

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C20-0016

PROPOSAL: The Columbia River Gorge Commission has received an application for an agricultural building.

APPLICANT: Donald Cox

LANDOWNER: Donald & Angela Cox

LOCATION: The subject property is approximately 20 acres and located in the north east quarter of Section 13, Township 3 North, Range 10 East, W. M., Klickitat County Tax Lot Number 03-10-1300-0020/00.

LAND USE

DESIGNATION: General Management Area (GMA) – Large-Scale Agriculture (160)

DECISION:

Based upon the following findings of fact, the land use application by Donald Cox, for a new agricultural 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 C20-0016, 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, 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. All exterior building materials, including roof, doors, siding, trim, window casings and sashes, 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 house are consistent with this condition and are hereby approved:

Exterior:	Metallion Industries <i>Cocoa Brown (SRI-35)</i>
Trim:	Metallion Industries <i>Black</i>
Roof:	Metallion Industries <i>Charcoal (SRI-29)</i>

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.

6. All exterior building materials, including roof, 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. Solar panels shall be black, including panels and frames, to minimize reflectivity, with no bare aluminum framing or bare structural surfaces.
7. All future replacement cattle fencing shall adhere to the following specifications:
 - A. The top wire is not more than 42 inches high, to make it easier for deer to jump over the fence;
 - B. a gap of at least 10 inches is maintained between the top two wires to make it easier for deer to free themselves if they become entangled;
 - C. the bottom wire is a smooth wire, placed at least 16 inches above the ground to allow fawns to crawl under the fence
 - D. stays, or braces placed between strands of wire, are positioned between fence posts where deer are most likely to cross, creating a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.
8. The developments shall retain the overall visual character of the natural appearance of the Oak-Pine Woodland landscape. **Except for dead trees or other vegetation that may pose a hazard, all existing mature vegetation on the site shall be retained and maintained.**
9. All disturbed areas shall be reseeded with native grasses and forbs. Disturbed areas shall be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year. The Commission encourages the applicant to use a seed mix from the *Recommended Seed Mixes for East Side Environments*, which is included as an attachment to this Director's Decision.
10. 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.
11. 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.

12. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for a **FINAL INSPECTION** to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or info@gorgecommissin.org. Each inspection may take up to seven business days from the time of calling for the inspection.

DATED AND SIGNED THIS 21st day of April 2021 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 21 day of April 2023 unless construction has commenced in accordance with Commission Rule 350-81-044(4).

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

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

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

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

APPEAL PROCESS:

The appeal period ends on the 21 day of May 2021.

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:

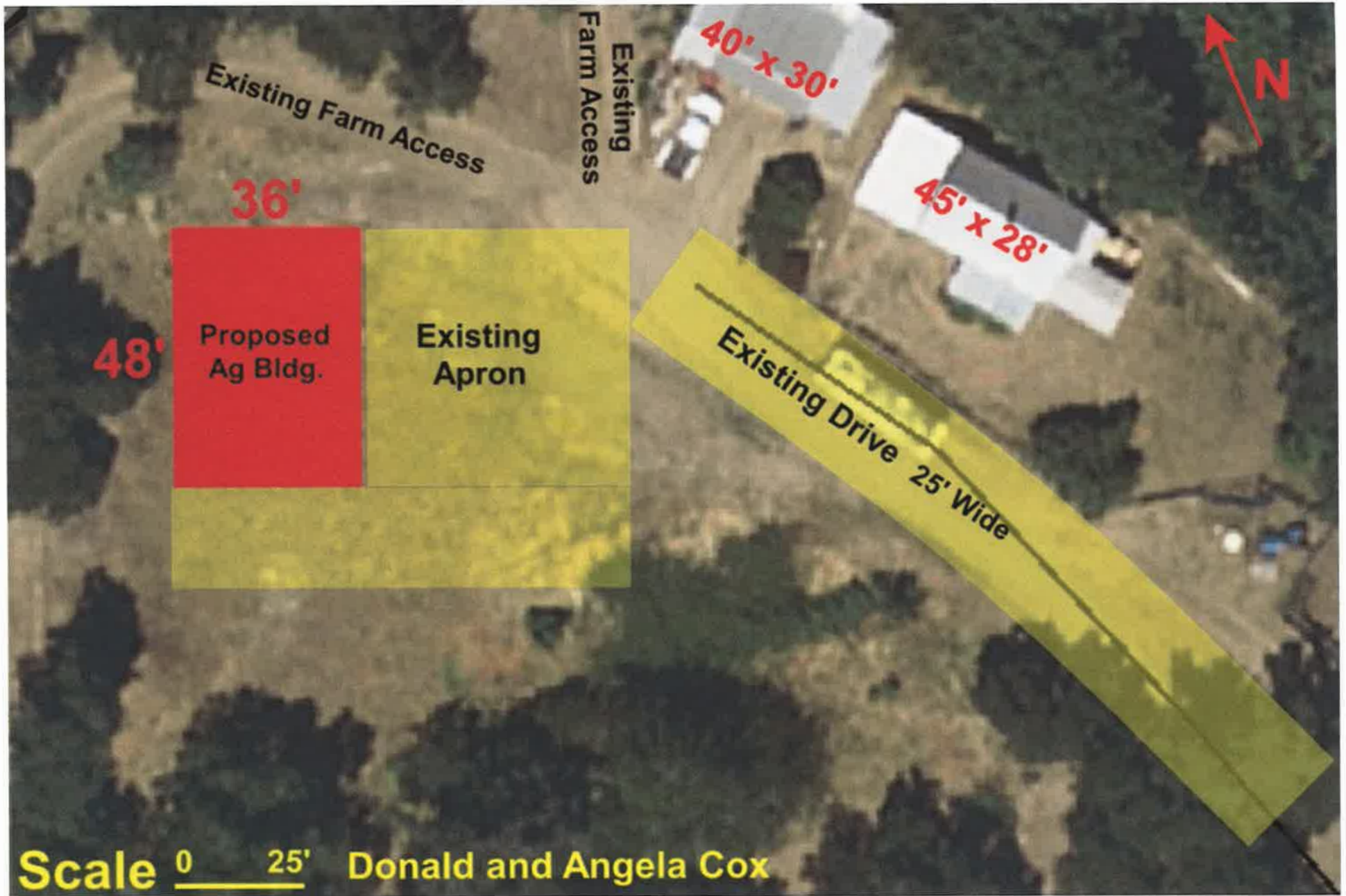
Any new land uses or structural development such as driveways, parking areas, garages, workshops, fences or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. New cultivation also requires a new application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

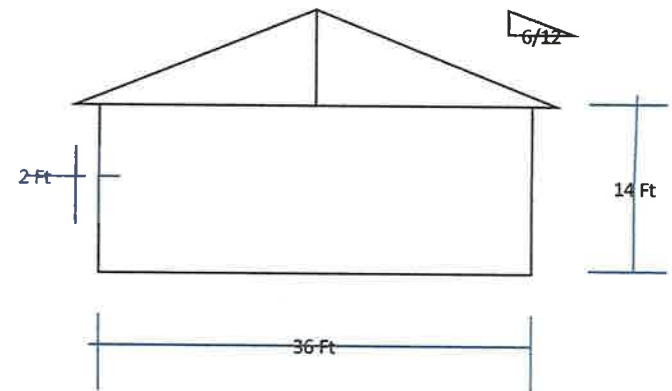
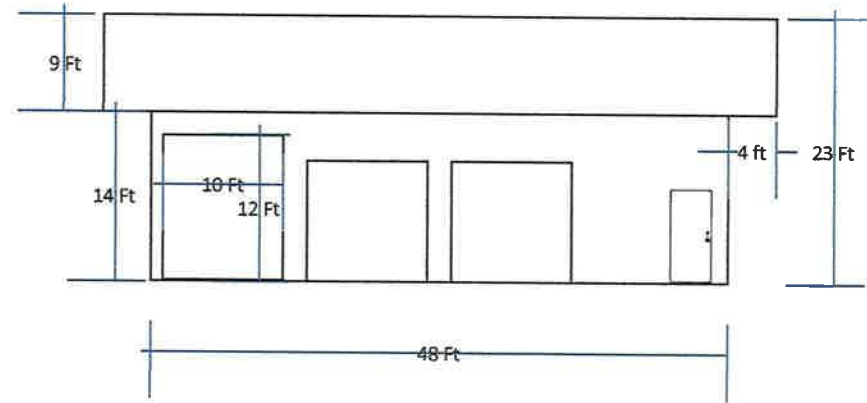
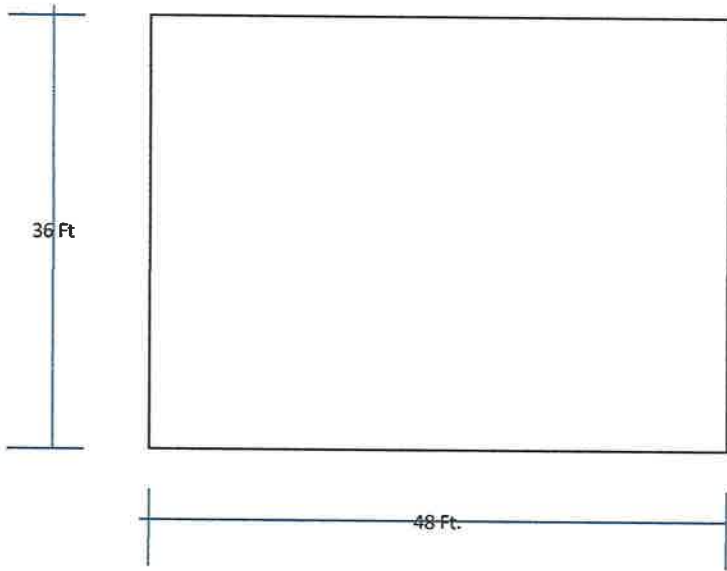
This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

c: 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

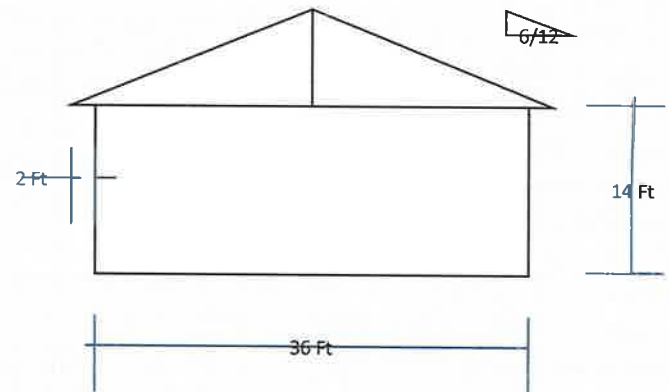
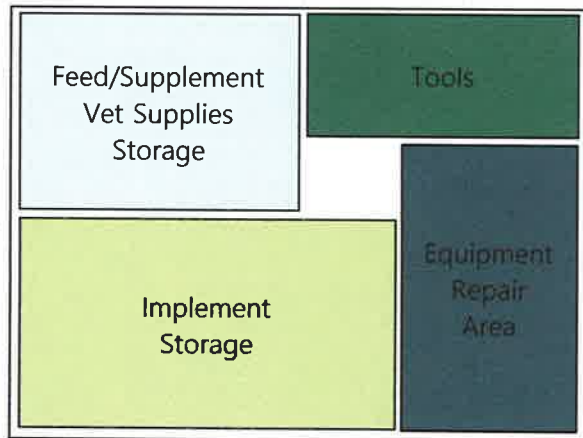
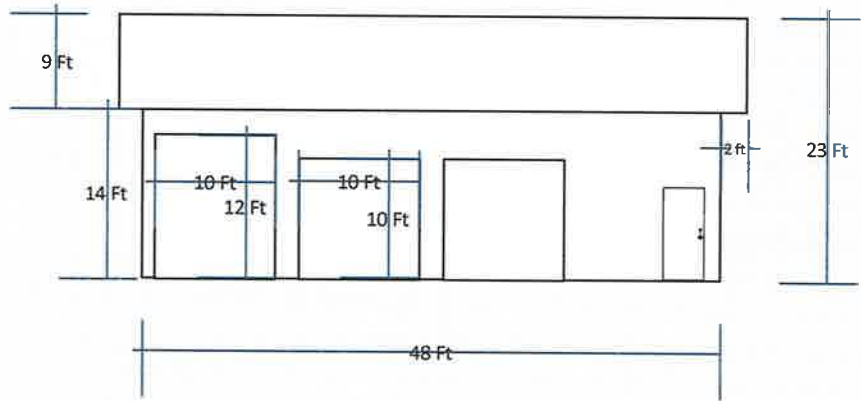
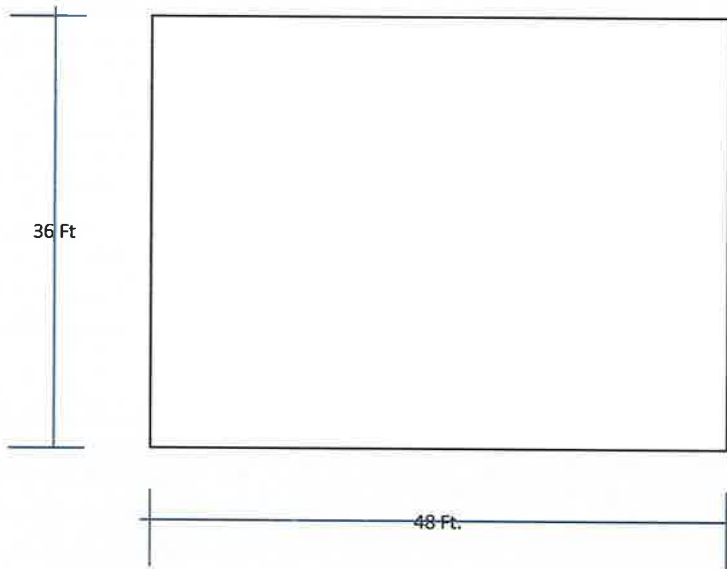
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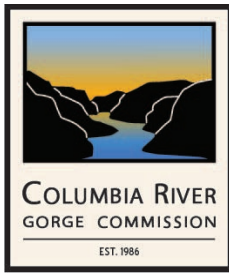
Staff Report for C20-0016
Approved site plan and elevation drawings





Krzysztof U. Wolniakowski





COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

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LAND USE

DESIGNATION: General Management Area (GMA) – Large-Scale Agriculture (160)

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office (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 (WDFW)
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

FINDINGS OF FACT:

A. LAND USE

1. The subject parcel is 20 acres and designated GMA Large Scale Agriculture with a 160-acre minimum parcel size. The parcel is located directly north of the White Salmon Urban Area Boundary (UAB). The parcel is rectangular in shape (650 ft x 1,300 ft). The parcel is steep and hilly with undulating topography. In general, the parcel is heavily vegetated with mature trees, primarily Douglas fir with a mixture of Oregon white oak, interspersed maples, and ponderosa pine, with some open areas where most of the existing and proposed development is located. The parcel is in the Oak-Pine Woodland Landscape Setting.
2. Existing development on the parcel includes a single-family dwelling (45 ft x 28 ft), a barn pole building (40 ft x 30 ft), and agricultural structures including fencing, livestock loading stalls, and access roads.
3. 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).

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 information as part of the application materials addressing the requirements of Commission Rule 350-81-090(1). The applicant actively raises and manages livestock on the property. Commission Rule 350-81-020(8) defines agricultural use as:

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 proposed agricultural building, a barn, was designed for the purpose of livestock housing and for storing equipment. The applicant supplied a layout and floor plan of the barn as part of the application materials to address the requirements of Commission Rule 350-81-090(1). The barn will be 48 ft x 36 ft (1,728 sq ft footprint) and 23 ft tall. The barn includes areas for feed storage, vet supplies, tool storage, and an equipment repair bay. Staff finds the proposed agricultural building consistent with Commission Rule 350-81-090.

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, east, south and west are also designated GMA Large-Scale Agriculture. In general, the type of agriculture found on nearby land with similar terrain is grazing. 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 all property boundaries, consistent with this rule.

CONCLUSION:

With conditions of approval, the proposed development is an allowed review use, 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 proposes to site the barn near existing development on a flat portion of the parcel that has previously been graded and leveled. Minimal grading is necessary to site the barn, and the siting helps retain existing topography. The siting of the development is designed consistent with this rule.

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

New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

To determine compatibility of the proposed development, Commission staff looked at development within a mile of the surrounding subject parcel using tax assessor records collected from Klickitat County. Staff chose the one-mile study area because all the parcels are within the same landscape setting as the subject property and have similar visibility from KVAs. Of the

thirteen parcels in the study area, staff identified four parcels with development. There are currently seventeen buildings, including four known dwellings in the study area. Buildings in the study area include single-family dwellings, garages, agricultural buildings, and smaller accessory structures. According to Klickitat County records, buildings range in mass up to 4,414 sq ft and are varying in height up to two stories. As proposed, the barn will be a twenty-three ft tall building with a 1,720 sq ft building footprint. Staff finds that the proposal fits within the general scale of existing nearby development, consistent with Commission Rule 350-81-520(1)(b).

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

Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in this chapter.

To mitigate for alterations to the vegetative cover and natural characterizes of the site, and consistent with this rule, a condition of approval is included requiring all areas disturbed during construction activities to be reseeded with native vegetation immediately upon completion the project 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 conditions of approval requiring disturbed areas are revegetated immediately, the development is consistent with this rule.

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

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

The landscape setting for the subject parcel is Oak-Pine Woodlands. Commission Rule 350-81-520(3)(c) contains the design guidelines for proposed uses in the Oak-Pine Woodlands landscape setting. A site plan was provided consistent with Commission Rule 350-81-032 (Application for Review and Approval). Findings B.20 through B.22 address the applicable guidelines in Commission Rule 350-81-520(3)(c) using information submitted in the site plan, consistent with this rule.

5. Commission Rule 350-81-520(2) contains guidelines that affect developments on sites visible from KVAs. Staff determined with site visits and geospatial map tools that the subject parcel is topographically visible from five KVAs: Columbia River, Historic Columbia River Highway, Interstate 84, Oregon Highway 35, and Panorama Point Park. Because the proposed development is topographically visible from KVAs, the guidelines of Commission Rule 350-81-520(2) are applicable. The project is visible from the five KVAs at the following distance zones:

Key Viewing Area (KVA)	Distance Zone		
	Foreground	Middleground	Background
	0 - 1/4 Mile	1/4 - 3 Miles	Over 3 Miles
Columbia River			X
Historic Columbia River Highway			X
Interstate 84			X
Oregon Highway 35			X
Panorama Point Park			X

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

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

Visually subordinate: A description of the relative visibility of a structure where the structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a Key Viewing Area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.

Several design factors ensure the development will be *visually subordinate* including distance from KVAs, dark earth tone colored building materials, and new and existing vegetation. The KVAs from which this development is topographically visible are more than 3 miles away. The Director's Decision contains requirements and conditions of approval to ensure the development is *visually subordinate*. As discussed in Findings B.8 and B.9, Commission Rule 350-81-530(2)(f) requires the extent and type of conditions applied to a development to achieve the scenic standard of *visually subordinate* be proportionate to the building's degree of visibility from KVAs. Additionally, as discussed in Findings B.15 and B.16, Commission Rule 350-81-530(2)(k) and Commission Rule 350-81-530(2)(l) require all proposals to be constructed of low-reflective materials and dark earth-tone colors.

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

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

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

To determine cumulative effects of the proposed development, staff analyzed existing development and development potential of the subject parcel and adjacent and nearby lands also in the Oak-Woodland Landscape Setting within a mile of the subject parcel. As seen from KVAs, the subject parcel is in an area where existing homes and accessory buildings are prevalent but are sparsely visible throughout the landscape or are indistinguishable in the landscape due to the distance from the KVA, existing vegetation and topography. There are currently seventeen buildings, including four known dwellings in the study area. Buildings in the study area include single-family dwellings, garages, agricultural buildings, and smaller accessory structures. According to Klickitat County records, buildings range in mass up to 4,414 sq ft and are varying in height up to two stories. As proposed, the barn will be a twenty-three ft tall building with a 1,720 sq ft building footprint. For analysis, staff assumes that all existing dwellings on surrounding lots could be replaced in the future, subject to review.

There will not be any visual cumulative effects from KVAs in the foreground and midground because the development will not be visible from any KVA at those distances. The development will only be visible from KVAs in the background. From this KVA, the development is over three miles away and will be difficult to distinguish from its surroundings in the landscape.

Ten parcels are designated GMA Large Scale Agriculture with a 160-acre minimum. Three parcels are developed with single-family dwellings, one parcel has accessory building, and the other six

parcels are undeveloped. None of the parcels are eligible for future land divisions. Staff assumes the other undeveloped parcels could potentially have dwellings in the future based on an existing or approvable agricultural use. Three of the parcels are designated GMA Commercial Forest with a 160-acre minimum parcel size, and none of those parcels are developed with dwellings. Staff assumes for this analysis those parcels could someday be developed with dwellings and accessory structures. It is possible that there could be similar agricultural developments on the 'same piece of ground;' additional dwellings for agricultural labor housing or an agricultural operator's relative are allowed uses on the subject property based on an existing or approvable agricultural use.

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

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

8. Commission Rule 350-81-520(2)(d)(A) states:

The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas.

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

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

(ii) The degree of existing vegetation providing screening.

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

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

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

As described above, the property is topographically visible from five Key Viewing Areas in the background over three miles away from the subject property. The parcel is higher in elevation than all five KVAs but will be indistinguishable in the landscape because of viewing distance, existing tree coverage, and topography.

9. Commission Rule 350-81-520(2)(d)(B) states:

Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from Key Viewing Areas, including but not limited to:

- (i) Siting (location of development on the subject property, building orientation, and other elements).*
- (ii) Retention of existing vegetation.*
- (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).*
- (iv) New landscaping*

The proposed developments are sited on the subject parcel with minimal visibility from KVAs. The applicant has chosen dark earth tone colors for the exterior of the barn and which are included as conditions of approval. Consistent with the Landscape Settings Designs Guidelines, a condition of approval requires existing vegetation on the parcel be retained except where it must be removed for safety reasons. With these conditions included in the Director's Decision, the proposal will be *visually subordinate* as viewed from all KVAs and consistent with the design guidelines for the Oak-Woodlands Landscape Setting. Staff finds these conditions to be proportionate to the development's potential visual impact as seen from KVAs.

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

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

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

11. Commission Rule 350-81-520(2)(f) states:

New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from Key Viewing Areas.

There will not be any visual cumulative effects from KVAs in the foreground and midground because the development will not be visible from any KVA at those distances. The development will only be visible from KVAs in the background. From KVAs, the development is over five miles away and will be difficult to distinguishable from its surroundings in the landscape.

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

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

The subject parcel is in the Oak-Pine Woodlands landscape setting. Findings for the Landscape Settings Design Guidelines are addressed below. No trees are proposed to be removed as part of this application. According to Commission Rule 350-81-520(3)(c)(B)(iii), in substantially wooded portions of the landscape, existing tree cover screening the proposed development from KVAs

shall be retained in compliance with Commission Rule 350-81-520(3)(c)(B)(iii). This requirement is included as a condition of approval.

13. Commission Rule 350-81-520(2)(h) states:

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

The proposal will be sited at an elevation of 1,245 ft. As seen from KVAs, the topography directly to the north and west behind the proposed development rises steeply to an elevation of 1,500 ft and is covered in a thick stand of coniferous trees. As proposed, the building will not break the skyline created by the steep topography on the subject parcel and is consistent with Commission Rule 350-81-520(2)(h).

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

The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

- (A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in 350-81-520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.*
- (B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.*
- (C) Unless as specified otherwise by provisions in 350-81-520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.*
- (D) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in 350-81-520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species)*

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

The applicant proposed Metallion Industries Cocoa Brown (SRI-35) for the siding, Charcoal (SRI-29) for the roof and doors, and Black for the trim. These dark earth-tone brown and black colors are found within the shadows of the surrounding landscape. A condition of approval requires all exterior surfaces of the proposed development, including doors, siding, trim, window sash, and roof, to be dark earth-tone colors to ensure consistency with Commission Rule 350-81-520(2)(l).

16. Commission Rule 350-81-520(2)(m) states:

The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.

The proposed exterior materials for the replacement are metal siding and roofing. As designed, the building is screened from KVAs by thick vegetation. Given the distance from KVAs, existing topography and vegetative screening, and exterior colors, the building will have minimal reflectivity from KVAs. A condition of approval is included requiring the retention of existing vegetation to help ensure compliance with this rule.

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

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

No light fixtures were indicated on the applicant's site plan or elevation drawings. Nevertheless, a condition of approval is included in the decision ensuring lights are directed downward, hooded and shielded such that they are not highly visible from the KVA, consistent with this rule. Staff is also providing the applicants with examples of acceptable light fixtures from International Dark-Sky Association as an attachment with this decision.

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

Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.

The building is sited on a portion of the parcel that was previously disturbed and leveled. No new roads are proposed, and no new grading is proposed overall. No new cutbanks or fill slopes are proposed, which is consistent with this rule.

19. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from KVAs to include a grading plan containing specific plan elements.

No new grading is proposed because the barn will be constructed on flat ground and no other buildings or roads are proposed. There will not be more than 200 cubic yards of grading, and a grading plan is not required.

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

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

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

In wooded portions of this setting in the vicinity of the subject parcel trees vary in height from 30 to 50 ft. Trees present on the parcel are a mix of fir and pines and Oregon white oak. The height of the proposed building is twenty-three feet tall, lower than the tree canopy level in wooded portions of the Oak-Pinewoods landscape setting.

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

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

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

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

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

For treeless portions or portions with scattered tree cover:

(iv) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(v) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

(vi) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

The property is substantially wooded, and no landscaping is required by the guidelines of this chapter. Consistent with this rule, a condition of approval is included requiring the applicant to retain existing tree cover on the property except for safety purposes including, but not limited to, fire protection and hazard tree removal.

CONCLUSION:

The proposed development is consistent with the applicable policies of the Management Plan and guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area.

C. CULTURAL RESOURCES

1. Except as specified in Commission Rule 350-81-540(1)(c)(A)(iii), new development requires a reconnaissance survey. Commission Rule 350-81-540(3) requires that, if cultural resources are discovered, an evaluation of the significance 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 must reduce adverse effects to no adverse effect or no effect.
2. Chris Donnermeyer, Heritage Resource Program Manager for the U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination, dated March 16, 2021, 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 in a location that has been disturbed by human activities, and does not occur within 500 feet of a known archaeological site.
3. Commission Rule 350-81-540(1)(c)(B) states:

A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

Mr. Donnermeyer determined that pursuant to Commission Rule 350-81-540(1)(c)(B) a historical survey is needed because the proposed use would potentially compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older. In a Heritage Resource Inventory Report dated March 16, 2021, Mr. Donnermeyer recommended that the dwelling is not eligible for the National Register of Historic Places.

4. Commission Rule 350-81-540(2)(c)(B)(iv)(a) states:

The cultural resource protection process may conclude when one of the following conditions exists...

(iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(a) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4)

Holly Borth, Project Compliance Reviewer with DAHP, concurred with Mr. Donnermeyer's determination, that the dwelling is not eligible for the National Register of Historic Places, and thus the project would have no effect on significant historic buildings or structures, in a letter dated March 26, 2021.

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 proposal is consistent with the guidelines in Commission Rule 350-81-540 that protects cultural resources in the National Scenic Area.

D. NATURAL RESOURCES

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).
2. The Gorge Commission's natural resource inventories do not show any wetlands on the subject parcel. Therefore, the proposal is consistent with Commission Rule 350-81-560 that protects wetlands.
3. Review of Gorge Commission resource inventories show that there is an unnamed intermittent stream over 200 feet north of the proposed development. Commission Rule 350-81-570(7)(a)(B) states that the buffer for an intermittent stream is 50 feet. The closest part of the proposed development is over 200 feet from the stream, as is shown in the Gorge Commission inventory. During staff's December 18, 2020 site visit, staff were able to identify a stream channel and verify the proposal is compliant with the required stream buffers. No other water resources are shown in the Commission's inventory.
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, Oregon white oak woodlands 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 October 8, 2020. The notice included a comment period of 21 days that ended on October 29, 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. According to the applicant, no trees will be removed. The property already has an existing residential and agricultural uses, and the proposed development has a small footprint and is clustered near

existing development. Due the nature of the development, staff believes the proposal will not compromise the integrity of the area as a wildlife 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 reseeded of exposed soils with native grasses and forbs, the proposal is consistent Commission Rule 350-81-580(4).

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

New fences in deer and elk winter range

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

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

8. Commission Rule 350-81-580(4)(c) states:

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

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

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

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

WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will have little, if any, effect on of the area as a wildlife. 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 a wildlife site, due to the project location, size of the development, lack of trees being removed, and lack of proposed fencing.

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

CONCLUSION:

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

E. RECREATION RESOURCES

1. Commission Rule 350-81-086 states:

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

The parcel is designated Recreation Class 1 according to the Gorge Commission's Recreation Intensity Class Map. No recreation sites or facilities exist on parcels adjacent to the subject parcel, therefore, no buffers are required pursuant to Commission Rule 350-81-086.

CONCLUSION:

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

F. TREATY RIGHTS PROTECTION

1. Commission Rule 350-81-084(1) provides protection of tribal treaty rights from new development in the National Scenic Area.
2. Commission Rule 350-81-084(1)(a) lists additional notice requirements for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect tribal 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 October 8, 2020. The notice included a comment period of 21 days that ended on October 29, 2020. No comments were received.

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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