CASE FILE: C22-0007

PROPOSAL: The Columbia River Gorge Commission has received an application for roof-mounted solar panels.

APPLICANT: Frank Slavens

LANDOWNER: Frank Slavens

LOCATION: The subject property is 5 acres in size and located at 238 Old Hwy, Lyle, WA in the SW ¼ of Section 28, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington. Tax Lot Number 03-12-2800-0015/00.

LAND USE DESIGNATION: General Management Area (GMA) – Small-Scale Agriculture (40)

DECISION: Based upon the following findings of fact, the land use application by Frank Slavens, for roof-mounted solar panels is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and approvable under Commission Rule 350-81, and is hereby APPROVED.

CONDITIONS OF APPROVAL: The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. Compliance with them is required. This decision must be recorded in county deeds and records to ensure notice of the conditions to all successors in interest (Management Plan, Review Uses Guideline 1, pg. II-96).

1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C22-0007, 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 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 elements of the solar panel arrays shall be black. Only this approved dark earth-tone colors shall be used. The approved color for the solar panels is black including panel edging. The framing shall be painted matte black to minimize reflectivity, with no bare aluminum framing or bare structural surfaces. The colors shall be maintained as necessary to ensure the building materials are the approved color and nonreflective.

Any proposed changes to this color shall be submitted to the Gorge Commission for review for consistency with this condition of approval.

6. All exterior building materials shall be nonreflective or have low reflectivity. Solar panels shall be black including panels and frames, to minimize reflectivity, with no bare aluminum framing or bare structural surfaces, including brackets and fasteners. The metal framing of the solar panels shall be painted with matte black paint and maintained as necessary to ensure that the material is nonreflective.

7. The annual energy production of the solar panel array shall not exceed the annual energy needs for the residential and agricultural use of the property. Any additional solar panels not included in the approved application or site plan will require a new application and review.

8. Except for dead trees or other dead vegetation that may pose a hazard, all existing mature vegetation on the site shall be retained and maintained for screening purposes.

9. If cultural resources are discovered, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

10. If human remains are discovered, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

11. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for a Final Inspection to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or info@gorgecommission.org.
DATED AND SIGNED THIS 22nd day of September 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 22nd day of September 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 22nd day of October 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.
(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 C22-0007
   Approved site plans and elevation drawings
UTILITY PRICES HAVE STEADILY INCREASED.

SINCE 2003 NATIONAL AVERAGE UTILITY PRICES HAVE NEARLY DOUBLED.

---

**YOUR SOLAR DESIGN**

HD imagery is not available for this location. On-site measurements on the house are recommended.

---

<table>
<thead>
<tr>
<th>SYSTEM SIZE</th>
<th>ESTIMATED YEARLY PRODUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>12.92 kW</strong></td>
<td><strong>17,234 kWh</strong></td>
</tr>
</tbody>
</table>

**MODULES**

Hanwha Q.PEAK DUO BLK-G6+/AC 240 (x38)

**INVERTER**

Enphase IQ7PLUS-72-2-US (x38)

---

Final design may be adjusted to meet local jurisdiction requirements.
COLUMBIA RIVER GORGE COMMISSION
STAFF REPORT

CASE FILE:  C22-0007

PROPOSAL:  The Columbia River Gorge Commission has received an application for roof-mounted solar panels.

APPLICANTS:  Frank Slavens

LANDOWNERS:  Frank Slavens

LOCATION:  The subject property is 5 acres in size and located at 238 Old Hwy, Lyle, WA in the SW ¼ of Section 28, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington. Tax Lot Number 03-12-2800-0015/00.

LAND USE DESIGNATION:  General Management Area (GMA) – Small-Scale Agriculture (40)

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
- 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 CRGNSA
FINDINGS OF FACT:

A. LAND USE

1. Frank Slavens proposes to build a new roof-top mounted solar panel array for his dwelling. The solar panel array consists of thirty-eight panels. No grading is proposed.

2. The subject parcel is five acres designated GMA Small-Scale Agriculture and is in the pastoral landscape setting. The property is located adjacent to Old Hwy 8. Previous Directors Decisions include Decision C06-0007, which approved an addition to the single-family dwelling and a detached garage.

3. Commission Rule 350-81-190(1)(v) allows additions to existing buildings greater than 200 sq ft in area or greater than the height of the existing building on lands designated small-scale agriculture, subject to compliance with Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources. Commission Rule 350-81-020 (60) defines existing structure as any structure that was legally established.

According to the Klickitat County Assessor’s records, the dwelling and garage were constructed in 1980, prior to the passage of the National Scenic Area Act. Previous Directors Decisions include Decision C06-0007, which approved an addition to the single-family dwelling and a detached garage. The dwelling is a legally established existing structure.


The solar array for dwelling is rated 12.92-kW, and the primary purpose of the array is to provide power for the residential use of the dwelling. The array will consist of thirty-eight panels, and the total area of array is 665 sq ft. The applicants provided information including the usage history for the single-family dwelling. The annual usage for the property is currently 28,465 kWh, and the one-year solar production of the array is 17,234 kWh. The energy produced by the solar panels will not exceed the energy needed to power the residential uses on the property. The proposed solar panels are accessory and subordinate to the primary use of the parcel and will not be used commercially. The proposed solar array is not an industrial use.

CONCLUSION:

The proposed solar panel array is an allowed review uses, subject to Commission Rules 350-81-520 through 350-81-620 that protect scenic, cultural, natural, and recreation resources.
B. SCENIC RESOURCES

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

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

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

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

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

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

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

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

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

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

    For all proposed development, the determination of compatibility with the
landscape setting shall be based on information submitted in the site plan.

The landscape setting for the subject parcel is pastoral. Commission Rule 350-81-
520(3)(a) contains design guidelines for proposed uses in the pastoral 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)(a) 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, I-84, Rowena Plateau and HWY
141. 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 KVAs at the following distance zones:

<table>
<thead>
<tr>
<th>Key Viewing Area (KVA)</th>
<th>Distance Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Foreground</td>
</tr>
<tr>
<td></td>
<td>0 - 1/4 Mile</td>
</tr>
<tr>
<td>Columbia River</td>
<td></td>
</tr>
<tr>
<td>Historic Columbia River Highway</td>
<td>X</td>
</tr>
<tr>
<td>Interstate 84</td>
<td></td>
</tr>
<tr>
<td>Rowena Plateau</td>
<td></td>
</tr>
<tr>
<td>SR-14</td>
<td></td>
</tr>
</tbody>
</table>

6. Commission Rule 350-81-520(2)(b) requires new development to be *visually subordinate* to its setting when viewed from KVAs.

Commission Rule 350-81-020(170) defines *visually subordinate* as follows:

*Visually subordinate: A description of the relative visibility of a structure where the structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a Key Viewing Area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.*

The Director’s Decision contains requirements and conditions of approval to ensure the development is *visually subordinate*. Factors contributing to the visual subordinance of the development include the size of the arrays, viewing distance, colors, non-reflective building materials, and screening vegetation.

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

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

To consider the cumulative visual effects associated with the proposed development, staff considered parcels in the NSA within a quarter mile of the subject parcel. This area is primarily used for residences and agricultural uses near Old Highway 8. The parcels in this area are designated GMA Small-Scale Agriculture and GMA Open Space. As seen from
KVAs in the middle ground and background, the development will be difficult to distinguish from its surroundings. The subject parcel and surrounding parcels are in an area where existing homes and accessory buildings are common but are sparsely visible throughout the landscape or are indistinguishable in the landscape from the KVA due to the distance, existing vegetation and topography.

According to data from Klickitat County Assessor Records, within this area there are nineteen tax lots. Existing development in the study area consists of eight dwellings and eleven accessory buildings within a quarter mile of the subject parcel. Ten of the tax lots are undeveloped.

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

Several factors ensure the proposed solar panel array will not cause adverse scenic impacts, including size of the arrays, viewing distance, colors, non-reflective and low reflectivity building materials, and screening vegetation. The proposed solar panels are compatible in size with existing development and will not create any adverse cumulative effects to scenic resources because the solar panels will be difficult to distinguish from KVAs. If new solar panel arrays are built according to applicable land use designation guidelines in the vicinity of the proposed development, and if they are designed in an equivalent manner to existing development and consistent with the guidelines of this chapter, they will be held to the same visual resource protection standards and will be required to be visually subordinate. The design guidelines for the pastoral landscape setting in the GMA recommend that development be clustered and sited to maximize screening of existing topography and vegetation to keep the character of the setting. If new developments, including solar panel arrays, are built in a comparable manner to the proposal, there would be no cumulative effects to scenic resources. By using existing topography and vegetation, and building materials that are dark, earth-toned, low- or non-reflective there will be no significant increase in visibility of new development. Development designed and sited to achieve the standard visually subordinate will not generate adverse cumulative scenic impacts. For the reasons above, the proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).

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

The extent and type of conditions applied to a proposed development to achieve visual 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. Using GIS inventories and conducting site visits, staff found that the site is visible intermittently from the Columbia River in the background for 2.5 miles at an elevation of approximately 80 ft. From HCRH, the proposed building site is visible intermittently in the middle ground for 3.5 miles and in the background for 2.5 miles at an elevation varying between 400 ft to 700 ft elevation. From I-84 the proposed building site is visible intermittently in background for 1.5 miles at an elevation of approximately 100 ft. From Rowena Plateau, the site is visible in the middle ground at an elevation of 1,700 ft. From SR-14, the proposed building site is visible intermittently in the background for a half mile at an elevation of 100 ft.

The single-family dwelling is currently located on a bluff overlooking the Columbia River at an elevation of 490 ft. The elevation of the bluff and the distance of the development from the bluff's edge, over half a mile, provide both topographic and vegetative screening from KVAS to the south. The site is visible from two higher elevation KVAs, the HCRH and Rowena Plateau. The development is intermittently visible along the HCRH in the middle ground as the road travels between Mosier, OR and Rowena Plateau. Existing topography and trees along the HCRH and existing topography and trees on and near the subject parcel help screen the proposed development site from view for much of the path. From Tom McCall point, the highest KVA, approximately 1,700 ft elevation, existing vegetation both on and off the subject parcel provide screening because the site is located in the middle ground, almost three miles away. As seen from KVAs at lower elevations, the Columbia River, I-84 and SR 14, the development is in the background. From these KVAs, the distance of the building from the bluff and existing vegetation both on and off the subject parcel provide screening.

As explained below, the solar panels 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.

The proposed development is sited on the subject parcel with minimal visibility from KVAs. The applicant has chosen a dark earth tone color for the solar panel arrays, which is included as a condition of approval. Consistent with the landscape settings design guidelines, a condition of approval requires existing vegetation surrounding the development on the parcel be retained except for safety. With these conditions included in the Director's Decision, the proposal will be visually subordinate as viewed from KVAs and consistent with the design guidelines for the Pastoral 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.

No other location on the subject property would have afforded the proposal more topographic or vegetative screening.

12. Commission Rule 350-81-520(2)(g) states:

Existing tree cover screening proposed development from Key Viewing Areas shall be retained as specified in the Landscape Settings Guidelines in 350-81-520(3).

The subject parcel is in the Pastoral 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...*

No new buildings are proposed. However, the existing building currently complies with this rule. The dwelling is located at an elevation of 490 ft. The land located directly north of the subject parcel contains hills that reach heights of 800 ft with southern facing slopes. The parcel itself is located in a relatively level meadow nestled between hills to the north and bluffs to the south. 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 applicant has proposed black solar panels with metal framing that is painted matte black. A condition of approval is included requiring the approved dark earth-tone colors for the exterior materials, and that the color is maintained as is necessary.

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

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

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

17. Commission Rule 350-81-520(2)(p) states:

   Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hoooding materials shall be composed of non-reflective, opaque materials.

No light fixtures are proposed.

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

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

No driveways or building are proposed.

19. Commission Rule 350-81-520(2)(aa) requires all proposed structural development involving more than 200 cubic yards of grading on sites visible from KVAs to include a grading plan containing specific plan elements.

   No grading is necessary to mount the solar panels; a grading plan is not required.
20. The Landscape Settings Map for Columbia River Gorge National Scenic Area classifies the subject parcel as Pastoral. Commission Rules 350-81-520(3)(a)(A) and (B) contain applicable guidelines for the proposed development in the Pastoral landscape setting.

21. Commission Rule 350-80-520(3)(a)(A) states:

   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 proposed solar panel array, an addition, will be mounted on the roof of the existing dwelling, which clusters the development with existing development, consistent with this rule.

22. Commission Rules 350-81-520(3)(a)(B) states:

   (B) 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) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.
   (ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
   (iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).
   (iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

No trees are proposed to be removed, and no new landscaping is required by this Decision. the development takes advantage of topographic screening and is not required to plant vegetative screening. 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. The proposed development would allow the parcel to retain the open character of the existing pastures and fields, 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 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 May 4, 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 not disturb the ground.

3. Mr. Donnermeyer determined in the Cultural Resources Survey Determination, May 4, 2022, that pursuant to Commission Rule 350-81-540(1)(c)(B) a historical survey is needed because the proposed use would alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older.

In Heritage Property Report, Forest Service technician, Brittney Cardarella, recommended a finding of Not Eligible for the National Register of Historic Places. Kathryn Boula, with Inland Northwest Cultural Resources, reviewed the report and prepared a letter of concurrence, dated September 13, 2022, for submission to the Washington Department of Historic Preservation (DAHP).


   The cultural resource protection process may conclude when one of the following conditions exists...
   (iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:
   (a) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4)

In a letter dated September 21, 2022, Holly Borth, Preservation Design Reviewer, with DAHP, concurred with Ms. Cardarella’s and Ms. Boula’s determination, that the building is Not Eligible for the National Register of Historic Places, and thus the project would have no effect on significant historic buildings or structures. Pursuant to Commission Rule 350-81-540(2)(c)(B)(iv)(a), the cultural resource protection process may conclude.

5. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified.
within 24 hours of the discovery. A condition of approval 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 identify two ponds and one intermittent stream within the vicinity of the proposed site. The ponds are 135 ft and 115 ft west of the dwelling and the intermittent stream is located 300 ft to the south along the southern property line.

3. Commission Rule 350-81-570(7)(a) describes buffer zones for ponds and streams. It states:

   Buffer zones shall generally be measured landward from the ordinary high water mark on a horizontal scale that is perpendicular to the ordinary high water mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:
   (A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year round pools, and perennial streams: 100 feet
   (B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet
   (C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by 350-81-560(7)(b), substituting the term pond or lake as appropriate.

Gorge Commission inventories do not show any use of the intermittent stream by anadromous or resident fish. Therefore, this stream, located near the southern property line requires a 50-foot buffer pursuant to Commission Rule 350-81-570(a)(B). The
The proposed development would occur outside of the 50-foot pond buffer zone. The proposed use is consistent with Commission Rule 350-81-570.

3. Commission Rule 350-560(7)(b) describes buffer zones for ponds. It states:

The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

The ponds are surrounded by a canopy of Oregon ash trees and assorted fruit trees. These trees vary in height, size and age and provide canopy coverage of approximately 50 percent. Although the dominant vegetation is comprised of trees, it does not contain an understory shrub layer. Given the dominant vegetation community within the buffer zone, the ponds would require a buffer width for a shrub vegetation community pursuant to Commission Rule 350-81-560(7)(b)(B).

4. Pursuant to Commission Rule 350-81-560(7)(c)(B), a 100-foot buffer zone shall be required for ponds with shrub communities. The proposed development would occur outside of the 100-foot pond buffer zone. The proposed use is consistent with Commission Rule 350-81-570.

5. Commission Rule 350-81-580 has criteria for the review of potential impacts to sensitive wildlife. The Gorge Commission’s sensitive wildlife inventory shows the proposed site is found within Lewis woodpecker and western pond turtle habitat. Commission Rule 350-81-580(1)(a)(A) defines sensitive wildlife areas to include these areas.

Commission staff notified Amber Johnson, with Washington Department of Fish and Wildlife of the proposal and sent a copy of the site plan on April 11, 2022. No comments were received.

7. 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 a wildlife site due to the size and location of the development and the previously established residential use.

8. 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._

Staff also considered the existing conditions of the study area and the likelihood of other similar development. WDFW did not indicate any concerns with the proposed development. Staff believes the proposed development will have little effect on existing 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.

7. 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 3, according to the Gorge Commission’s Recreation Intensity Class map. No recreation sites or facilities exist on parcels next to the subject parcel, therefore, no buffers are needed per Commission Rule 350-81-086.

CONCLUSION:

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

F. TREATY RIGHTS PROTECTION

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

2. Commission Rule 350-81-084(1)(a) lists additional notice requirements for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect tribal treaty rights and provides 20 days for tribal governments to submit comments.

   The subject parcel has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four Treaty Tribe governments on March 22, 2022. The notice included a comment period of 21 days that ended on April 12, 2022.

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.

BG
FIND0007.22