COLUMBIA RIVER GORGE COMMISSION
DIRECTOR’S DECISION

CASE FILE: C20-0010

PROPOSAL: The Columbia River Gorge Commission has received an application for a new single-family dwelling, a detached garage, an agricultural building, and livestock fencing.

APPLICANT: Jeri Rutherford

LANDOWNER: Jeri Rutherford

LOCATION: The subject property is approximately 5 acres in size and located at 24 Locke Road, east of White Salmon, WA, on Burdoin Mountain, in the Northeast 1/4 of Section 34, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County. Tax Lot Number 03-11-3452-0004/00.

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

Note: According to Section 8(o) of the National Scenic Area Act (NSA), the Forest Service (USFS) designated the subject parcel GMA Small-Scale Agriculture. For the purposes of this development review, the Special Management Area (SMA) guidelines no longer apply to this parcel; they will be reviewed according to the applicable GMA land use and resource protection guidelines.

DECISION: Based upon the following findings of fact, the land use application by Jeri Rutherford, for a new single-family dwelling, a detached garage, an agricultural building, and livestock fencing 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 C20-0010, 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 stem wall of the garage is to be completely backfilled and vegetated so that the greatest vertical distance between any point of the exposed stem wall and the highest point of the roof is no more than 24 ft. tall.

6. The proposed agricultural use must be initiated within 1 year of the commencement of construction for any aspect of this development review.

7. All exterior building materials, including roof, doors, siding, trim, window casing and sash, decks, and railings 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 single-family dwelling, garage, and barn are consistent with this condition and are hereby approved:

   Exterior: Benjamin Moore Boreal Forest (AF-480)
   Trim: Behr Black Bamboo (N380-7)
   Roof: Pabco Antique Black
   Deck: Black Fiberglass
   Porch Screen: Snapp Pool and Patio Screen

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

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

9. All exterior glass shall be composed of low-reflectivity glass. An exterior reflectivity rating of 11% is required. The applicant has chosen Kolbe windows and LaCantina glass doors for the exterior of the building. The dining room windows shall be screened year-round with the approved porch screening as indicated on the approved elevation drawings. Any proposed changes shall be submitted to the Gorge Commission for consistency review with this condition of approval.

10. All areas of continuous unscreened surfaces of exterior glass shall be limited to no more than 50 square feet. Prior to framing the dwelling, the applicant shall submit a new fenestration pattern for the living room as indicated on the approved elevation drawings.

11. Maintenance and survival of the landscaping vegetation, which includes the living roof, 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.
12. All 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.

13. 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.

14. The following mitigation measures are required to enhance habitat for western gray squirrel:
   A. Do not cut any tree containing a gray squirrel nest. WDFW recommends a 50-ft no-cut buffer around nest trees to maintain an interlocking tree canopy and minimize disturbance.
   B. Do not cut Oregon white oak, except for habitat enhancement. The landowner is encouraged to reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands.
   C. Promote “oak release” by removing overtopping and encroaching conifers from the vicinity of oak trees on the subject parcel, thereby reducing the competition for light, water, and nutrients.

15. 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.

16. All areas on the property disturbed during construction activities shall be reseeded with grasses from the Recommended Seed Mixes for East Side Environments. Disturbed areas shall be revegetated immediately upon completion of the project (or as soon as possible thereafter if the project is completed during the winter) with at least 80 percent vegetative coverage within 1 year.

17. 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.

18. 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.

19. 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 _18_ day of November 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 _18_ day of November 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 _10_ day of December 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 C20-0010
Approved site plan and elevation drawings
International Dark-Sky Association example sheet of acceptable & unacceptable light fixtures
Recommend Seed Mixes for East Side Environments
Permanent Screening Required

Resubmit with a minimum 18 inches between glazing

Permanent Screening Required
- 3 Skylights at Roof edge
- Roof extended 5 ft, 1½ ft between glass
- 5 Recessed lights
- 19 total Recessed lights
- 8 Ground lights total
- 7 Door lights total

Existing Grade: East

30°, North
GRADING PLAN
PROJECT OVERVIEW - RESIDENCE / DRIVEWAYS / BARN
PARCEL No. 03113452000400
THE E1/2 OF THE NE1/4 OF THE SW1/4 OF THE NE1/4
SECTION 54, T3N, R11E, W.M., KLICKITAT COUNTY, WASHINGTON

NOTES
- Topographic data and boundary provided by Klein & Associates
- Work performed September, 2014.
- No fieldwork performed for this project by Bell Design Company.
- Not intended to be recorded.
- Vertical datum based on NAVD88.

OWNER
JERI RUTHERFORD
6002 S BRENHORN
BOISE, ID 83714

PROPERTY ADDRESS / LEGAL
LOT 4 19TH ST., APR 18750
HOUSE LOCATION APPROX.
900 FEET NORTH OF COURTNEY RD.
KLICKITAT COUNTY, WASHINGTON

LANDSCAPING
1. 300 yr old oak
2. 200 yr old pine
3. 150 yr old oak
4. Clump of oak
5. Immature oak clump
6. 8-10 yr old
7. Mature oak
8. Young oak
9. 20 yr old
10. Remaining property very heavy in oak / some pine

Bell Design Co. makes no warranty as to matters of soil, climate, site such as adverse topography, prescriptive rights, easements, restriction, subsurface, etc., or its liability for such matters. Bell Design Co. shall not be responsible for topographic data, wet and drainage, riparian changes, flood zones, etc.

CLEAR & GRADE PLAN
FOR JER RUTHERFORD
WASCO COUNTY, OREGON

INSET: 1 OF 3
PROJECT: 150292
DATE: JAN, 2020

APPROVED
K.W.
GRADING PLAN
PROJECT OVERVIEW - RESIDENCE / DRIVEWAYS / BARN
PARCEL No. 03113452000400
THE E1/2 OF THE NE1/4 OF THE SW1/4 OF THE NE1/4
SECTION 34, T3N, R11E, W.M., KLICKITAT COUNTY, WASHINGTON

NOTES
- TOPOGRAPHIC DATA AND BOUNDARY PROVIDED BY KLEIN & ASSOCIATES
WORK PERFORMED SEPTEMBER, 2014.
- NO FIELDWORK PERFORMED FOR THIS PROJECT BY BELL DESIGN
COMPANY.
- NOT INTENDED TO BE RECORDED.
- VERTICAL DATUM BASED ON NAVD88.

OWNER
JERI RUTHERFORD
5949 N. BREMERTON
BOISE, ID 83714

PROPERTY ADDRESS / LEGAL
LOT 4 SP 80-11, APN 164-390
HOUSE LOCATION APPROX.
1000 FEET NORTH OF COURTNEY RD.
KLICKITAT COUNTY, WASHINGTON

HORIZONTAL SCALE 1"=40'
CONTOURS @ 2' INTERVALS

Bell Design Co. makes no warranty as to matters of
unwritten title such as adverse possession, prescriptive
rights, easements, estoppels, acquiescence, etc. or to
environmental concerns such as hazardous waste, pollution,
water and delineation, riparian changes, flood zones, etc.

CLEAR & GRADE PLAN
FOR JERI RUTHERFORD
WASCO COUNTY, OREGON

APPROVED
NARRATIVE

AN AREA 9,500 SF WILL BE GRADED FOR A RESIDENCE, GARAGE & PARKING. THE LARGEST CUT WILL BE 13' AND THE LARGEST FILL WILL 7'.

100 LF OF A 12' WIDE DRIVEWAY AT A MAX. 12% SLOPE WILL BE CONSTRUCTED TO THE RESIDENCE, AND ALSO THE BARN SITE FROM AN EXISTING ROAD TO THE SOUTHWEST.

THE ROAD SURFACE WILL CONSIST OF 12' OF ROCK/GRAVEL ADDED, OR 315 YDS ADDED TO GRADED SURFACE.

THIS GRADING PLAN DOES NOT PROVIDE STRUCTURAL DESIGN, DRAINAGE SOLUTIONS, OR RETAINING WALL ANALYSIS.
Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged
Fixtures that produce glare and light trespass

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

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 Streetlight

Unshielded Bollards

Louvered 'Marine' style Fixtures

Unshielded PAR Floodlights

Unshielded 'Period' Style Fixtures

Drop-Lens Canopy Fixtures

Full Cutoff Fixtures

Fully Shielded Wallpack & Wall Mount Fixtures

Fully Shielded Fixtures

Fully Shielded Walkway Bollards

Fully Shielded 'Period' Style Fixtures

Flush Mounted or Side Shielded Under Canopy Fixtures

Full Cutoff Streetlight

Fully Shielded Barn Light

Fully Shielded Decorative Fixtures

Fully Shielded Barn Light

Fully Shielded Decorative Fixtures

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

<table>
<thead>
<tr>
<th>Species</th>
<th>Hand Seeding including Handheld Spreaders</th>
<th>Hydromulcher</th>
</tr>
</thead>
<tbody>
<tr>
<td>blue wildrye (<em>Elymus glaucus</em>)</td>
<td>20 lbs/acre</td>
<td>15 lbs/acre</td>
</tr>
<tr>
<td>California brome (<em>Bromus carinatus</em>)</td>
<td>20 lbs/acre</td>
<td>15 lbs/acre</td>
</tr>
<tr>
<td>slender hairgrass (<em>Deschampsia elongata</em>)</td>
<td>10 lbs/acre</td>
<td>5 lbs/acre</td>
</tr>
<tr>
<td>broadleaf lupine (<em>Lupinus latifolia</em>)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho fescue (<em>Festuca idahoensis</em>)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>50 lbs/acre</td>
<td>35 lbs/acre</td>
</tr>
</tbody>
</table>

## Native Seed Mixture #2: Recommendations for Composition

<table>
<thead>
<tr>
<th>Species</th>
<th>% by wt.</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Brome (<em>Bromus carinatus</em>)</td>
<td>20</td>
</tr>
<tr>
<td>Sheep fescue (<em>Festuca ovina</em>)</td>
<td>40</td>
</tr>
<tr>
<td>Blue wildrye (<em>Elymus glaucus</em>)</td>
<td>10</td>
</tr>
<tr>
<td>Canada bluegrass (<em>Poa compressa</em>)</td>
<td>10</td>
</tr>
<tr>
<td>Blue bunch wheatgrass (<em>Agropyron spicatum</em>)</td>
<td>20</td>
</tr>
<tr>
<td>Sickle-keeled lupine (<em>Lupinus albicaulis</em>)</td>
<td>5 oz./100# seed</td>
</tr>
<tr>
<td>America vetch (<em>Vicia Americana</em>)</td>
<td>5 oz./100# seed</td>
</tr>
</tbody>
</table>

## Non-Native Seed Mixture: Recommendations for Composition and Application Rates

<table>
<thead>
<tr>
<th>Species</th>
<th>Application Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual ryegrass</strong> (<em>Lolium multiflorum</em>)</td>
<td>10 lbs/acre (fine seed)</td>
</tr>
<tr>
<td><strong>Perennial ryegrass</strong> (<em>L. perenne</em>)</td>
<td>10 lbs/acre (fine seed)</td>
</tr>
<tr>
<td>Soft white winter wheat (<em>Triticum aestivum</em>)</td>
<td>40 lbs/acre</td>
</tr>
<tr>
<td>Sickle-keeled lupine (<em>Lupinus albicaulis</em>)</td>
<td>10 lbs/acre</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>70 lbs/acre</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/](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/ac.

**Mulch:** Use certified weed free straw mulch whenever possible. Only 1-2” (2 tons/ac.) 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.nwcb.wa.gov/WWHAM/WWHAM_suppliers.htm](http://www.nwcb.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/](http://www.certifiedwallowacountyhay.com/)
- John Williams, OSU Extension in Wallowa County, 541-426-3143.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.
CASE FILE: C20-0010

PROPOSAL: The Columbia River Gorge Commission has received an application for a new single-family dwelling, a detached garage, an agricultural building, and livestock fencing.

APPLICANT: Jeri Rutherford

LANDOWNER: Jeri Rutherford

LOCATION: The subject property is approximately 5 acres in size and located at 24 Locke Road, east of White Salmon, WA, on Burdoin Mountain, in the Northeast 1/4 of Section 34, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County. Tax Lot Number 03-11-3452-0004/00.

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

Note: According to Section 8(o) of the National Scenic Area Act (NSA), the Forest Service (USFS) designated the subject parcel GMA Small-Scale Agriculture. For the purposes of this development review, the Special Management Area (SMA) guidelines no longer apply to this parcel; they will be reviewed according to the applicable GMA land use and resource protection guidelines.

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 (USFS NSA)
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:

Chris Donnermeyer, Heritage Resource Program Manager, USFS NSA
Steve McCoy, attorney, Friends of the Columbia Gorge
Kristen Teide, archeologist, Confederated Tribes of the Umatilla
Sydney Hanson, Transportation Archeologist, Department of Historic Preservation (DAHP)

A. LAND USE

1. The applicant requests a new single-family dwelling, a detached garage, an agricultural building, and livestock fencing. The subject parcel is 5 acres and lies approximately 1-mile north up Courtney Rd from its intersection with SR 14. The parcel is rectangular in shape (660 ft. north/south x 330 ft. east/west), and covered in dense vegetation, predominately Oregon white oak with a mix of ponderosa pines and other evergreens. The parcel is in the Oak-Pine Woodland landscape setting. There is no prior development on the property.

2. According to the Land Use Designation map in the Management Plan for the Columbia River Gorge National Scenic Area, the subject parcel is located inside the Special Management Area but is designated General Management Area Small-Scale Agriculture with an 80-acre minimum parcel size, pursuant to Section 8(o) of the Scenic Area Act.

   The Forest Service received an offer from then landowner Larney Coverdell, for sale of the parcel on November 18, 1997. The Forest Service did not acquire it, and the property thus became subject to the GMA guidelines on November 18, 2000. The Forest Service designated the land GMA Small-Scale Agriculture with an 80-acre minimum parcel size.

3. 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 the 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 5-acre parcel is Lot 4 of a four-lot subdivision created in 1980 (Short Plat # 80-11, Kenneth T. Heany, recorded May 21, 1980, Klickitat County Auditor’s No. 176750). The subject parcel is a legal parcel, consistent with the definition.
4. Commission Rule 350-81-190(1)(f) allows the following on lands designated Small-Scale Agriculture:

Accessible 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 garage is 672 sq. ft. (24 ft. x 28 ft.), under 1,500 sq. ft., consistent with this rule.

Commission Rule 350-81-020(80) 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.

According to the grading plan, from the highest point of the roof to the lowest finished grade for the garage was 26 ft. tall, inconsistent with this rule. The garage included a 12 ft. tall stem wall on the south facing side with 2 ft. exposed and 8 ft. backfilled to existing grade. As designed, the building was inconsistent with this rule. The applicant collaborated with staff and submitted an updated grading plan that reoriented the building slightly and moved it 20 ft. north west, which significantly reduced the size of the stem wall by 6 ft. The applicant proposes to backfill around the stem wall to make up for the exposed wall. With a condition of approval requiring the stem wall of the garage to be completely backfilled so that the greatest vertical distance between any point of the exposed stem wall and the highest point of the roof is no more than 24 ft. tall, the building would be consistent with Commission Rule 350-81-190(1)(f).

5. The applicant proposes to farm cattle and goats on the subject property. Commission Rule 350-81-020(8) defines agricultural use:

The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

The applicant supplied information as part of the application materials addressing the requirements of Commission Rule 350-81-090(1). The applicant plans on raising the following
livestock to the property: five Highlander cows with five cow/calf pairs in the spring, eight Boer and Alpine goats, and one Jenny mule for predator protection. The cattle operation on the subject property will be managed with two other properties Ms. Rutherford owns in Montana. From April through October the cattle will reside on the grazing acreage in Montana. From November through March, the applicant plans to winter and calve the cattle at the subject property where they can graze on the grasses grown thru the summer and supplement that feed with hay from the larger acreage Montana properties.

Yearly they expect to privately sell five cows at a market price of around $1,200 per cow in November of each year. The applicant will sell the meat from the cattle privately due to the limited inventory being moved each season (5) and the boutique/unique quality of the highland meat.

6. Commission Rule 350-81-190(1)(c) allows agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

The parcel is currently undeveloped, and the agricultural use is proposed. Consistent with this rule, a condition of approval requires the applicant to initiate the proposed agricultural use within one year of the commencement of construction of the agricultural building.

7. Commission Rule 350-81-090 has the following requirements for proposed agricultural buildings:

(1) The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

(2) To satisfy 350-81-090(1), applicants shall submit the following information with their land use application:

(a) A description of the size and characteristics of current agricultural use.

(b) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).

(c) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock)

The applicant supplied a layout of the proposed agricultural building, a barn, as part of the application materials to address the requirements of Commission Rule 350-81-090(1). The barn was designed for the purpose of livestock housing and for storing equipment. The applicant provided floor plans for the barn. The barn will be 48’ x 50’ (2,400 sq. ft. footprint) and 24 ft. tall. The barn includes areas for hay, bedding, tack and equipment storage, a shop area, two 12’ x 12’ stalls, a 12’ x 18’ heated kidding room, and space to store a full size pickup, tractor, hay trailer, cattle trailer, a Bobcat skid steer, and 4-wheeler with a snowplow. The applicant also submitted an agricultural plan for the property that included fencing; the 5 acres will be cross-fenced – temporarily and permanently – to provide for isolation of the residential area and rotation of the livestock.

With a condition of approval requiring the applicant to initiate the proposed agricultural use within one year of the commencement of construction of the agricultural building, staff finds the proposed agricultural building consistent with Commission Rule 350-81-090.
8. The applicant proposes a road, including a vehicle turnaround, to access the property as well as the garage and agricultural building. Commission Rule 350-81-190(1)(l) construction, reconstruction, or modifications of roads not in conjunction with agriculture allows subject to compliance with scenic, cultural, natural and recreation resources guidelines. Commission Rule 350-81-190(1)(b) allows agricultural structures, including roads, in conjunction with agricultural use.

To access the property the applicant worked with USFS to reconstruct and modify portions of USFS road #1828-122 and obtained a USFS Special Use Permit (CRG918) to improve the road access to the property. This previously existing road needed improvements including new culverts and grading. The applicant proposes to modify the existing road on the property for use as a driveway and proposes new segments of road for a vehicle turnaround and for access to the garage and agricultural building. The proposed road is compliant with Commission Rule 350-81-190(1)(b) and (l).

9. Commission Rule 350-81-190(1)(b) allows agricultural structures including fences, in conjunction with agricultural use, provided the fence complies with 350-81-580(6) if it is inside deer and elk winter range. The subject parcel is within winter range. The applicant proposes to enclose the 5-acre parcel with stock fencing and install movable cross fencing. Section D of this Staff Report contains staff review for consistency with Commission Rule 350-81-580(6).

10. 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 parcel adjacent to the subject parcel to the north is designated GMA Small-Scale Agriculture. The parcels adjacent to the subject parcel to the east, south and west are designated SMA Agriculture and 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. Currently, the lands between the subject parcel and the adjacent parcel to the north is heavily vegetated with trees creating a vegetative barrier. According to Commission rule 350-81-076, the setback requirement is 15 ft. As proposed, all buildings are sited at least 15 ft from the northern property boundary, consistent with this rule.
CONCLUSION:

With conditions of approval requiring the applicant to initiate the proposed agricultural use within one year of the commencement of construction of the agricultural building, the new single-family dwelling, detached garage, agricultural building, and livestock fencing 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 applicant has sited the dwelling, accessory building and barn in the northwest corner of the property. The location of the buildings is near existing USFS road #1828-122, reducing the need for new road segments. The property is generally steep, but the location where the applicant has sited the home, near the existing road, has some flatter areas that are more suitable for building and take advantage of existing topography. The applicant provided a grading plan and narrative with the application. After meeting with the applicant on site and reviewing the grading plan, a location for the barn was selected that was different than the original site and greatly reduced the grading, including the size of the retaining wall. The orientation of the dwelling and garage were also slightly shifted slightly to reduce 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 surrounding the subject parcel within a half mile. Staff chose the half mile study area because all the parcels are within the same Oak-Pine Woodland landscape setting as the subject property and have similar visibility from KVAs.

Of the 45 parcels in the study area, staff identified 17 parcels with development. There are currently 29 known buildings in the study area. These buildings include single-family dwellings, mobile homes, garages, agricultural structures, and smaller accessory structures. Buildings range in size from 60 sq. ft. to 4,462 sq. ft. Nearby single-family dwellings range in size from 949 to 4,462 sq. ft.

When calculating the general scale of buildings, staff calculates the area of covered decks and half of the area of daylight basements. Only half of the area of a daylight basement is included because this guideline considers the size of the building as seen in the landscape, and generally only half or less of a daylight basement is visible above ground. The second story is 60 ft. x 40 ft. and the covered deck space is 25 ft. x 12 ft., or 2,700 sq. ft. The daylight basement, or the first story, including covered decks is 66 ft. x 50 ft., or 3,300 sq. ft. Half of 3,300 sq. ft. plus 2,700 sq. ft. equals 4,350 sq. ft. total size for the dwelling. It is 31 ft. tall. Nearby dwellings also range in height up to 2 stories and 31 ft. tall. The general scale of the proposed dwelling – including the square footage and height – is compatible with the general scale of existing nearby development, consistent with Commission Rule 350-81-520(1)(b).
The garage is 672 sq. ft. (24 ft. x 28 ft.), under 1,500 sq. ft., 24 ft. tall, and consistent with Commission Rule 350-81-190(1)(f) as discussed in Finding A3. The barn is 48 ft. x 50 ft. (2,400 sq. ft. footprint) and 24 ft. tall, consistent with Commission Rule 350-81-090 as discussed in Finding A6. Staff finds the three buildings are compatible with 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 landscape plan, which includes the living roof of the dwelling, is approved with a condition of approval requiring the applicant to submit an irrigation plan that ensures the proper maintenance and survival of planted vegetation. In order to mitigate for alterations to the vegetative cover and natural characteristics of the site, a condition of approval is included requiring all areas disturbed during construction activities to be reseeded. Consistent with this rule, a condition of approval is included that requires disturbed areas to revegetated immediately upon completion 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. Staff is providing the handout, List of Recommended Seed Mixes for East Side Environments, as an attachment to the Director's Decision, which has options of seed mixes available locally for drier eastern gorge climates. With a condition of approval requiring an irrigation plan, the proposal is consistent with Commission Rule 350-81-520(1)(c).

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 Woodland. Commission Rule 350-81-520(3)(c) contains design guidelines for proposed uses in the Oak-Pine Woodlands landscape setting. Findings B.23 through B.25 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 apply to developments on sites visible from KVAs. Staff analyzed the visibility of the proposed development on the subject parcel by conducting site visits and using geospatial mapping tools, including ArcGIS and Google Earth, and determined the subject parcel is topographically visible from five KVAs: Columbia River, Historic Columbia River Highway, I-84, Rowena Plateau, and SR-14. Because the development site is visible from KVAs, the guidelines of Commission Rule 350-81-520(2) apply to the proposed development.

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:
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.

As discussed in the following findings, the proposed development is designed to be visually subordinate. Several factors ensure the proposed building will be visually subordinate as viewed from KVAs: viewing distance, building proportions, dark earth tone colors, nonreflective building materials, existing topography and vegetation, and new landscaping. The findings in this Staff Report include conditions of approval in accordance with this rule.

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 the adjacent and nearby lands in the Oak-Pine Woodland landscape setting within a half mile of the subject parcel. As seen from KVAs, the subject parcel is in an area where existing dwellings are visible but sparsely scattered throughout the landscape. The steep and undulating topography of the area and thick stands of oak and pine trees serve to partially screen these buildings, helping to make them visually subordinate from KVAs. Buildings range in size from 60 sq. ft. to 4,462 sq. ft. Nearby single-family dwellings range in size from 949 to 4,462 sq. ft. The total square footage of the proposed dwelling is 4,300 sq. ft., which is smaller than the largest dwelling, but still be one of the largest buildings in the study area. For analysis, staff assumes that all existing dwellings on surrounding lots could be replaced in the future, subject to review.

The proposed development is designed to be visually subordinate. If new buildings in the vicinity of the proposed development are built according to applicable Land Use Designations and 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 required to be visually subordinate. Similarly, the design guidelines for substantially wooded portions of the Oak-Pine Woodland landscape setting in the GMA recommend that except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from KVAs shall be retained. If new buildings are built in a comparable manner to the proposed development and held to the same scenic resource protection standards, there will be no significant increase in the visibility of new development on the landscape, and adverse cumulative effects to scenic resources will be avoided and potentially improved. Development designed and sited to fit with the landscape setting and achieve the scenic standard visually subordinate will not generate adverse cumulative scenic impacts.

There will not be any visual effects from KVAs in the foreground because no development in the study area will be visible in the foreground of any KVA. The development will be visible from KVAs further away, such as I-84 and the Historic Columbia River Highway. From these KVAs, there is already limited existing development in the viewshed. Generally, however, buildings in
these viewsheds are clustered together and appear part of the scattered rural residential development that exists in the landscape and consistent with the Landscape Setting guidelines.

According to data from Klickitat Assessor Records, within the study area there are 45 parcels. Most of the parcels, comprising approximately 333 acres, are owned by the USFS. Government owned land in the National Scenic Area is not typically developed, so staff assumes that government-owned lands near the subject parcel will not be developed. The remaining 19 parcels are privately-owned. Of the 19 privately-owned parcels, 15 are developed with dwellings and accessory structures. Three of the privately-owned parcels are undeveloped. Three of the undeveloped privately-owned parcels can be developed in the future and are designated GMA Small-Scale Agriculture with a minimum parcel size of 80 acres by the USFS, according to Section 8(o) of the National Scenic Area Act. Staff assumes for this analysis that these three parcels will someday be developed with a dwelling and accessory structures. The other undeveloped privately-owned parcel is designated SMA Agriculture. According to Commission Rule 350-81-190(c)(D), the minimum parcel size for new dwellings on parcels designated SMA Agriculture is 40 acres and the parcel is larger than 40 acres. Staff assumes this parcel will be developed.

The 80-acre minimum in the GMA prevents any land divisions, and there are no land divisions allowed in SMA except where a land division would facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan (Commission Rule 350-81-124(1)). Such a land division would create additional developable parcels but is held in federal ownership and unlikely to contribute to any cumulative impacts.

It is unlikely that there would be multiple similar developments on the ‘same piece of ground’, given the limitations on the number of dwellings, the property size, and the size of the proposed accessory building and agricultural building. While additional dwellings for agricultural labor housing or a dwelling for an agricultural operator’s relative are allowed uses on the subject property, the need for any such additional dwellings would be based on necessary 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 Area (KVA)</th>
<th>Foreground (0 - 1/4 Mile)</th>
<th>Middleground (1/4 - 3 Miles)</th>
<th>Background (Over 3 Miles)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Columbia River</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Historic Columbia River Highway</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Interstate 84</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Washington State Route 14</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

The site is visible from the five KVAs listed in Finding B.5. The site is not visible in the foreground of any KVA. The closest KVA is Washington State Route 14 (SR 14) at a distance of approximately .5 miles. The farthest KVA is Tom McCall Viewpoint, at a distance of approximately 5.5 miles. Using GIS inventories and conducting site visits, staff found that the proposed building site is visible intermittently along SR 14 in the middle ground for .3 miles, I-84 in the middle ground for 2.25 miles, the Columbia River in the middle ground for 2.14 miles, and the Historic Columbia River Highway for 4.5 miles in the middle ground and .2 miles in the background.

The elevation of the development site is approximately 700 ft. The site is only visible from one higher elevation KVA, Tom McCall Viewpoint (approximately 1,700 ft. elevation). From this KVA, existing vegetation both on and off the subject parcel provides effective screening because the site is located in the background, 5.5 miles away. At that viewing distance the development will appear insignificant in the landscape and not be visible to the unaided eye.

As seen from lower-elevation KVAs in the middle ground, I-84, the Columbia River, and SR-14, the development site is topographically visible because the southern slope of the hillside angles downward towards these KVAs. However, these KVAs are much lower in elevation than the development site, and the development site and the surrounding areas are densely covered in tall trees which help to screen the development from view of KVAs.

The site is most visible from the Historic Columbia River Highway (HCRH). The bike path and road, which extends from Hood River to The Dalles, is at approximately 500 ft. elevation until it travels through Mosier, before climbing back up to elevation. The development is intermittently visible for 4.5 miles along the HCRH. Because the elevation of the site and the HCRH are similar, the building site will be more visible from this KVA than other nearby KVAs and will not be screened as effectively by existing vegetation as from other KVAs.

As explained below, conditions are applied to the development’s color and reflectivity to ensure the development is visually subordinate to its setting as seen from KVAs. The applicant has proposed a design for the dwelling that is compatible with existing development and has square proportions. Well-spaced windows on the building facade will also help it blend with the landscape. With the retention of the existing trees around the house, the roof will blend with the backdrop and not noticeably contrast with the landscape. The applicant also proposes deep eaves on the south side of the house to help shade the main story windows. The second story deck will shade the daylight basement, reducing the reflectivity of those windows. The dwelling has been designed to blend well with the surrounding landscape.
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

Factors contributing to the visibility of the development include distance from KVAs, proportions of the dwelling, dark earth tone colors, low reflectivity building materials, existing vegetation, and new landscaping. The Director’s Decision contains requirements and conditions of approval to ensure the development is visually subordinate, consistent with this rule.

The proposed dwelling, garage and barn are sited on portions of the subject parcel that minimize visibility from KVAs. No other location on the subject property would have afforded additional topographic or vegetative screening.

The applicant has proposed a design for the house that is compatible with existing development and has square proportions. The building is 60 ft. long and has a maximum final height of 31 ft. from the lowest adjacent grade to the highest point of the roof. Finding B.16 addresses the colors of the development which are dark earth tone colors found at the site. Finding B.17 addresses building material reflectivity including windows. Conditions have been applied to ensure compliance with these aspects of the design.

The subject property is densely vegetated and no new landscaping is required to screen the development from KVAs. The subject property is predominately covered in thick vegetation including mature oak, pine and fir trees which provide ample screening from KVAs. Although the oak trees are deciduous, they provide year-round screening at the site because of the density of the branches. The property in the Oak-Pine Woodland landscape setting and consistent with those guidelines, a condition of approval is included that requires the applicant to retain the existing tree cover on the property to help screen the development from KVAs, except for dead trees or other trees that may pose a hazard.

In order to mitigate for alterations to the vegetative cover and natural characterizes of the site, a condition of approval is included requiring all areas disturbed during construction activities to be reseeded 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. Staff is providing the handout, List of Recommended Seed Mixes for East Side Environments, as an attachment to the Director’s Decision, which has options of seed mixes available locally for drier eastern gorge climates.

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 or 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:

\[
\text{New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordinance from Key Viewing Areas.}
\]

The parcel is found on the steep slopes of Burdoin Mountain at 700 ft. elevation. Slopes on the parcel are moderate. The entire parcel is covered in trees, predominately mature oaks with a mix ponderosa pines and other evergreens which provide ample screening from KVAs. Although the oak trees are deciduous, they provide year-round screening at the site because of the density of the branches. The proposed development is sited near existing USFS road #1828-122.

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

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

The subject parcel is in the Oak-Pine Woodland 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:

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

The subject property is at an elevation of 700 ft., partway up the steep slopes of Coyote Wall which reaches an elevation of over 1,300 ft. The land continues to rise steeply behind the development as seen from all KVAs, creating a large background and keeping the proposed development below the skyline created by the ridge of Coyote Wall. As currently constructed, all of the proposed buildings are consistent with this rule.

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

\[
\text{The following guidelines shall apply to new landscaping used to screen development from key viewing areas:}
\]

(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).

No new landscaping is required to screen the development from KVAs.

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.

For the dwelling, garage, and barn the applicant has proposed Benjamin Moore Boreal Forest (AF-480) for the exterior walls and Behr Black Bamboo (N380-7) for the trim and doors. The roof will be a combination of mixed materials including a black asphalt architectural shingles, glass, and a membrane roof with vegetative cover (living roof). The shingles will be Pabco Antique Black. The living roof is designed by Columbia Green Technologies (CRT), from Portland, OR. CRT has designed a containerized roofing system that can support a variety of custom perennials and ground covers suited for the regional climate. The applicant has chosen plants that are hearty, drought-tolerant and non-invasive including wooly veronica, Turkish speedwell, thyme, stonecrop, beach strawberry, and bellflower.

These dark earth-tone green, gray and black tones are found within the shadows of the surrounding landscape. A condition of approval requires all exterior surfaces of the proposed development, including roof, doors, siding, trim, window casing and sash, decks, and railings to be these specific 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 dwelling and garage are BamCore bamboo siding, glass windows, and a roof with a combination of mixed materials including a black asphalt architectural shingles, glass and a “living roof,” a membrane roof with vegetative cover. The wood siding and living roof have minimal reflectivity. The deck will be black fiberglass. The railings will be thin
galvanized threaded cable. The barn will be composed of materials with minimal reflectivity including wood T-111 siding and black asphalt architectural shingles for the roof.

The dwelling has several large expanses of glass windows exposed to KVAs. The Scenic Resources Implementation Handbook recommends limiting continuous unscreened glass to 50 sq. ft. to prevent adverse impacts to scenic resources but suggests larger areas of glass may be used if visual impacts are reduced by other measures.

The applicant proposes a screened-in porch on the second story of the dwelling in front of the dining room that includes a glass roof. The screened-in porch provides screening for this fenestration. The applicant has chosen Snapp Pool and Patio Screen for the screening. A condition of approval requires the screening be retained year-round to reduce the reflectivity of continuous glass.

As proposed, the fenestration pattern for the living room has over 50 sq. ft. of unscreened continuous glass. The applicant discussed the issue with staff and decided to add 18 inches of space between the sliding doors. A condition of approval requires the applicant to submit a new fenestration pattern for the living room, prior to framing the dwelling, that demonstrates this requirement.

The Scenic Resources Implementation Handbook suggests that the use of glass with 11% reflectivity may be allowable when development is located beyond the foreground of KVAs and when partially screened by topography and vegetation. The applicant has chosen Kolbe windows and LaCantina glass doors for the exterior of the building. Staff verified the glass has an external reflectivity of 11%. To ensure the replacement dwelling is not composed of reflective materials, the applicant also proposed a design that limits reflective materials to 30 percent of the total surface area of any wall exposed to a KVA.

In sum, with conditions of approval requiring low or non-reflective materials, limiting the amount of continuous glass on windows, doors and the roof to 50 sq. ft., and a condition of approval requiring the screening for the second story porch be retained year round, the proposed development is consistent with Commission Rule 350-81-520(2)(m).

17. Commission Rule 350-81-520(2)(n) states:

In addition to the site plan requirements in 350-81-032(5), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)’ height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

A site plan was provided consistent with Commission Rule 350-81-032 (Application for Review and Approval) and Commission Rule 350-81-520(2)(n).

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

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

The applicant proposes 18 exterior lighting fixtures for the dwelling: four entry way lights, 10 eave lights, 2 wall lights, and 8 pathway lights. The applicant also proposes 9 exterior lighting fixtures for the garage: one light for each entry way, six eave lights, and one wall light in between
the garage doors. 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 also provided the applicant with examples of acceptable light fixtures from International Dark-Sky Association as an attachment with this decision.

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

Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized.

The subject parcel is setback from the Columbia River approximately .4 miles, consistent with this rule.

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

New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent. Variances to this guideline may be authorized if the guideline's application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be used.

The applicant provided a grading plan that includes a cross section and narrative. At the site of the home, the slope of the building site is 28 percent, consistent with this rule.

21. 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.

Consistent with this rule, a condition is also included in this decision requiring all disturbed areas to be reseeded with grasses from the Recommended Seed Mixes for East Side Environments and that disturbed areas are 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.

22. 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.

The applicant provided a grading plan prepared by Bell Design Company consistent with the guidelines of this rule. According to the grading plan, the development including roads, dwelling, garage, and barn will require 1,695 cu. yds. of cut material and 508 cu. yds. of fill material.

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

24. 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.

The parcel is primarily covered by trees and thick vegetation, and mature trees vary in height from 30 ft. to 50 ft. Trees present on the parcel are a mix of ponderosa pine and Oregon white oak. The height of the proposed dwelling is 31 ft. and the height of both the garage and barn are 24 ft. The height of each building is lower than tree canopy level on parcel, consistent with this rule.

25. 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 subject property is primarily covered by trees and thick vegetation. No other location on the subject property would have afforded the applicant more topographic screening from KVAs. A condition of approval requires retaining the existing tree cover on the property, which helps screen the development from KVAs, except for dead trees or other trees that may pose a hazard.

CONCLUSION:

With conditions of approval regarding the color of the buildings, outdoor lighting, 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 USFS Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination, dated June 2, 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 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 June 2, 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, 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 May 20, 2020, and the comment period ended June 10, 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 on the subject parcel. 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. Commission inventories show an intermittent stream and freshwater pond approximately 300 feet away from the proposed development site on an adjacent parcel designated SMA Agriculture, which is greater than the applicable water resource buffers for SMA water resources and GMA water resources. 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 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 Amber Johnson, with Washington Department of Fish and Wildlife of the proposed development and sent a copy of the site plan on May 20, 2020. No comments were received.

6. According to Commission Rule 350-81-580(4)(c) and (d) the wildlife protection process may conclude if the proposed use would not compromise the integrity of the wildlife area or if the proposed use would have only minor effects that can be eliminated by simply modifying the applicant’s site plan.

   WDFW does not provide management recommendations for black-tail deer. Commission Rule 350-81-580(6) address new fencing in deer and elk winter range and is addressed below.

7. The proposed development takes place in the Oak Pine Woodland landscape setting, and there are several Oregon white oak trees on site. While this area is not a priority habitat for Oregon white oak, Oregon white oak is an important tree species in the eastern Columbia Gorge, and conservation of Oregon white oak trees protects habitat for many animal species, including the Western gray squirrel which is a protected species in Washington State. To ensure the integrity of western gray squirrel habitat on subject parcel, the following recommendations are included as conditions of approval:
   
   A. Do not cut any tree containing a gray squirrel nest. WDFW recommends a 50-ft no-cut buffer around nest trees to maintain an interlocking tree canopy and minimize disturbance.
   
   B. Do not cut Oregon white oak, except for habitat enhancement. The landowner is encouraged to reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands.
C. Promote “oak release” by removing overtopping and encroaching conifers from the vicinity of oak trees on the subject parcel, thereby reducing the competition for light, water, and nutrients.

Due to the size and nature of the development, with these conditions of approval, staff does not believe the proposed development compromises the integrity of the parcel as a wildlife site.

8. 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 intends to raise cows and goats on the property and proposes to enclose the five-acre property with fencing. A condition of approval is included requiring the perimeter fencing to meet these standards.

9. 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 size and location of the development.
10. 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 Big White Salmon River Winter Range is approximately 16,000 acres spanning three to four miles on either side of the White Salmon 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.

WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will have little 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.

11. 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.

The proposed development is located near USFS lands associated with the Coyote Wall recreation site and is .4 miles north west of the Coyote Wall trailhead. While the proposed development will be topographically visible from the Coyote Wall recreation site, intervening vegetation and the dark-earth tone colors of the development will limit its visibility for recreation users at that site. Staff finds the proposed residential and agricultural use of the parcel will not detract from the use and enjoyment of the Coyote Wall recreation site.
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 requirements for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments.

   The subject parcel has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four Treaty Tribe governments on May 20, 2020. The notice included a comment period of 21 days that ended on June 10, 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 Indian tribe.

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