

COLUMBIA RIVER GORGE COMMISSION MINOR CHANGE TO A DIRECTOR'S DECISION

CASE FILE:	Minor Change #2 to C20-0013	
MINOR CHANGE APPLICANT:	Chester Overlees	
ORIGINAL APPLICANT:	Mary Kleihege	
LANDOWNER:	Mary Kleihege	
ORIGNAL PROPOSAL:	The Columbia River Gorge Commission has approved an application for	
	 an addition and deck for an existing single-family dwelling, new exterior finish and windows for another existing single-family dwelling, a deck, new windows, and separate septic system for an existing agricultural building, a new deck and agricultural labor housing in another existing agricultural building, a greenhouse (30 ft x 60 ft), a well house (11 ft x 18 ft), a carport (19 ft x 17 ft), and the after-the fact reviews of replacement fencing, road improvements, and maintenance and repair to several farm buildings. 	
MINOR CHANGE REQUEST :	The same development as in the original approved Director's Decision (May 10, 2021) and first Minor Change to the Director's Decision (August 9, 2022) with changes as follows:	
	1. A 114 ft retaining wall on the north side of an existing agricultual building.	
LOCATION:	The subject property is 214 acres located in Klickitat County at 386 Lyle Snowden Rd, Lyle, WA, in the east half of Section 9, Township 3 North, Range 12 East, Willamette Meridian; Tax Lot Number 03-12-0900-0001/00.	
LAND USE DESIGNATION:	General Management Area (GMA) – Commercial Forest (80)	

AUTHORITY TO APPROVE MINOR CHANGE:

This application was received and reviewed under Commission Rule 350-81. The proposed minor changes are therefore being reviewed pursuant to Commission Rule 350-81-046.

Commission Rule 350-81-046 states:

Any change to a development action approved by the Executive Director shall be processed as a new action, except that the Executive Director may approve minor changes to findings, conclusions, and conditions of approval deemed to be consistent with the guidelines of Commission Rule 350-81 and the findings and conclusions for the original action. If the Executive Director approves a minor change, the Director shall notify all of the parties that would have standing to appeal the change, including the applicant, the Forest Service, the four Indian tribal governments, the county planning department, and anyone who submitted comments during the comment period on the original land use application. The change itself (not the original decision) would be subject to appeal under the same time frames applicable to the original decision.

DECISION:

Based upon the findings of fact in the Staff Report for Director's Decision C20-0013, the request for a minor change by Chester Overlees is consistent with the purposes of the Columbia River Gorge National Scenic Area Act (Act) and the standards in Section 6 of the Act, 16 U.S.C. §§ 544(a), 544d(d), the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and Commission Rule 350-81, and is hereby approved.

AMENDED 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). (Note: Conditions with changes are shown with strikeout text indicating deletions to the original condition and underlined text indicating additions to the original condition.)

- 1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C20-0013, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor's Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.
- 2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.

- 3. Any new land uses or structural development such as garages, workshops, or other accessory structures, additions, alterations, or grading not included in the approved application or site plan will require a new application and review.
- 4. The developments shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
- 5. All exterior building materials, including roof, doors, siding, trim, window casings and sashes, decks, and railings shall be dark earth-tone colors. Only approved dark earth-tone colors for exterior materials shall be used. The following colors submitted by the applicants for the exterior of the house are consistent with this condition and are hereby approved:

Exterior:	Valhalla Lifetime Wood Treatment
Roof:	Taylor Metal Saddle Tan (SRI-37)
<u>Retaining Wall:</u>	<u>Brown concrete (241)</u>

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

- 6. All exterior building materials, including roof, doors, siding, trim, window casing and sash, decks, and railings shall be nonreflective or have low reflectivity. Any exterior metal materials shall be painted with low-gloss black colored finish and maintained as necessary to ensure that the material is non-reflective. Solar panels shall be black, including panels and frames, to minimize reflectivity, with no bare aluminum framing or bare structural surfaces.
- 7. All windows shall be composed of low-reflectivity glass. A reflectivity rating of 11% is required.
- 8. The proposed development shall comply with the following fire protection criteria. The applicant shall submit a written statement and amended site plan addressing each criterion to the Gorge Commission for review and approval by the Executive Director, before construction begins. The applicant shall notify the Commission when construction is complete, so an inspection of the dwelling can be made to verify compliance with the fire safety guidelines.
 - A. All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire-resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.
 - B. Buildings with plumbed water systems shall install at least one standpipe a

minimum of 50 feet from the structures.

- C. A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separated from the dwelling.
- D. Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent.
- E. Telephone and power supply systems shall be underground.
- F. Roofs of structures shall be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.
- G. Any chimney or stovepipe on any structure for use with a woodstove or fireplace shall be screened with no coarser than ¼ inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.
- H. All structural projections such as balconies, decks and roof gables shall be built with fire resistant materials equivalent to that specified in the Uniform Building Code. The applicant shall submit building materials for the decks of the development to the Gorge Commission for review and approval.
- I. Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4-inch mesh metal screen that is noncombustible and corrosion resistant.
- 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 hooding materials shall be composed of non-reflective, opaque materials.
- 10. 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 nocut buffer around nest trees to maintain an interlocking tree canopy and minimize disturbance.
 - B. Do not cut mature Oregon white oak. 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.
- 11. All cattle fencing, including all recently replaced 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.
- 12. All disturbed areas shall be reseeded with native grasses and forbs. Disturbed areas shall be revegetated immediately upon completing the project (or as soon as possible thereafter if the project is completed during the winter months) with at least 80 percent vegetative coverage within 1 year. The Commission encourages the applicant to use a seed mix from the Recommended Seed Mixes for East Side Environments, which is included as an attachment to this Director's Decision.
- 13. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
- 14. If human remains are discovered during construction activities, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
- 15. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for a FINAL INSPECTION to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or info@gorgecommissin.org. Each inspection may take up to seven business days from the time of calling for the inspection.
- 16. The 'white barn' shall not be used as dwelling. The barn shall not be certified for occupancy.

DATED AND SIGNED THIS 2 day of December 2022 at White Salmon, Washington.

Krystyna U. Wolniakowski

Krystyna U. Wolniakowsk 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 December 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 that the applicant commenced construction. The date of the Executive Director's preconstruction inspection to confirm the location of proposed structural development as required by this decision shall be considered the date the applicant commenced construction, unless the applicant demonstrates otherwise.

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

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

APPEAL PROCESS:

The appeal period ends on the $\frac{20}{2}$ day of January 2023.

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

NOTES:

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

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

c: Confederated Tribes and Bands of the Yakama Nation Confederated Tribes of the Umatilla Indian Reservation Confederated Tribes of Warm Springs Reservation of Oregon Nez Perce Tribe U.S. Forest Service National Scenic Area Office Washington Department of Archaeology and Historic Preservation Klickitat County Planning Department Klickitat County Building Department Klickitat County Building Department Klickitat County Public Works Department Klickitat County Health Department Klickitat County Assessor Washington Natural Heritage Program Washington Department of Fish and Wildlife Steve McCoy, Friends of the Columbia Gorge

Attachments:

Staff Report for C20-0013 Approved site plan and elevation drawings International Dark-Sky Association example sheet of acceptable & unacceptable light fixtures Recommend Seed Mixes for East Side Environments

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

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

Confederated Tribes and Bands of the Yakama Nation Confederated Tribes of the Umatilla Indian Reservation Confederated Tribes of Warm Springs Reservation of Oregon Nez Perce Tribe U.S. Forest Service National Scenic Area Office (USFS NSA) Washington Department of Archaeology and Historic Preservation Klickitat County Planning Department Klickitat County Building Department Klickitat County 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 Friends of the Columbia Gorge

Written comments were received from:

Chris Donnermeyer, Heritage Resource Program Manager, USFS NSA Steve McCoy, attorney, Friends of the Columbia Gorge

AMENDED FINDINGS OF FACT AND CONCLUSIONS AND ANALYSIS OF CONSITENCY OF

PROPOSED CHANGES: (Note: Findings and Conclusions with changes are shown with strikeout text indicating deletions to the original findings and underlined text indicating additions to the original findings. Original, unchanged Findings and Conclusions are not included.)

A. LAND USE

- 3. The applicant has multiple development requests for the property. The applicant proposes the following modifications to existing buildings:
 - 1. Farmhouse: Add a 12 ft x 18 ft entry way addition, replace windows and finish repairs to existing deck.
 - 2. Hermitage: Repair building within its existing footprint including exterior decks, which had begun to rot. Enlarge some of the windows, as indicated on the elevation drawings.
 - 3. Office Building: Formerly used as an office building and guest housing, to be converted into worker housing. Add a second-floor exterior deck 8 ft. wide running the length of the building.
 - 4. Big White Barn: First floor: Level concrete floor, <u>add a 114 ft retaining wall along the</u> <u>north side</u>, add a bathroom and separate septic system, enlarge windows on east, north, and south sides as indicated on the elevation drawings. On the south side of the barn, with the shed addition, reinstall metal roof, and add windows evenly spaced across the south side. Top floor: enlarge the windows evenly spaced across the south side. On the east end, build a 30 ft x 10 ft deck on the second floor.

The applicant proposes the following new buildings:

<u>Building Name</u>	<u>Footprint</u>	<u>Building Height</u>
1. Carport (accessory)	323 sq ft (19 ft x 17 ft)	15 ft
2. Greenhouse (agricultural)	1,800 sq ft (30 ft x 60 ft)	10 ft
3. Well House (agricultural)	198 sq ft (11 ft x 18 ft)	10 ft

The applicant also requests after-the-fact review of replacement fencing and for road maintenance. The applicant originally requested three greenhouses, but during the course of the review withdrew the request for two of the greenhouses.

CONCLUSION:

With conditions of approval requiring the proposed developments are allowed review uses, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.

ANALYSIS OF CONSISTENCY OF PROPOSED CHANGE:

This finding is hereby amended to accurately describe the proposed changes. The amended findings continue to support the conclusion that the project will be consistent with Commission Rule 350-81.

B. SCENIC RESOURCES

15. Commission Rules 350-81-520(2)(1) states:

Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from Key Viewing Areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval.

The applicant has proposed Valhalla Wood Preservatives *Lifetime Wood Treatment* for the exterior walls of the wellhouse, carport and the addition to the dwelling, and Taylor Metal *Saddle Tan* (SRI-37) for the roofing. <u>The retaining wall will be stained a deep brown</u>. These dark earth-tone browns are found within the shadows of the surrounding landscape. A condition of approval requires all exterior surfaces of the proposed development, including doors, siding, trim, window sash, and roof, to be dark earth-tone colors to ensure consistency with Commission Rule 350-81-520(2)(1).

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 proposed greenhouse, the well house and the carport are small and will be constructed on flat ground and no other buildings or roads are proposed. <u>The proposed retaining wall</u> <u>will require approximately 100 cu yd of grading.</u> There will not be more than 200 cubic yards of grading for the structural development. A grading plan is not required.

CONCLUSION:

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

ANALYSIS OF CONSISTENCY OF PROPOSED CHANGE:

This finding is hereby amended to accurately describe the proposed changes. The amended findings continue to support the conclusion that the project will be consistent with Commission Rule 350-81-520.

C. CULTURAL RESOURCES

2. Chris Donnermeyer, Heritage Resource Program Manager for the U.S. Forest Service Columbia River Gorge National Scenic Area, reviewed the land use application and determined in a Cultural Resources Survey Determination, dated September 11, 2020, that pursuant to Commission Rule 350-81-540(1)(c)(A)(iii) a Cultural Resource Reconnaissance Survey is not required because the proposed use would not disturb the ground and would involve a lot-line adjustment or partition, is not within 100 feet of a high probability zone, and does not occur within 500 feet of a known archaeological site.

While reviewing the <u>original July 20, 2022</u>, minor change request, Gorge Commission staff contacted Brittney Cardarella Archaeological Technician, U.S Forest Service. Ms. Cardarella concluded in message dated July 28, 2022, the proposed changes to the barn do not change the original survey determination.

While reviewing the second minor change request, Gorge Commission staff contacted Mr. Donnermeyer, who concluded in a message dated November 30, 2022, the proposed changes to the barn do not change the original survey determination.

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.

ANALYSIS OF CONSISTENCY OF PROPOSED CHANGE:

This finding is hereby amended to accurately describe the proposed changes. The amended finding continues to support the conclusion that the project will be consistent with Commission Rule 350-81-540.

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