

## COLUMBIA RIVER GORGE COMMISSION DIRECTOR'S DECISION

**CASE FILE:** C21-0008

**PROPOSAL:** The Columbia River Gorge Commission has received an application for a 30 ft x 35 ft accessory building, the after-the-fact review of a 9 ft x 12 ft accessory building and the after-the-fact review a 10 ft x 10 ft accessory building\*.

\*The original notice materials did not include the 10 ft x 10 ft accessory building because the applicant believed the building was a *use allowed outright* and not subject to review. After staff review, the building is a *review use* and is reviewed after-the-fact in this decision and staff report.

**APPLICANTS:** Thomas Novick

**LANDOWNERS:** Thomas & Wendy Novick and Pete West & Louise Tippens

**LOCATION:** The subject property is 5 acres and is located at 80 Ramsay Lane, White Salmon, in the NW ¼ of Section 28, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, Washington.  
Tax Lot Number 03-11-2800-0005/00

### LAND USE

**DESIGNATION:** General Management Area (GMA) – Small-Scale Agriculture (20)

### DECISION:

Based upon the following findings of fact, the land use application by Thomas Novick, for three accessory buildings 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 C21-0008, 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 other accessory structures, additions, alterations, or grading not included in the approved application or site plan will require a new application and review.
4. The developments shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
5. The applicants are encouraged to reseed all exposed and bare soils after the construction of the metal building with a certified weed-free seed mix. Staff is providing the applicants with a list of *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director's Decision.
6. 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](mailto: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.
7. If human remains are discovered during construction activities, all activities shall cease immediately upon 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.
8. 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. The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or [info@gorgecommissin.org](mailto:info@gorgecommissin.org).

DATED AND SIGNED THIS 9 day of November 2021 at White Salmon, Washington.



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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 9 day of November 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 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 applicant shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicant is not responsible, would prevent the applicant 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 9 day of December 2021.***

The decision of the Executive Director is final unless the applicants 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:

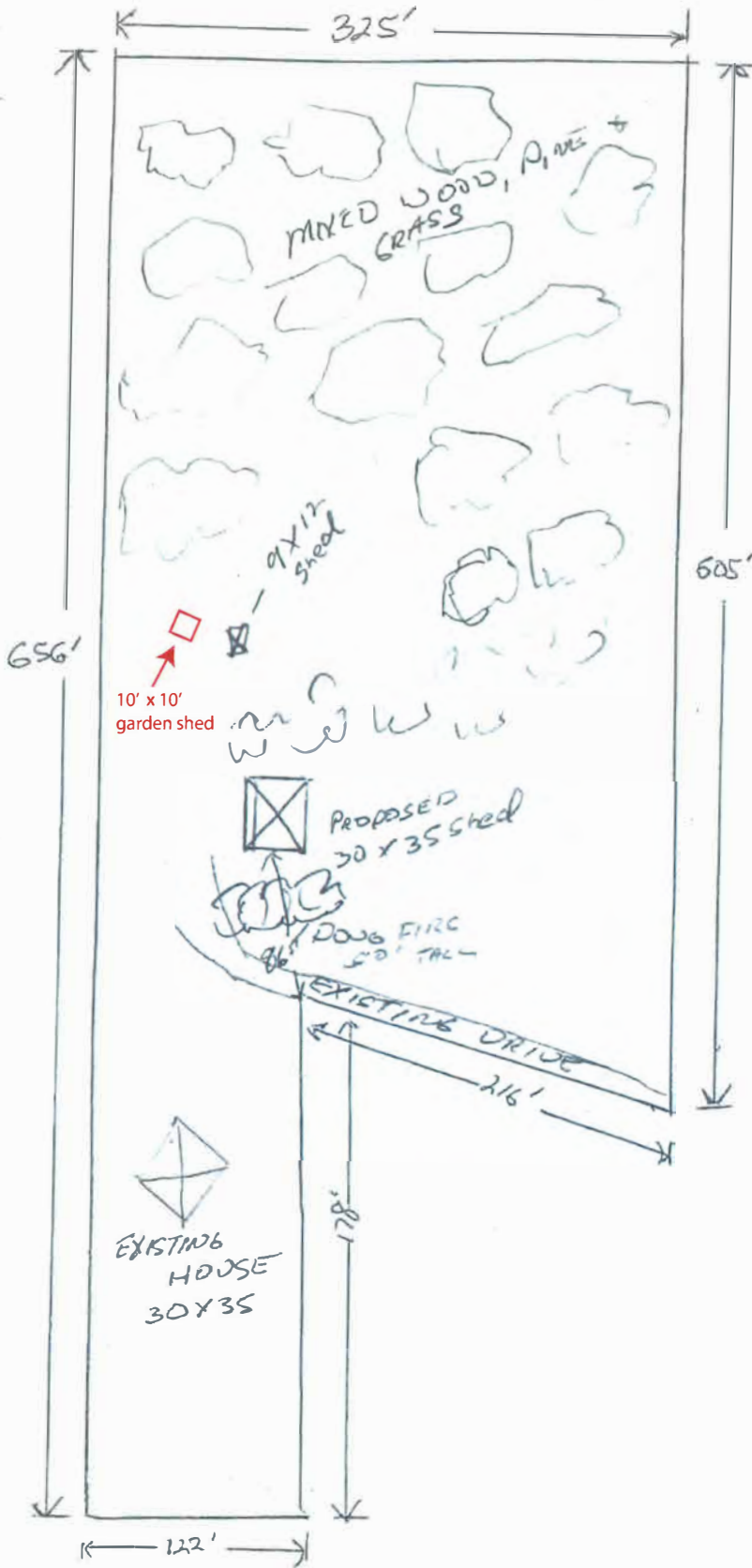
- Staff Report for C21-0008
- Approved site plan and elevation drawings
- Recommend Seed Mixes for East Side Environments*

ATTACHMENT A

Site Plan: 80 Ramsay Lane, White Salmon  
Owners: Tom and Wendy Novick  
Peter West and Louise Tippens

Scale: 1 inch = 100feet

Measurements based on Survey conducted by Klein and Associates, September 2020.



**APPROVED**

*TLW*

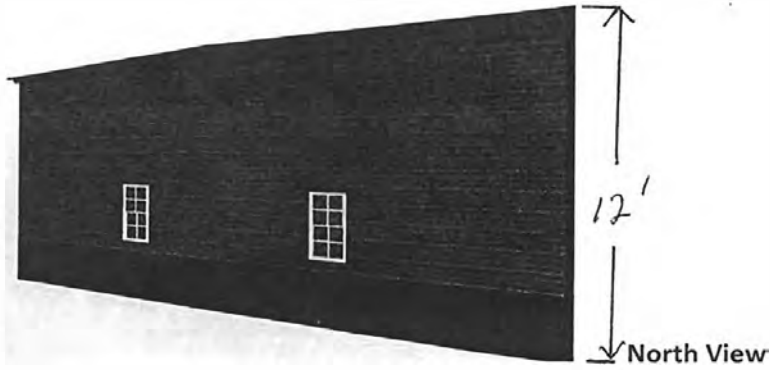
11/9/2021

80 Ramsay Lane proposed new Outbuilding

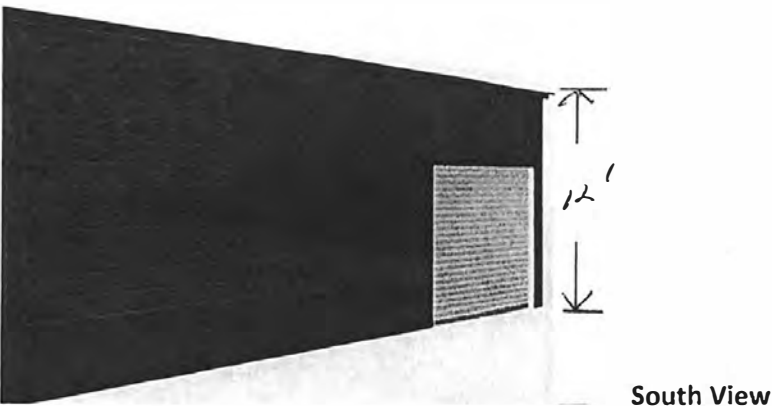
ATTACHMENT B



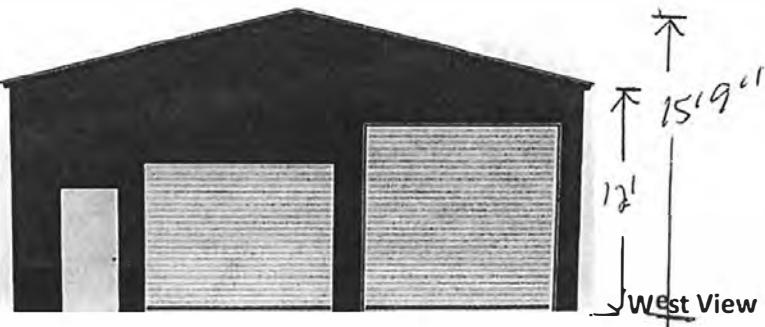
←-----30 feet----->



←-----35 feet----->



←-----35 feet----->



←-----30 feet----->

APPROVED

**Recommended Seed Mixes, Mulch, and Fertilizer  
for Temporary and Permanent Revegetation in East Side Environments**  
Based on recommendations from Andrea Ruchty, district botanist, GPNF, Mt. Adams Dist.,  
and Robin Dobson, CRGNSA botanist

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

<i>Native Seed Mixture #2: Recommendations for Composition</i>	
Species	% by wt.
California Brome ( <i>Bromus carinatus</i> )	20
Sheep fescue ( <i>Festuca ovina</i> )	40
Blue wildrye ( <i>Elymus glaucus</i> )	10
Canada bluegrass ( <i>Poa compressa</i> )	10
Blue bunch wheatgrass ( <i>Agropyron spicatum</i> )	20
Sickle-keeled lupine ( <i>Lupinus albicaulis</i> )	5 oz./100# seed
America vetch ( <i>Vicia Americana</i> )	5 oz./100# seed

<i>Non-Native Seed Mixture: Recommendations for Composition and Application Rates</i>	
Species	Application Rate
Annual ryegrass ( <i>Lolium multiflorum</i> )	10 lbs/acre (fine seed)
Perennial ryegrass ( <i>L. perenne</i> )	10 lbs/acre (fine seed)
Soft white winter wheat ( <i>Triticum aestivum</i> )	40 lbs/acre
Sickle-keeled lupine ( <i>Lupinus albicaulis</i> )	10 lbs/acre
<b>TOTAL</b>	<b>70 lbs/acre</b>

Herbaceous plants can be added after seeding:

Chrysothamnus nauseosus (rabbitbrush)	1 -2 oz./ac.
Achillea millefolium (Yarrow)	1 -2 oz./ac.
Eriogonum strictum	1 -2 oz./ac.
Lupinus bicolor or latifolius var. thompsonianus	1 -2 oz./ac.
Eriophyllum lanatum (Oregon sunshine)	1 -2 oz./ac.
Bitter brush (Purshia tridentate)	10 small plants/ac.
Arrowleaf Balsam root	

**Notes:**

**Application Method:** Hand or machine, ideally in the fall. Machines such as hydromulchers, usually have agitators which keep the seed well mixed and applied evenly. In hand-seeding operations it is more difficult to achieve an even distribution of seed. For this reason more lbs /acre have been prescribed to compensate for inadvertent patchiness. Hand seeding should utilize two passes of the area: 1 pass for small, fine seed such as slender hairgrass, and a second pass for the larger seeded species such as blue wildrye and California brome. Rice hulls may need to be added to the DEEL to get dispersion distance. Contact with the soil is very important, best results are achieved when the seed is lightly raked or pressed into the soil.

**Seed Storability:** Generally grass and forb species will hold reasonable germination (>80%) for 6-7 years in uncontrolled conditions. Thin-coated species such as *Bromus* will hold only 2-3 years or so.

**Seed Source:** Try to use appropriate local seed source for natives. Some flexibility for elevation is ok in a pinch. One native seed source is Bolson Seed Company, La Grande, OR (541)965-8285. Milestone Nursery (Lyle), Inside Passage Seed Co., Oregon Wholesale Seed Company (<http://www.oregonwholesaleseed.com/>), Rainier Seeds, Hughes Feed and Grain (the Dalles) and Dallesport Seed are other possible sources of seed, as well.

**Fertilizer:** Where there is a good "A" horizon probably don't need fertilizer. For sites with little organic matter use 200 lbs 16-20-0 /ac.

**Mulch:** Use certified weed free straw mulch whenever possible. Only 1-2" (2 tons/ac.) is needed and should be evenly applied. **Too deep can be more detrimental than none at all.** Ideally, it should be chopped and applied by machine. To further reduce the chance of introducing non-natives in to project areas, straw derived from native species is preferred. If not available, then straw from short-lived or non-persistent mulch sources such as annual rye or cereal grain seed production fields would be the next choice.

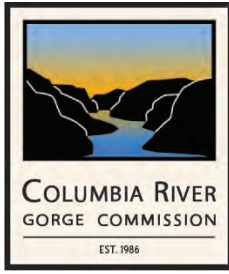
Using weed-free straw mulch is an important component in our strategy to control the spread of invasive species on the Forest. Weed-free straw is still a developing resource and its availability may be variable. Finding it will likely take some looking around. Oregon and Washington currently have weed-free certification programs. See the following websites for current lists of weed-free straw suppliers:

- ✓ [http://www.nwcb.wa.gov/WWHAM/WWHAM\\_suppliers.htm](http://www.nwcb.wa.gov/WWHAM/WWHAM_suppliers.htm)
- ✓ [http://oregon.gov/ODA/CID/weed\\_free\\_forage.shtml](http://oregon.gov/ODA/CID/weed_free_forage.shtml)

The following are some more potential contacts for weed-free straw:

- Elwyn Crutcher, Stanwood, WA, 360-939-2334 (he will deliver for a charge, is generally sold out by spring).
- Wallowa County Hay Growers Association:  
<http://www.certifiedwallowacountyhay.com/>
- John Williams, OSU Extension in Wallowa County, 541-426-3143.
- Randy Black, Oregon Dept of Agriculture, 503-986-4620.
- Allen Schnetzky, Weed Supervisor, Wallowa County 541-426-3332.





## COLUMBIA RIVER GORGE COMMISSION STAFF REPORT

**CASE FILE:** C21-0008

**PROPOSAL:** The Columbia River Gorge Commission has received an application for a 30 ft x 35 ft accessory building, the after-the-fact review of a 9 ft x 12 ft accessory building and the after-the-fact review a 10 ft x 10 ft accessory building.\*

\*The original notice materials did not include the 10 ft x 10 ft accessory building because the applicant believed the building was a *use allowed outright* and not subject to review. After staff review, the building is a *review use* and is reviewed after-the-fact in this decision and staff report.

**APPLICANT:** Thomas Novick

**LANDOWNERS:** Thomas & Wendy Novick and Pete West & Louise Tippens

**LOCATION:** The subject property is 5 acres and is located at 80 Ramsay Lane, White Salmon, in the NW ¼ of Section 28, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, Washington.  
Tax Lot Number 03-11-2800-0005/00

### LAND USE

**DESIGNATION:** General Management Area (GMA) – Small-Scale Agriculture (20)

### 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

**FINDINGS OF FACT:**

**A. LAND USE**

1. The subject parcel is 5 acres in size and designated GMA Small-Scale Agriculture. The property is located at the top of Burdoin Mountain on Ramsay Lane. The subject property is rectangular in shape, with a 'panhandle' along its southern boundary that extends from the west. The parcel is generally flat. Vegetation consists of an over-story of Douglas fir, ponderosa pine, elderberry, big leaf maple, ocean spray, and an under-story of rose hips, Himalayan blackberry, grasses, rye, and snowberry. The parcel is in the Oak-Pine Woodland Landscape Setting.
2. Existing development on the parcel includes a single-family dwelling, approved under the National Scenic Area Final Interim Guidelines on March 27, 1989 (Commission Decision C89-0029-K-G-11).
3. The applicant is requesting the review of one new larger 30 ft x 35 ft accessory building, the after-the-fact review of a 9 ft x 12 ft 'garden shed' accessory building, and the after-the-fact review a 10 ft x 10 ft 'garden shed' accessory building. The applicant originally requested the review of the 30 ft x 35 metal building and the after-the-fact review of the 9 ft x 12 ft garden shed.

During the cultural reconnaissance survey, the surveyor noticed an additional 10 ft x 10 ft garden shed and noted it in the Heritage Resource Inventory Report. The applicant stated he believed the shed was a *use allowed outright* because it had an enclosed area of under 50 sq ft. Commission Rule 350-81-074(1)(a)(E) lists "Accessory structures 60 square feet or less in area and 10 feet or less in height," as a use allowed outright. During Commission staff's site visit, staff reviewed all existing buildings for compliance, including both garden sheds. Staff explained to the applicant that the building's roof covers a larger footprint than the enclosed area, so the building is considered 100 sq ft in area, an *expedited review use*. Because the cultural reconnaissance survey and cultural review process included this building during review, Commission staff is also reviewing this additional garden shed as part of this development review.

4. Commission Rule 350-81-190(1)(e) allows the following on lands designated Small-Scale Agriculture:

*Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:*

- (A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.*
- (B) The height of any individual accessory building shall not exceed 24 feet.*

As proposed, the largest accessory building will be 30 ft x 35 ft (1,050 sq ft) and 16 ft tall, consistent with this rule. One garden shed is 9 ft x 12 ft (108 sq ft) and 10 ft tall, and the other garden shed is 10 ft x 10 ft (100 sq ft) and 10 ft tall. As proposed, the combined square footage of the three accessory buildings is 1,258 sq ft, consistent with this rule.

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)(a) lists “accessory structures between 60 and 200 sq ft in area and 10 feet or less in height” as development that may be reviewed using the expedited review process, but only one accessory building per parcel may be allowed under this guideline. Given the nature of the review, all development is being reviewed as a review use, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

5. Commission Rule 350-81-076(1) contains setbacks from adjacent properties for buildings on lands adjacent to parcels designated Large-Scale or Small-Scale Agriculture. This rule states:

*All new buildings in the GMA shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use...*

The parcel borders the National Scenic Area boundary to the north and three parcels on its west, south and east sides. The three parcels surrounding the subject parcel are 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.*

Currently, none of the parcel surrounding the subject parcel are engaged in active agricultural use. 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.

The subject property is rectangular in shape with a 'panhandle' along its southern boundary line that extends from the western side. The panhandle is mostly bare of taller over-story vegetation. The rest of the parcel has a mix of taller pines and firs including along the property lines; all the proposed buildings are sited in the rectangular are of the parcel and are not in the 'panhandle.'

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. Because all the buildings are surrounded by vegetation along the property's borders, the setback requirement is 15 ft. As currently proposed, all the buildings are sited at least 15 ft from the western property boundary, 15 ft from the southern property boundary, and 15 ft from the eastern property boundary. The proposal places all the buildings in compliance with the agricultural setback for the parcels to the east, south, and west and is consistent with this rule.

## **CONCLUSION:**

The proposal is an allowed review use, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

## **B. SCENIC RESOURCES**

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

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

The applicant proposes to site the metal building nearby the existing road, Ramsay Lane. This location is on a flat portion of the parcel and will require minimal excavation by using a concrete slab for the foundation. The two garden sheds are sited further north on the property on more undulating ground, but because of the size of buildings, minimal grading was necessary for siting. Both garden sheds use post and pier block foundations and are built on the existing grade. The siting helps retain existing topography so that minimal grading is necessary, 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. 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 largest proposed building will be 30 ft x 35 ft (1,050 sq ft) and 16 ft tall. 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.*

No planted vegetation is required by the guidelines of this chapter. The applicant is encouraged to reseed all exposed and bare soils after the construction of the metal building with a certified weed-free seed mix. Staff is providing the applicant with the *List of Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director's Decision. The *List of Recommended 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. Finding B.6 addresses the applicable guidelines in Commission Rule 350-81-520(3)(c) using information submitted in the site plan, consistent with this rule.

5. Commission Rule 350-81-520(2) contains guidelines that apply to new development on sites that are topographically visible from Key Viewing Areas (KVAs).

Using GIS inventories and conducting site visits, staff found that the proposed building sites are not topographically visible from any KVAs; the development is set back over 250 ft from the edge of the Burdoin Mountain bluff, which provides complete topographic screening. Commission Rule 350-81-520(2) therefore does not apply.

6. 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) contains applicable guidelines for the proposed development in this landscape setting. It states:

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

The proposed height of the metal building is 16 ft, and the height of the garden sheds is 10 ft. On the subject parcel and in the vicinity, trees vary in height from thirty to fifty feet and are a mix of small and mature Douglas firs and ponderosa pines. As proposed, the height of the proposed buildings is consistent with rule.

7. Commission Rule 350-81-520(4) contains guidelines for review uses within a quarter mile of a Scenic Travel Corridor. The proposed development is not adjacent to or near a Scenic Travel Corridor. The closest Scenic Travel Corridor to the project site is SR-14, which is over one mile to the south and two thousand feet lower in elevation than the subject parcel.

## **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.
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 June 9, 2021, that pursuant to Commission Rule 350-81-540(1)(c)(A)(ii) a reconnaissance field survey is required because the project occurs on a site that has been determined to be within a high probability zone.
3. Mr. Donnermeyer and Brittney Cardarella conducted a field survey and prepared a Heritage Resource Inventory Report for the proposed development. In the report, dated September 22, 2021, Mr. Donnermeyer and Ms. Cardarella 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 June 9, 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 applicant and request ethnographic research regarding cultural resources. No such consultation or research was requested of the applicant 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 September 23, 2021, with a comment period that ended on October 23, 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 will have no adverse effect on significant cultural resources.

Initial notice of the proposed development was mailed June 3, 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 June 3, 2021. The notice included a comment period of 21 days that ended on June 24, 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 does not show any sensitive plant sites within 1,000 feet of the proposed development. 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 buildings are sited is designated Recreation Class 2 according to the Gorge Commission's Recreation Intensity Class Map. The proposed 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 June 3, 2021. The notice included a comment period of 21 days that ended on June 24, 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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