CASE FILE: C21-0003

PROPOSAL: The Columbia River Gorge Commission has received an application for a new dwelling and garage building, and the demolition of a discontinued single-family dwelling.

APPLICANTS: John & Nancy Nicholas

LANDOWNERS: John & Nancy Nicholas

LOCATION: The subject property is 6.9 acres and located at 10 Crestview Ln, White Salmon, in the NW ¼ of Section 28, Township 3 North, Range 11 East, W.M., Klickitat County, Washington. Tax Lot Number 03-11-2853-0004/00.

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

DECISION: Based upon the following findings of fact, the land use application by John Nicholas, 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 C21-0003, 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. The dwelling and garage building shall be a 48 ft x 31 ft two story building, no taller than 24 ft. 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 casing and sash, decks, and railings shall be dark earth-tone colors. Only approved dark earth-tone colors for exterior materials shall be used. The following colors submitted by the applicants for the exterior of the single-family dwelling and garage are consistent with this condition and are hereby approved:

   - Exterior: Texas Forest Products 'Super Cedar Dark'
   - Trim: Behr 'Mountain Spruce' (SC-114)
   - Roof: Black

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

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. All exterior glass shall be composed of low-reflectivity glass. An exterior reflectivity rating of 11% is required.

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 shall be retained and maintained for screening purposes, including the large fir trees immediately northwest of the dwelling and garage building. However, the landowner is encouraged to reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands. The landowner is also encouraged to avoid cutting Oregon white oak, except for habitat enhancement. The landowner may promote “oak release” by removing overtopping and encroaching conifers from the vicinity of oak trees, thereby reducing the competition for light, water, and nutrients.

9. The site shall be reseeded with grasses from the *Recommend Seed Mixes for East Side Environments*. Disturbed areas shall be revegetated immediately upon completion of the project (or as soon as possible thereafter if the project is completed during the winter).

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@gorgecommission.org. Each inspection may take up to seven business days from the time of calling for the inspection.

DATED AND SIGNED THIS **25** day of August 2021 at White Salmon, Washington.

[Krystyna U. Woźniakowski]
Krystyna U. Woźniakowski
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 **25** day of August 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 24th day of September 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 C21-0003
Approved site plan and elevation drawings
Recommend Seed Mixes for East Side Environments
International Dark-Sky Association example sheet of acceptable & unacceptable light fixtures
CASE FILE: C21-0003

PROPOSAL: The Columbia River Gorge Commission has received an application for a new dwelling and garage building, and the demolition of a discontinued single-family dwelling.

APPLICANTS: John & Nancy Nicholas

LANDOWNERS: John & Nancy Nicholas

LOCATION: The subject property is 6.9 acres and located at 10 Crestview Ln, White Salmon, in the NW ¼ of Section 28, Township 3 North, Range 11 East, W.M., Klickitat County, Washington. Tax Lot Number 03-11-2853-0004/00.

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 (DAHP)
- 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
- Sydney Hanson, Transportation Archaeologist, DAHP
- Jasa Holt, Washington Natural Heritage Program
FINDINGS OF FACT:

A. LAND USE

1. The subject parcel is 6.9 acres and designated GMA Small-Scale Agriculture. The property is located on Crestview Lane at the top of Burdoin Mountain. The northern half of the parcel is generally flat and suitable for building, but the southern half of the property is very steep. Vegetation on the parcel consists primarily of open grasses, but there are dispersed groves of Oregon white oak, Douglas fir and other trees scattered throughout the property. The parcel is in the Oak-Pine Woodland Landscape Setting.

2. Commission Rule 350-81-190(1)(j) allows on lands designated Small-Scale Agriculture a single-family dwelling on any legally existing parcel, subject to consistency with the guidelines for the protection of scenic, cultural, natural, and recreation resources. Commission Rule 350-81-020(112)(b) defines parcel as:

   Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

From January 1, 1983 through May 10, 1995, land divisions in Klickitat County were subject to the “Klickitat County Subdivision and Short Platting Ordinance, As Amended.” Section 4.00 of this ordinance included the following definition:

   “Lot” is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts, parcels, building sites, or divisions. A lot shall be considered as all contiguous land under single ownership unless legally platted or short platted. Property bisected by a public road or river shall not be deemed contiguous.

The subject parcel is Lot 4 of a four-lot subdivision created in 1979 (Short Plat # 79-24, Kenneth T. Heany, recorded April 30, 1979, Klickitat County Auditor’s No. 171376). The subject parcel is a legal parcel, consistent with the definition.

3. Commission Rule 350-81-182(1) allows all the uses listed in Expedited Development Review Process (Commission Rule 350-81-050) on lands designated Small-Scale Agriculture. Commission Rule 350-81-050(1)(m) allows for the removal or demolition of structures that are less than fifty years old as an expedited review use.

The building to be removed is less than fifty years old. Staff obtained a copy of the original building permit from Klickitat County and verified the existing building was approved by the Klickitat County Planning Department with permit B6910, on January 30, 1987. The removal of the building is allowed per Commission Rule 350-81-050(1)(m) as an expedited use, subject to consistency with guidelines for the protection of scenic, cultural, natural, and recreation resources.
4. 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 four parcels surrounding the subject parcel are all designated GMA Small-Scale Agriculture and are privately owned. To determine if the adjacent lands are suitable for agricultural use, staff considered characteristics of the land, existing uses, and looked at soil data and crop production data in the Commission’s natural resources database. Commission Rule 350-81-154 defines suitability as:

*The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.*

The parcel is adjacent to parcels designated Large-scale and Small-scale Agriculture on all sides. Staff looked at other parcels in the vicinity to see what types of agricultural uses the subject parcel and adjacent parcels might be suitable for. In general, the types of agriculture found on nearby land with similar terrain are livestock grazing and pasturelands. Currently, the subject parcel is not fenced along its boundaries. According to Commission rule 350-81-076, the setback requirement is 100 ft for pasturelands that are open or fenced and 15 ft for pasturelands that have a vegetative barrier. The parcel is open along its northern and eastern boundaries and has thick groves of trees along its western and southern boundaries. As currently proposed, the dwelling and garage building is sited 240 ft from the western boundary, 130 ft from the northern boundary, 100 ft from the eastern boundary, and 570 ft from the southern boundary. The proposed siting complies with Commission Rule 350-81-076.

**CONCLUSION:**

The proposed dwelling and garage building and the removal of the existing single-family dwelling are allowed review uses, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

**B. SCENIC RESOURCES**

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

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

The applicants propose to site the dwelling and garage building nearby the existing road, Crestview Lane. The development is sited on a flat portion of the parcel, and the building will require minimal excavation by using a concrete slab for the foundation. A portion of the new proposed driveway will use a flat area previously graded and leveled as the driveway for the existing building. The siting helps retain existing topography so that minimal grading is necessary and is designed consistent with this rule.
2. Commission Rule 350-81-520(1)(b) states:

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

To determine compatibility of the proposed development, Commission staff looked at development within a quarter mile of the surrounding subject parcel using tax assessor records from Klickitat County. Staff chose the quarter mile study area because the parcels are within a similar landscape setting as the subject property and have similar visibility from KVAs. According to Klickitat County records, existing nearby development consists of nine dwellings and ten accessory buildings. Buildings in the study area include single-family dwellings, garages, agricultural structures, and smaller accessory structures ranging from 200 sq ft to 4,620 sq ft in visible mass and twelve to twenty-nine feet tall. These calculations include all interior living space which encompasses daylight basements, attached garages, and covered decks and patios.

As proposed, the dwelling and garage will be a 48 ft x 31 ft two story building. The proposal also has two 8 ft x 48 ft covered porches running the length of the building on each side which add 768 sq ft of visible mass. In total the building will have a visible mass of 3,744 sq ft, which would make it one of the largest dwellings in the study area, although not the largest. 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.

The applicants propose to reseed all exposed and bare soils after removing the existing dwelling. The applicants are encouraged to use a certified weed-free seed mix. Staff is providing the applicants with the List of Recommended Seed Mixes for East Side Environments, which is an attachment to the Director’s Decision. The List of Recommend Seed Mixes for East Side Environments is a list of seed and grass mixes available locally for dry eastern gorge climates.

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 four KVAs: Columbia River, Historic Columbia River Highway (HCRH), I-84, and Rowena Plateau. Because the proposed development is topographically visible from KVAs, the guidelines of Commission Rule 350-81-520(2) are applicable. The proposed development is visible from the four KVAs at the following distance zones:

<table>
<thead>
<tr>
<th>Key Viewing Area (KVA)</th>
<th>Distance Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Foreground</td>
</tr>
<tr>
<td></td>
<td>0 - 1/4 Mile</td>
</tr>
<tr>
<td>Columbia River</td>
<td>X</td>
</tr>
<tr>
<td>Historic Columbia River</td>
<td>X</td>
</tr>
<tr>
<td>Highway I-84</td>
<td>X</td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td></td>
</tr>
</tbody>
</table>

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 visibility of the development include distance from KVAs, dark earth tone colors of the building, and existing vegetation.

7. Commission Rule 350-81-520(2)(c) states that the determination of potential visual effects and compliance with visual subordinance policies shall include consideration of the cumulative effects of proposed developments. Commission Rule 350-81-020(40) defines cumulative effects as:

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

To 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 in residential use near the top of Burdoin Mountain and located on Courtney Road, Crestview Lane and Ramsay Lane. The subject parcel and surrounding parcels are in an area where existing homes and accessory buildings are common but sparsely visible throughout the landscape. The parcels in this area are designated GMA Large-Scale and Small-Scale Agriculture. According to Klickitat County Assessor records, within the quarter mile study area there are thirteen tax lots, all privately-owned. Existing development in the study area consists of ten dwellings and ten accessory buildings; three of the parcels are undeveloped. Of the thirteen privately-owned tax lots, ten lots are developed with dwellings and accessory structures, and the other three lots are undeveloped. Two of the undeveloped privately-owned parcels are designated GMA Small-Scale Agriculture and are below the minimum parcel size, which prevents any future land divisions.
Staff assumes that these two parcels will someday be developed with a dwelling and accessory structures. The other undeveloped privately-owned parcel is designated GMA Large-Scale Agriculture with a 160-acre minimum parcel size. The developed parcel is an estimated 500 acres and would be eligible for a future land division. Staff assumes this undeveloped parcel could potentially have dwellings in the future.

It is unlikely that there would be multiple similar developments on the same piece of ground given the limitations on the number of dwellings and the size of accessory buildings on the parcel. While additional dwellings for agricultural labor housing or an agricultural operator’s relative are allowed review uses on the subject property, the need for any such additional dwellings would be based on an existing or approvable agricultural use. However, given the limitations on the size of buildings, the size will remain compatible with existing development.

Several factors ensure the proposed dwelling and garage building will be visually subordinate as viewed from KVAs, including the size of the building, viewing distance, building colors and materials, and screening vegetation. The proposed building is compatible in size with existing development and will be difficult to distinguish in the landscape because the closest KVA is two miles away. There will not be any visual cumulative effects from any KVAs in the foreground because the development will not be visible from any KVA within a quarter mile.

If new dwellings are built according to applicable Land Use Designation guidelines in the vicinity of the proposed development, and if they are designed to meet the guidelines of this chapter, they will be held to the same visual resource protection standards and required to be visually subordinate. Development designed and sited to be visually subordinate will not cause adverse cumulative scenic impacts because there will be no significant increase in visibility of new development on the landscape. If new developments are built in a comparable manner to the proposal and are visually subordinate, there will be limited cumulative effects to scenic resources. For the reasons above, the proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).

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

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

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

(i) The amount of area of the building site exposed to Key Viewing Areas.
(ii) The degree of existing vegetation providing screening.
(iii) The distance from the building site to the Key Viewing Areas from which it is visible.
(iv) The number of Key Viewing Areas from which it is visible.
(v) The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads).

The site is visible from the four KVAs listed above in Finding B.5. Using GIS inventories and conducting site visits, staff found that the proposed building site is not visible in the foreground of any KVA, and the closest KVA the project is visible from is over two miles away. The site is visible intermittently from the Columbia River in the middle ground for 2 miles and in the background for 1.25 miles. From HCRH, the proposed building site is visible intermittently in the middle ground for 3.75 miles and in the background for 5 miles. From I-84 the proposed building site is visi...
visible intermittently in the middle ground for 2.25 miles and in the background for 4.5 miles. From Rowena Plateau, the site is visible in the background.

The bluff south of the project area is at an elevation of approximately 2,240 ft, and the dwelling and garage building is set back 170 ft back from the steep bluff edge to the south. There are several groups of mature oak and fir trees immediately adjacent to and within 200 feet of the building that provide partial screening from KVAs to the south and southwest.

As seen from lower-elevation KVAs in the middle ground and background the development site is topographically visible because the downward slope of the cliffs angle towards these KVAs. From the middle ground, the site is most visible from KVAs to the south and southeast of the development, especially the Historic Columbia River Highway (HCRH). The bike path and road extend from Hood River to The Dalles. The development is intermittently visible for 8.75 miles along HCRH. Because the HCRH is higher in elevation that other KVAs in the middle ground, the building will be more visible from this KVA than other nearby KVAs at lower elevations because it will not be screened as effectively by existing vegetation. Two other KVAs, the Columbia River and I-84, are at 100 ft elevation and are even lower in elevation than the development site. Because the development is set back over 150 feet from the bluff edge, from these lower elevation KVAs, the development site and the surrounding areas are densely covered in trees which help screen it from view.

From KVAs in the background, existing vegetation both on and off the subject parcel provide effective screening because at that viewing distance the development will appear insignificant in the landscape and not be visible to the unaided eye.

As explained below, the dwelling and garage building has been designed to be visu**ally subordinate** and to retain screening vegetation. With the retention of the existing trees around the dwelling and garage, the building will blend with the backdrop and not noticeably contrast with the landscape. The findings in this staff report include conditions of approval in accordance with this rule.

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.

Several factors ensure the proposed building will be visually subordinate as viewed from KVAs, including the size of the building, viewing distance, colors and building materials and screening vegetation.

The proposed building is compatible in size with existing development and will be difficult to distinguish in the middle ground and background from KVAs. There will not be any visual effects from any KVAs in the foreground because the development will not be visible from any KVA within a quarter mile. The closet KVA the project is visible from is over two miles away.
The applicants have proposed rough cut wood siding with a dark brown stain for the walls of the building and back asphalt shingles for the roof. These dark earth-tone colors are found within the shadows of the surrounding landscape.

The property has scattered tree cover which helps to partially screen the development from view of KVAs and blend with the landscape. Several groups of oak and fir trees immediately south, southwest and northwest of the of the dwelling and garage building partially screen the proposed development as seen from KVAs, the Historic Columbia River Highway in particular. 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 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 subordinance from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

As discussed in Section E below, the development is not located within the buffer of sensitive natural resource sites. Similarly, as discussed in Section C, the development does not conflict with cultural resource guidelines. The proposed development is consistent with 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 subordinance from Key Viewing Areas.

The applicants have chosen a site for the dwelling and garage building located in the northwest corner of the lot. The location is set back from the bluff over 150 feet which helps to screen it from view from KVAs while staying in compliance with agricultural buffer guidelines. Existing vegetation on the north and south of the development also help add screening.

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.
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...

   The proposed dwelling and garage building will be located at an elevation of 2,240 ft, near the top of Burdoin Mountain. Staff evaluated the site from KVAs to ensure consistency with this requirement. The applicants propose to site the building nearby the existing road, Crestview Lane, on a flat portion of the parcel to reduce grading and to site the building back from the edge of the bluff. Trees to the northwest of the property are part of a thick grove of Douglas fir trees at the top of Burdoin Mountain as seen from KVAs. The trees are a mix of pine and fir trees, some of which reach over 80 ft in height. The development is most visible from KVAs to the south and southeast, and from these KVAs the trees create a tall thick canopy. Additional trees to the south and southwest or the property, predominantly smaller Oregon white Oak, also help screen the project from view and blend with the landscape. The proposed siting is set back from the bluff’s edge near the northwest property corner, but also in compliance with the agricultural buffer guidelines discussed in section A.4. The building is set back from the southern property boundary 270 ft and is set back 80 ft to the northwest from where the existing building is sited. The existing building – which will be removed – is currently located below the skyline as viewed from KVAs and is also a two-story structure, similar in height the proposal. A condition of approval is included requiring the applicants to retain the mature vegetation on the property, including the large fir trees northwest of the dwelling and garage, to stay in compliance with this rule. 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 subordinance. Development shall be sited to avoid the need for new landscaping wherever possible.
   
   (B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.
   
   (C) Unless as specified otherwise by provisions in 350-81-520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
   
   (D) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in 350-81-520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).
The applicants 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 applicants have proposed Texas Forest Products 'Super Cedar Dark' for the exterior walls and Behr 'Mountain Spruce' (SC-114) for the trim and doors. The roof will black asphalt architectural shingles.

These dark earth-tone brown, green 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 roof, doors, garage doors, siding, trim, window casing and sash, decks, and railings to be these specific colors to ensure consistency with Commission Rule 350-81-520(2)(l).

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

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

The proposed exterior materials for the dwelling and garage are rough cut wood siding, glass windows, and a roof with black asphalt architectural shingles. The wood siding and asphalt shingles are non-reflective. The *Scenic Resources Implementation Handbook* suggests that the use of glass with 11% reflectivity may be allowable when development is located beyond the foreground of KVAs and when partially screened by topography and vegetation. A condition of approval is include requiring all exterior glass be composed of low-reflectivity glass with an exterior reflectivity rating of 11%. With this condition of approval, the proposal is consistent 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.*

The applicants provided a lighting plan for the exterior light fixtures. The applicants propose fifteen exterior lighting fixtures for the building: two doorway entry lights, twelve lights recessed under covered porches and one hooded flood light. A condition of approval is included to ensure that all outdoor lighting is directed downward, hooded, and shielded such that the lighting is are not highly visible from KVAs, consistent with this rule. Staff provided the applicants with examples of acceptable light fixtures from International Dark-Sky Association consistent with Commission Rule 350-81-520(2)(p).
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 required grading for the dwelling and garage is minimal and there will not be any visible cut banks or fill slopes. The building will require minimal excavation and use a concrete slab for the foundation. The driveway will use the existing driveway that was developed for the existing dwelling to be removed.

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.

Because the proposed dwelling and garage will be on flat ground, there will not be an excess of 200 cubic yards of grading for the structural development. 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.*

On the subject parcel and in the vicinity, trees vary in height from thirty to eighty feet and are a mix of smaller scrub oaks and taller mature fir trees. As proposed, the height of the dwelling and garage 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 subordinance for new development and expansion of existing development:*

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

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

For substantially wooded portions:

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

For treeless portions or portions with scattered tree cover:

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

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

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

No landscaping is required by the guidelines of this chapter. The property has scattered groves of trees which help to partially screen the development from view of KVAs. Several groups of oak and fir trees immediately south, southwest and northwest of the dwelling and garage building partially screen the proposed development as seen from KVAs. Consistent with this rule, to provide maximum screening from KVAs, a condition of approval is included requiring the applicants to retain the existing tree cover in the vicinity of the development, including the trees immediately to the south, southwest and northwest of the building, except for safety purposes including, but not limited to, fire protection and hazard tree removal. However, the landowner is encouraged to reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands.

While this area is not a priority habitat for Oregon white oak as defined by WDFW. Oregon white oak is an important tree species in the eastern Columbia Gorge, and conservation of Oregon white oak trees protects habitat for many animal species, including the Western gray squirrel which is a protected species in Washington State. The landowner is also encouraged to avoid cutting Oregon white oak, except for habitat enhancement. The landowner may promote “oak release” by removing overtopping and encroaching conifers from the vicinity of oak trees.

CONCLUSION:

The proposed development is consistent with Commission Rule 350-81-520 that protects scenic resources in the National Scenic Area.

C. CULTURAL RESOURCES


2. Chris Donnermeyer, Heritage Resource Program Manager for the U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the new land use application and determined in a Cultural Resources Survey Determination, dated April 6, 2021, that pursuant to Commission Rule 350-81-540(1)(c)(A)(ii) a reconnaissance survey is required because the project occurs on a site that has been determined to be within a high probability zone.

3. Mr. Donnermeyer conducted a field survey and prepared a Heritage Resource Inventory Report of the proposed development. In the report, dated June 29, 2021, Mr. Donnermeyer concluded that the proposed development would have no effect on significant cultural resources if conditions of approval are included addressing the incidental discovery of cultural material and human remains.

4. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his May 18, 2021, Cultural Resources Survey Determination letter, Mr. Donnermeyer determined that a historical survey is not required because the proposed use would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older and would not 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.
5. Commission Rule 350-81-540(2)(a)(A) and (B) allow interested parties who so request during the comment period to consult with the applicants and request ethnographic research regarding cultural resources. No such consultation or research was requested of the applicants during the comment period.

6. Commission Rules 350-81-540(2)(b) and (3)(b) require the Executive Director to submit a copy of all cultural resource survey reports and assessments of effect to the State Historic Preservation Office (SHPO) and the Indian tribal governments for their review. The rules provide for a 30-day comment period to submit written comments. The Heritage Resource Inventory Report was mailed on July 7, 2021. The comment period ended on August 6, 2021.

7. Commission Rule 350-81-540(4)(c)(B) states:

   The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

   Mr. Donnermeyer assessed the effect of the proposed development in the Cultural Resources Inventory Report. Mr. Donnermeyer’s report concludes that the proposed development would have no adverse effect on significant cultural resources.

   Initial notice of the proposed development was mailed on May 18, 2021, to interested parties. No concerns were voiced within 21 calendar days of that notice. Staff provided the Heritage Resource Inventory Report and Mr. Donnermeyer’s letter to the State Historic Preservation Office and the four Columbia River Treaty Tribes, and no substantiated concerns were voiced during the 30-day comment period.

8. Commission Rule 350-81-540(1)(g) requires consideration of cumulative effects of proposed developments that require a reconnaissance or historic survey, a determination of significance, an assessment of effect, or a mitigation plan. 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.

   In his report, Mr. Donnermeyer makes the determination that the proposed development has no effect on cultural resources conditions. Mr. Donnermeyer’s determination of no effect to significant cultural resources, also means no cumulative effects to cultural resources.

9. 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 cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval is included in the director’s decision consistent with this rule.

10. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval is included in the director’s decision consistent with this rule.
CONCLUSION:

With conditions protecting unknown cultural resources and human remains discovered during construction, the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protects cultural resources in the National Scenic Area.

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 none were observed during site visits. The proposal is consistent with Commission Rule 350-81-560 that protects wetland resources.

3. The Gorge Commission's natural resource inventories do not show any stream, pond, lake or riparian area, or resource buffer zones on the subject parcel or sites within 1,000-feet of the proposed development and none were observed during site visits. The proposal is consistent with Commission Rule 350-81-570 that protects water resources.

4. The Gorge Commission's sensitive wildlife inventory does not show any sensitive wildlife sites in the vicinity of the proposed development. Notice of this application was emailed to Amber Johnson, habitat biologist with WDFW, on May 18, 2021. The notice included a comment period of 21 days that ended on June 8, 2021. No comments were received. The proposal is consistent with Commission Rule 350-81-580 that protects sensitive wildlife areas.

5. The Gorge Commission's sensitive plant inventory identified potentially multiple sensitive plant sites within 1,000 feet of the proposed development. On May 25, 2021, staff sent the DNR Natural Heritage Program a copy of the applicant's land use application and site plan. Jasa Holt, Natural Heritage Program, reviewed the proposal and determined in an email to staff on June 9, 2021, that no sensitive plants are within or directly adjacent to the subject parcel and no buffers were necessary, pursuant to Commission Rule 350-81-590(4)(a). Therefore, the proposal complies 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 southern half of the parcel where the proposed building is sited is designated Recreation Class 2 according to the Gorge Commission’s Recreation Intensity Class Map. The proposed
The development is located near Forest Service lands associated with the Coyote Wall recreation site. The residential use of the parcel will not detract from the use and enjoyment of the site.

**CONCLUSION:**

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

**F. TREATY RIGHTS PROTECTION**

1. Commission Rule 350-81-084(1) provides protection of tribal treaty rights from new development in the National Scenic Area.

2. Commission Rule 350-81-084(1)(a) lists additional notice 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 May 18, 2021. The notice included a comment period of 21 days that ended on June 8, 2021.

3. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when any of 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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