CASE FILE: C22-0001

PROPOSAL: The Columbia River Gorge Commission has received an application for a new agricultural building and new cultivation of one acre for a vineyard.

APPLICANT: Lori Hendren & Semen Kharif

LANDOWNER: Lori Hendren & Semen Kharif

LOCATION: The subject parcel is 10 acres in size and located adjacent to Courtney Road, in the northeast quarter of Section 33, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, Washington. Tax Lot Number 03-11-3300-0001/00.

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

Note: According to Section 8(o) of the Scenic Area Act, the Forest Service designated both subject parcels General Management Area (GMA) Small-Scale Agriculture. For the purposes of this development review, the Special Management Area (SMA) guidelines no longer apply to these parcels; they will be reviewed according to the applicable GMA land use and resource protection guidelines.

DECISION:
Based upon the following findings of fact, the land use application by Lori Hendren & Semen Kharif, for a new agricultural building and vineyard 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 C22-0001, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor’s Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.

3. Any new land uses or structural development, alterations, or grading not included in the approved application or site plan will require a new application and review.

4. The proposed agricultural use must be initiated within 1 year of the commencement of construction for any aspect of this development review.

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 agricultural building are consistent with this condition and are hereby approved:

   Exterior: Benjamin Moore Black Tar (2126-10)
   Roof: Corten® Steel

The Corten steel shall not be installed prior to the completion of the rusting process. 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. No fencing is approved except to enclose the vineyard. Fencing shall adhere to the following specifications:
   A. the top wire is not more than 42 inches high, to make it easier for deer to jump over the fence;
   B. a gap of at least 10 inches is maintained between the top two wires to make it easier for deer to free themselves if they become entangled;
   C. the bottom wire is a smooth wire, placed at least 16 inches above the ground to allow fawns to crawl under the fence
   D. stays, or braces placed between strands of wire, are positioned between fence posts where deer are most likely to cross, creating a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

7. The following mitigation measures are required to enhance habitat for western gray squirrel:
   A. Do not cut any tree containing a gray squirrel nest. WDFW recommends a 50-ft no-cut buffer around nest trees to maintain an interlocking tree canopy and minimize disturbance.
   B. Do not cut Oregon white oak, except for habitat enhancement. The landowner is encouraged to reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands.
C. Promote “oak release” by removing overtopping and encroaching conifers from the vicinity of oak trees on the subject parcel, thereby reducing the competition for light, water, and nutrients.

8. All exterior building materials including roofs, doors, siding, trim, window casing and sash, decks, and railings shall be nonreflective or have low reflectivity. Any exterior metal materials shall be painted with low-gloss black colored finish and maintained as necessary to ensure that the material is non-reflective.

9. All outdoor lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible as seen from Key Viewing Areas. Shielding and hooping materials shall be composed of non-reflective, opaque materials.

10. 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).

11. If cultural resources are discovered, 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.

12. If human remains are discovered, 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.

DATED AND SIGNED THIS 21 day of April 2022 at White Salmon, Washington.

Krystyna U. Wolniakowski
Executive Director

EXPIRATION OF APPROVAL:
Commission Rule 350-81-044 governs the expiration of this Director’s Decision.

This decision of the Executive Director becomes void on the 21 day of April 2024 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 31 day of May 2022.*

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.

- 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 C22-0001
   Approved site plans and elevation drawings
COLUMBIA RIVER GORGE COMMISSION
STAFF REPORT

CASE FILE: C22-0001

PROPOSAL: The Columbia River Gorge Commission has received an application for a new agricultural building and new cultivation of one acre for a vineyard.

APPLICANTS: Lori Hendren & Semen Kharif

LANDOWNERS: Lori Hendren & Semen Kharif

LOCATION: The subject parcel is 10 acres in size and located adjacent to Courtney Road, in the northeast quarter of Section 33, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, Washington.
Tax Lot Number 03-11-3300-0001/00.

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

Note: According to Section 8(o) of the Scenic Area Act, the Forest Service designated both subject parcels General Management Area (GMA) Small-Scale Agriculture. For the purposes of this development review, the Special Management Area (SMA) guidelines no longer apply to these parcels; they will be reviewed according to the applicable GMA land use and resource protection guidelines.

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 CRGNSA)
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
FINDINGS OF FACT:

A. LAND USE

1. Lori Hendren & Semen Kharif have applied to plant approximately one acre of grapes, install deer-safe fencing, construct an agricultural building, and build a new access road.

2. The subject parcel is in the General Management Area (GMA) and is designated Small-Scale Agriculture with a 40-acre minimum parcel size. The parcel is ten acres in size and is located on Burdoin Mountain and accessed off Courtney Road.

3. Existing development on the property includes a 14 ft x 60 ft (840 sq ft) mobile home and a gravel driveway.

4. Commission Rule 350-81-190(1)(a) allows,

   New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

   The vineyard will by 250 ft x 190 ft, approximately one acre, and will include one field organized into rows of vine grapes, supported by trellises and an irrigation system. The vineyard is a new agricultural use allowed pursuant to this rule, subject to compliance only with the guidelines to protect cultural and natural resources.

5. Commission Rule 350-81-190(1)(b) allows,

   Agricultural structures, except buildings, in conjunction with agricultural use.

   The trellising is an agricultural structure allowed pursuant to this rule, subject to review for consistency with the guidelines for protection of scenic, cultural, natural, and recreation resources. Commission Rule 350-81-020(8) defines agricultural use:

   The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing
animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.
(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.
(c) Land planted in orchards or other perennials prior to maturity.
(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

The applicant supplied information addressing the requirements of Commission Rule 350-81-090(1) as part of the application materials. The applicants want to plant one acre of vine grapes on the northwest quarter of the property. The vineyard will be 250 ft x 190 ft, approximately one acre, and will include one field organized into rows of vine grapes, supported by trellises and an irrigation system.

6. Commission Rule 350-81-190(1) allows agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

The parcel was previously used for agriculture but is not currently. Consistent with this rule, a condition of approval requires the applicant to initiate the proposed agricultural use within one year of commencement of construction of the agricultural building.

7. Commission Rule 350-81-090(2) has the following requirements for proposed agricultural buildings:

(1) The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.
(2) To satisfy 350-81-090(1), applicants shall submit the following information with their land use application:
   (a) A description of the size and characteristics of current agricultural use.
   (b) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).
   (c) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock)

The applicant supplied a layout of the proposed agricultural building as part of the application materials to address the requirements of Commission Rule 350-81-090(1). The applicant proposes a seventeen ft tall, 30 ft x 50 ft (1500 sq ft) agricultural building to
serve the proposed agricultural use. The barn includes two overhead doors, two vehicle bays, a work bench, and areas for equipment and supply storage. The applicant also submitted an agricultural plan for the property that included location and size of the vineyard.

With a condition of approval requiring the applicant to initiate the proposed agricultural use within one year of commencement of construction of the agricultural building, staff finds the proposed agricultural building consistent with Commission Rule 350-81-090.

8. The applicant proposes a new driveway for the agricultural building. Commission Rule 350-81-190(1)(l) allows construction, reconstruction, or modifications of roads not in conjunction with agriculture subject to compliance with scenic, cultural, natural and recreation resources guidelines. Commission Rule 350-81-190(1)(b) allows agricultural structures, including roads, in conjunction with agricultural use.

9. Commission Rule 350-81-190(1)(b) allows agricultural structures including fences, in conjunction with agricultural use, provided the fence complies with 350-81-580(6) if it is inside deer and elk winter range.

The proposed development is located in deer and elk winter range. The applicants propose to enclose the one-acre vineyard using fencing that is consistent with these standards. No other fencing is approved except to enclose the vineyard. Finding D.6 contains staff review for consistency with Commission Rule 350-81-580(6).

10. 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.

This rule is only applicable to the subject parcel along the southern and western boundaries. Lands adjacent to the north and east of the subject parcel are designated SMA Agriculture, and this rule does not apply. The distance between the location of the development and the southern and western property lines is more than 700 feet, exceeding the maximum distance of any buffer required by 350-81-076. No additional buffers are needed between the subject property and the properties designated GMA Agriculture. The proposal 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 has sited the agricultural building and access road in the northeast corner of the property. The building will be located on a flat area, reducing the need for extensive grading. The road will be located on a gentle slope which helps retain existing topography, utilizing the existing natural contours of the topography and eliminating large cut and fill areas.

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 surrounding the subject parcel within a quarter mile. Staff chose the quarter mile study area because the parcels are within the same Oak-Pine Woodland landscape setting as the subject property and have similar visibility from KVAs (Key Viewing Areas). Additionally, many of the parcels in the area are developed with single-family dwellings.

   Of the 20 parcels in the study area, staff identified 11 parcels with development. There are currently 29 known buildings in the study area. These buildings include single-family dwellings, mobile homes, garages, agricultural structures, and smaller accessory structures. Buildings range in size from 64 to 5,136 sq ft.

   As proposed, the agricultural building will be 50 ft x 30 ft (1,500 sq ft) and seventeen ft tall. The general scale of the proposed agricultural building is compatible with 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 are required to reseed all exposed and bare soils after the development is completed. The applicants are encouraged to use a certified weed-free seed mix. Staff is
providing the applicants with a list, *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director's Decision. The list provides seed and grass mixes available locally for dry eastern gorge climates. Consistent with this rule, a condition is included requiring disturbed areas be revegetated immediately upon completion of the project, or as soon as possible if the project is completed during the winter.

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 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 five KVAs: Columbia River Historic, Columbia River Highway (HCRH), I-84, Rowena Plateau, and SR-14. 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 five KVAs at the following distance zones:

<table>
<thead>
<tr>
<th>Key Viewing Area (KVA)</th>
<th>Foreground (0 - 1/4 Mile)</th>
<th>Middleground (1/4 - 3 Miles)</th>
<th>Background (Over 3 Miles)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Columbia River</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Historic Columbia River Highway</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Interstate 84</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SR-14</td>
<td></td>
<td></td>
<td>X</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 building colors, 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 evaluate the cumulative effects of the proposal, staff looked at development and development potential surrounding the subject parcel within a quarter mile. Burdoin Mountain is a large feature in the National Scenic Area and Klickitat County. It climbs to 2,258 ft elevation at its peak, located just north of Bingen, WA. The southern slope occupies approximately 2,750 acres in the National Scenic Area. As seen from KVAs in the distance, the area is not densely populated, but existing dwellings and accessory buildings are visibly scattered throughout the landscape. Existing development in the vicinity of the proposal that present visual impacts include Courtney Road, SR-14, the BNSF railroad, and the Coyote Wall Recreation Area parking lot. Currently, Courtney Road is the only road climbing the southern slope of Burdoin Mountain and is the only road providing access to residential homes in the area.

Several factors ensure the proposed development will not cause adverse scenic impacts as viewed from KVAs, including distance from KVAs, site location, existing topography, dark earth tone building colors, low reflective building materials, and screening vegetation. There will not be any visual effects from KVAs in the foreground because no development in the study area will be visible in the foreground of any KVA. The development will be visible from KVAs further away, such as I-84 or the Historic Columbia River Highway. From these KVAs, there is already limited existing development in the viewshed, including a dwelling on the subject parcel. However, buildings in these viewsheds are clustered together and appear part of the scattered rural residential development that exists in the landscape. The proposed development will be difficult to distinguish in the landscape because the closest KVA is 1.5 miles away.

According to data from Klickitat Assessor Records, within the study area there are 20 parcels. Most of the parcels, comprising approximately 45 acres, are owned by the United States Forest Service; each of the parcels are approximately the same size as the subject parcel. Government owned land in the National Scenic Area is not typically developed, so staff assumes that government owned lands near the subject parcel will not be developed. The remaining 13 parcels are privately-owned. Eleven of the thirteen
privately-owned parcels are developed with dwellings and accessory structures. Two of the privately-owned parcels are undeveloped. One of the undeveloped privately-owned parcels can be developed in the future and is designated General Management Plan (GMA) Small-Scale Agriculture by the Forest Service, according to Section 8(o) of the National Scenic Area Act. Staff assumes for this analysis that parcel will someday be developed with a dwelling and accessory structures. The other undeveloped privately-owned parcel is designated SMA Agriculture. According to Commission Rule 350-81-190(c)(D), the minimum parcel size for new dwellings on parcels designated SMA Agriculture is 40 acres and none of the parcels are 40 acres or larger. Staff assume this parcel will remain undeveloped.

The 80-acre minimum in the GMA prevents any land divisions, and there are no land divisions allowed in SMA except where a land division would facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan (Commission Rule 350-81-124(1)). Such a land division would create additional developable parcels, but they would be held in federal ownership and unlikely to contribute to any cumulative impacts.

If new developments 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. As designed and conditioned, 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 five KVAs listed above in Finding B.5, and not visible in the foreground of any KVA. Using GIS inventories and conducting site visits, staff found that the proposed building site is visible intermittently from the Columbia River in the middle ground for one mile and in the background for 2.5 miles. From HCRH, the proposed building site is visible intermittently in the middle ground for 3.5 miles and in the background for two miles. From I-84 the proposed building site is visible intermittently in the middle ground for 1.5 miles and in background for three miles. From Rowena Plateau, the site is visible in the background. From SR-14 the proposed building site is visible intermittently in the background for one mile.

The proposed agricultural building will be at an elevation of 1,340 ft. There are several groups of mature oak pine and fir trees within 200 ft of the development surrounding it from the north, east and south and provide partial screening from KVAs to the south and southeast. The KVAs to the south and southeast of the development are substantially lower in elevation than the development site. The elevation of the bluff and the distance of the development from the bluff’s edge, over 900 feet, provide some topographic screening for KVAs to the south. As seen from KVAs from the southeast, the development site is more topographically visible because the gentle downward slope of the mountain angles towards these KVAs. The site is only visible from one higher elevation KVA, Tom McCall Viewpoint (1,700 ft elevation) accessed from Rowena Plateau. From this KVA, existing vegetation both on and off the subject parcel provide screening because the site is in the background, 6.5 miles away. At that viewing distance the development will appear insignificant in the landscape and not be visible to the unaided eye.

As explained below, the agricultural building and road have been designed to be visually subordinate and to 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 1.5 miles away.

The applicants have proposed wooden siding with a dark brown stain for the walls of the building and Corten steel 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 surrounding the development to the north, east and south help partially screen the proposed development as seen from KVAs. Consistent with the Landscape Settings Design Guidelines, a condition of approval requires existing vegetation surrounding the development on the parcel be retained.

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

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 development that is setback from the bluff of Burdoin Mountain and has partial screening from KVAs because of vegetation both on and off the subject property. As discussed in Finding A.1 the development has been sited using existing topography to minimize grading activities to the maximum extent practicable. The proposal is consistent with this rule.
12. The 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 agricultural building will be located at an elevation of 1,350 ft. The development is located on Burdoin Mountain which rises north of the development to an elevation of 2,258 ft. The applicants propose to site the building in the northeast quarter of the property on a flat portion of the parcel to reduce grading, and to site the building back over 900 ft from the edge of the bluff which helps provide topographical screening. Trees to the south and southwest of the property, predominantly smaller Oregon white Oak, also help screen the project from view and blend with the landscape. 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 Benjamin Moore Black Tar (2126-10) for the exterior walls of the agriculture building. The dark black color is consistent with Commission Rule 350-81-520(2)(l). A condition of approval requires the exterior surfaces of the agricultural building including the walls, doors, siding, trim, window casing and sash, decks, and railings to be to be this color to ensure consistency with Commission Rule 350-81-520(2)(l).

The applicants have proposed Corten steel for the roof of the building. The rust-like appearance of the Corten steel is a dark earth tone color. Corten steel can be treated to accelerate the corrosion process, and a condition of approval is included to ensure that the Corten steel paneling has been treated and “pre-rusted” to the appropriate dark-earth tone prior to installation, consistent with this rule.

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 applicants propose using T-111 wooden siding for the agricultural building. This material is nonreflective. The siding is consistent with Commission Rule 350-81-520(2)(m).

The applicants have proposed Corten steel for the roof of the building. Corten steel is a steel building material that can be used for siding and roofing. It is a group of steel alloys which were developed to eliminate the need for painting and form a stable rust-like appearance after several years’ exposure to weather. Corten steel can be treated to accelerate the corrosion process, and a condition of approval is included to ensure that the Corten steel paneling has been treated and “pre-rusted” to the appropriate dark-earth tone.
tone prior to installation. A condition of approval is included to ensure that the Corten steel paneling is the appropriate dark-earth tone prior to installation. The roof is consistent with Commission Rule 350-81-520(2)(m).

Another condition of approval requires all exterior surfaces of the proposed development, including roof, doors, siding, trim, window casing and sash, decks, and railings to be composed of non-reflective materials to ensure consistency with Commission Rule 350-81-520(2)(m).

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 applicant proposes two exterior wall mounted lighting fixtures for the agricultural building. A condition of approval is included in the decision ensuring lights are directed downward, hooded and shielded such that they are not highly visible from KVAs, consistent with this rule. Staff also provided the applicant with examples of acceptable light fixtures from International Dark-Sky Association as an attachment with this decision.

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

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

The applicant has sited the agricultural building and access road in the northeast corner of the property. The building will be located on a flat area, reducing the need for additional extensive grading. The road will be located on a gentle slope which also helps retain existing topography by utilizing the natural contours on site and eliminating large cut and fill areas. As designed, there will be no visible cut banks or fill slopes from KVAs.

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.

The applicant provided a grading plan consistent with the guidelines of this rule. According to the grading plan, the development including the agricultural buildings and road will require 280 cubic yards of cut material. All of the cut materials will remain on site and be used to fill in an existing man-made depression where the vineyard will be located. The proposal is consistent with this rule.

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 fifty feet and are a mix of oak, fir, and pine trees. As proposed the agriculture building will be seventeen feet tall, which is significantly smaller in height than existing vegetation surrounding the development. As proposed, the height of the agricultural building 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., existing tree cover screening the development from Key Viewing Areas shall be retained.

For treeless portions or portions with scattered tree cover:

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

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

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

The property has oaks and other trees to the south of the development which screen the development from view of KVAs. No trees are proposed to be removed, and no new landscaping is required by this Decision. However, a condition of approval is included requiring the applicant to retain existing tree cover screening the development to ensure that the overall visual character and appearance of the landscape is retained, consistent with this rule.
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, U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination letter, dated January 24, 2022, that pursuant to Commission Rule 350-81-540(1)(c)(A)(iii) a Cultural Resource Reconnaissance Survey is not required because the proposed use would occur on a site that has been determined to be located within a low probability zone, is not within 100 feet of a high probability zone, and does not occur within 500 feet of a known archaeological site.

3. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required. In his January 24, 2022, 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.

4. Commission Rule 350-81-540(2)(c)(B)(i) states the cultural resource protection process may conclude when the following conditions exist:

   The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.

   The project notice was mailed on January 13, 2022, and the comment period ended on February 3, 2022. As explained above, the proposed use did not require a reconnaissance or historic survey and no comments were received regarding cultural resource concerns. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

5. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval is included in the director’s decision consistent with this rule.
6. 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 proposal is consistent with the guidelines in Commission Rule 350-81-540 that protects cultural resources in the National Scenic Area.

D. NATURAL RESOURCES

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).

2. The Gorge Commission’s natural resource inventories do not identify any wetlands on the subject parcel and no wetlands 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 identify any stream, pond, lake, and riparian areas on the subject parcel. Staff observed a man-made depression in the ground on the subject property that resembled a pond, but the depression had no signs of any seasonal water collection and was clearly man-made. The proposal is consistent with Commission Rule 350-81-570 that protects water resources.

4. Commission Rule 350-81-580(4)(a) requires the Gorge Commission notify the Washington Department of Fish and Wildlife (WDFW) when a new development or land use is proposed within a sensitive wildlife area, in this case, deer and elk winter range and western gray squirrel habitat.

On January 13, 2022, Gorge Commission staff sent WDFW a copy of the applicant’s land use application and site plan.

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

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

   Amber Johnson, WDFW Habitat Biologist, submitted a comment about the use of fencing in deer and elk winter range. Staff explained that new fencing would only be used for the proposed one acre of vine grapes and the fencing would be consistent with Commission
Rule 350-81-580(6). After discussion with Ms. Johnson, staff determined the proposed use will not compromise the integrity of the wildlife area.

6. The proposed development takes places in the Oak Pine Woodland landscape setting, and there are several Oregon white oak trees on site. While this area is not a priority habitat for Oregon white oak, 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. To ensure the integrity of western gray squirrel habitat on subject parcel, the following recommendations are included as conditions of approval:
   A. Do not cut any tree containing a gray squirrel nest. WDFW recommends a 50-ft no-cut buffer around nest trees to maintain an interlocking tree canopy and minimize disturbance.
   B. Do not cut Oregon white oak, except for habitat enhancement. The landowner is encouraged to reduce hazard fuels throughout parcel, including surface and ladder fuels, and by thinning out dense tree stands.
   C. Promote “oak release” by removing overtopping and encroaching conifers from the vicinity of oak trees on the subject parcel, thereby reducing the competition for light, water, and nutrients.

Due to the size and nature of the development, with these conditions of approval, staff does not believe the proposed development compromises the integrity of the parcel as a wildlife site.

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

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

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

As discussed above, the proposed development is located in deer and elk winter range. The applicants have proposing to enclose the one-acre vineyard using fencing that is consistent with these standards. No other new fencing is proposed except to enclose the vineyard. A condition of approval is included requiring all fencing to meet these standards.

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

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

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

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

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

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

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

As noted in finding D.4 above, the development site is located within winter range and western gray squirrel habitat. Staff also considered the existing conditions of the study area and the likelihood of other similar development in the area. For the purposes of evaluating the cumulative effects of repeated similar activities, staff focused on similarly zoned Scenic Area lands within the Big White Salmon River Winter Range.

The Big White Salmon River Winter Range is approximately 16,000 acres spanning three to four miles on either side of the White Salmon River. Existing conditions in the study
area can be described as rural with dispersed structural development. Corridors of trees exist in the study area, primarily along stream corridors which have protected buffers.

WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will have little effect on existing deer and squirrel habitat. Pursuant to Commission Rule 350-81-580(1)(c), staff does not believe the proposed development creates any adverse effects, including cumulative effects, to the integrity of the parcel as wildlife site, due to the location and size of the development.

10. 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 parcel 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, but the proposal 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 January 13, 2022. The notice included a comment period of 21 days that ended on February 3, 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(1)(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 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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