CASE FILE: C20-0012

PROPOSAL: The Columbia River Gorge Commission has received an application for a new accessory building.

APPLICANT: Eric Becker

LANDOWNER: John and Megan Murphy

LOCATION: The subject property is 5 acres, located in the northwest 1/4 of Section 34, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, WA, tax lot: 03-11-3457-0004/00.

LAND USE DESIGNATION: Special Management Area – Agriculture

DECISION: Based upon the following findings of fact, the land use application by Eric Becker, for an accessory building, 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 C20-0012, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor’s Office. Once recorded, the applicants shall submit a copy of the recorded 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 roads, buildings, 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 accessory structure shall be used in a manner that is incidental and subordinate to the existing dwelling. The accessory structure shall not contain appliances distinctive of a cooking area or kitchen including, but not limited to, a stove, range, refrigerator, kitchen sink or other appliances for food preparation, storage, and clean up. The accessory structure shall not be used as a second dwelling unit or a short-term rental.

6. 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 materials and colors submitted by the applicants for the exterior of the house are consistent with this condition and are hereby approved:

   - Exterior: Corten® weathered steel, pre-rusted
   - Trim: matte, low-gloss black
   - Roof: membrane roof with dark basalt gravel ballast

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

7. The Corten® weathered steel siding shall be the approved dark earth-tone rusted color and have a rusted finish at the time of installation. The Corten steel shall not be installed prior to the completion of the rusting process. All exterior building materials, including the siding roof, doors, siding, trim, window casing and sash, decks, and railings shall be nonreflective or have low reflectivity. Exterior metal materials shall be painted with a matte, low-gloss black colored finish and maintained as necessary to ensure that the material is non-reflective.

8. All windows shall be composed of low-reflectivity glass. A reflectivity rating of 11% is required. The applicant has chosen Anderson 100 series windows with Low-E glass for exterior of the building. Any proposed changes shall be submitted to the Gorge Commission for consistency review with this condition of approval.

9. All outdoor lighting shall be directed downward and sited, hooded, and shielded. 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 site plan.

11. All disturbed areas on the property disturbed during construction activities shall be reseeded with grasses from the Recommend 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.
12. 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.

13. 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.

14. 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 3rd day of November 2020 at White Salmon, Washington.

[Signature]
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 3rd 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 3rd 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 C20-0012
Approved site plan and elevation drawings
International Dark-Sky Association example sheet of acceptable & unacceptable light fixtures
Recommend Seed Mixes for East Side Environments
Recommened Seed Mixes, Mulch, and Fertilizer
for Temporary and Permanent Revegetation in **East Side** Environments

Based on recommendations from Andrea Ruchty, district botanist, GPNF, Mt. Adams Dist., and Robin Dobson, CRGNSA botanist

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

<table>
<thead>
<tr>
<th>Native Seed Mixture #2: Recommendations for Composition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species</td>
</tr>
<tr>
<td>California Brome (Bromus carinatus)</td>
</tr>
<tr>
<td>Sheep fescue (Festuca ovina)</td>
</tr>
<tr>
<td>Blue wildrye (Elymus glaucus)</td>
</tr>
<tr>
<td>Canada bluegras (Poa compressa)</td>
</tr>
<tr>
<td>Blue bunch wheatgrass (Agropyron spicatum)</td>
</tr>
<tr>
<td>Sickle-keeled lupine (Lupinus albicaulis)</td>
</tr>
<tr>
<td>America vetch (Vicia Americana)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Non-Native Seed Mixture: Recommendations for Composition and Application Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species</td>
</tr>
<tr>
<td>Annual ryegrass (Lolium multiflorum)</td>
</tr>
<tr>
<td>Perennial ryegrass (L. perenne)</td>
</tr>
<tr>
<td>Soft white winter wheat (Triticum aestivum)</td>
</tr>
<tr>
<td>Sickle-keeled lupine (Lupinus albicaulis)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
</tr>
</tbody>
</table>

Herbaceous plants can be added after seeding:

- *Chrysothamnus nauseosus* (rabbitbrush) 1-2 oz./ac.
- *Achillea millefolium* (Yarrow) 1-2 oz./ac.
- *Eriogonum strictum* 1-2 oz./ac.
- *Lupinus bicolor* or *L. 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: I 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 Crutchcr, Stanwood, WA, 360-939-2334 (he will deliver for a charge, is generally sold out by spring).
- Wallowa County Hay Growers Association:
- John Williams, OSU Extension in Wallowa County, 541-426-3143.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.
Examples of Acceptable / Unacceptable Lighting Fixtures

**Unacceptable / Discouraged**
Fixtures that produce glare and light trespass

- Unshielded Floodlights or Poorly-shielded Floodlights
- Unshielded Wallpacks & Unshielded or Poorly-shielded Wall Mount Fixtures
- Drop-Lens & Sag-Lens Fixtures w/ exposed bulb / refractor lens
- Unshielded Streetlight
- Unshielded Barn Light
- Unshielded PAR Floodlights
- Unshielded 'Period' Style Fixtures
- 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
- Fully Shielded 'Period' Style Fixtures
- Flush Mounted or Side Shielded Under Canopy Fixtures
- Shielded / Properly-aimed PAR Floodlights

Illustrations by Bob Croft © 2005, Rendered for the Town of Southampton, NY. Used with permission.
CASE FILE: C20-0012

PROPOSAL: The Columbia River Gorge Commission has received an application for a new accessory building.

APPLICANT: Eric Becker

LANDOWNER: John and Megan Murphy

LOCATION: The subject property is 5 acres, located in the north west 1/4 of Section 34, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, WA, Tax Lot: 03-11-3457-0004/00.

LAND USE DESIGNATION: Special Management Area (SMA) – Agriculture

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

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

Written comments were received from Steve McCoy, Attorney for Friends of the Columbia River Gorge.
A. **LAND USE**

1. The subject parcel is 5 acres and lies approximately 1-mile up Courtney Rd from its intersection with SR 14. The parcel is rectangular in shape (660 ft. x 330 ft.), and covered in dense vegetation, predominantly a mix of ponderosa pines and Oregon white oak. The parcel is in the Oak-Pine Woodland landscape setting.

2. There are no previous Director's Decisions that apply to the parcel. Director's Decision C11-0008 approved a replacement dwelling that was never constructed. Current development on the property includes the existing manufactured home.


   Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 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 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
   
   (B) The height of any individual accessory building shall not exceed 24 feet.

   There are no other accessory buildings on the subject parcel. The proposed building has a 440 sq. ft. footprint (20 ft. x 22 ft.) and a height of 16 ft., consistent with this rule.

4. Commission Rule 350-81-020(2) defines accessory structure/building as:

   A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use...

   Commission Rule 350-81-190(2)(c) allows one single-family dwelling necessary for and accessory to agricultural use. Commission Rule 350-81-020(53) defines dwelling unit as:

   A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

   The site plan for the application included interior floor plans for the accessory structure. The floor plans did not show any interior kitchen appliances, such as a range, oven, or refrigerator, or any other feature distinctive of a cooking area or kitchen other than a bar sink. As proposed, the accessory structure does not meet the definition of a dwelling unit. A condition of approval states that the accessory structure shall not contain appliances distinctive of a cooking area or kitchen and shall be used in a manner that is incidental and subordinate to the existing dwelling. A condition of approval states that the use of the accessory structure as a second dwelling is not permitted.

   Commission Rule 350-81-190(2)(k) allows as a reviewable use *Bed and Breakfast Inns*, but the applicant has not applied for a bed and breakfast inn or other type of short-term rental facility. As proposed, the accessory structure is consistent with Commission Rule 350-81-190(2)(i) that
allows accessory buildings. A condition of approval is included in the decision to alert the landowner that the accessory building may not be used as a short-term rental or second dwelling.

CONCLUSION:

The proposed development is a review use on lands designated SMA Agriculture, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources in the National Scenic Area.

B. SCENIC RESOURCES

1. Commission Rule 350-81-530(1)(a) includes design rules for lands within SMAs based on Landscape Setting, regardless of visibility from Key Viewing Areas (KVAs). The subject parcel is in the Oak-Pine Woodland Landscape Setting. Commission Rule 350-81-530(1)(a)(B) states:

   Coniferous Woodland and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland and Oak-Pine Woodland landscape.

   (i) Buildings shall be encouraged to have a vertical overall appearance in the Coniferous Woodland landscape setting and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

   (ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

   The property is in the Oak-Pine Woodland landscape setting and consistent with those guidelines, a condition of approval is included that requires the applicant to retain existing tree cover on the property to preserve the overall appearance of a woodland landscape, except for dead trees or other trees that may pose a hazard. The subject property is densely vegetated with Oregon white oak and scattered ponderosa pine and Douglas fir. No new landscaping is required for scenic resource protection. The proposed building includes a shed roof, giving it a square, horizontal appearance. With a condition of approval requiring the retention of the existing trees on the property, the development is consistent with this rule.

2. Commission Rule 350-81-530(2) includes rules for development and uses visible from KVAs. Commission Rule 350-81-530(2)(a) states,

   The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

   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 350-81-530(2) apply to the proposed development.

3. Commission Rule 350-81-530(2)(b) states:

   New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas.”
Commission Rule 350-81-530(2)(c) specifies the scenic standard for all developments and uses on lands designated Agriculture in the Oak-Pine Woodland Landscape Setting is visually subordinate.

Commission Rule 350-81-020(170) defines visually subordinate as:

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: distance from KVAs, elevation above KVAs, existing topography, building proportions, exterior building materials, dark earth tone colors, and retention of existing vegetation. The findings in this staff report include conditions of approval in accordance with this rule.

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.

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. The design guidelines for the Oak-Pine Woodland landscape setting in the SMA recommend that woodland areas retain the overall appearance of a woodland landscape and require development to utilize existing topography, retain vegetation, use a design that fits with the landscape setting, and use exterior materials that are dark earth-toned and low or non-reflective. If new buildings are built in a comparable manner to the proposed development and held to the same resource protection standards, there will be no significant increase in the visibility of new development on the landscape, and thus adverse cumulative effective to scenic resources will be avoided. Development designed and sited to 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.
It is possible there could be additional similar developments on the 'same piece of ground,' given the limitations on the number of dwellings and the size limitations of accessory buildings. As proposed, the footprint of the building is 440 sq. ft., and Commission Rule 350-81-190(1) allows additional accessory buildings on the parcel. Agricultural building and additional dwellings for agricultural labor housing or for an agricultural operator's relative are allowed uses on the subject property, but the landowner would be required to demonstrate a need for any such additional development in support of agricultural use.

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 United States Forest Service. 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. 15 of the 19 privately-owned parcels are developed with dwellings and accessory structures. 3 of the undeveloped privately-owned parcels can be developed in the future and are designated General Management Plan (GMA) Small-Scale Agriculture with a minimum parcel size of 80 acres by the Forest Service, according to Section 8(o) of the National Scenic Area Act. Staff assumes for this analysis that each of these 3 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 assume 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 the land is held in federal ownership and unlikely to contribute to any cumulative impacts.

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)

4. Commission Rule 350-81-530(2)(d) states,

   In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

The parcel is in the Oak-Woodland landscape setting and the scenic standard is visually subordinate. The adjacent natural landscape to the proposed development is characterized by thick tree coverage, primarily mature Oregon white oaks with a mix of ponderosa pine trees and a ground cover of seasonally light green and brown grasses. Building size, exterior building materials and dark earth tones, and retention of existing vegetation and topography help the development blend with the adjacent landscape as seen from KVAs without the need for new landscaping. The building has a modest 440 sq. ft. footprint, and the height is 16 ft., below average tree height. The development requires minimal grading and existing mature tree cover is being retained. Exterior building materials are dark earth tone colors that are as dark or darker than the shadows of natural elements in the surrounding landscape. With the conditions of approval requiring non-reflective exterior materials and dark earth-tone colors, retention of existing tree cover, and that all disturbed areas are revegetated with native vegetation, the new development is consistent with Commission Rule 350-81-530(2)(d).
5. Commission Rule 350-81-530(2)(e) states,

*Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.*

The subject property slopes southward with no opportunity to use topographic features to screen new development. The property is heavily wooded, primarily with oak, ponderosa pine and fir trees. The only significant areas cleared of trees are the driveway, building site, and a fuel break area below the proposed building. Because the site is heavily wooded, only a small portion of the building will be visible from KVAs. In order to minimize the visible grading, 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 and that disturbed areas are 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 Recommend 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.

6. Commission Rule 350-81-530(2)(f)(A) states:

*The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.*

(A) Decisions shall include written findings addressing the factors influencing the degree of visibility, 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 the site is visible.
(v) The linear distance along the Key Viewing Areas from which the building site is visible.

<table>
<thead>
<tr>
<th>Key Viewing Area (KVA)</th>
<th>Foreground 0 - 1/4 Mile</th>
<th>Distance Zone</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>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interstate 84</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington State Route 14</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

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 provide effective screening because the site is located in the background, 5.5 miles away.

As seen from lower-elevation KVAs in middle ground, like I-84, the Columbia River, and SR-14, the development site is topographically visible because the southern slope of the hillside angles downhill 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.

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 arrives in 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.

The subject parcel is at an elevation of approximately 900 ft., much higher than most of the KVAs from which it is visible. However, most of the building site is not exposed to KVAs because of the distance from KVAs, elevation of the site above KVAs, and the presence of existing screening vegetation.

7. Commission Rule 350-81-530(2)(f)(B) states:

The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

(B) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for 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), and
(iv) New landscaping.

Factors contributing to the visibility of the development include distance from KVAs, building proportions, use of exterior building materials and colors that blend with the landscape, retention of existing trees, and elevation above KVAs. The Director’s Decision contains requirements and conditions of approval to ensure the development is visually subordinate, consistent with this rule.

The proposed accessory building is 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 subject property is densely vegetated and no new landscaping is required to screen the development from KVAs. Existing vegetation, primarily oak trees, screens most of the existing dwelling from KVAs. Although the oak trees are deciduous, they provide year-round screening at the site because of the density in number and the density of the branches. Two small oak trees will be removed to accommodate the building footprint. None of the vegetation to be removed would screen the building from KVAs. The development has been designed to retain screening
vegetation. The property is in the Oak-Pine Woodland landscape setting and consistent with the
those guidelines, a condition of approval is included requiring 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. Additionally, another condition of approval is included
requiring all areas disturbed during construction activities to be reseeded with grasses from the
Recommended Seed Mixes for East Side Environments and that disturbed areas are 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.

The applicant has proposed a design that is compatible with existing development. The building is
modestly sized, and has a 440 sq. ft. footprint (20 ft. x 22 ft.) and a height of 16 ft. The proposed
building includes a shed roof, giving it a square, horizontal appearance consistent with the
landscape setting design guidelines. Finding B.11 addresses the colors of the development which
are dark earth one colors found at the site. Finding B.12 address building material reflectivity
including windows. Finding B.13 addresses exterior lighting on the building. Conditions are
included in the decision to ensure compliance with these aspects of the design.

In sum, with conditions of approval regarding the retention of existing vegetation, reseeding of
disturbed areas, and exterior building materials and colors that will not noticeably contrast with
the landscape, the development will be visually subordinate as seen from KVAs without the need
for new landscaping, consistent with this rule.

8. Commission Rule 350-81-530(2)(g) states,

Sites approved for new development to achieve scenic standards shall be consistent
with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites
and the buffer zones of each of these natural resources, and guidelines to protect
cultural resources.

As addressed in Sections C and D, the proposed development is consistent with the applicable
cultural resource rules in Commission Rule 350-81-550 and natural resource rules in Commission
Rule 350-81-600.

9. Commission Rule 350-81-530(2)(h) states,

Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as
seen from key viewing areas.

The subject property is at an elevation of 900 ft., partway up the steep slopes of Burdoin Mountain
which reaches an elevation of over 2,000 ft. The land continues to rise steeply behind the
development as seen from KVAs creating a large background and keeping the proposed
development below the skyline. As proposed, the building is consistent with this rule.

10. Commission Rule 350-81-530(2)(i) states,

Structure height shall remain below the average tree canopy height of the natural
vegetation adjacent to the structure, except if it has been demonstrated that meeting
this guideline is not feasible considering the function of the structure.

The height of the proposed accessory structure is approximately 16 ft. above grade, well below
the canopy of the surrounding oak trees which are two to three times that height. Thus, the
proposed accessory structure is consistent with Commission Rule 350-81-530(2)(i).
11. Commission Rule 350-81-530(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) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.

(B) If new landscaping is necessary to meet the required standard, 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 meet the scenic standard within five years or less from the commencement of construction.

(C) 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 this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

As described in this section, no new landscaping is required. Therefore, the provisions in Commission Rule 350-81-530(2)(j) are not applicable.

12. Commission Rule 350-81-530(2)(k) states,

Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from KVAs shall be dark earth-tones found at the specific site or the surrounding landscape.

The applicant has proposed Corten steel and natural stone for the walls of the building. As discussed below, a condition of approval is included to ensure that the Corten steel paneling is the appropriate dark-earth tone prior to installation. The gabion wall will be composed of dark basalt rock. The roof will be a membrane roof will gravel ballast. The gravel will be a natural dark-earth tone color. The railings, fascia, window casings and sash will be black painted steel.

These dark rust and black colored 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).

13. Commission Rule 350-81-530(2)(l) states,

The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity.
As discussed above applicant has proposed Corten steel for the walls of the building. Corten steel is a steel building material that can be used for siding. It is a group of steel alloys which were developed to eliminate the need for painting and form a stable rust-like appearance after several years' exposure to weather. Corten steel can be treated to accelerate the corrosion process, and a condition of approval is included to ensure that the Corten steel paneling has been treated and “pre-rusted” to the appropriate dark-earth tone prior to installation.

The accessory structure 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 proposed windows range in size up to 64 sq. ft. Consistent with the handbook, the applicant has taken steps to reduce the impact of the proposed windows including the 5 ft. eaves. As designed, the building is screened by thick vegetation, and all of the glass is completely screened to KVAs by thick vegetation. A condition of approval is included requiring the retention of existing vegetation to help ensure compliance with this rule.

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 proposes Anderson 100 windows with Low-E coated glass. This Low-E glass for Anderson windows is produced by Cardinal Glass, in Hood River, OR. Staff verified the glass has an external reflectivity of 11%.

In sum, with conditions of approval requiring the Corten steel to be rust colored at the time of installation, and windows to 11% reflective or less, the proposed development is consistent with Commission Rule 350-81-520(2)(m).

14. Commission Rule 350-81-530(2)(m) states:

Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.

The applicant proposes 16 exterior lighting fixtures for the building: 15 indirect walkway and stair lights, and one wall mounted entryway light. The indirect walkway lights are small, located at or near ground level, and do not produce bright light. 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 applicants with examples of acceptable light fixtures from International Dark-Sky Association as an attachment with this decision.

15. Commission Rule 350-81-530(3) contains rules for all new developments and land uses within KVA foregrounds and immediately adjacent to scenic routes. SR 14 is listed as a Scenic Travel Corridor in Commission Rule 350-81-020(133). The subject parcel is approximately .3 miles from the SR 14 at its closest intersection. The project is not within the developed prism of SR 14 or in the immediate foreground of a KVA. Commission Rule 350-81-530(3) does not apply.

CONCLUSION:

With conditions of approval as discussed above, the proposed development is consistent with the rules in Commission Rule 350-81-530 that protect scenic resources in the National Scenic Area.
C. CULTURAL RESOURCES

1. Commission Rule 350-81-550(2) states that the procedures and rules in 350-81-540 shall be used to review all proposed developments and land uses other than those on federal lands, federally assisted projects, and forest practices. The proposal is in an SMA, but because it is not on federal lands, the rules of Commission Rule 350-81-540 apply.

2. Except as specified in Commission Rule 350-81-540(1)(c)(A)(iii), new development requires a reconnaissance survey. Commission Rule 350-81-540(3) requires that, if cultural resources are discovered, an evaluation of the significance shall be conducted. Commission Rule 350-81-540(3)(d)(C) states that if it is determined that the cultural resources are significant, the effects of the proposed use shall be assessed. Commission Rule 350-81-540(5)(a) requires mitigation plans when proposed uses would have an adverse effect on significant cultural resources. Mitigation plans shall reduce any adverse effect to no effect or no adverse effect.

3. 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 August 17, 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.

4. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his August 18, 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).

5. 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 July 30, 2020, and the comment period ended August 20, 2020. As explained above, the proposal 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.

6. 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.
7. 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 350-81-600 protects natural resources in SMAs. Commission Rule 350-81-600(1) states:

   All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Cumulative effects analysis is not required for expedited review uses or developments. Comments from state and federal agencies shall be carefully considered. (Site plans are described in 350-81-032).

   The applicant submitted a site plan consistent with Commission Rule 350-81-032. The plans identify the location of all proposed development along the full extent of the project area. Notice of this application was mailed directly to multiple local, state, and federal agencies including U.S. Forest Service, WDFW, and the Natural Heritage Program. No comments were received from public agencies related specifically to natural resource protections rules.

2. Commission Rule 350-81-600(2) protects water resources in SMAs. A minimum 200-foot buffer is required for ponds and lakes, perennial or fish bearing streams. A 50-foot buffer for intermittent (including ephemeral), non-fish bearing streams. According to Commission inventories, there are no streams on the subject parcel or in the vicinity of the project. The closest intermittent stream identified in Commission inventories is 700 ft. to the north of the subject property’s boundary.

3. Commission Rule 350-81-600(3) allows uses within 1,000 feet of a sensitive wildlife/plant area or site subject to review under Commission Rule 350-80-600(3). Commission Rule 350-80-600(3)(a). It states:

   Wildlife and Plants
   (a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area...

   The natural resource inventory indicates that the accessory building is within 1,000 feet of the following sensitive wildlife/plant areas and sites: mule and black-tailed deer winter range, western gray squirrel habitat, and Oregon white oak woodlands.

4. Commission Rule 350-81-600(3)(b) requires that the USFS, in consultation with state biologists review the site plan and field survey records. Commission Rule 350-81-600(3)(c) includes site plan review criteria to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse effects to the wildlife or plant areas or sites.
Pursuant to this notice requirement, staff provided copies of the site plan and application materials to the U.S. Forest Service and Washington Department of Fish and Wildlife, and Washington Natural Heritage Program on July 30, 2020. The application includes maps and narrative descriptions of the proposed activity and methods of work. According to the applicant, two immature oak trees will be removed. The property already has an existing residential use, and the proposed development has a small footprint and is clustered near the existing dwelling. Due to the nature of the development, staff believes proposal will not compromise the integrity of the area as a wildlife or sensitive plant site. Staff discussed the project with U.S. Forest Service staff, who agreed that the proposal would not compromise the integrity of the area as a wildlife or sensitive plant site.

A condition of approval requires all disturbed areas to be reseeded with grasses and forbs from the *Recommended Seed Mixes for East Side Environments* and that disturbed areas be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year. With conditions of approval requiring reseeding of exposed soils with native grasses and forbs, the proposal is consistent Commission Rule 350-81-600(3)(g).

5. Commission Rule 350-81-600(3)(i) states:

   (i) Proposed uses and developments within 1,000 feet of sensitive wildlife areas and sites or within 1,000 feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

As noted 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 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.

The White Salmon River Winter Range includes a significant amount of Oregon white oak. Klickitat County supports the largest portion of the remaining white oak habitat in Washington State. Stands greater than five acres are considered a priority habitat. Priority species associated within this oak woodland region include mule and black-tailed deer, and the western gray squirrel, listed as a State threatened species.

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.

6. Commission Rule 350-81-600(4) protects soil productivity. It states:

   **Soil Productivity**
   
   (a) Soil productivity shall be protected using the following guidelines:
   
   (A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.
(B) New developments and land uses shall control all soil movement within the area shown on the site plan.
(C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.
(D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

To ensure compliance with the above standards, a condition of approval is included with the Director Decision requiring that all disturbed areas be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year.

CONCLUSION:

With the conditions of approval discussed above, the proposed development is consistent with the rules in Commission Rule 350-81, Sections 560 through 600, 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 Forest Service lands associated with the Coyote Wall recreation site and is .7 miles northwest 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, and the continued residential use of the parcel will not detract from the use and enjoyment of the 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 materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Native American treaty rights and provides 20 days for tribal governments to submit comments.

   The subject parcel has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on July 30, 2020. The notice included a comment period of 21 days that ended on August 20, 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 parcels do 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.

BG
FIND0012.20