

COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

CASE FILE: C20-0018

PROPOSAL: The Columbia River Gorge Commission has received an application for roof mounted solar panels for a single-family dwelling and agricultural building.

APPLICANT: Kiva Dobson

LANDOWNER: Kiva Dobson

LOCATION: The subject property is approximately 36 acres and located at 6 Lyle-Snowden Road, in the western half of Section 27, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County Tax Lot Number 03-12-2700-0004/00.

LAND USE

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

DECISION:

Based upon the following findings of fact, the land use application by Kiva Dobson, for roof mounted solar panels 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**.

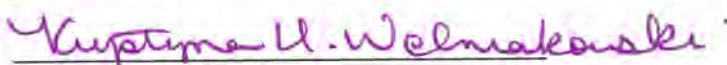
CONDITIONS OF APPROVAL:

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 C20-0018, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
2. This decision does not exempt the proposal from other non-National Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.
3. Any new land uses or structural development such as garages, workshops, or other accessory structures, additions, alterations, or grading not included in the approved application or site plan will require a new application and review.

4. The developments shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
5. Only approved dark earth-tone colors for exterior materials shall be used. The approved color for the solar panels is black and the framing of the solar panels shall be painted matte black. The color of the development shall be maintained by painting and staining as necessary to maintain the approved color. Any proposed changes to these colors shall be submitted for review by the Executive Director for consistency with this condition of approval.
6. All exterior building materials shall be nonreflective or have low reflectivity. Solar panels shall be black including panels and frames, to minimize reflectivity, with no bare aluminum framing or bare structural surfaces. The metal framing of the solar panels shall be painted with matte black paint and maintained as necessary to ensure that the material is nonreflective.
7. The annual energy production of the solar panel array shall not exceed the annual energy needs for the residential and agricultural use of the property. Any additional solar panels not included in the approved application or site plan will require a new application and review.
8. Except for dead trees or other dead vegetation that may pose a hazard, all existing mature vegetation on the site shall be retained and maintained for screening purposes.
9. 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.
10. 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.
11. 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 24 day of June 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 24 day of June 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 24 day of July 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

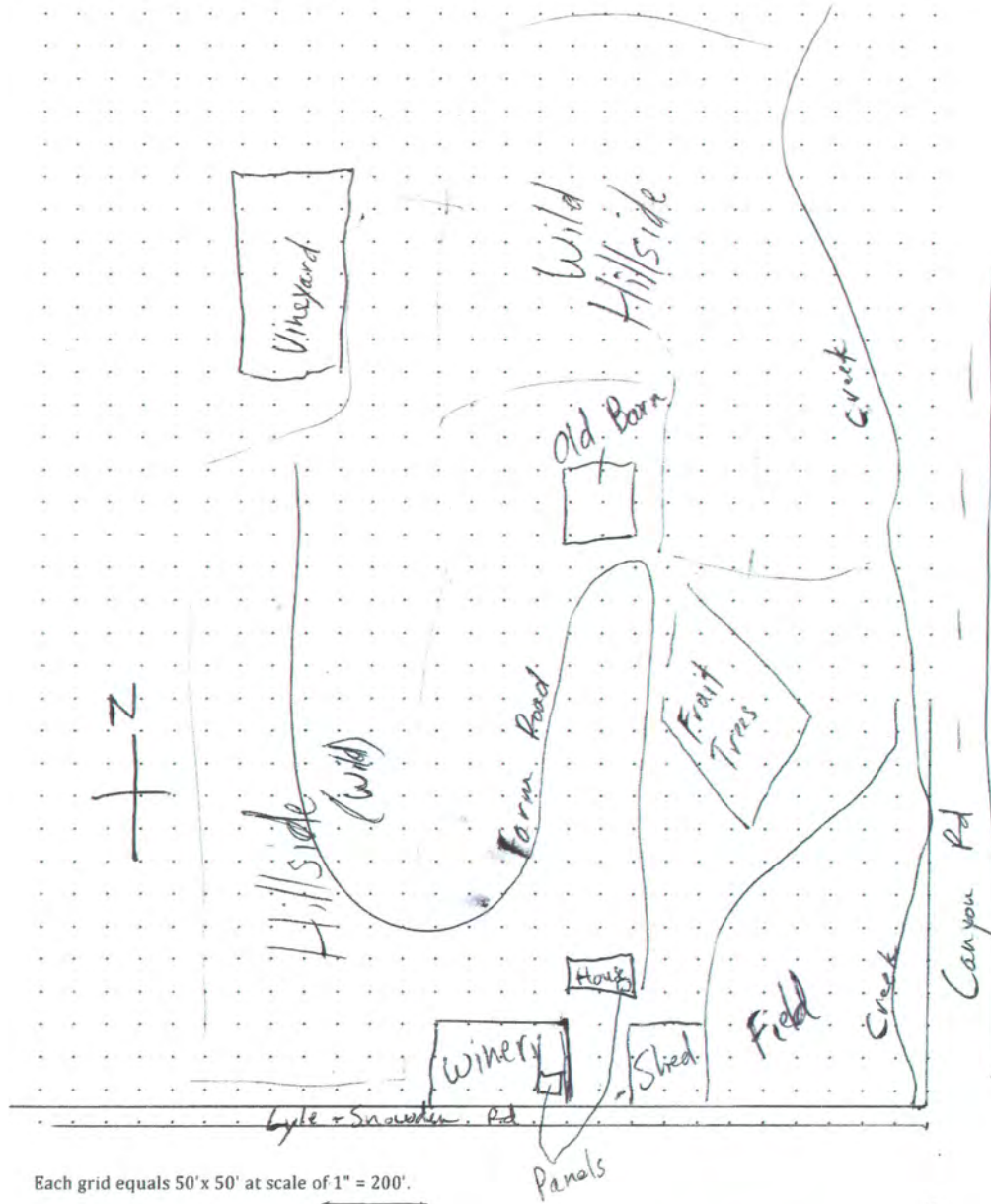
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Steve McCoy, Friends of the Columbia Gorge

Attachments:

Staff Report for C20-0018
Approved site plan and elevation drawings

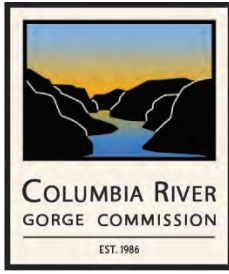
*Please use this template or attach a separate site plan

Site plan (continued):



Each grid equals 50' x 50' at scale of 1" = 200'.

kw



COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

CASE FILE: C20-0018

PROPOSAL: The Columbia River Gorge Commission has received an application for a replacement dwelling.

APPLICANT: Kiva Dobson

LANDOWNER: Kiva Dobson

LOCATION: The subject property is approximately 36 acres and located at 6 Lyle-Snowden Road, in the western half of Section 27, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County Tax Lot Number 03-12-2700-0004/00.

LAND USE

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

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

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

- Steve McCoy, Staff Attorney, Friends of the Columbia Gorge
- Chris Donnermeyer, Heritage Resource Program manager, USFS NSA

FINDINGS OF FACT:

A. LAND USE

1. The subject parcel is thirty-six acres and designated GMA Small Scale Agriculture. The property is located near the intersection of Canyon Road and Lyle-Snowden Road. The property is being managed as a residence, commercial vineyard and orchard. Vegetation on the parcel consists of a mixture of mature Oregon white oak, interspersed ponderosa pine, and scattered Douglas fir with open grassy areas scattered throughout the property. The parcel is in the Oak-Pine Woodland Landscape Setting.
2. Commission Rule 350-81-190(1)(v) allows additions to existing buildings greater than 200 sq. ft. in area or greater than the height of the existing building. Commission Rule 350-81-020 (60) defines *existing structure* as any structure that was legally established.

Prior to 1970, Klickitat County did not require building permits. Klickitat County started issuing building permits September 8, 1970. According to Klickitat County records, the existing dwelling was built in 1962. Construction year of the barn, which is being used as a winery, is unknown. Chris Donnermeyer, Heritage Program Manager for the CRGNSA Forest Service, was not able to find a definitive construction date for the barn but verified the construction date of the dwelling. According to Klickitat County records, the existing barn was built before 1950, thus predating county permitting. Director's Decision C94-0011 approved the winery in the barn. The dwelling and barn legally established existing structures.

3. Commission Rule 350-81-020(90)(d) defines *industrial uses* as any use of land or water primarily involved in the production of electric power for commercial purposes, and the Management Plan prohibits industrial uses in the National Scenic Area.

The solar array for the winery is rated 5.2-kW. The array will consist of 16 panels, and each panel is 5 ft long and 3.5 ft wide. The total area of array is 280 sq ft. The system is sized to meet the energy consumption needs of the winery building. As part of the application materials, the applicant provided information about the annual and monthly current power consumption of the winery and the estimated production of the solar panels. As currently constructed, the annual generating capacity of the array is less than the annual energy needs for the agricultural use on the property.

The solar array for dwelling is rated 2.6-kW, and the primary purpose of the array is to provide power for the residential use of the dwelling. The array will consist of 8 panels, and the total area of array is 140 sq ft. As part of the application materials, the applicant provided information about the annual and monthly current power consumption of the existing dwelling and the estimated production of the solar panels. As currently constructed, the annual generating capacity of the array is less than the annual energy needs for the residential use on the property.

CONCLUSION:

The proposed solar panel arrays for the dwelling and barn are allowed review uses, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

B. SCENIC RESOURCES

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

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

No new buildings are proposed. This rule does not apply.

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.

No new buildings are proposed. This rule does not apply.

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

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

No vegetative screening is required by the guidelines of this chapter.

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.

5. Commission Rule 350-81-520(2) contains guidelines that affect developments on sites visible from KVAs. Staff determined the subject parcel is topographically visible from Rowena Plateau. Because the proposed development is topographically visible from a KVA, the guidelines of Commission Rule 350-81-520(2) are applicable. The proposed development is visible from the Rowena Plateau at the following distance zone:

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

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.

The Director's Decision contains requirements and conditions of approval to ensure the development is *visually subordinate*. Factors contributing to the visual subordination of the development include the distance from the KVA, dark earth tone colors, and existing vegetation. The KVA from which this development is topographically visible is more than three miles away.

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 consider the cumulative visual effects associated with the proposed development, staff considered parcels in the NSA within a quarter mile of the subject parcel. This area is primarily used for residences and agricultural uses near Canyon Rd and Lyle-Snowden Rd. The parcels in this area are designated GMA Small-Scale Agriculture and Large-Scale Agriculture. As seen from Rowena Plateau KVA, the development is over three miles away and will be difficult to distinguish from its surroundings. From this KVA, the subject parcel and surrounding parcels are in an area where existing homes and accessory buildings are common but are sparsely visible throughout the landscape or are indistinguishable in the landscape from the KVA due to the distance, existing vegetation and topography.

According to data from Klickitat County Assessor Records, within this area there are 20 tax lots. Existing development in the study area consists of twenty dwellings and fifty-eight accessory buildings within a quarter mile of the subject parcel. Four of the parcels are undeveloped.

It is possible that there may be similar solar panel arrays on the 'same piece of ground' given the existing agriculture use and the size of the applicant's property. It is also possible that other buildings in the area can develop renewable energy systems for their properties. However, given the limitations on the number of dwellings and the National Scenic Area's restrictions on , it likely that the size of these systems will remain small.

Several factors ensure the proposed solar panel arrays will not cause adverse scenic impacts as viewed from Rowena Plateau, including size of the arrays, viewing distance, colors, non-reflective and low reflectivity building materials, and screening vegetation. The proposed solar panel additions are compatible in size with existing development and will not create any adverse cumulative effects to scenic resources because the solar panels will be difficult to distinguish from the KVA. There will not be any visual cumulative effects from any KVAs in the foreground and midground because the development will not be visible from any KVAs at those distances. If new additions are built according to applicable Land Use Designation guidelines 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, including ground-mounted solar panel arrays, are built in a comparable manner to the proposal, there would be no cumulative effects to scenic resources. By

using existing topography and vegetation, and exterior materials that are dark, earth-toned, low- or non-reflective there will be no significant increase in visibility of new development. Development designed and sited to achieve the standard *visually subordinate* will not generate adverse cumulative scenic impacts. For the reasons above, the proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).

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

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

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

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

(ii) The degree of existing vegetation providing screening.

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

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

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

The proposed development on the property is at an elevation of 540 ft. The property is topographically visible from Rowena Plateau in the background over three miles away from the subject property. From the Rowena Plateau/Tom McCall trailhead parking lot (700 ft. elevation), the buildings are not visible because hills screen them completely from view. However, the hills do not provide screening from the higher elevations of Rowena Plateau along Tom McCall trail. From the top of Tom McCall trail, at 1,700 ft. elevation, the buildings are topography visible but not distinguishable in the landscape because of distance, existing tree coverage, and topography.

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

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

(i) Siting (location of development on the subject property, building orientation, and other elements).

(ii) Retention of existing vegetation.

(iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).

(iv) New landscaping

The proposed developments are sited on the subject parcel with minimal visibility from the KVA. The applicant has chosen dark earth tone colors for the solar panel arrays, which is included as a condition of approval. Consistent with the Landscape Settings Design Guidelines, a condition of approval requires existing vegetation surrounding the development on the parcel be retained except for safety. With these conditions included in the Director's Decision, the proposal will be *visually subordinate* as viewed from the KVA 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 the KVA.

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 natural resource sites but does not conflict with natural resource guidelines. Similarly, as discussed in Section C, the development does not conflict with cultural resource guidelines. The proposed development is consistent with Commission Rule Commission Rule 350-81-520(2)(e).

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

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

No other location on the subject property would have afforded the proposal more topographic or vegetative screening. The buildings are only topographically visible from the Rowena Plateau KVA, over three miles away, and are not visible due to existing vegetation.

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.

No new buildings are proposed. However, the existing buildings currently comply with this rule. The barn and the dwelling are both located at an elevation of 540 ft. The highest part of the property, the northern property boundary, varies around 800 ft, which is part way up the slope of hills rising above Lyle that reach an elevation of 2,500 ft. Because the land continues to rise behind the development as seen from the KVA, the proposed buildings do not break the skyline, and neither will the proposed additions. The development is consistent with Commission Rule 350-81-520(2)(h).

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

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

- (A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in 350-81-520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual 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 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 has proposed black solar panels with metal framing that is painted matte black. A condition of approval is included requiring the approved dark earth-tone colors for the exterior materials, and that the color is maintained as is necessary.

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.

As discussed above, the applicant has proposed black solar panels with metal framing painted matte black. To minimize the reflectivity of the proposal, a condition of approval is included requiring all parts of the solar panel array to be black including the framing, with no bare aluminum framing or bare structural surfaces.

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 are proposed.

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.

No driveways or building are proposed.

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 grading is necessary to mount the solar panels; 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 and are a mix of ponderosa pines and Oregon white oak. As currently constructed the existing buildings are taller than the existing tree canopy level. As proposed, the addition of the solar panel arrays will not alter the height of either building, and is consistent with this rule.

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.*

No landscaping is required by the guidelines of this chapter. No other location on the subject property would have afforded the applicant more topographic or vegetative screening. The property is substantially wooded. Consistent with this rule, a condition of approval is included requiring the applicant to retain existing tree cover surrounding the development except for safety purposes including, but not limited to, fire protection and hazard tree removal.

CONCLUSION:

The proposed development is consistent with Commission Rule 350-81-520 that protects 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 November 18, 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 not disturb the ground and would involve a lot-line adjustment or partition.
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 in the Cultural Resources Survey Determination, November 18, 2020, that pursuant to Commission Rule 350-81-540(1)(c)(B) a historical survey is needed because the proposed use would alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older. In Heritage Property Report dated April 29, 2021, Mr. Donnermeyer recommended that the dwelling on the property is 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)

In a letter dated June 10, 2021, Holly Borth, Project Compliance Reviewer with DAHP, concurred with Mr. Donnermeyer's determination, that none of the buildings are eligible for the National Register of Historic Places, and thus the project would have no effect on significant historic buildings or structures. Pursuant to Commission Rule 350-81-540(2)(c)(B)(iv)(a), the cultural resource protection process may conclude.

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

CONCLUSION:

With conditions protecting unknown cultural resources and human remains discovered during construction, the 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, and no wetlands were observed during site visits. Therefore, the proposal is consistent with Commission Rule 350-81-560 that protects wetlands.
3. Review of Gorge Commission resource inventories identified one unnamed perennial stream east of the proposed development on the subject parcel. Commission Rule 350-81-570(7)(a)(A) states that the buffer for a perennial stream is 100 feet. The closest part of the proposed development is over 140 feet from the stream.
4. Commission Rule 350-81-580 contains criteria for the review of potential impacts to sensitive wildlife. The Gorge Commission's sensitive wildlife inventory shows the development site is located within Deer and Elk Winter Range and Western Gray Squirrel Habitat. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include these areas.

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

Commission staff notified Amber Johnson, with Washington Department of Fish and Wildlife of the proposed development and sent a copy of the site plan on November 6, 2020. The notice included a comment period of 21 days that ended on November 27, 2020. No comments were received.

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

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

WDFW did not indicate any concerns with the proposed development. Pursuant to Commission Rule 350-81-580(4)(c), staff does not believe the proposed development compromises the integrity of the parcel as wildlife site due to the to the nature of proposal, which is for solar panel arrays mounted to the roof top of two existing buildings.

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

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

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

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

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

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

WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will have little, if any, effect on existing deer or squirrel habitat due to the to the nature of proposal, solar panel arrays mounted to the roof top of two existing buildings. 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 which is clustered with other existing development and the lack of new fences.

8. 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:

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 parcel is designated Recreation Class 3 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 November 6, 2020. The notice included a comment period of 21 days that ended on November 27, 2020.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No substantive comments were received.
4. Commission Rule 350-81-084(c)(B) states,

The treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

The subject parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use does not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-91-084(c)(B).

CONCLUSION:

The proposed development is consistent with the guidelines in Commission Rule 350-81-084, which provides protection for treaty rights and any other rights of any Indian tribe.

BG
FIND0018.20