

Director's Decision

Summary of Application

FILE NUMBER:	C23-0001
PROPOSAL:	The Columbia River Gorge Commission has received an application for a new agricultural building.
APPLICANT:	Ken Smith
LANDOWNER:	Adolfo Mollinedo
SIZE and LOCATION:	The subject parcel is 6 acres in size and is described as Tax Lot Number 02-13-1300-0002/00 in the northern 1/2 of Section 13, Township 2 North, Range 13 East, Willamette Meridian, Klickitat County, Washington.
LAND USE DESIGNATION:	General Management Area (GMA) – Residential (10)

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 Ken Smith & Adolfo Mollinedo, for a new agricultural building and associated utilities, 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

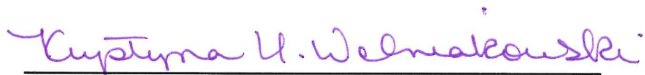
The following conditions of approval are given to ensure that the subject request is consistent with Commission Rules chapter 350, division 082. Compliance with these conditions of approval is required. The Gorge Commission may take one or more enforcement actions at any time to ensure compliance with 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. A post-completion inspection is required. Please contact the Gorge Commission office when all construction is complete to schedule this inspection. The applicant may request interim inspections and 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. The development shall be constructed as shown on the approved site plan and elevation drawings.
6. The processing of any wine on the property shall be from grapes grown on the property and in the local region.
7. 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.
8. 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 3 day of August 2023 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 3 day of August 2025 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.

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 2 day of September 2023.

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

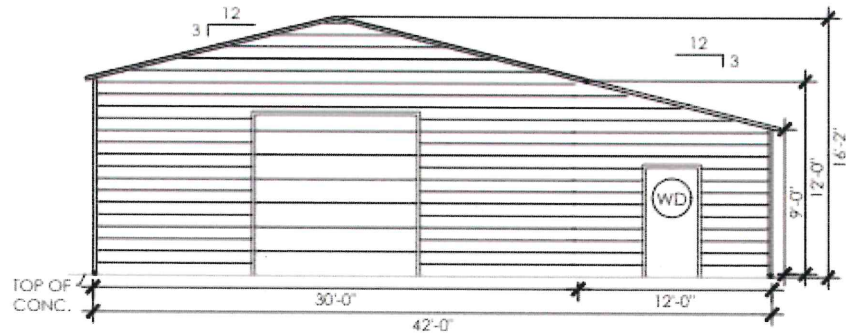
1. Any new land uses or structural development such as driveways, parking areas, garages, workshops, fences or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. New cultivation also requires a new application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

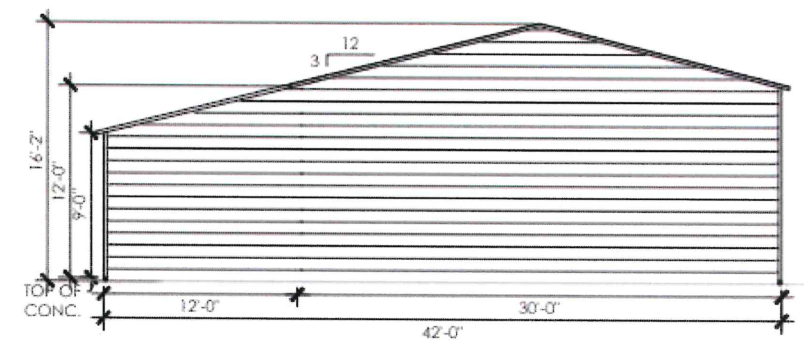
Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office
Washington Department of Archaeology and Historic Preservation
Klickitat 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:

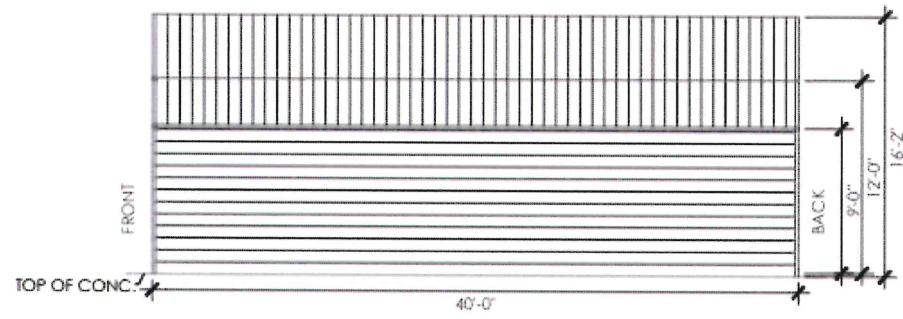
Staff Report for C23-0001
Approved site plans and elevation drawings



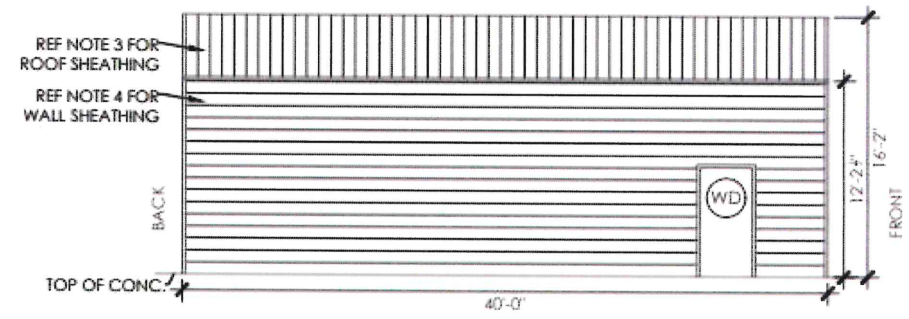
FRONT END WALL ELEVATION
SCALE: 1/8" = 1'




BACK END WALL ELEVATION
SCALE: 1/8" = 1'



RIGHT SIDE WALL ELEVATION
SCALE: 1/8" = 1'

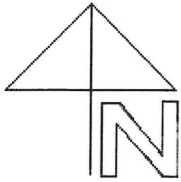


LEFT SIDE WALL ELEVATION
SCALE: 1/8" = 1'

 (360) 403-4900 <small>EMERGENCY MANUFACTURER</small>	SHEET TITLE <h3 style="text-align: center;">ELEVATIONS</h3>	
	PROJECT TITLE LAND OF WOLVES LLC (ADOLFO MOLLINEDO)	LOCATION 146 OAK CREEK RD DALLESPO, WA 98617

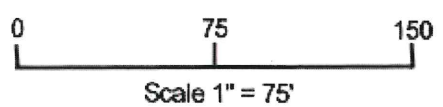
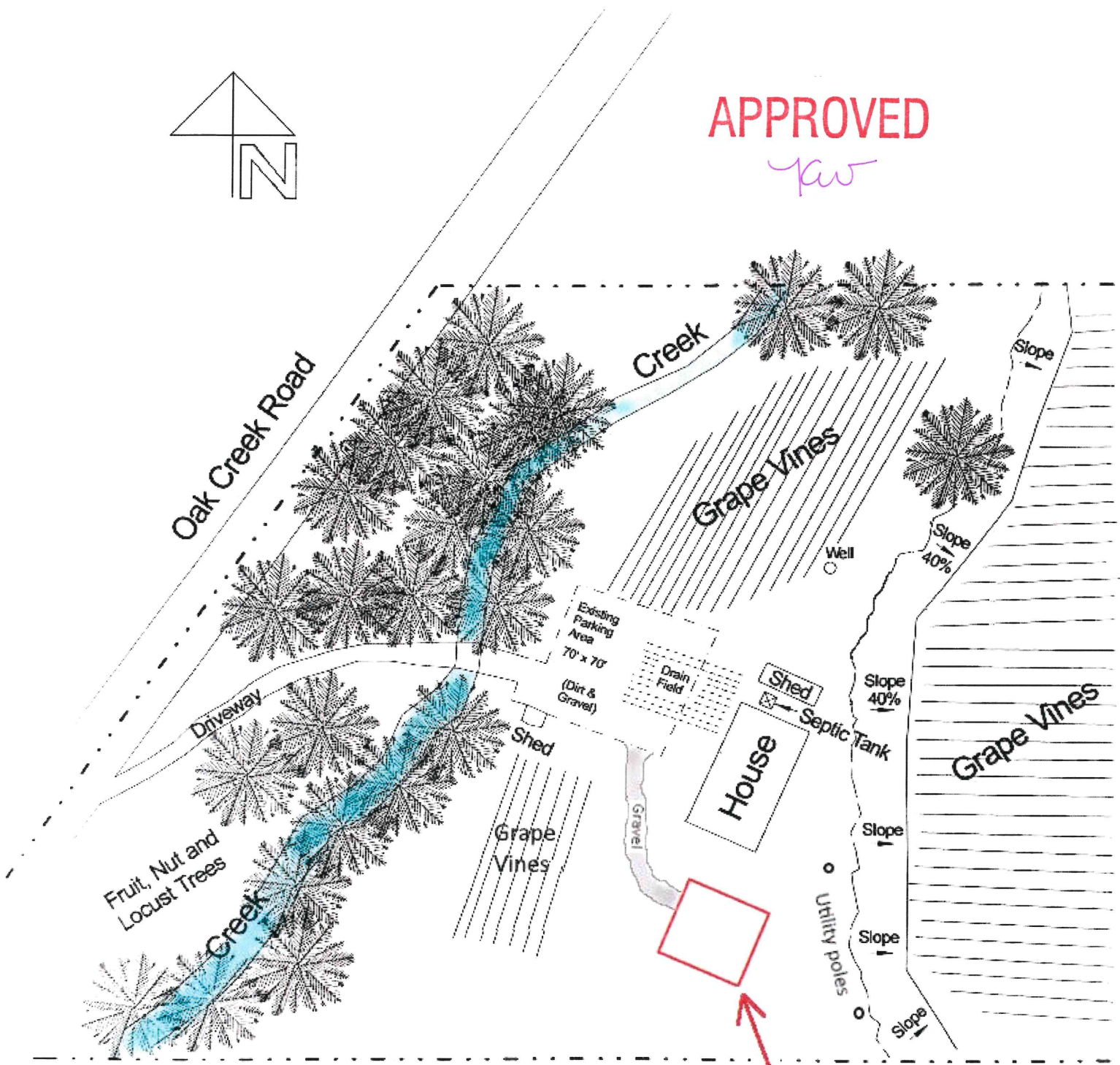
APPROVED

kw



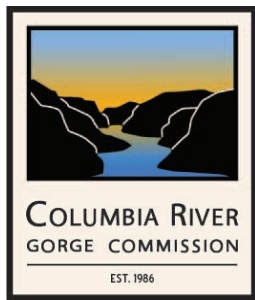
APPROVED

Yw



Proposed Structure

146 Oak Creek Rd. Site Plan



Development Review Staff Report

Summary of Application

FILE NUMBER:	C23-0001
PROPOSAL:	The Columbia River Gorge Commission has received an application for a new agricultural building.
APPLICANT:	Ken Smith
LANDOWNER:	Adolfo Mollinedo
SIZE and LOCATION:	The subject parcel is 6 acres in size and is described as Tax Lot Number 02-13-1300-0002/00 in the northern 1/2 of Section 13, Township 2 North, Range 13 East, Willamette Meridian, Klickitat County, Washington.
LAND USE DESIGNATION:	General Management Area (GMA) – Residential (10)

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
Skamania County
Washington Natural Heritage Program
Washington Department of Fish and Wildlife (WDFW)
Friends of the Columbia Gorge

Written Comments Received From:

Friends of the Columbia Gorge (Steve McCoy, Staff Attorney)
USFS CRGNSA (Chris Donnermeyer, Heritage Resource Program Manager)

Findings of Fact

A. Land Use

1. Ken Smith and Adolfo Mollinedo propose a new 1,680 square foot winery and storage facility. Associated utilities for the proposed construction will be tied into the existing systems of the adjacent house.
2. The subject parcel is 6 acres in size and is in the General Management Area (GMA) and is designated Residential with a 10-acre minimum parcel size. The property is accessed off of Oak Creek Road.
3. Existing development on the property includes a dwelling with associated utilities, two sheds, and approximately 3.5 acres cultivated in wine grapes. The dwelling was constructed prior to the 1986 Scenic Area Act. Director's Decision C97-0018 approved an addition to the dwelling and Director's Decision C00-0022 approved the vineyard. Directors Decision C12-0011 approved a winery and tasting room in a different location, but the building was not constructed, and the approval expired. An intermittent stream traverses the western part of the property in a north-south direction.
4. Commission Rule 350-082-0240(3)(c) allows:

Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to compliance with 350-082-0380.

The building will be used in conjunction with an established on-site 3.5-acre vineyard. Commission Rule 350-082-0380 states:

Agricultural Buildings

(1) Agricultural buildings may be allowed where authorized in specified land use designations and consistent with the guidelines in sections (2) and (3) below.

(2) The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

(3) To satisfy 350-082-0240(3), applicants shall submit the following information with their land use application:

(a) A description of the size and characteristics of current agricultural use;

(b) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and

acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing); and
(c) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

The agricultural building will serve the current agricultural use by allowing for the processing of grapes into wine on the property. The applicants supplied a layout of the proposed agricultural building as part of the application materials to address the requirements of this rule. The applicants propose a 1,680 sq ft (40 ft x 42 ft), 16 ft tall agricultural building to serve as a winery. The building includes one overhead door. The proposed floor plan for the building includes an office and areas for wine barrel storage, pressing, and bottling.

5. Commission Rule 350-082-0310(4)(a)(K) allows on lands designated Residential:

Wineries and cideries, in conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from fruit harvested on the subject farm and the local region.

The applicants propose to construct a new winery building and tasting room. The winery will be used in conjunction with an established on-site vineyard. The grapes harvested from the vineyard will be processed into wine in the winery, as will grapes from the local region. A condition of approval is included in the Director's Decision requiring the processing of any wine on the property to be from grapes grown in the local region, consistent with this guideline.

6. Uses allowed under Commission Rule 350-082-0310(4)(a) are subject to additional review criteria found in Commission Rule 350-082-0310(4)(b). Commission Rule 350-082-0310(4)(b)(A) states:

The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use.

Commission Rule 350-082-0070(207) defines the term winery as:

An agricultural building used for processing fruit into wine.

Wineries are agricultural buildings and are compatible with agricultural uses. Accepted agricultural practices on nearby lands include other vineyards, some of which have their own wineries, and pastures for haying and grazing. The development of the winery building will only have potential impacts on the subject parcel and will not force a change in or significantly increase the cost of agricultural practices on nearby lands.

7. Commission Rule 350-082-0310(4)(b)(B) states:

The proposed use will not require public services other than those existing or approved for the area.

The property is served by electricity and uses an on-site well and septic system. No additional public utilities are required for the project. Other public services for the property include emergency services and law enforcement. The property is located within the Klickitat Rural Fire District #6. It is the responsibility of the landowner to ensure his project is consistent with any requirements of the fire district and Klickitat County.

8. Commission Rule 350-082-0310(4)(b)(C) states:

If the subject parcel is located within 500 feet of lands designated Large-Scale Agriculture, Small-Scale Agriculture, Commercial Forest Land, Large Woodland, or Small Woodland, new buildings associated with the proposed use comply with the buffer guidelines in 350-082-0580(2).

The subject parcel is located within 500 feet of one parcel designated Large-Scale Agriculture. Consistency with 350-082-0580(2), is found below.

9. Commission Rule 350-082-0310(4)(b)(D) states:

If the subject parcel is located within 500 feet of lands designated Commercial Forest Land, Large Woodland, or Small Woodland, new buildings associated with the proposed use comply with the fire protection guidelines in 350-082-0270(5).

The subject parcel is not located within 500 of lands designated Commercial Forest Land, Large Woodland, or Small Woodland. The proposal is consistent with this rule.

Commission Rule 350-082-0580(2) provides buffer distances for all new buildings in the GMA proposed on parcels adjacent to lands designated Large-Scale Agriculture or Small-Scale Agriculture that are currently used or suitable for agricultural use.

Commission Rule 350-082-0580(2)(a) states:

All new buildings in the GMA shall comply with the setbacks in 350-082-0580 Table 1 - Setback Guidelines when proposed to be located on a parcel adjacent to lands that are designated Large-Scale Agriculture or Small-Scale Agriculture and are currently used for agricultural use.

10. The proposed location for the winery building is in the southwest corner of the subject parcel, approximately 300 feet from the parcel to the west, which is designated Large Scale Agriculture. This parcel is currently used for haying, which is an agricultural use. The other parcels next to the subject parcel are designated Residential. Commission Rule 350-082-0580 Table 1 – Setback Guidelines describes the buffers for various types of agricultural uses and buffer types. Currently, the parcel designated Large Scale Agriculture is fenced along its eastern boundary that is adjacent to the subject parcel. According to Commission Rule 350-082-0580 Table 1 – Setback Guidelines, the setback requirement is 100 ft for livestock grazing, pasture lands and haying. The distance between the location of the development and the western property line is approximately 300 ft. As currently proposed the winery building follows the agricultural setback for the parcel to the west and is consistent with this rule. No

additional buffers are needed between the subject property and the parcel designated Large-Scale Agriculture. The proposal is consistent with this rule.

Land Use Conclusion:

The proposed development is allowed review uses, 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 contains guidelines for the protection of scenic resources in the National Scenic Area. Commission Rule 350-082-0600(1) applies to all review uses. 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.

The existing topography at the site of the proposed winery building is level, which minimizes the need to grade the site for the proposal. Grading for the 1,680 square foot winery building will be limited to what is necessary to provide a foundation. The existing topography along the access road is level and grading will only be what is necessary to establish a flat and maintainable surface for agricultural equipment and vehicles. The buried utilities require linear trenching.

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.

The landscape setting for the subject parcel is Grasslands. Commission Rule 350-082-0600(3)(d) contains applicable guidelines for the proposed development in this landscape setting.

To determine compatibility of the proposed development, Commission staff looked at development surrounding the subject parcel within a quarter mile. Staff chose the quarter mile study area because the parcels are within the same Grasslands landscape setting as the subject property and have similar visibility from KVAs (Key Viewing Areas). Additionally, many of the parcels in the area are developed with single-family dwellings.

The proposed winery building is 1,680 sq ft (40 ft x 42 ft), 16 ft tall single-story building. Of the 17 parcels in the study area, staff found 10 parcels with development. There are currently 32 known buildings in the study area. These buildings include nine single-family dwellings, and 23 other buildings which include garages, agricultural buildings, and smaller accessory structures. Buildings range in size from 60 to 4,736 sq ft and up to three stories tall. The general scale of the proposed building – including the square footage and height – is compatible with the general scale of existing nearby development, consistent with Commission Rule 350-082-0600(1)(b).

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.

No new vegetation is required by Commission Rule 350-082-0600. The proposal is consistent with this rule.

4. Commission Rule 350-082-0600(2) contains guidelines that affect developments on sites visible from KVAs. The subject parcel is located in the bottom of a valley that is shielded from KVAs by intervening topography. The portion of the parcel where the winery building is sited is not topographically visible from any KVAs. Commission Rule 350-082-0600(2) does not apply to the proposed development.
5. The Landscape Settings Map for Columbia River Gorge National Scenic Area classifies the subject parcel as Grasslands. Commission Rule 350-082-0600(3)(d)(A) has applicable guidelines for the proposed development in this landscape setting. Commission Rule 350-80-0600(3)(d)(A) states:

Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

The proposed building is sited near the existing dwelling near the in an area between lower and upper vineyards. All of the buildings and access roads will be clustered in the central portion of the property between the intermittent stream and the main vineyard, consistent with Commission Rule 350-082-0600(3)(d)(A).

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

1. Except as specified in Commission Rule 350-082-0620(2)(a)(C), new development in the NSA requires a reconnaissance survey.
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 February 1, 2023, that pursuant to Commission Rule 350-082-0620(2)(a)(B) a Cultural Resource Reconnaissance Survey is required because the proposed use would occur on a site that has been determined to be located within a high probability zone.
3. Luciano Legnini, Archaeological Technician, USFS CRGNSA, conducted a reconnaissance survey on April 26, 2023, consistent with Commission Rule 350-082-0620(2)(b)(A) and (B). Mr. Legnini and Mr. Donnermeyer prepared a confidential report dated June 6, 2023, that was consistent with Commission Rule 350-082-0620(2)(b)(C) describing the requirements for reconnaissance surveys and reports for small-scale uses in the General Management Area.
4. Commission Rule 350-082-0620(2)(f) states:

- (A) The Executive Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.*
- (B) The State Historic Preservation Officer and the tribal governments shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.*

Notice of the cultural resource survey report was mailed to Washington DAHP and to tribal governments on June 13, 2023. No comments were received within 30 calendar days from the date the report was mailed.

5. Commission Rule 350-082-0620(2)(g)(B)(ii) states the cultural resource protection process may conclude when the following conditions exist:

A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 30 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the State Historic Preservation Officer or Indian tribal governments during the 30-day comment period required in subsection 2(f)(B) above.

The June 6, 2023, survey report concluded that the proposed development would have no effect on significant cultural resources. No substantiated concerns were voiced by interested persons, Washington DAHP, or tribal governments during the initial notice period that began on January 30, 2022, or by DAHP or tribal governments during the cultural survey notice period that began June 13, 2023.

6. Commission Rule 350-082-0620(2)(a)(D) describes when a historic survey is required. In his August 25, 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.
7. 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 January 30, 2023, and the comment period ended on February 20, 2023. The proposed use did not require a historic survey and no comments were received regarding cultural resource concerns. Pursuant to Commission Rule 350-082-540(2)(c)(B)(i), the cultural resource protection process for historic resources may conclude.

8. Commission Rule 350-082-0620(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.
9. Commission Rule 350-082-0620(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.

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 National Scenic Area.

D. NATURAL RESOURCES

1. Commission Rule 350-082-0640 provides guidelines for protecting water resources in the National Scenic Area. Commission staff reviewed its natural resource inventories for nearby water resources. The closest wetland is more than 1,000 feet away from the

proposed development. There is an intermittent stream on the subject parcel that is not used by anadromous or resident fish. Commission Rule 350-082-0640(6)(g) requires a 50-foot buffer zone on each side of intermittent streams. The proposed winery building is located 175 feet from the ordinary high water mark of the stream, outside the buffer zone for the stream and consistent with Commission Rule 350-082-0640(6)(g).

2. Commission Rule 350-082-0650 provides guidelines for protecting Priority Habitats and sensitive wildlife sites in the National Scenic Area. According to Gorge Commission resource inventories, the subject property is not located within 1,000 feet of sensitive wildlife areas or sites.
3. Commission Rule 350-082-0660 provides guidelines for protecting rare plants within the National Scenic Area. Commission staff reviewed its natural resource inventories for nearby rare plants. The closest rare plants are more than 1,000 feet away from the proposed development. Commission Rule 350-082-0660(5)(a) states that a 200-foot buffer zone shall be maintained around rare plants. The proposed development does not take place within a rare plant site or buffer zone.

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 0660, that protect natural resources in the National Scenic Area.

E. RECREATION RESOURCES

1. Commission Rule 350-082-0580(3) states:

Buffers from Existing Recreation Sites. 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 or structure and the parcel.

There are no established recreation sites on any adjacent properties. The nearest recreation sites are the Crawford Oaks trail approximately two miles to the east of the development site. The proposed development will not detract from the use and enjoyment of any established recreation sites.

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

1. Commission Rule 350-082-0130 provides protection of tribal treaty rights from new development in the National Scenic Area. Consistent with Commission Rule 350-082-0130(1)(a), notice of the proposed development was provided to the tribal governments on January 30, 2023.

2. Commission Rule 350-082-0130(1)(b) 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. The subject parcel does not adjoin the Columbia River or its fish-bearing tributaries and does not provide access to the Columbia River.
3. Commission Rule 350-082-0130(1)(c) requires the Commission to offer to meet with or consult with the tribal governments prior to making a decision on the proposed development, and to make this offer more than once. The Commission provided the initial offer to meet or consult with the initial notice on January 30, 2023. The Commission provided a second offer to meet or consult on June 13, 2023. No treaty tribe requested a meeting or consultation.
4. Commission Rule 350-082-0130(d) provides 30 calendar days for tribal governments to request consultation regarding tribal treaty rights. No comments were received.
5. Commission Rule 350-082-0130(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 350-082-0130.

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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