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.
9. All outdoor lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible as seen from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
10. Except for dead trees or other dead vegetation that may pose a hazard, all existing vegetation on the site shall be retained and maintained for screening purposes, or as indicated on the approved landscaping plan.
11. 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.
12. 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.
13. 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@gorgecommission.org. Each inspection may take up to seven business days from the time of calling for the inspection.

DATED AND SIGNED THIS 8 day of October 2020 at White Salmon, Washington.

Krystyna U. Wolniakowski

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 8 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 7 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 C20-0008
Approved site plan and elevation drawings
International Dark-Sky Association example sheet of acceptable & unacceptable light fixtures

L Y L E - S N O W D E N
R O A D

0'
west fence line & PPL

100'

north fence line & PPL

200'

300'

400'

500'



SCALE 1" = 40'-0"
when printed on 11X17

Love/Hadley Residence

Site Plan 218 Lyle-Snowden Rd. Lyle, Washington
(revised 8/25/2020 to include covered porch areas)



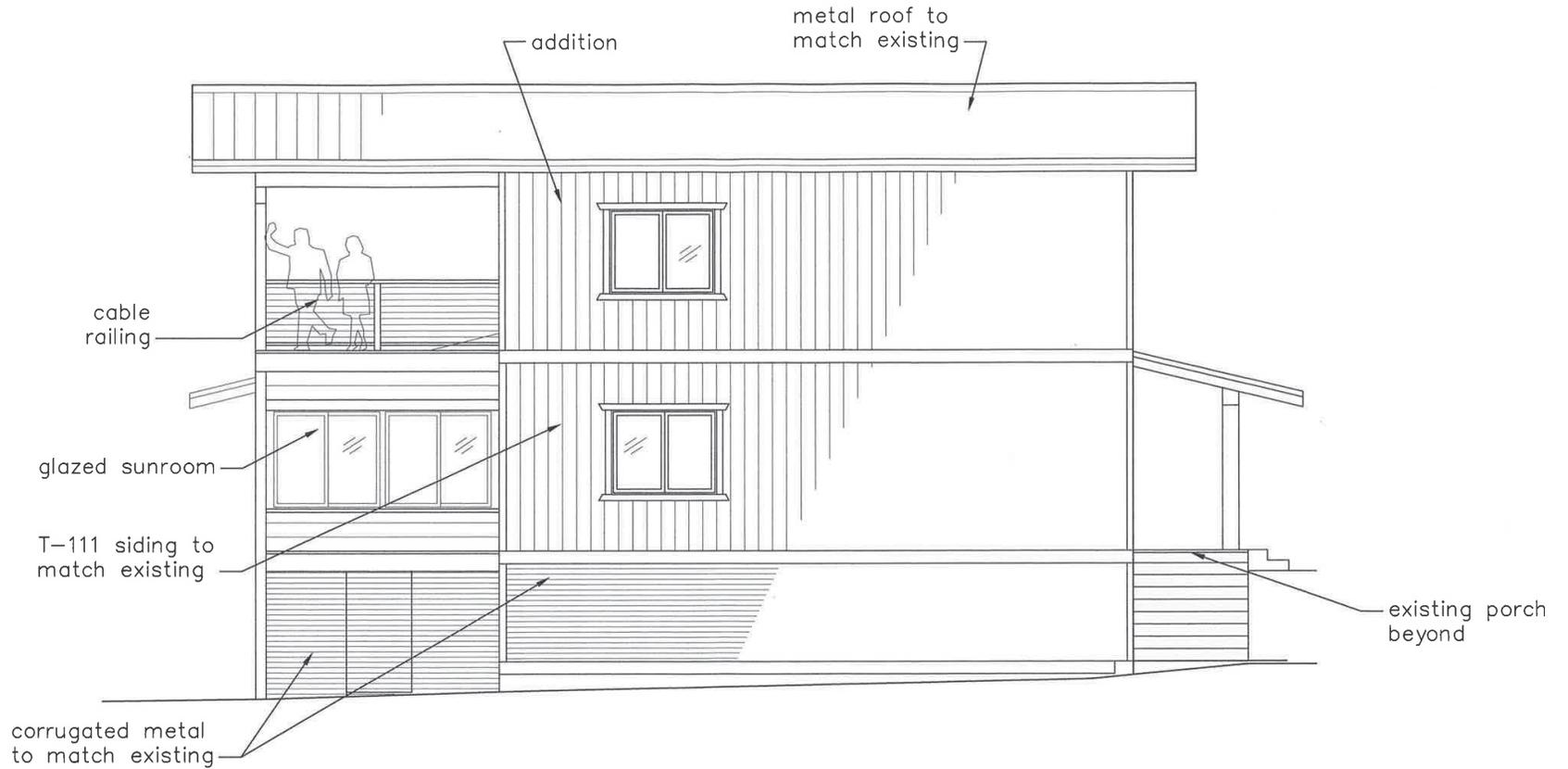
South Elevation

Love/Hadley Residence Addition

218 Lyle-Snowden Rd. Lyle, Washington

March 6, 2020
2 of 4 sheets

Design Dwgs
NOT FOR CONSTRUCTION



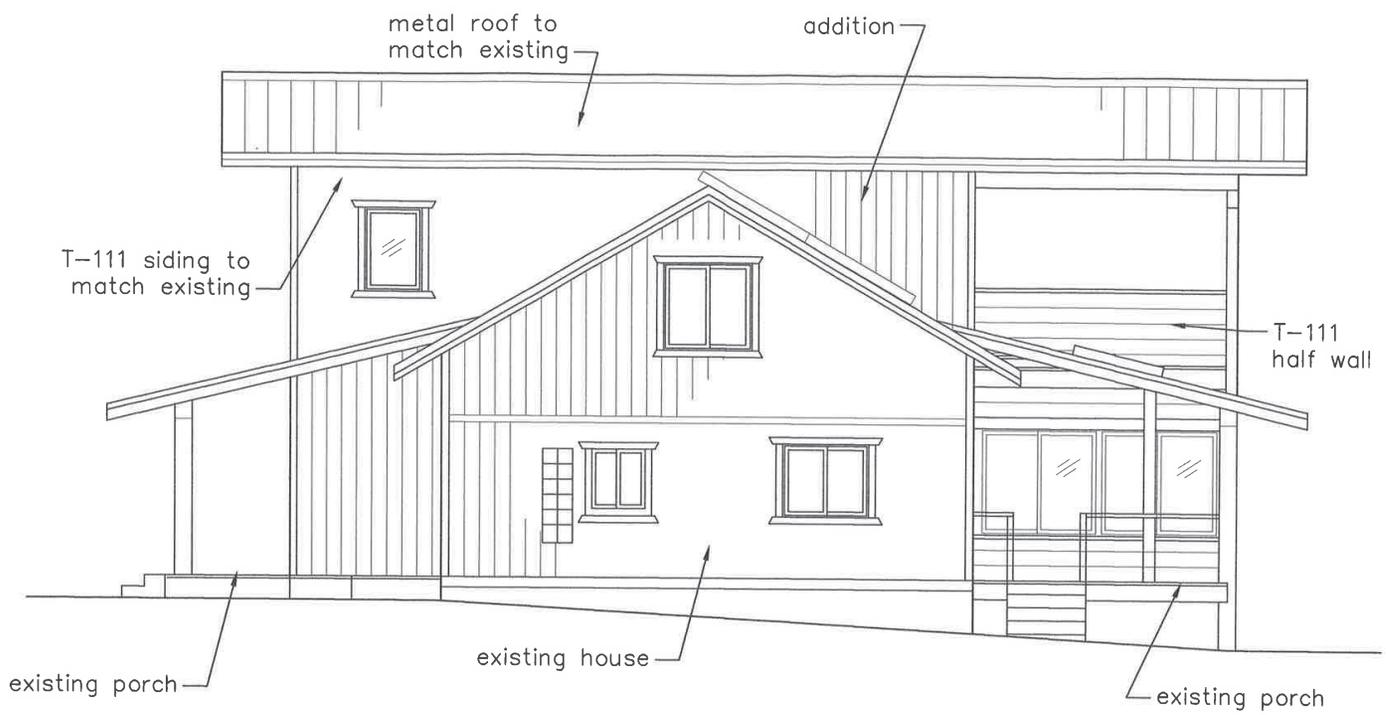
East Elevation

Love/Hadley Residence Addition

218 Lyle-Snowden Rd. Lyle, Washington

March 6, 2020
3 of 4 sheets

Design Dwgs
NOT FOR CONSTRUCTION



West Elevation

Love/Hadley Residence Addition

218 Lyle-Snowden Rd. Lyle, Washington

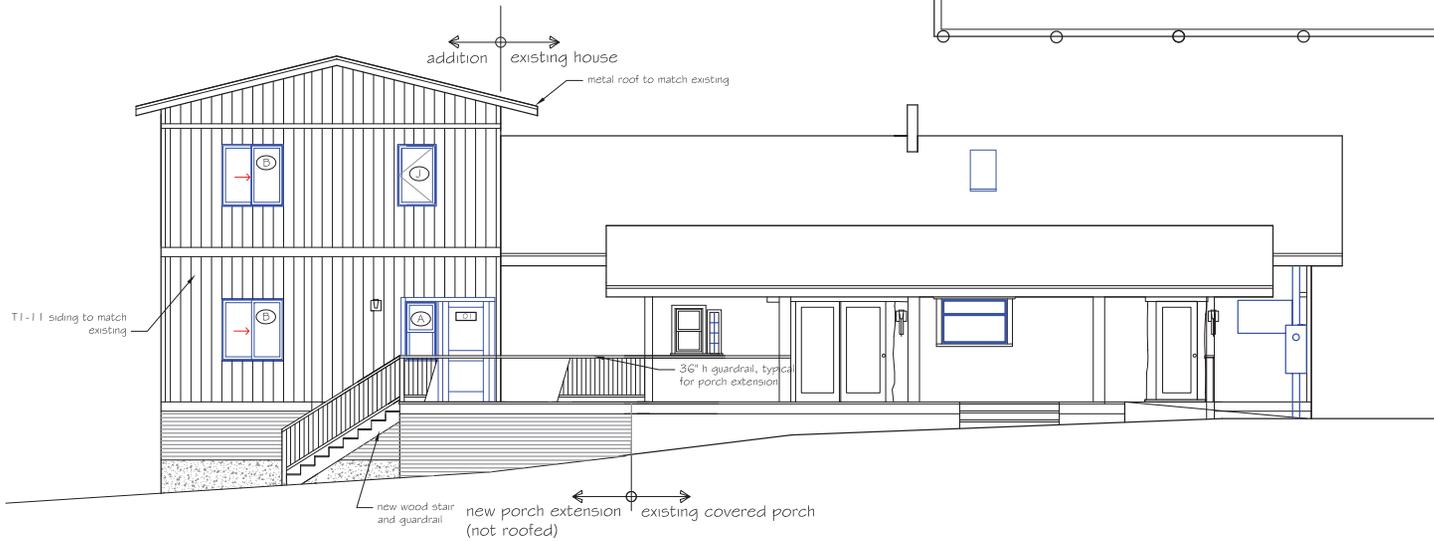
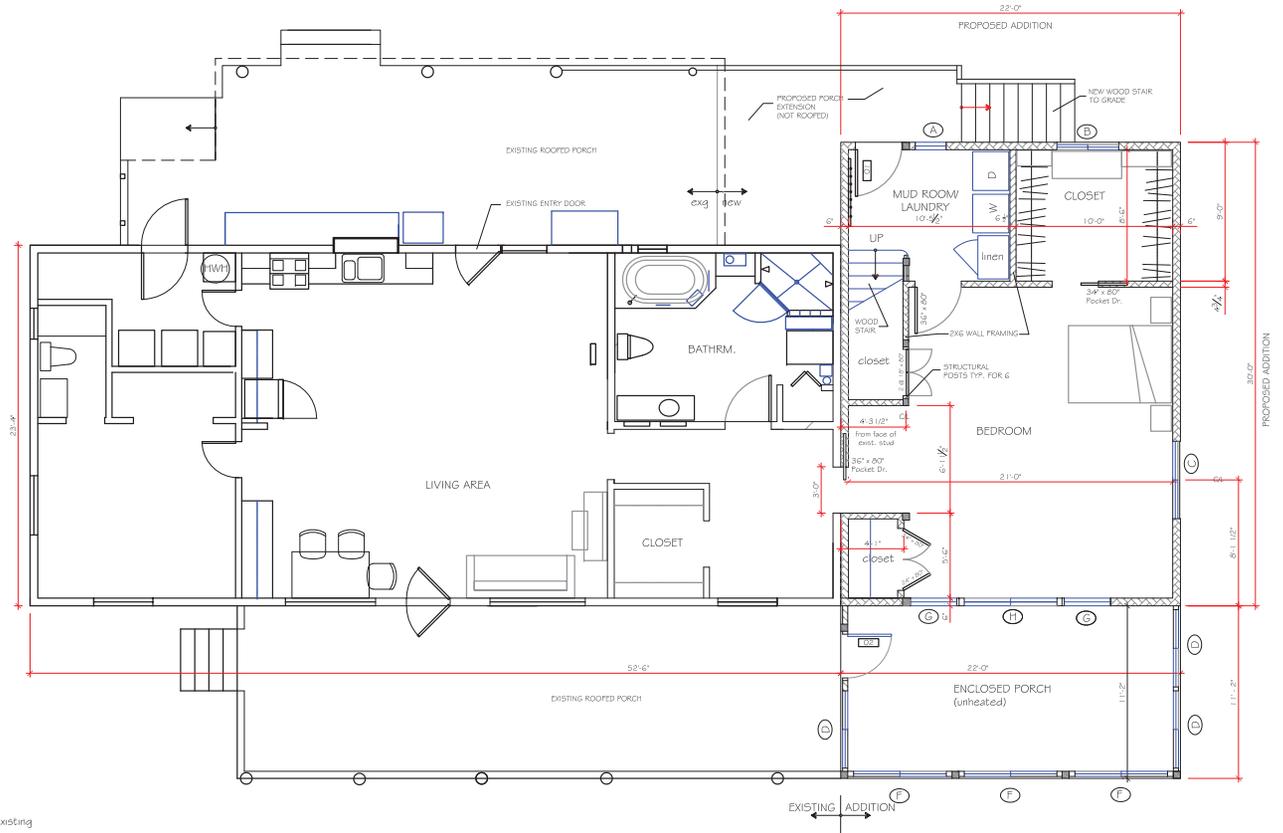
March 6, 2020
4 of 4 sheets

Design Dwgs
NOT FOR CONSTRUCTION

PROPOSED FLOOR PLAN
 LOVE-HADLEY RESIDENCE ADDITION
 218 Lyle-Snowden Road, Lyle, WA
 8.25.2020



note: porch roof extension on north side has been removed)



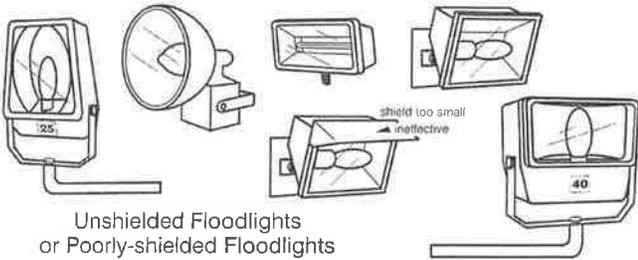
REVISED NORTH ELEVATION
 LOVE-HADLEY RESIDENCE ADDITION
 218 Lyle-Snowden Road, Lyle, WA
 8.25.2020

note: porch roof extension has been removed)

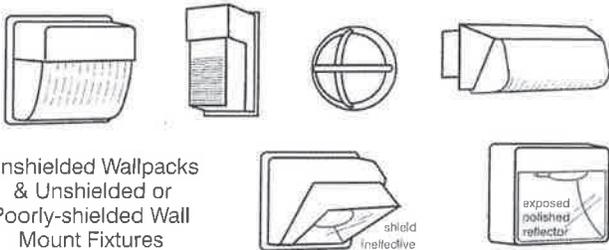
Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged

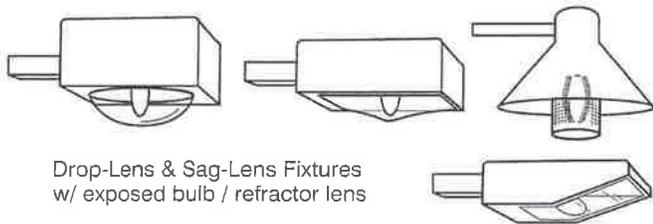
Fixtures that produce glare and light trespass



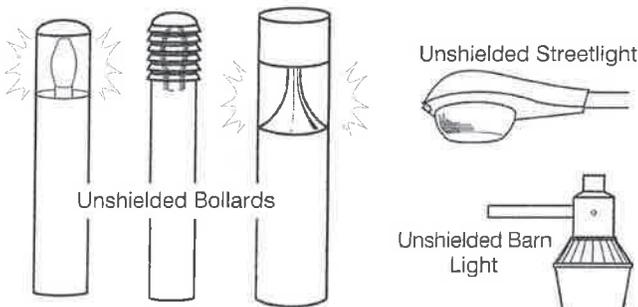
Unshielded Floodlights or Poorly-shielded Floodlights



Unshielded Wallpacks & Unshielded or Poorly-shielded Wall Mount Fixtures



Drop-Lens & Sag-Lens Fixtures w/ exposed bulb / refractor lens

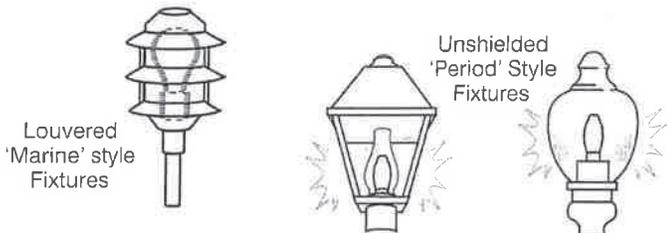


Unshielded Bollards

Unshielded Streetlight



Unshielded Barn Light

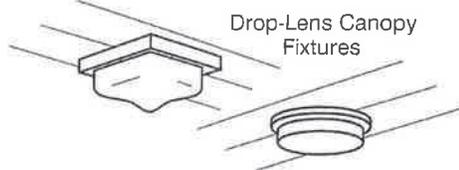


Louvered 'Marine' style Fixtures

Unshielded 'Period' Style Fixtures



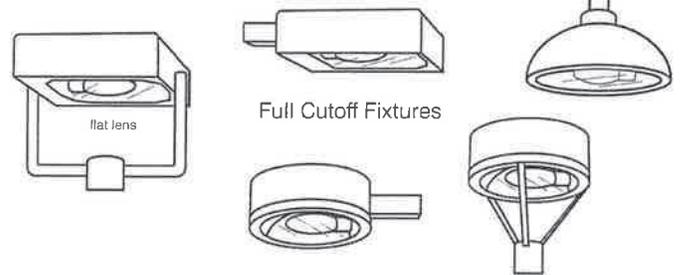
Unshielded PAR Floodlights



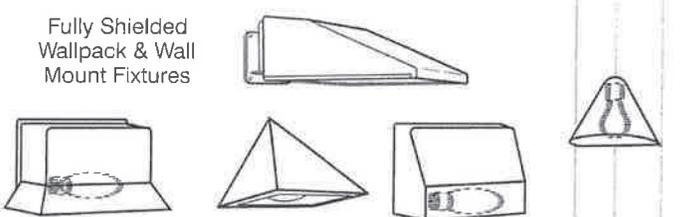
Drop-Lens Canopy Fixtures

Acceptable

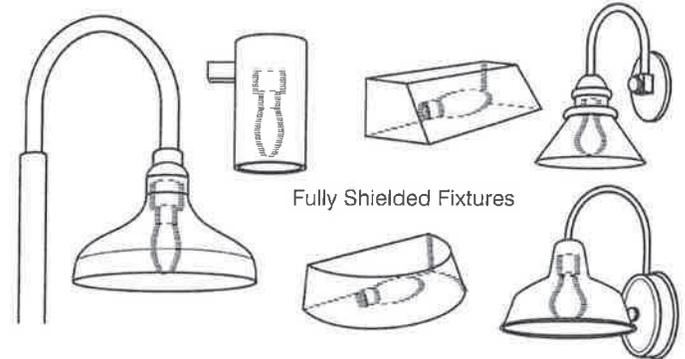
Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



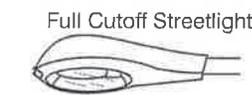
Full Cutoff Fixtures



Fully Shielded Wallpack & Wall Mount Fixtures



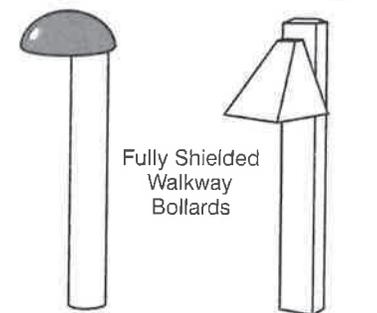
Fully Shielded Fixtures



Full Cutoff Streetlight



Fully Shielded Barn Light

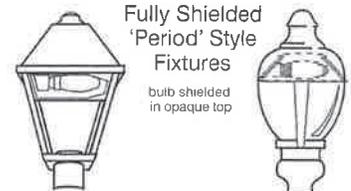


Fully Shielded Walkway Bollards



Fully Shielded Decorative Fixtures

bulb shielded in opaque top

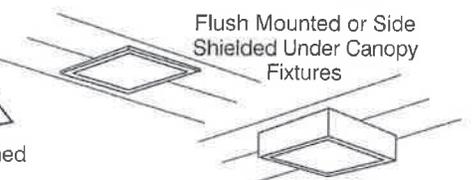


Fully Shielded 'Period' Style Fixtures

bulb shielded in opaque top

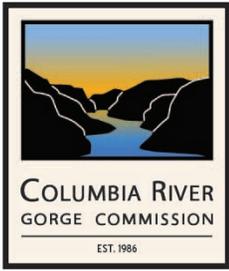


Shielded / Properly-aimed PAR Floodlights



Flush Mounted or Side Shielded Under Canopy Fixtures

Illustrations by Bob Crelin © 2005. Rendered for the Town of Southampton, NY, Used with permission.



COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C20-0008

PROPOSAL: The Columbia River Gorge Commission has received an application for an addition to an existing dwelling, and the after-the-fact review of several accessory buildings, fencing, and a roof mounted solar array.

APPLICANT: John Hadley

LANDOWNER: John Hadley

LOCATION: The subject property is 20 acres in size and found on Lyle Snowden Road, in Section 21, Township 3 North, Range 12 East, W.M., Klickitat County Tax Lot Number 03-12-2100-0001/00.

LAND USE

DESIGNATION: General Management Area – Small-Scale Agriculture (80)

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, Friends of the Columbia River Gorge.

A. LAND USE

1. The applicant proposes an addition to an existing manufactured home, and the after-the-fact review of several accessory buildings, deer fencing, and roof-mounted solar panels. The subject parcel is 20-acres and lies approximately 2 miles up Lyle-Snowden Rd from its intersection with Highway 14. The parcel is rectangular in shape, and the house and dwelling are located in the northwest portion of that parcel. The parcel is primarily covered with a mix of ponderosa pines and Oregon white oaks, with some more open areas of naturally occurring grasses.
2. Commission Rule 350-81-190(1)(v) allows additions to existing buildings greater than 200 sq. ft. in area or greater than the height of the existing building. Commission Rule 350-81-020 (60) defines *existing structure* as any structure that was legally established.

Staff obtained a copy of the original mobile home placement permit from Klickitat County to verify its legal status. The existing mobile home was approved by the Klickitat County Planning Department on May 13, 1983 under permit MP 1939. The application for the permit was submitted before the date of the National Scenic Area Act, November 17, 1986.

3. Commission Rule 350-81-020(90)(d) defines *industrial uses* as any use of land or water primarily involved in the production of electric power for commercial purposes. The Management Plan expressly prohibits industrial uses in the National Scenic Area. The primary use of the property is residential. The solar panel array is 18 panels; 2 rows with 9 panels per row. Each panel is approximately 5 ft. 6 in. long and 3 ft. 3 in. wide. The total area of array is 330 sq. ft.

The system is 5-kW; sized to meet only the energy consumption needs of the residence. The applicant provided information about the existing power consumption and existing energy generated on the property. As currently constructed, the total generating capacity of the arrays is approximately half of the annual energy need for the residential use on the property. The solar panels included in this development are intended to be accessory and subordinate to the primary use of the parcel as a residential use.

4. There are currently eight accessory building on the subject parcel. The application materials name them as:

1. Detached Garage	624 sq. ft. (24 ft. x 26 ft.)	13 ft. in height
2. Pole Barn	864 sq. ft. (24 ft. x 36 ft.)	18.5 ft. in height
3. Chicken Coop	78 sq. ft. (6 ft. x 13 ft.)	9 ft. in height
4. Pump House	48 sq. ft.(6 ft. x 78 ft.)	8 ft. in height
5. Carport	620 sq. ft.(10 ft. x 31 ft.)	14 ft. in height
6. Woodshed	103 sq. ft. (6 ft. x 17 ft.)	9 ft. in height
7. Utility Shed	72 sq. ft. (8 ft. x 9 ft.)	11 ft. in height
8. Green House	120 sq. ft. (10 ft. x 12 ft.)	11.5 ft. in height

The applicant stated the detached garage, pole barn, pump house, and green house were on the property when he acquired it in 2001. Staff reviewed Klickitat County records for the property and was able to verify the dates when some of the buildings were constructed. The detached garage was approved by the Klickitat County Planning Department on July 23, 1986 under permit B 6716, before the National Scenic Area Act was enacted. Accessor's Records indicate that the pole barn was built in 1983, also prior to the National Scenic Area Act.

The chicken coop, utility shed, carport and woodshed were built after the applicant acquired the property and without permits. These five accessory buildings are being reviewed "after-the-fact" and incorporated into this Director's Decision.

Commission Rule 350-81-190(1)(f) allows the following on lands designated Small-Scale Agriculture:

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

- (A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 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 footprint of any individual accessory building shall not exceed 1,500 square feet.*
- (C) The height of any individual accessory building shall not exceed 24 feet.*

The combined square footage of all of the accessory buildings is 2,529 sq. ft. In order to be in compliance with Commission Rule 350-81-190(1)(f), the applicant proposes to remove the 103 sq. ft. woodshed. The removal would bring the combined square footage to 2,426 sq. ft., compliant with this rule. A condition of approval is included requiring the removal of the woodshed. None of the seven other buildings are larger than 1,500 sq. ft. or taller than 24 ft., consistent with this rule. The carport (620 sq. ft.) is a review use pursuant to Commission Rule 350-81-190(1)(f).

Commission Rule 350-81-180(1) allows all the uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Commission Rule 350-81-050) on lands designated Small-Scale Agriculture. Commission Rule 350-81-074(1)(a)(E) lists "Accessory structures 60 square feet or less in area and 10 feet or less in height," as a use allowed outright. The pump house (49 sq. ft.) is a use allowed outright pursuant to Commission Rule 350-81-074 (1)(a)(E).

Commission Rule 350-81- 182(1) allows all the uses listed in *Expedited Development Review Process* (Commission Rule 350-81-050) on lands designated Small-Scale Agriculture. Commission Rule 350-81-050(1)(a) lists "accessory structures between 60 sq. ft. in area and 10 feet or less in height" as development that may be reviewed using the expedited review process. The chicken coop (78 sq. ft.), utility shed (72 sq. ft.) and greenhouse (120 sq. ft.) are allowed uses pursuant to Commission Rule 350-81-074 (1)(a)(E).

Given the nature of the review, all development is being reviewed as a review use, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

5. Commission Rule 350-81-050(1)(d) allows woven wire fences other than those allowed outright, provided the fence complies with 350-81-580(6) if it is inside deer and elk winter range. The applicant raises llamas on the property and proposes the after-the-fact review and approval of the fencing to enclose approximately 10 acres. The subject parcel is within winter range. Section D of this Staff Report contains staff review for consistency with Commission Rule 350-81-580(6).
6. 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 parcels adjacent to the subject parcel to the east, south and west are designated GMA Small-Scale Agriculture. The parcel adjacent to the subject parcel to the north is designated GMA Commercial Forest and is not subject to this rule. 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 Service, 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 oak-pine woodlands and naturally occurring grasses. Staff looked at other parcels in the same land use designation and same landscape setting with similar land characteristics 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 pasturelands and vineyards. Currently, the lands between the subject parcel and the adjacent parcels to the east, south and west are heavily vegetated with trees which create a vegetative barrier. According to Commission rule 350-81-076, the setback requirement is 50 ft.

As currently proposed, all of the buildings are sited at least 300 ft. from the western property boundary, 400 ft. from the southern property boundary, and 800 ft. from the eastern property boundary. The proposal places all of the buildings in compliance with the 50 ft. agricultural setback from the parcels to the east, south, and west and is consistent with this rule.

CONCLUSION:

With conditions of approval required the removal of the woodshed, the proposed addition, accessory buildings, fencing and solar panels are allowed review uses, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

B. SCENIC RESOURCES

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

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

The applicants have sited the addition east of the existing mobile home. Minimal grading is required because of the existing natural landscape, which slopes gently to the east and creates a flat area for building. The accessory buildings, similarly, have been sited on areas of the property that require minimal grading. The carport is the largest accessory building (10 ft. x 31 ft.) but required no grading with the exception of some gravel. The chicken coop is attached to the pole barn and required no grading because of its size. The utility shed is sited on cinder blocks and also required no grading. 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 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 area are of a similar size to the subject parcel and developed with single-family dwellings like the subject parcel is. 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 include single-family dwellings, mobile homes, garages, agricultural structures, and smaller accessory structures. According to Klickitat County records, buildings range in total mass up to 3,655 sq. ft. and vary in height up to three stories or up to 31 ft. tall.

As proposed, the dwelling is a two story building with 2,545 sq. ft. of interior living space, and 1,354 sq. ft. of covered porches and decks for a total mass of 3,899 sq. ft. The proposed addition also includes a full basement, which is not used to determine overall mass. At its tallest point, the house will be 31 ft. tall. As proposed, the dwelling will be the largest by mass in the vicinity by 244 sq. ft. However, as proposed the dwelling is 30' 11" tall, the same height as existing nearby development. The total length of the dwelling and addition is 80 linear ft., which is also within the scale of existing development. The interior sq. ft. is 2,545 sq. ft., also comparable with other nearby development. While the proposal would be slightly larger by mass than existing development, the proposal fits with the general scale of existing nearby development. As proposed staff finds the dwelling is 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 planted vegetation is required by the guidelines in this chapter.

4. Commission Rule 350-81-520(1)(d) and (e) state:

(d) A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" 350-81-032(5). Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.

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

A site plan was provided consistent with Commission Rule 350-81-032 (Application for Review and Approval). The landscape setting for the subject parcel is Oak-Pine Woodlands. Commission Rule 350-81-520(3)(c) contains the design guidelines for proposed uses in the Oak-Pine Woodlands landscape setting. Findings B.20 through B.23 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 subordination of the development include the distance from KVAs, dark earth tone colors, building materials, 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 conditioned, the proposed development will be *visually subordinate* from KVAs as discussed in these findings.

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

Commission Rule 350-81-020(40) defines "cumulative effects" as:

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

To 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 after the addition is completed is 3,899 sq. ft., which would make it the largest building 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 over 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. While the proposed dwelling addition will be larger than existing development, the building is compatible in size with existing development. The size of the building will not create any consequential cumulative effects to scenic resources because the building is indistinguishable from the KVA due to distance and existing natural topography. 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 subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas.

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

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

(ii) The degree of existing vegetation providing screening.

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

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

(v) *The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads).*

The project is visible from five KVAs at the following distance zones:

<u>KEY VIEWING AREAS</u>	<u>DISTANCE ZONE</u>		
	FOREGROUND	MIDDLEGROUND	BACKGROUND
	0 - 1/4 Mile	1/4 - 3 MILES	Over 3 Miles
Rowena Plateau			x

As described above, the property is topographically visible from the Rowena Plateau in the background, approximately 4 miles from the KVA. From the parking lot, the parcel is not visible due to natural topography because hills screen the parcel from the view. However, the hills do not provide complete screening from higher elevations of Rowena Plateau while hiking Tom McCall Trail. From Tom McCall trail, the parcel is 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 addition and accessory buildings are sited on the subject parcel with minimal visibility from KVAs. The applicants have chosen dark earth tone colors for the colors of the chicken coop, utility shed, and carport which are included as conditions of approval. The solar panel array will be composed of black panels, specifically black frames, and with black backing, with no bare aluminum framing or bare structural surfaces. This requirement is included as a condition of approval. Consistent with the Landscape Settings Designs Guidelines, a condition of approval requires existing vegetation on the parcel be retained except for safety. With these conditions included in the Director’s Decision, the proposal will be *visually subordinate* as viewed from all KVAs and consistent with the design guidelines for the Oak-Woodlands Landscape Setting. Staff finds these conditions to be proportionate to the development’s potential visual impact as seen from KVAs.

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

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

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 subordination 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).

Four Oregon white oak trees will be removed as part of the proposal. The subject parcel is in the Oak-Pine Woodlands Landscape Setting, subject to Commission Rule 350-81-520(3)(c)(B). Findings for the Landscape Settings Design Guidelines are addressed below in Findings B.20 through B.23. 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 1,150 ft., partway up a slope of hills rising above Lyle that reach an elevation of approximately 2,500 ft. The land continues to rise behind the development as seen from the KVA, which keeps the proposed addition below the skyline. As currently constructed, the accessory buildings are also consistent with this rule.

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 subordination. Development shall be sited to avoid the need for new landscaping wherever possible.

(B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient

screening to make the development visually subordinate within five years or less from the commencement of construction.

(C) Unless as specified otherwise by provisions in 350-81-520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(D) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in 350-81-520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species)

The applicant did not propose a landscaping plan as part of the proposal, and no new landscaping is required by the guidelines of this chapter.

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.

Consistent with Commission Rule 350-81-520(2)(q) (see Finding B.17) the addition to the existing single-family dwelling may be the same color as the existing building. Staff finds the colors of the chicken coop, utility shed, and carport as currently constructed to be dark earth-tone brown and green colors similar to those found on the property within the shadows of the surrounding landscape. 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 addition are the same as the building materials used for the existing mobile home. Building materials include T-111 wood siding, glass windows and metal roofing. The proposed metal roofing and solar panel array are reflective materials. The solar panel array will be composed of black panels, specifically black frames, and with black backing, with no bare aluminum framing or bare structural surfaces. This requirement is included as a condition of approval. Given the distance and limited visibility from KVAs, and existing vegetation on the subject parcel, the building will be indistinguishable and fully screened from all KVAs. 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 five exterior lighting fixtures: one light for the entry way, two lights for the second story covered porch, and two pathway lights. 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 KVAs, consistent with this rule. Staff provided 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)(q) states:

Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or a list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

The existing dwelling, as currently constructed, is not a dark earth tone color, and not consistent with Commission Rules 350-81-520(2)(l). As currently constructed, the dwelling is 2,259 sq. ft. including interior living space and open frame porches and decks. As proposed, the addition will be 2,440 sq. ft., smaller in total square area than the existing building. As such, the addition may be the same color as the existing dwelling.

19. 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 dwelling addition and accessory buildings will be indistinguishable from the natural landscape as seen from KVAs. They have been designed to retain existing topography and minimize grading activities to the maximum extent practicable. The driveway was previously constructed, and no improvements are proposed as currently constructed. Consistent with this rule, the addition and accessory buildings have been sited on moderately flat portions of the property that limit cut banks and fill slopes.

20. 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 addition will be on generally flat ground, there will not be more than 200 cubic yards of grading required for the structural development. A grading plan is not required. The proposal is consistent with this rule.

21. 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.

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

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

Commission Rule 350-81-020(090) defines *height of building* as:

The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

In wooded portions of this setting in the vicinity of the subject parcel trees vary in height from 30 ft. 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 30' 11", which is lower than the tree canopy level in wooded portions of the Oak-Pinewoods landscape setting.

23. Commission Rules 350-81-520(3)(c)(B) states:

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

- (i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.*
- (ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

For substantially wooded portions:

- (iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.*

For treeless portions or portions with scattered tree cover:

- (iv) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.*
- (v) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.*
- (vi) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.*

No landscaping is required by the guidelines of this chapter. No other location on the subject property would have afforded the applicants more topographic screening. 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:

With conditions of approval regarding the color of the accessory buildings and the retention of existing vegetation, 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 is conducted. Commission Rule 350-81-540(3)(d)(C) states that if 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 are required to reduce adverse effects to no adverse effect or no effect.

2. Chris Donnermeyer, Heritage Resource Program Manager for the U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination, dated April 6, 2020, that pursuant to Commission Rule 350-81-540(1)(c)(A)(iii) a Cultural Resource Reconnaissance Survey is not required because the proposed use would involve the modification, expansion, replacement, or reconstruction of existing buildings and structures, would occur on a site that has been determined to be located within a low probability zone, is not within 100 feet of a high probability zone, and does not occur within 500 feet of a known archaeological site.
3. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his April 6, 2020 survey determination letter, Mr. Donnermeyer also concluded that a historic survey is not required because the development would not alter the exterior architectural appearance of significant buildings or structures that are 50 years old or older, would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older, and would not compromise other historic features in the surrounding area that are important in defining the historic or architectural character of significant historic structures. Given this information, a historic survey was not required, consistent with Commission Rule 350-81-540(1)(c)(B).
4. Commission Rule 350-81-540(2)(c)(B)(i) states the cultural resource protection process may conclude when the following conditions exist:

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

The project notice was mailed on April 4, 2020, and the comment period ended April 23, 2020. As explained above, the proposed use did not require a reconnaissance survey or historic survey and no comments were received regarding cultural resource concerns. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

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

C. NATURAL RESOURCES

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).
2. The Gorge Commission's natural resource inventories do not show any wetlands in the project vicinity. Therefore, 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 these areas.
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 April 4, 2020.

6. 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 applicant raises llamas on the property and proposes the after-the-fact review and approval of the fencing to enclose approximately 10 acres. A condition of approval is included requiring the fencing to meet these standards.

7. 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 location and existing development.

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

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

Commission Rule 350-81-020(40) defines “cumulative effects” as:

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

As noted in finding D.4 above, the development site is located within winter range and western gray squirrel habitat. Staff also considered the existing conditions of the study area and the likelihood of other similar development in the area. For the purposes of evaluating the cumulative effects of repeated similar activities, staff focused on similarly zoned Scenic Area lands within the Klickitat River Winter Range.

The Klickitat River Winter Range is 123,000 acres spanning three to four miles on either side of the Klickitat River. 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 fencing around approximately half of the property. 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 proposed fences.

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

CONCLUSION:

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

E. RECREATION RESOURCES

1. Commission Rule 350-81-086 states:

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

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

CONCLUSION:

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

F. TREATY RIGHTS 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 requires 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 Treaty Tribe governments on April 4, 2020. The notice included a comment period of 21 days that ended on April 23, 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, which provides protection for treaty rights and any other rights of any Native American tribe.

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