

# Director's Decision

## Summary of Application

<b>FILE NUMBER:</b>	C23-0004
<b>PROPOSAL:</b>	The Columbia River Gorge Commission has received an application for a new 30 ft x 60 ft (1,800 sq ft) agricultural building.
<b>APPLICANTS:</b>	Dave Sauter and Kenneth Sorensen
<b>LANDOWNERS:</b>	Kenneth and Brenda Sorensen
<b>SIZE and LOCATION:</b>	The subject parcel is approximately 61 acres in size and located adjacent to Canyon Road and is described as Tax Lot Number 03-12-2700-0002/00 in the northwest quarter of Section 27, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.
<b>LAND USE DESIGNATION:</b>	General Management Area (GMA) – Large-Scale Agriculture (160)

## 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 Dave Sauter and Kenneth Sorensen, for a new agricultural building, 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 site shall be reseeded with grasses from the Recommend Seed Mixes for East Side Environments handout. Disturbed areas shall be revegetated immediately upon completion of the project (or as soon as possible thereafter if the project is completed during the winter).
6. 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](mailto: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.
7. 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 12 day of June 2024 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 12 day of June 2026 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 12 day of July 2024.**

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.

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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 C23-0004  
Approved site plans and elevation drawings  
Eastern Gorge Recommended Seed Mix

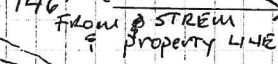
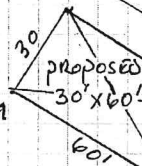
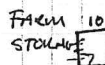
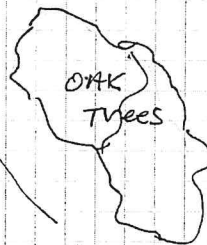
APPROVED

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SORENSEN - SITE PLAN 1" = 40'  
PARCEL # 03-12-2700-000200



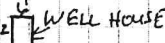
SLOPED HILLSIDE



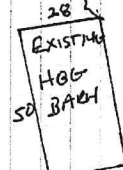
114' FROM STREAM

EXISTING OAK TREES & MAPLE TREES

STOCK CORRAL

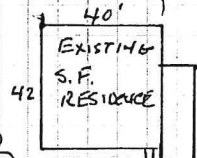


DRIVEWAY - GRAVEL



1300' +/-

SLOPED HILLSIDE

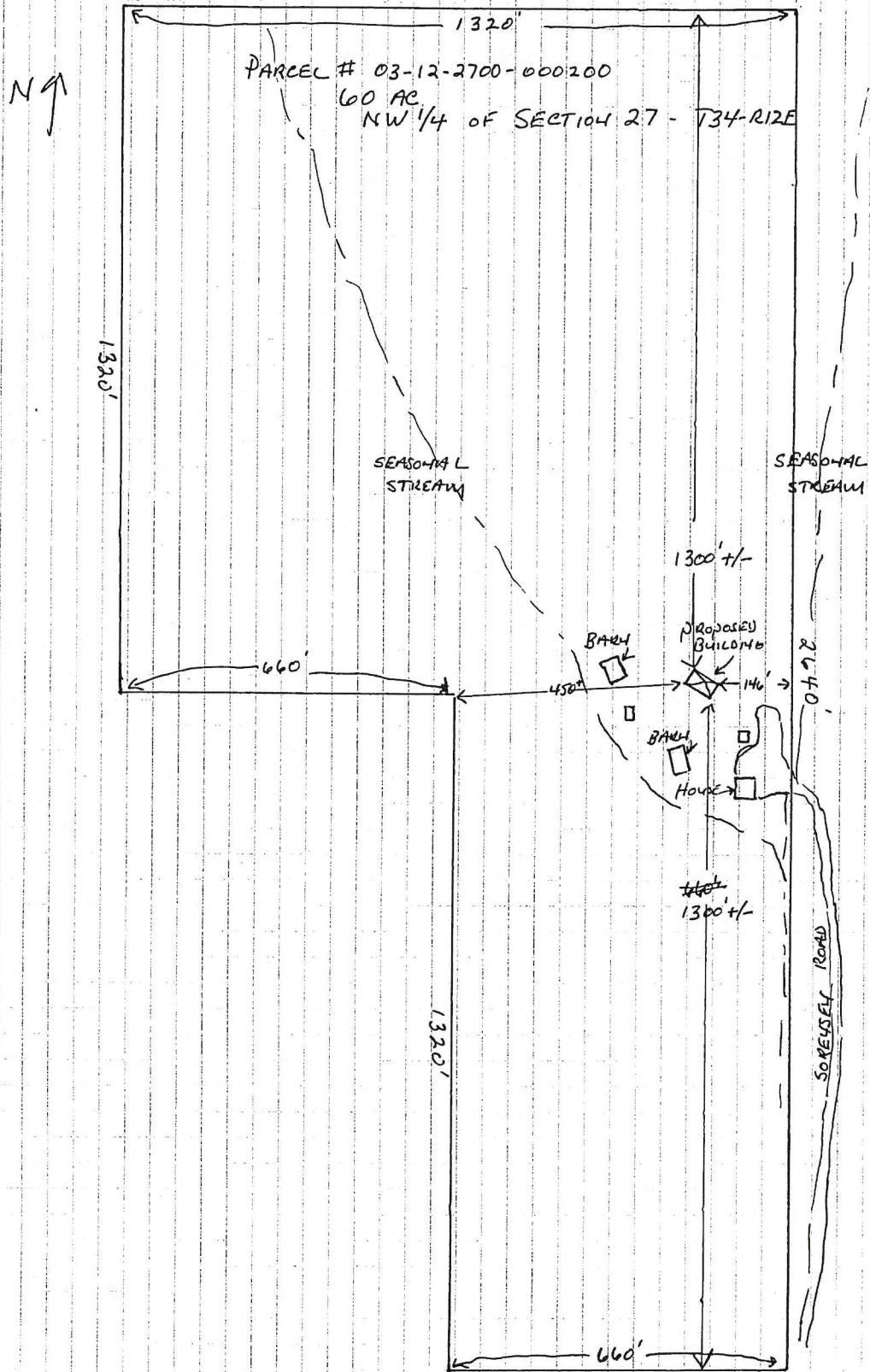


SORENSEN

SEASONAL STREAM



SOREHSEN - PARCEL MAP 1" = 200'

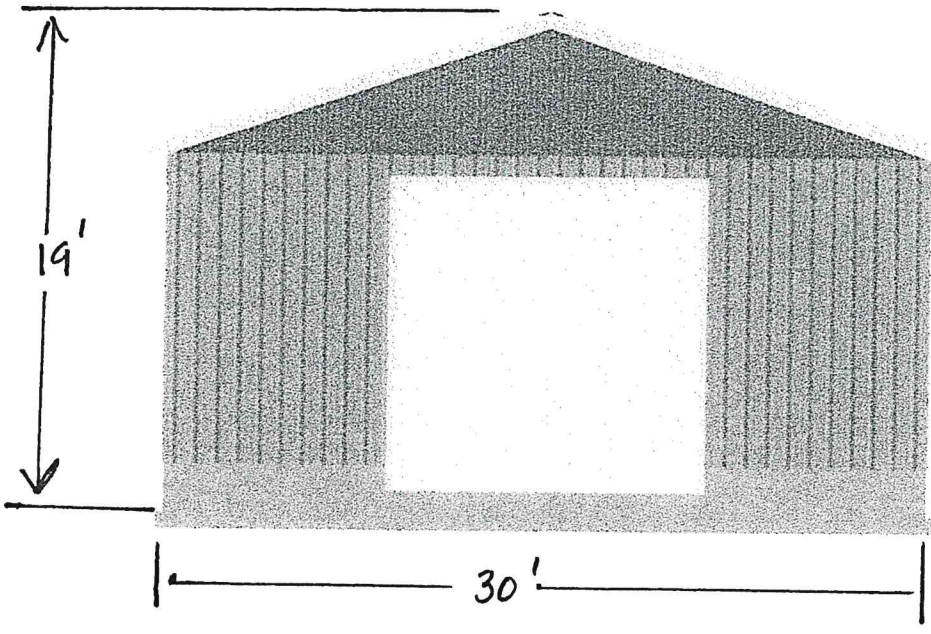
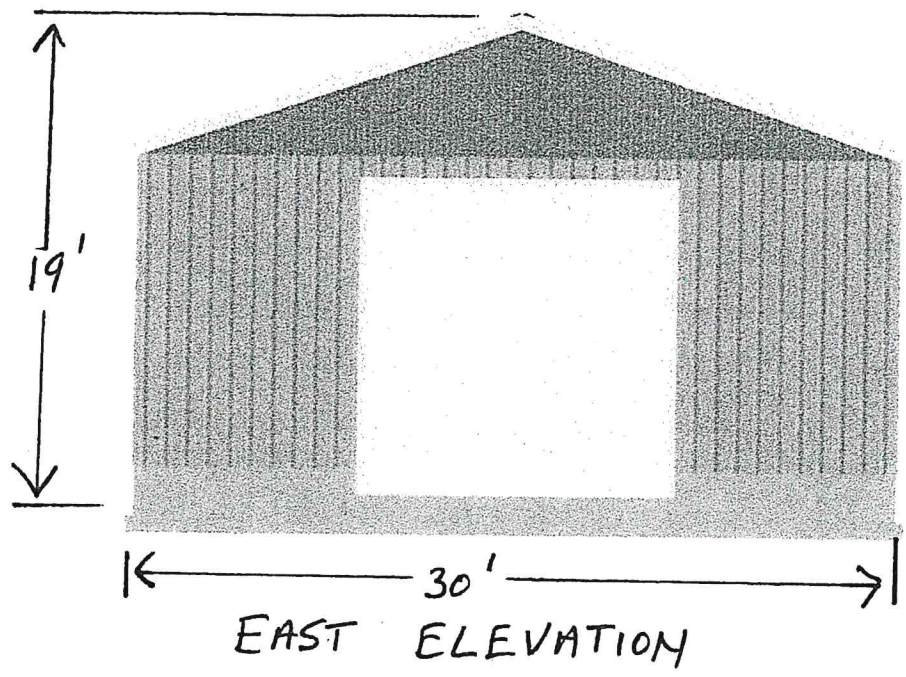


1/4" = 50'

APPROVED

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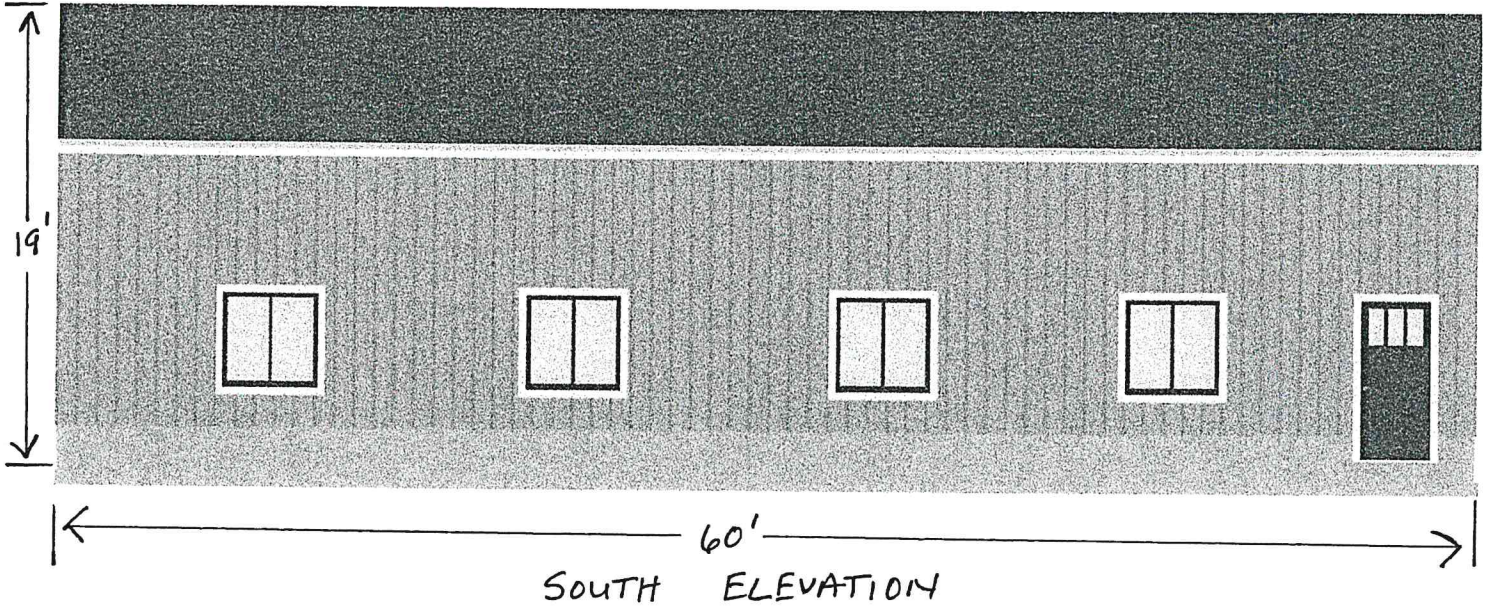
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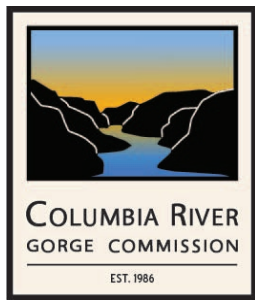
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SORENSEN



APPROVED

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# Development Review Staff Report

## Summary of Application

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<b>SIZE and LOCATION:</b>	The subject parcel is approximately 61 acres in size and located adjacent to Canyon Road and is described as Tax Lot Number 03-12-2700-0002/00 in the northwest quarter of Section 27, Township 3 North, Range 12 East, Willamette Meridian, Klickitat County, Washington.
<b>LAND USE DESIGNATION:</b>	General Management Area (GMA) – Large-Scale Agriculture (160)

## 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. Dave Sauter and Kenneth Sorensen propose a new 30' x 60' (1,800 sq ft) agricultural building.
2. The subject parcel is in the General Management Area (GMA) and is designated Large-Scale Agriculture with a 160-acre minimum parcel size. The parcel is 61 acres in size and is located approximately a quarter mile up Canyon Road from its intersection with Old Highway 8.
3. Existing development on the property includes a 1,700 sq ft single-family residence, a 1,200 sq ft hay-storage barn, a 1,400 sq ft hog barn and three small sheds.
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 proposed building is necessary to support the existing agricultural operation of the farm. The applicant has a commercial cow/calf operation of approximately 70 pairs. 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 applicants propose an 1,800 sq ft, 19 ft tall agricultural building and includes two overhead doors. The applicants supplied a floor plan of the proposed agricultural building as part of the application materials to address the requirements of this rule. The proposed building will provide for inside storage of farm equipment such as tractors, bailers, swathers and other accessories necessary for the efficient operation of the farm. The proposed building will also provide additional on-site hay storage for the feeding of the stock.

5. Commission Rule 350-082-0240(4)(b)(B) states:

*The use will be sited to minimize the loss of land suitable for the production of crops or livestock.*

Commission Rule 350-082-0070(12) defines *agricultural use* as:

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

- (a) The operation or use of farmland subject to any agriculture-related government program;*
- (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;*
- (c) Land planted in orchards or other perennials prior to maturity;*
- (d) Land under buildings supporting accepted agricultural practices; and*
- (e) Agricultural use does not include livestock feedlots.*

The proposed development is an agricultural use. The proposed building is necessary to support the existing agricultural operation of the farm. The applicant has a commercial cow/calf operation of approximately 70 pairs. The definition of *agricultural use* includes *land under buildings supporting accepted agricultural practices*. Because the proposed development is an agricultural use, it cannot cause a loss of land suitable to produce crops or livestock. The building will provide storage for equipment and food. The agricultural building is allowed pursuant to Commission Rule 350-082-0240(4), subject to compliance with the guidelines to protect scenic, cultural, natural, and recreation resources.

6. 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. The closest parcel to the proposed development is over 450 ft away. Commission Rule 350-082-0580(2) describes the largest buffer for any agricultural resource as 300 ft. 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 agricultural building is level which minimizes the need to grade the site for the proposal. Grading for the 1,800 sq ft agricultural building will be limited to what is necessary for the foundation.

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 Oak-Pine Woodland. Commission Rule 350-082-0600(3)(c) 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 landscape setting as the subject property.

The proposed agricultural building is 1,800 sq ft (30 ft x 60 ft), 19 ft tall single-story building. Of the thirteen parcels in the study area, staff found nine parcels with development. Buildings in the study area range in size up to 3,440 sq ft. The general scale of the proposed building 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.*

The applicants are required to reseed all exposed and bare soil after the development is completed, and applicants are encouraged to use a certified weed-free seed mix. The staff is providing the applicants with a list of *Recommended Seed Mixes for East Side Environments*, which is an attachment to the Director's Decision. The list supplies seed and grass mixes available locally for eastern Gorge climates. Consistent with this rule, a condition is included requiring disturbed areas be revegetated at once upon completion of the project, or as soon as possible if the project is completed during the winter.

4. Commission Rule 350-80-0600(2) only applies to sites topographically visible from key viewing areas. The proposal is not found on a site visible from key viewing areas and is compliant with this rule.
5. The Landscape Settings Map for Columbia River Gorge National Scenic Area classifies the subject parcel as Oak-Pine Woodland. Commission Rules 350-082-0600(3)(c)(A) and (B) contain applicable guidelines for the proposed development in this landscape setting.
6. Commission Rule 350-80-0600(3)(c)(A) states:

*Structure height shall remain below the tree canopy level of the dominant vegetation types of this setting.*

In wooded portions of this setting in the vicinity of the subject parcel trees vary in height from 30 to 50 ft tall. The trees present on the parcel are a mix of ponderosa pines and Oregon white oak. The height of the proposed agricultural building is 19 ft, which is lower than the tree canopy level in wooded portions of the Oak-Pinewoods landscape setting.

7. Commission Rules 350-082-0600(3)(a)(B) states:

*In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination 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. Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area.*
- (ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*
- (iii) For substantially wooded portions: Except as is necessary for construction of access roads, building pads, leach fields, etc., the 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.*

The proposal is not found on a site visible from key viewing areas. No trees are proposed to be removed and no new trees are proposed for screening purposes. The proposal is 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**

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 November 28, 2023, 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 sites that have been disturbed by human activities.
3. Commission Rule 350-082-0620(2)(a)(D) describes when a historic survey is required. In his November 28, 2023, 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 14, 2023, and the comment period ended on July 5, 2023. As explained above, the proposed use did not require a reconnaissance or historical 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 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 350-082-0620(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 are two fish-bearing streams in the vicinity of the development. Commission Rule 350-082-0640(f) requires a 100 ft buffer for streams used by anadromous or resident fish. According to the applicants site plan, the proposed agricultural buildings will be located 146 ft away from the nearest stream. The proposed development will not take place within any water resource or water resource buffer zones.
2. Commission Rule 350-082-0650 provides guidelines for protecting Priority Habitats and sensitive wildlife sites in the National Scenic Area. The proposed development takes place in deer and elk winter range, which is a Priority Habitat under Commission Rule 350-082-0690, Table 1.
3. Commission Rule 350-082-0650(3) describes the review process for development within 1,000 feet of a priority habitat. Commission Rule 350-082-580(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 14, 2023, Gorge Commission staff sent WDFW a copy of the applicant's land use application and site plan. WDFW did not submit a comment in response to the notice. Pursuant the Commission Rule 350-082-0650(3)(d), the wildlife protection process may conclude because the proposed use would not compromise the integrity of the Priority Habitat.

4. Commission Rule 350-082-580(4)(c) states:

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

Amber Johnson, WDFW Habitat Biologist, did not indicate any concerns with the proposal. The proposal will not reduce the acreage of deer and elk winter range nor result in changes to vegetation or accessibility of winter range habitat to wildlife. The proposed use will not compromise the integrity of the wildlife area.

5. 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.*

WDFW did not indicate any concerns about the proposed development. Pursuant to Commission Rule 350-81-580(1)(c), staff does not believe the proposed development results in adverse effects, including cumulative effects, to the integrity of the parcel as a wildlife site due to the nature of the development.

6. 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 identified rare plant is more than 1,300 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 will be well outside 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 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 June 14, 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 June 14, 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.

BG  
FIND0004.23