Summary of Application

FILE NUMBER: C22-0011

PROPOSAL: The Columbia River Gorge Commission has received an application for a ground-mounted solar panel array.

APPLICANTS: Dan Johnson & Deb Lawless

LANDOWNERS: Dan Johnson & Deb Lawless

SIZE and LOCATION: The subject parcel is 2.5 acres in size with the address 15 Smokey Ridge Road and is described as 03-11-3300-0002/00 in the NE1/4 of Section 33, Township 3 North, Range 11 East, Willamette Meridian, Klickitat County, Washington.

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

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

Decision

Based upon the findings of fact and conclusions of law in the staff report accompanying this decision and the conditions of approval in this decision document, the land use application by Dan Johnson & Deb Lawless, for a ground-mounted solar panel array is consistent with Commission Rules chapter 350, division 082, and thus consistent with the Management Plan for the Columbia River Gorge National Scenic Area and the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, Pub. L. 99-663, 100 Stat. 4274 (1986), and is hereby APPROVED.

Conditions of Approval

The following conditions of approval are given to ensure that the subject request is consistent with Commission Rules chapter 350, division 082. Compliance with these
conditions of approval is required. The Gorge Commission may take one or more enforcement actions at any time to ensure compliance with these conditions of approval.

1. In accordance with Commission Rule 350-082-0150(3), the applicant shall record the Executive Director’s decision and conditions of approval and approved site plan and elevation drawings in county deeds and records (at the Klickitat County Auditor’s Office) to ensure notice of the conditions to successors in interest. The record shall be associated with all tax lots and parcels that constitute the subject property. The applicant need not record the separate staff report document containing the relevant findings and conclusions. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.

2. This decision does not exempt the proposal from other non-National Scenic Area rules and regulations. It is the applicant’s responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.

3. Inspections Required, contact the Gorge Commission office to schedule:
   A. Post-completion inspection required.
   B. Applicants may request interim inspections, and the Gorge Commission staff may, at its discretion, conduct interim inspections.

4. 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.

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 of the residential 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 in the vicinity the site shall be retained and maintained for screening purposes and the overall visual character and appearance of the landscape.

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.

DATED THIS 15 day of September 2022 at White Salmon, Washington.

Krystyna U. Wolniakowski
Executive Director

Expiration of Approval

Commission Rule 350-082-0160 governs the expiration of this Director’s Decision.

Expiration of this Director’s Decision is automatic. The Executive Director does not notify applicants or landowners of decisions that are expired or may be close to expiring.

This decision of the Executive Director becomes void on the 15 day of September 2024 unless construction has commenced in accordance with Commission Rule 350-082-0160(4).

Commission Rule 350-082-0160(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. Commission Rule 350-082-0160(5) specifies that completion of the structure means completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the National Scenic Area approval. The date of the Executive Director’s preconstruction inspection to confirm the location of proposed structural development shall be considered the date the applicant commenced construction unless the Gorge Commission or applicant demonstrates otherwise.
Once the applicant has commenced construction of one element in this decision, the applicant must complete all elements in this decision in accordance with Commission Rule 350-082-0160. The Gorge 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 350-082-0160(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 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 **15** day of October 2022.

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Appeal with the Commission within thirty (30) days of the date of this decision. Commission Rule chapter 350, division 70 governs appeal of this decision. This rule is available on the Gorge Commission's website and at the Gorge Commission office. You may contact the Gorge Commission office if you have questions about appealing this decision.

**Notes**

1. 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.

2. 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.

In accordance with Commission Rule 350-082-0150(6), the Gorge Commission staff mailed notice of this decision to the following governments, agencies, and organizations and persons who provided comment on the application:

- 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 C22-0011
Approved site plans and elevation drawings
FIGURE 3:

[Diagram of solar panel layout with annotations and specifications]

APPROVED
Summary of Application

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

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

Notice of Application Mailed to:

In accordance with Commission Rule 350-082-0110, the Gorge Commission staff mailed notice of this application to property owners within 200 feet of the subject parcel and sent email notice of this application to the following governments, agencies, and organizations:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs
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
Findings of Fact

A. Land Use

1. Dan Johnson & Deb Lawless propose to build a new ground mounted solar panel array. No grading is proposed.

2. The subject parcel is 2.5 acres in size and located inside the Special Management Area, but is designated General Management Area Small-Scale Agriculture with an 80-acre minimum parcel size, pursuant to Section 8(o) of the Scenic Area Act.

3. Existing development on the property includes a dwelling with a gravel driveway and associated utilities, approved in Director’s Decision C17-0014.

4. Commission Rule 350-082-0240(3)(d) allows, on lands designated small-scale agriculture, subject to compliance with 350-082-0600 through 350-082-0720:

   Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsection (e) or (f) below.

Commission Rule 350-082-0540 provides guidelines for Renewable Energy Production in the GMA. It states:

(1) Renewable energy production may be allowed where authorized in specified land use designations and consistent with the guidelines in sections (2) through (5) below.

(2) Except as specified in section (3) below, production of electrical power, including, but not limited to wind and solar production, for commercial purposes is considered an industrial use and is prohibited.

(3) Solar and wind power generation that is accessory to a primary structure or allowed use in the GMA is not considered an industrial use and may be permitted provided that the capacity for power generation is limited to the expected annual electrical power need of the structure or use. The generating equipment may serve only the parcel on which it is located, or an adjacent parcel in the same ownership and used in conjunction with the subject parcel. Sale of power back to the electrical grid is permitted, provided that it is an occasional event, not ongoing over the course of the year.
The solar array for the residence is rated 10 kW. The solar panel array consists of 28 total panels. There are two individual structures, and each structure is fourteen panels long. Each panel is approximately 5 feet long and 3.5 feet wide, so the total area of each array is 245 sq ft. Each array will be five feet tall, consistent with rule.

The applicant provided information about the existing power consumption and existing energy generated on the property. The applicant provided an energy performance report for the single-family dwelling.

The array consists of 28 panels; and each panel is rated for 360 watts with average production of 240 watts. If the panels get an average of 4.5 hours of direct sunlight every day – the average for the area over a year – the energy output would be approximately 1 kWh per panel per day. For 28 panels, the annual combined maximum energy production is estimated at 10 MWh per year.

The dwelling uses an average of 6 MWh per year. The applicant also demonstrated that the new addition of an electric car adds an additional 4 MWh per year. The total use for the house is approximately 10 MWh per year, and the total output of the array will be a maximum of 10 MWh per year.

As currently constructed, the total generating capacity of the arrays is approximately the same as the annual energy needs for the residential use on the property. The system is sized to meet only the energy consumption needs of the residence. The solar panels included in this development are intended to be accessory and subordinate to the primary use of the parcel as a residential use.

**Land Use Conclusion:**

The proposal is an allowed review use, subject to Commission Rules 350-082-0600 through 350-082-0720 that protect scenic, cultural, natural, and recreation resources.

**B. SCENIC RESOURCES**

1. Commission Rule 350-082-0600(1)(a) states:

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

   No new buildings or roads are proposed. The proposed development is sited on the most level area on the subject parcel. This location on the subject parcel will result in retaining topography and minimizing grading to the maximum extent practicable.

2. Commission Rule 350-082-0600(1)(b) states:

   *New buildings and expansion of existing development shall be compatible with the general scale of existing nearby development. New buildings that are 1,500*
square feet or less are exempt from this guideline. Findings addressing this guideline shall include, but are not limited to:

(A) Application of the landscape setting design guidelines, if applicable.
(B) A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.
(C) Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:
   (i) All finished above ground square footage;
   (ii) Total area of covered decks and porches;
   (iii) Attached garages;
   (iv) Daylight basements;
   (v) Breezeways, if the breezeway shares a wall with an adjacent building; and
   (vi) Dimensions, based on information from the application or in Assessor’s records.
(D) An overall evaluation demonstrating the compatibility of proposed development with surrounding existing development and development approved but not yet constructed. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

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

3. Commission Rule 350-082-0600(1)(c) states:

   Landowners shall be responsible for the proper maintenance and survival of any planted vegetation required by 350-082-0600.

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.

4. Commission Rule 350-082-0600(2) contains guidelines that affect developments on sites visible from KVAs. Staff determined the subject parcel is topographically visible from three KVAs: Columbia River, Historic, Columbia River Highway (HCRH), and I-84. Because the proposed development is topographically visible from KVAs, the guidelines of Commission Rule 350-082-0600(2) are applicable. The proposed development is visible from the four KVAs at the following distance zones:

<table>
<thead>
<tr>
<th>Key Viewing Area (KVA)</th>
<th>Distance Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Foreground</td>
</tr>
<tr>
<td></td>
<td>0 - 1/4 mile</td>
</tr>
<tr>
<td>Columbia River</td>
<td>X</td>
</tr>
<tr>
<td>Historic Columbia River Highway</td>
<td>X</td>
</tr>
<tr>
<td>Interstate 84</td>
<td>X</td>
</tr>
</tbody>
</table>
5. Commission Rule 350-082-0600(2)(a) requires new development to be visually subordinate to its landscape setting as visible from key viewing areas.

Commission Rule 350-082-0070(202) defines *visually subordinate* as follows:

> ... A description of the relative visibility of a development, structure, or use where that development, structure, or use does not noticeably contrast with the defining landscape setting characteristics, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan) and the setting appears only slightly altered (distinctive characteristics of that setting remain dominant). As opposed to development, structures, or uses that are fully screened, structures that are visually subordinate may be partially visible but would be difficult to discern to the common viewer. Visually subordinate development, structures, or uses as well as forest practices in the SMAs shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of scale, proportion, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

The Director’s Decision contains requirements and conditions of approval to ensure the development is *visually subordinate*. Factors contributing to the visibility of the development include distance from KVAs, dark earth tone colors, and existing vegetation.

6. Commission Rule 350-082-0600(2)(b) states

**(b) Determination of potential visual effects and compliance with the visual subordinance standard in subsection (a) above shall include consideration of the cumulative effects of proposed development. A determination of the potential visual impact of a new development shall include written findings addressing the following factors:**

(A) The amount of area of the building site exposed to key viewing areas;
(B) The degree of existing vegetation providing screening;
(C) The distance from the building site to the key viewing areas from which it is visible;
(D) The number of key viewing areas from which it is visible;
(E) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads); and
(F) Other factors the reviewing agency determines relevant in consideration of the potential visual impact.

Commission Rule 350-082-0070(50) 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 analyzed existing development and development potential of the adjacent and nearby lands on Burdoin Mountain’s
southern slope. 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 project that presents visual impacts includes Courtney Road as currently constructed, SR-14, the BNSF railroad, and the Coyote Wall Recreation Area parking lot.

It is possible that there may be similar solar panel arrays on the ‘same piece of ground’ given the existing 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 other National Scenic Area’s restrictions 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 as viewed from KVAs, 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. There will not be any visual cumulative effects from any KVAs in the foreground because the development will not be visible from any KVAs at those distances. If new solar 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 Oak-Pine Woodland 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 ground-mounted 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 exterior 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).

7. Commission Rule 350-082-0600(2)(b) states:

_Determination of potential visual effects and compliance with the visual subordinance standard in subsection (a) above shall include consideration of the cumulative effects of proposed development. A determination of the potential visual impact of a new development shall include written findings addressing the following factors:

(A) The amount of area of the building site exposed to key viewing areas;_
The site is visible from the three KVAs listed above in Finding B.4, 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 3 miles and in background for 1.5 miles at an elevation of approximately 80 ft. From HCRH, the proposed building site is visible intermittently in the middle ground for 4.25 miles and in background for 2 miles at an elevation varying between 400 ft and 500 ft elevation. From I-84 the proposed building site is visible intermittently in the middle ground for 3 miles at an elevation of approximately 100 ft.

The proposed solar panel arrays will be at an elevation of 1300 feet. The development is most visible from KVAs to the south and west. Existing topography screens the array when viewed from the KVAs to the east. Much of the subject parcel is treeless, including the site of the proposed solar panel array. The proposed development is sited just west of a row of ponderosa pine trees on the subject parcel. These trees will help the development blend in the landscape. A condition of approval is included requiring the applicant to retain all existing tree cover.

The site is most visible from the Historic Columbia River Highway (HCRH), which is approximately 900 feet below the development site in elevation. The development site is visible from this KVA in the middle ground as the bike path and road extends from Hood River to Mosier. 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.

The other KVAs are substantially lower in elevation than the development site. As seen from lower-elevation KVAs in the middle ground, the development site is topographically visible because the downward slope of the cliffs angle towards these KVAs. However, because the height of the development site and the short height from these lower elevation KVAs, the development site and the development is difficult to see. and vegetation on the subject parcel to screen much of the proposed development from view. With the retention of existing on-site trees and the use of dark earth-tone colors and non-reflective materials, the proposed development will be visually subordinate as seen from these KVAs.

As explained below, the solar panel array has been designed to be visually subordinate. The findings in this staff report include conditions of approval in accordance with this rule.
8. Commission Rule 350-082-0600(2)(c) states:

The extent and type of conditions applied to a proposed development to achieve visual subordinance to its landscape setting shall be proportionate to its potential visual impacts as visible from key viewing areas. Conditions may include, and shall be applied using the following order of priority, with (A) being the first condition to require and (F) being the last condition to require if the prior conditions do not achieve visual subordinance:

(A) Screening by existing topography.
(B) Siting (location of development on the subject property, building orientation, and other elements).
(C) Retention of existing vegetation on the applicant’s property.
(D) Design and building materials (color, reflectivity, size, shape, height, architectural and design details and other elements).
(E) New landscaping on the applicant’s property.
(F) New berms or other recontouring on the applicant’s property, where consistent with other applicable provisions.

Several factors ensure the proposed structures and development will be visually subordinate as viewed from KVAs, including the viewing distance and size and color of the arrays. Much of the subject parcel is treeless, including the site of the proposed solar panel array. The proposed development is sited just west of a row of ponderosa pine trees on the subject parcel. These trees will help the development blend in the landscape. A condition of approval is included requiring the applicant to retain all existing tree cover.

The proposed solar panel array is not large and is required to be dark black, making it difficult to distinguish from KVAs. No trees are proposed to be removed, and no new landscaping is required by this Decision. With these conditions 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.

9. Commission Rule 350-082-0600(2)(d) states:

New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordinance from Key Viewing Areas. 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 350-082-0600 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. If after five years the vegetation has not achieved a size sufficient to screen the development, the Executive Director may require additional screening to make the development visually subordinate.

(C) Unless as specified otherwise by provisions in 350-082-0600, landscaping shall be installed as soon as practicable, and prior to project completion.

(D) 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.

(E) The Scenic Resources Implementation Handbook includes recommended species for each landscape setting consistent with 350-082-0600(3) and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

The applicant did not propose a landscaping plan as part of the proposal, and no new landscaping is required to screen development from KVAs.

10. The Commission Rule 350-082-0600(2)(e) states:

Existing tree cover screening proposed development from key viewing areas shall be retained as specified in 350-082-0600(3).

The subject parcel is in the Oak-Pine Woodlands landscape setting. Findings for the Landscape Settings Design Guidelines are addressed below.

11. Commission Rule 350-082-0600(2)(f) states:

The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas.

No buildings are proposed. The proposal is consistent with this rule.

12. Commission Rule 350-082-0600(2)(h) states:

Unless expressly exempted by other provisions in 350-082-0600, 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 approved by the reviewing agency 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 color for the exterior materials, and that the color is maintained as is necessary.

13. Commission Rules 350-082-0600(2)(i) states:

The exterior of buildings on lands visible from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. Continuous surfaces of glass shall be limited to ensure visual subordinance.
Scenic Resources Implementation Handbook includes a list of recommended exterior materials and screening methods.

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.


Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.

No lighting fixtures are proposed. The proposal is consistent with this rule.

15. Commission Rule 350-082-0600(2)(r) 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 buildings are proposed.

16. The Landscape Settings Map for Columbia River Gorge National Scenic Area classifies the subject parcel as Oak-Pine Woodlands. Commission Rules 350-082-0600(3)(c) contains applicable guidelines for the proposed development in this landscape setting.

17. Commission Rule 350-82-0600(3)(c)(A) states:

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

The proposed development is sited near a cluster of ponderosa pine trees that range in height up to 30 feet tall. Each solar panel array will be approximately five feet tall, which is significantly smaller in height than existing vegetation surrounding the development. As proposed, the height of the solar arrays is consistent with this rule.

18. Commission Rules 350-082-0600(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.
(iv) For treeless portions or portions with scattered tree cover:
(I) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.
(II) 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.
(III) 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.

Much of the subject parcel is treeless, including the site of the proposed solar panel array. 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 around the development to ensure that the overall visual character and appearance of the landscape is retained, consistent with this rule.

**Scenic Resources Conclusion:**

The proposed development is consistent with Commission Rule 350-082-0600 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 June 9, 2022, that pursuant to Commission Rule 350-082-0620(2)(a)(C) 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 350-082-0620(2)(a)(D) describes when a historic survey is required. In his June 9, 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 350-082-0620(2)(g)(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 30 calendar days of the date that a notice was mailed.

The project notice was mailed on June 1, 2022, and the comment period ended on June 22, 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 350-082-0620(2)(g)(B)(i), the cultural resource protection process may conclude.

5. Commission Rule 350-082-0620(6) protects cultural resources discovered after construction begins. 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 350-082-0620(6) contains provisions addressing discovery of human remains. A condition of approval is included in the director’s decision consistent with this rule.

Cultural Resources Conclusion

With conditions protecting unknown cultural resources and human remains discovered during construction, the proposal is consistent with the guidelines in Commission Rule 350-082-0620 that protects cultural resources in the General Management Area.

D. NATURAL RESOURCES

1. Commission Rule 350-81 provides guidelines for protecting wetlands, streams, ponds, lakes, and riparian areas (Section 0640); sensitive wildlife areas and sites (Section 0650); and sensitive plants (Section 0660) in the GMA.

2. Commission inventories show that there are no wetlands, streams, ponds, lakes, riparian areas, or their buffer zones on the subject parcel. The proposed development is consistent with Commission Rule 350-82-0640.

3. The Gorge Commission’s sensitive wildlife inventory shows the development site is located within Winter Range, a sensitive wildlife area defined by Commission Rule 350-082-0690 Table 1 – Priority Habitats. Commission Rule 350-082-0650, which protects sensitive wildlife areas and sites, applies to the proposal.

4. Commission Rule 350-082-0650(3)(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. On June 1, 2022, Gorge Commission staff sent WDFW a copy of the applicant’s land use application and site plan.
5. Commission Rule 350-082-0650(3)(d) states:

_The wildlife protection process may conclude if the Executive Director, in consultation with the state wildlife agency, determines:_

(A) The sensitive wildlife site is not active; or

(B) The proposed use would not compromise the integrity of the Priority Habitat or sensitive wildlife site 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. Pursuant to Commission 350-082-0650(3)(d)(B), staff does not believe the proposed development compromises the integrity of the parcel as wildlife site due to the size, location and nature of the development.

6. Commission Rule 350-082-0650(1)(c) states:

_Proposed uses within 1,000 feet of a Priority Habitat or sensitive wildlife site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited._

Commission Rule 350-082-0070(50) 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 the Big White Salmon River Winter Range. Staff 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 350-082-580(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 size, location and nature of the development.

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 350-082-0660 that protects sensitive plants.
Natural Resources Conclusion:

With the conditions of approval discussed above, the proposed development is consistent with the rules in Commission Rule 350-082, Sections 0640 through 0690, that protect natural resources in the National Scenic Area.

E. RECREATION RESOURCES

1. Commission Rule 350-082-0580(3) 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 property 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.

Recreation Resources Conclusion:

The proposed development is consistent with Commission Rule 350-082-0580(3) that protects recreation resources in the National Scenic Area.

F. TREATY RIGHTS PROTECTION


2. Commission Rule 350-082-0130(1) lists additional notice requirements for comments 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 30 days for tribal governments to submit comments.

   The subject parcel has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four Treaty Tribe governments on June 1, 2022. The notice included a comment period of 30 days that ended on July 1, 2022.


   No substantive comments were received.

4. Commission Rule 350-082-0130(1)(i) states,

   The treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.
The subject parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use does not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-91-084(c)(B).

**Treaty Rights Conclusion:**

The proposed development is consistent with the guidelines in Commission Rule 350-082-0130, which provides protection for treaty rights and any other rights of any Indian tribe.

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