



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

8/3/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Hood River County Plan Amendment
DLCD File Number 007-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, August 17, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Michael Benedict, Hood River County
Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative

<paa> YA

FORM 2

DEPT OF

JUL 27 2009

LAND CONSERVATION AND DEVELOPMENT

DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18

(see reverse side for submitted requirements)

Jurisdiction: Hood River County

Local File No: #08-0115 (If no number, use None)

Date of Adoption: July 16, 2009 (received by County on 7/21/09) (Must be filled in)

Date Mailed: January 23, 2009 (Date Mailed or sent to DLCD)

Date the Notice of proposed Amendment was mailed to DLCD: October 23, 2008 (Date mailed or sent to DLCD)

- Comprehensive Plan Amendment
Land Use Regulation Amendment
New Land Use Regulation
Comprehensive Plan Map Amendment
Zoning Map Amendment
Other: (Please specify Type of Action)

Briefly summarize the proposal. Do not use technical terms. Do not write "See Attached." To amend Article 75 of the Hood River County Zoning Ordinance in order to be consistent with recent revisions to the Management Plan for the Columbia River Gorge National Scenic Area adopted by the Columbia River Gorge Commission since 2005. The proposed amendments were initially adopted by Hood River County on January 20, 2009. The amendments were then forwarded to the Columbia River Gorge Commission who tentatively approved them on May 13, 2009. The amendments were then forwarded to the USDA-Forest Service, who approved them on July 16, 2009. With this approval, the amendments officially go into effect.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A." Part of the original proposal included the repeal of Article 48 (Scenic Protection Zone) and Article 49 (Columbia Gorge Combining Zone) of the County Zoning Ordinance and associated Comprehensive Plan and Map references. However, upon further research it was determined that this had already been completed in 1994 when Article 75 was initially adopted by the County.

Plan Map Changed from: N/A to N/A
Zone Map Changed from: N/A to N/A
Location: N/A Acres Involved: N/A
Specified Change in Density: Current: N/A Proposed: N/A
Applicable Statewide Planning Goals: N/A
Was an Exception Adopted? Yes: No: X

DLCD No.: 007-08 (17217) [15641]

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing?** Yes: X No:

If no, do the Statewide Planning Goals apply? Yes: No:

If no, did The Emergency Circumstances require immediate adoption? Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: Hood River County, Columbia River Gorge Commission.

Local Contact: Michael Benedict, Planning Director or Eric Walker, Principal Planner **Phone Number:** (541) 387-6840

Address: Hood River County Planning & Building Services Department, 601 State Street

City: Hood River **Zip Code + 4:** 97031-2093



United States
Department of
Agriculture

Forest
Service

Pacific
Northwest
Region

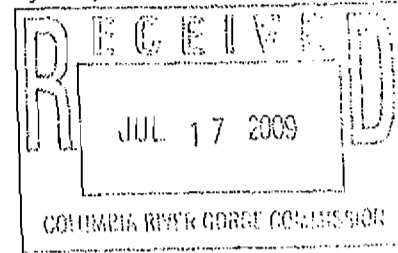
333 SW First Avenue (97204) HR County Planning
PO Box 3623
Portland, OR 97208-3623
503-808-2468

received
7/21/09

File Code: 1900

Date: July 16, 2009

Ms. Joyce Reinig
Chair
Columbia River Gorge Commission
PO Box 730
White Salmon, OR 98672



Dear Ms. Reinig:

The Columbia River Gorge Commission submitted Hood River County Ordinance #294 for concurrence review by the U.S. Secretary of Agriculture. The Secretary, through the Chief of the Forest Service, has delegated this authority to me as Regional Forester. The submission was dated May 13, 2009. Per Section 8(j)(1) of the Columbia River Gorge National Scenic Area Act, the Regional Forester has 90 days to make a decision regarding concurrence. This 90-day period expires August 13, 2009.

Ordinance 294 implements Plan Amendments PA-05-02, PA-06-04 and PA-06-05. These amendments provide additional guidelines for commercial and horse boarding uses in the General Management Area (GMA) and make several small corrections to the Management Plan. The portion of the ordinance implementing the horse boarding and commercial use do not require concurrence because they do not pertain to the Scenic Management Area (SMA) in accordance with Section 8(j)(1) (16 USC, 544f) of the Act.

The portion of Ordinance 294 that does pertain to the SMA implements corrections to the Management Plan that were concurred upon by the Regional Forester on June 1, 2007, pursuant to Sections 6(b) and 6(f) (16 USC, 544d). On May 12, 2009, the Columbia River Gorge Commission by means of a final order, tentatively approved the amendments affecting the SMA (OA-09-04).

Forest Service staff worked closely with Gorge Commission staff to prepare Plan Amendment PA-06-05 which affects the SMA. Accordingly, the NSA staff completed a review of the amendment report submitted by the Gorge Commission to ensure: 1) the amendments are consistent with the purposes of the Act; and 2) the amendments are consistent with the standards of Section 6(d) of the Act.

I concur that Hood River Ordinance 294 is consistent with the Management Plan. I base my concurrence on a review of the CRGNSA staff report dated June 9, 2009 (enclosed) and the materials submitted by the Columbia River Gorge Commission on May 13, 2009.

Sincerely,

Mary Wagner
MARY WAGNER
Regional Forester

Enclosure



Caring for the Land and Serving People

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Ms. Joyce Reinig

2

cc: Diana L Ross, Daniel T Harkenrider, Jill Arens, Executive Director, Columbia River Gorge
Commission



United States
Department of
Agriculture

Forest
Service

Columbia River Gorge
National Scenic Area
(541) 308-1700
Fax: (541) 386-1916

902 Wasco Avenue
Suite 200
Hood River, OR 97031

File Code: 1900
Route To: (2300)

Date: July 09, 2009

Subject: Concurrence: Hood River County Land Use Ordinance Amendment No. 294
Management Plan Consolidation and Corrections
To: Regional Forester

INTRODUCTION

The Columbia River Gorge Commission submitted Hood River County Ordinance #294 which amends Article 75--the Hood River County Scenic Area Ordinance--for a concurrence review by the U.S. Secretary of Agriculture. The Secretary, through the Chief of the Forest Service, has delegated this authority to the Regional Forester. The submission was dated May 13, 2009.

According to Section 8(j)(1) (16 USC, 544f) of the Columbia River Gorge National Scenic Area Act (the Act), the Secretary of Agriculture has 90 days to review a Special Management Area (SMA) ordinance amendment to determine concurrence with the Commission's tentative decision finding the amendment consistent with the Management Plan. The 90 day period to determine concurrence expires on August 13, 2009.

Ordinance 294 implements Plan Amendments PA-05-02, PA-06-04 and PA-06-05. These amendments made several small corrections to the Management Plan and provide additional guidelines for uses in the General Management Area (GMA). The portion of the ordinance implementing horse boarding, commercial events and commercial uses in historic buildings do not require concurrence because they do not pertain to the SMA in accordance with Section 8(j)(1) (16 USC, 544f) of the Act.

The portion of Ordinance 294 pertaining to the SMA implements corrections to the Management Plan that were concurred upon by the Regional Forester on June 1, 2007 pursuant to Sections 6(h) and 6(f) (16 USC, 544d).

On May 12, 2009, the Columbia River Gorge Commission by means of a final order, tentatively approved the Multnomah County NSA Code amendments affecting the SMA (OA-09-04), which corrected oversights or errors, and made typographical and cross-referencing corrections.

REVIEW

The Act provides only one measure or criteria for determining concurrence. Per Section 6(f), this determination is to be based on whether the amendment is consistent with the purposes of the Act and with the standards of Section 6(d) of the Act. Because "consistent" is not defined by the Act, "consistent" is interpreted to mean "not contradictory" (Black's Law Dictionary, 5th ed. 1979).



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Hood River County Ordinance Article 75-Amendment 294: Management Plan Corrections

This ordinance implements the amendment which was concurred upon on by the Regional Forester on June 1, 2007. At that time, the NSA staff completed a review of the Plan amendment report submitted by the Gorge Commission to ensure: 1) the amendment is consistent with the purposes of the Act; and 2) the amendment is consistent with the standards of Section 6(d) of the Act. Forest Service staff worked closely with Gorge Commission staff to prepare the Plan amendment PA-06-05.

CONCLUSION

The following conclusion from the February 22, 2007 staff report on the Plan Amendment also applies to this ordinance amendment:

In sum, the amendment modifying the Management Plan to consolidate and reorganize the 2004 Management Plan revision with the unrevised portions of the 1992 Management Plan, revise or delete non-regulatory language, text, procedures and tables, correct oversights or errors and make typographical and cross-referencing corrections is consistent with the purposes and standards of the Act.

I recommend that the Regional Forester concur with the Commission that the Hood River County ordinance amendments are consistent with the CRGNSA Act.

/s/ Daniel T. Harkenrider

DANIEL T. HARKENRIDER
Area Manager

FILE COPY



Hood River County Planning & Building Services
601 State Street, Hood River OR 97031

MICHAEL BENEDICT, DIRECTOR
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DEAN A. NYGAARD, BUILDING OFFICIAL
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January 22, 2009

Columbia River Gorge Commission
c/o Jill Arens
P.O. Box 730, #1 Town & Country Square
White Salmon, WA 98672

RE: National Scenic Area Management Plan Revisions

Dear Ms. Arens,

Enclosed is Hood River County Ordinance #294, which outlines the Hood River Board of County Commissioners' decision to amend Article 75 (National Scenic Area) of the County Zoning Ordinance to be consistent with revisions made to the Management Plan since 2005. The Board of County Commissioner's decision was signed by the Commission Chair, and thereby finalized, on January 20, 2009.

I would like to personally thank you and your staff for all the support you gave as part of this project. We look forward to Gorge Commission concurrence as time permits.

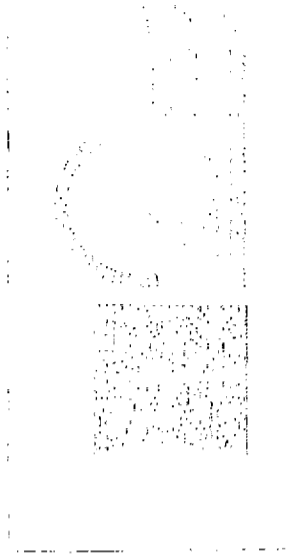
Sincerely,

A handwritten signature in cursive script that reads "Mike Benedict".

Michael Benedict
County Planning & Building Services Director

Attachments: Hood River County Ordinance #294
Record of the Board of Commissioners
CD with Article 75 Tracked Changes

cc: David Meriwether, County Administrator (no attachments)



DLCD

910 PLAN AMENDMENT SPECIALIST
635 CAPITOL ST. NE, SUITE 150
SALEM, OR 97301-2540

FILE COPY

HOOD RIVER COUNTY

ORDINANCE NO. 294

AN ORDINANCE TO APPROVE LEGISLATIVE AMENDMENTS TO ARTICLE 75 (NATIONAL SCENIC AREA) OF THE HOOD RIVER COUNTY ZONING ORDINANCE IN RESPONSE TO REVISIONS MADE TO THE MANAGEMENT PLAN FOR THE COLUMBIA RIVER GORGE NATIONAL SCENIC AREA.

The above matter came before the Hood River County Board of Commissioners for a public hearing on January 5, 2009 at 7:00 p.m. in the County Board of Commissioners Conference Room (1st floor), 601 State Street, Hood River, Oregon.

Notice of the proposed code revisions was mailed directly to all property owners located within Columbia River Gorge National Scenic Area in Hood River County, affected agencies, and others.

A quorum was present during the aforementioned public hearing. All of the commissioners present participated in the hearing. Testimony provided to the Board of Commissioners during the public hearing included the recommendation and written record of the Planning Commission, dated December 10, 2008, and an oral staff summary. No public testimony was received.

Based upon the record before it, and being fully advised in the premises, the Board of Commissioners adopted the findings of fact, conclusions of law, and recommended ordinance amendments provided in the Planning Commission's issues paper, dated December 24, 2008 and recommendation, dated December 10, 2008, incorporated herein by this reference as Exhibit "A."

Based upon the above information, **IT IS HEREBY ORDAINED** that the above-described legislative amendments to Article 75 of the Hood River County Zoning Ordinance are hereby adopted.

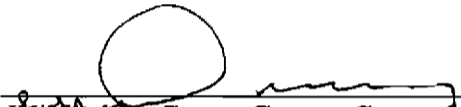
DATED this 20th day of January, 2009.

HOOD RIVER BOARD OF COUNTY COMMISSIONERS



Ron Rivers, Chair

Approved as to Form:


Wilford K. Carey, County Counsel

FILE COPY



Hood River County Planning & Building Services
601 State Street, Hood River OR 97031

MICHAEL BENEDICT, DIRECTOR
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To: Hood River County Board of Commissioners

From: Hood River County Planning Commission

Exhibits: Exhibit "A" – Record of the Planning Commission, including their Recommendation to the Board, Initial Issues Paper, and the Following Attachments:

- Attachment "A" – Article 75 Ordinance Amendments – Tracked Changes
- Attachment "B" – Summary List and Description of all Proposed Article 75 Ordinance Amendments
- Attachment "C" – Gorge Commission's Findings and Reports Concerning Proposed Amendments
- Attachment "D" – Written Comments Received
- Attachment "E" – Planning Commission's Draft Meeting Minutes

Date: December 24, 2008 (For January 5, 2009 Public Hearing)

RE: Amendments to Article 75 (National Scenic Area Ordinance) of the County Zoning Ordinance.

Introduction:

A request is being made to amend Article 75 (National Scenic Area Ordinance) of the Hood River County Zoning Ordinance in order to bring it into compliance with the Columbia River Gorge National Scenic Area Management Plan.

Background:

During the spring of 2004, the Columbia River Gorge Commission completed a two year review and update to the Columbia River Gorge National Scenic Area Management Plan. To be consistent with these revisions, the County amended Article 75 of the County Zoning Ordinance on June 29, 2005. These amendments were subsequently acknowledged by the Gorge Commission on September 30, 2005 and went into effect on January 1, 2006.

As part of Gorge Commission's 2005 decision to acknowledge the County's Article 75 updates, two conditions were implemented requiring the County to eliminate provisions concerning "commercial events," which had been overlooked as part of the County's earlier adoption process. Amendments are proposed to address these conditions.

Since the adoption of the Revised Management Plan, the Gorge Commission has adopted a number of subsequent changes that too must be considered for adoption by the County in accordance with Section 7 of the National Scenic Area Act. These amendments include provisions to allow commercial uses in historic buildings (*Gorge Commission reference #05-02*) and the boarding of horses on General Management Area land that is zoned either rural residential (*RR-10 only*), agricultural, or forest (*Gorge Commission reference #06-04*). The Gorge Commission also adopted a number of broad "housekeeping" changes as part of Plan Amendment #06-05. With the adoption of these proposed amendments, the County's National Scenic Area Ordinance (Article 75) will be brought up-to-date and into compliance with the revised Management Plan.

The County Planning Commission recommendations are based on information received during a work session on October 22, 2008 and a public hearing on December 10, 2008. Notice of this hearing was mailed to all 422 property owners in Hood River County located within the National Scenic Area, affected agencies and others. Public notice was also published in the Hood River News. These notices generated 4 written comments from two agencies (ODOT and Columbia River Gorge Commission staff), one affected property owner (Kurt and Betty Osborn), and one interest group (Friends of the Columbia Gorge). (*See Attachment "D" of the Planning Commission's record for a copy of these written comments*). Oral testimony was also received from 4 individual property owners at the hearing.

Proposed Code Amendments Explained and Related Issues Identified:

To implement the above-mentioned amendments, the Hood River County Planning Commission is recommending the following changes to Article 75 (*National Scenic Area Ordinance*) of the Hood River County Zoning Ordinance:

1. **"Commercial Events" Amendment:** As previously explained, two conditions of approval were implemented when the Gorge Commission acknowledged the County's revisions to its National Scenic Area Ordinance (Article 75) in 2005. These conditions require that the County amend Article 75, Section 152.J. of the Zoning Ordinance in order to preclude commercial event sites from being allowed in conjunction with an "established farm." The reason the conditions were made was to ensure that the County's regulations were not made less restrictive than the Revised Management Plan. [*Part IV (County Ordinances), Policy 1 of the Management Plan only allows counties to "adopt ordinances with provisions that vary from the policies and guidelines in the Management Plan as long as the ordinances provide greater protection for the scenic, cultural, natural, and recreation resources of the Scenic Area."*]

In 2005 when the County went through the process of revising Article 75, it adopted the revised Management Plan with few changes. One change the County did propose, however, involved a new Management Plan provision that allowed commercial events to be established in conjunction with an existing winery, wine tasting room, and bed & breakfast. With the County having adopted its own commercial events ordinance the previous year (*i.e. Article 73 - Wedding & Related Events Ordinance*), the Board, at the recommendation of the Planning Commission, decided to adopt many of these same restrictions within Article 75 so that the requirements were virtually the same County-wide. However, in doing so, it allowed commercial events to be established in conjunction with an existing commercial farm, which was not adopted as part of the Management Plan revisions. Unfortunately, this conflicting provision was not caught until after the County had already adopted the revisions, and right before they were to be acknowledged by the Gorge Commission. To avoid having to delay the entire process, the Gorge Commission decided to adopt revised Article 75 with a commitment that the County would make the necessary corrections as soon as possible and not apply the inconsistent standard in the meantime. (*For a copy of the Gorge Commission's decision, see Attachment "C" of the record.*)

Issues: The Planning Commission did not identify any specific issues related to this amendment because the changes are required to comply with the County's acknowledged ordinance and are needed to avoid conflicts with the Management Plan.

Recommendation: Adopt the amendment as proposed.

2. "Commercial Uses in Historic Buildings" Amendment: This amendment (*Gorge Commission reference PA-05-02*) was adopted by the Gorge Commission in November of 2005 in order to allow some commercial use of significant historic buildings. The main purpose of the amendments is to protect cultural resources by establishing guidelines that encourage property owners to maintain and enhance certain historically significant buildings as cultural resources. According to the Gorge Commission, given the intended purpose of this amendment, it must be adopted by the County, although, if desired, the Board could propose changes that provide greater resource protection.

The proposed amendment only applies to properties within the GMA, except those zoned Open Space, that contain a building that is either on or eligible for listing in the National Register of Historic Places and that was 50 years old or older as of January 1, 2006. As noted by the Gorge Commission, there are currently no historic buildings in Hood River County (*within the NSA*) listed or determined to be eligible for listing in the National Register of Historic Places. However, it is believed that there are at least a small number of buildings in the Hood River County within the National Scenic Area that were 50 years old or older in 2006 and "potentially" eligible for listing in the future.

In considering this particular amendment, it should be noted it was appealed by the Friends of the Columbia Gorge to the Oregon Court of Appeals in December of 2007. (*Appeal No. A131299 and A133281*) The Court of Appeals denied the appeals on all counts. The Friends of the Columbia Gorge has subsequently appealed this decision to the Oregon Supreme Court, who has agreed to hear the case, but no decision has yet been rendered. According to County Counsel, appeal of this amendment to the Oregon Supreme Court does not preclude it from being adopted the County. However, the Board needs to be aware that should the Oregon Supreme Court overturn the Court of Appeals' decisions, the County will then need to, at some point, amend Article 75 again to have the provisions removed. Along these lines, comments were received from the Friends of the Columbia Gorge requesting that the County postpone implementation of this amendment until after the lawsuit has been resolved.

Issues: The following issues have been identified concerning this amendment for further discussion:

- A. *Should the County adopt this provision even if there are currently no existing buildings on or already determined to be eligible for the National Register for Historic Places in Hood River County?*

Since this particular amendment is specifically intended for cultural resource protection, adoption by the County is mandatory. However, even if this were not the case, the Planning Commission agreed that adoption would be beneficial as it could help raise awareness about historical buildings, while, at the same time, create positive incentives for their preservation.

- B. *What are the potential cumulative impacts associated with adopting this guideline?*

As the guidelines are written, the potential cumulative impacts of adopting this amendment are expected to be minimal, if at all. First, the guidelines require that the buildings be 50 years old or

older as of January 1, 2006, which helps to establish a finite number of buildings that are eligible for consideration. Next, the guidelines require that the building be either listed or eligible to be listed on the National Register of Historic Places. As mentioned, there are currently no buildings within the National Scenic Area in Hood River that currently meet this condition. In fact, according to a historic consultant hired by the Gorge Commission during original adoption process, the total number of "potentially" eligible buildings in Hood River County equaled four. Although this analysis was very rough and imprecise, it at least provides a general understanding as to the potential impact. Finally, even if a building were able to meet the age and listing requirements, it still requires a willing property owner who is interested in establishing a business and meeting the requirements/ obligations for registering a historic building on the National Register. Given all of these factors, the Planning Commission believes that adopting this guideline will result in very few buildings being eligible to use these provisions.

C. *Are there reasons why the County should adopt addition standards to limit potential impacts, especially to adjacent property owners?*

As previously mentioned, the Friends of the Columbia Gorge are requesting that the County adopted additional guidelines to minimize the effects of allowing commercial uses in conjunction with historic buildings on adjacent lands. However, after reviewing the guidelines for commercial uses in historic buildings, the Planning Commission believes that there are enough built-in safeguards to ensure that potential adverse impact upon neighboring properties is minimal. Additionally, the use is being proposed as a "review use subject to additional standards," which is akin to a conditional use permit. Should an application be made for such activities, notice will be provided to all adjacent property owners and affected agencies and any specific comments/concerns can be addressed as part of the County's review. The Planning Commission felt that it is best to evaluate any future request on a case-by-case basis and not adopt additional requirements that may or may not apply in all situations.

Potential Options: Given the limitation of Part IV (County Ordinances), Policy 1 of the Management Plan, the options available to consider the commercial uses in historic buildings amendment, include the following:

- a. Adopt the provisions as written and allow the possibility of commercial uses to be established in historic buildings that meet the minimum requirements.
- b. Adopt the provision, but with changes that would provide greater protection of gorge resources or limit potential impacts upon adjacent property owners.

Recommendation: *Option a.*

3. "Boarding of Horses" Amendment: The Gorge Commission adopted Plan Amendment #06-04 in March of 2007 concerning the boarding of horses within certain GMA zoning designations. As part of this amendment, the following changes were made:

- *The definition of horse boarding was modified to allow non-profit horse boarding.*

Currently, the County's definition concerning horse boarding is limited to "for profit" operations only. If adopted, this particular amendment will allow non-profit facilities to be considered as well. The change stems from a case in Klickitat County where a non-profit horse rescue center was proposed. In evaluating this application, it was determined that the definition unintentionally limited non-profit facilities. Considering that a non-profit and commercial horse boarding facility

would operate, from an outside appearance, exactly the same, the Gorge Commission adopted the amendment so they could be treated alike.

As indicated by Gorge Commission staff, the proposed amendment does not "increase resource protection levels" and, therefore, its adoption by the County is optional.

- *Horse boarding was added as a "review use with additional approval criteria" to the GMA Rural Residential (RR-10) zone.*

The impetus for this amendment also goes back to the Klickitat County case involving the non-profit horse rescue center, which was located on property zoned RR-10. In consideration of this amendment, multiple options were considered; however, in the end, the Gorge Commission found that horse boarding facilities could be made compatible with resource protection guidelines and adjacent residential uses by (1) restricting them to the RR-10 zone only, which typically contains larger parcels and greater separation between neighbors, and (2) making the provision a "review use with additional criteria," which is akin to a conditional use permit, and, therefore, will allow greater consideration of any adjacent property owner's concerns. With these limitations in mind, as well as another proposed change that would restrict the number of horses per acre (*discussed in the next bullet*), the Gorge Commission found that the effects of allowing commercial or non-profit horse boarding facilities in the RR-10 zone would be insignificant and probably not much more intense than a property with personal horses, which is already allowed in the RR zone with few restrictions.

In considering this proposed amendment, the Board should be aware that there are only 6 parcels, totally approximately 50 acres, zoned RR-10 in the County. The sizes of five out of the six parcels are approximately 10 acres each, with one just under a half an acre so there is no opportunity to create any additional parcels. As a result, the overall number of parcels that may be able to pursue this use would be somewhat limited.

Similar to the proposed definition amendment, adding the horse boarding provision to the RR-10 zone is optional.

- *An additional review standard was added to the requirements for horse boarding in the GMA Agricultural and Forest zones to limit the number of horses allowed per acre given certain characteristic of the site.*

This particular amendment establishes a maximum number of horses allowed on a parcel considering its size and characteristics, and potential impacts to neighboring property owners. The purpose of this change is to ensure that the number of horses allowed under this provision would not overburden the land, and cause unnecessary impacts to nearby natural resources (*i.e. denuding the landscape, increasing erosion potential, and impacting nearby water sources*) and neighboring property owners (*i.e. dust and odor effects*). Because the change provides added resource protection, the Gorge Commission has indicated that this particular amendment is mandatory.

Issues: The following issues have been identified concerning the proposed horse boarding amendment:

- A. *Does the Board want to treat "non-profit" and "for profit" horse boarding facilities the same?*

After reviewing the Gorge Commission's staff report concerning these proposed amendments and considering the information they relied upon in making their decision (*see Attachment "C" of the Planning Commission's record*), the Planning Commission did not see any differences between a commercial and non-profit horse boarding facility. The potential impacts associated with either type of facility should be exactly the same and their operational characteristic should be indistinguishable to outside viewers.

- B. *Does the Board want to allow horse board in the RR-10 zone or restrict it to just the agricultural and forest designations?*

As previously explained, the number of parcels eligible for horse boarding in the RR-10 zone is small and multiple safeguards exist to ensure that the potential effects upon adjacent properties and Gorge resources are limited. Based on this information, the Planning Commission found that approving an amendment to allow the boarding of horses on RR-10 zoned property would be a reasonable use.

- C. *Does the Board want to establish an exact figure for the number of horses that would be allowed per acre in conjunction with an approved horse boarding facility?*

The Gorge Commission gave this question a fair amount of consideration. However, the principal reason that the Gorge Commission did not create a standard that establishes a maximum number of horses per acre was because of the natural variations found in the Gorge and the unique characteristics of individual properties. Even though the natural variations found in Hood River County are less prominent than in other areas of the Gorge, they still exist and each property is certainly unique. The advantage of keeping the existing wording and not setting a definitive number is that it provides greater flexibility in considering any unique land or operational characteristics that may exist, while allowing decisions to be made on a case-by-case basis. The disadvantage is that it will require a bit more staff time and discretion at the time of reviewing the application; however, this should be minor given the limited number of applications expected.

Four property owners spoke during the hearing before the Planning Commission regarding the horse boarding provision. For the most part, they were concerned about new restrictions being placed on horse boarding facilities, including a limit on the number of horses per acre. However, realizing that the standard is mandatory, they generally agreed that it would be better to determine the maximum number of horses per acre on a case-by-case basis instead of setting a hard and fast limit as part of the ordinance language.

- D. *Does the Board want to adopt additional review criteria that would further restrict horse boarding facilities?*

The Friends of the Columbia Gorge provided comments recommending that the County adopt additional guidelines concerning new horse boarding facilities in order to better ensure related activities are compatible with neighboring land uses and that the carrying capacity of the land is not exceeded. Sample ordinance language from Multnomah and Skamania Counties were included with their comments. However, the Planning Commission felt that there are adequate safeguards in the proposed language to ensure that the potential impacts to neighbors and the land are minimized.

Potential Options: Given the limitation of Part IV (County Ordinances), Policy 1 of the Management Plan, the options available regarding the horse boarding amendments, include the following:

- a. Adopt all of the amendments as proposed, including the definition change to allow non-profit horse boarding facilities (*optional*), allowing horse boarding on RR-10 designated land subject to review with additional criteria (*optional*), and adding the additional criteria requiring findings be made to establish a maximum number of horse per acre given certain factors (*mandatory*).
- b. Adopt all of the amendments as proposed, but with some additional review criteria.
- c. Adopt the mandatory provision (*i.e. limiting the number of horses per acre*) and the definition change to allow non-profit horse boarding facilities, but do not allow horse boarding on RR-10 designated land.
- d. Adopt the mandatory provision (*i.e. limiting the number of horses per acre*) and the allowance for a horse boarding facility on RR-10 designated land, but do not change the definition to allow non-profit horse boarding facilities.
- e. Adopt only the mandatory provision (*i.e. limiting the number of horses per acre*), but none of the optional allowances (*i.e. definition change to recognize non-profit horse boarding facilities and allowing horse boarding on RR-10 zoned land*).

Recommendation: *Option a.*

4. General "Housekeeping" Amendments: In December of 2006 the Gorge Commission adopted Plan Amendment #06-05 that was intended to consolidate the original 1992 Management Plan and the 2004 Management Plan Revisions into a single document. This amendment resulted in a number of text changes, including revisions to and deletion of outdated non-regulatory text, procedures, and tables; correction of oversights and errors; correction of typographical, grammatical, and cross-reference errors; and reorganization of amended sections. For more information regarding each of these changes, see Attachment "B" of the Planning Commission's record, which includes a list of all amendments proposed and the purpose of each change.

Issues: The Planning Commission does not believe there are any specific issues related to this amendment since most of the changes are desirable anyway for grammatical reasons and to insure proper implementation of the ordinance. Additionally, the individual amendments provide very little, if any, discretion and are mandatory in order to comply with the Management Plan.

Recommendation: Adopt the amendments as proposed.

**HOOD RIVER COUNTY
PLANNING COMMISSION**

**RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS TO
APPROVE LEGISLATIVE AMENDMENTS TO ARTICLE 75 OF THE HOOD RIVER
COUNTY ZONING ORDINANCE IN RESPONSE TO REVISIONS MADE TO THE
MANAGEMENT PLAN FOR THE COLUMBIA RIVER GORGE NATIONAL SCENIC AREA.**

A public hearing was held before the Hood River County Planning Commission on December 10, 2008, at 7:00 p.m. in the County Board of Commissioners Conference Room (1st floor), 601 State Street, Hood River, Oregon, to consider the above legislative task.

Notice of the proposed code revisions was mailed directly to all property owners located within Columbia River Gorge National Scenic Area in Hood River County, affected agencies, and others. This notice included a short description of the proposed amendments; date, time and location of the Planning Commission's public hearing; and an explanation of how to obtain additional information.

A quorum was present during the aforementioned public hearing. All of the commissioners present participated in the hearing. The Chair of the Planning Commission presiding at the hearing then described the rules and procedure of the hearing. Testimony provided to the Planning Commission during the public hearing included a written staff report, dated December 3, 2008 and an oral staff summary. Public testimony was also received.

Based upon the record before it, and being fully advised in the premises, the Planning Commission adopted the following findings of fact and conclusions of law:

The Planning Commission initially discussed the above revisions during a work session on October 22, 2008.

In revising Article 75 (*National Scenic Area Ordinance*) of the County Zoning Ordinance, planning staff worked closely with Gorge Commission staff to ensure consistency between the Article 75 amendments and the revised Management Plan.

Adoption of the Management Plan revisions into the Hood River County Zoning Ordinance is required by Section 7(b) of the National Scenic Area Act to ensure consistent zoning regulations throughout the National Scenic Area.

The proposed code changes to Article 75 are based, in part, on recent revisions made by the Gorge Commission to the National Scenic Area Management Plan concerning "commercial uses in conjunction with historic buildings," "horse boarding," and "general housekeeping changes." The proposed code changes are also based on two conditions of approval implemented by the Gorge Commission when it last acknowledged the County's revisions to Article 75 in 2005. These two conditions involve a provision that would have allowed "commercial uses in conjunction with an established farm," which, if allowed, would have resulted in standards that were less restrictive than the Management Plan.

The Planning Commission accepted the findings of fact, conclusions of law, and recommended ordinance amendments described in the staff presentation and detailed in the staff report, dated December 3, 2008, attached hereto as Exhibit A, and by this reference incorporated herein.

Based upon the above information, it is **HEREBY RECOMMENDED** by the County Planning Commission that the County Board of Commissioners approve the aforementioned legislative amendments to Article 75 (*National Scenic Area Ordinance*) of the Hood River County Zoning Ordinance.

DATED this 10th day of December, 2008.

HOOD RIVER COUNTY PLANNING COMMISSION



William Ohlman, Chair

Approved as to Form: 
Willford K. Carey, County Counsel

Exhibit A

Amendments to Article 75
National Scenic Area Ordinance of
the Hood River County Zoning Ordinance





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To: Hood River County Planning Commission

From: Michael Benedict, County Planning Director 
Eric Walker, Principal Planner 

Attachments: Attachment "A" – Article 75 Ordinance Amendments – Tracked Changes
Attachment "B" – Summary List and Description of all Proposed Article 75 Ordinance Amendments
Attachment "C" – Gorge Commission's Findings and Reports Concerning Proposed Amendments
Attachment "D" – Comments Received

Date: December 3, 2008 (*For December 10, 2008 Public Hearing*)

RE: Amendments to Article 75 (*National Scenic Area Ordinance*) of the County Zoning Ordinance.

Introduction:

The Hood River County Planning Department is proposing to amend the Hood River County Zoning Ordinance by codifying recent Columbia River Gorge National Scenic Area Management Plan updates adopted by the Columbia River Gorge Commission since 2005.

Background:

During the spring of 2004, the Columbia River Gorge Commission completed a two year review and update to the Columbia River Gorge National Scenic Area Management Plan. To be consistent with these revisions, the County amended Article 75 (*National Scenic Area Ordinance*) of the County Zoning Ordinance on June 29, 2005. These amendments were subsequently acknowledged by the Gorge Commission on September 30, 2005 and went into effect on January 1, 2006.

As part of Gorge Commission's 2005 decision to acknowledge the County's Article 75 updates, two conditions were implemented requiring the County to eliminate provisions concerning "commercial events," which had been overlooked as part of the County's earlier adoption process. Amendments are proposed to address these conditions.

Since the adoption of the Revised Management Plan, the Gorge Commission has adopted a number of subsequent changes that too must be considered for adoption by the County in accordance with Section 7 of the National Scenic Area Act. These amendments include provisions to allow commercial uses in historic buildings (*Gorge Commission reference #05-02*) and the boarding of horses on General

Management Area land that is zoned either rural residential (*RR-10 only*), agricultural, or forest (*Gorge Commission reference #06-04*). The Gorge Commission also adopted a number of broad "housekeeping" changes as part of Plan Amendment #06-05.

With the adoption of these proposed amendments, the County's National Scenic Area Ordinance (Article 75) will be brought up-to-date and into compliance with the revised Management Plan.

Information Received and Changes Made Since the October 22, 2008 Work Session:

During the October 22, 2008 work session, staff indicated that part of this amendment process included the repeal of the Scenic Protection (SP) and Columbia Gorge Combining (CG) zones. During the work session and as part of its earlier report, staff indicated that it did not appear that these zones had been formally repealed with the adoption of Article 75 in 1994 (via County Ordinance #195). However, after further searching, staff was able to uncover the necessary documents to confirm that the SP and CG zones had indeed been formally repealed from the County Comprehensive Plan and Zoning Ordinance in 1994, thereby eliminating the need to pursue making these particular amendments. (*With that said, staff is currently working to update the County Comprehensive Plan and Zoning Ordinance in order to implement all of the text changes that should have been completed in 1994.*)

On November 6, 2008, public notice of this hearing was mailed to all 422 property owners in Hood River County located within the National Scenic Area, affected agencies and others. Public notice was also published in the Hood River News on November 12, 2008. These notices generated 3 written comments, which are enclosed as part of Attachment "D" and summarized below:

ODOT: ODOT had no concerns regarding the proposed amendments, but did ask that the County continue sending them notice of all future development requests.

Friends of the Columbia Gorge: The Friends of the Columbia Gorge provided comments concerning the "Special Uses in Historic Buildings" and "Horse Boarding" Plan Amendments.

The Friends of the Columbia Gorge are requesting that the County delay implementation of the "Commercial Uses in Historic Buildings" Plan Amendment until after two lawsuits they filed with the Oregon Supreme Court against the Columbia River Gorge Commission and Multnomah County are resolved. The Friends of the Columbia Gorge also recommend that the County adopt additional guidelines to address health, safety, and potential impacts to surrounding property related to allowing these types of uses. Sample ordinance language was provided as part of the Friends of the Columbia Gorge's comments.

The Friends are also recommending that the County adopt additional guidelines related to the "Horse Boarding" Plan Amendment in order to better ensure related activities are compatible with neighboring land uses and that the carrying capacity of the land is not exceeded. Sample ordinance language from Multnomah and Skamania Counties were included with their comments.

Kurt and Betty Osborn, Affected Property Owner: The Osborns are owners of a pre-existing horse boarding facility in the County. They provided some good information about how a high-quality boarding facility should be operated. As part of their comments, they suggest that, should it be decided that horse boarding facilities need to be evaluated, that they be done so on a case-by-case basis instead of creating standards that treat all facilities the same.

Proposed Code Amendments Explained and Related Issues Identified:

To implement the above-mentioned amendments, the Hood River County Planning Department is recommending the following changes to Article 75 (*National Scenic Area Ordinance*) of the Hood River County Zoning Ordinance:

1. **“Commercial Events” Amendment:** As previously explained, two conditions of approval were implemented when the Gorge Commission acknowledged the County’s revisions to its National Scenic Area Ordinance (Article 75) in 2005. These conditions require that the County amend Article 75, Section 152.J. of the Zoning Ordinance in order to preclude commercial event sites from being allowed in conjunction with an “established farm.” The reason the conditions were made was to ensure that the County’s regulations were not made less restrictive than the Revised Management Plan. [*Part IV (County Ordinances), Policy 1 of the Management Plan only allows counties to “adopt ordinances with provisions that vary from the policies and guidelines in the Management Plan as long as the ordinances provide greater protection for the scenic, cultural, natural, and recreation resources of the Scenic Area.”*]

In 2005 when the County went through the process of revising Article 75, it adopted the revised Management Plan with few changes. One change the County did propose, however, involved a new Management Plan provision that allowed commercial events to be established in conjunction with an existing winery, wine tasting room, and bed & breakfast. With the County having adopted its own commercial events ordinance the previous year (*i.e. Article 73 – Wedding & Related Events Ordinance*), the Board, at the recommendation of the Planning Commission, decided to adopt many of these same restrictions within Article 75 so that the requirements were virtually the same County-wide. However, in doing so, it allowed commercial events to be established in conjunction with an existing commercial farm, which was not adopted as part of the Management Plan revisions. Unfortunately, this conflicting provision was not caught until after the County had already adopted the revisions, and right before they were to be acknowledged by the Gorge Commission. To avoid having to delay the entire process, the Gorge Commission decided to adopt revised Article 75 with a commitment that the County would make the necessary corrections as soon as possible and not apply the inconsistent standard in the meantime. (*For a copy of the Gorge Commission’s decision, see Attachment “C.”*)

Issues: Staff does not believe there are any specific issues related to this amendment since the changes are required to comply with the County’s acknowledged ordinance and are needed to avoid conflicts with the Management Plan.

Recommendation: Adopt the amendments as proposed.

2. **“Commercial Uses in Historic Buildings” Amendment:** This amendment (*Gorge Commission reference PA-05-02*) was adopted by the Gorge Commission in November of 2005 in order to allow some commercial use of significant historic buildings. The main purpose of the amendments is to protect cultural resources by establishing guidelines that encourage property owners to maintain and enhance certain historically significant buildings as cultural resources. According to the Gorge Commission, given the intended purpose of this amendment, it must be adopted by the County, although, if desired, the Commission could propose changes that provide greater resource protection.

The proposed amendment only applies to properties within the GMA, except those zoned Open Space, that contain a building that is either on or eligible for listing in the National Register of Historic Places and that was 50 years old or older as of January 1, 2006. As noted by the Gorge

Commission, there are currently no historic buildings in Hood River County (*within the NSA*) listed or determined to be eligible for listing in the National Register of Historic Places. However, it is believed that there are at least a small number of buildings in the Hood River County within the National Scenic Area that were 50 years old or older in 2006 and “potentially” eligible for listing in the future.

In considering this particular amendment, it should be noted it was appealed by the Friends of the Columbia Gorge to the Oregon Court of Appeals in December of 2007. (*Appeal No. A131299 and A133281*) The Court of Appeals denied the appeals on all counts. The Friends of the Columbia Gorge has subsequently appealed this decision to the Oregon Supreme Court, who has agreed to hear the case, but no decision has yet been rendered. According to County Counsel, appeal of this amendment to the Oregon Supreme Court does not preclude it from being adopted the County. However the Commission needs to be aware that should the Oregon Supreme Court overturn the Court of Appeals’ decisions, the County will then need to amend Article 75 again to have the provisions removed.

Issues: The following issues have been identified concerning this amendment for further discussion:

- A. *Should the County adopt this provision even if there are currently no existing buildings on or already determined to be eligible for the National Register for Historic Places in Hood River County?*

Since this particular amendment is specifically intended for cultural resource protection, adoption by the County is mandatory. However, even if this were not the case, staff believes that adoption would be beneficial as it could help raise awareness about historical buildings, while, at the same time, create positive incentives for their preservation.

- B. *What are the potential cumulative impacts associated with adopting this guideline?*

As the guidelines are written, the potential cumulative impacts of adopting this amendment are expected to be minimal, if any. First, the guidelines require that the buildings be 50 years old or older as of January 1, 2006, which helps to establish a finite number of buildings that are eligible for consideration. Next, the guidelines require that the building be either listed or eligible to be listed on the National Register. As mentioned, there are currently no buildings within the National Scenic Area in Hood River that currently meet this condition. In fact, according to a historic consultant hired by the Gorge Commission during original adoption process, the total number of “potentially” eligible buildings in Hood River County equaled four. Although this analysis was very rough and imprecise, it at least provides a general understanding as to the potential impact. Finally, even if a building were able to meet the age and listing requirements, it still requires a willing property owner who is interested in establishing a business and meeting the requirements/obligations for registering a historic building on the National Register. Given all of these factors, staff believes that adopting this guideline will result in very few buildings being eligible to use these provisions.

- C. *Are there reasons why the County should adopt additional standards to limit potential impacts, especially to adjacent property owners?*

As previously mentioned, the Friends of the Columbia Gorge are requesting that the County adopted additional guidelines to minimize the effects of allowing commercial uses in conjunction with historic buildings on adjacent lands. However, after reviewing the guidelines for commercial uses in historic buildings, staff believes that there are enough built-in safeguards to ensure that potential adverse impact upon neighboring properties is minimal. Additionally, the use is being

proposed as a "review use subject to additional standards," which is akin to a conditional use permit. Should an application be made for such activities, notice will be provided to all adjacent property owners and affected agencies and any specific comments/concerns can be addressed as part of the County's review. Staff feels that it is best to evaluate any future request on a case-by-case basis and not adopt additional requirements that may or may not apply in all situations.

Potential Options: Given the limitation of Part IV (County Ordinances), Policy 1 of the Management Plan, the options available to consider the commercial uses in historic buildings amendment, include the following:

- a. Adopt the provisions as written and allow the possibility of commercial uses to be established in historic buildings that meet the minimum requirements.
- b. Adopt the provision, but with changes that would provide greater protection of gorge resources or limit potential impacts upon adjacent property owners.

Recommendation: *Option a.*

3. "Boarding of Horses" Amendment: The Gorge Commission adopted Plan Amendment #06-04 in March of 2007 concerning the boarding of horses within certain GMA zoning designations. As part of this amendment, the following changes were made:

- *The definition of horse boarding was modified to allow non-profit horse boarding.*

Currently, the County's definition concerning horse boarding is limited to "for profit" operations only. If adopted, this particular amendment will allow non-profit facilities to be considered as well. The change stems from a case in Klickitat County where a non-profit horse rescue center was proposed. In evaluating this application, it was determined that the definition unintentionally limited non-profit facilities. Considering that a non-profit and commercial horse boarding facility would operate, from an outside appearance, exactly the same, the Gorge Commission adopted the amendment so they could be treated alike.

As indicated by Gorge Commission staff, the proposed amendment does not "increase resource protection levels" and, therefore, its adoption by the County is optional.

- *Horse boarding was added as a "review use with additional approval criteria" to the GMA Rural Residential (RR-10) zone.*

The impetus for this amendment also goes back to the Klickitat County case involving the non-profit horse rescue center, which was located on property zoned RR-10. In consideration of this amendment, multiple options were considered; however, in the end, the Gorge Commission found that horse boarding facilities could be made compatible with resource protection guidelines and adjacent residential uses by (1) restricting them to the RR-10 zone only, which typically contains larger parcels and greater separation between neighbors, and (2) making the provision a "review use with additional criteria," which is akin to a conditional use permit, and, therefore, will allow greater consideration of any adjacent property owner's concerns. With these limitations in mind, as well as another proposed change that would restrict the number of horses per acre (*discussed in the next bullet*), the Gorge Commission found that the effects of allowing commercial or non-profit horse boarding facilities in the RR-10 zone would be insignificant and probably not much more intense than a property with personal horses, which is already allowed in the RR zone with few restrictions.

In considering this proposed amendment, the Planning Commission should be aware that there are only 6 parcels, totally approximately 50 acres, zoned RR-10 in the County. The sizes of five out of the six parcels are approximately 10 acres each, with one just under a half an acre. As a result, the overall number of parcels that may be able to pursue this use would be somewhat limited.

Similar to the proposed definition amendment, adding the horse boarding provision to the RR-10 zone is optional.

- *An additional review standard was added to the requirements for horse boarding in the GMA Agricultural and Forest zones to limit the number of horses allowed per acre given certain characteristic of the site.*

This particular amendment establishes a maximum number of horses allowed on a parcel considering its size and characteristics, and potential impacts to neighboring property owners. The purpose of this change is to ensure that the number of horses allowed under this provision would not overburden the land, and cause unnecessary impacts to nearby natural resources (*i.e. denuding the landscape, increasing erosion potential, and impacting nearby water sources*) and neighboring property owners (*i.e. dust and odor effects*). Because the change provides added resource protection, the Gorge Commission has indicated that this particular amendment is mandatory.

Issues: The following issues have been identified concerning the proposed horse boarding amendment:

- A. *Does the Commission want to treat "non-profit" and "for profit" horse boarding facilities the same?*

After reviewing the Gorge Commission's staff report concerning these proposed amendments and considering the information they relied upon in making their decision (*see Attachment "C"*), staff cannot see any differences between a commercial and non-profit horse boarding facility. The potential impacts associated with either type of facility should be exactly the same and their operational characteristic should be indistinguishable to outside viewers.

- B. *Does the Commission want to allow horse board in the RR-10 zone or restrict it to just the agricultural and forest designations?*

As previously explained, the number of parcels eligible for horse boarding in the RR-10 zone is small and multiple safeguards exist to ensure that the potential effects upon adjacent properties and Gorge resources are limited. Based on this information, staff finds that approving an amendment to allow the boarding of horses on RR-10 zoned property would be a reasonable use.

- C. *Does the Commission want to establish an exact figure for the number of horses that would be allowed per acre in conjunction with an approved horse boarding facility?*

The Gorge Commission gave this question a fair amount of consideration. However, the principal reason that the Gorge Commission did not create a standard that establishes a maximum number of horses per acre was because of the natural variations found in the Gorge and the unique characteristics of individual properties. Even though the natural variations found in Hood River County are less prominent than in other areas of the Gorge, they still exist and each property is

certainly unique. The advantage of keeping the existing wording and not setting a definitive number is that it provides greater flexibility in considering any unique land or operational characteristics that may exist, while allowing decisions to be made on a case-by-case basis. The disadvantage is that it requires a bit more staff time and discretion at the time of reviewing the application; however, this should be minor given the limited area that this standard applies to.

Potential Options: Given the limitation of Part IV (County Ordinances), Policy 1 of the Management Plan, the options available regarding the horse boarding amendments, include the following:

- a. Adopt all of the amendments as proposed, including the definition change to allow non-profit horse boarding facilities (*optional*), allowing horse boarding on RR-10 designated land subject to review with additional criteria (*optional*), and adding the additional criteria requiring findings be made to establish a maximum number of horse per acre given certain factors (*mandatory*).
- b. Adopt the mandatory provision (*i.e. limiting the number of horses per acre*) and the definition change to allow non-profit horse boarding facilities, but do not allow horse boarding on RR-10 designated land.
- c. Adopt the mandatory provision (*i.e. limiting the number of horses per acre*) and the allowance for a horse boarding facility on RR-10 designated land, but do not change the definition to allow non-profit horse boarding facilities.
- d. Adopt only the mandatory provision (*i.e. limiting the number of horses per acre*), but none of the optional allowances (*i.e. definition change to recognize non-profit horse boarding facilities and allowing horse boarding on RR-10 zoned land*).

Recommendation: *Option a.*

4. General "Housekeeping" Amendments: In December of 2006 the Gorge Commission adopted Plan Amendment #06-05 that was intended to consolidate the original 1992 Management Plan and the 2004 Management Plan Revisions into a single document. This amendment resulted in a number of text changes, including revisions to and deletion of outdated non-regulatory text, procedures, and tables; correction of oversights and errors; correction of typographical, grammatical, and cross-reference errors; and reorganization of amended sections. For more information regarding each of these changes, see Attachment "B," which includes a list of all amendments proposed and the purpose of each change.

Issues: Staff does not believe there are any specific issues related to this amendment since most of the changes are desirable anyway for grammatical reasons and to insure proper implementation of the ordinance. Additionally, the individual amendments provide very little, if any, discretion and are mandatory in order to comply with the Management Plan.

Recommendation: Adopt the amendments as proposed.

National Scenic Area Code Amendments
(Article 75 of the County Zoning Ordinance)

Attachment "A"

"Article 75 Ordinance Amendments – Tracked Changes"

Attachment "B"

**"Summary List and Description of all Proposed Article
75 Ordinance Amendments"**

Attachment "C"

"Gorge Commission's Findings and Report"

Related Information:

1. **"Commercial Events Amendment"**
2. **"Commercial Uses in Historic Buildings Amendment"**
3. **"Horse Boarding Amendment"**
4. **"General Housekeeping Amendments"**

Attachment "D"

"Written Comments Received"

Attachment "E"

"Planning Commission's Draft Meeting Minutes"

Attachment "A"

**National Scenic Area Code Amendments
(Article 75 of County Zoning Ordinance)**

"Article 75 Ordinance Amendments – Tracked Changes"

Hood River County Zoning Ordinance

**Article 75
(National Scenic Area Ordinance)**

**Adopted by Hood River County
June 29, 2005**

**Acknowledged by the Columbia River Gorge Commission
September 30, 2005**

Effective Date: January 1, 2005~~6~~

Amended _____, 2009 – Ordinance # _____

**Prepared by
Scott Keillor, AICP, Harper Houf Peterson Righellis, Inc.**

**Funded by
Department of Land Conservation and Development**

ARTICLE 75 - COLUMBIA RIVER GORGE

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ARTICLE 75 - COLUMBIA RIVER GORGE

NATIONAL SCENIC AREA ORDINANCE (NSA)

010. Purpose and Authority

- (1) The purposes of this Ordinance are (a) to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge National Scenic Area in the portions located in Hood River County, and (b) to protect and support the economy of the Columbia River Gorge National Scenic Area in the portions located within Hood River County by allowing future economic development in a manner that is consistent with (a) above.
- (2) The guidelines, standards and regulations set forth in this Ordinance are adopted as referenced and required in Oregon Revised Statute 196, and are consistent with the Columbia River Gorge National Scenic Area Act, Public Law 99-663, the Management Plan adopted by the Columbia River Gorge Commission, October 15, 1991 with concurrence by the U.S. Secretary of Agriculture, February 13, 1992, and revisions adopted April 27, 2004 and concurred with by the Secretary of Agriculture on August 3, 2004, and as subsequently amended.

015. Area Affected

This Ordinance applies to lands in Hood River County, Oregon within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act. Lands within the Scenic Area in Hood River County are depicted on maps entitled Boundary Map, Columbia River Gorge National Scenic Area, on sheets numbered NSA-001, dated September 1986 and referenced in Public Law 99-663.

020. Plan and Zoning Designation

The following zoning districts implement the land use designations shown on the map entitled Columbia River Gorge National Scenic Area Management Plan, Land Use Designations, dated 1992, as adopted by the Columbia Gorge Commission October 15, 1991:

- (1) **GENERAL MANAGEMENT AREA (GMA)**
 - (a) Large-Scale Agriculture (AG-1).
 - (b) Small-Scale Agriculture (AG-2).
 - (c) Commercial Forestland (F-1).
 - (d) Large Woodland (F-2).
 - (e) Small Woodland (F-3).
 - (f) Open Space (OS).
 - (g) Rural Residential (RR).
 - (h) Public Recreation (PR).

(2) SPECIAL MANAGEMENT AREAS (SMA)

- (a) Agriculture (AG).
- (b) Forest (F).
- (c) Open Space (OS).
- (d) Public Recreation (PR).

(3) The following additional plan and zoning designations were adopted by the County in 1980 and 1984 and also apply to lands in the NSA in Hood River County. **If conflicts are noted between provisions in these plan and zoning designations and Article 75, those in Article 75 shall prevail.**

(a) Plan Designation: The Environmental Plan designation applies to the following symbols on the plan and zoning designation maps.

- (A) Floodplain and Environmental Protection.
- (B) Loose Talus.
- (C) Earth Flow and Slump.

(b) Zoning Designations:

- (A) Geologic Hazard (GH) is applied to the following symbols: Deep Bedrock Slide; Loose Talus; and Earth flow and Slump.
- (B) Environmental Protection (EP).
- (C) Floodplain (FP).
- (D) Airport Height Combing (AH).

(4) The above zoning districts are also shown on the County's Zoning Atlas maps, available for review in the County Planning Department office.

(5) When evaluating proposed uses, the following additional NSA Maps will also be utilized: Landscape Setting and Recreation Intensity Classification referenced in Sections 520, 530, 610 and 620.

(6) The Indian Trust Lands land use designation is shown on the NSA Land Use Designation Map, however, a zoning district was not created because Indian Lands are exempt from provisions of the National Scenic Area Act and County and State land use regulations.

(7) The Urban Area designation shown on the NSA Land Use Designation Map coincides with the Urban Area Boundary, shown on the map entitled Boundary Map, Columbia Gorge National Scenic Area on sheet number NSA-001.

- (8) Unless otherwise specified in Article 75, the County's Zoning and Subdivision Ordinances apply to all lands in the NSA. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Article 75 shall prevail.

030. Review and Approval Required

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Columbia River Gorge National Scenic Area located in Hood River County except for the uses listed in this Ordinance, when considered under the applicable procedural and substantive guidelines of this Ordinance.

035. Plan Amendment

- (1) Pursuant to provisions in Section 6 (h) and the Management Plan, Chapter 1 Gorge Commission Role, the Gorge Commission may amend the Management Plan, including land use and zoning designations and ordinances, upon application by any person or upon its own motion, if it determines that conditions within the Scenic Area have changed significantly since adoption of the Management Plan. Plan amendments must be consistent with the Scenic Area Act and other provisions of the Plan.
- (2) The Gorge Commission shall submit amendments of the Management Plan to the Secretary of Agriculture in accordance with Section 6 (h) of the Scenic Area Act.

040. Definitions

Unless otherwise noted, the following words, terms and their derivations shall have the following meanings:

- (1) **Accepted agricultural practice:** A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.
- (2) **Accessory building/structure:** A building or structure whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.
- (3) **Active wildlife site:** A wildlife site that has been used within the past 5 years by a sensitive wildlife species.
- (4) **Agency official:** The federal, state, or local agency head or designee who has authority over a proposed project.

- (5) **Agricultural specialist (SMA):** A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.
- (6) **Agricultural structure/building:** A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.
- (7) **Agricultural use:** 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, except where timber is the primary crop and Christmas trees are an incidental product harvested at an early stage of the timber rotation. 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 1 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.

Agricultural use does not include livestock feedlots.
- (8) **Anadromous fish:** Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).
- (9) **Anaerobic:** A condition in which molecular oxygen is absent (or effectively so) from the environment.
- (10) **Aquaculture:** The cultivation, maintenance, and harvesting of aquatic species.
- (11) **Aquatic area:** The water area of a stream, pond, or lake measured at the ordinary high water mark.
- (12) **Archaeological resources:** See cultural resource.

- (13) **Archival research:** Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.
- (14) **Bed and breakfast inn:** An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.
- (15) **Best management practices:** Conservation techniques and management measures that
- (a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
 - (b) minimize adverse effects to groundwater and surface-water flow and circulation patterns; and
 - (c) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.
- (16) **Biodiversity (SMA):** A diversity of biological organisms at the genetic, species ecosystem, and landscape levels.
- (17) **Board:** Board of County Commissioners, Hood River County.
- (18) **Boat landing:** Cleared area or developed structure used to facilitate launching or retrieving watercraft.
- (19) **Buffer zone:** An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.
- (20) **Building:** Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.
- (21) **Camping or recreational vehicle:** A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

- (22) **Campsite:** Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.
- (23) **Canopy closure (SMA):** For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.
- (24) **Capability:** The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.
- (25) **Cascadian architecture (SMA):** Architectural style using native rockwork, large timber, and steeply pitched roofs in a rustic manner.
- (26) **Catastrophic situations (SMA):** Forces including, but not limited to fire, insect and disease infestations, and earth movements.
- (27) **Childcare center:** A facility providing daycare to three or more children, but not including:
 - (a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.
 - (b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.
 - (c) The provision of short-term care related to or associated with group athletic or social activities.
 - (d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.
- (28) **Columbia River Gorge National Scenic Area Graphic Signing System:** Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.
- (29) **Commercial development/use:** Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.
- (30) **Commercial forest products:** These include timber for lumber, pulp and firewood for commercial purposes.

- (31) **Commercial recreation:** Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.
- (32) **Commission:** The Columbia River Gorge Commission (GC).
- (33) **Community facility:** Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.
- (34) **Consulting parties (cultural resources):** Organizations or individuals who submit substantive written comments to the Planning Director in a timely manner because they are concerned with the effects of a proposed use on cultural resources.
- (35) **Contiguous land:** Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different Sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.
- (36) **Counties:** In addition to Hood River County, the five counties within the Scenic Area: Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.
- (37) **Created opening (SMA):** A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.
- (38) **Creation (wetlands):** A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).
- (39) **Cultivation:** Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.
- (40) **Cultural resource:** Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:
- (a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material by-products from tool and utensil-making activities; and graves, human remains, and associated artifacts.

- (b) **Historic buildings and structures.** Standing or above-ground buildings and structures that are at least 50 years old.

Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

- (c) **Traditional cultural properties.** Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

- (41) **Cumulative effects:** 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.
- (42) **Cut:** An area where soil or earth is excavated or removed in conjunction with development activities.
- (43) **Dedicated site:** An area actively devoted to the current use and as delineated on the site plan.
- (44) **Deer and elk winter range:** Areas normally used or capable of being used by deer and elk from December through April.
- (45) **Destruction of wetlands:** Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.
- (46) **Developed recreation:** Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site

development, and type of recreation site can vary widely across the spectrum of recreation activities.

- (47) **Developed road prism (SMA):** The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.
- (48) **Development:** Any land division or structure, including but not limited to, new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.
- (49) **Diameter at breast height (dbh):** The diameter of a tree as measured at breast height.
- (50) **Director:** The Planning Director of the Hood River County Planning and Community Development Department or his designate. The Director is responsible for the administration, interpretation and implementation of this Ordinance.
- (51) **Duplex:** A building containing two dwelling units and designed for occupancy by two families.
- (52) **Dwelling, single-family:** A detached building containing one dwelling unit and designed for occupancy by one family only.
- (53) **Dwelling unit:** A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.
- (54) **Earth materials:** Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).
- (55) **Effect on treaty rights:** To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.
- (56) **Emergency/disaster:** A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.
- (57) **Emergency/disaster response:** Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications

activities or traffic control measures) are not included in this definition and are not affected by these provisions.

- (58) **Endemic:** Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.
- (59) **Enhancement (natural resources):** A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.
- (60) **Ephemeral streams (SMA):** streams that contain flowing water only during, and for a short duration after, precipitation events.
- (61) **Established Bed & Breakfast (B&B):** A use established as a B&B by a permit approved under Article 56 (Bed & Breakfast Facilities), or Article 65 (Non-Conforming Use) of the Hood River County Zoning Ordinance, or otherwise lawfully established; and in operation for at least a year. B&Bs are allowed to be run by owners or lessees, only if residents, as per Article 56 (B&B) of the County Zoning Ordinance.
- (62) **Established Farm:** A parcel or parcels operating as a farm with a demonstrated capability of meeting the test for a 'principal farm operator dwelling' as per Section 190 (1)(h). The farm must be owner-occupied.
- (63) **Established Winery:** A winery that has been approved under the provisions of this Article or otherwise lawfully established. The winery must be owner-operated.
- (64) **Ethnography:** The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.
- (65) **Existing use or structure:** Any use or structure that was legally established. Legally established means: (1) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; (2) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and (3) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

- (66) **Exploration, development (extraction and excavation), and production of mineral resources:** Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, on-site stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.
- (67) **Fill:** The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.
- (68) **Finished grade:** The final elevation of the ground level of a property after construction is completed.
- (69) **Fire break:** A break in ground cover fuels, adjacent to and surrounding buildings.
- (70) **Footprint:** The area that falls directly beneath and shares the same perimeter as a structure.
- (71) **Forbs:** Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.
- (72) **Foreground (SMA):** One-half mile on either side of a traveled road or trail.
- (73) **Forest health (SMA):** A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.
- (74) **Forest practice (SMA):** Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.
- (75) **Forest practice (GMA):** Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act.

- (76) **Forest products:** Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.
- (77) **Forest stand structure (SMA):** The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.
- (78) **Forest use:** The growing, propagation, and harvesting of forest tree species and other forest products except for areas used exclusively for production of Christmas trees.
- (79) **Fully screened:** A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).
- (80) **Grade (ground level):** The average elevation of the finished ground elevation as defined by the Uniform Building Code.
- (81) **Grading:** Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- (82) **Guideline:** According to Oregon Land Use Law, guidelines are not mandatory, but advisory. However, for the purposes of Article 75, the term Guideline is mandatory because of Public Law 99.663.
- (83) **Hazard tree (SMA):** A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.
- (84) **Height of building:** The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.
- (85) **Herbaceous:** A plant with no persistent woody stem above the ground, with characteristics of an herb.
- (86) **Herbs:** Non-woody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and non-woody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)
- (87) **Historic buildings and structures:** See cultural resource.
- (88) **Historic survey:** Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

- (89) **Horses, boarding of (GMA):** The stabling, feeding, and grooming ~~for a fee~~ or the ~~use~~ ~~renting~~ of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization
- (90) **Hydric soil:** A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- (91) **In-kind replacement:** A development or land use which is the same as or smaller than an existing or destroyed use or structure. An in-kind building or structure may be shorter in height, smaller mass, and contained entirely within the existing footprint of the existing use or destroyed use or structure.
- (92) **In-lieu sites:** Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.
- (93) **Indian tribal government:** The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).
- (94) **Indian tribes:** The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation. (As listed in Public Law 99-663.)
- (95) **Industrial uses:** Any use of land or water primarily involved in:
- (a) Assembly or manufacture of goods or products;
 - (b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit;
 - (c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service; or
 - (d) Production of electric power for commercial purposes.

- (96) **Interpretive displays:** Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.
- (97) **Key components:** The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.
- (98) **Key viewing areas:** Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:
- (a) Key viewing areas include the following:
Historic Columbia River Highway
Highway I-84, including rest stops
Washington State Route 14
Panorama Point Park
Dog Mountain Trail
Cook-Underwood Road
Rowena Plateau and Nature Conservancy Viewpoint
Columbia River
Washington State Route 141
Washington State Route 142
Oregon Highway 35
Pacific Crest Trail
Beacon Rock
Bonneville Dam Visitors Centers
- (b) SMA only:
Old Washington State Route 14 (County Road 1230)
Wyeth Bench Road
Larch Mountain Road
Sherrard Point on Larch Mountain
- (99) **Land division:** The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to partitions and subdivisions.
- (100) **Landscape setting:** The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.
- (101) **Livestock feedlot:** Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and furbearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(102) **Lot line adjustment:** Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.

(103) **Maintenance:** Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure.

Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

(104) **Management plan:** The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for the Special Management Area.

(105) **May:** Action is not mandatory, but discretionary.

(106) **Mitigation:** The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(107) **Mosaic (SMA):** The dispersal of overstory and understory leaf trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

(108) **Multi-family dwelling:** A dwelling constructed or modified into two or more single-family units.

(109) **Native species:** Species that naturally inhabit an area.

- (110) **Natural resources:** Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.
- (111) **Natural resource specialist:** A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.
- (112) **Natural resource-based recreation (SMA):** Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.
- (113) **Nonprofit organization:** An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.
- (114) **Not visually evident (SMA):** A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line color, and texture that are frequently found in the natural landscape, while changes in their qualities in their size, amount, intensity, direction, pattern, etc., shall not be noticeable.
- (115) **Old growth (SMA):** A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.
- (116) **Open Spaces:** Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as Open Space by the Management Plan. Open spaces enumerated in Public Law 99.663 are:
- (a) Scenic cultural and historic areas;
 - (b) Fish and wildlife habitat;
 - (c) Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;
 - (d) Ecologically and scientifically significant natural areas;
 - (e) Outstanding scenic views and sites;

- (f) Water areas and wetlands;
 - (g) Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas, which are culturally or historically significant;
 - (h) Potential and existing recreation resources; and
 - (i) Federal and state wild, scenic and recreation waterways.
- (117) **Operational (SMA):** For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.
- (118) **Ordinary high water mark:** The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.
- (119) **Other related major structure (SMA):** A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."
- (120) **Overstory (SMA):** For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.
- (121) **Parcel:**
- (a) Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.
 - (b) Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.
 - (c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines.

- (d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:
 - (A) Is a unit of land solely created to establish a separate tax account;
 - (B) Lies in different counties;
 - (C) Lies in different Sections or government lots;
 - (D) Lies in different land use or zoning designations; or
 - (E) Is dissected by a public or private road.

- (122) **Planning Commission:** Hood River County Planning Commission.

- (123) **Planning Director:** The Director of the Hood River County Planning and Community Development Department or his designate.

- (124) **Practicable:** Able to be done, considering technology and cost.

- (125) **Preexisting:** Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

- (126) **Previously disturbed:** An area of land where the natural surface has been graded, excavated, paved and/or graveled.

- (127) **Primarily:** A clear majority as measured by volume, weight, or value.

- (128) **Project area:** The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

- (129) **Public Recreation Designation:** A land Use Designation for public parks, recreation sites and public and private lands suitable for moderate and/or high intensity recreation uses. Lands designated Public Recreation are readily accessible, lack hazards or highly sensitive resources and could potentially provide two or more of the following opportunities: river access, multiple recreation uses, scenic appreciation, facilities satisfying a demonstrated public need, trailheads and enhancement of scenic, natural and/or cultural resources. Within the SMA, public recreation shall be natural resource based.

- (130) **Public use facility:** Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

- (131) **Rare plant species:** Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.
- (132) **Recreation facility:** A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.
- (133) **Reconnaissance survey:** Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.
- (134) **Recreation Opportunity Spectrum (ROS):** A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).
- (a) **Primitive:** Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.
 - (b) **Semi-primitive:** Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.
 - (c) **Roaded Natural:** Roaded areas with moderately frequent human encounters and with resource modifications evident.
 - (d) **Rural:** Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.
 - (e) **Suburban:** Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.
 - (f) **Urban:** Highly accessible, roaded areas dominated by human encounters and human-related structures.
- (135) **Recreation resources:** Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.
- (136) **Regularly maintained:** An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-

of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

(137) **Rehabilitation (natural resources):** A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or pre-construction condition.

(138) **Repair:** Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure.

Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a Section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

(139) **Resource-based recreation:** Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(140) **Restoration (wetlands):** A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(141) **Review uses:** Proposed uses and developments that must be reviewed by the County Planning Department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan, and with provisions of Article 75.

(142) **Riparian area:** The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(143) **Road:** The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(144) **Scenic Area:** The Columbia River Gorge National Scenic Area, established pursuant to Public Law 99.663. Article 75 applies only to those portions of the scenic area that are located in Hood River County.

(145) **Scenic travel corridor:** Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Wyeth Bench Road located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(146) **Secretary:** The Secretary U.S. Department of Agriculture.

(147) **Sensitive plant species:** Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(148) **Sensitive wildlife species:** Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as sensitive by the Oregon Fish and Wildlife Commission, or (3) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(149) **Service station:** A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(150) **Serviceable:** Presently useable.

(151) **Shall:** Action is mandatory.

(152) **Should:** Action is encouraged.

(153) **Shrub:** A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note:

For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

- (154) **Sign:** Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.
- (155) **Significant cultural resource (SMA):** A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation".)
- (156) **Skyline:** The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.
- (157) **Soil Capability Class:** A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.
- (158) **Special habitat area:** Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.
- (159) **Special streams:** Streams that are primary water supplies for fish hatcheries and rearing ponds.
- (160) **Stand:** A group of trees possessing uniformity in regard to type, age, vigor, or size.
- (161) **Story:** A single floor level of a structure, as defined by the Uniform Building Code.
- (162) **Streams:** Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include road side ditches, irrigation ditches, canals, storm or surface water runoff structures, or

other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

- (163) **Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.
- (164) **Submit:** To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.
- (165) **Subsurface testing:** Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.
- (166) **Suitability:** The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.
- (167) **Thinning (SMA):** A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.
- (168) **Total canopy closure (SMA):** For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.
- (169) **Travelers accommodations:** Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

- (170) **Treaty rights or other rights:** Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.
- (171) **Treatment (SMA):** For forest practices, a site-specific operation that carries out the forest management objectives for an area.
- (172) **Tributary fish habitat:** Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.
- (173) **Understory (SMA):** For forest practices, the shorter or immature trees below the tall or mature overstory trees.
- (174) **Undertaking:** Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CRF 800.16(v) 2(e)]
- (175) **Unimproved lands:** Lands that generally do not have developments.
- (176) **Upland:** Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.
- (177) **Uses allowed outright:** New uses and developments that may occur without being reviewed by the Hood River County Planning Department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.
- (178) **Utility facility:** Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.
- (179) **Vested right:** The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.
- (180) **Viewshed:** A landscape unit seen from a key viewing area.
- (181) **Visual Quality Objective (VQO):** A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

- (182) **Visually subordinate:** A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.
- (183) **Water-dependent:** Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.
- (184) **Water-related:** Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.
- (185) **Weddings:** Private wedding events, hosted by the permit holder for a fee.
- (186) **Wetlands:** Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.
- (187) **Wetlands functions:** The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and non-game birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.
- (188) **Winery:** An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.
- (189) **Wine sales/tasting room:** A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events,

unless reviewed and approved under the "Commercial Events" provisions in this Article. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

(190) **Woody plant:** A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

050. Exempt Land Uses and Activities

This Ordinance shall not apply to:

- (1) Any treaty or other rights of any Indian tribes.
- (2) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu" fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those "in lieu" sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.
- (3) Rights to surface or ground water.
- (4) Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.
- (5) The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.
- (6) Laws, rules or regulations pertaining to hunting or fishing.
- (7) The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the off-site disposal of excavation material.
- (8) In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Oregon Forest Practices Act, or under county regulations that supersede that act.

060. Prohibited Land Uses and Activities

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area within Hood River County:

- (1) Solid waste disposal sites or sanitary landfills within the Special Management Area.
- (2) New industrial development in the Scenic Area outside of the Urban Areas.

070. Uses Allowed Outright

(1) All Land Use Designations Except Open Space

- (a) The following uses may be allowed without review in all GMA and SMA land use designations, except GMA and SMA Open Space:
- (A) In the General Management Area, agricultural uses except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.
 - (B) In the Special Management Area, agricultural uses within previously disturbed and regularly worked fields or areas.
 - (C) Forest practices in the General Management Area that do not violate conditions of approval for other approved uses and developments.
 - (D) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.
 - (E) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include ~~signs~~ fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or utility facilities.
 - (F) Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500 feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (~~post and wire~~) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.
 - (G) Wire-strand fences less than or equal to 48 inches in height that are outside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.
 - (H) The following transportation facilities:
 - (i) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety

cables, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." [Section 520(4)]

- (ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." [Section 520(4)]
- (iii) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.
- (iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for Uniform Traffic Control Devices* and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.
- (v) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." [Section 520(4)]

- (vi) New guardrails and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." **[Section 520(4)]** This category does not include jersey barriers.
- (vii) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.
- (viii) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.
- (ix) Resurface or overlay existing paved roads, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.
- (x) Apply dust abatement products to non-paved road surfaces.
- (xi) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.
- (xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).
- (I) The following underground utility facilities:
 - (i) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

- (ii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.

To comply with (4), the entity or person undertaking the development shall contact the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

- (J) The following aboveground and overhead utility facilities:

- (i) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." **[Section 520(4)]**
- (ii) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.
- (iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

- K. Flagpoles that are accessory to the principal building on a parcel, provided the height of the flagpole is less than or equal to the height of the highest ridgeline or parapet of the principal building.
- L. The following signs:
 - (i) Election signs. Removal must be accomplished within 30 days of election day.
 - (ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.
 - (iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual for Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.
 - (iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the General Management Area and 2 square feet in the Special Management Area.
 - (v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.
 - (vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.
 - (vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).
- M. In the General Management Area, wind machines for frost control in conjunction with agricultural use.

(2) GMA and SMA Open Space

- (a) The following uses may be allowed without review in GMA and SMA Open Space:

- (A) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.
- (B) The following transportation facilities:
 - (i) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." **[Section 520(4)]**
 - (ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." **[Section 520(4)]**
 - (iii) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.
 - (iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for Uniform Traffic Control Devices* and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.
 - (v) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that

have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." [Section 520(4)]

- (vi) New guardrails and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." [Section 520(4)] This category does not include jersey barriers.
- (vii) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.
- (viii) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.
- (ix) Resurface or overlay existing paved roads, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.
- (x) Apply dust abatement products to non-paved road surfaces.
- (xi) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.
- (xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).

(C) The following underground utility facilities:

- (i) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.
- (ii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.

To comply with (4), the entity or person undertaking the development shall contact the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(D) The following aboveground and overhead utility facilities:

- (i) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the GMA policies in the Section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." **[Section 520(4)]**
- (ii) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet

taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

- (iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

(E) The following signs:

- (i) Election signs. Removal must be accomplished within 30 days of election day.
- (ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.
- (iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual for Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.
- (iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the GMA and 2 square feet in the SMA.
- (v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.
- (vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.
- (vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

075. Existing Uses and Discontinued Uses

- (1) Right to Continue Existing Uses and Structures
 - (a) Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.
- (2) Replacement of Existing Structures Not Damaged or Destroyed by Disaster
 - (a) Except as provided in Section 075(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:
 - (A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.
 - (B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a inobile home.
 - (C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.
 - (D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.
- (3) Replacement of Existing Structures Damaged or Destroyed by Disaster.
 - (a) An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:
 - (A) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

- (B) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if the following conditions exist:
 - (i) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.
 - (ii) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.
 - (iii) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.
- (C) The replacement structure shall be the same size and height as the original structure, provided:
 - (i) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.
 - (ii) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.
- (D) The replacement structure shall only be subject to the following scenic resources standards:
 - (i) The replacement structure shall comply with the scenic resources guidelines regarding color and reflectivity. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.
 - (ii) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.
 - (iii) In the General Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping.

These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

- (I) Except as provided in Section 075(3)(a)(D)(iii)(II), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.
- (II) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.
- (III) To help determine how much vegetation may be required under Section 075(3)(a)(D)(iii)(I) and (II), land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:
 - (1) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.
 - (2) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.
 - (3) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.
- (IV) The height of any new trees shall not be required to exceed 5

feet.

(V) The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

(iv) In the Special Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(I) The *Scenic Resources Implementation Handbook* shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

(II) The height of any new trees shall not be required to exceed 5 feet.

(III) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be 10 years.

(E) The replacement structure shall be subject to Section 075(2)(a)(A), ~~(B)~~ and ~~(C)~~ above if it would not comply with Section 075(3)(a)(B) and (C).

(F) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

(4) Changes to Existing Uses and Structures

(a) Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Article 75.

(A) Expansion of Existing Commercial and Multifamily Residential Uses: In the SMA, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources. Expansion beyond the dedicated site shall be prohibited.

- (B) Expansion of Existing Industrial Uses in the GMA: Existing industrial uses in the GMA may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site shall be prohibited.
 - (C) Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this Section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.
 - (D) Existing Development or Production of Mineral Resources in the GMA: In the GMA, existing development or production of mineral resources may continue unless the Planning Department determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:
 - (i) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.
 - (ii) The site has not maintained a required state permit.
 - (iii) The site has not operated legally within 5 years before October 15, 1991.
 - (E) Existing Development or Production of Mineral Resources in the SMA: Uses involving the exploration, development, or production of sand, gravel, or crushed rock in the SMA may continue if both of the following conditions exist:
 - (i) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMA.
 - (ii) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.
- (5) Discontinuance of Existing Uses and Structures
- (a) Except as provided in Section 075(3)(a) and (3)(a)(F), any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or

structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

(A) Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

(B) Change in Use: An existing use or structure shall become discontinued if the use or uses of the structure changes.

(6) Discontinued Uses and Structures:

(a) Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

080. Application for Review and Approval

- (1) Prior to initiating any use or development that requires review and approval by the Director, an application shall be completed pursuant to Section 080. The Director shall accept and review the application pursuant to Sections 100 through 145 for consistency with appropriate guidelines. Review of a proposed use or development shall commence upon the acceptance of an application by the Director. The Director will charge a fee for review of applications.
- (2) Standard application forms shall be available at county planning office.
- (3) Applications for the review and approval of a proposed use or development shall provide the following information:
 - (a) The applicant's name, address and telephone number;
 - (b) The landowner's name, address and telephone number (if different from applicant's);
 - (c) The county in which the proposed use or development would be located;
 - (d) The section, quarter section, township and range in which the proposed development would be located;
 - (e) The street address of the proposed use or development;
 - (f) The tax lot number(s) and size in acres of the parcel(s) involved;
 - (g) A description of the current land use for the parcel(s) involved and adjoining lands;
 - (h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures.
 - (i) A list of Key Viewing Areas from which the proposed use would be visible.
 - (j) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the Director to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:
 - (A) North arrow.
 - (B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(K) Location and depth of all proposed grading and ditching.

(k) In the Special Management Area, applications and/or site plans shall contain the natural resources information required in Section 600(2).

(l) Any additional information which the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.

(m) The signature of the applicant and property owner or a signed statement from the property owner indicating that he is aware of the application being made on his property.

(n) The signature of the property owner on a statement that authorizes the Director or his designee reasonable access to the site in order to evaluate the application.

(o) Elevation drawings, which shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.

(4) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in this Ordinance or by the Director. Furthermore, all proposed uses within the GMA and SMA located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat and sensitive plant sites require additional site plan information.

- (a) In the general management All buildings visible from Viewing Areas, pursuant to 520(2)(n).
- (b) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to 520(1)(f), 520(2)(o) and 520(2bb).
- (c) A grading plan that complies with the requirements of Section 520(2)(z) is required for the following:
 - (A) In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes ~~between~~ greater than 10 ~~and 30~~ percent shall include a grading plan;
 - (B) In the General Management Area, all proposed structural development on sites visible from key viewing areas and involving more than 200 cubic yards of grading, regardless of slope; and
 - (C) In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan.
- (d) In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to 520(4)(d).
- (e) Large-scale uses as defined by guideline 540(1)(c)(C) shall include reconnaissance and or historic survey reports, pursuant to 540(1)(c)(F)(G) and (H).
- (f) Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to 540(1)(c)(H)(iii).
- (g) In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fish-bearing tributaries, pursuant to 150(3)(a)(A).
- (h) In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to Section 560(1)(b).
- (i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Section 570(1)(b).
- (j) In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to 580(1)(b). Large-scale uses as defined by 580(3) shall also include field survey information, pursuant to 580(3)(e).

- (k) In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to Section 590(b). Large-scale uses as defined by 590(3) shall also include field survey information, pursuant to Section 590(3)(e).
- (l) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to Section 190(1)(h), and if applicable, 190(1)(i).
- (m) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling not in conjunction with agricultural use, pursuant to Section 190(1)(q).
- (n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Section 190(1)(k).
- (o) In the Special Management Area, on lands designated Agriculture, Forest or Public Recreation, a single-family dwelling necessary and accessory to agricultural use, pursuant to Section 190(2)(c).
- (p) In the Special Management Area, on lands designated Agriculture, Forest or Public Recreation, farm labor housing pursuant to Section 190(2)(d).
- (q) In the General Management Area, on lands designated Large-Woodland, a single-family dwelling, pursuant to Section 270(1)(a).
- (r) In the Special Management Area, on lands designated Forest, Agriculture or Public Recreation, a single-family dwelling, pursuant to Section 270(2)(k).
- (s) In the Special Management Area, on lands designated Forest, Agriculture, Residential or Public Recreation, forest practices, pursuant to Section 270(2)(z).
- (t) In the General Management Area, on lands designated Small Woodland, a single-family dwelling pursuant to Section 270(1)(b).
- (u) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Section 190(1)(h).
- (v) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, agricultural labor housing, pursuant to Section 270(1)(s).

- (w) Other uses as deemed necessary by the Director. However, the County's Burden of Proof criteria does not apply to lands in the NSA.
- (x) In the Special Management Area on lands designated Open Space, any use or development, pursuant to Section 340(5).
- (5) Completed application forms shall be submitted directly to the Hood River County Planning and Community Development office.

090. Pre-Application Conference

An applicant may request a pre-application conference prior to submitting an application for development review. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this Ordinance, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

100. Acceptance of Application

Within 14 days of the receipt of an application, the Director shall review the application for completeness and adequacy. The Director shall accept a complete and adequate application within 14 days of receipt of the application.

- (1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Director shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application.
- (2) No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in Section 640. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.
- (3) No application for a proposed use which is explicitly prohibited by Section 060 shall be accepted.
 - (a) The application shall be returned to the applicant.
 - (b) A letter, signed by the Director, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.
 - (c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to provisions in the Hood River County Ordinance.
- (4) Filing fee for applications shall be as specified in Article 69 – Filing Fees the most current adopted fee schedule (available at the County Planning Department).

110. Notice of Development Review

- (1) Within 7 days of the acceptance of an application, the Director shall issue notice of a proposed development review. The notice shall provide the following information:
 - (a) The name of the applicant;
 - (b) The general and specific location of the subject property;
 - (c) A brief description of the proposed action;
 - (d) The deadline for rendering a decision; and
 - (e) The deadline for filing comments on the proposed action.
- (2) The notice shall state that the application and supporting documents are available for inspection at the County Planning Department during normal working hours.
- (3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.
- (4) The notice shall be mailed to:
 - (a) The Forest Service, the Gorge Commission, the state, Indian Tribes and the applicable county and/or city; and
 - (b) Owners of property within a radius of the subject parcel(s) as determined by Section 640; and
 - (c) Other agencies and interested parties which request a notice which the Director determines should be notified.
 - (d) See Section 640, Notice of Application Requirements.
- (5) The notice shall be posted at the County Planning and applicable City Planning offices and shall be made available for posting to the Commission and Forest Service office(s).
- (6) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.
- (7) A copy of the notice shall be filed in the records of the Commission.

120. Comment Period

Interested persons shall have 21 days from the date which the notice is sent to submit written comments to the Director relative to the consistency of the proposed actions with the guidelines of this Ordinance.

- (1) Based on comments received and other applicable information, the Planning Director shall determine if a wildlife management plan pursuant to Section 580(5), or a rare plant protection and rehabilitation plan pursuant to Section 590(5) is required.
- (2) For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the Director shall forward the survey to the State Historic Preservation Officer, and Indian Tribes pursuant to Sections 540(1)(b) and (2)(b)(A).
- (3) The State Historic Preservation Officers and the four Indian tribal governments shall have 30 days to submit comments on the cultural resources survey. Based on the survey results, comments received, and other applicable information, the Planning Director shall determine if an evaluation of significance pursuant to Section 540(3) is required.

130. Decision of the Director

- (1) In making a decision on a proposed use or development the Director shall:
 - (a) Consult with the applicant and such agencies as the Director deems appropriate;
 - (b) Consider information submitted by the applicant and all other relevant information available;
 - (c) Consider all comments submitted pursuant to Section 120; and
 - (d) Solicit and consider the comments of the Forest Service.
- (2) The Director shall approve a proposed use or development only if it is consistent with this Ordinance. In approving a proposed development action, the Director may impose conditions as necessary to ensure consistency with the guidelines of this Ordinance.
- (3) The Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with this Ordinance within 72 days after acceptance of the application except in one or more of the following situations:
 - (a) The applicant consents to an extension of time.
 - (b) The Director determines that additional information is required pursuant to Section 120.
 - (c) The Director determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources.
 - (d) Unforeseen circumstances including, but not limited to, weather, illness, etc.
- (4) The Director shall ~~mail send~~ a copy of the decision to the applicant, the Commission, the Forest Service, the state, the Indian Tribes, the applicable city and each person who submitted comments under Section 120. The decision shall set forth the rights of appeal under the Hood River County Zoning Ordinance.
- (5) The Director's decision shall be final unless a Notice of Appeal is filed in accordance with Section 145.

135. Expiration of Approvals

- (1) **Notice Not Required:** Expiration of any land use approval issued pursuant to this Management Plan shall be automatic. Failure to give notice of expiration shall not affect the expiration of a land use approval.
- (2) **Land Use Approvals without Structures:** Any land use approval issued pursuant to this Management Plan for a use or development that does not include a structure shall expire two years after the date the land use approval was granted, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established" means the final deed or plat has been recorded with the county recorder or auditor.
- (3) **Land Use Approvals with Structures:** Any land use approval issued pursuant to this Management Plan for a use or development that includes a structure shall expire as follows:
 - (a) When construction has not commenced within two years of the date the land use approval was granted, or
 - (b) When the structure has not been completed within two years of the date of commencement of construction.
- (4) **Commencement of Construction:** As used in subsection 3(a) above, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
- (5) **Completion of Structure:** As used in subsection 3(b) above, completion of the structure shall mean (1) completion of the exterior surface(s) of the structure and (2) compliance with all conditions of approval in the land use approval.
- (6) **Extension of Validity of Land Use Approvals:** A request for extension of the time frames in subsections 2, 3(a) or 3(b), above, shall be submitted in writing before the applicable expiration date.
 - (a) A reviewing agency may grant one 12-month extension to the validity of a land use approval if it determines that events beyond the control of the applicant prevented commencement of the use or development (applicable to section 2 above) or commencement of construction (applicable to subsection 3(a) above) within the original two-year time frame.

- (b) An agency may also grant one 12-month extension if it determines that events beyond the control of the applicant prevented completion of the structure (applicable to subsection 3(b) above) within the original two-year time frame.
 - (c) A request for extension shall state the reason why events beyond the control of the applicant warrant an extension.
 - (d) Approval or denial of a request for extension shall be considered an administrative decision.
- (7) Vested Rights: The laws of the state of Oregon concerning vested rights shall not apply in the National Scenic Area. A person has a vested right for as long as the land use approval does not expire.

140. Changes or Alterations to an Approved Action

Any change or alteration to a development action approved by the Board of County Commissioners, Planning Commission or Director pursuant to this Ordinance shall be processed as new action, except that the Director may approve minor changes or alterations deemed to be consistent with this Ordinance and the findings and conclusions for the original action.

145. Appeal Process

- (1) The Planning Director's decision is appealable to the Hood River County Planning Commission pursuant to applicable provisions within the following Sections of the Hood River County Zoning Ordinance: Article 60 - Administrative Procedures; Article 63 - Conduct of Public Hearings; and Article 72 - Planning Director's Review Procedures.
- (2) The Hood River County Planning Commission's Decision is appealable to the Hood River Board of County Commissioners pursuant to provisions in Article 61 - Review by the Board of the Hood River County Zoning Ordinance.
- (3) The Hood River County Board of Commissioners' decision is appealable to the Columbia River Gorge Commission pursuant to provisions in Commission Rule, Chapter 350, Division 60

150. General Guidelines

The following uses may be permitted when allowed by the land use designation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 520 through 620):

(1) Agricultural Buffer Zones

All new buildings shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands designated Large-Scale or Small-Scale Agriculture and which are currently used for or are suitable for agricultural use:

(a) Setback Guidelines

Type of Agriculture	Type of Buffer (size in feet)		
	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchard	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing Pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

- (b) Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees and/or grasses shall be planted on the berm to control erosion and achieve a finished height of 15 feet.
- (c) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.
- (d) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.
- (e) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

- (f) A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Section 150(2) have been satisfied.

(2) Variances from Setbacks and Buffers within the General Management Area.

Variances from setbacks and buffers within the General Management Area may be allowed subject to the following approval criteria:

- (a) When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:
 - (A) A setback or buffer to protect one resource would cause the proposed use to fall within a setback or buffer to protect another resource; and
 - (B) Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources.
- (b) A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that:
 - (A) The land use designation otherwise authorizes a residence on the tract;
 - (B) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer;
 - (C) The variance from the specified setback or buffer is the minimum necessary to allow the residence.
- (c) The Director may grant a variance to the setback and buffer requirements in Section 610, upon a finding that the following conditions exist:
 - (A) The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor.
 - (B) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.
 - (C) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.

- (D) The variance is the minimum necessary to accommodate the use.
- (d) The Director may grant a variance of up to 10 percent to the guidelines of General Management Area and Special Management Area Recreation Intensity Class 4 for parking and campground units upon demonstration that:
 - (A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.
 - (B) The proposed use is dependent on resources present at the site.
 - (C) Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.
 - (D) The proposed use is consistent with the goals, objectives and policies in Chapter 4, Part I of the Management Plan.
 - (E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.
 - (F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.
- (3) Indian Tribal Treaty Rights and Consultation. The following provisions apply to new uses in the GMA.
 - (a) Tribal Government Notice
 - (A) New uses located in, or providing recreation river access to, the Columbia River or its fish-bearing tributaries shall include the following supplemental information:
 - (i) The site plan map shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.
 - (ii) The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:

- (I) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.
 - (II) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.
 - (III) List tribal ceremonial fishing seasons in the project vicinity.
 - (IV) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.
- (B) Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent on-site monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.
- (C) Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the Director. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.
- (b) Tribal Government Consultation
- (A) When substantive written comments are submitted to the Director in a timely manner, the project applicant shall offer to meet with the Director and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government. Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.
 - (B) Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.
 - (C) The Director shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Director.

(c) Conclusion of the Treaty Rights Protection Process

(A) The Director shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe. The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the Director must justify how it reached an opposing conclusion.

(B) The treaty rights protection process may conclude if the 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.

(C) A finding by the Director that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

(4) If new buildings or structures may detract from the use and enjoyment of established recreation sites on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel.

(5) The following provisions apply to new uses in the SMA:

(a) The Forest Service shall consult with the Indian tribal governments to determine the effect of all new development or uses in the SMA on treaty rights and shall notify the County or reviewing agency of the determination.

(b) New uses and development shall not affect or modify any treaty or other rights of the Indian

(c) New developments or land use shall protect access to usual and accustomed tribal or Indian fishing sites or stations protected under treaty rights, and as established by court interpretations of those treaties.

(d) Indian tribal governments shall be invited to participate in the planning of public recreation developments that could affect treaty rights.

152. Uses and Structures Allowed in Various Land Use Designations

A. Agricultural Buildings

- (1) 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.
- (2) To satisfy Section 152(A)(1), 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).
 - (c) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

B. Temporary Use – Hardship Dwelling

- (1) A permit for the temporary placement of a mobile home may be granted under the following circumstances:
 - (a) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.
 - (b) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.
 - (c) The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural, and recreation resources.
- (2) A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this Section and any other conditions of approval.
- (3) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.
- (4) A new permit may be renewed upon a demonstration that the family hardship continues to exist.

C. Sewer and Water Services

- (1) Sewer lines may be extended from an Urban Area into a rural area to serve:
 - (a) Areas with a documented health hazard.
 - (b) Recreation uses open to the public, only upon a demonstration by the local government that there is no practicable alternative to providing service to the area. In such cases, the lines shall be engineered and sized solely to serve the defined area or use. Such lines shall not be relied upon as the sole justification for revision to an Urban Area boundary.
- (2) New uses authorized in Article 75 may hook up to existing sewer and water lines in rural areas.

D. Docks and Boathouses

- (1) New, private docks and boathouses serving only one family and one property shall be allowed, up to 120 square feet in size.
- (2) New, private docks and boathouses serving more than one family and property shall be allowed, up to 200 square feet in size.
- (3) Public docks open and available for public use shall be allowed.
- (4) Boathouses may be allowed under Sections 152(D)(1) and (2) only when accessory to a dwelling and associated with a navigable river or lake.

E. Home Occupations and Cottage Industries

- (1) Home occupations and cottage industries may be established as authorized in specified land use designations consistent with the following guidelines:
 - (a) A home occupation may employ only residents of the home.
 - (b) A cottage industry may employ up to three outside employees.
 - (c) No more than 25 percent of the total actual living space of the dwelling may be used for the home occupation or cottage industry.
 - (d) No more than 500 square feet of an accessory structure may be used for a home occupation or cottage industry.

- (e) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.
- (f) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.
- (g) No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in this chapter.
- (h) One non-animated, non-illuminated sign, not exceeding 2 square feet in area, may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.
- (i) Parking not associated with residential use shall be screened so it is not visible from key viewing areas.
- (j) In the General Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Sections 152 (E) and (F).
- (k) In the Special Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Section 152 (E) and (F), except Section 152 (F)(1)(e).

F. Bed and Breakfast Inns

- (1) Bed and breakfast inns may be established as authorized in specified land use designations, consistent with the following conditions:
 - (a) The use is consistent with the definition of Bed and Breakfast inn, Section 040(14).
 - (b) Guests may not occupy a facility for more than 14 consecutive days.
 - (c) One non-animated, non-illuminated sign, not exceeding 4 square feet in area, may be permitted on the structure or within the yard containing the structure.
 - (d) Parking areas shall be screened so they are not visible from key viewing areas.
 - (e) In the SMA, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

G. Small-Scale Fishing Support and Fish Processing Operations

- (1) Small-scale fishing support and fish processing operations in conjunction with a family-based commercial fishing business may be allowed on parcels designated GMA Residential, GMA Small Woodland, or GMA Small-Scale Agriculture, subject to the following conditions:
 - (a) The operation shall comply with Section 150 (4). In addition, if the operation will be located on land designated Small Woodland, then it shall also comply with Section 300, and Section 310.
 - (b) The following fishing support activities may be allowed: maintenance, repair, and storage of boats, nets, fish totes and other commercial fishing equipment that is used in the family-based commercial fishing business; and garaging of fish hauling trucks, trailers and all other related equipment that is used in the family-based commercial fishing business.
 - (c) The following fish processing activities may be allowed: cleaning, gutting, heading, and icing or freezing of fish that is caught by the family-based commercial fishing business. Other fish processing activities shall not be allowed, including, but not limited to, canning, smoking, salting or brining for wholesale or retail sale.
 - (d) The operation shall be located on a lawful parcel that is contiguous with and has direct access to the Columbia River.
 - (e) The subject parcel shall include a lawful dwelling, and the permanent resident of the dwelling shall participate in the fishing support and fish processing operation.
 - (f) The operation may only employ residents of the dwelling and up to three outside employees.
 - (g) No more than 25 percent of the total actual living space of the dwelling may be used for the fishing support and fish processing operation.
 - (h) The operation may take place in an existing or new lawful accessory building or an existing agricultural building on the subject parcel. A new building constructed for the purpose of housing a fishing support and fish processing operation shall be considered an accessory building. An existing agricultural building shall not be expanded and a new agricultural building shall not be constructed for the purpose of housing a fishing support and fish processing operation.
 - (i) An accessory building used in the fishing support and fish processing operation may be allowed up to 2,500 square feet.

- (j) Docks may be allowed as follows:
 - (A) One dock serving a parcel with an approved fishing support and fish processing operation may be allowed up to 500 square feet in size.
 - (B) For multiple contiguous parcels each with approved fishing support and fish processing operation, the area of the docks authorized in Section 152(D) above may be combined into one dock, provided the total size of the dock shall not exceed 2,000 square feet.
- (k) There shall be no outside visible evidence of the fishing support and fish processing operation, including storage, other than boats and docks.
- (l) No retail sales may occur on the parcel.
- (m) The operation shall only support and process fish caught by residents of the dwelling and up to three outside employees.
- (n) Before beginning the operation, applicants shall demonstrate that they have obtained and complied with federal, state and/or local water quality and wastewater permits.

H. Resource Enhancement Projects

- (1) Applications for resource enhancement projects must describe the goals and benefits of the proposed enhancement project. They must also thoroughly document the condition of the resource before and after the proposed enhancement project.
- (2) In addition to other guidelines that protect scenic, cultural, recreation, and natural resources, quarry enhancement projects shall comply with the following guidelines:
 - (a) **Application Requirements.** In addition to other applicable requirements, land use applications for quarry enhancement projects shall include perspective drawings of the site as seen from key viewing areas as specified in Section 520(2)(o) and a reclamation plan that provides all the applicable information specified in Section 520(1)(f)(A) through (E), except: (1) the words "pre-reclamation" and "post-reclamation" should replace the words "pre-mining" and "post-mining," respectively, and (2) the appropriate state agency or local government does not have to approve the reclamation plan.
 - (b) **Scenic Resource Standard.** Quarry enhancement projects shall restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

- (c) Natural Resource Standard. Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.
- (d) Time Frames. The following time frames shall apply to quarry enhancement projects:
 - (A) All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year of the date an applicant begins on-the-ground work.
 - (B) All landscaping shall be planted within one (1) year of the date an applicant completes the grading.
 - (C) An applicant may request one one-year extension to the one year grading time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after grading has commenced and before the one year grading time frame has expired.
 - (D) An applicant may also request one six-month extension to the one (1) year landscaping time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after landscaping has commenced and before the one-year landscaping time frame has expired.

I. Disposal Sites for Spoil Materials from Public Road Maintenance Activities

- (1) Application Requirements. In addition to other applicable requirements, land use applications for disposal sites shall include the same information that applicants are required to submit for expansion of existing quarries and production and/or development of mineral resources in the GMA, including, but not limited to:
 - (a) A reclamation plan that provides all the applicable information specified in Section 520(1)(f)(A) through (E), except: (1) the words "pre-disposal" and "post-disposal" should replace the words "pre-mining" and "post-mining" and (2) the appropriate state agency or local government does not have to approve the reclamation plan.
 - (b) Perspective drawings of the site as seen from key viewing areas as specified in Section 520(2)(o).
 - (c) Cultural resource reconnaissance and historic surveys, as required by Section 540(1)(c)(A) and (B), respectively. Disposal sites shall be considered a "large-scale use" according to Section 540(1)(c)(C).

- (d) Field surveys to identify sensitive wildlife areas or sites and sensitive plants as described in Section 580(3) and Section 590(3).
- (2) **Siting Standard.** The proposed disposal site shall only be approved if the applicant demonstrates it is not practicable to locate the disposal site outside the Scenic Area or inside an Urban Area. At a minimum, the applicant shall submit a feasibility and suitability analysis that compares the proposed disposal site to existing or potential disposal sites located both outside the Scenic Area and inside an Urban Area.
- (3) **Scenic Resource Standards.** Disposal sites shall comply with the same scenic resources protection standards as expansion of existing quarries and production and/or development of mineral resources in the GMA, including, but not limited to:
 - (a) Sites more than 3 miles from the nearest key viewing area shall be visually subordinate as seen from any key viewing area, according to Section 520(2)(cc).
 - (A) An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the start of on-the-ground activities.
 - (b) Sites less than 3 miles from the nearest key viewing area shall be fully screened from any key viewing area, according to Section 520(2)(dd).
 - (A) An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the start of on-the-ground activities. Disposal activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).
 - (c) Reclamation plans shall restore the site to a natural appearance that blends with and emulates surrounding landforms and vegetation patterns to the maximum extent practicable.

J. Commercial Events

- (1) Commercial events include weddings, receptions, parties and other small-scale gatherings that are incidental and subordinate to the primary use on a parcel.
- (2) Commercial events may be allowed in the GMA, except on lands designated Open Space or Commercial Forest, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:

- (a) The use must be in conjunction with an established winery, ~~or established bed and breakfast inn, and/or established farm.~~ If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to the guidelines in "Special Uses in Historic Buildings" (Section 162) and not the guidelines of this section.
- (b) The owner of the subject parcel shall live on the parcel and shall operate and manage the use.
- (c) A single commercial event shall host no more than 100 guests.
- (d) The use shall comply with the following parking requirements:
- (A) A single commercial event shall include no more than 50 vehicles for guests.
 - (B) All parking shall occur on the subject parcel.
 - (C) At least 200 square feet of parking space shall be required for each vehicle.
 - (D) Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited.
 - (E) All parking areas shall be fully screened from key viewing areas.
- (e) The owner of the subject parcel may conduct no more than 18 single events up to one day in length per year.
- (f) The owner of the subject parcel shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.
- (g) Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event. Alternatively, temporary structures may remain in place for up to 90 days if they are fully screened from key viewing areas.
- (h) The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:

- (A) The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands.
 - (B) The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Section 150(1)(a) or designated Commercial Forest Land or Large or Small Woodland, as required in Section 310.
 - (C) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland.
- (i) For ~~farms and~~ wineries, the wedding event site shall be located on property that comprises part of the ~~farm operation of~~ winery. If the approved wedding event site is located on a lot or parcel on which the ~~principal dwelling for the farm of~~ winery is not located, approval for the use of the site shall be null and void if the parcel is sold as a separate and discrete parcel from the ~~farm operation winery~~.
 - (j) Approval of a permit issued under this Article does not create an entitlement that would supercede or countermand the right to farm.
 - (k) The use may be affected by ORS Chapter 277 ("Fire Protection of Forests and Vegetation"), which allows the State Forester to permit closures which restrict access in case of fire hazard on forestland.
 - (l) Application for this permit is limited to the following, as defined in Section 040:
 - i. Established Bed & Breakfast
 - ii. ~~Established Farm~~
 - iii. Established Winery
 - (m) Duration of event: No event shall take place outside the hours of 7:00 am to 10:00 pm.
 - (n) Lighting. Exterior lighting shall not project into an adjoining residential area. Use of stadium-style, or other glaring lighting is prohibited. Lighting accessible paths may be required, if necessary.
 - (o) Noise. It is unlawful for any person to make, continue, or cause to be made or continued, any noise, which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of a reasonable person of normal sensitivities present in the area.

Factors to consider in evaluating whether a noise is loud, disturbing, or excessive for the purposes of this Section, shall include, but not be limited to the following:

- The volume of the noise;
- The intensity of the noise;
- The duration of the noise;
- Whether the noise is recurrent, intermittent, or constraint;
- The time of day or night the noise occurs;
- Whether the nature of the noise is usual or unusual;
- Whether the origin of the noise is natural or unnatural;
- The nature and zoning of the area within which the noise emanates and where it is received;
- Whether the noise is produced by a commercial or noncommercial activity.

Noise shall be considered excessive and in violation of this ordinance if it meets one of the following criteria:

1. The noise is plainly audible from within any closed dwelling unit that is not the source of the sound; or
2. The sound peak pressure level of the noise, as measured on the A scale, shall not exceed sixty (60) db(A) during the hours of 7:00 am and 10:00 pm as measured at any of the complainant's property lines within a residential district or near a residential area.

Article 73's noise standards shall supercede the County's Noise Ordinance, if there is a conflict between the provisions in the two.

- (p) Fire & Emergency Vehicle Access: Shall comply with Fire & Life Safety Requirements for Fire Department Access and Water Supplies.
- (q) Operator shall ensure that only caterers licensed in the States Oregon or Washington are contracted to provide food; caterers shall be bonded.
- (r) Operators shall comply with all requirements of the Oregon Liquor Control Commission (OLCC), if alcohol is served during an event.
- (s) Toilet facilities shall be portable with available hand-sanitizing or hand-washing facilities. Use of the dwelling's on-site septic facilities is not allowed for an event, except by resident or over-night guests of the facility.
- (t) One temporary sign may be allowed in addition to the allowed Bed and Breakfast sign (if applicable). The sign shall not exceed eight (8) square feet in size and

shall be placed on private property on the day of the special event and shall be removed within 24 hours after the event.

- (u) The County and applicable Fire District shall review the plan to determine consistency with these requirements and to determine if sufficient, safe parking is identified. It is the applicant's responsibility to communicate parking instructions consistent with the approved plan to all guests and contract or regular employees prior to the event.
- (v) Land use approvals for commercial events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.

(3) Commercial Events Standards

In addition to the above requirements, the following Commercial Event Standards shall apply:

- (a) It shall employ on the site no more than five full-time or part-time persons.
- (b) It shall be operated substantially in:
 - 1. The dwelling; or
 - 2. Other buildings or areas designated in the permit which are normally associated with uses permitted in the zone in which the property is located.
- (c) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- (d) Nothing in this Section authorizes the governing body or its designate to permit construction of any structure that would not otherwise be allowed in the zone in which the commercial event is to be established.
- (e) The existence of a commercial event shall not be justification for a plan and zone change.
- (f) It shall be subject to site plan review, as per Section 152(J)(4).
- (g) The use shall be incidental, accessory and subordinate to the primary use as an established B&B, ~~or~~ winery, ~~or farm~~. The event site shall cease to operate if the primary use is discontinued.
- (h) The use will not take an outward appearance nor manifest any characteristics of a business or operation of a retail or wholesale nature; except for those characteristics normally associated with or allowed for a winery (if the primary use is a winery).

- (i) There shall be no permanent visible evidence of conduct of a commercial event from any road or adjacent property.
- (j) Only limited retail sales and sales accessory to services associated with the primary use or commercial event site are permitted.
- (k) Approval is personal to the applicant and shall not run with the land.
- (l) If sale of the property is contemplated, applicant will inform the County Planning Department. If selling, leasing or allowing another individual to use the property and home occupation occurs, approval of the permit shall become null and void. Further use by other than the applicant requires additional review and approval by the Hood River County Planning Department.
- (m) Permanent signage related to weddings and related events may only be included in the principal sign allowed, unless required by the State for the protection of the public's health, safety and welfare.
- (n) The use shall not generate additional traffic or parking beyond what is otherwise permitted.
- (o) The owner shall keep a record of the name and license # of the caterers used for each event for one year, for review upon request by County Environmental Health.

(4) Site Plan Review

- a. Applicant shall provide a written narrative and site plan addressing the following issues:
 - 1. Designated area and existing structures to be used for the events
 - 2. Number of events anticipated per year/season
 - 3. Frequency of events
 - 4. Maximum number of guests intend to serve
 - 5. Anticipated Noise
 - 6. Infrastructure – How will you provide electricity and utilities to the event?
 - 7. Parking & Circulation – Need to provide one (10' x 20') parking space per vehicle.
 - 8. Traffic and Access

9. Lighting

10. Environmental Health Aspects

i. How will food be provided? Where will it be served?

ii. What is your domestic water source?

iii. Indicate how many portable toilets will be provided, as well as how hand-sanitizing or hand-washing facilities will be provided.

11. Safety & Insurance

12. Are alcoholic beverages being served? If so, are OLCC requirements being met?

(5) Review of Use

Review of the use shall be subject to the provisions in Article 68 ("Revocation"), of the Hood River County Zoning Ordinance.

(6) Amendments

Other than "minor amendments" allowed under Section 140, amendments to an approved commercial event site shall be processed as a new administrative action, subject to the provisions of this Article.

(7) Enforcement

A. Notify law enforcement if there is a violation (pertaining to noise and parking).

B. The permit holder is responsible for any violations of their permit.

C. Unless an extension has been granted to the permit holder, a permit issued under this Article shall automatically become null and void one year after the date on which it was granted if the use has not commenced.

D. If the primary use (farm winery, or B&B) has been discontinued for over one year, or the secondary use (home occupation for weddings & related events) has been discontinued for over two years, the permit shall be considered null and void.

E. The Board of Commissioners with or without recommendation of the Planning Commission may void the permit providing the following conditions and procedures are followed:

1. Upon review by the Planning Director a violation of the conditions of the Permit of this ordinance is found. The Planning Director shall inform the applicant by registered or certified letter, and regular mail, of the violation.
2. The Planning Director may refer the matter of the violation to mediation, if all parties to the matter, including the County, consent.
3. If the violation is not corrected, by mediation or otherwise, or if a subsequent violation occurs after issuance of the Planning Director's notice of violation, the Planning Director shall inform the Board of Commissioners of the violation together with sufficient data to inform the Board of the character of the violation(s). The Board shall then set a hearing date on the violation.
4. At least 10 days prior to the public hearing, the applicant shall be notified by registered letter of the public hearing. In addition, all who are notified of the original application and those who testified shall be notified by regular mail.
5. The Board of Commissioners shall conduct the public hearing pursuant to the requirements of a hearings body or officer found in Article 60.

F. In NSA Agricultural and Forest zones, the requirements below supercede Section 152(J)(7)(D) if the violation is specific to how the use affects farm or forest practices on surrounding resource lands.

1. A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the County Planning Director alleging:
 - a. That a condition imposed has been violated;
 - b. That the violation has:
 - A. Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
 - B. Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - c. That the complainant is adversely affected by the violation.
2. Upon receipt of a complaint, the local governing body or its designee shall:
 - a. Forward the complaint to the operator of the use;
 - b. Review the complaint in the manner set forth in the Section in ORS 215 on Planning and Zoning Hearings & Review; and

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- c. Determine whether the allegations made pursuant to subsection (1) of this Section are true.
3. Upon a determination that the allegations of the complaint are true, the local governing body or its designee at a minimum shall notify the violator that a violation has occurred, direct the violator to correct the conditions that led to the violation within a specified time period and warn the violator against the commission of further violations.
 4. If the conditions that led to a violation are not corrected within the time period specified pursuant to subsection (3) of this Section, or if there is a determination pursuant to subsection (2) of this Section following the receipt of a second complaint that a further violation has occurred, the local governing body or its designee at a minimum shall assess a fine against the violator.
 5. If the conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to subsection (4) of this Section, or if there is a determination pursuant to subsection (2) of this Section following the receipt of a third or subsequent complaint that a further violation has occurred, the local governing body or its designee shall at a minimum order the suspension of the use until the violator corrects the conditions that led to the violation.
 6. If a home occupation for weddings and related events is initiated without prior approval, the local governing body or its designee at a minimum shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (2) of this Section following the receipt of a complaint that a further violation occurred after approval was granted, the violation shall be deemed a second violation and the local governing body or its designee at a minimum shall assess a fine against the violator.
 7. A person residing in a single-family residential dwelling which was approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved under ORS 197.732 or which is within an acknowledged urban growth boundary may not file a complaint under subsection (1) of this Section.
 8. Nothing in this Section shall prevent a local governing body approving a use allowed under ORS 215.213 (2) or 215.283 (2) from establishing standards in addition to those set forth in ORS 215.296(1) or from imposing conditions to insure conformance with such additional standards.

K. Columbia River Bridge Replacement

(1) Visual Quality

- (a)** A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall be visually unobtrusive and harmonious with the surrounding Gorge landscape and the Columbia River. A replacement bridge shall:
 - (A)** Utilize recessive dark natural or earth-tone colors for steel components of the bridge, a thin and open structural design that allows views through it to the extent practicable, and consistent design character and ornamental elements;
 - (B)** Employ lighting that provides a safe and pleasant atmosphere for bicycles and pedestrians while not casting glare directly into the sky or onto the river.

(2) Historic Design Elements

- (a)** A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall incorporate elements that reflect historic design features of Scenic Area roadways and bridges. The historic themes should be an integral component of the design of the bridge structure, incorporated from "shore to shore."
- (b)** A replacement bridge should include:
 - (A)** Arches and/or other traditional structural forms in the bridge;
 - (B)** Historic style benches, lighting, other pedestrian furnishings, and signage/graphic materials consistent with the USFS Graphic Signing System for the Scenic Area;
 - (C)** Ornamental concrete or steel railings.

(3) Recreation and Pedestrian/Bicycle Access

- (a)** A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall encourage and promote pedestrian and bicycle use, for recreational enjoyment and to enhance multi-modal transportation connections between the Urban Areas it connects.
- (b)** The bridge shall include facilities for pedestrians and bicyclists that:
 - (A)** Are permanent;

- (B) Are wide enough to safely accommodate and encourage walking, bicycling, and other uses;
- (C) Meet safety standards to prevent conflicts among automobiles, trucks, pedestrians, bicyclists, and other users;
- (D) Provide multiple sitting and viewing areas with significant upstream and downstream views;
- (E) Are safe to approach from both the north and south ends of the bridge and provide strong multi-modal connections, both east-west and to the nearby Urban Areas.

154. Applying New Less-Stringent Regulations to Development Approved Under Prior Scenic Area Regulations

- (1) A landowner may submit a land use application to alter conditions of approval for an existing use or structure approved under prior Scenic Area regulations (e.g., *Columbia River Gorge National Scenic Area Final Interim Guidelines*, original *Management Plan*), subject to the following standards:
 - (a) The applicant shall apply for the same development that was reviewed in the original decision.
 - (b) The development shall remain in its current location.
 - (c) The agency that currently has jurisdiction over the applicant's property shall review the application and send notice of the application to agencies and other parties entitled to receive notice under the current rules.
 - (d) The agency shall review the entire development to ensure that it would fully comply with all the current guidelines (i.e., land use, treaty rights, scenic resources, cultural resources, recreation resources and natural resources).
 - (e) The agency shall issue a new decision that supersedes the original decision.
 - (f) The new decision may remove or revise original conditions of approval or add new conditions of approval to ensure full compliance with all the current guidelines.

156. Expedited Development Review Process

A. Expedited Review Uses

- (1) The following developments may be reviewed using the expedited development review process, provided they comply with the resource protection and procedural guidelines contained in this Section.
 - (a) Except on lands zoned Open Space, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.
 - (b) Additions and covered decks for existing buildings, provided the existing building is at least 500 square feet in area and the addition or covered deck is no larger than 200 square feet in area and no taller than the height of the existing building. Only one addition and one covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.
 - (c) Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to 6 feet in height and less than or equal to 100 feet in length.
 - (d) Wire-strand fences other than those allowed outright, provided the fence complies with Section 580(7) if it is inside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency.
 - (e) In the General Management Area, woven-wire fences for agricultural use that would enclose 80 acres or less.
 - (f) Decks that are: (1) uncovered; (2) attached and accessory to existing dwellings; and (3) 500 square feet or less in area and 30 inches or less in height above existing grade.
 - (g) Road closure gates.
 - (h) Signs, other than those allowed outright.
 - (i) Outdoor lights.
 - (j) Air, weather, water and other similar research and monitoring facilities, provided the facilities are attached to existing structures or are less than or equal to 120 square

feet in size and less than or equal to 12 feet in height.

- (k) Lot line adjustments in the General Management Area that would not result in the potential to create additional parcels through subsequent land divisions, subject to Section 165, except all lot line adjustments for parcels designated Open Space or Public Recreation shall be reviewed through the full development review process.
- (l) Lot line adjustments in the Special Management Area, subject to Section 165.
- (m) ~~Removal/De~~molition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.
- (n) Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.
- (o) Trail reconstruction involving up to 1,000 feet of trail re-route.
- (p) The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):
 - (A) New guardrails and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.
 - (B) New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to 120 square feet in size and less than or equal to 12 feet in height. This category does not include signs.
 - (C) Pave existing dirt and gravel roads, provided the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.
 - (D) New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.
- (q) The following underground utility facilities:
 - (A) New underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no ditch for linear facilities would be more than 36 inches wide and (2) no excavation for non-linear facilities would exceed 20 cubic yards.
- (r) The following aboveground and overhead utility facilities:

(A) Modify existing aboveground and overhead utility facilities or develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the development would be less than or equal to 120 square feet in area and less than or equal to 12 feet in height.

(B) Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the replacement facilities would be in the same location as and no more than 15 percent larger than the physical size of the existing facilities.

(C) New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright, provided the size is the minimum necessary to provide the service.

(s) Replace an existing mobile home in a mobile home space within a mobile home park, provided: (1) the mobile home to be replaced, the mobile home space and the mobile home park shall be existing, lawful uses according to the definition of *existing use or structure* and Section 075(1) through (4); (2) the replacement mobile home shall be in the same location as the mobile home to be replaced; (3) the height of the replacement mobile home shall be no more than 20 percent greater than the mobile home to be replaced, and (4) the mass and footprint of the replacement mobile home shall be no more than 100 percent greater than a single-wide mobile home to be replaced or no more than 25 percent greater than a double-wide mobile home to be replaced.

(t) Retaining walls accessory to existing dwellings less than or equal to 2 feet in height and less than or equal to 100 feet in length.

(u) In the Special Management Area, wind machines for frost control in conjunction with agricultural use.

B. Resource and Treaty Rights Protections Guidelines

(1) Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

(a) Scenic

(A) In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

(B) ~~Except signs, the~~ colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the

surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

- (C) ~~Except signs, Sstructure~~ topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.
 - (D) Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
 - (E) Signs shall comply with Section 160.
 - (F) Structures within one-half mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).
- (b) Cultural
- (A) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to Section 540(1)(c)(A)(ii) or historic survey, pursuant to Section 540(1)(c)(B).
 - (B) The GMA guidelines that protect cultural resources and human remains discovered during construction [Section 540(6) and (7)] shall be applied as conditions of approval for all development approved under the expedited development review process.
- (c) Recreation
- (A) The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.
- (d) Natural
- (A) Wetlands, Streams, Rivers, Ponds, and Lakes
 - (i) The development is outside buffer zones for wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

(B) Sensitive Wildlife and Sensitive Plants

(i) The development meets one of the following:

- (I) The development is at least 1,000 feet from known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range, and turkey habitat) and known sensitive plants; or
- (II) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or
- (III) For sensitive wildlife, the development is within 1,000 feet of known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range and turkey habitat), but an appropriate federal or state wildlife agency determines (1) the sensitive wildlife area or site is not active or (2) the proposed development would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

For sensitive plants, the development is within 1,000 feet of known sensitive plants, but the Oregon Natural Heritage Program or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the sensitive plants.

(ii) Development eligible for expedited review shall be exempt from the field survey requirements for sensitive wildlife or sensitive plants ~~[Section 580(1)(b) and (2); Section 590(1)(b) and (2)]~~.

(2) Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:

- (a) Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.
- (b) The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period

that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

- (c) Except as provided in 2(b) above, the GMA and SMA treaty rights and consultation goals, policies and guidelines in Section 150(3) and (5) shall not apply to proposed developments reviewed under the expedited review process.

C. Procedures for Expedited Review Process

(1) Applications

- (a) Prior to initiating any use or development which requires review and approval by the Planning Director, an application shall be completed pursuant to Section 156.
- (b) The Planning Director shall accept and review the application pursuant to Section 156 for consistency with the appropriate guidelines of this rule.
- (c) The County Planning Department may charge a fee for review of applications. The Planning Director shall set the fee, which shall not exceed the average cost to the County of reviewing applications.
- (d) Standard application forms shall be available at the Planning Office.
- (e) Applications for uses eligible for expedited review shall include the information required for review uses listed in Section 080. They shall also include elevation drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

(2) Acceptance of Application

- (a) Within 14 days of the receipt of an application, the Planning Director shall review the application for completeness. The Planning Director shall accept a complete application within 14 days of receipt of the application.
- (b) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Planning Director shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application.

(3) Notice of Development Review

- (a) Within 7 days of the acceptance of an application, the Planning Director shall issue notice of a proposed development review. The notice shall provide the following information:

- (A) The name of the applicant;
 - (B) The general and specific location of the subject property;
 - (C) A brief description of the proposed action;
 - (D) The deadline for rendering a decision; and
 - (E) The deadline for filing comments on the proposed action.
- (b) The notice shall state that the application and supporting documents are available for inspection at the Planning Department during normal working hours.
 - (c) The notice shall state the applicant must comply with all applicable local, state, and federal laws.
 - (d) The notice shall be mailed to the Forest Service, the four Indian tribal governments, Gorge Commission and other agencies and interested parties that request a notice or that the Planning Director determines should be notified.
 - (e) A copy of the notice shall be filed in the records of the Planning Department.
- (4) Comment Period: Any interested person or party shall submit written comments within 10 days from the date a notice is sent.
 - (5) Written Decision
 - (a) In making a decision on a proposed use or development the Planning Director shall:
 - (A) Consult with the applicant and such agencies as the Planning Director deems appropriate;
 - (B) Consider information submitted by the applicant and all other relevant information available;
 - (C) Consider all comments submitted pursuant to Section 156(C)(4); and
 - (D) Solicit and consider the comments of the Forest Service.
 - (b) The Planning Director shall approve a proposed use or development only if it is consistent with the standards of Section 6 and the purposes of P.L. 99-663 and Article 75.

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- (A) In approving a proposed development action, the Planning Director may impose conditions as necessary to ensure consistency with the guidelines of Article 75.
 - (B) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Planning Director's decision shall include this requirement.
 - (c) The Planning Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of Article 75 within 30 days after acceptance of the application.
 - (d) The decision of the Planning Director shall be final unless a Notice of Appeal is filed in accordance with Section 156 (C)(6). An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.
- (6) Notice of Decision and Opportunity to Appeal
- (a) The Planning Director shall send a copy of a decision issued under the expedited review process to the four Indian tribal governments, the Forest Service, and landowners within 200 feet of the perimeter of the subject parcel.
 - (b) Any person shall be allowed to appeal a decision issued under the expedited review process within 10 days of the decision.
- (7) Expiration of Approvals. Approvals issued under the expedited review process shall expire in accordance with the standards for expiration of approvals for review uses (Section 135).
- (8) Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under the expedited review process shall be made in accordance with the standards for changes or alterations to approved actions for review uses (Section 140).

158. Emergency/Disaster Response Actions

(1) General Guidelines

- (a) Actions taken in response to an emergency/disaster event, as defined in Section 040, are allowed in all GMA/SMA land use designations, subject to the notification requirements in "Notification Requirements" (subsection 2, below).
- (b) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.
- (c) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life property, public services or the environment, an extension of no more than two years may be granted by the Planning Director or the Forest Service for federal agency actions.
- (d) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.
- (e) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake or riparian area within the National Scenic Area (NSA) as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

(2) Notification Requirements

- (a) Actions taken in response to an emergency/disaster event, as defined, are allowed in all GMA and SMA land use designations, subject to the following notification requirements.
 - (A) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties,

another responder elects to assume this responsibility.

- (B) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.
 - (C) Notification shall be furnished to the Planning Director or the Forest Service for federal agency actions.
 - (D) At a minimum, the following information shall be required at the time of notification:
 - (i) Nature of emergency/disaster event.
 - (ii) Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).
 - (iii) Location of emergency/disaster response activities.
 - (E) Estimated start and duration of emergency/disaster response activities.
 - (i) Contact person and phone number for the parties conducting emergency/disaster response actions.
 - (F) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.
- (b) Upon notification of an emergency/disaster response action, the Planning Director, or Forest Service shall, as soon as possible:
- (A) Review its natural resource inventory data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;
 - (B) Notify the Oregon Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event, and;
 - (C) Notify the Forest Service, the Oregon Historic Preservation Office, and the tribal governments of all emergency/disaster response activities. The Forest Service will review their cultural resource inventory data and notify the contact person for the emergency/disaster response action as soon as possible

of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

- (c) Upon notification of a response action, the Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

(3) Post-Emergency/Disaster Response Development Review Application Requirements

- (a) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director, or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the party providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and not more than two (2) extensions shall be granted.
- (b) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms "development activities" and "development" include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.
- (c) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500 feet of a known cultural resource (as determined in the notification process).
- (d) Applications shall include the following information:
 - (A) Applicant's name and address.
 - (B) Location of emergency/disaster response.
 - (C) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

- (D) A map of the project area drawn to scale, at a scale of 1 inch = 200 feet or a scale providing greater detail. The map shall include:
 - (i) North arrow and scale.
 - (ii) Boundaries, dimensions and size of subject parcel(s).
 - (iii) Bodies of water, watercourses, and significant landforms.
 - (iv) Existing roads and structures.
 - (v) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.
- (E) An exception to the scale requirements in subsection (3)(d)(D) above may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1 inch = 200 feet or a scale providing greater detail shall be provided that shows a Section of the response area exemplifying the specific actions taken.
- (e) Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum the following:
 - (A) Notice of the application to landowners within 200 feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, four tribal governments and interested parties.
 - (B) A written decision with findings of fact and conclusions of law.
 - (C) An opportunity to request a hearing.
- (4) Post-Emergency/Disaster Response Development Review

Actions taken in all land use designations within the GMA/SMA that are in response to an emergency/disaster event, as defined, shall be reviewed for compliance with the following guidelines.

- (a) Scenic Resources
 - (A) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. ~~In the GMA, Such~~ actions shall be rendered visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable, except for actions

located in areas exempted from visual subordination requirements in Section 520(3)(h). In the SMA, such actions shall meet the scenic standards to the greatest extent practicable

- (B) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
- (C) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension up to one year.
- (D) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as seen from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.
- (E) Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable.
- (F) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:
 - (i) The spoil materials shall either be:
 - (I) Removed from the NSA,
 - (II) Deposited at a site within the NSA permitted by an agency administering a Scenic Area land use ordinance, or
 - (III) (Re)contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

- (ii) The Planning Director shall decide whether an applicant removes the spoil materials [Section 158 (4)(a)(F)(i)(I)], deposits the spoil materials [subsection (4)(a)(F)(i)(II)], or (re)contours the spoils materials [subsection (4)(a)(F)(i)(III)]. The applicant does not make this decision.
 - (iii) The Planning Director shall select the action in Section 158(4)(a)(F)(i) that, to the greatest extent practicable, best complies with the policies and guidelines in the Management Plan that protect scenic, cultural, recreation, and natural resources.
 - (iv) Disposal sites created according to Section 158(4)(a)(F)(i) ~~(II)~~ **(III)** shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.
- (G) In the Special Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:
- (i) The spoil materials shall either be:
 - (I) Removed from the NSA, or
 - (II) Deposited at a site within the NSA permitted by an agency administering a Scenic Area land use ordinance within two years of the emergency.
 - (ii) After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.
 - (iii) All grading (i.e., recontouring) shall be completed within 30 days after the spoils materials are removed.
 - (iv) Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.
 - (v) All revegetation shall take place within one (1) year of the date an applicant completes the grading.
 - (vi) This provision shall take effect August 3, 2006.

(b) Cultural Resources and Treaty Rights

- (A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect tribal treaty rights.
- (B) The USDA Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the Planning Director.
- (i) Reconnaissance surveys shall be conducted by the USDA Forest Service and comply with the standards in Section 540(1)(D). Reconnaissance survey reports shall comply with the standards in Section 540(1)(G).
- (ii) Historic surveys shall be conducted by the USDA Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.
- (C) Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the tribal governments shall be notified by the Planning Director when (1) a reconnaissance survey is required or (2) cultural resources exist in the project area. Notices shall include a site plan. Tribal governments shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them.
- (D) When written comments are submitted in compliance with Section 158(4)(b)(C) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the Planning Director following the consultation meeting. Consultation meetings and reports shall comply with the standards in Section 540(2)(a), and 150(3)(b) (A) and (B).
- (E) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional

conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that generally follows the standards in Section 540(1)(c)(G) and Section 540(3)(a).

- (F) A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines in Section 540(5).
- (G) The Planning Director shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and tribal governments shall have 15 calendar days from the date a survey report is mailed to submit written comments to the Planning Director. The Planning Director shall record and address all written comments in the final decision.
- (H) The Planning Director shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a tribal government regarding treaty rights, the Planning Director shall justify how the opposing conclusion was reached.
- (I) The cultural resource protection process may conclude when it has been determined that tribal treaty rights have not been not affected and one of the following conditions exists:
 - (i) The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.
 - (ii) The emergency/disaster response action avoided cultural resources that exist in the project area.
 - (iii) Adequate mitigation measures to affected cultural resources have been developed and will be implemented.
 - (iv) A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

- (I) The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or
- (II) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* [U.S. Department of the Interior 1990] and *The Secretary of the Interior's Standards for Historic Preservation Projects* [U.S. Department of the Interior 1983].

(c) Natural Resources

- (A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.
- (B) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be the same as those established in Section 560 through 600.
- (C) Wetlands, Streams, Ponds, Lakes, Riparian Areas
 - (i) Emergency/disaster response actions occurring within a buffer zone of wetlands, streams, pond, lakes or riparian areas shall be reviewed by the Oregon Department of Fish and Wildlife. These areas are also referred to in this Section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their bigger zones. State biologists shall respond within 15 days of the date the application is mailed.
 - (ii) When emergency/disaster response activities occur within wetlands, streams, ponds, lakes, riparian areas, or the buffer zones of these areas, the applicant shall demonstrate the following:
 - (I) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of

wetlands, streams, ponds, lakes or riparian areas.

- (II) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.
- (iii) Impacts to wetlands, streams, ponds, lakes and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.
- (iv) If the Planning Director, in consultation with the state wildlife agency, determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the final order and the aquatic area protection process may conclude.
- (v) Unless addressed through subsection (4)(c)(C)(iv) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the standards in Section 570(8)(a) and (b). Rehabilitation plans shall also satisfy the following:
 - (I) Plans shall include a plan view and cross-Sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
 - (II) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.
 - (III) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

(D) Wildlife Habitat

- (i) Emergency/disaster response actions occurring within 1,000 feet of a

sensitive wildlife area or site, shall be reviewed by the Oregon Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a sensitive wildlife area or site.

- (ii) Site plans for emergency/disaster response sites shall be submitted by the Planning Director to the Oregon Department of Fish and Wildlife for review as prescribed in Section 580(5)(a) and (b). The wildlife agency shall respond within 15 days of the date the application is mailed.
- (iii) The wildlife protection process may terminate if the Planning Director, in consultation with the state wildlife agency, determines (1) the sensitive wildlife area or site was not active, or (2) the emergency/disaster response did not compromise the integrity of the wildlife area or site or occurred at a time when wildlife species are not sensitive to disturbance.
- (iv) If the Planning Director, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had minor effects on the wildlife area or site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the final decision and the wildlife protection process may conclude.
- (v) If the Planning Director, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had adverse effect on a sensitive wildlife area or site, the project applicant shall prepare a Wildlife Management Plan. Wildlife Management Plans shall comply with standards in Section 580(6). Upon completion of the Wildlife Management Plan, the Planning Director shall:
 - (I) Submit a copy of the Wildlife Management Plan to the state wildlife agency for review. The state wildlife agency will have 15 days from the date that a plan is mailed to submit written comments to the Planning Director;
 - (II) Record any written comments submitted by the state wildlife agency in its development review order. Based on these

comments, the Planning Director shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Planning Director shall justify how the opposing conclusion was reached.

(III) Require the project applicant to revise the Wildlife Management Plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(E) Deer and Elk Winter Range

(i) Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with the standards in Section 580(7).

(F) Rare Plants

(i) Emergency/disaster response actions occurring within 1,000 feet of a sensitive plant, shall be reviewed by the Oregon Natural Heritage Program. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.

(ii) Site plans for emergency/disaster response sites shall be submitted to the Oregon Natural Heritage Program by the Planning Director. State natural heritage staff will, within 15 days from the date the application is mailed, identify the location of the affected plants and delineate a 200 foot buffer zone on the applicant's site plan.

(iii) The rare plant protection process may conclude if the Planning Director, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.

(iv) If the Planning Director, in consultation with the state natural heritage program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning

Director shall incorporate them into the final decision order and the rare plant protection process may conclude.

- (v) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse effects on rare plants or their buffer zone, the project applicant shall prepare a protection and rehabilitation plan that meets the standards in Section 590(6).
- (vi) The Planning Director shall submit a copy of all protection and rehabilitation plans to the state heritage program for review. The state natural heritage program will have 15 days from the date the protection and rehabilitation plan is mailed to submit written comments to the Planning Director.

The Planning Director shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, the Planning Director shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the state natural heritage program, the Planning Director shall justify how the opposing conclusion was reached.

- (vii) The Planning Director shall require the project applicant to revise the protection and rehabilitation plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.

(d) Recreational Resources

- (A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.
- (B) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

(5) Post-Emergency Construction

- (a) The following review use is allowed in all land use designations in accordance with Sections 080 through 140, Sections 050 through 70, Sections 150 through 165 (as applicable), and Sections 520 through 620:
 - (A) Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes replacement of temporary

structures erected during such events with permanent structures performing an identical or related function. Land use applications shall be submitted within 12 months following an emergency/disaster event.

160. Signs

- (1) Signs may be allowed in all land use designations in the General Management Area pursuant to the following provisions:
 - (a) Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited:
 - (A) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.
 - (B) New billboards.
 - (C) Signs with moving elements.
 - (D) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.
 - (b) Any sign which does not conform with a provision of Section 160 and has existed prior to adoption of the Management Plan, shall be considered non-conforming and subject to the following:
 - (A) Alteration of existing non-conforming signs shall comply with Section 160.
 - (B) Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.
 - (c) Signs allowed outright as listed in Section 070(1)(a)(L).
 - (d) All signs shall meet the following guidelines unless they conflict with the *Manual for Uniform Traffic Control Devices* for public safety, traffic control or highway construction signs. In such cases, the standards in the *Manual for Uniform Traffic Control Devices* shall supersede these guidelines.
 - (A) The support structure shall be unobtrusive and have low visual impact.
 - (B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.

- (C) Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.
 - (D) Spot lighting of signs may be allowed where needed for night visibility. Back-lighting is not permitted for signs.
 - (e) Business identification or facility entry signs located on the premises may be allowed, subject to Section 160(1)(d).
 - (f) Other signs not addressed or expressly prohibited by this rule may be permitted without review.
- (2) Signs in the Special Management Area shall be allowed pursuant to the following provisions:
- (a) Prohibited Signs
 - (A) Advertising billboards.
 - (B) Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.
 - (C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.
 - (b) Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.
 - (c) New signs shall be allowed as specified in the applicable land use designation.
 - (d) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.
 - (e) All new signs, except for signs allowed without review by Section 070, shall meet the following guidelines, and be consistent with the *Manual for Uniform Traffic Control Devices*:
 - (A) Signs shall be maintained in a neat, clean and attractive condition.
 - (B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

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- (C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.
 - (D) Signs shall be unobtrusive and have low contrast with the setting.
 - (E) The visual impact of the support structure shall be minimized.
 - (F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.
 - (G) Backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.
 - (H) Sign internal illumination or back-lighting shall not be permitted except for highway construction, warning or safety.
- (f) Public signs shall meet the following guidelines in addition to subsections (b) through (e) above:
- (A) The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs, except those transportation regulatory, guide, and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.
 - (B) Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.
 - (C) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.
- (g) Signs for public recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to subsections 160(2)(a) through (e) (d) and 160(2)(g):
- (A) Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.
 - (B) Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.

- (C) Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.
- (D) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.
- (E) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.
- (h) Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

162. Special Uses in Historic Buildings

(1) Special uses in historic buildings may be allowed as follows and subject to "Additional Resource Protection Guidelines for Special Uses in Historic Buildings" (350-81-114(2))

- (a) Properties in all GMA land use designations except Open Space and Agriculture Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines (Section 162(2)(a)(B)(i) and (ii) and Section 162(2)(a)(C) through (E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (Section 162(2)(b) through (d)). Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.
- (b) Properties in all GMA land use designations except Open Space and Agriculture Special with buildings included on the National Register of Historic Places, and which were former restaurants and/or inns shall be permitted to re-establish their former uses, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines (Section 162(2)(a)(B)(i) and (ii) and Section 162(2)(a)(C) through (E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (Section 162(2)(b) through (d)). The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.
- (c) Properties in all GMA land use designations except Open Space and Agriculture Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines Section 162(2)(a)(B) through (E); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (Section 162(2)(b) through (d)).
- (d) The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture Special on a property with a building either on or eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006, subject to compliance with the

applicable guidelines to protect scenic, cultural, natural and recreation resources and "Additional Resource Protection Guidelines for Special Uses in Historic Buildings"

- (A) Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use
- (B) Overnight accommodations: The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006
- (C) Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property
- (D) Wineries upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006
- (E) Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006
- (F) Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006
- (G) Artist studios and galleries within a historic building, as the building existed as of January 1, 2006
- (H) Gift shops within a historic building, as the building existed as of January 1, 2006 that are
 - (1) incidental and subordinate to another approved use included in Section 162(1)(d); and
 - (2) no larger than 100 square feet in area
- (I) Interpretive displays, picnic areas or other recreational day use activities on the subject property
- (J) Parking areas on the subject property to support any of the above uses
- (e) For the purposes of the guidelines in this section, the term "historic buildings" refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Cultural Resources Guideline Section 162(2)(a)(A) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings."

(f) Uses listed in Section 162(1)(c) and (1)(d)(C) are not subject to the "Commercial Events" provisions in 152(I). Commercial events at historic properties will be regulated by the guidelines contained in this section. Applications for commercial events shall include all information in the "Operational Plan for Commercial Events" as specified in Section 162(2)(B)(iv) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings". The following apply to commercial events at historic properties

(A) Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel

(B) The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event

(g) Uses listed in Section 162(1)(a) and (1)(d)(I) are not subject to the parking limits and associated "Facility Design Guidelines" in the Recreation Intensity Classes

(h) Land use approvals for special uses in historic buildings shall be subject to review by the local government every five years from the date the original approval was issued. As part of this review, the applicant shall submit documentation to the local government on the progress made in implementing the "Protection and Enhancement Plan" required in Cultural Resources (Section 162(2)(a)) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings". The local government shall submit a copy of the applicant's documentation to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion. The local government shall revoke the land use approval if the owner has failed to implement the actions described in the "Protection and Enhancement Plan" according to the schedule for completing such actions in this plan. The local government may, however, allow such a use to continue for up to one additional year from the date a local government determines the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule, what progress the applicants have made towards completing such actions, and a proposed revised schedule for completing such actions

(2) Additional Resource Protection Guidelines for Special Uses in Historic Buildings

The following guidelines apply to proposed uses listed under "Special Uses for Historic Buildings" in addition to all other relevant guidelines for protection of scenic, cultural, natural and recreation resources

(a) Cultural Resources

(A) All applications for uses listed in Section 162(1)(d), shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in "Historic Surveys and Reports" (Section 540(1)(c)(H)). The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation" [National Park Service, National Register Bulletin #15]

Eligibility determinations shall be made by the local government, based on input from the state historic preservation Agency (SHPA). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPA. The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion.

(B) Applications for Special Uses for Historic Buildings shall include a "Protection and Enhancement Plan" which shall include the following:

- (i) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific action that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completion of such actions.
- (ii) A statement addressing consistency of the proposed use with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties.
- (iii) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.
- (iv) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address
 - (I) Number of events to be held annually.

- (II) Maximum size of events, including number of guests and vehicles at proposed parking area
- (III) Provision for temporary structures, including location and type of structures anticipated
- (IV) How the proposed commercial events will contribute to protection and enhancement of the historic resource

(C) The local government shall submit a copy of the "Protection and Enhancement Plan" to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPA comments shall address consistency of the proposed use with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties, and the effect of the proposed use on the historic resource.

(D) Any alterations to the building or surrounding area associated with the proposed use have been determined by the local government to be consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(E) The proposed use has been determined by the local government to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(b) Scenic Resources

(A) New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials shall be prohibited.

(B) New parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordination. New screening vegetation may be used if existing topography and vegetation are insufficient to help make the parking area visually subordinate from Key Viewing Areas, if such vegetation would not adversely affect the historic character of the building's setting.

(C) Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days after the event if the local

government determines that they will be visually subordinate from Key Viewing Areas.

(c) Recreation Resources

(A) The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

(d) Agricultural and Forest Land

(A) The proposed use is compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.

(B) The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.

(C) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland.

(D) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland that are within 500 feet of the perimeter of the subject property on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision on an application for a Special Use for a Historic Building.

165. Land Divisions and Lot Line Adjustments

(A) Consolidation of Lots

- (1) A unit of land shall be consolidated with adjacent lands in the same ownership if the subdivision within which the unit of land is located is undeveloped pursuant to ORS Chapter 92.
- (2) No portion of a consolidated plat shall be considered a separate parcel solely because an existing parcel overlays, and possibly fragments, that consolidated subdivision.
- (3) Section 1 shall not be applied to consolidate two or more units of land where each unit of land is developed with a dwelling that qualifies as an existing use. One or more undeveloped units of land shall be consolidated with one or more developed units of land.
- (4) To carry out this Section, counties shall develop their own procedures for consolidating units of land pursuant to this provision, including amending plats, vacating plats, replatting, or other similar legal action.

(B) Land Divisions and Cluster Development

- (1) New land divisions in the SMA are not allowed, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan.
- (2) Unless otherwise specified, creation of a parcel, regardless of size, or any division of land shall be subject to the guidelines in Article 75.
- (3) At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.
- (4) Where authorized in Section 170 through Section 505, a land division in the GMA may create parcels smaller than the designated minimum size and may include a bonus, as specified under Section 165(6) below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the local government must find that clustering new dwellings will provide a siting opportunity not available through conventional parcel-by-parcel development. These opportunities include siting the new dwellings to:
 - (a) Be located in areas with screening vegetation or other features that reduce visibility of development as seen from key viewing areas.

- (b) Avoid significant landscape features.
 - (c) Protect the existing character of the landscape setting.
 - (d) Reduce interference with movement of deer or elk in winter range.
 - (e) Avoid areas of known cultural resources.
 - (f) Consolidate road access, septic drainfields, or other development features to reduce impacts associated with grading or ground disturbance.
 - (g) Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites, or other natural resources.
 - (h) Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.
- (5) In the GMA, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. The local government shall ensure permanent protection for open areas created by cluster development. No parcel in a cluster development may be smaller than 1 acre in a 5-acre Residential or 10-acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.
- (6) In the GMA, cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one additional parcel.
- (7) In the GMA, at least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.
- (8) In the GMA, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

(C) Lot Line Adjustments

- (1) The following guidelines shall apply to lot line adjustments in the GMA.
- (a) Lot line adjustments for parcels in all land use designations except Open Space or Public Recreation shall comply with the following standards:
 - (A) The lot line adjustment shall not result in the creation of any new parcel(s).

- (B) The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the ~~maximum minimum~~ density allowed by the land use designation(s) for the affected parcels.
- (C) The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment, except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.
- (D) The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:
 - (i) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become eligible for a subsequent land division and (2) the amount of land transferred would be the minimum necessary to resolve the issue.
 - (ii) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.
- (E) The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale Agriculture, Commercial Forest Land, Large Woodland or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel designated Rural Center or Residential).
- (F) The lot line adjustment shall not allow previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

- (G) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.
- (b) Lot line adjustments for parcels designated Open Space shall comply with the following standards:
 - (A) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. (Note: There is no specified minimum parcel size for parcels designated Open Space.)
 - (B) The lot line adjustment shall comply with subsections (1)(a)(A), (E), (F), and (G), above.
- (c) Lot line adjustments for parcels designated Public Recreation shall comply with the following standards:
 - (A) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel. (Note: There are no specified minimum parcel sizes for parcels designated Public Recreation.)
 - (B) The lot line adjustment shall comply with Subsections (1)(a)(A), (E), (F), and (G), above.
- (2) The following guidelines shall apply to lot line adjustments in the SMA.
 - (a) The proposed lot line adjustment shall not result in the creation of any new parcel(s).
 - (b) A lot line adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.
 - (c) A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.
 - (d) A parcel that is smaller than 40 acres shall not be reduced in size, except to accomplish one of the following purposes:
 - (A) Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become 40 acres or greater and (2) the amount of land transferred would be the minimum necessary to resolve the issue.

- (B) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.
- (e) The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.
- (f) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

170. Agricultural Zones (AG-1) (AG-2) (AG)

Sections 170 through 225 apply to lands within the GMA zoned Large-Scale (AG-1) and Small Scale Agriculture (AG-2) and lands within the SMA zoned Agriculture (AG). The above zoning districts implement the following land use designations: Large-Scale Agriculture; Small-Scale Agriculture and Agriculture.

180. Uses Allowed Outright and Expedited Review Uses – Agricultural Land

- (A) The uses listed in "Uses Allowed Outright, All Land Use Designations Except Open Space" (Section 070) are allowed without review on lands designated Large-Scale Agriculture, Small-Scale Agriculture, or SMA Agriculture.
- (B) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Large-Scale Agriculture, Small-Scale Agriculture, or SMA Agriculture.

190. Review Uses

- (1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with the scenic, cultural, natural, and recreation resource guidelines (Sections 520 through 620):
 - (a) New cultivation, subject to compliance with Sections 540 through 590. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.
 - (b) Agricultural structures, except buildings, in conjunction with agricultural use.
 - (c) 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 the standards in "Agricultural Buildings" (Section 152(A)).
 - (d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.
 - (e) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit

refers to all detached accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

- (B) The height of any individual accessory building shall not exceed 24 feet.
- (f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:
- (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all detached accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The footprint of any individual accessory building shall not exceed 1,500 square feet.
 - (C) The height of any individual accessory building shall not exceed 24 feet.
- (g) The temporary use of a mobile home in the case of a family hardship, subject to Section 152(B).
- (h) On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:
- (A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.
 - (B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy subsection (h)(C)(i) below; and
 - (C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

- (i)¹ The subject tract produced at least \$80,000 [or \$60,000 if not on High Value Farmland as defined by Section 7.05(D)(1) and (2) of the County Zoning Ordinance] in gross annual income from the sale of farm products in the last two years, or three of the last five years. (The cost of purchased livestock shall be deducted when determining the gross annual income);
 - (ii)¹ The dwelling will be occupied by a person who produced the commodities, which grossed the income in subsection 190(1)(h)(C)(i) above.
- (i) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).
 - (j) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.
 - (k) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:
 - (A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister;
 - (B) The dwelling would be located on the same parcel as the dwelling of the principal operator; and
 - (C) The operation is a commercial enterprise as determined by Section 190(1)(h)(C).
 - (l) Construction, reconstruction or modifications of roads not in conjunction with agriculture.
 - (m) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152(H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(i) & (ii) Adopted June 21, 2004 - HRC Ordinance #257

- (n) Structures associated with hunting and fishing operations.
- (o) Towers and fire stations for forest fire protection.
- (p) Agricultural labor housing upon a showing that:
 - (A) The proposed housing is necessary and accessory to a current agricultural use;
 - (B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months; and
 - (C) The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.
- (q) On lands designated Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:
 - (A) The dwelling will not force a change in or increase the cost of accepted agricultural practices or forest practices on surrounding lands;
 - (B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;
 - (C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Section 150(1), or any abutting parcel designated Commercial Forest Land or Large or Small Woodland, as required in Section 310;
 - (D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland; and
 - (E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

- (r) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in Section 165 (B). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, this provision will apply to parcels 80 acres or larger.
- (s) Life estates, pursuant to Section 210.
- (t) Land divisions when all resulting parcels satisfy the minimum lot sizes as designated on the land use designation and zoning maps and listed in Section 225, below and subject to Section 165 and Article 18, County Subdivision Ordinance.
- (u) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Section 165(C)).
- (v) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (w) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152 (D)).
- (x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (y) Commercial events, subject to the guidelines in "Commercial Events" (Section 152 (J)).
- (z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162)**

- (2) The following uses may be allowed on lands designated SMA-Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Sections 520 through 620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:
 - (a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of Section 270(2)(y).
 - (b) Forest uses and practices as allowed in Section 270(2)(z).
 - (c) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (C)(iv), below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

(A)(B)(C) = I where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(d) Farm labor housing on a parcel with an existing dwelling, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Section 190(2)(c)(C).

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.

- (C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.
- (e) Agricultural structures, except buildings, in conjunction with agricultural use.
- (f) 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 the standards in "Agricultural Buildings" (Section 152(A)).
- (g) 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 2(h) or 2(i), below.
- (h) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The height of any individual accessory building shall not exceed 24 feet.
- (i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The footprint of any individual accessory building shall not exceed 1,500 square feet.
 - (C) The height of any individual accessory building shall not exceed 24 feet.
- (j) Home occupations and cottage industries pursuant to Section 152(E). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

- (k) Bed and breakfast inns subject to Section 152(F). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.
- (l) Fruit stands and produce stands upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.
- (m) Aquaculture.
- (n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the Special Management Area.
- (o) Utility facilities necessary for public service upon a showing that:
 - (A) There is no alternative location with less adverse effect on Agriculture lands.
 - (B) The size is the minimum necessary to provide the service.
- (p) Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.
- (q) Community facilities and non-profit facilities related to agricultural resource management.
- (r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (s) Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.
- (t) Public Recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 620.
- (u) Road and railroad construction and reconstruction.
- (v) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

- (w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Section 152 (B)).
- (x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (152 (D)).
- (z) ~~Removal/Ed~~ Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Section 152 (I)).

200. Review Uses with Additional Approval Criteria -- Large-Scale or Small-Scale Agriculture Designations.

- (1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Sections 520 through 620) and Section 220.
 - (a) Utility facilities and railroads necessary for public service upon a showing that:
 - (A) There is no practicable alternative location with less adverse effect on agricultural or forest lands, and
 - (B) The size is the minimum necessary to provide the service.
 - (b) Home occupations or cottage industries in existing residential or accessory structures, subject to Section 152(B).
 - (c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.
 - (d) Wineries, in conjunction with on-site viticulture, upon a showing that sales of wine are from agricultural products grown or processed on the subject farm or in the local region.

- (e) Wine sales/tasting rooms, in conjunction with an on-site winery.
- (f) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- (g) Exploration, development and production of mineral and geothermal resources subject to Section 520.
- (h) Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.
- (i) Aquaculture.
- (j) Recreation development, subject to Section 610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).
- (k) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings
- (l) Temporary portable asphalt/patch plants related to public road projects, not to exceed six months.
- (m) Bed and breakfast inns in single-family dwellings, subject to Section 152(F) and provided that the residence:
 - (A) Is included in the National Register of Historic Places; or
 - (B) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon State land use regulations protecting historic structures.
- (n) Non-profit, environmental learning or research facilities.
- (o) Expansion of existing schools or places of worship.
- (p) On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Section 152 (G)).

- (q) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Section 152 (1)).

210. Approval Criteria for Life Estates -- Large-Scale or Small-Scale Agriculture Designations

A landowner who sells or otherwise transfers real property on lands designated Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Section 040. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines in Sections 520 through 620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

- (1) The proposed dwelling is in conjunction with agricultural use, using guidelines in Section 190(1)(h).
- (2) Upon termination of the life estate, the original or second dwelling shall be removed.

220. Approval Criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture

Uses identified in Section 200(1) may be allowed only if they meet both of the following criteria:

- (1) 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; and
- (2) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

225. Dimensional Requirements

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownerships must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:

- (a) GMA:
 - (A) Large-Scale Agriculture (AG-1) 40 acre.
 - (B) Small-Scale Agriculture (AG-2) 20 acre.
- (b) SMA: Agriculture (AG) 40 acres for new residences. However, new land divisions are not allowed in the SMA, unless the creation of a new parcel will facilitate land acquisition by the Federal government to achieve the policies and guidelines of the Management Plan. (Compliance with Section 165.)
- (3) In the General Management Area, compliance with the Agricultural Buffer requirement listed under Section 150 (1) (a) through (f).
- (4) Height maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements (See Sections 520 (3) (c)) or SMA KVA guidelines 530 (2)(i). See Section 190(1)(e) and (f) and 190(2)(h)and (i) for accessory building height limits.
- (5) Setback minimums:
 - (a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line whichever is greater. 60 feet from the centerline of any arterial street, or 20 feet from the right-of-way line, whichever is greater.
 - (b) Rear: 20 feet.
 - (c) Side: Interior lot: 10 feet. Exterior lot or corner lot: 50 feet from the centerline of any street.
 - (d) Accessory farm buildings may be located within 10 feet of the rear property lines.
 - (e) Setbacks from streams: Compliance with provisions in Sections 560, 570 and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).
 - (f) Off-street parking for residential uses shall be provided.
 - (g) Lot width and depth: None required.
 - (h) Vision clearance: Vision clearance shall be 35 feet.
 - (i) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

250. Forest Zones (F-1) (F-2) (F-3) (F)

Sections 250 through 325 apply to lands within the GMA planned and zoned Commercial Forest Land (F-1), Large Woodland (F-2) and Small Woodland (F-3) and lands within the SMA zoned Forest (F). The above zoning districts implement the following land use designations: Commercial Forest Land, Large Woodland, Small Woodland and Forest.

260. Uses Allowed Outright and Expedited Review Uses -- Forest Land

- (A) The uses listed in Section 070 are allowed without review on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.
- (B) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.

270. Review Uses

- (1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620):
 - (a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:
 - (A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.
 - (B) The subject parcel has been enrolled in Oregon's forest assessment program.
 - (C) A plan for management of the parcel has been approved by the Oregon Department of Forestry and the Director. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.
 - (D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

- (E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (Section 310) and "Approval Criteria for Fire Protection in Forest Zones" (Section 300).
- (F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.
- (b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in Oregon's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with Sections 300 and 310. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.
- (c) One single-family dwelling if shown to be in conjunction with and substantially contributing to the current agricultural use of a farm pursuant to Section 190(1)(h). The siting of the dwelling shall comply with Section 300.
- (d) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which it was approved has concluded.
- (e) Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.
- (f) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (152 (H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (g) Structures associated with hunting and fishing operations
- (h) Towers and fire stations for forest fire protection.

- (i) Agricultural structures, except buildings, in conjunction with agricultural use, subject to the "Approval Criteria for Fire Protection" (Section 300).
- (j) 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 the "Approval Criteria for Fire Protection" (Section 300) and the standards in "Agricultural Buildings" [Section 152(A)].
- (k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(l) or (1)(m) below.
- (l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (Section 310) and "Approval Criteria for Fire Protection" (Section 300) and the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The height of any individual accessory building shall not exceed 24 feet.
- (m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (Section 310) and "Approval Criteria for Fire Protection" (Section 300) and the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The footprint of any individual accessory building shall not exceed 1,500 square feet.
 - (C) The height of any individual accessory building shall not exceed 24 feet.
- (n) The temporary use of a mobile home in the case of a family hardship, subject to Sections 152(B), 300 and 310.

- (o) A second single-family dwelling for a farm operator's relative, subject to Sections 190(1)(k), 300 and 310.
- (p) Private roads serving a residence, subject to Sections 300 and 310.
- (q) Recreation development, subject to Section 610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).
- (r) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.
- (s) Agricultural labor housing upon a showing that:
 - (A) The proposed housing is necessary and accessory to a current agricultural use.
 - (B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine months.
 - (C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.
- (t) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or the subject forestland from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to Sections 300 and 310.
- (u) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development". If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.
- (v) New cultivation, subject to compliance with Sections 540, and 560 through 590. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.
- (w) Life Estates on lands designated Large or Small Woodland, pursuant to Section 320.

- (x) Land divisions in Small Woodland, Commercial Forest Land and Large Woodland zones, subject to the minimum lot sizes in Section 325(2), Section 165 and Article 18, County Subdivision Ordinance.
- (y) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Section 165).
- (z) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (aa) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152(D)).
- (bb) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (cc) Commercial events on lands designated Large Woodland or Small Woodland, subject to the guidelines in "Commercial Events" (Section 152(J)).

~~(dd) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162)~~

- (2) The following uses may be allowed on lands designated SMA-Forest subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620). The use or development will be sited to minimize the loss of land suitable for the production of forest products:
 - (a) Any use listed in Section 190(2).
 - (b) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of subsection (2)(y), below.
 - (c) Forest practices in accordance with a site plan for forest practices approved by the Oregon Department of Forestry, or other designated forest practices review agency including the following:
 - (A) The following information, in addition to the site plan requirements of Section 080, shall be included on the site plan:
 - (i) Boundary of proposed commercial forest practice.
 - (ii) Location of proposed rock or aggregate sources.

- (iii) Timber types.
 - (iv) Harvest units.
 - (v) Silvicultural prescriptions.
 - (vi) Road and structure construction and/or reconstruction design.
 - (vii) Major skid trails, landings, and yarding corridors.
 - (viii) Commercial firewood cutting areas.
 - (ix) Existing and proposed rock pit development plans.
 - (x) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.
- (B) A discussion of slash disposal methods.
- (C) A reforestation plan as reviewed by the Oregon Department of Forestry.
- (d) Railroad and road construction or reconstruction.
- (e) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the Special Management Area.
- (f) Silvicultural nurseries.
- (g) Utility facilities for public service upon a finding that:
- (A) There is no alternative location with less adverse effect on Forest Land, and
 - (B) The size is the minimum necessary to provide the service.
- (h) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (i) Fish hatcheries and aquaculture facilities.
- (j) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 620.

- (k) One single family dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling is necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following:
 - (A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forestlands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.
 - (B) The subject parcel has been enrolled in the state's forest assessment program.
 - (C) A plan for management of the parcel has been approved by the Oregon Department of Forestry, and the Director. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.
 - (D) There are no other dwellings on the parcel that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.
 - (E) The dwelling complies with all applicable building code and fire protection guidelines.
 - (F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.
- (l) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(m) or (2)(n), below.
- (m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

- (B) The height of any individual accessory building shall not exceed 24 feet.
- (n) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The footprint of any individual accessory building shall not exceed 1,500 square feet.
 - (C) The height of any individual accessory building shall not exceed 24 feet.
- (o) Home occupations and cottage industries pursuant to Section 152(E).
- (p) Temporary portable facility for the processing of forest products.
- (q) Towers and fire stations for forest fire protection.
- (r) Community facilities and nonprofit facilities related to forest resource management.
- (s) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.
- (t) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Section 152 (B)).
- (u) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (v) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152 (D)).
- (w) ~~Removal/D~~emolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (x) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject

to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Section 152(I)).

- (y) Clearing trees for new agricultural use with the following steps and subject to the following additional guidelines:
 - (A) A Stewardship Plan shall be submitted and deemed complete by the Planning Director and submitted to the Forest Service for Section 270(2)(z)(C).
 - (B) Clearing trees for new agricultural use shall be limited to 15 acres.
 - (C) If the Stewardship Plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of Section 270(2)(y)(D)(i-iv) below and subject to guideline Section 270(2)(y)(I).
 - (D) After a 30-day public comment period, the Forest Service shall review the Stewardship Plan using the following criteria:
 - (i) Scenic Resource guidelines in Section 270(2)(z)(D)(i) and (vii).
 - (ii) Applicable guidelines of Sections 550, 600 and 620.
 - (iii) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.
 - (iv) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.
 - (E) The Forest Service shall send the review statement to the Planning Director. The Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the Planning Director.
 - (F) The Planning Director will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.
 - (G) The forest practice portion of the new agricultural use shall not be approved by the state forestry department or Planning Director until a decision on the new agricultural use is issued by the Planning Director.

- (H) The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.
- (I) New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially. After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.
- (z) Forest practices in accordance with an approved forest practices application (see Section 080) and subject to the additional guidelines in Section 270.
 - (A) The following information, in addition to general site plan requirements (Section 080) shall be required:
 - (i) Delineate the following on a recent aerial photo or detailed map:
 - (I) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be used, code each on the photo.
 - (II) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.
 - (III) Road and structure construction and/or reconstruction location.
 - (IV) Location of proposed rock or aggregate sources.
 - (V) Major skid trails, landings, and yarding corridors.
 - (VI) Commercial firewood cutting areas.
 - (VII) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.
 - (ii) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.
 - (iii) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in Section 270(2)(z)(D) and Section 270(2)(z)(E).

- (iv) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.
 - (v) Road and structure construction and/or reconstruction design.
 - (vi) Existing and proposed rock pit development plans.
 - (vii) A discussion of slash disposal methods.
 - (viii) A reforestation plan as reviewed by the appropriate state forest practices agency.
- (B) As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.
- (C) Stewardship Plan Requirements: The following information, in addition to the applicable portions of the forest practice application requirements above and general site plan requirements (Section 080) shall be provided:
- (i) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.
 - (ii) Describe the time frame and steps planned to reach the long term goals.
 - (iii) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and/or forest health. The following shall be addressed:
 - (I) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.
 - (II) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.
 - (III) Give a clear explanation how a deviation from the applicable guidelines may better achieve forest health objectives

- (IV) Give a clear explanation how and why the proposed activities will lead the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.
- (iv) For clearing trees for new agricultural use, the following shall be addressed in addition to Section 270(2)(z)(C)(i) and (ii) above:
 - (I) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.
 - (II) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in Section 270(2)(y)(D)(i-iv).
 - (III) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.
 - (IV) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.
- (D) For forest practices, the following scenic resource guidelines shall apply:
 - (i) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone (See Required SMA Scenic Standards table in Section 530(2)(c).
 - (ii) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will assist (as available) in calculating and delineating the percentage of the composite KVA viewshed that is in created forest openings at one time.
 - (iii) In the western portion (to White Salmon River) of the SMA Gorge Walls, Canyonlands and Wildlands Landscape Setting, no more than 4% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will assist (as available)

in calculating and delineating the percentage of the composite KVA viewshed that is in created forest openings at one time.

- (iv) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in Natural Resources guidelines in Section 270(2)(z)(E)(i) through (iii).
 - (v) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in Natural Resources guidelines in Section 270(2)(z)(E)(i) through (iii).
 - (vi) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table.
 - (I) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.
 - (II) If the Stewardship Plan proves that the above guideline is detrimental to either forest health or ecosystem function, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.
 - (vii) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from a key viewing area.
- (E) Forest practices shall maintain the following in addition to applicable natural resources guidelines in Section 600.
- (i) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.
 - (ii) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in Section 270(2)(z)(D)(vi).

- (iii) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.
- (iv) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

DESIRED FOREST STRUCTURE AND PATTERN

1	2	3	4	5	6	7
Vegetation Type #	Forest Structure (Average % total canopy closure (cc))	Typical Forest Opening Size Disturbance caused	Percent Openings at One Time	Leave Trees	Average Down Wood	Average Snags (Conifers)
		<u>Historic (Natural)</u> <u>Desired</u>	<u>Historic (Natural)</u> <u>Desired</u>	<u>Includes all available remnant old forest</u>	<u>Pieces 30 ft long per acre (scattered)</u>	<u>No. per acre Snags are 20-40 ft in height</u>
West Conifer	60-80% canopy closure Understory layer variable (0-60% of total cc)	<u>Historic (Natural)</u> Variable sizes with mosaic pattern, irregular shapes Mosaic fire 1-100 acres Catastrophic fire over 100 acres <u>Desired</u> Retain forested character Allow openings up to 15 acres (up to 5 acres in the foreground of KYAs) All openings 1 acre or less on National Forest land and all Open Space LUD Openings retain 15 - 40 % canopy closure	<u>Historic (Natural)</u> 10% (mosaic fire) up to 55% (catastrophic fire) Intense fire return interval is 300 yrs <u>Desired</u> Not to exceed 8% for West Coniferous Woodland Landscape Setting and not to exceed 4% for Gorge Walls, Canyonlands and Wildlands Landscape Setting Widely dispersed, variable sized mosaic of irregular shapes blending with existing openings.	Leave 15% of existing trees per acre throughout opening and in clumps. Include 3 trees per acre of the largest size trees available	18 - 25 pieces greater than 20" dbh	10 snags at 10" - 20" dbh, and 7 snags greater than 20" dbh
East Conifer (Ponderosa Pine/Douglas fir)	40-80% canopy closure Understory layer less than 25% of total cc	<u>Historic (Natural)</u> Few Openings due to low intensity fires. 1/4 to 2 acres <u>Desired</u> Openings less than 1 acre Openings have 0 - 40% canopy closure Openings widely dispersed	<u>Historic (Natural)</u> 1 - 10% <u>Desired</u> 1 - 10% (% by vegetation type)	No leave trees required	3 - 6 pieces greater than 20" dbh	5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh
Ponderosa Pine/Oregon Oak	25-60% canopy closure Understory layer greater than 25% of total cc.	<u>Historic (Natural)</u> Most natural openings due to poor soil. Disturbance openings few <u>Desired</u> Openings less than 1 acre Openings have 0 - 25% canopy closure Openings widely dispersed	<u>Historic (Natural)</u> 1 - 10% <u>Desired</u> 1 - 10% (% by vegetation type)	No leave trees required	1 - 3 pieces greater than 20" dbh	5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh Oak snags can be counted if already dead or partially dead

Map available at the Forest Service National Scenic Area Office
* Does not apply to openings.
Dbh: Diameter at Breast Height

280. Review Uses with Additional Approval Criteria – Commercial Forest Land, or Large or Small Woodland Designations

The following uses may be allowed on lands designated Commercial Forest Land, or Large or Small Woodland, subject to compliance with the appropriate scenic, cultural, natural, or recreation resources guidelines (Sections 520 through 620) and Section 290:

- (1) Utility facilities and railroads necessary for public service upon a showing that (a) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (b) the size is the minimum necessary to provide the service.
- (2) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in Section 152(E).
- (3) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.
- (4) Wineries, in conjunction with on-site viticulture, upon a showing that sales of wine are from agricultural products grown or processed on the subject farm or in the local region.
- (5) Wine sales/tasting rooms, in conjunction with an on-site winery.
- (6) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- (7) Exploration, development, and production of mineral and geothermal resources, subject to Section 520.
- (8) Aquaculture.
- (9) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.
- (10) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.
- (11) Expansion of existing nonprofit group camps, retreats, or conference centers.
- (12) Bed and breakfast inns in single-family dwellings, subject to Section 152(F) and provided that the residence:
 - (a) Is included in the National Register of Historic Places, or

(b) Is identified and protected under local landmark status as approved pursuant to Oregon State land use regulations protecting historic structures.

- (13) Nonprofit, environmental learning or research facilities.
- (14) On parcels designated Small Woodland, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Section 152 (G)).
- (15) Disposal sites managed and operated by the Oregon Department of Transportation or the county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Section 152 (I)).

290. Approval Criteria for Specified Review Uses on Lands Designated Commercial Forest Land or Large or Small Woodland

Uses identified in Section 280 may be allowed only if they meet the following criteria:

- (1) The owners of land designated Commercial Forest Land, Large or Small Woodland, or Large Scale or Small Scale Agriculture and that lies within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision;
- (2) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;
- (3) The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands; and
- (4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Section 300.

300. Approval Criteria for Fire Protection in Forest Designations

All uses in the General Management Area, as specified, shall comply with the following fire safety guidelines:

- (1) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.
- (2) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).
- (3) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.
- (4) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent without a waiver to do so. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district, the County Forester and the Oregon Department of Forestry.
- (5) Within one year of the occupancy of a dwelling, the Director shall conduct a review of the development to assure compliance with these guidelines.
- (6) Telephone and power supply systems shall be underground whenever possible.
- (7) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass, shingle or tile. Roof materials such as cedar shake and shingle should not be used.
- (8) Any chimney or stovepipe on any structure for use with a wood stove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.
- (9) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

- (10) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant.

310. Approval Criteria for Siting of Dwellings on Forest Land

The approval of new dwellings and accessory structures on forest lands within the General Management Area shall comply with the following guidelines:

- (1) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.
- (2) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing non-forest uses, adjacent dwellings, or land productivity.
- (3) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.
- (4) A variance to the siting guidelines of this rule may be granted pursuant to the provisions of Section 150(2).

320. Approval Criteria for Life Estates in Commercial Forest Land or Small or Large Woodland

A landowner who sells or otherwise transfers real property on lands designated Commercial Forest Land or Large or Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Commercial Forest Land or Large or Small Woodland may be allowed, subject to compliance with the guidelines in Sections 520 through 620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

- (1) The proposed dwelling is in conjunction with agricultural use, using guideline 190(1)(h).

- (2) On lands designated Large Woodland, the dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The proposed dwelling shall comply with guideline 270(1)(a).
- (3) On lands designated Small Woodland, the proposed dwelling complies with guideline 270(1)(b).
- (4) Upon termination of the life estate, the original or second dwelling shall be removed.

325. Dimensional Requirements

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Articles 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownership's must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:
 - (a) GMA:
 - (A) Commercial Forest Land (F-1) 80 acre.
 - (B) Large Woodland (F-2) 80 acre.
 - (C) Small Woodland (F-3) 40 acre.
 - (b) SMA: Forest (F) 40 acre for new residences. However, new land divisions are not allowed in the SMA, unless the creation of a new parcel will facilitate land acquisition by the Federal government to achieve the policies and guidelines of the Management Plan. (Compliance with Section 165)
 - (c) SMA: No new dwellings shall be permitted on parcels of less than 40 contiguous acres.
- (3) In the General Management Area, compliance, if applicable, with the Agricultural Buffer requirements listed under Section 150 (1) (a) through (f).
- (4) Height Maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements (see Sections 520 (3)) or SMA KVA guidelines 530 (2)(i). See Section 270(1)(l) and (m) and Section 270(2)(m) and (n) for accessory building height limits.
- (5) Setback minimums:

- (a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street or 20 feet from the right-of-way line, whichever is greater.
- (b) Rear: 20 feet.
- (c) Side: Interior lot: 10 feet. Exterior lot or corner lot: 50 feet from the centerline of any street.
- (d) Setbacks between buildings: 10 feet.
- (e) Accessory farm buildings may be located within 10 feet of the rear property lines.
- (f) Setbacks from streams: Compliance with provisions in Sections 560, 570 and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).
- (g) Off-street parking for residential uses shall be provided.
- (h) Lot depth: 330 feet.
- (i) Vision clearance: Vision clearance shall be 35 feet.
- (j) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

330. Open Space Zone (OS)

Sections 330 through 345 apply to those areas designated GMA-Open Space and SMA-Open Space on the Scenic Area Land Use Designation Map.

335. Uses Allowed Outright and Expedited Review Uses – Open Space

- (A) The uses listed in "Uses Allowed Outright, GMA and SMA Open Space" (Section 070) are allowed without review on lands designated Open Space.
- (B) The uses listed in "Expedited Development Review Process" (Section 156) may be allowed with review through the expedited development review process on lands designated Open Space.

340. Review Uses

- (1) The following uses may be allowed on lands designated GMA-Open Space subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620):
 - (a) Low intensity recreation, subject to Section 610 (2).
 - (b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources, subject to Section 345(2), Section 165 and Article 18, Co. Subdivision Ordinance.
 - (c) Non-emergency repair and maintenance of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities that involve new ground disturbing activities or those which differ in depth and extent from past ground disturbance.
 - (d) Improvement of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities.
 - (e) Placement of structures for public safety.
 - (f) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
 - (g) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
 - (h) Lot line adjustments, subject to compliance with the guidelines in "Lot Line Adjustments" (Section 165). The following uses may be allowed on land

designated GMA-Open Space in the Gorge Walls, Canyonlands and Wildlands Landscape Setting:

- (A) All uses listed in Section 340 (1).
 - (B) Livestock grazing.
 - (C) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.
 - (D) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.
 - (E) Harvesting of wild crops.
 - (F) Educational or scientific research.
 - (G) Continued operation of existing quarries if they are determined to be consistent with guidelines to protect scenic, cultural, natural and recreation resources (Sections 520 through 620).
- (2) The following uses may be allowed on lands designated GMA-Open Space within state parks:
- (a) All uses listed in Section 340 (1).
 - (b) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.
 - (c) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.
 - (d) Harvesting of wild crops.
 - (e) Educational or scientific research.
 - (f) Commercial trapping.
 - (g) The following uses may be allowed on lands designated Open Space on those portions of state park ownerships not suitable for major recreation facilities subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (Sections 520 through 620):
 - (A) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

- (B) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.
 - (C) Harvesting of wild crops.
 - (D) Educational or scientific research.
 - (E) All those uses allowed in "All Lands Designated Open Space," Section 340(1).
- (3) The following uses may be allowed on lands designated SMA-Open Space, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (SSection 520 through 620) and when consistent with an open space plan reviewed and approved by the U.S. Forest Service pursuant to guideline (6) below:
- (a) Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.
 - (b) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152(H)). These projects may include vegetation management and forest practices (subject to the forest practice guidelines of Section 270(2)(z) for the restoration of forest health, new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
 - (c) ~~Removal/~~Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
 - (d) Low intensity recreation uses, including educational and interpretive facilities, consistent with Section 620.
 - (e) Utility facilities for public service upon a showing that:
 - (A) There is no alternative location with less adverse effect on Open Space land.
 - (B) The size is the minimum necessary to provide the service.
- (4) In the Special Management Areas, an Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed and approved by the Forest Service. The Open Space plan shall include the following:

- (a) Direction for resource protection, enhancement, and management.
 - (b) Review of existing uses to determine compatibility with Open Space values.
 - (c) Consultation with members of the public and with agency and resource specialists.
- (5) ¹Treatment of noxious weeds shall be permitted without completion of an SMA Open Space plan when the following criteria have been met:
- (a) Noxious weed infestation is new and eradication is still viable.
 - (b) Delayed or deferred treatment could have widespread or major adverse impacts to one or more of the following resources:
 - 1. Displacement of native and traditionally gathered plants;
 - 2. Degradation of wildlife habitat and forage;
 - 3. Degradation or loss of agricultural uses of land, such as cropland or livestock forage;
 - 4. Limitation of recreation uses.
 - (c) For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.
 - (d) Noxious weed is defined as those included on the official state noxious weed list of Oregon.

345. Dimensional Requirements:

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning Ordinance and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownership's must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:
 - (a) GMA:
 - (A) No minimum parcel size for lands designated Open Space (OS).

¹ Adopted May 4, 1998 -- HRC Ordinance #220

(B) Land divisions may be allowed to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.

- (b) SMA: New land divisions are not allowed in the SMA, unless the creation of a new parcel will facilitate land acquisition by the Federal government to achieve the policies and guidelines of the Management Plan. (Compliance with Section 165)
- (3) In the General Management Area, compliance, if applicable, with the Agricultural Buffer requirements listed under Section 151 (1)(a through f).
- (4) Height maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements (see Sections 520 (3)) or SMA KVA guidelines 530 (2)(i).
- (5) Setback minimums:
 - (a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street or 20 feet from the right-of-way line, whichever is greater.
 - (b) Rear: 20 feet.
 - (c) Side: Interior lot: 10 feet. Exterior lot or corner lot: 50 feet from the centerline of any street.
 - (d) Accessory farm buildings may be located within 10 feet of the rear property lines.
 - (e) Setbacks from streams: Compliance with provisions in Sections 570 and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).
 - (f) Off-street parking for residential uses shall be provided.
 - (g) Lot width and depth: None required.
 - (h) Vision clearance: Vision clearance shall be 35 feet.

350. Rural Residential Zone (RR)

Sections 350 through 390 apply to lands within the GMA zoned Rural Residential (RR). The minimum lot sizes are shown on the NSA Land Use Designation Map and County Zoning Maps. The Rural Residential designation does not apply to lands in the SMA in Hood River County. The above zoning district implements the Residential Plan designation.

The following provisions from the Management Plan apply to the area designated Residential and zoned Rural Residential located west of the Hood River Urban area but east of Country Club Road: New development within the Rural Residential Landscape Setting shall be compatible with the Landscape Setting, but not necessarily visually subordinate.

360. Uses Allowed Outright and Expedited Review Uses – Residential Land

- (1) The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space" (Section 070) are allowed without review on lands designated Residential.
- (2) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Residential.

370. Review Uses

The following uses may be allowed on lands in the General Management Area designated Residential, subject to compliance with the scenic, cultural, natural and recreation resources guidelines (Sections 520 through 620):

- (1) One single-family dwelling per legally created parcel.
 - (A) If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland, the use shall comply with the buffer and notification requirements of Sections 150(1), 310(1), and the notification requirements of Sections 190(1)(q)(E) and 290(1); and
 - (B) If the subject parcel is located adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines of Section 300.
- (2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(c) below.
- (3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for dwelling on any legal parcel are subject to the following additional

- (3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for dwelling on any legal parcel are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The height of any individual accessory building shall not exceed 24 feet.
- (4) The temporary use of a mobile home in the case of a family hardship, subject to Section 152(B).
- (5) Construction or reconstruction of roads.
- (6) On parcels 10 acres or larger designated Residential-5, or 20 acres or larger designated Residential-10, a land division creating new parcels smaller than the designated minimum parcel size, subject to the provisions of §Section 165.
- (7) New cultivation, subject to compliance with Sections 540 and 560 through 590. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.
- (8) Land divisions, subject to the minimum lot size as indicated on the Land Use Designation or Zoning Maps, Section 165 and Article 18, County Subdivision Ordinance.
- (9) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Section 165).
- (10) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152(H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (11) Agricultural structures, except buildings, in conjunction with agricultural use.
- (12) 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 the standards in "Agricultural Buildings" (Section 152(A)).

- (13) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (14) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152(D)).
- (15) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (16) Commercial events, subject to the guidelines in "Commercial Events" (Section 152 (J)).
- (17) ~~Special Uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162)~~

380. Review Uses with Additional Approval Criteria – Residential Land

The following uses may be allowed on lands in the General Management Area designated Rural Residential subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620), and Section 390:

- (1) Accredited child care centers on land designated 1-acre Residential or 2-acre Residential. A child care center may be allowed in other Rural Residential designations within an existing church or community building.
- (2) Schools within an existing church or community building.
- (3) Utility facilities and railroads.
- (4) Home occupations and cottage industries pursuant to Section 152(E).
- (5) Fire stations.
- (6) Recreation development, subject to compliance with Section 610.
- (7) Community parks and playgrounds, consistent with the guidelines of the National Park and Recreation Society regarding the need for such facilities.
- (8) Bed and breakfast inns in single-family dwellings located on lands designated Residential-5 or Residential-10, pursuant to 152(F).
- (9) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.
- (10) Wine sales/tasting rooms in conjunction with an on-site winery, under the following conditions:

- (A) The use shall comply with the guidelines in "Home Occupations and Cottage Industries" (Section 152(E)), with the following exceptions:
- (i) The use may employ an unlimited number of outside employees.
 - (ii) The wine sales/tasting room may include interior and/or exterior space, provided the combined interior and exterior spaces shall not exceed 1,000 square feet.
 - (iii) The interior space may be located in an existing building or in a new building or addition to an existing building constructed for the primary purpose of housing the wine sales/tasting room.
 - (iv) The exterior space may be a veranda, patio, or other similar type of structure.

(1) Boarding of horses on lands designated 10-acre Residential. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

390. Approval Criteria for Specified Review Uses on Lands Designated Rural Residential

The uses identified in Section 380 may be allowed only if they meet all of the following:

- (1) The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.
- (2) The proposed use will not require public services other than those existing or approved for the area.
- (3) If the subject parcel is located within 500 feet of lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, new buildings associated with the proposed use shall comply with Section 150(1).
- (4) If the subject parcel is located within 500 feet of lands designated Commercial Forest Land or Large or Small Woodland, new buildings associated with the proposed use shall comply with Section 300.

395. Dimensional Requirements

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning or Subdivision Ordinances and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownership's must comply with provisions of the Hood River County Subdivision Ordinance.
- (2) Minimum parcel size:
 - (a) GMA: The minimum parcel sizes are shown on the County Zoning Maps and the NSA Land Use Designations Map. The minimum parcel size will vary according to its location on the Zoning Map and will range from one (1) to ten (10) acres.
- (3) Compliance, if applicable, with the Agricultural Buffer requirements listed under Section 150 (1) (a) through (f).
- (4) Height maximum: 35 feet.
- (5) Setback minimums:
 - (a) Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street, or 20 feet from the right-of-way line, whichever is greater.
 - (b) Rear: 20 feet.
 - (b) Side: Interior lot - 10 feet. Exterior side of corner lot - 45 feet from the center line of any street.
 - (c) Between buildings - 10 feet.
- (6) Off-street parking for residential uses: For each dwelling there shall be two spaces not within the front setback.
- (7) Minimum width and depth requirements:
 - (a) Average lot width: 100 feet.
 - (b) Lot width at street: 50 feet.
 - (c) Average lot depth: 100 feet.

- (8) Vision clearance: 35 feet.
- (9) Setbacks from streams: Compliance with provisions in Sections 560, 570 and 600. If required, compliance with provisions in the following applicable Articles: Article 43 –Environmental Protection (EP) or Article 44 - Floodplain zone (FP).
- (10) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

470. Public Recreation Zone (PR)

Sections 470 through 505 apply to lands zoned Public Recreation (PR) within both the GMA and SMA. The above zoning district implements the Public Recreation land use designation.

480. Uses Allowed Outright and Expedited Review Uses – Public Recreation

- (1) The uses listed in "Uses Allowed Outright, All Land Use Designations Except Open Space" (Section 070) are allowed without review on lands designated Public Recreation.
- (2) The uses listed in "Expedited Development Review Process" (Section 156) are allowed with review through the expedited development review process on lands designated Public Recreation.

490. Review Uses – Public Recreation Lands

- (1) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 520 through 620), and where applicable Section 610(5)(a) and (c) through (g):
 - (a) Publicly-owned, resource-based recreation uses consistent with Section 610.
 - (b) Commercial uses and non-resource based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this Section.
 - (c) New cultivation, subject to compliance with Sections 540 and 560 through 590. Any operation that would cultivate land that has not been cultivated, or has lain idle for more than five (5) years is considered new cultivation, except cultivation and vegetation removal in conjunction with a home garden.
 - (d) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Section 162)**
- (2) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the "Approval Criteria for Non-Recreation Uses in Public Recreation designations," (Section 500), and (Sections 520 through 620):
 - (a) Residences and accessory structures, limited to one single-family dwelling for each parcel legally created prior to adoption of the

Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

- (b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Section 490(2)(c) below.
- (c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - (B) The height of any individual accessory building shall not exceed 24 feet.
- (d) Agricultural structures, except buildings, in conjunction with agricultural use.
- (e) 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 the standards in "Agricultural Buildings" (Section 152 (A)).
- (f) Utility transmission, transportation, communication and public works facilities.
- (g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152 (D)).
- (j) Removal/demolition of structures that are 50 or more years old,

including wells, septic tanks and fuel tanks.

(k) Commercial events, subject to the guidelines in "Commercial Events" (Section 152 (J)).

- (3) Land divisions may be allowed in GMA-Public Recreation, subject to compliance with Section 500(1)(c) and Article 18, County Subdivision Ordinance.
- (4) In the General Management Area, lot line adjustments may be allowed, subject to compliance with the guidelines in "Lot Line Adjustments" (Section 165). Note that in the Special Management Area, lot line adjustments are not a review use, but are allowed under expedited review (see Section 156).
- (5) The following uses maybe allowed on lands in the Special Management Area designated Public Recreation subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 520 through 620):
 - (a) Forest uses and practices as allowed in Section 270(2), except ~~Forest Land Review Use~~ 270(2)(j)(m)(n) and (x).
 - (b) Public trails, consistent with Section 620.
 - (c) Public recreational facilities, consistent with Section 620.
 - (d) Public non-profit group camps, retreats, conference or educational centers, and interpretive facilities.
 - (e) One single-family dwelling on a parcel of 40 contiguous acres or larger when it meets the conditions described for Agricultural Land (Section 190 (2)(c)) or Forest Land (Section 270(2)(k)), or when shown to be necessary for public recreation site management purposes.
 - (f) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(g) below.
 - (g) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:
 - (A) The combined footprints of all detached accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

- (B) The height of any individual accessory building shall not exceed 24 feet.
- (h) Home occupations and cottage industries, pursuant to Section 152(E).
- (i) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Section 152 (H)). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
- (j) Road and railroad construction and reconstruction.
- (k) Utility facilities for public service upon a showing that:
 - (A) There is no alternative location with less adverse effect on Public Recreation land.
 - (B) The size is the minimum necessary to provide the service.
- (n) Agricultural uses as allowed in Section 190(2), except Agricultural Land Review Use 190(2)(h),(i), (t) and (aa).
- (o) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Section 152 (B)).
- (p) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.
- (q) Removal/Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.
- (r) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Section 152 (D)).

500. Approval Criteria for Non-Recreation Uses in Public Recreation Designation

The uses identified in Section 490(1)(b) may be allowed only if they meet the following criteria:

- (1) The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include on-site buffers, seasonal or temporary closures during peak recreation use periods, etc.

- (2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.
- (3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

505. Dimensional Requirements

Unless otherwise specified in Article 75, the following provisions will be met. If conflicts are noted between provisions in other Articles of the Hood River County Zoning and Subdivision Ordinances and Article 75, those in Article 75 shall prevail.

- (1) All land divisions proposed on private, State and County ownership's must comply with provisions of Article 18, County Subdivision Ordinance.
- (2) Minimum parcel size:
 - (a) The Public Recreation designation, within both the GMA & SMA, is implemented with the Public Recreation zone (PR).
 - (b) Within the GMA, there is no minimum acreage requirement for lands in the Public Recreation zone. However, land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.
 - (c) New land divisions are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan. No new dwellings shall be permitted on parcels less than 40 contiguous acres within the SMA.
- (3) In the General Management Area, compliance, if applicable, with the Agricultural Buffer requirements listed under Section 150 (1) (a) through (f).
- (4) Height maximum: 35 feet for primary buildings, unless superseded by GMA Landscape Setting requirements (see Sections 520(3) or SMA KVA guideline 530 (2)(i). See Section 490 (2)(c) and Section 490(5)(g) for accessory building height limit.
- (5) Setback minimums:

- (a) Front: 50 feet from the centerline of the road or 20 feet from the right-of-way line, whichever is greater. 60 feet from the centerline of any arterial street or 20 feet from the right-of-way line, whichever is greater.
- (b) Rear: 20 feet.
- (c) Side: Interior lot - 10 feet. Exterior side of corner lot - 50 feet from the center line of any street.
- (d) Setbacks from streams: Compliance with provisions in Sections 560, 570 and 600. If required, compliance with provisions in the following applicable Articles: Article 43 - Environmental Protection (EP) or Article 44 - Floodplain zone (FP).
- (e) Parking spaces, pursuant to provisions in Article 51 - Off-Street Parking and Loading.
- (f) Lot width and depth: None required.
- (g) Vision clearance: Vision clearance shall be 35 feet.
- (h) Mobile homes shall comply with applicable provisions in Article 16, Section 16.20, subparagraphs A. and B.

520. General Management Area Scenic Review Criteria

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

- (1) All Review Uses:
 - (a) New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.
 - (b) New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
 - (c) Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Section 520.
 - (d) A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" Section 080(3). Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.
 - (e) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.
 - (f) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

At a minimum, such reclamation plans shall include:

- (A) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

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- (B) Cross-Sectional drawings of the site showing pre-mining and post-mining grades.
 - (C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.
 - (D) Description of drainage/erosion control features to be employed for the duration of the use.
 - (E) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.
- (g) All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The state agency shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:
- (A) Whether the proposed mining is subject to state reclamation permit requirements;
 - (B) If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and
 - (C) For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements or any suggested modifications to comply with state reclamation requirements.

The Planning Director may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction.

(2) Key Viewing Areas:

- (a) The guidelines in this Section shall apply to proposed developments on sites topographically visible from key viewing areas.
- (b) Each development shall be visually subordinate to its setting as seen from key viewing areas.

- (c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.
- (d) The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from key viewing areas.
 - (A) Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:
 - (i) The amount of area of the building site exposed to key viewing areas.
 - (ii) The degree of existing vegetation providing screening.
 - (iii) The distance from the building site to the key viewing areas from which it is visible.
 - (iv) The number of key viewing areas from which it is visible.
 - (v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).
 - (B) Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:
 - (i) Siting (location of development on the subject property, building orientation, and other elements).
 - (ii) Retention of existing vegetation.
 - (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).
 - (iv) New landscaping.
- (e) New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this

guideline to the maximum extent practicable.

- (f) New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.
- (g) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines in Section 520(3).
- (h) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.
- (i) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:
 - (A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and
 - (B) There is no practicable alternative means of altering the building without increasing the protrusion.
- (j) 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 Section 520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.
 - (B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of

construction.

- (C) Unless as specified otherwise by provisions in Section 520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
- (D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in Section 520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).
- (k) Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Forest shall meet both scenic guidelines and fuel break requirements in Section 300(1).
- (l) Unless expressly exempted by other provisions in Section 520, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.
- (m) The exterior of buildings on lands seen from key viewing areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The *Scenic Resources Implementation Handbook* will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.
- (n) In addition to the site plan requirements in "Review Uses" Section ~~520(1)~~ ~~080(3)~~, applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

- (o) For proposed mining and associated activities on lands visible from key viewing areas, in addition to submittal of plans and information pursuant to Sections 520(1)(f) and 520(2)(d) of this chapter, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key viewing areas.
- (p) Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
- (q) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of ~~colors specified in Section 520 (2)(1), unless otherwise exempted.~~ dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or a list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.
- (r) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from key viewing areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.
- (s) New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.
- (t) New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.
- (u) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:

- (A) The facility is necessary for public service;
 - (B) The break in the skyline is seen only in the background; and
 - (C) The break in the skyline is the minimum necessary to provide the service.
- (v) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:
- (A) The facility is necessary for public service; and
 - (B) The break in the skyline is the minimum necessary to provide the service.
- (w) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.
- (x) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this guideline. In determining the slope, the average percent slope of the proposed building site shall be used.
- (y) Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.
- (z) All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the local government for compliance with key viewing area policies. The grading plan shall include the following:
- (A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:
 - (i) Existing and proposed final grades.
 - (ii) Location of all areas to be graded, with cut banks and fill slopes delineated.

- (iii) Estimated dimensions of graded areas.
- (B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
 - (i) Its purpose.
 - (ii) An estimate of the total volume of material to be moved.
 - (iii) The height of all cut banks and fill slopes.
 - (iv) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)
 - (v) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.
 - (vi) A description of any other interim or permanent erosion control measures to be used.
- (aa) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:
 - (A) The site plan requirements for such proposals pursuant to Section 520 have been met.
 - (B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any key viewing areas.
 - (C) A reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Section 520(1)(f) and (g)
 - (D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:

- (i) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.
 - (ii) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.
 - (iii) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.
 - (iv) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.
 - (v) The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.
 - (vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.
- (bb) Unless addressed by Section 520(2)(aa), new production and/or development of mineral resources may be allowed upon a demonstration that:
- (A) The site plan requirements for such proposals pursuant to this chapter have been met.
 - (B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.
 - (C) A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Section 520(1)(f) and (g).
- (cc) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

- (dd) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).
- (3) All Review Uses within the following Landscape Settings shall comply with the following applicable guidelines: (See Landscape Settings Map.)
 - (a) Pastoral
 - (A) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.
 - (B) 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) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.
 - (ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
 - (iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).
 - (iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.
 - (C) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature (as defined by Section 610), occurring infrequently in the landscape.
 - (b) Coniferous Woodland
 - (A) Structure height shall remain below the forest canopy level.

(B) 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) 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.
- (ii) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).
- (iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(C) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland

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

(B) 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. 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., the existing tree cover screening the development from Key Viewing Areas shall be retained.

For treeless portions or portions with scattered tree cover:

- (iv) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.
- (v) 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.
- (vi) 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.

(C) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed pursuant to Section 610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Rural Residential

- (A) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.
- (B) In portions of this setting visible from Key Viewing Areas, and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" Section in Part I, Chapter 1 of the Management Plan) the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
 - (i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.
 - (ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.
 - (iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(C) Compatible recreation uses should be limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as small scenic overlooks).

(D) The following provisions, from the Management Plan, apply to the area designated Residential and zoned Rural Residential, located west of the Hood River Urban area but east of Country Club Road: New development within the Rural Residential Landscape Setting shall be compatible with the Landscape Setting, but not necessarily visually subordinate.

New uses and developments in these particular areas are subject to only the following guidelines for scenic resources: 520(1)(a) through (g); 520(2)(x), and (z); depending upon which setting the subject parcel is located in: 520(3)(d)(A)(C), and (D); and 520(4)(a),(d),(e), and (f).

(e) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

(A) New development in this setting shall meet the design guidelines for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(f) River Bottomlands

(A) 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) Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted

screening vegetation native to this setting. Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

(B) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) their designs emphasize retention and/or enhancement of native riparian communities,

(ii) structures and parking areas are visually subordinate, and

(iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(g) Gorge Walls, Canyons and Wildlands

(A) New development and expansion of existing development shall be screened so it is not seen from Key Viewing Areas, to the maximum extent practicable.

(B) All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.

(C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(D) All ~~structures~~ ~~building~~ shall be limited in height to a maximum of 1 and 1/2 stories.

(E) All structures' exteriors shall be non-reflective.

(F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway guidelines require otherwise.

(G) Compatible recreation uses are limited to very low or low-intensity, resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(h) Developed Settings and Visual Subordination Policies

GMA policies to protect key viewing area viewsheds require that all new development on lands seen from key viewing areas be visually subordinate to its landscape setting, except for "specified developed settings that are not visually sensitive."

Gorge-wide, three landscape settings are considered developed settings within this context: Rural Residential, Residential, and Village (No Residential or Village Landscape Settings occur in Hood River County). Of all NSA GMA lands in these three settings, six particular areas that are not visually sensitive have been identified. Only one of these areas is located in Hood River County. New development in this setting shall be compatible with the setting, but not necessarily visually subordinate. New developments in this setting is exempt from the color and siting guidelines in the Key Viewing Areas Section of this chapter. This area is:

(A) West of Hood River Urban Area, east of Country Club Road (Rural Residential)

(4) All Review Uses within Scenic Travel Corridors shall comply with the following applicable guidelines:

(a) For the purposes of implementing this Section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Scenic Travel Corridor roadway.

(b) All new buildings and alterations to existing buildings, shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Section 150(2). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

(c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway shall comply with guideline (4)(b) above to the maximum extent practicable.

(d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

- (A) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;
- (B) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.
- (e) When evaluating possible locations for under-grounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for under-grounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.
- (f) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Section 520(2)(dd).
- (g) Expansion of existing quarries may be allowed pursuant to Section 520(2)(aa). Compliance with visual subordination requirements shall be achieved within time frames specified in Section 520(2)(cc).

530. Special Management Area Scenic Review Criteria

- (1) SMA Design Guidelines Based on Landscape Settings
- (a) The following guidelines apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas seen from KVAs as well as areas not seen from KVAs):
- (A) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.
- (i) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows, as commonly found in the landscape setting, is encouraged.
- (B) Coniferous Woodland and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland and Oak-Pine Woodland landscape.
- (i) Buildings shall be encouraged to have a vertical overall appearance in the Coniferous Woodland landscape setting and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.
- (ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.
- (C) River Bottomlands: River Bottomlands shall retain the overall visual character of a floodplain and associated islands.
- (i) Buildings shall have an overall horizontal appearance in areas with little tree cover.
- (ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.
- (D) Gorge Walls, Canyonlands, and Wildlands: New developments and land uses shall retain the overall visual character of the natural-appearing landscape.

- (i) Structures, including signs, shall have a rustic appearance, use nonreflective materials, have low contrast with the surrounding landscape, and be of a Cascadian architectural style.
- (ii) Temporary roads shall be promptly closed and revegetated.
- (iii) New utilities shall be below ground surface, where feasible.
- (iv) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(2) SMA Guidelines for Development and Uses Visible from KVAs

- (a) The guidelines in this Section shall apply to proposed developments on sites topographically visible from key viewing areas.
- (b) New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas.
- (c) The required SMA scenic standards for all development and uses are summarized in the following table:

REQUIRED SMA SCENIC STANDARDS

LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
Coniferous Woodland, Oak-Pine Woodland	Forest (National Forest Lands), Open Space	Not Visually Evident
River Bottomlands	Open Space	Not Visually Evident
Gorge Walls, Canyonlands, Wildlands	Forest, Agriculture, Public Recreation, Open Space	Not Visually Evident
Coniferous Woodland, Oak-Pine Woodland	Forest, Agriculture, Residential, Public Recreation	Visually Subordinate
Pastoral	Forest, Agriculture, Public Recreation, Open Space	Visually Subordinate
River Bottomlands	Forest, Agriculture, Public Recreation	Visually Subordinate

- (d) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

- (e) Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.
- (f) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.
 - (A) Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to:
 - (i) The amount of area of the building site exposed to key viewing areas,
 - (ii) The degree of existing vegetation providing screening,
 - (iii) The distance from the building site to the key viewing areas from which it is visible,
 - (iv) The number of key viewing areas from which it is visible, and
 - (v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).
 - (B) Conditions may be applied to various elements of proposed developments to ensure they ~~are visually subordinate to meet the scenic standard for~~ their setting as seen from key viewing areas, including but not limited to:
 - (i) Siting (location of development on the subject property, building orientation, and other elements),
 - (ii) Retention of existing vegetation,
 - (iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements), and
 - (iv) New landscaping.

- (g) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.
- (h) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas.
- (i) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.
- (j) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:
 - (A) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.
 - (B) If new landscaping is necessary to meet the required standard, 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 meet the scenic standard within five years or less from the commencement of construction.
 - (C) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
 - (D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).
- (k) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones

found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting

- (l) The exterior of ~~buildings structure~~ on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The *Scenic Resources Implementation Handbook* will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.
 - (m) 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.
 - (n) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed 3 months.
- (3) SMA Guidelines for KVA Foregrounds and Scenic Routes
- (a) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.
 - (b) Scenic highway corridor strategies shall be developed and implemented for Interstate 84 (I-84) and the Historic Columbia River Highway (HCRH). For I-84 and the HCRH, this involves ongoing implementation (and possible updating) of the associated existing documents. ~~For I-84, a new scenic corridor strategy shall be developed by the end of 2009.~~
 - (c) The goals of scenic corridor strategies shall include: 1) providing a framework for future highway improvements and management that meet Management Plan scenic guidelines and public transportation needs; and 2) creating design continuity for the highway corridor within the Scenic Area. Corridor strategies shall, at minimum, include design guidelines (e.g. materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and an interdisciplinary, interagency project planning and development process.

- (d) The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to applicable guidelines in Section 530(2).
 - (A) The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in the previous Section and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.
 - (B) Findings must evaluate the following:
 - (i) The limiting factors to meeting the required scenic standard and/or applicable guidelines from the previous Section,
 - (ii) Reduction in project size;
 - (iii) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;
 - (iv) Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.
 - (C) Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as seen from the foreground of key viewing areas:
 - (i) Form and Line-Design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting. Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.
 - (ii) Color-Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.

- (iii) Texture-Textures borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.
 - (iv) Design-Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.
- (e) Right-of-way vegetation shall be managed to minimize visual impacts of clearing and other vegetation removal as seen from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.
 - (f) Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.
- (4) SMA Guidelines for Areas Not Seen from KVAs
- (a) Unless expressly exempted by other provisions in this chapter, colors of structures on sites not visible from key viewing areas shall be earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from the recommended palette of colors included in the *Scenic Resources Implementation Handbook*.

540. General Management Area Cultural Resource Review Criteria

- (1) General Provisions for Implementing the Cultural Resources Protection Process.
 - (a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).
 - (b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any interested persons who submit written comments on a proposed use. Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.
 - (c) Reconnaissance and Historic Surveys and Survey Reports.
 - (A) Reconnaissance survey requirements and exceptions.
 - (i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exceptions in Section 540(1)(c)(A)(ii) below.
 - (ii) A reconnaissance survey shall be required for all proposed uses, except:
 - (I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.
 - (II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.
 - (III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques such as replanting pastures using a grassland drill; construction of

fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include, but are not limited to, grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- Residential development that involves two or more new dwellings for the same project applicant.
- Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
- Public transportation facilities that are outside improved rights-of-way.
- Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.
- Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

For Section 540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

- (ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

- (i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.
- (ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.
- (iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses

- (i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.
- (ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:
 - (I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.
 - (II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.
 - (III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

- (i) A description of the proposed use, including drawings and maps.
- (ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
- (iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
- (iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
- (v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
- (vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.
- (vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports

- (i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

- (ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
 - (iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.
 - (d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.
 - (e) Cultural resources are significant if one of the following criteria is satisfied:
 - (A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).
 - (B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.
 - (f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Director as to whether affected cultural resources are significant.
- (2) Cultural Resource Reconnaissance and Historic Surveys
 - (a) Consultation and Ethnographic Research
 - (A) When written comments are submitted to the Director within the comment period provided in Section 120, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons.

Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

- (B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

- (A) The Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian 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 tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

- (A) The Director shall make a final decision on whether the proposed use would be consistent with Section 540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Director shall justify how it reached an opposing conclusion.

- (B) The cultural resource protection process may conclude when one of the following conditions exists:

- (i) 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 21 calendar days of the date that a notice was mailed.
- (ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.
- (iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

~~(C)~~ (iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

- ~~(i)~~ (i) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or
- ~~(ii)~~ (ii) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *the Secretary of the Interior Standards for the Treatment of Historic Properties (U.S. Department of the Interior 1992)* and *The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for*

Rehabilitating Historic Buildings (U.S. Department of the Interior 1992).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Director question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs:

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

- (A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.
- (B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.
- (C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.
- (D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural

resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

- (E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

- (A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Director shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

- (B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Cultural Resources are Culturally Significant

- (A) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

- (B) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Director, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Director within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

- (A) The Director shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Director determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs:

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.9~~3~~) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.81~~1~~.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant ~~[36 CFR 800.5]~~.

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association ~~[36 CFR 800.5]~~. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction, ~~except as described in 36 CFR 800.1~~.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

- (i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.
- (ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with The Secretary of the Interior's Standards for the Treatment of Historic Properties (U.S. Department of the Interior 1992) and The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior 1992).

(b) Notice of Assessment Results

- (A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Director shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.
- (B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

- (A) The Director shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Director shall justify how an opposing conclusion was reached.
- (B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Director determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(a) Mitigation Plan Criteria and Information Needs:

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable.

Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.118(d) including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

- (iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.
- (iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Director.
- (v) Copies of any written recommendations submitted to the Director or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

- (A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Director shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.
- (B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the Director. The Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

- (A) The Director shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Director shall justify how an opposing conclusion was reached.
- (B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.
- (C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Director and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- (a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
- (b) Notification. The project applicant shall notify the Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.
- (c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute ~~(ORS) 273.705, ORS~~ 358.905 to 358.955. It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" and "Evaluation of Significance: Evaluation Criteria and Information Needs".

Based on the survey and evaluation report and any written comments, the Director shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

- (d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" Section of this chapter. Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

- (a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
- (b) Notification. Local law enforcement officials, the Director, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

- (c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
- (d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.
- (e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs".

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" are met and the mitigation plan is executed.

550. Special Management Area Cultural Resource Review Criteria

- (1) General Guidelines for Implementing the Cultural Resources Protection Process
 - (a) All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470aa ~~hl~~ and 36 CFR 296.18.
 - (b) All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.
 - (c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Section 550(4) for forest practices and National Forest System lands.
 - (d) New developments or land uses shall not adversely affect significant cultural resources.
- (2) The procedures and guidelines in Section 540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.
- (3) The procedures and guidelines in 36 CFR 800 and Section 550(4) shall be used by and federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.
- (4) The following procedures as well as the provisions in 36 CFR 800.4 ~~for assessing potential effects to cultural resources~~ and 36 CFR 800.5 ~~for assessing effects to cultural resources~~ shall be used to assess potential effects to cultural resources.
 - (a) Literature Review and Consultation
 - (A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.
 - (B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and

tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) A field inventory by a cultural resource professional shall be required if the Forest Service determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of Section (4)(a) above with the field inventory of Section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which

graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service for review.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) An assessment of effect shall be required if the Forest Service determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

- (A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.54 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for Sections (4)(d)(B) through (4)(d)(D) below. The Forest Service shall review each determination for adequacy.
- (B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.48, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Requirements Standard" of 36 CFR 800.118(a). ~~If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.51).~~
- (C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.59(b) to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.115(c) ~~("Failure to Resolve Adverse Effects").~~
- (D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.114 ("Documentation Standard Requirement").

(e) Mitigation

- (A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.
- (B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.
- (C) The Forest Service shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service if cultural resources are discovered during construction or development.

- (a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.
- (b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:
 - (A) The applicant shall stop all work in the vicinity of the discovery.
 - (B) The applicant shall immediately notify the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.
 - (C) The Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.
 - (D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to Section 550(4)(c) and report the results to the Forest Service.
- (c) The cultural resource review process shall be complete and work may continue if the Forest Service determines that the cultural resource is not significant.
- (d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to Section 550(4)(e) if the Forest Service determines that the cultural resource is significant.

560. General Management Area Wetland Review Criteria

- (1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands
 - (a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.
 - (A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the *Corps of Engineers Wetlands Delineation Manual* (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997).
 - (B) All wetlands delineations shall be conducted by a professional ~~which the~~ has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.
 - (C) The Director may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Director shall, at the applicant's expense, obtain professional services to render a final delineation.
 - (b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:
 - (A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;
 - (B) the exact boundary of the wetland and the wetlands buffer zone; and
 - (C) a description of actions that would affect the wetland.
- (2) Uses allowed outright in wetlands and wetlands buffer zones.
 - (a) Section 560 shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally

follows the shoreline. For this Ordinance, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

- (b) Uses allowed outright are listed in Section 070.
- (3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in Section 560(5), and reviewed under the applicable provisions of Sections 520 through 620:
 - (a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:
 - (A) Increase the size of an existing structure by more than 100 percent,
 - (B) Result in a loss of wetlands acreage or functions, ~~or~~ **and**
 - (C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.
 - (b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.
 - (c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.
- (4) Uses not listed in Section 560(2) and (3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to Section 560(6) and reviewed under the applicable provisions of Sections 520 through 620.
- (5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:
 - (a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

- (b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;
 - (c) The structure will be constructed using best management practices;
 - (d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and
 - (e) The structure complies with all applicable federal, state, and county laws.
- (6) Applications for all other Review Uses in wetlands shall demonstrate that:
- (a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:
 - (A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;
 - (B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands; and
 - (C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

- (b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:
 - (A) The extent of public need for the proposed use.
 - (B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

- (C) The functions and size of the wetland that may be affected.
- (D) The economic value of the proposed use to the general area.
- (E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.
- (c) Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.
- (d) Groundwater and surface-water quality will not be degraded by the proposed use.
- (e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.
- (f) The proposed use complies with all applicable federal, state, and county laws.
- (g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.
- (h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

- (A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.
- (B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.
- (C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.
- (D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):
 - (i) Restoration: 2:1

(ii) Creation: 3:1

(iii) Enhancement: 4:1

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

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

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

- (B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.
 - (C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and non-woody vines.
- (c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:
- (A) Forest communities: 75 feet
 - (B) Shrub communities: 100 feet
 - (C) Herbaceous communities: 150 feet
- (d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.
- (8) Wetlands Compensation Plans:

Enhancement of wetlands not associated with any other project proposal may be allowed, if such efforts comply with the wetlands provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a wetlands compensation plan, as described in this Section.

All enhancement plans must be approved by the County after consultation with federal and state agencies with jurisdiction over wetlands.

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

- (a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.
- (b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

- (c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.
- (d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:
 - (A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.
 - (B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.
 - (C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.
- (e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.
- (f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

570. General Management Area Stream, Pond, Lake and Riparian Area Review Criteria

- (1) Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas.
 - (a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.
 - (b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:
 - (A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;
 - (B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and
 - (C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.
- (2) Uses allowed outright in streams, ponds, lakes, and their buffer zones.
 - (a) Section 570 shall not apply to proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.
 - (b) Uses allowed outright are listed in Section 070.
- (3) The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant to Section 570(5), and reviewed under the applicable provisions of Sections 520 through 620:
 - (a) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:
 - (A) Increase the size of an existing structure by more than 100 percent,
 - (B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or
 - (C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer

zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

- (b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.
 - (c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.
- (4) Uses not listed in Section 570(2) and (3) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Section 570(6) and reviewed under the applicable provisions of Sections 520 through 620.
- (5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas shall demonstrate that:
- (a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;
 - (b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;
 - (c) The structure will be constructed using best management practices;
 - (d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and
 - (e) The structure complies with all applicable federal, state, and local laws.
- (6) Applications for all other Review Uses in streams, ponds and lakes and riparian areas shall demonstrate that:
- (a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Section 560(6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.

- (b) The proposed use is in the public interest as determined by Section 560(6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.
- (c) Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.

At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

- (A) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife, 2000), unless otherwise coordinated with and approved by the Oregon Department of Fish and Wildlife.
 - (B) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.
 - (C) Nonstructural controls and natural processes shall be used to the greatest extent practicable.
 - (D) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.
 - (E) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.
 - (F) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.
- (d) Groundwater and surface-water quality will not be degraded by the proposed use.
 - (e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.
 - (f) The proposed use complies with all applicable federal, state, and county laws.

- (g) Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Enhancement of streams, ponds, lakes and riparian areas not associated with any other development proposal may be allowed, if such efforts comply with the streams, ponds, lakes and riparian area provisions in this Management Plan. Enhancement efforts shall be conducted pursuant to a rehabilitation and enhancement plan, as described in this Section.

All enhancement plans shall be approved by the County, after consultation with federal and state agencies with jurisdiction over streams, ponds, lakes and riparian areas.

Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement guidelines shall apply:

- (A) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.
- (B) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.
- (C) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.
- (D) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.
- (E) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.
- (F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(G) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(H) Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(I) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

(7) Stream, Pond, and Lake Buffer Zones

(a) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet

(B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet

(C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Section 560(7)(b), substituting the term pond or lake as appropriate.

(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(c) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Director may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Director shall, at the project applicant's expense, obtain professional services to render a final delineation.

(8) Rehabilitation and Enhancement Plans

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

- (a) Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.
- (b) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.
- (c) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:
 - (A) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.
 - (B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.
 - (C) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.
- (d) A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.
- (e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

580. General Management Area Sensitive Wildlife Review Criteria

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

Bald eagle habitat
Deer and elk winter range
Elk habitat
Mountain goat habitat
Peregrine falcon habitat
Pika colony area
Pileated woodpecker habitat
Pine marten habitat
Shallow water fish habitat (Columbia R.)
Special streams
Special habitat area
Spotted owl habitat
Sturgeon spawning area
Tributary fish habitat
Turkey habitat
Waterfowl area
Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that are used by animal species that are

(i) listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(iii) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).

Updated lists of species included in sensitive wildlife sites can be found on the websites for the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) Uses allowed outright are listed in Section 070.

(3) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(4) Uses not listed in Section 580(2) may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to Section 580(5) and reviewed under the applicable provisions of Sections 520 through 620.

(5) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife. State wildlife biologists will review the site plan and their field survey records and:

(A) Identify/verify the precise location of the wildlife area or site,

- (B) Ascertain whether the wildlife area or site is active or abandoned, and
 - (C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.
- (b) The following factors may be considered when site plans are reviewed:
- (A) Biology of the affected wildlife species.
 - (B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron.
 - (C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
 - (D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.
 - (E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.
- (c) The wildlife protection process may terminate if the Director, in consultation with the state wildlife agency, determines:
- (A) The sensitive wildlife area or site is not active, or
 - (B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.
- (d) If the Director, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated by simply modifying the site plan through mitigation measures recommended by the state wildlife biologist or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Director will incorporate them into the development review order and the wildlife protection process may conclude.

- (e) The project applicant shall prepare a wildlife management plan if the Director, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.
- (f) The Director shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Director.

The Director shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Director will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Director shall justify how the opposing conclusion was reached.

The Director shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(6) **Wildlife Management Plans**

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

- (a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.
- (b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.
- (c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key

components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

- (d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.
- (e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:
 - (A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.
 - (B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.
- (f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

- (g) The applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts

have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(7) New fences in deer and elk winter range

- (a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.
- (b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:
 - (A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.
 - (B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.
 - (C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.
 - (D) Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.
- (c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

590. General Management Area Rare Plant Review Criteria

- (1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants
 - (a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are:
 - (A) endemic to the Columbia River Gorge and vicinity,
 - (B) listed as endangered or threatened pursuant to federal or state endangered species acts, or
 - (C) listed as endangered, threatened, or sensitive by the Oregon Natural Heritage program.

Updated lists of sensitive plant species can be found on the website for the Oregon Natural Heritage Program. A list also is maintained by the USDA Forest Service - National Scenic Area and available on the Gorge Commission website.

- (b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

- (2) Uses allowed outright are listed in Section 070.

- (3) Field Survey

A field survey to identify sensitive plants shall be required for:

- (a) Land divisions that create four or more parcels;
- (b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
- (c) Public transportation facilities that are outside improved rights-of-way;
- (d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and
- (e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside

previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

- (4) ~~Uses not listed in Sections 590(2) Review use~~ may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Section 590(4)(5), and reviewed under the applicable provisions of Sections 520 through 620.
- (5) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:
 - (a) Site plans shall be submitted to the Oregon Natural Heritage Program by the Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

- (b) The rare plant protection process may conclude if the Director, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.
- (c) New uses shall be prohibited within sensitive plant species buffer zones, except those listed in Sections 590(2).
- (d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with Section 150(2), the project applicant shall prepare a protection and rehabilitation plan pursuant to Section 590(6).
- (e) The Director shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Director.

The Director shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Director will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Director shall justify how the opposing conclusion was reached.

(6) Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance.

Protection and rehabilitation plans shall meet the following guidelines:

- (a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.
- (b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.
- (c) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

- (d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.
- (e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.
- (f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.
- (g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

- (A) Describe the biology of sensitive plant species that will be affected by a proposed use.
- (B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.
- (C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.
- (D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Director an annual report that documents milestones, successes, problems, and contingency actions.

(7) Sensitive Plant Buffer Zones

- (a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.
- (b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.
- (c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:
 - (A) Identifies the precise location of the sensitive plants,
 - (B) Describes the biology of the sensitive plants, and
 - (C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

- (d) The Director shall submit all requests to reduce sensitive plant species buffer areas to the Oregon Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Director.

The Director shall record and address any written comments submitted by the Oregon Natural Heritage Program in the development review order.

Based on the comments from the Oregon Natural Heritage Program, the Director will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Director shall justify how the opposing conclusion was reached.

600. Special Management Area Natural Resource Review Criteria

A. SMA Natural Resource Review Criteria

- (1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered. (Site plans are described in Section 080).
- (2) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)
 - (a) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (2)(a)(B)(i) and (ii) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.
 - (A) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.
 - (B) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:
 - (i) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.
 - (ii) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.
 - (iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:
 - (I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.
 - (II) The wetland is not critical habitat.

- (III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.
- (C) The buffer width shall be increased for the following:
- (i) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.
 - (ii) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.
 - (iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.
- (D) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.
- (E) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.
- (F) The Planning Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the Planning Director

will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Planning Director shall justify how the opposing conclusion was reached.

- (b) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.
- (c) The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)
- (d) Wetlands Boundaries shall be delineated using the following:
 - (A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U. S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.
 - (B) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.
 - (C) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition)'.
Wetland Delineation Manual (on-line Edition)
 - (D) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.
- (e) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.
- (f) The Planning Director may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the Planning Director shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

(g) Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(A) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(i) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(ii) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(iii) The proposed project minimizes the impacts to the wetland.

(C) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

(3) Wildlife and Plants

(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area.

Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in Tables 4 and 7 in the Management Plan including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

Updated lists of sensitive wildlife sites and plant species can be found on the websites for the Wildlife Division of Oregon Department of Fish and Wildlife and the Oregon Natural Heritage Program. A list also is maintained

by the USDA Forest Service – Scenic Area Office and available on the Gorge Commission website

- (b) The Planning Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife for wildlife issues and by the Oregon Natural Heritage Program for plant issues).
- (c) The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:
 - (A) Identify/verify the precise location of the wildlife and/or plant area or site,
 - (B) Determine if a field survey will be required,
 - (C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and
 - (D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.
 - (i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.
 - (ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology

of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

- (iii) The Planning Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the Planning Director will make a final decision on whether the reduced buffer zones is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Planning Director shall justify how the opposing conclusion was reached
- (d) The Planning Director, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:
 - (A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner 1991).
 - (B) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
 - (C) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.
 - (D) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.
 - (E) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate

the impacts so as to maintain overall values and function of winter range.

- (F) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000).
- (G) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.
- (H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.
- (I) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

PRIORITY HABITATS TABLE	
Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.

Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

- (e) The wildlife/plant protection process may terminate if the Planning Director, in consultation with the Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.
- (f) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.
- (g) The Planning Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Planning Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision.

Based on the comments from the state and federal wildlife agency/heritage program, the Planning Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Planning Director shall justify how the opposing conclusion was reached.

- (h) The Planning Director shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.
- (4) Soil Productivity
- (a) Soil productivity shall be protected using the following guidelines:

- (A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.
- (B) New developments and land uses shall control all soil movement within the area shown on the site plan.
- (C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.
- (D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

B. Practicable Alternative Test

- (1) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- (a) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.
- (b) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.
- (c) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

C. Mitigation Plan

- (1) Mitigation Plan shall be prepared when:

- (a) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites).
 - (b) There is no practicable alternative (see the "practicable alternative" test).
- (2) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).
- (3) The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.
- (4) The applicant shall submit the mitigation plan to the Planning Director. The Planning Director shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Planning Director shall justify how he/she reached an opposing conclusion.
- (5) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.
- (6) Mitigation plans shall include maps, photographs, and text. The text shall:
 - (a) Describe the biology and/or function of the sensitive resources (eg. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.
 - (b) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.
 - (c) Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

- (d) Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.
 - (e) Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.
- (7) At a minimum, a project applicant shall provide to the Planning Director a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.
- (8) A final monitoring report shall be submitted to the Planning Director for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The Planning Director shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the Planning Director in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.
- (9) Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:
- (a) Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.
 - (b) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.

- (c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.
- (d) If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and provided the Planning Director, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.
- (e) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

- (f) Nonstructural controls and natural processes shall be used to the greatest extent practicable.
 - (A) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.
 - (B) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test'.
 - (C) Fish passage shall be protected from obstruction.
 - (D) Restoration of fish passage should occur wherever possible.
 - (E) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

- (F) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-Sectional profile, and gradient.
- (G) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.
- (H) Streambank and shoreline stability shall be maintained or restored with natural revegetation.
- (I) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2: 1
Creation: 3: 1
Enhancement: 4: 1

- (g) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.
- (h) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in guideline 600(C)(9)(f)(I). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

610. General Management Area Recreation Resource Review Criteria

The following uses may be allowed, subject to compliance with Section 610(5) and (6):

- (1) Recreation Intensity Class 1 - Very Low Intensity
 - (a) Parking areas for a maximum of 10 cars for any allowed uses in Recreation Intensity Class 1.
 - (b) Trails for hiking, equestrian and mountain biking use.
 - (c) Pathways for pedestrian and bicycling use.
 - (d) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).
 - (e) Scenic viewpoints and overlooks.
 - (f) Wildlife/botanical viewing and nature study areas.
 - (g) River access areas.
 - (h) Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.
 - (i) Entry name signs not to exceed 10 square feet per sign.
 - (j) Boat docks, piers or wharfs.
 - (k) Picnic areas.
 - (l) Rest-rooms/comfort facilities.
- (2) Recreation Intensity Class 2 - Low Intensity
 - (a) All uses permitted in Recreation Intensity Class 1.
 - (b) Parking areas for a maximum of 25 cars, including spaces for campground units, to serve any allowed uses in Recreation Intensity Class 2.
 - (c) Simple interpretive signs and displays, not to exceed a total of 100 square feet.
 - (d) Entry name signs not to exceed 20 square feet per sign.
 - (e) Boat ramps, not to exceed two lanes.

- (f) Campgrounds for 20 units or less, tent sites only.
- (3) Recreation Intensity Class 3 - Moderate Intensity
- (a) All uses permitted in Recreation Intensity Classes 1 and 2.
 - (b) Parking areas for a maximum of 75 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3.
 - (c) Interpretive signs, displays and/or facilities.
 - (d) Visitor information and environmental education signs, displays or facilities.
 - (e) Entry name signs not to exceed 32 square feet per sign.
 - (f) Boat ramps, not to exceed three lanes.
 - (g) Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan.
 - (h) Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.
- (4) Recreation Intensity Class 4 - High Intensity
- (a) All uses permitted in Recreation Intensity Classes 1, 2, and 3.
 - (b) Parking areas for a maximum of 250 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 4.
 - (c) Horseback riding stables and associated facilities.
 - (d) Entry name signs, not to exceed 40 square feet per sign.
 - (e) Boat ramps.
 - (f) Campgrounds for 175 individual units or less for tents and/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

(5) Approval Criteria for Recreation Uses

All proposed recreation projects outside of the Public Recreation designation shall comply with the appropriate scenic, cultural, natural and recreation resources guidelines Sections 520 through 620 and shall satisfy the following:

(a) Cumulative effects of proposed recreation projects on Landscape Settings shall be based on the "compatible recreation use" guideline for the Landscape Setting in which the use is located.

(b) For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland:

(A) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.

(B) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

(c) For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds:

The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the rural fire protection district) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

(d) Trail or trailhead projects shall comply with applicable trails policies in the Management Plan.

- (e) For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries: compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.
- (f) For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.

- (g) For proposed projects which include interpretation of natural or cultural resources:

A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

- (h) For proposed Recreation Intensity Class 4 projects (except for projects predominantly devoted to boat access):

A demonstration that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the physical capacity of the site. This requirement may be waived upon a demonstration that provision of such facilities would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site.

(6) Facility Design Guidelines for All Recreation Projects

- (a) Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.
- (b) The facility design guidelines contained herein are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.

To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

- (c) Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.
- (d) Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and utilized to screen parking areas and campsites from Key Viewing Areas and satisfy requirements for perimeter and interior landscaped buffers.
- (e) Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.
- (f) Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.
- (g) Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.
- (h) Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.
- (i) Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from Key Viewing Areas.
- (j) Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the Director may allow either reductions in required minimum interior or perimeter landscape buffers up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.
- (k) A majority of trees, shrubs and other plants in landscaped areas shall be species native or naturalized to the Landscape Setting in which they occur (Landscape Setting design guidelines specify lists of appropriate species).

- (l) All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the structures blending with and not noticeably contrasting with their setting.
- (m) Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.
- (n) Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over 50 spaces in size. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.
- (o) Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.
- (p) Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the Director, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.
- (q) Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.
- (r) All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.
- (s) Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.

- (t) All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.
- (u) All proposed projects at levels consistent with Recreation Intensity Class 4 on lands classified Recreation Intensity Class 4 (except for proposals predominantly devoted to boat access) shall comply with Section 610(5)(i) regarding provision of mass transportation access.

620. Special Management Area Recreation Resource Review Criteria

- (1) The following shall apply to all new recreation developments and land uses in the Special Management Area. When planning new interpretive or education programs and/or facilities, recommendations of the Interpretive Strategy for the Columbia River Gorge National Scenic Area shall be followed. (This document is available at the Gorge Commission office in White Salmon and the Forest Service office in Hood River.)
 - (a) New developments and land uses shall not displace existing recreational use.
 - (b) Only natural resource-based recreation shall be allowed.
 - (c) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.
 - (d) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.
 - (e) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.
 - (f) The facility guidelines contained in Sections 620(1) and (2) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).
 - (g) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.
 - (h) The Director may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:
 - (A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

- (B) The proposed use is dependent on resources present at the site.
 - (C) Reasonable alternative sites, including those in Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.
 - (D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part I of the Management Plan.
 - (E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.
 - (F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.
 - (G) Mass transportation shall be considered and implemented, if feasible, for all proposed variances to Recreation Intensity Class 4.
- (2) Special Management Areas Recreation Intensity Class Guidelines
- (a) Recreation Intensity Class 1 - Very Low Intensity:

Emphasis is to provide opportunities for semi-primitive recreation opportunities.

 - (A) Permitted uses are those in which people participate in outdoor activities to realize experiences including but not limited to, solitude, tension reduction, and nature appreciation.
 - (B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.
 - (C) The following uses may be permitted:
 - (i) Trails and trailheads.
 - (ii) Parking areas.
 - (iii) Dispersed campsites accessible only by a trail.
 - (iv) Viewpoints and overlooks.
 - (v) Picnic areas.

(vi) Signs.

(vii) Interpretive exhibits and displays.

(viii) Restrooms.

(b) Recreation Intensity Class 2 - Low Intensity

Emphasis is to provide semi-primitive recreation opportunities.

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(i) Campground with vehicle access.

(ii) Boat anchorages designed for no more than 10 boats at one time.

(iii) Swimming areas.

(c) Recreation Intensity Class 3 - Moderate Intensity:

Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) Maximum site design capacity shall not exceed 250 people at one time on the site. The maximum design capacity shall be 50 vehicles. The General Management vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10% of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use

recreation sites, except for sites predominantly devoted to boat access.

(D) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

- (i) Campgrounds improvement may include water, power, sewer, and sewage dump stations.
- (ii) Boat anchorages designed for not more than 15 boats.
- (iii) Public visitor, interpretive, historic, and environmental education facilities.
- (iv) Full service rest-rooms, may include showers.
- (v) Boat ramps.
- (vi) Riding stables.

(d) Recreation Intensity Class 4 - High Intensity:

Emphasis is for providing road natural, rural, and suburban recreation opportunities with a high level of social interaction.

- (A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.
- (B) The maximum design capacity shall not exceed 1000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The General Management Area vehicle capacity of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.
- (C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites, except for sites predominantly devoted to boat access.
- (D) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

635. Enforcement

- (1) Failure to comply with provisions in this Ordinance, including any conditions of approval will require the County, through the Planning and Community Development Department, to seek enforcement.
- (2) Violation of the NSA Ordinance will be processed pursuant to provisions in Article 70-Enforcement of the Hood River County Zoning Ordinance or, if applicable, provisions in Article 68-Revocation.
- (3) In addition to any penalty assessed by Hood River County, Congress authorized the Columbia River Gorge Commission to assess a civil penalty in order to prevent violation of provisions of this Ordinance. The penalty may not exceed \$10,000.00 per violation.

640. Notice Of Application Requirements - Appendix A1

RESIDENTIAL GENERAL MANAGEMENT AREA	Tribes	USES	State	County	Landowners Prior 2001	Landowners After 2001	Wildlife	Heritage
Residential LUD - Review uses except SFDs located adjacent to Agriculture & Forest LUDs and those uses within 1000 feet of a sensitive wildlife area or site, or a rare plant.	Y	Y	Y	Y	Y	Y		
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs except those within 1000 feet of sensitive wildlife area or site, or a rare plant.	Y	Y	Y	Y		Y		
Residential LUD - Review uses within 1000 feet of a sensitive wildlife area or site except SFDs located adjacent to Agriculture or Forest LUDs.	Y	Y	Y	Y	Y	Y	Y	
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000 feet of a sensitive wildlife area or site.	Y	Y	Y	Y		Y	Y	
Residential LUD - Review uses within 1000 feet of a rare plant except SFDs located adjacent to Agriculture or Forest LUDs.	Y	Y	Y	Y	Y	Y		Y
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000 feet of a rare plant.	Y	Y	Y	Y		Y		Y

AGRICULTURE GENERAL-MANAGEMENT-AREA	Tribes	USFS	State	County	Landowners within 200'	Landowners within 500'	Wildlife	Heritage
Agriculture LUD - Review uses except non-farm SFD in Large Scale Agriculture LUD and uses within 1000 feet of sensitive wildlife area or site or rare plant.	☐	☐	☐	☐	☐			
Agriculture LUD - Review uses within 1000' of sensitive wildlife area or site except non-farm SFD in Large Scale Agriculture LUD.	☐	☐	☐	☐	☐		☐	
Agriculture LUD - Review uses within 1000' of rare plant except non-farm SFD in Large Scale Agriculture LUD.	☐	☐	☐	☐	☐			☐
Agriculture LUD - Non-farm SFD in Large Scale Agriculture LUD, except those within 1000 feet of sensitive wildlife area or site, or rare plant.	☐	☐	☐	☐		☐		
Agriculture LUD - Non-farm SFD in Large Scale Agriculture within 1000 feet of sensitive wildlife area or site.	☐	☐	☐	☐		☐	☐	
Agriculture LUD - Non-farm SFD in Large Scale Agriculture within 1000 feet of rare plant.	☐	☐	☐	☐		☐		☐

FOREST GENERAL MANAGEMENT AREA	Tribes	USES	State	County	Landowners 1990-2000	Landowners 2000-5000	Wildlife	Heritage
<p>Forest LUD—Review uses except utility facilities, railroads, home occupations, cottage industries, wineries, ag product processing & packing, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/bitum plants, expansion of non-profit learning/research facilities, and those review uses within 1000 feet of a sensitive wildlife area or rare plant.</p> <p>Forest LUD—Utility facilities, railroads, home occupations, wineries, ag produce processing & packing, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/bitum plants, expansion of non-profit learning/research facilities, and not within 1000 feet of a sensitive wildlife area or rare plant.</p> <p>Forest LUD—Review uses within 1000 feet of a sensitive wildlife area or rare plant except utility facilities, railroads, home occupations, wineries, ag produce processing & packing, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/bitum plants, expansion of non-profit learning/research facilities, P&B, non-profit learning/research facilities.</p>	X	X	X	X	X	X		
	X	X	X	X		X		
	X	X	X	X	X		X	

FOREST (CONTINUED) GENERAL-MANAGEMENT-AREA	Tribes	USES	State	County	Landowners with 200'	Landowners with 500'	Wildlife	Heritage
Forest-LUD—Review uses within 1000 feet of a rare plant except utility facilities, railroads, home occupations, wineries, ag produce processing & packing, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/hotel plants, expansion of non-profit camps, resorts, conference centers, R&R, non-profit learning/research facilities	X	X	X	X	X			X
Forest-LUD—Utility facilities, railroads, home occupations, wineries, ag produce processing & packing, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/hotel plants, expansion of non-profit camps, resorts, conference centers, R&R, non-profit learning/research facilities within 1000 feet of a sensitive wildlife area or site.	X	X	X	X		X	X	
Forest-LUD—Utility facilities, railroads, home occupations, wineries, ag produce processing & packing, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/hotel plants, expansion of non-profit learning/research facilities within 1000 feet of a rare plant	X	X	X	X		X		X

COMMERICAL, RECREATION, OPEN SPACE & SPECIAL GENERAL-MANAGEMENT AREA	Types	USES	State	County	Landowners within 2000'	Landowners within 500'	Wildlife	Heritage
Commercial LUD - Review uses except those within 1000 feet of a sensitive wildlife area or site or rare plant.	☐	☐	☐	☐	☐	☐		
Commercial LUD - Review uses within 1000 feet of a sensitive wildlife area or site.	☐	☐	☐	☐	☐	☐	☐	
Commercial LUD - Review uses within 1000 feet of a rare plant.	☐	☐	☐	☐	☐	☐		☐
Recreation LUD - Review uses except those within 1000 feet of a sensitive wildlife area or site or a rare plant.	☐	☐	☐	☐	☐	☐		
Recreation LUD - Review uses within 1000 feet of a rare plant.	☐	☐	☐	☐	☐	☐		☐
Open Space LUD - Review uses except those within 1000 feet of a sensitive wildlife area or site or a rare plant.	☐	☐	☐	☐	☐	☐		
Open Space LUD - Review uses within 1000 feet of a sensitive wildlife area or site.	☐	☐	☐	☐	☐	☐	☐	
Open Space LUD - Review uses within 1000 feet of a rare plant.	☐	☐	☐	☐	☐	☐		☐
Agriculture - Special LUD - Review uses.	☐	☐	☐	☐	☐	☐		☐
SPECIAL-MANAGEMENT AREAS								
Review Uses - All LUDs	☐	☐	☐	☐	☐	☐	☐	☐

Section 640. Notice of Application Requirements

	Send notice of application to:
STEP 1: All Expedited Review Uses	Tribes, USES, County
All Full Review Uses	Tribes, USES, County, State
STEP 2:	Additionally send to:
<p>• Single family dwellings in the GMA Residential Land Use Designation adjacent to GMA Agriculture or Forest Land Use Designations. • Commercial events and special uses in historic buildings adjacent to GMA Agriculture or Forest Land Use Designations. • Non-farm single family dwellings in the GMA Large-Scale Agriculture Land Use Designation. • Within GMA Forest Land Use Designations: utility facilities, railroads, home occupations, fruit & produce stands, wineries, wine sales/tasting rooms, ag product processing and packaging, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/pitch plants, expansion of non-profit camps/retreats/conference centers, B&Bs, non-profit learning/research facilities, fish processing operations, road rights, disposal sites</p>	Landowners within 500 feet
All other Full and Expedited Review Uses	Landowners within 200 feet
STEP 3:	Additionally send to:
All Full and Expedited Review Uses within 1000 feet of a sensitive wildlife area or site	State Department of Wildlife
All Full and Expedited Review Uses within 1000 feet of a rare plant	State Natural Heritage Program
All Full and Expedited Review Uses within Agriculture Special Land Use Designation	State Natural Heritage Program

Attachment "B"

**National Scenic Area Code Amendments
(Article 75 of County Zoning Ordinance)**

**"Summary List and Description of all Proposed
Article 75 Ordinance Amendments"**

**Hood River County Zoning Ordinance
Article 75 (National Scenic Area) Amendments
October, 2008**

Amended Pages:

- 1 Cover Page – *Add amendment date and ordinance number (when available).*
- 4-7 Index – *Add Section 162 (Special Uses in Historic Buildings) and amend page numbers as necessary*
- 20 Definition: “Horses, Boarding of (GMA)” [Section 040(89)] – *Amended to allow non-profit facilities and to be consistent with changes to the horse boarding amendments from Gorge Commission Plan Amendment #06-04. For more information, see the staff issues paper.*
- 31 Definition: “Undertaking” [Section 040(174)] – *Minor reference amendment.*
- 36 Uses Allowed Outright [Section 070(1)(a)(E) & (F)] – *Clarifies that signs are not intended to be allowed without review and that woven wire fencing involves posts and wires.*
- 37-38 Uses Allowed Outright [Section 070(1)(a)(H)(i), (ii), (v), and (vi)] – *Adds new reference numbers.*
- 39 Uses Allowed Outright [Section 070(1)(a)(J)(i)] – *Adds new reference numbers.*
- 41-42 Uses Allowed Outright [Section 070(2)(a)(B)(i), (ii), (v), and (vi)] – *Adds new reference numbers.*
- 43 Uses Allowed Outright [Section 070(2)(a)(D)(i)] – *Adds new reference numbers.*
- 44 Uses Allowed Outright [Section 070(2)(a)(E)(iv)] – *Clarifies the size limitation on signs in the GMA versus the SMA.*
- 48 Existing and Discontinued Uses [Section 075(3)(a)(E)] – *Corrects a mistake in which an applicable standard was not properly referenced regarding replacement structures.*
- 52 Application for Review and Approval [Section 080(3)(o)] – *Adds an application submittal requirement (elevation drawings) that was mistakenly omitted from the County’s amended Article 75.*
- 57 Acceptance of Application [Section 100(4)] – *This change is recommended in order to avoid unnecessary confusion. Filing fees are no longer included in Article 69, as herein referenced, and so this amendment will direct the public to the County’s current fee schedule.*
- 60 Decision of the Director [Section 130(4)] – *Clarifies that decisions can also be “sent” via email, fax, or other means and not just “mailed.”*
- 77-78 Uses and Structures Allowed in Various Land Use Designations – “Commercial Events” [Section 152.J(2)(a), (i), and (l)] – *These amendments are proposed to comply with the Gorge Commission’s order acknowledging the 2005 amendments to Article 75. For more information, see the staff issues paper.*
- 80 Uses and Structures Allowed in Various Land Use Designations – “Commercial Events” [Section 152.J(3)(g)] – *This amendments is proposed to comply with the Gorge*

- 144 Forest Zones – Review Uses (SMA) [Section 270(2)(w)] – *Clarifies that the demolition and replacement of structures 50 years old or older are intended to be treated the same.*
- 152 Forest Zones – Review Uses with Additional Criteria [Section 280(9)] – *Adds a requirement to the boarding of horses' provision limiting the number of horses per acre based on land characteristics and potential impacts to neighbors. For more information, see the staff issues paper.*
- 156 Forest Zones – Dimensional Requirements [Section 325(4)] – *Corrects a minor typographical error.*
- 159 Open Space Zone – Review Uses (GMA) [Section 340(1)(h)(A)] – *Corrects a minor typographical error.*
- 160 Open Space Zone – Review Uses (SMA) [Section 340(3)(c)] – *Clarifies that the demolition and replacement of structures 50 years old or older are intended to be treated the same.*
- 164 & 165 Rural Residential – Review Uses [Section 370(6) and (17)] – *Corrects a minor typographical error and adds the "special use in historic buildings" provision to the GMA rural residential designation.*
- 166 Rural Residential – Review Uses with Additional Criteria [Section 380(11)] – *Adds a provision allowing the boarding of horses to be considered in the RR-10 zone as a "review use with additional approval criteria." For more information, see the staff issues paper.*
- 169 Public Recreation – Review Uses (GMA) [Section 490(1)(d)] – *Adds the "special use in historic buildings" provision to the GMA public recreation designation.*
- 171-172 Public Recreation – Review Uses (SMA) [Section 490(5)(a) and (n)] – *Minor wording addition for clarity purposes.*
- 172 Public Recreation – Review Uses (SMA) [Section 490(5)(q)] – *Clarifies that the demolition and replacement of structures 50 years old or older are intended to be treated the same.*
- 179-180 Scenic Resources (GMA) – Key Viewing Areas [Section 520(2)(n) and (q)] – *Corrects a reference error and omits an unnecessary reference.*
- 188 Scenic Resources – Landscape Settings (Gorge Walls, Canyons, Wildlands) [Section 520(3)(g)(D)] – *Changes the word "structure" to "building" to better clarify its meaning.*
- 193 Scenic Resources (SMA) – Key Viewing Areas (Visible) [Section 530(2)(f)(B)] – *A minor wording change to apply the correct scenic review standard.*
- 195 Scenic Resources (SMA) – Key Viewing Areas (Visible) [Section 530(2)(l)] – *Changes the word from "building" to "structure" to clarify its meaning.*
- 195 Scenic Resources (SMA) – Key Viewing Areas (Foreground and Scenic Routes) [Section 530(3)(b)] – *This change reflects the fact that a scenic corridor strategy has since been developed.*
- 205 Cultural Resources (GMA) [Section 540(2)(c)(iv)(I) and (II)] – *Minor reference corrections.*

Commission's order acknowledging the 2005 amendments to Article 75. For more information, see the staff issues paper.

- 82 Uses and Structures Allowed in Various Land Use Designations – “Commercial Events” [Section 152.J(7)(D)] – *This amendment is proposed to comply with the Gorge Commission's order acknowledging the 2005 amendments to Article 75. For more information, see the staff issues paper.*
- 88-89 Expedited Development Review Process [Section 156.A(1)(a) and (m)] – *Minor amendments to clarify that (1) signs cannot be considered under the expedited review procedures and (2) demolition and replacement of structures 50 years old or older are intended to be treated the same..*
- 90-91 Expedited Development Review Process [Section 156.B(1)(a)(B) and (C)] – *Additional amendments to clarify that signs are not allowed for consideration under the expedited review process.*
- 92 Expedited Development Review Process [Section 156.A(1)(d)(A)(ii)] – *Adds an applicable reference number.*
- 99-100 Emergency/Disaster Response Actions [Section 158(4)(a)(A)] – *Clarifies that scenic resource standards apply depending on the property's location within either the GMA or SMA.*
- 101 Emergency/Disaster Response Actions [Section 158(4)(a)(F)(iv)] – *Corrects an inaccurate reference number.*
- 112 Signs [Section 160(2)(g)] – *Corrects inaccurate reference numbers regarding commercial or public recreational signs.*
- 114-119 Special Uses in Historic Buildings [Section 162] – *A new section added to allow “special uses in historic buildings.” For more information, see the staff issues paper.*
- 122 Land Divisions and Lot Line Adjustments [Section 165(C)(1)(a)(B)] – *Replaces the word “minimum” with “maximum” in order to properly implement the intended meaning of the standard.*
- 124 Land Divisions and Lot Line Adjustments [Section 165(C)(2)(f)] – *Adds the words “land use and” in order to give clearer meaning.*
- 129 Agricultural Zones – Review Uses (GMA) [Section 190(1)(z)] – *Adds the “special use in historic buildings” provision to the GMA agricultural designations.*
- 129 & 133 Agricultural Zones – Review Uses (SMA) [Section 190(2)(b) and (z)] – *Corrects a reference error and clarifies that the demolition and replacement of structures 50 years old or older are intended to be treated the same.*
- 134 Agricultural Zones – Review Uses with Additional Criteria (GMA) [Section 200(1)(k)] – *Adds a requirement to the board of horses' provision limiting the number of horses per acre based on land characteristics and potential impacts to neighbors. For more information, see the staff issues paper.*
- 139 Forest Zones – Review Uses (GMA) [Section 270(1)(j)] – *Corrects a minor typographical error.*
- 141 Forest Zones – Review Uses (GMA) [Section 270(1)(dd)] – *Adds the “special use in historic buildings” provision to the GMA forest designations.*

- 208 Cultural Resources (GMA) [Section 540(4)(a)(A), (4)(a)(A)(i), (4)(a)(A)(ii), and (4)(a)(A)(ii)(IV)] – *Minor reference corrections and additions.*
- 210 Cultural Resources (GMA) [Section 540(5)(a)(C)] – *Minor reference correction.*
- 212 Cultural Resources (GMA) [Section 540(6)(c)] – *Minor reference correction.*
- 214 Cultural Resources (SMA) [Section 550(1)(a) and (4)] – *Minor reference correction and clarification.*
- 217 Cultural Resources (SMA) [Section 550(4)(d)(A), (B), (C) & (D) and (4)(e)(A)] – *Minor reference corrections and additions.*
- 219 Natural Resources (GMA) – Wetlands [Section 560(1)(a)(B)] – *Corrects a grammatical error.*
- 220 Natural Resources (GMA) – Wetlands [Section 560(3)(a)(B)] – *Corrects a grammatical error.*
- 232 Natural Resources (GMA) – Sensitive Wildlife [Section 580(1)(a)(B)] – *Provides instructions for obtaining additional information.*
- 238 Natural Resources (GMA) – Rare Plants [Section 590(1)(a)(C)] – *Provides instructions for obtaining additional information.*
- 239 Natural Resources (GMA) – Rare Plants [Section 590(4)] – *Corrects reference errors.*
- 246-248 Natural Resources (SMA) – Wildlife and Plants [Section 600(3)(a) and (3)(d)(A)] – *Provides instructions for obtaining additional information and removes a document reference.*
- 268-273 Notice Requirements [Section 640] – *Replaces the instructions concerning notice for development requests in the National Scenic Area.*

Attachment "C"

National Scenic Area Code Amendments
(Article 75 of County Zoning Ordinance)

"Gorge Commission's Findings and Reports"

Information Related to the

“Commercial Events Amendment”

FILE COPY

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

IN THE MATTER OF HOOD RIVER)
COUNTY ORDINANCE NO. 268) **FINAL ORDER**
_____) **APPROVING ORDINANCE**

On July 14, 2005, the Gorge Commission received Hood River County Ordinance No. 268 to review for consistency with the *Revisions to the Management Plan for the Columbia River Gorge National Scenic Area (Revisions)* and the Scenic Area Act. Ordinance 268 amends the County's Scenic Area ordinance to incorporate the *Revisions*. The Hood River County Board of Commissioners approved Ordinance 268 on June 29, 2005.

On September 13, 2005, the Columbia River Gorge Commission met to conduct a public hearing on Ordinance 268, pursuant to sections 7(b) and 8(i) of the Scenic Area Act.

The Commission considered the ordinance, and a staff report prepared by the staff of the Gorge Commission. The staff report recommended the Commission find the Ordinance to be consistent with the Act and *Revisions*. Michael Benedict, Hood River County Planning Director and Eric Walker, Hood River County Senior Planner were present at the September 13, 2005 hearing and concurred with the staff recommendation. In addition, Michael Lang, Conservation Director for Friends of the Columbia Gorge testified.

ORDER APPROVING
HOOD RIVER COUNTY
ORDINANCE NO. 268

Based on the text of the ordinance, the staff analysis, and public testimony, the Commission voted unanimously to adopt the Staff's

Recommendation as follows:

1. The portions of amendments to Hood River County's Scenic Area Ordinance (as contained in Hood River County Ordinance No. 268) affecting lands in the General Management Area are consistent with the Management Plan; with the exception of Hood River County Article 75 §152.J.2.a and §152.J.2.l where commercial events are permitted on an "established farm"; and
2. Order that within 24 months, Hood River County shall amend the provisions of Article 75 to eliminate the allowance of commercial events to occur on established farms and until such an amended ordinance is adopted to apply Revised Management Plan Guideline 2.A for Commercial Events; and
3. Make a tentative finding of consistency with the Management Plan for those provisions of Hood River County Ordinance No. 268 affecting lands in the Special Management Area and transmit those provisions to the Secretary of Agriculture for concurrence; and
4. Order that should any provision contained in the Management Plan be found inconsistent with the Scenic Area Act as the result of litigation, Hood River County shall amend the corresponding provision in Ordinance 268.

The Commission also approved Hood River County's requested effective date of January 1, 2006 for both the GMA and SMA portions of Ordinance 268.

DATED this 30th day of September, 2005



Judy S. Davis, Chair

NOTICE: You are entitled to judicial review of this final order within 60 days of the date of this order pursuant to section 15(b)(4) of the Scenic Area Act.


ORDER APPROVING
HOOD RIVER COUNTY
ORDINANCE NO. 268

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury, that on the 30th day of September, 2005, I served a true and correct copy of the foregoing FINAL ORDER APPROVING ORDINANCE by first class mail postage prepaid on the following persons:

Michael Benedict, Director
Hood River County Planning and Community Development
601 State Street
Hood River, OR 97031-1871

Michael Lang, Conservation Director
Friends of the Columbia Gorge
522 SW Fifth Avenue, Suite 720
Portland, OR 97204



Nancy A. Andring
Administrative Secretary
Columbia River Gorge Commission

Information Related to the

**“Commercial Uses in Historic Buildings
Amendment”**

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BEFORE THE COLUMBIA RIVER GORGE COMMISSION

IN THE MATTER OF PLAN)
AMENDMENT APPLICATION) FINAL ORDER
NO. PA-05-02 ()
)

1. Procedural History

On January 26, 2005 the Columbia River Gorge Commission (Commission) received an application from John Groen on behalf of Geoff Thompson to amend the Management Plan for the Columbia River Gorge National Scenic Area (PA-05-02). The application requested three changes to the Management Plan: (a) to change the land use designation on a 1.21-acre property in Multnomah County (that includes the historic Viewpoint Inn building) from Large-Scale Agriculture and Small Woodland to Commercial Recreation; (b) to change the recreation intensity class for the property containing the Viewpoint Inn from RIC 2 to RIC 3; and (c) to add a new policy and review use guideline to the Management Plan provisions for Commercial Recreation designations, which would allow properties on the National Register of Historic Places as of the passage of the Scenic Area Act to open as a visitor center and be used commercially in the same manner and function as originally designed and historically used.

On March 29, 2005 staff for the Commission determined that the application for PA 05-02 was complete. On April 12, 2005 the Commission held a hearing for preliminary review of PA 05-02. At that hearing the Commission directed certain questions to the applicant, and asked staff to prepare a work plan to address whether the Management Plan adequately protected and enhanced historic buildings in the Scenic Area. The Commission continued the preliminary review of PA 05-02 to May 10, 2005.

At the May 10, 2005 hearing, John Groen made certain revisions to the application. The May 10 revisions to the application did not alter the first two elements of the application (the land use designation or the recreation intensity class), but replaced the third element (item c of paragraph 1, above) with the following: "(c) to amend the cultural resources policies for the General Management Area to add a new policy allowing properties that were on the National Register of Historic Places prior to November 17, 1986 and that were originally designed for restaurant and hotel purposes to re-establish those uses and to provide for public viewing and interpretive facilities, subject to conditions regarding size, hours and other aspects of such uses." At the May 10, 2005 hearing, the Commission voted to commence review of the application for PA 05-02, approved portions of the staff work plan to address the adequacy of the existing Management Plan provisions concerning historic buildings, and directed staff to carry out the portions of the work plan for a new inventory of historic properties and an evaluation of the uses that are currently allowed in historic buildings and of those that could be allowed to improve protection of those buildings. The Commission also granted the

1 Executive Director an additional thirty working days for preparation of the Director's
2 Report. The Commission granted the extension to allow time for the staff to study the
3 broader issue raised by the subject application of how well the Management Plan
4 supports protection of historic buildings. The additional time was designed to allow staff
5 to:

- 6
- 7 (1) Assess the extent, use and condition of buildings in the Scenic Area on or eligible
8 for the National Register of Historic Places;
- 9
- 10 (2) Identify allowable uses for historic buildings provided by the Management Plan;
- 11
- 12 (3) Conduct a limited survey of how other jurisdictions encourage preservation of
13 historic buildings; and
- 14
- 15 (4) Assess consistency of possible new uses for historic buildings with the purposes
16 and standards of the Scenic Area Act.
- 17

18 On September 21, 2005, the Director of the Columbia Gorge Commission
19 (Director) issued a report on the revised application. The Director's report recommended
20 that the Commission adopt a substantive modification to PA 05-02. On October 11, 2005,
21 the Commission held a public hearing on the revised application and the Director's report
22 on the revised application (including the substantive modification proposed in the
23 Director's report). As part of the Director's report, the Commission also heard a
24 presentation of the results of the work plan the Commission directed staff to complete
25 regarding the adequacy of the Management Plan in protecting and enhancing historic
26 buildings. This presentation included: (1) a summary of the *National Scenic Area
27 Historic Buildings Survey*, completed by Donovan and Associates (addressing the extent
28 and condition of building in the Scenic Area that are on or that may be eligible for
29 National Register of Historic Places); (2) an analysis of the adequacy of the Management
30 Plan in protecting and enhancing historic buildings; and (3) results of a survey of how
31 other jurisdictions address preservation of historic buildings. The Commission also heard
32 testimony from the applicant, other government entities, and the public. At the
33 commencement of the hearing, the applicant withdrew the first two elements of the
34 proposed plan amendment, leaving only the proposal to amend the Management Plan:
35 "to allow properties that were on the National Register of Historic Places prior to
36 November 17, 1986 and that were originally designed for restaurant and hotel purposes to
37 re-establish those uses and to provide for public viewing and interpretive facilities,
38 subject to conditions regarding size, hours and other aspects of such uses." As a factual
39 matter, the only property in the Scenic Area that would have qualified under the
40 applicant's proposal was the Viewpoint Inn, because only it was both on the National
41 Register at the specified time and originally designed for restaurant and hotel purposes.

42
43 The Commission proceeded to vote on the applicant's proposed plan amendment, which
44 was not approved. The Commission then voted on a motion to reconsider its vote, which
45 motion was approved. The Commission then voted to table the applicant's proposed plan
46 amendment, and to continue the hearing to November 15, 2005 to consider the

1 substantive modification to PA 05-02 proposed in the Director's report, to provide a 30
2 day notice of hearing, and to provide adequate time for the public to review and comment
3 on the substantive modification.
4

5 Notice of the continued hearing, and of the reopening of the record on PA-05-02,
6 was provided on October 13, 2005. An addendum to the Director's Report was issued on
7 November 7, 2005. On November 15, 2005 the Commission considered the proposed
8 substantive modification to PA-05-02, along with a number of clarifications. The
9 Commission took additional testimony from the applicant, public entities, and the public.
10 Following the close of the record, the Commission approved the substantive modification
11 to PA-05-02 with certain clarifications, as set forth in Exhibit 1 to this Final Order. The
12 Commission's vote met the requirements of Commission rule 350-50-020(2)(b) by
13 including the approval of at least three members from each state.
14

15 Commission rule 350-50-110 requires the Commission to consult with the U.S.
16 Forest Service, the states of Oregon and Washington, the six Gorge counties, the four
17 tribal governments, and other interested agencies or organizations. The Commission met
18 these requirements as set forth in the Director's Report dated September 21, 2005, the
19 Addendum to the Director's Report dated November 7, 2005, and as further evidenced by
20 the testimony at the hearings on PA-05-02. The Commission also received email
21 messages from the state historic preservation agencies of Oregon and Washington, in
22 response to the proposed substantive modification, supporting the modification.
23

24 2. Applicable Law 25

26 The authority to amend the Management Plan is contained in section 6(h) of the
27 Scenic Area Act, 16 USC § 544d (h), which provides that "[i]f the Commission
28 determines at any time that conditions within the scenic area have significantly changed,
29 it may amend the management plan. The Commission shall submit amendments to the
30 management plan to the Secretary for review, in accordance with the provisions of this
31 section for adoption of the management plan."
32

33 Commission rules codified at 350-50 specify the procedures and standards for an
34 amendment to the Management Plan. The rules interpret and apply the provisions of the
35 Scenic Area Act as establishing three criteria for an amendment to the Management Plan.
36 Those criteria are that:
37

38 (1) Conditions in the Scenic Area have changed significantly. This means:

39 (a) physical changes that have widespread or major impacts to the
40 landforms, resources, or land use patterns in the Scenic Area;

41 (b) new information or inventory data regarding land uses or resources
42 that could result in a change of plan designation, classification, or other
43 provision; or
44
45
46

- 1 (c) changes in legal, social, or economic conditions, including those that
- 2 affect public health, safety, or welfare, not anticipated in the Management
- 3 Plan;
- 4
- 5 (2) No practicable alternative to the proposed amendment more consistent with
- 6 the purposes and standards of the Scenic Area Act exists; and
- 7
- 8 (3) The proposed amendment is consistent with the purposes and standards of the
- 9 Scenic Area Act.

10 Commission Rule 350-50-030.

11 **3. Findings of Fact**

12 The following findings of fact by the Commission address each of the criteria for

13 an amendment to the Management Plan, as set forth in Commission Rule 350-50-030.

14 **A. Conditions in the Scenic Area Have Changed Significantly (350-50-030(1))**

15 Under Commission rule 350-50-030(1), a significant change in conditions in the

16 Scenic Area may be shown in three ways. In this case, the second of the three ways is the

17 relevant one. Under this provision (350-50-030(1)(b)), in order to approve an

18 amendment to the Management Plan, the Commission must find that there is "new

19 information or inventory data regarding land uses or resources that could result in a

20 change of a plan designation, classification, or other plan provision." In this case, the

21 Commission finds that there is such information, showing a need for a change in the

22 Management Plan in order to carry out one of the purposes of the Scenic Area Act,

23 namely to protect and enhance cultural resources of the Columbia River Gorge. The

24 cultural resources in question are historic buildings within the Scenic Area,¹ and the new

25 information or inventory data include evidence that these historic buildings are not being

26 adequately protected and enhanced under existing provisions of the Management Plan.

27 The specific new information or data that the Commission finds result in a need to

28 change the Management Plan are described below.

29 *New information and inventory data:* New information or inventory data

30 regarding historic buildings in the Scenic Area has been obtained through the review of

31 the proposed amendment, and through analysis of how well the Management Plan

32 protects and enhances historic buildings. The new information or inventory data concern

33 a cultural resource within the scenic area – historic buildings – and uses of that resource.

34 The information or data demonstrate that historic buildings in the Scenic Area are not

35 being protected and enhanced. Indeed, the information or data show that historic

¹ The Management Plan defines "cultural resource" to include "Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old." *Management Plan* (1991). *Glossary; Revisions to the Management Plan* (2004), Glossary at 5.

1 buildings are being lost over time. As a result, there is a need to change the Management
2 Plan to add provisions that protect and provide for the enhancement of historic buildings
3 by authorizing additional uses of them where their historic character is protected and
4 enhanced. The new information or data were obtained from the following sources:

- 5
- 6 (1) *The Columbia River Gorge Commission, National Scenic Area Historic Building*
7 *Survey* (the "Survey") prepared by Donovan and Associates in September 2005;
- 8 (2) Consultation on the proposed amendment with the U.S. Forest Service, states of
9 Oregon and Washington, Gorge counties and Indian tribal governments;
- 10 (3) Input from other agencies with expertise in historic preservation and other
11 jurisdictions administering historic preservation programs;
- 12 (4) Public comment received on the proposed amendment during the comment
13 period;
- 14 (5) Staff-generated information concerning the allowable uses for historic buildings
15 in the existing provisions of the Management Plan;
- 16 (6) Information received during the Commission's 10-year required review of the
17 Management Plan (2001-2004) ("Plan Review");
- 18 (7) Compilation of information concerning how historic buildings have (or have not)
19 been protected and enhanced in the Scenic Area since Management Plan
20 adoption.
- 21

22 Some of the information or data were not gathered specifically for this plan
23 amendment (particularly, input received during Plan Review). Nevertheless, even the
24 information or data that were received during Plan Review are "new," because they were
25 not available at the time the resource inventories required under 16 USC 544d were
26 completed, and they were not available when the provisions of the Management Plan
27 addressing historic structures were adopted or last revised in a comprehensive fashion.
28 Furthermore, the Commission finds that even if it were to exclude the information or data
29 gathered in connection with its last Plan Review, the information received only in
30 connection with this Plan Amendment is itself sufficient to show a need to change
31 provisions of the Management Plan in order to protect and enhance historic structures in
32 the Scenic Area. They also demonstrate that the existing Management Plan did not
33 anticipate the difficulty of maintaining historic structures over the long term as a cultural
34 resource in the Scenic Area.

35
36 Together, the information or data show that there is a need to change provisions of the
37 Management Plan to carry out the purposes of the Scenic Area Act. They also
38 demonstrate that the existing Management Plan did not anticipate the difficulty of
39 maintaining historic buildings over the long term as a cultural resource in the Scenic
40 Area.

41
42 Four key facts emerged from the new information or data. These four key facts are
43 summarized below, followed by a more detailed description of each:

- 44
- 45 • Some significant historic buildings in the Scenic Area are deteriorating and are in
46 need of stabilization to protect the resource. Other historic buildings either have

- 1 been adversely affected by incompatible alterations or have been lost altogether,
2 due to deterioration or demolition.
- 3 • Rehabilitation (including restoration) and maintenance of historic buildings in the
4 Scenic Area to preserve their historic integrity is very costly, and many owners of
5 such buildings have not been willing to spend the money necessary for
6 preservation.
 - 7 • Providing additional permitted uses of historic buildings, including compatible
8 adaptive uses and especially uses providing economic development options for
9 the owners, is an incentive frequently used by jurisdictions with successful
10 historic preservation programs.
 - 11 • Current Management Plan provisions offer few options for adaptive reuse of
12 historic buildings. These limitations generally mean that there are not economic
13 incentives for preservation or maintenance.

14
15 *Threats to Historic buildings:* The Survey showed that, "Although generally in fair to
16 good condition, some of the [historic] buildings were in need of structural stabilization
17 and repair" Survey, at page iv. Specifically, the survey report notes that many historic
18 agricultural buildings are threatened by a lack of use or maintenance, due in part to
19 changes in agricultural practices or changes in the use of the buildings. Many of these
20 buildings are currently not in use, a harbinger of further degradation if they remain
21 vacant. The Survey also highlights deterioration in all types of historic buildings in the
22 wet, western end of the Scenic Area, due to climate.

23
24 The Survey notes that the Scenic Area has lost historic buildings to incompatible
25 alterations through the years. In addition, since adoption of the Management Plan,
26 experience has shown the loss of several historically significant buildings through
27 demolition, some of which had deteriorated severely. According to the Director's Report
28 "[o]ther historic buildings not documented have likely also been lost due to neglect,
29 vacancy and the elements." Director's Report, at page 20.

30
31 *Challenges of Rehabilitation and Maintenance:* As part of the Survey, the
32 consultants interviewed 24 owners and/or managers of properties either on the National
33 Register, known to be eligible, or likely to be found eligible. One thing repeated by those
34 interviewed was the difficulty, and in particular the high cost, of restoring, rehabilitating
35 and maintaining historic buildings in a manner that preserves their historic integrity. The
36 Survey notes "owners cited the cost of maintaining a historic building is high because of
37 the time, materials, and skill required to complete the repair work that is compatible with
38 the historic building." Survey, at page 11. Interviewees also spoke of difficulty in finding
39 craftspeople and carpenters sensitive to historic buildings and willing to adapt standard
40 techniques to combine new and old materials. Finding in-kind replacement materials for
41 restoration of original features was also cited as difficult, as was maintaining original
42 landscaping integral to the historic context of some properties.

43
44 Marge Dryden, US Forest Service Archaeologist, noted in a September 7, 2005
45 letter on the application, "...historic buildings can be expensive to maintain and large
46 buildings...have associated costs that are beyond the reach of many residential

1 occupants." Columbia Hills State Park Manager Andy Kallinen estimated in his August
2 2005 interview that the costs of restoring an 1880's barn at Dalles Mountain Ranch for
3 adaptive reuse at \$250,000 and rehabilitating the Crawford House for a public use at
4 approximately \$200,000. In a July 7, 2003 letter to the Commission, Tom Garnier, owner
5 of "Mayerdale", a historically significant property along the Historic Columbia River
6 Highway near Mosier, notes the property is in a "...serious state of deferred
7 maintenance", and that "...it could take several hundred thousand dollars to repair the
8 house." This scale of costs to protect or enhance historic buildings is corroborated in the
9 application for PA-05-02, with regard to the cost of restoring the Viewpoint Inn. For the
10 Inn, the costs for restoration, repair and ongoing maintenance were estimated to be
11 \$220,425.
12

13 *The Case for Flexibility and Compatible Adaptive Use:* Comments from owners
14 of historic buildings, preservation experts and planners from many jurisdictions point to
15 the beneficial effects on historic resources provided by regulatory incentives for
16 preservation. Such incentives typically involve code provisions that allow adaptive reuse
17 of historic buildings, compatible with preserving their historic character.
18

19 On page 12 of the Survey, the following was noted: "Several owners stated that
20 use regulations should be relaxed to allow for compatible alternative uses that support the
21 preservation of the historic buildings. Several owners stated that the Scenic Act promotes
22 tourism and historic preservation, so the plan should allow alternative uses for the historic
23 buildings such as weddings, bed and breakfasts, gatherings, cafes and art galleries that
24 serve tourists and generate income for the rehabilitation of the buildings." Along a similar
25 vein, Laurel MacDonald, in a July 5 2005 comment letter on the proposed plan
26 amendment, stated, "...expanding usage options for historic properties would
27 significantly enhance the ability to preserve these landmarks." Ms. MacDonald owns the
28 historic Bridal Veil Bed and Breakfast along the Historic Columbia River Highway.
29

30 Commission staff consulted with the National Trust for Historic Preservation in
31 researching various alternative means of protecting and enhancing historic buildings. In
32 correspondence dated August 9, 2005, Stephanie Redman, Assistant Director of the
33 National Trust's "Main Street" program, stated that "...a more flexible set of guidelines
34 created specifically for the geographic area enables building owners to retain the historic
35 integrity of the building while rehabilitating property for a contemporary use." She
36 observed that "...pristine restoration a la the Secretary's standards is often cost-
37 prohibitive," underscoring the importance of allowing compatible adaptive uses for
38 historic buildings. Ms. Redman goes on to note, "the reason that many Main Street
39 districts are economically viable today is because of adaptive reuse and preservation
40 incentives." While the Main Street program focuses on urban situations, these
41 observations about the power of regulatory incentives still provide valuable lessons in
42 effective preservation applicable to the Scenic Area.
43

44 The value of allowing adaptive uses in historic buildings is echoed in a September
45 12, 2005 comment letter from James Hamrick, Oregon State Historic Preservation
46 Officer. Mr. Hamrick states: "The concept of compatible use is well founded in historic

1 preservation philosophy. It acknowledges that while some properties can maintain the
2 historic use, others may not survive without adjustments such as alternative but
3 compatible uses." Mr. Hamrick's letter also supports a Gorge-wide approach to this issue,
4 as does a September 13, 2005 letter received from Greg Griffith, Deputy State Historic
5 Preservation Officer with the Washington Department of Archaeology and Historic
6 Preservation. Mr. Griffith stated that a Gorge-wide amendment addressing this topic
7 "...provides the CRGC with a more efficient and comprehensive approach to its mission
8 for cultural resources in the region."
9

10 Richard Davis, Washington State Parks Area Manager for the eastern Gorge,
11 highlighted the importance of allowing uses in historic buildings that facilitate
12 reinvesting in those properties. In his September 7, 2005 letter, Mr. Davis states: "If the
13 Gorge Commission is going to protect historic buildings in the Gorge, the Commission
14 must find a way to allow private or government investment in historic buildings the
15 opportunity for some type of economic benefit."
16

17 As part of its research, Commission staff surveyed multiple jurisdictions in the
18 Pacific Northwest that administer historic preservation programs. Jurisdictions known
19 for their successful historic preservation efforts all provided regulatory incentives
20 including adaptive use options for historic buildings. Most of these jurisdictions,
21 particularly in the Pacific Northwest, are municipalities. Few (if any) county
22 governments in the region were found to have special regulatory incentives for
23 preservation of historic buildings through allowance of adaptive uses. Ken Guzowski,
24 Preservation Planner for the City of Eugene, in an August 19, 2005 conversation,
25 indicated the City's historic preservation zone approach has proven to be a powerful
26 regulatory incentive for preservation. Similar observations on the importance of
27 regulatory incentives were made by planners from the cities of Bellingham, Washington,
28 and Portland, Oregon, both of which make special provisions for uses in historic
29 buildings.
30

31 The common thread is that, to effectively protect and enhance historic buildings,
32 land use codes should allow owners to pursue historically compatible uses that generate
33 sufficient revenue to support the costs of restoration, rehabilitation and maintenance of
34 historic properties. This point is illustrated by the application for PA-05-02, which states:
35 "Under the current economics, the Viewpoint Inn and Restaurant must be allowed to
36 generate sufficient revenue to justify the preservation and restoration that it deserves"
37 Application PA-05-02, at page 10.
38

39 *The Management Plan's Limited Provisions for Adaptive Use:* To assess whether
40 an amendment to the Management Plan is needed, Commission staff analyzed allowable
41 uses available for these buildings under existing provisions of the Management Plan. The
42 analysis focused on uses that could potentially generate revenue that could help cover
43 restoration and preservation costs. A table of such allowed uses for each land use
44 designation was compiled for this analysis. Several such uses are potentially available to
45 some historic buildings (e.g. bed and breakfasts, home occupations); others are only
46 allowed in areas with particular land use designations. This is the case for a variety of

1 commercial uses in Rural Center, Commercial or Commercial Recreation designations,
2 which account for a small percentage of the Scenic Area land base and very few of the
3 historic buildings in the Scenic Area.²
4

5 The Management Plan provides some regulatory incentives for uses in historic
6 buildings through provisions for bed and breakfasts and commercial events. In fact, in
7 order to qualify for bed and breakfast use in the Special Management Area (SMA), one
8 must locate the use in a building on or eligible for the National Register of Historic
9 Places. Commercial events are allowed in most GMA designations, but only in four
10 circumstances, one of which is for dwellings listed on the National Register. However, a
11 closer examination reveals that for many historic buildings, these uses are not an option.
12 As revealed in the Survey, only a small percentage of buildings eligible for the National
13 Register are actually listed (7% of buildings identified as eligible or likely to be found
14 eligible in the survey report). Most of these are in the SMA, where commercial events are
15 not allowed. For the remaining 93% of historic buildings identified in the survey,
16 commercial events are not a use allowed under the existing provisions of the
17 Management Plan. Also, about half of the buildings identified as historically significant
18 in the survey report are not dwellings, and thus are not eligible for bed and breakfast uses.
19 Several persons testified (including the applicant for PA-05-02) that the revenue that bed
20 and breakfast use generates is often insufficient to cover costs of rehabilitation,
21 restoration and maintenance of historic buildings.
22

23 During Plan Review, Multnomah County provided a comment letter to the
24 Commission, listing issues that it viewed as priorities to address during Plan Review. One
25 of these issues was that the Management Plan does not adequately provide for adaptive
26 use of historic buildings. In a September 26, 2001 letter to the Commission, then
27 Planning Director Kathy Busse stated: "The land use guidelines (review uses) may
28 prevent the re-use of historic buildings. This issue is of critical importance to Multnomah
29 County." The June 17, 2005 letter from the Multnomah County Board of Commissioners
30 urges the Commission to address this issue on a Gorge-wide basis.
31

32 Empirical experience through the years of implementation supports the need to
33 amend the Management Plan to allow additional uses of historic buildings. For example,
34 in 2001, a proposal emerged to convert a vacant, historic school to a multiple use facility
35 featuring artist studios, a gallery and restaurant, a community meeting space, four artist
36 residences and traveler accommodations. Preliminary analysis showed several facets of
37 the proposal were likely inconsistent with the Management Plan. Shortly after the
38 proposal was submitted for review, the school was destroyed by fire and the proposal was
39 not acted on. Other similar examples have also emerged pointing to the need to amend
40 the Management Plan to allow additional uses of historic buildings. One such example
41 was a suggestion at the Dalles Mountain Ranch for a museum/interpretive center for the
42 old barn, or a small inn at the Crawford House, neither of which would likely be allowed
43 under current Management Plan provisions.

² Under the Management Plan, historic resources include both properties on the National Register, and properties eligible for the Register.

1 The Wasco County Board of Commissioners submitted a comment letter in
2 response to the Commission staff's exploration of additional economically beneficial,
3 compatible uses for historic buildings in the Scenic Area. The Board stated, in their
4 September 13, 2005 letter, that "...without this amendment, there is little incentive to
5 maintain many of these buildings and we will begin to lose them as a result of non-usage
6 and neglect."

7
8 *Findings and Conclusions Regarding New Information to Support Recommended*
9 *modification:*

10 In conclusion, the Commission finds that the information or inventory data described
11 above are new, in that they were not available at the time the original inventories were
12 prepared as a basis for the Management Plan or at a time when the Commission
13 completed a comprehensive review of the portions of the Management Plan addressing
14 historic buildings. The Commission also finds that the information and data show that a
15 cultural resource, historic buildings, are not being protected or enhanced under the
16 existing provisions of the Management Plan, and that therefore the Management Plan
17 needs to be amended to include additional provisions to protect and enhance historic
18 buildings within the Scenic Area. Finally, the Commission finds that the historic
19 buildings identified through the Survey and the Director's Report are an important
20 cultural resource that must be protected and enhanced under the terms of the Scenic Area
21 Act. For these reasons, the Commission concludes that the requirements of rule 350-50-
22 030(1) are met by the Director's Substantive Modification.

23
24 **B. Practicable alternatives that are more consistent with the National Scenic**
25 **Area Act (350-50-030(2))**

26
27 Under Commission rule 350-50-030(2), to approve an amendment to the
28 Management Plan the Commission must find that "[n]o practicable alternative to the
29 proposed amendment more consistent with the purposes and standards of the Scenic Area
30 Act exists." The *initial* proposed amendment in this case was the amendment proposed
31 by John Groen, described on page 1 of this order, as subsequently amended by John
32 Groen to include only the third element of the proposed amendment (part (c)) (the
33 "Applicant's Proposed Plan Amendment"). As described on page 2 of this order, as a
34 factual matter, the Applicant's Proposed Plan Amendment would have applied only to
35 one property -- the Viewpoint Inn -- because it was limited to properties that were on the
36 National Register of Historic Places prior to November 17, 1986 and that were
37 historically used for commercial purposes. Only one property in the Scenic Area, the
38 Viewpoint Inn, would have met those limitations.

39
40 The requirement to consider whether there is a "practicable alternative" in
41 Commission rule 350-50-030(2) begins with the purpose of the proposed plan
42 amendment. Something cannot be an alternative if it does not satisfy at least the same
43 purpose as the initial proposal, and it cannot be practicable unless it is something that can
44 be done, considering technology and cost. Management Plan, Glossary (defining the
45 word "practicable"). The term "practicable alternative" is a term of art in regulatory
46 settings, generally meaning an alternative means of accomplishing a purpose, taking into

1 account cost and available resources. See, e.g., 40 CFR 230.3 (EPA rules defining
2 "practicable alternative" for purposes of the federal Clean Water Act wetlands program);
3 OAR 141-085-0025, (Oregon Department of State Lands wetlands program rules);
4 Commission rule 350-81-600(5) (practicable alternatives test for reviewing the effects of
5 development on natural resources in the Special Management Area (SMA) of the Scenic
6 Area). In this matter, the basic purpose of the Applicant's Proposed Plan Amendment
7 was to allow adaptive reuse of the Viewpoint Inn in a manner likely to generate enough
8 revenue to support the restoration of that historic structure, and that meets the other legal
9 requirements for a plan amendment.

10
11 The Commission finds that the modification to the Applicant's Proposed Plan
12 Amendment set forth in the Director's Report, as supplemented by the November 7, 2005
13 Addendum to the Director's Report (collectively, the "Director's Modification"), is a
14 practicable alternative to the Applicant's Proposed Plan Amendment that is more
15 consistent with the Scenic Area Act, for the reasons set forth below. In addition, the
16 Commission finds that the proposed modifications to the Applicant's Proposed Plan
17 Amendment submitted by the Friends of the Columbia Gorge (the "Friends'
18 Modification") are not a practicable alternative, for the additional reasons set forth below.

19
20 Procedurally, under Commission rule 350-50-100(3)(h), the Commission may
21 approve "substantive changes" to a proposed amendment to the Management Plan.
22 "Substantive changes" are changes to the amendment that go beyond clarification of the
23 proposal. In this case, the Commission determined that the Director's Substantive
24 Modification was a practicable alternative to the Applicant's Proposed Plan Amendment,
25 and that the Director's Modification was more consistent with the purposes and standards
26 of the Scenic Area Act. The Commission found that the Director's Modification was
27 more consistent because it provides the most comprehensive protection to historic
28 resources of any alternatives considered. Under rule 350-50-100(3)(h), the Commission
29 then proceeded to consider whether the Director's Modification met the criteria for a plan
30 amendment under Commission rule 350-50-030.

31
32 The Director's Substantive Modification is a practicable alternative to the
33 Applicant's Proposed Plan Amendment, and is more consistent with the purposes and
34 standards of the Scenic Area Act. It provides protection and enhancement for cultural
35 resources not covered by the Applicant's Proposed Plan Amendment (namely historic
36 buildings throughout the General Management Area (GMA) of the Scenic Area). The
37 Director's Substantive Modification also is consistent with the purpose of the Applicant's
38 Proposed Plan Amendment in that it also allows the uses of the Viewpoint Inn that the
39 applicant requested. The restaurant, inn, interpretive displays, commercial events and
40 day use public recreation uses are all allowable review uses under the Director's
41 Modification. At the same time, these uses at the Viewpoint Inn (as well as at other
42 historic buildings) would have to be consistent with the Secretary of Interior's standards
43 for preservation and rehabilitation, found to contribute to the protection and enhancement
44 of the historic (cultural) resource, and to not adversely affect other Gorge resources or to
45 conflict with the land use designations provided under the Scenic Act and the
46 Management Plan. These criteria ensure that the uses allowed protect and enhance

1 historic buildings throughout the GMA portion of the Scenic Area; that the uses do not
2 adversely affect scenic, other cultural, recreational, or natural resources in the Scenic
3 Area; and that the uses are consistent with the requirements of the Act and the
4 Management Plan to include provisions that protect lands designated as agricultural or
5 forest for agricultural or forest uses.
6

7 Other alternative actions have been considered by the Commission. One possible
8 outcome considered was for the Commission to not adopt any amendment to the
9 Management Plan. This outcome would not preserve a cultural resource. The evidence
10 in the record shows that the Viewpoint Inn will not be preserved or enhanced as a historic
11 structure unless additional uses of the property are permitted that generate sufficient
12 revenue to make preservation and rehabilitation cost-effective. And, the no-action
13 alternative is not consistent with the purposes and standards of the Scenic Area Act,
14 because it would fail to protect and provide for the enhancement of historic buildings
15 throughout the Scenic Area in the face of new information showing that these many
16 historic buildings are deteriorating and some are being lost altogether. As explained
17 under the analysis of consistency of the recommended modification with criterion 1
18 (above), substantial new information now exists showing that: (1) threats exist to a
19 number of historic buildings in the Scenic Area, (2) historic buildings are difficult to
20 restore and maintain; (3) the best way to ensure long-term preservation and enhancement
21 of these resources is through provisions allowing adaptive use of these structures, and (4)
22 the Management Plan does not adequately provide for such uses. A "no action"
23 alternative would be unresponsive to this new information, and would not protect and
24 provide for the enhancement of either the Viewpoint Inn or other historic buildings in the
25 Scenic Area.
26

27 Another option considered by the Commission was to approve the applicant's
28 property-specific request, and to consider similar property-specific requests for other
29 historic properties in the Scenic Area in the future, on a case-by-case basis as they come
30 forward. Although this option is consistent with the purpose of the Applicant's Proposed
31 Plan Amendment, the Commission finds that it is not practicable, and is not consistent
32 with the purposes and standards of the Scenic Act. Treating historic properties
33 individually would require a level of staff and Commission resources beyond the
34 agency's capacity, and would significantly increase costs to owners of historic buildings
35 seeking approval for adaptive uses consistent with their historic character. Such an
36 option is not consistent with the purposes and standards of the Act because it would not
37 protect or provide for the enhancement of historic buildings that have been demonstrated
38 to be a significant cultural resource, and in need of protection in order to avoid their loss.
39 Without a general plan amendment allowing adaptive reuse for a wider range of buildings
40 on or eligible for the National Register of Historic Places, the evidence in the record
41 shows that a number of these buildings will be lost. This reactive approach would not
42 address properties where owners would not apply for an amendment.
43

44 Friends of the Columbia Gorge (Friends) also proposed an alternative to the
45 Applicant's Proposed Plan Amendment, which was considered by the Commission. The
46 key elements of Friends' alternative were:

- 1 • NRHP listing would be required as a prerequisite to applying for adaptive uses;
- 2 • Restaurants would be allowed only in buildings that previously were restaurants,
- 3 with a 60-person capacity maximum;
- 4 • Overnight accommodations would be limited to bed and breakfasts;
- 5 • Commercial events would be limited to indoor activities only;
- 6 • Conference centers and retreat facilities would be allowed indoors only;
- 7 • Gift shops would be limited to 100 square feet in size;
- 8 • Interpretive displays, viewing areas and recreational day use would not be
- 9 allowed;
- 10 • Parking areas would have to be fully screened from Key Viewing Areas, located
- 11 on the subject parcel, and limited to 30 cars for parcels of 50 acres or less (parcels
- 12 larger than 50 acres could have parking for up to 50 cars);
- 13 • Adaptive uses in historic buildings would require review and approval every five
- 14 years. The approval would be revoked if the owner has not made sufficient
- 15 progress in implementing a Protection and Enhancement Plan or if the property
- 16 has not been used in compliance with applicable rules or conditions of approval.
- 17

18 Friends recommended that the alternative they proposed not be approved by the
19 Commission, on the basis that they believed it was not consistent with the purposes and
20 standards of the Act. The Commission finds that the Friends' Modification is not a
21 practicable alternative to the applicant's proposal because the preponderance of evidence
22 in the record shows that the 60-person cap on seating capacity for a restaurant use would
23 limit revenue generated by this adaptive reuse to a level where restoration of the
24 Viewpoint Inn itself would not be economically viable. More generally, limiting
25 adaptive reuses of historic buildings to buildings that are on the National Register of
26 Historic Places would be contrary to the recommendations of both the Washington and
27 Oregon State Historic Preservation Offices, and is inconsistent with provisions of the
28 Management Plan that include historic buildings that are *eligible* for the National
29 Register as cultural resources to be protected and enhanced, as well as those that are
30 listed on the National Register. By providing for the protection and enhancement of all
31 historic buildings in the Scenic Area, in the face of evidence that these resources are
32 being lost, the Director's Modification is more consistent with the purposes and standards
33 of the Scenic Act.

34
35 Lastly, the Commission considered a more limited Gorge-wide amendment that
36 would limit reuse of historic buildings in the GMA portion of the Scenic Area to re-
37 establishment of original historic uses in historic buildings. The Commission rejects this
38 approach because of evidence indicating that restoring original uses can be cost-
39 prohibitive, and may not provide sufficient revenue to support the restoration/
40 preservation work needed. In other words, only allowing re-establishment of historic
41 uses would be a less powerful incentive for preservation in many cases than would
42 allowing a range of adaptive reuses. This alternative, by not allowing compatible
43 adaptive uses of historic buildings, would provide less protection to the historic resources
44 than would the Director's Modification.

45

1 In conclusion, the Commission finds that there is no practicable alternative to the
2 Director's Modification that is more consistent with the purposes and standards of the
3 Act. The Director's Modification provides the most comprehensive protection to historic
4 resources of any alternatives considered, while also being consistent with the purpose of
5 the Applicant's Proposed Plan Amendment. For these reasons, the Commission
6 concludes that the Director's Modification satisfies the requirements of rule 350-50-
7 030(2).
8

9 **C. Consistency with the Purposes and Standards of the Act**

10
11 *Purposes of the Act:* The Director's Modification allows historic buildings to be
12 used in a manner that protects their historic integrity and facilitates public appreciation of
13 this significant cultural resource. This may in some cases include re-establishment of
14 original uses, as well as other adaptive uses for which the building was not historically
15 used. These properties may only qualify for these uses if they demonstrate consistency
16 with the Management Plan's guidelines, and additional resource protection criteria
17 included in the Director's Modification that are designed to prevent the uses from
18 adversely affecting scenic, cultural, natural and recreation resources. For example, any
19 alterations to the historic property associated with the use must be consistent with the
20 Secretary of Interior's standards for preservation and rehabilitation, ensuring that the
21 building remains eligible for listing on the National Register (and therefore remains as a
22 cultural resource under the Scenic Act). The use itself must also result in additional
23 protection and enhancement for the historic building, as delineated in a "Protection and
24 Enhancement Plan."
25

26 Additional guidelines are provided in the Director's Modification to ensure all
27 aspects of the additional use(s) of a historic building (including ancillary uses such as
28 parking) do not adversely affect scenic, other cultural, natural or recreation resources. As
29 a result, this plan amendment does not involve a trade-off between the types of resources
30 that must be protected and enhanced under the Scenic Act. Rather, by requiring that the
31 new uses allowed of historic buildings meet new and existing guidelines that protect
32 scenic, cultural, natural and recreational resources, the Commission is ensuring those
33 additional uses are consistent with *all* of the resources protected by the purposes and
34 standards of the Scenic Act. As an example, the allowed uses are limited to those that
35 would provide for public enjoyment and appreciation of a historic resource. This will
36 ensure that any new use both protects and enhances a cultural resource, while also
37 enhancing recreation resources associated with historic interpretation and visiting historic
38 sites. For these reasons, the Commission finds that the Director's Modification is
39 consistent with the first purpose of the Scenic Area Act -- to protect and provide for the
40 enhancement of the scenic, cultural, recreational and natural resources of the Columbia
41 River Gorge. Although the applicant's proposed plan amendment, and the plan
42 amendment proposed by Friends, also include provisions to avoid adverse effects on the
43 scenic, cultural, recreational and natural resources of the Scenic Area, the Commission
44 finds that the limitations on additional uses in the Director's Modification are sufficiently
45 protective of these other resources so that the applicant's and the Friends' alternatives
46 provide no overall relative benefit.

1 The Director's Modification also is consistent with the second purpose of the
2 Scenic Act -- to protect and support the economy of the Gorge area by encouraging growth
3 to occur in existing urban areas and by allowing future economic development in a manner
4 consistent with the first purpose of the Act. The Director's Modification allows a narrowly
5 circumscribed set of additional uses associated with historic buildings. This will allow
6 future economic development to occur in a manner consistent with the protection and
7 enhancement of the resources of the Scenic Area. At the same time, however, the scope
8 and intensity of additional uses allowed is sufficiently limited such that the plan
9 amendment will not alter the fact that the Management Plan will continue to encourage
10 growth to occur within existing urban areas. The additional allowed uses will promote
11 economic use of historic resources in rural, often scenic, settings. The limited uses allowed
12 by the Director's Modification are unique to circumstances where there is a combination of
13 historic resources and rural environments. As a result, they are not typically available or
14 easily replicated inside urban areas. With a few exceptions, these opportunities for limited
15 uses of historic buildings do not exist under the current Management Plan.

16
17 For these reasons, the Commission finds that by allowing limited commercial uses
18 of historic buildings outside of urban areas in a manner consistent with the first purpose of
19 the Act, the recommended modification also is consistent with the second purpose of the
20 Act. The applicant's proposed plan amendment would be limited to a single property -- the
21 Viewpoint Inn. Although one could argue that prohibiting all commercial development
22 associated with historic buildings outside of urban areas (except at the Viewpoint Inn)
23 would encourage growth to occur in existing urban areas, the Commission believes that
24 Congress did not intend the second purpose of the Act to prohibit all commercial uses
25 outside of existing urban areas in the Scenic Area. Reading the Scenic Area Act's
26 purposes and standards together, the Commission believes Congress intended to allow
27 restricted commercial uses, including adaptive reuse of historic buildings, outside of urban
28 areas, so long as such uses do not increase growth pressures outside of urban areas or
29 adversely affect the resources of the Scenic Area. The Commission finds that the scope of
30 uses allowed, the requirements that such uses be carried out largely within existing historic
31 buildings, and the resource protection guidelines included in the Director's Modification
32 assure that it is fully consistent with the second purpose of the Scenic Act. As a result, the
33 additional limitations on commercial uses inherent in or contained in the applicant's
34 proposed plan amendment, and the Friends' alternative, when considered together with
35 their more limited effect in protecting historic buildings, do not make those proposals more
36 consistent with the purposes and standards of the Act.

37
38 *Standards of the Act:* Section 6(d)(1) of the Act requires that the Management
39 Plan include provisions to protect and enhance agricultural lands for agricultural uses.
40 Section 6(d)(2) requires that the Management Plan include provisions to protect and
41 enhance forest lands for forest uses.

42
43 The Director's Substantive Modification does not eliminate any of the existing
44 provisions in the Management Plan that protect and enhance agricultural and forest lands
45 for agricultural and forest uses. The Director's Substantive Modification would permit
46 certain specified non-agricultural and non-forest uses in a limited number of settings,

1 which could include lands designated as agricultural or forest. However, the Director's
2 Modification includes provisions to ensure that these additional uses in a limited number
3 of settings are consistent with protecting agricultural and forest lands for agricultural and
4 forest uses.

5
6 First, most of the additional uses (including restaurant, food and beverage sales,
7 overnight accommodations, wineries, conference and/or retreat facilities, artist studios
8 and galleries, and gift shops) are limited to occurring within existing structures. The uses
9 that are allowed on the property containing a historic building (outside of an existing
10 building) are: commercial events that are incidental and subordinate to the primary use of
11 the property; interpretive displays; picnic areas or other recreational day use activities;
12 and parking areas. These uses must comply with additional guidelines designed to
13 protect agricultural and forest lands for agricultural and forest uses. Those guidelines
14 (Additional Resource Protection Guidelines for Uses in Historic Buildings) apply in
15 addition to all other relevant guidelines for protection of scenic, cultural, natural and
16 recreation resources.

17
18 Under the existing provisions of the Management Plan:

19
20 "Specified nonagricultural uses, such as buildings accessory to an existing
21 residence, may be allowed, subject to review to minimize the loss of agricultural
22 land and to prevent interference with agricultural uses. Nonagricultural uses that
23 would interfere with agricultural operations shall not be allowed."
24

25 Management Plan Part II, Chapter 1: Agricultural Land, Land Use Policy No. 12. See
26 also, GMA Guidelines, Review Uses, Guideline 2. The non-farm and non-forest uses
27 allowed under this guideline include: utility facilities; home occupations, produce stands,
28 wineries, agricultural processing, mining, personal use airstrips, bed and breakfast inns,
29 environmental learning or research facilities, and expansions of existing schools or places
30 of worship. These uses may be allowed only if:

- 31 A. The use is compatible with agricultural uses and would not force a change in or
32 significantly increase the cost of accepted agricultural practices on nearby lands
33 devoted to agricultural use.
34 B. The use will be sited to minimize the loss of land suitable for the production of
35 crops or livestock.

36 The Commission finds that by limiting the additional uses allowed under this plan
37 amendment to a small set of properties containing an existing historic building, by
38 generally requiring that the uses be contained within an existing historic building, by
39 (where that is not feasible) requiring the other uses to be incidental and subordinate to the
40 primary use of the property, and by requiring that these uses comply with the same
41 standards applicable to nonfarm and nonforest uses already allowed in the Management
42 Plan, the Director's Proposed Modification is consistent with section 6d(1) and 6(d)(2) of
43 the Scenic Area Act. As the Director's Modification is fully consistent with these

1 standards, there is no relative overall advantage in terms of consistency represented by
2 either the applicant's proposed plan amendment, or the amendment proposed by Friends.

3 Section 6(d)(3) requires that the Management Plan protect and enhance open
4 spaces. The recommended modification would not apply to any lands designated Open
5 Space.

6
7 Standard 6(d)(4) requires that the Management Plan protect and enhance public
8 and private recreation resources and educational and interpretive facilities and
9 opportunities, in accordance with the recreation assessment adopted pursuant to the Act.
10 The recreation assessment includes the objectives, policies, and guidelines contained in
11 Part I, Chapter 4 of the Management Plan ("Recreation Resources"). These provisions
12 encourage opportunities for public appreciation and enjoyment of cultural resources, and
13 enhanced understanding of the Scenic Area's history through interpretive facilities. The
14 uses allowed in the Director's Modification were specifically selected in part because they
15 would afford the public opportunities to enjoy and appreciate significant historic
16 resources. By allowing interpretive displays, picnic areas or other day use recreation (e.g.
17 scenic viewpoint) at historic sites, the Director's Modification would directly enhance
18 public and private recreation and interpretive opportunities, and the Commission finds
19 that as a result it is consistent with Standard 6(d)(4) of the Act. As the Director's
20 Modification is fully consistent with this standard, there is no relative overall advantage
21 in terms of consistency represented by either the applicant's proposed plan amendment, or
22 the amendment proposed by Friends.

23
24 Standard 6(d)(5) requires that the Management Plan prohibit major development
25 actions in the SMA. The Director's modification does not apply to any lands with Special
26 Management Area designations.

27
28 Standard 6(d)(6) requires that the Management Plan prohibit industrial
29 development outside urban areas. The Director's Modification does not allow any
30 industrial development outside urban areas.

31
32 Standard 6(d)(7) requires that commercial development outside urban areas take place
33 without adversely affecting scenic, cultural, natural or recreation resources. The
34 Commission notes that this standard does not prohibit commercial uses outside of
35 existing urban areas (in contrast to section 6(d)(6), which does prohibit industrial
36 development outside of urban areas). Rather, the standard is a limitation on commercial
37 uses.

38
39 As set forth in detail in the Commission's findings concerning consistency of the
40 Director's Modification with the purposes of the Scenic Act, only commercial
41 development that will take place without adversely affecting scenic, cultural, recreation,
42 or natural resources of the Scenic Area will be allowed. The limitations on the uses
43 allowed, together with the additional review guidelines for the historic and adaptive
44 reuses allowed by this plan amendment are designed to ensure that there will be no
45 "adverse affect" (as that term is defined in section 2 of the Scenic Act) on scenic, cultural,

1 natural or recreation resources. As an example, concerns regarding adverse effects of
2 parking on resources will be addressed under the following guidelines included as part of
3 the Director's Modification:
4

- 5 • Part II, Chapter 7, Additional Review Uses for Historic Buildings, Guideline 4.J.
6 requires that parking be located on the subject property as it existed on January 1,
7 2006. This prohibits the acquisition of additional properties to provide parking to
8 support adaptive reuse.
- 9 • Part II, Chapter 7, Additional Review Uses for Historic Buildings, Guideline 7,
10 clarifies that all uses except the recreational uses in Guidelines 1 and 4.I. are
11 subject to the parking limits and associated "Facility Design Guidelines" in the
12 Recreation Intensity Classes.
- 13 • Part II, Chapter 7, Additional Resource Protection Guidelines for Uses in Historic
14 Buildings, Cultural Resources, Guidelines 2 and 4 require that parking provided
15 be consistent with the protection and enhancement of the historic resource.
- 16 • Part II, Chapter 7, Additional Resource Protection Guidelines for Uses in Historic
17 Buildings, Scenic Resources, Guidelines 1 and 2 govern the location,
18 construction, and visual subordination of parking areas.

19
20 For these reasons, the Commission finds that the Director's Modification is fully
21 consistent with section 6(d)(7) of the Scenic Act. As the Director's Modification is fully
22 consistent with this standard, there is no relative overall advantage in terms of
23 consistency represented by either the applicant's proposed plan amendment, or the
24 amendment proposed by Friends.
25

26 Standard 6(d)(8) requires that residential development outside urban areas take
27 place without adversely affecting scenic cultural, natural or recreation resources. The
28 recommended modification does not allow any additional residential development in
29 historic buildings.
30

31 Standard 6(d)(9) requires that the exploration, development and production of
32 mineral resources outside urban areas take place without adversely affecting scenic
33 cultural, natural or recreation resources. The recommended modification does not allow
34 mining or related uses on historic properties.
35

36 In conclusion, for the foregoing reasons, the Commission finds that the evidence
37 in the record shows that the Director's Modification is consistent with the purposes and
38 standards of the Act, and that the Director's Modification is more consistent with these
39 provisions than the applicant's proposed plan amendment or the alternative proposed by
40 Friends.
41

42 3. Conclusions of Law

- 43 A. Rule 350-50-030(1) Conditions in the Scenic Area Have Significantly
44 Changed.
45
46

1 For the reasons set forth in this order, the Commission finds that the record
2 includes new information or data regarding historic buildings that could result in a
3 change of the Management Plan. This information establishes that conditions in the
4 Scenic Area have significantly changed, and that there is a demonstrated need to amend
5 the Management Plan to protect and enhance historic buildings in the Scenic Area.
6

7 B. Rule 350-50-030(2) No Practicable Alternative to the Proposed
8 Amendment [is] More Consistent with the Purposes and Standards of the
9 Scenic Area Act
10

11 For the reasons set forth in this order, the Commission finds and concludes that
12 there is a practicable alternative to the Applicant's Proposed Plan Amendment that is
13 more consistent with the purposes and standards of the Scenic Act. In addition, for the
14 additional reasons set forth in this order, the Commission finds and concludes that there
15 is no practicable alternative to the Director's Modification that is more consistent with the
16 purposes and standards of the Scenic Area Act.
17

18 C. Rule 350-50-030(3) The Proposed Amendment is Consistent With the
19 Purposes and Standards of the Scenic Area Act
20

21 For the reasons set forth in this order, the Commission finds and concludes that
22 the Director's Modification is consistent with the purposes and standards of the Scenic
23 Area Act.
24

25 4. Order
26

27 Any motions not previously acted on concerning PA-05-02 are deemed denied.
28

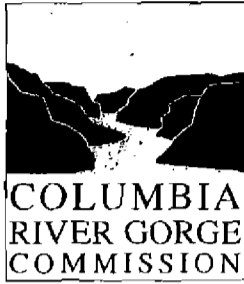
29 Based on the entire record before the Commission in this matter, the Commission
30 approves the amendment to the Management Plan set forth in Exhibit 1 to this order, and
31 directs the Director to submit the amendment to the U.S. Department of Agriculture for
32 concurrence by the Secretary, pursuant to Commission Rule 350-50-120 and 16 U.S.C.
33 544d. This plan amendment will take effect ninety days following the date of submission
34 to the Secretary, unless the Secretary concurs with the amendment before that date in
35 which case it will take effect on the date of the Secretary's concurrence. If the Secretary
36 does not concur with the amendment, the plan amendment will not take effect.
37

38 IT IS SO ORDERED this 13th day of December 2005.
39

40
41 By: 
42 Judy S. Davis, Chair
43
44

1 NOTICE OF JUDICIAL REVIEW RIGHTS: You may be entitled to judicial review of
2 this final order within sixty (60) days of the date of this order, as set forth in 16 U.S.C.
3 section 544m(b).





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CIRC
m

January 25, 2006

Rodger Schock, Chair
Hood River County Board of Commissioners
601 State Street
Hood River, OR 97031

JAN 23 2006

Dear Chair Schock:

On behalf of the Columbia River Gorge Commission, I am transmitting the text of an amendment to the Management Plan for your adoption. This amendment (PA-05-02) was adopted by the Gorge Commission in November 2005 to improve protection of historic buildings in the National Scenic Area by allowing limited commercial activities in buildings that are either listed on or eligible for the National Register of Historic Places. Linda Goodman, Regional Forester for USDA Forest Service Region 6, formally concurred with this Plan Amendment as consistent with the National Scenic Area Act under authority delegated to her by the United States Secretary of Agriculture on January 23, 2006.

By transmitting this amendment to the Management Plan, I am requesting that you initiate local adoption of this amendment into your county's land use ordinance as spelled out in Section 7 of the National Scenic Area Act. Under the Act, the deadlines that apply to county action are as follows:

- Within 60 days of receipt of this Plan Amendment, each Gorge County should notify the Gorge Commission about their intent to revise its Gorge land use ordinance to enact these revisions.
- Within 270 days of receipt of this plan amendment (including the 60 days spelled out above), each County should adopt its revised ordinance and submit those ordinances to the Commission for review.
- Within 90 days of receiving your revised ordinance, the Gorge Commission will review whether your modified land use ordinances are consistent with the Management Plan as amended. This Plan Amendment only applies to the GMA, and therefore your ordinance should not need to be reviewed by the Forest Service. In the event that any portion of your county's ordinance is not found to be consistent with the Management Plan, we will make specific recommendations to you for changes.


Because this amendment will improve protection of cultural resources, we view this plan amendment as one that must be incorporated into your ordinance. To assist you with your work in revising your land use ordinance, Gorge Commission staff will be assigned to provide technical assistance to each county.

Transmittal of Plan Amendment PA-05-02
January 25, 2006
Page 2

The Gorge Commission looks forward to working with your county in adopting this amendment into the land use ordinances that affect the National Scenic Area. As envisioned by the Act, county governments are critical partners in ensuring the protection of the resources of the Gorge.

Please feel free to contact me or your county's representative to the Gorge Commission with any questions.

Sincerely



Martha J. Bennett
Executive Director

Enclosure

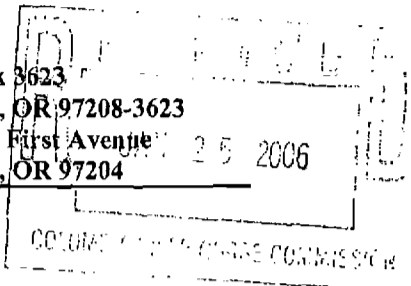
- c. Columbia River Gorge Commission
Dan Harkenrider, Area Manager, USDA Forest Service
National Scenic Area Tribal Nations
Mike Carrier, Office of Governor Kulongoski
Elliott Marks, Office of Governor Gregoire
County Planning Directors



United States
Department of
Agriculture

Forest Service
Pacific Northwest
Region

P. O. Box 3623
Portland, OR 97208-3623
333 S.W. First Avenue
Portland, OR 97204



File Code: 1900

Date: January 23, 2006

Judy Davis, Chair
Columbia River Gorge Commission
P.O. Box 730
White Salmon, WA 98672

Dear Ms. Davis:

The Columbia River Gorge Commission submitted an amendment, Plan Amendment PA-05-02, of the Management Plan for the Columbia River Gorge National Scenic Area for review by the U.S. Secretary of Agriculture. According to Section 6(h) and Section 6(f) (16 USC, 544d) of the Columbia River Gorge National Scenic Area Act (Act), the Secretary of Agriculture has 90 days to review the Management Plan Amendment to determine concurrence with the Commission's decision finding the amendment consistent with the Act. The Secretary, through the Chief of the Forest Service, has delegated this decision-making authority to me as Regional Forester.

The Gorge Commission approved this amendment on November 15, 2005. The amendment was received in my office on December 16, 2005. The 90-day period to determine concurrence expires March 16, 2006.

Plan Amendment PA-05-02 modifies the Management Plan to allow additional uses of a commercial nature in a building either on or eligible for the National Register of Historic Places and that was 50 years old or older as of January 1, 2006. The amendment applies to all GMA Land Use Designations except GMA Open Space and GMA Agriculture-Special. The amendment does not apply to the Special Management Area.

New uses include: establishments selling food and/or beverages, overnight accommodations, commercial events, wineries and sales/tasting rooms, conference and/or retreat facilities, artist studios and galleries, gift shops up to 100 sf, interpretive displays, picnic areas or other recreational day use activities, and associated parking areas. Most of these uses are further limited to the existing historic building capacity. The amendment includes additional provisions to protect the cultural, scenic and recreation resources above those already required in the Management Plan. The amendment also includes provisions to protect agricultural and forest practices on nearby lands.

My staff reviewed the Columbia River Gorge Commission Amendment Report to determine if the amendment is consistent with the Act. The Act provides only one measure or criterion for determining concurrence. This determination is to be based on whether the amendment is consistent with the standards of Section 6(d) of the Act, and the purposes of the Act.

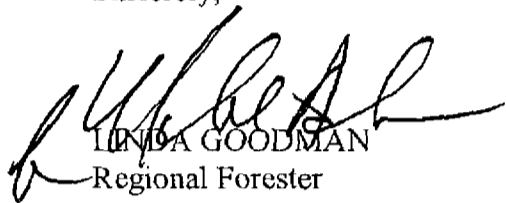


Judy Davis

Page 2

As a result of our review of the amendment, I concur with the Columbia River Gorge Commission that the amendment is consistent with the Act. Quite simply, nothing in the amendment directly conflicts with the standards or purposes of the Act.

Sincerely,


LINDA GOODMAN
Regional Forester

cc:

Martha Bennett, Executive Director, Columbia River Gorge Commission
RLM (NJ Erickson)
CRGSNA (Virginia Kelly)

SUBSTANTIVE MODIFICATION TO AMENDMENT PA-05-02 (adopted 11/15/05)

NEW CULTURAL RESOURCES POLICY (Part I, Chapter 2 of Management Plan)

Provide incentives to protect and enhance historically significant buildings by allowing uses of such buildings that are compatible with their historic character and that provide public appreciation and enjoyment of them as cultural resources.

SPECIAL USES IN HISTORIC BUILDINGS (Part II, Chapter 7 of Management Plan)

Additional Review Uses for Historic Buildings

1. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines 2.A and B, 3, 4 and 5; and all Scenic, Recreation, Agriculture and Forest Lands Guidelines. Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.
2. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places, and which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines 2.A and B, 3, 4 and 5; and all Scenic, Recreation, Agriculture and Forest Lands Guidelines. The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.
3. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines 2 through 5; and all Scenic, Recreation, Agriculture and Forest Lands Guidelines.
4. The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture-Special on a property with a building either on or

eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and "Additional Resource Protection Guidelines for Uses in Historic Buildings":

- A. Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use.
- B. Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006.
- C. Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property
- D. Wineries upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.
- E. Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006.
- F. Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006.
- G. Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.
- H. Gift shops within a historic building, as the building existed as of January 1, 2006 that are:
 - (1) incidental and subordinate to another approved use included in Guideline 1 of "Additional Review Uses for Historic Buildings"; and
 - (2) no larger than 100 square feet in area.
- I. Interpretive displays, picnic areas or other recreational day use activities on the subject property.
- J. Parking areas on the subject property to support any of the above uses.

5. For the purposes of the guidelines in this section, the term "historic buildings" refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Cultural Resources Guideline 1 of "Additional Resource Protection Guidelines for Uses in Historic Buildings."
6. Uses 3 and 4.C are not subject to the "Commercial Events" provisions in Part II, Chapter 7 of the Management Plan. Commercial events at historic properties will be regulated by the guidelines contained in this section. Applications for commercial events shall include all information in the "Operational Plan for Commercial Events" as specified in Guideline 2.D of "Additional Resource Protection Guidelines for Historic Buildings". The following apply to commercial events at historic properties:
 - A. Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel.
 - B. The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.
7. Uses 1 and 4.I are not subject to the parking limits and associated "Facility Design Guidelines" in the Recreation Intensity Classes.
8. Counties may impose additional requirements to address health, safety, and potential impacts to surrounding properties. For example, they may limit noise, parking, traffic, lighting and operating hours.
9. Land use approvals for special uses in historic buildings shall be subject to review by the local government every five years from the date the original approval was issued. As part of this review, the applicant shall submit documentation to the local government on the progress made in implementing the "Protection and Enhancement Plan" required in Cultural Resources Guideline 2 of "Additional Resource Protection Guidelines for Uses in Historic Buildings". The local government shall submit a copy of the applicant's documentation to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion. The local government shall revoke the land use approval if the owner has failed to implement the actions described in the "Protection and Enhancement Plan" according to the schedule for completing such actions in this plan. The local government may, however, allow such a use to continue for up to one additional year from the date a local government determines the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule, what progress the applicants have made towards completing such actions, and a proposed revised schedule for completing such actions.

10. In the event a court enters a judgment that one or more of the use authorizations provided for in paragraphs one through four of this section are invalid, the authorizations for other uses in this section are severed and will remain in effect.

Additional Resource Protection Guidelines for Uses in Historic Buildings (Part II, Chapter 7 of Management Plan)

The following guidelines apply to proposed uses listed under "Special Uses for Historic Buildings" in addition to all other relevant guidelines for protection of scenic, cultural, natural and recreation resources:

Cultural Resources

1. All applications for uses listed in Guideline 4 of "Additional Review Uses for Historic Buildings" shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in "Historic Surveys and Reports" [Management Plan, page I-58]. The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation" [National Park Service, National Register Bulletin #15].

Eligibility determinations shall be made by the local government, based on input from the state historic preservation Agency (SHPA). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPA. The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion.

2. Applications for Special Uses for Historic Buildings shall include a "Protection and Enhancement Plan" which shall include the following:
 - A. A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completion of such actions.
 - B. A statement addressing consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*.

- C. Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.
 - D. Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:
 - (1) Number of events to be held annually.
 - (2) Maximum size of events, including number of guests and vehicles at proposed parking area.
 - (3) Provision for temporary structures, including location and type of structures anticipated.
 - (4) How the proposed commercial events will contribute to protection and enhancement of the historic resource.
3. The local government shall submit a copy of the "Protection and Enhancement Plan" to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPA comments shall address consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*, and the effect of the proposed use on the historic resource.
4. Any alterations to the building or surrounding area associated with the proposed use have been determined by the local government to be consistent with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.
5. The proposed use has been determined by the local government to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

Scenic Resources

1. New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials shall be prohibited.
2. New parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordination. New screening vegetation may be used if existing topography and vegetation are insufficient to help make the parking area visually subordinate from Key Viewing Areas, if such vegetation would not adversely affect the historic character of the building's setting.
3. Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days after the event if the local government determines that they will be visually subordinate from Key Viewing Areas.

Recreation Resources

1. The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

Agricultural and Forest Lands

1. The proposed use is compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.
2. The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.
3. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland.
4. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland that are within 500 feet of the perimeter of the subject property on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision on an application for a Special Use for a Historic Building.

NEW GMA REVIEW USE GUIDELINE (Part II, Chapters 1, 2, 4, 5, and 6)

1. The following uses may be allowed on lands designated Large-Scale or Small Scale Agriculture ✓, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:
 - A. Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (Part II, Chapter 7).

Note: The same language is to be inserted in the following chapters for the following GMA designations: Chapter 2 for lands designated Small Woodland, Large Woodland, and Commercial Forest; Chapter 4 for lands designated Residential; Chapter 5 for lands designated Commercial and Rural Center; and Chapter 6 for lands designated Public Recreation and Commercial Recreation. The numbering of the item may change if it is inserted at the end of the lists of review uses, instead of the beginning; the text remains exactly as shown above.

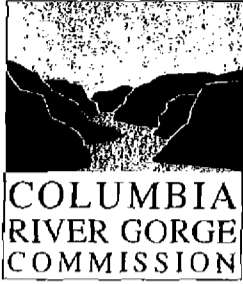
REVISED GMA GUIDELINE 2. A FOR COMMERCIAL EVENTS (Part II, Chapter 7)

2. Commercial events may be allowed in the GMA except on lands designated Open Space and Commercial Forest, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:
 - A. The use must be in conjunction with a lawful winery, wine sales / tasting room, bed and breakfast inn, or commercial use, or dwelling listed in the National Register of Historic Places. If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to the guidelines in "Special Uses in Historic Buildings" (Part II, Chapter 7), and not the guidelines of this section.

NEW CULTURAL RESOURCES ENHANCEMENT STRATEGY OBJECTIVE (Part III, Chapter 3 of Management Plan)

GMA/SMA Objectives

- 3.D. Encourage local governments to expand existing incentives for the protection of historic buildings, including adopting resolutions or ordinances that facilitate landowner access to federal and state programs providing such incentives.



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DIRECTOR'S REPORT FOR PA-05-02
Addendum

November 7, 2005

Proposed Amendment to the *Management Plan for the Columbia River Gorge National Scenic Area (PA-05-02)*: At the October 11, 2005 Commission meeting, the applicant modified his request to the following:

Amend the cultural resources policies for the General Management Area with a new policy allowing properties that were on the National Register of Historic Places prior to November 17, 1986 and that were originally designed for restaurant and hotel purposes to re-establish those uses and to provide for public viewing and interpretive facilities, subject to conditions regarding size, hours and other aspects of such uses.

Please note: The applicant has recently proposed revisions to the proposed Substantive Modification. The applicant's proposed revisions are attached to this report as Appendix B.

Applicant: John Groen
Property Owner: Geoff Thompson

Property Affected: The subject property is located at 40301 E. Larch Mountain Road, in the vicinity of Corbett, Oregon. It is in the SW ¼ of Section 30 and the NW ¼ of Section 31, Township 1 North, Range 5 East, Willamette Meridian (Tax Lots 1N5E30CC-01500 and 01600).

Commission Hearing: November 15, 2005, Hood River County Administration Building, Hood River, Oregon.

The Gorge Commission will continue its hearing on this plan amendment application on November 15, 2005. The Commission held a public hearing on the application on October 11, 2005 and voted unanimously to continue the hearing to November 15, 2005. The Commission voted to continue the hearing in order to give interested persons adequate time to review and comment on the Substantive Modification to PA-05-02 recommended by Commission staff.

Action Requested

Staff recommends the Commission adopt the Revised Substantive Modification to Plan Amendment PA-05-02 (Appendix A). Staff finds this proposal meets all three criteria for amending the Management Plan as described in detail in the analysis in the September 21, 2005 Director's Report for PA-05-02.

3. Adaptive uses are limited to the existing footprint of historic buildings (as of January 1, 2006).

Rationale: Under the original proposal, it could have been possible for applicants to add on to existing buildings, patios, etc., and use these additions to accommodate adaptive uses, as long as they did not render a building ineligible for the NRHP. Under this revision, the adaptive use can only occur within the historic building as it exists on January 1, 2005. This limits the scale of commercial uses that could potentially be allowed through adaptive use of historic structures.

4. Eating and drinking establishments are only allowed in buildings that originally had kitchen facilities.

Rationale: This will prevent restaurants and related establishments to be approved in historic barns and other farm buildings. This reduces the scope of buildings where this use may occur.

5. Room capacity of overnight accommodations are limited to the number of existing rooms in the building as of January 1, 2006.

Rationale: This will effectively prevent conversion of barns and other farm buildings to overnight lodging, besides setting a cap on the number of rooms based on the existing building footprint. This reduces the scope of buildings where this use may occur.

6. Wineries must use grapes from either the subject parcel or the local region. Tasting rooms must be in conjunction with an on-site winery.

Rationale: These changes strengthen the tie of these adaptive uses to agriculture on site or in the area. It also limits the potential scope of tasting rooms, which were not required to be in conjunction with a winery in the prior Substantive Modification.

7. Gift shops are limited to 100 square feet and must be incidental and subordinate to another approved use.

Rationale: Concerns were raised that the prior proposal was too open ended regarding gift shops, and that the provision might result in larger-scale commercial stores selling convenience-type items. The revision ensures such gift shops remain very small and must be secondary to another adaptive use (such as a restaurant or inn). This limits both the scale and scope of gift shops.

8. The requirement that if the building is a dwelling, the owner must reside in it, has been deleted.

Rationale: Staff believes the salient issue here is that the owner be the principle operator of the adaptive use, to facilitate its compatibility with the historic character of the property. A number of historic dwellings are not lived in by their owners. Staff believes that, as long as they are the primary manager of activities on their property, the goals of these provisions will be met.

9. A new guideline has been added clarifying the process for determining if a building is eligible for the NRHP. The applicant is responsible for hiring a professional to conduct an evaluation of eligibility prior to the application being complete.

Rationale: The prior Substantive Modification did not explicitly address when and how the determination of eligibility occurs. Since the adaptive uses allowed are intended to provide the owner direct economic benefits, staff recommends the applicant be responsible for conducting the evaluation of eligibility. This is consistent with existing Management Plan provisions that require applicants to pay for cultural resources surveys and determinations of significance for proposed commercial uses.

10. A new subsection of a Cultural Resources enhancement objective is included under the broad objective to encourage enhancement of historic structures. The new language focuses on encouraging local governments to take actions that facilitate use of existing federal and state historic preservation incentive programs.

Rationale: Local governments can play an important role in facilitating historic preservation and enhancement in various ways (e.g. eligibility of historic properties for special valuation programs in counties qualifying as "certified local governments" by state historic preservation agencies). The new language provides specific direction lacking in the current broader objective that may help focus future actions beneficial to historic preservation and enhancement.

Summary of Key Changes in Applicant's Revisions to Substantive Modification (Appendix B)

- Any property on the NRHP would be allowed to have public viewing, interpretive displays and gift shops.
- Gift shops would have to be incidental and subordinate to another use, limited in size to 100 square feet, and sales limited to tourist-related items.
- Buildings on the NRHP and originally designed for hotel and restaurant uses would be allowed to re-establish these uses, restricted to existing facilities.
- The above uses would require submittal of a Protection and Enhancement Plan to the SHPO, with updates at least once every five years. The local government could enforce conditions of an approval if the owner fails to make reasonable progress towards implementing actions described in the plan.
- Outdoor events are limited to 150 persons; a maximum of 35 events per year over 115 persons would be allowed.
- Outdoor amplified music is prohibited, except for incidental background music.
- If an adaptive use is approved, the owner would have to apply for listing to the NRHP within six months of commencing the use. If listing is denied or the property taken off the list, the use must be discontinued within 30 days.

Summary of Key Changes in Friend's Revisions to Substantive Modification (Appendix C)

- NRHP listing would be a prerequisite to applying for adaptive uses.

Summary of Key Changes in Friend's Revisions to Substantive Modification (Appendix C)

- NRHP listing would be a prerequisite to applying for adaptive uses.
- Restaurants are allowed in buildings that previously were restaurants, with a 60-person capacity.
- Overnight accommodations are limited to bed and breakfasts, and need not be occupied by the owner.
- Commercial events would be limited to indoor activities only.
- Conference centers and retreat facilities would be allowed indoors only.
- Gift shops would be limited to 100 square feet in size.
- Interpretive displays, viewing areas and recreational day use have been deleted from the list of adaptive uses.
- Parking areas would have to be fully screened from Key Viewing Areas, located on the subject parcel, and limited to 30 cars for parcels of 50 acres or less. Parcels larger than 50 acres could have parking for up to 50 cars.
- Adaptive uses in historic buildings would require review and approval every five years. The approval would be revoked if the owner has not made sufficient progress in implementing the Protection and Enhancement Plan or if the property has not been used in compliance with applicable rules or conditions of approval.

Martha Bennett

Martha Bennett
Executive Director

11-7-05

Date

Enclosures (7)

Information Related to the

“Horse Boarding Amendment”



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BEFORE THE COLUMBIA RIVER GORGE COMMISSION

IN THE MATTER OF PLAN)	FINAL ORDER
AMENDMENT NO. PA-06-04)	APPROVING PLAN
)	AMENDMENT PA-06-04
_____)	

The Columbia River Gorge Commission (Commission) initiated a legislative plan amendment to amend the Management Plan for the Columbia River Gorge National Scenic Area to make two changes to the Management Plan: (a) to change the definition of horse boarding to allow non-profit horse boarding, and (b) to add horse boarding as a review use with additional approval criteria to the General Management Area (GMA) 10-acre Residential Land Use Designation.

The Director's Report on this proposal was issued December 27, 2006. On January 9, 2007, the Commission held a public hearing on the proposal, pursuant to Commission Rule 350-50. At this hearing, Robert Leipper, Gary Pratt, Mary Repar, Kurt Osborne, Michael Lang, Conservation Director for Friends of the Columbia Gorge, and Michael Benedict, Planning and Building Services Director for Hood River County testified to the Commission. The Commission continued the hearing to March 13, 2007 to allow public notice and opportunity to comment on the Commission's discussion to possibly add horse

**ORDER APPROVING
PA-06-04**

boarding as a review use to the GMA 5-acre Residential Land Use Designation, pursuant to Commission Rule 350-50-100(g)(2)(ii)(B).

The Commission met on March 13, 2007 to continue the hearing and consider a March 1, 2007 Addendum to the Director's Report. The Director recommended not revising the proposal to add horse boarding to the GMA 5-acre Residential zone. At this hearing, Robert Leipper, Mary Repar, Peter Cornelison, and Michael Lang, Conservation Director for Friends of the Columbia Gorge testified to the Commission. The Commission considered comments that regulating the number of horses allowed for the use would provide greater protection to Gorge resources and proposed to amend the text of the proposed amendment to require that approvals for horse boarding must include findings setting a maximum number of horses allowed for the use. Additional public comment was taken on this motion pursuant to 350-50-100(g)(2)(ii)(A). Robert Leipper, Mary Repar, and Michael Lang again testified to the Commission.

Based on the full record before the Commission, the Commission voted to approve Plan Amendment No. PA-06-04, with the additional requirement that approvals for horse boarding must include findings setting a maximum number of horses allowed for the use.

The Commission adopted the staff's analysis for consistency with the three plan amendment criteria contained in the December 27, 2006 Director's Report and the March 1, 2007 Addendum to the Director's Report.

The Commission further concluded that requiring approvals for horse boarding to include findings specifying a maximum number of horses is more

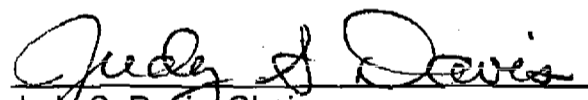
consistent with the purposes and standards for the Management Plan, specifically protection of natural resources, than the original text contained in the Director's Report. The Commission found that a dense concentration of horses can result in denuding the land where horses graze of soil and vegetation; this also affects adjoining properties as well. By requiring counties and the Commission staff to make findings about the carrying capacity of the land and other aspects of the proposal to limit the number of horses boarded so that land is not denuded, natural resources would be better protected than not specifying a maximum number of horses allowed, and adverse effects to adjoining properties would also be mitigated.

The Commission considered specifying the maximum number of horses allowed in the text of the amendment (such as number of horses per acre), but discussed that different lands throughout the Scenic Area have different carrying capacities, and that the determination should be made specific for each proposal with assistance from natural resource and other experts.

Based on the findings and conclusions contained in the December 27, 2006 Director's Report and the March 1, 2007 Addendum to the Director's Report, and the Commission's discussion requiring approvals for horse boarding make findings specifying a maximum number of horses, the Commission concludes that this Plan Amendment, PA-06-04, is consistent with the criteria for approval contained in Commission Rule 350-50-030. The adopted language is found in Attachment A.

Finally, Commission Rule 350-50-100(3)(h) requires the Commission to determine if this amendment is mandatory for counties to adopt into their Scenic Area land use ordinances. The Addendum to the Director's Report stated that non-profit horse rescue uses in the 10-acre Residential zone had been reviewed by the counties through different means, such as through accessory buildings or accessory uses. This plan amendment provides a consistent approach to reviewing non-profit horse boarding in the 10-acre Residential zone in a manner that offers greater protection to Gorge resources than these other means. Non-profit horse boarding and horse boarding in the Residential 10-acre land use designation are not mandatory for counties to adopt, but if they wish to allow these uses, then they must adopt this plan amendment into their land use ordinances. However, counties must adopt the requirement to set a maximum number of horses allowed for horse boarding in the GMA Agriculture and Forest zones because this amendment offers greater protection to Gorge resources.

IT IS SO ORDERED this 26 day of March, 2007


Judy S. Davis Chair

NOTICE: You are entitled to judicial review of this final order within 60 days of the date of this order pursuant to section 15(b)(4) of the Scenic Area Act.

ATTACHMENT A: ADOPTED LANGUAGE FOR PA-06-04

The plan amendment would entail the following amendments to *The Management Plan for the Columbia River Gorge National Scenic Area*:

1. Change the following definition in the Glossary (pg. 10, *Revisions to the Management Plan*):

Horses, boarding of (GMA): The stabling, feeding, and grooming ~~for a fee~~, or the ~~use renting~~ of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.

2. Add the following review criterion to Part II, Chapter 1: Agricultural Land, GMA Guidelines, Review Uses (pg. 11-11, *Revisions to the Management Plan*):

- (2) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the guidelines for protection of scenic, cultural, natural, and recreation resources and "Approval Criteria for Specified Review Uses," below.

K. Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

3. Add the following review criterion to Part II, Chapter 2: Forest Land, GMA Guidelines, Review Uses (pg. 11-31, *Revisions to the Management Plan*):

- (2) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland, subject to compliance with the guidelines for protection of scenic, cultural, natural, and recreation resources and "Approval Criteria for Specified Review Uses" in this chapter.

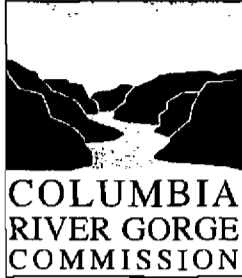
I. Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

4. Add the following use to Part II, Chapter 4: Residential Land, GMA Guidelines, Review Uses (pg 11-67, *Revisions to the Management Plan*):

- (2) The following uses may be allowed on lands designated Residential, subject to compliance with the guidelines for protection of scenic, cultural, natural, and recreation resources and "Approval Criteria for Specified Review Uses," below.

M. Boarding of horses on lands designated 10-acre Residential. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

2/10/08 TRN to ERK



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TO: Gorge County Planning Directors/ Managers
FROM: Brian Litt, Planning Manager
DATE: April 8, 2008
RE: Adoption and Implementation of Plan Amendment 06-04

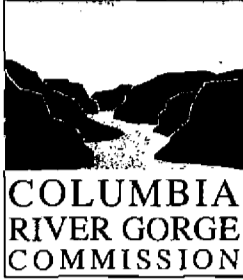
We have received questions from a few of the Gorge counties about the intent and possible implementation of Plan Amendment 06-04, particularly some new criterion language. The language specifically states: "The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings."

Columbia River Gorge Commission Plan Amendment 06-04 added horse boarding to the General Management Area (GMA) Residential-10 land use designation, broadened the definition to include non-profit horse boarding, and added a criterion to horse boarding in the GMA Agriculture and Forest land use designations. While the addition of horse boarding to the Residential-10 land use designation is optional for counties in the National Scenic Area to adopt, adding the criterion language to the GMA Agriculture and Forest land use designations is required because it would provide greater protection of Gorge resources.

At the Gorge Commission meetings when this Plan Amendment was discussed, Commissioners expressed concern over potential impacts from horse boarding operations with too many horses for the parcel. In particular, Commissioners were concerned about impacts to neighbors (dust and odors) and impacts to natural resources (denuded land causing erosion, proximity to waterways). The Commissioners discussed the difficulty in determining one specific number of horses per acre that could be applied gorge-wide because of the many different ecosystems of the Gorge and because of the unique characteristics of each property. They did, however, still want to add wording that would specify that potential impacts from too many horses on a property would be considered and avoided by determining a maximum number of horses for the specific parcel. The wording added by the Gorge Commission gives discretion to the counties for determining the maximum number of horses for horse boarding on a property.

Commission staff has considered how this wording might be implemented on applications for horse boarding. Organizations such as agricultural extension services and conservation districts can often provide information about good pasture management and relevant recommendations. Site visits with representatives from these organizations could also be useful. Some Northwest jurisdictions (e.g. King County in Washington) have adopted rules specifying number of horses per parcel and may be able to provide advice. Using information from these expert sources could assist the planner in making a determination about the maximum number of horses on a parcel.

I hope this information assists your county in adopting this plan amendment. If you have further questions, please contact Jessica Metta at 509-493-3323, ext. 228 or metta@gorgecommission.org.



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DIRECTOR'S REPORT

December 27, 2006

Proposed Amendment to the Management Plan for the Columbia River Gorge National Scenic Area (PA-06-04): The text of the complete proposed amendment is provided in Appendix A. The amendment proposes two changes:

1. Change the definition of horse boarding to allow non-profit horse boarding in addition to for-profit horse boarding; and
2. Allow horse boarding (as revised) as a review use in the 10-Acre Residential Land Use Designation, subject to additional approval criteria and the guidelines to protect scenic, cultural, natural and recreation resources.

Applicant: None. This is a legislative plan amendment that the staff has proposed.

Commission Hearing: January 9, 2007, Hood River County Building, Hood River, Oregon.
The Commission will take public comment on this proposed Plan Amendment.

EXECUTIVE SUMMARY

Criteria for Amending the Management Plan

To approve an amendment to the Management Plan, Commission Rule 350-50-030 requires that the Commission must find:

1. Conditions in the Scenic Area have significantly changed;
2. The proposed amendment is consistent with the purposes and standards of the Scenic Area Act; and
3. No practicable alternative to the proposed amendment more consistent with the purposes and standards of the Scenic Area Act exists.

Summary of the Consistency of the Proposed Plan Amendment with the Criteria

Criterion 1: The proposed plan amendment is consistent with criterion 1. Since the adoption of the Management Plan, the number of horse rescue organizations operating in Oregon and Washington has greatly increased. Also during this period- and potentially contributing to the formation of these organizations- several other changes have occurred. These changes include new information available to the public about horse abuse, an increased public awareness of and intolerance for horse abuse, and changes in the legal conditions relating to horse abuse. All these factors together constitute a significant change in conditions in the Scenic Area pursuant to Commission Rule 350-50-030(1).

Criterion 2: The proposed plan amendment is consistent with criterion 2. Commercial horse boarding is currently allowed within the Scenic Area as being consistent with the purposes and standards of the Act. Non-profit horse boarding would have similar impacts on Gorge resources and is thus also consistent with the purposes and standards of the Act. By requiring that horse boarding in the 10-acre Residential zone be reviewed for consistency with resource protection guidelines and additional approval criteria, this use can be added to this zone while remaining consistent with the purposes and standards of the Act.

Criterion 3: The proposed plan amendment is consistent with criterion 3. Staff considered seven alternatives to address the new information and achieve the proposed amendment: (1) considering the use an agricultural use, (2) considering the use an accessory use, (3) creating a new use category that would be added to the GMA Agriculture, Forest and 10-acre Residential zones, (4) rezoning an area where this use exists in Klickitat County, (5) adding horse boarding to all GMA Residential zones, (6) reserving the change for discussion during Plan Review, and (7) not allowing any horse rescue organizations to occur in the Scenic Area. Staff finds that none of these is more consistent with the purposes and standards of the Act than the proposed amendment.

Staff Recommendation

Staff recommends the Commission adopt the proposed amendment. Staff believes there is a need to amend the Management Plan to allow non-profit horse rescue centers. Our review has shown that the proposed amendment is consistent with all plan amendment criteria and should therefore be adopted.

I. Amendment Summary and Background

In February 2006, staff became aware of a non-profit horse rescue center operating in the Scenic Area within a 10-acre Residential zone in Klickitat County. The organization rescues and rehabilitates abused horses and then either adopts them out or houses them permanently on the property. The use includes supporting structures. The Chairman of the organization lives on the property.

Because this operation was occurring without Scenic Area permits, staff initiated an enforcement action that required obtaining all necessary Scenic Area permits. However, staff was unable to identify a use allowed in the Management Plan that fit what was occurring on the subject property. Staff noted that the use was very similar to horse boarding which is currently allowed in all GMA Agriculture and Forest zones, except that horse boarding is defined as operating "for a fee" and is not allowed in the 10-acre Residential zone. The Executive Director (Martha Bennett, at the time), signed an agreement in April 2006 with the Chairman of the horse rescue organization. The agreement stated that in return for the organization withholding new construction and acceptance of more horses than their then-current number, staff would postpone enforcement action and initiate a legislative plan amendment to allow the use to occur in the Scenic Area as a review use. This proposal is the result of that action.

The proposed plan amendment, therefore, includes changes to the definition of horse boarding to allow for non-profit horse boarding and also adds horse boarding as a review use to the 10-acre Residential zone. While horse boarding occurs in Agriculture and Forest zones without review for compatibility

with adjacent properties, staff believes that horse boarding applications in the 10-acre Residential zone should be reviewed for compatibility with adjacent properties because of the increased possibility for impacts to those properties in a Residential zone as opposed to Agricultural and Forest zones.

However, because this use generally requires relatively large acreage and because on smaller parcels there is a greater potential for conflicts with adjacent uses, it is recommended that this use be added to the 10-acre Residential zone only rather than to all Residential zones.

II. Criteria and Rules for Approving an Amendment to the Management Plan

Section 6(h) of the Scenic Area Act authorizes the Gorge Commission to amend the Management Plan, and requires the Secretary of Agriculture to concur with a plan amendment adopted by the Gorge Commission before the plan amendment can go into effect.

Commission Rule 350-50 specifies the procedures for amending the Management Plan, based on the requirements of the Scenic Area Act. Proposed plan amendments must be considered after a public hearing. They must be adopted by a majority vote of the members appointed to the Gorge Commission, including at least three members from each state. According to Commission Rule 350-50-030, the Gorge Commission must find that the following three criteria are satisfied before it approves an amendment to the Management Plan:

1. Conditions in the Scenic Area have significantly changed. This means:
 - (a) Physical changes that have widespread or major impacts to the landforms, resources, or land use patterns in the Scenic Area;
 - (b) New information or inventory data regarding land uses or resources that could result in a change of a plan designation, classification, or other plan provisions;
 - (c) Changes in legal, social, or economic conditions, including those that affect public health, safety, or welfare, not anticipated in the Management Plan; or
 - (d) A demonstrable mistake in the Management Plan that has resulted in significant impacts or that involves significant issues, such as, but not limited to, a land use guideline that is less protective of Gorge resources than the policies the guideline was intended to implement; a land use designation that does not conform to the corresponding designation policies; or two or more guidelines that cannot be reasonably reconciled;
2. The proposed amendment is consistent with the purposes and standards of the Scenic Area Act; and
3. No practicable alternative to the proposed amendment more consistent with the purposes and standards of the Scenic Area Act exists.

The Gorge Commission may conclude that conditions in the Scenic Area have significantly changed if it finds that any one of the four subsections of Commission Rule 350-50-030(1) have been satisfied.

Commission Rule 350-50-100(3)(g) provides the procedure for the Commission to make changes to the amendment language that the staff recommends.

- (g) For legislative amendments, the Commission may modify the recommended language in any manner.
 - (i) If the Commission makes clarifying changes to the recommended language, then it may proceed to vote on whether to adopt the recommended language, as clarified, after providing an opportunity for public comment during the hearing.
 - (ii) If the Commission makes substantive changes, i.e. those not covered by subparagraph (i) immediately above, to the recommended language, the Commission shall:
 - (A) provide an opportunity for additional public comment during the hearing on the new language, and then proceed to vote on whether to adopt the amendment; or
 - (B) continue the hearing to a new date to allow for adequate public notice of the content of the language and for further consideration of the issues. When the hearing is resumed, the Commission shall provide a reasonable opportunity for the applicant and members of the public to respond to the proposed language, and then proceed to vote on whether to adopt the amendment.

III. Public Comments and Consultation

A pre-application conference was held on August 30, 2006 in accordance with Commission Rule 350-50-045. A pre-application report was issued two weeks after the conference. According to Commission Rules 350-50-080 and 350-50-085, the Executive Director sent public notice of the proposed amendment to the U.S. Forest Service, all four tribal governments, the six Gorge county planning offices and interested parties who requested notice. The notice, including the proposed plan amendment language, was issued on September 28, 2006. The Executive Director also published notice of the proposed amendment in local Gorge newspapers and the major newspapers in Portland and Vancouver. Interested persons had 30 days from the date the notice was mailed to submit written comments to the Executive Director (September 28, 2006 through October 28, 2006). Additionally, staff had phone conversations or email contact regarding the proposed amendment with the U.S. Forest Service, the six Gorge county planning offices and the four Indian tribal governments. The Gorge Commission received three letters, three emails and one comment through a phone conversation on the proposed amendment. Copies of the letters, emails and a memo summarizing the comment received via phone are included in Appendix B.

IV. Analysis of Proposed Plan Amendment PA-06-04

Criterion 1 (Conditions in the Scenic Area Have Changed Significantly):

At the time of adoption of the Management Plan in 1991, the Gorge Commission included horse boarding as an allowable use within certain zones of the Scenic Area. Since the adoption of the Management Plan, new information has become available to the public, particularly through the internet and the media, concerning horse abuse. Additionally, legal conditions have changed as animal abuse laws in Oregon and Washington have been clarified and penalties increased. A change in social conditions has also occurred as awareness of and intolerance for animal abuse, and in particular horse abuse, has increased. Finally, and presumably as a result of the above changes, the number of horse rescue organizations operating in Oregon and Washington has greatly increased (see Graph 2, pg 7).

New information and change in social conditions

Since the adoption of the Management Plan, two industries that raise questions about horse abuse - the horse slaughter and the Premarin® industries - have become more well-known and well-documented. Horse slaughter in the United States occurs at three plants (two in Texas, one in Illinois) that purchase live horses at auctions around the country, transport them to their plants, and slaughter them for human consumption. The horse meat is exported primarily to Western Europe and Japan. Horse abuse questions arise over the transport and holding conditions of the horses, the sources of the horses, and how the horses are slaughtered.¹ The horse slaughter industry was called into public question first in 1998 when California voters outlawed horse slaughter for human consumption in their state. National focus was brought to this issue when House Resolution 503, known as The American Horse Slaughter Prevention Act, was introduced to the U.S. House of Representatives in February 2005 and passed in September 2006.² A companion bill, Senate Bill 1915, was introduced in the U.S. Senate in October 2005 and currently awaits a final vote.

Premarin is the most widely used drug for estrogen replacement therapy. Premarin is made from pregnant mare urine, as its name implies. Horse abuse questions arise over the living conditions of the pregnant mares and treatment of the offspring from the mares, which are often unwanted and discarded through the horse slaughter industry. Although Premarin was first introduced in 1942, the first equine welfare organization did not investigate and publish their findings until 1986.³ This organization, HorseAid, was also the first to publish their Premarin data to the internet in 1994. Public awareness of the industry and its potential horse abuse issues has increased since then.

The media is also more willing to cover cases of animal abuse when they occur, which has further increased public awareness of horse abuse. Media coverage of horse abuse often results in increased reports of horse abuse from the public to animal welfare organizations and animal control officers due to the increased awareness of horse abuse.⁴ This also seems to represent a change in attitude towards horse abuse, since the public is more willing to report abuse when they become aware of it. Additionally, data suggests that horse abuse by individual persons has increased since adoption of the Management Plan (see Graph 1 below). The graph shows data from the website pet-abuse.com, which reports and tracks cases of animal abuse.⁵ Each individual case often involves more than one horse.

¹ <www.hsus.org/pets/issues_affecting_our_pets/equine_protection/get_the_facts_on_horse_slaughter.html> Last visited November 20, 2006.

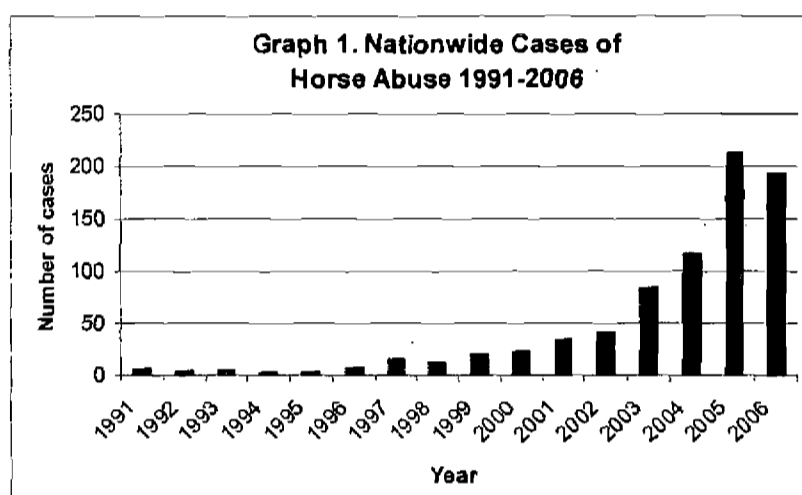
² <www.hsus.org/legislation_laws/federal_legislation/companion_animals/2005_horse_slaughter.html> Last visited November 20, 2006.

³ <www.premarin.org> Last visited November 20, 2006.

⁴ Humane Society of Oregon. Phone interview. June 14, 2006.

⁵ <www.pet-abuse.com/pages/cruelty_database.php>. Last visited December 22, 2006.

The increase in the number of horse abuse cases may be the result of increased awareness and thus reporting of horse abuse rather than the result of more instances of horses being abused. A recent article from *The Seattle Times* also reports that 2006-2007 may be a record year for reported cases of horse abuse and abandonment in Oregon related to the recent, greatly increased price of hay.⁶



Changes in legal conditions

Changes in the laws relating to horse abuse have also recently occurred. Since 2001, both Oregon and Washington have adopted changes to their state statutes on animal abuse that in general have clarified the laws and increased penalties. In the 2005 legislative session, Washington added language to clarify that animal abuse also includes negligence, starvation and dehydration [RCW 15.52.205(1)]. A bill to increase the penalties for animal abuse in Washington was also introduced in 2005 and is pending before the Legislature. Oregon increased the penalties for animal abuse in 2001 [ORS 167.320(4)]. Clarifications and additions to the animal abuse statutes also occurred in 2001 and 2003 (ORS. 167.310 to 167.390).

An interview with Timothy O'Neill⁷, Klickitat County Prosecuting Attorney, illustrated how legal changes, cases of horse abuse and public awareness of horse abuse have dramatically shifted in Klickitat County only since 2004. On February 2, 2004, the Klickitat County Sheriff's Office investigated a report of dead and starving horses at a residence in Trout Lake. Deputies found eight horses that had died of starvation and two horses and one mule in life-threatening conditions from starvation. Although the three live animals were impounded from the property to receive necessary care, one of the horses could not be revived and died several days later. Mr. O'Neill reported that this case reinforced to the citizens of Klickitat County the importance of enforcing the laws against animal cruelty, particularly against horses. Mr. O'Neill could not recall anything about horses being starved to death or abused in Klickitat County before this case. He further reported several county-wide changes as a result of this case, including greater awareness of animal and horse abuse with the public and with law enforcement staff, greater willingness from the public to report animal abuse, and greater public awareness of animal rights and of cruelty to animals being a punishable offense. Mr. O'Neill also

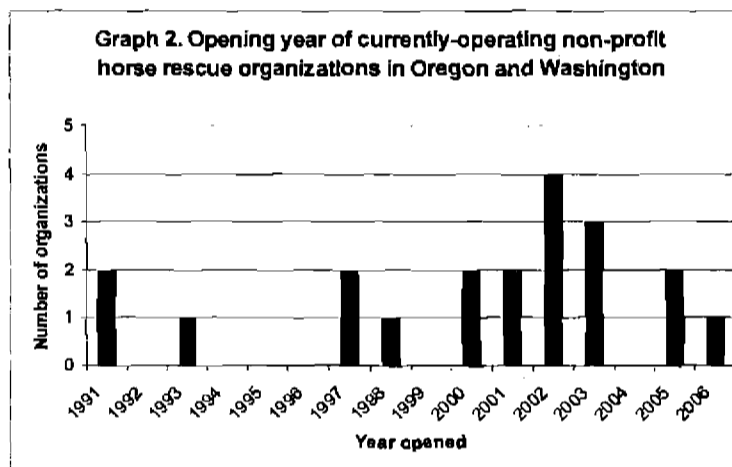
⁶ Associated Press (29 November 2006). "High hay costs push up cases of animal abandonment in Ore." *The Seattle Times*. Retrieved 1 December 2006 from <http://seattletimes.nwsource.com/html/localnews/2003453001_webhorses29.html>.

⁷ Personal phone interview. October 17, 2006.

commented that the changes to the Washington State animal abuse laws have made it easier to prosecute offenders. Because of this case and because the legal changes clarified certain aspects of the law with regard to criminal intent and sentencing guidelines, Klickitat County is more willing to prosecute animal abusers. When they do prosecute animal abusers, the County's initial response is to take the animal out the abusive situation. The problem, however, is that Klickitat County has no animal shelters of any kind. Furthermore, it can take a long time for a case to reach trial and the care of the animals – particularly horses – is expensive. Mr. O'Neill stressed that the County needs safe locations to place abused horses waiting for trial, and that horse rescue centers can provide that community service.

Changes in social conditions

Changes in public awareness of horse abuse and legal conditions of animal abuse potentially increased the number of people becoming involved with horse rescue. Graph 2 below only dates from 1991 because none of the twenty horse rescue organizations currently operating in Oregon and Washington existed prior to 1991. In other words, almost all twenty have opened since the Management Plan was adopted in October 1991. In the ten-year period from 1990 to 1999, six of the currently operating Oregon and Washington horse rescue organizations had opened. In the seven year period from 2000 to 2006, fourteen horse rescue organizations have opened in Oregon and Washington –more than twice the number of the 1990 to 1999 interval. This shows a significant, recent increase of these organizations in the Pacific Northwest.⁸



Staff also contacted horse rescue organizations. Representatives of these organizations cited increased awareness of horse abuse and/or the horse slaughter industry as the reason for an increase in the number of horse rescue organizations.⁹ There also seems to be general agreement among horse rescue organizations that people often enter the industry by obtaining an abused horse in some manner, often through an auction or through a media-covered abuse case, and rehabilitate that horse in their personal barn. After successfully rehabilitating their first abused horse, he or she becomes more likely to rehabilitate abused horses in the future.¹⁰ Sometimes this interest grows into a full-time job of rehabilitating horses and the creation of a non-profit organization in support of the new career. Horse rescue organizations tend to be formed into non-profit organizations for the increased potential to seek donations and for tax-exempt status.

⁸ Washington and Oregon horse rescue organizations were identified through Guidestar.org and equinerescue.com. Operating status and opening year were confirmed through each organization's website, Guidestar.org or telephone interviews. Supporting information is available at the Gorge Commission office.

⁹ Personal interviews with representatives from Broken Oaks Equine Retirement Center (June 16, 2006), Equine Advocates Incorporated (July 6, 2006), and the Hooved Animal Humane Society (July 6, 2006).

¹⁰ Personal interviews with Broken Oaks Equine Retirement Center (June 16, 2006) the American Horse Defense Fund (September 8, 2006), and Equine Outreach, Incorporated (December 1, 2006).

Within the Scenic Area, there currently exists one non-profit organization dedicated to rescuing abused horses. This organization, like many horse rescue organizations, adopts out younger and rideable horses while allowing older companion horses to live out the rest of their lives on the property. Also currently existing in the Scenic Area – and also within 10-acre Residential zones - are two individuals who accept abused horses from horse rescue organizations located outside of the Scenic Area. These individuals rehabilitate the horses in their personal barns and either adopt out or keep the horses. Both of these individuals constructed their barns only within the last two years. It is likely that there are more individuals involved in this kind of work within the Scenic Area, using their personal barns and resources but not yet formed into a non-profit organization.

Since the adoption of the Management Plan, the number of horse rescue organizations operating in Oregon and Washington has greatly increased. Also during this period- and potentially contributing to the formation of these organizations- several other changes have occurred. These changes include new information available to the public about horse abuse, an increased public awareness of and intolerance for horse abuse, and changes in the legal conditions relating to horse abuse. All these factors together constitute a significant change in conditions in the Scenic Area pursuant to Commission Rule 350-50-030(1).

Criterion 2 (Proposal is Consistent with the Purposes and Standards of the Scenic Area Act):

Purposes of the Act:

The first purpose of the Scenic Area Act is to protect and enhance the scenic, cultural, recreational, and natural resources of the Scenic Area. The second purpose is to protect and support the economy of the Gorge by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner consistent with the first purpose.

The first component of the proposed amendment would revise a definition in the Glossary of the Management Plan. It would allow horse boarding in the Scenic Area to be either operated for a fee (as is currently allowed) or by a non-profit organization (the proposed revision). This component of the proposal is consistent with both purposes of the Act. Horse boarding for a profit was found by the original Gorge Commission to be consistent with the Act's first purpose. Non-profit horse boarding is substantially similar in terms of impact to scenic, cultural, recreational and natural resources as for-profit horse boarding. Because for-profit horse boarding is a review use that was already found to be consistent with the purposes of the Act, non-profit horse boarding should be similarly consistent.

The second component of the amendment would add the revised definition of horse boarding as a review use with additional approval criteria in the 10-acre Residential zone. Horse boarding is currently allowed in all GMA Agriculture and Forest zones. By making the revised definition a review use in the 10-acre Residential zone, the use becomes subject to all guidelines that protect scenic, cultural, natural and recreational resources and could only be approved if it is shown that the use can occur without adversely affecting Gorge resources. Therefore, adding horse boarding as a review use in the 10-Acre Residential zone is consistent with the first purpose of the Act.

Horse boarding for a profit was also found by the Gorge Commission to be consistent with the Act's second purpose. Neither non-profit horse boarding nor allowing horse boarding in the 10-acre

Residential zone would encourage growth to occur outside of existing urban areas. Furthermore, horse boarding typically requires relatively large parcels of land. Encouraging uses that require large parcels of land to be located in urban areas could conflict with the second purpose, which seeks to make efficient use of land in urban areas. Neither component of this proposal will affect the second purpose of the Act and is therefore found consistent.

Standards of the Act:

Section 6(d) of the Act contains nine standards for the Management Plan. Seven of these are not applicable to the proposed amendment. They address: protection and enhancement of open spaces; protecting and enhancing public and private recreation resources; prohibiting major development actions in the SMA; prohibiting industrial development outside urban areas; requiring that commercial development outside urban areas not adversely affect Gorge resources; requiring that residential development not adversely affect Gorge resources (this applies to development of houses, not necessarily all development in Residential zones); and requiring that mining outside urban areas not adversely affect Gorge resources.

Two of the Section 6(d) standards are relevant to the proposed amendment. Standards 1 and 2 require protection and enhancement of farm and forest lands for farm and forest uses. For-profit horse boarding was found to be consistent with all standards of the Act by the Gorge Commission (i.e., to not convert agricultural and forest land to non-resource use). Changing the definition of horse boarding to allow non-profit operations would similarly not cause lands to be converted from agricultural or forest uses. By requiring that horse boarding in the 10-acre Residential zone be reviewed for compliance with additional approval criteria, protection of agricultural and forest lands is ensured because two of these criteria require the use to comply with agricultural buffers and fire protection guidelines. The proposed amendment is therefore consistent with the standards of the Act.

Criterion 3 (No Practicable Alternative More Consistent with the Scenic Area Act):

Staff considered seven alternatives to the proposed amendment: (1) considering the use an agricultural use, (2) considering the use an accessory use, (3) creating a new use category that would be added to the GMA Agriculture, Forest and 10-acre Residential zones, (4) rezoning an area where this use exists in Klickitat County, (5) adding horse boarding to all GMA Residential zones, (6) reserving the change for discussion during Plan Review, and (7) not allowing any horse rescue organizations to occur in the Scenic Area. Staff finds that none of these is more consistent with the purposes and standards of the Act than the proposed amendment.

The current definition of "agricultural use" in the Management Plan specifies that the primary purpose of the use is to obtain a profit in money, therefore non-profit horse boarding operations would not meet the current definition. Additionally, for-profit horse boarding is not considered an "agricultural use" in the Management Plan but is rather given its own review use. Considering non-profit horse boarding as an agricultural use is therefore not a practicable alternative.

The second alternative was to consider the use as accessory to the residence on the parcel and the buildings dedicated to the use as accessory buildings. The Management Plan definition of "accessory structure/building" requires that the use of the building must be incidental and subordinate to the main use of the property. However, a horse-boarding operation could be a main use of the property. Also, by

reviewing the buildings dedicated to the use as accessory buildings, the square footage limitations on accessory buildings would greatly restrict the size of the use. Thus, this is not considered a practicable alternative for this use.

The third alternative considered was to create a new use that would describe a horse rescue center and add this use as a review use to the GMA Agricultural, Forest and 10-acre Residential zones. The use described, however, was actually very similar to for-profit horse boarding currently allowed except for its non-profit nature, and therefore it was more appropriate to slightly revise the definition of horse boarding than create a new use category.

The fourth alternative was to change the zoning of the currently-operating horse rescue center in Klickitat County from 10-acre Residential zone to Small-Scale Agriculture. This alternative, combined with changing the definition of horse boarding to allow non-profit horse boarding, would allow staff to review the existing horse rescue center. Rezoning the area from 10-acre Residential to Small-Scale Agriculture would be inconsistent with the land use designation policies since this area does not meet the designation policies for agricultural land. This alternative would also not address the small private horse rescue activities occurring elsewhere in 10-acre Residential zones that would benefit from the proposed plan amendment if they expand their operations in the future. This alternative is therefore not practicable and less consistent with the Act than the proposed amendment.

The fifth alternative considered was to add the revised definition of horse boarding to all Residential zones within the GMA, not only to the 10-acre Residential zones. This alternative was suggested by Hood River County in their comments. The other GMA Residential zones have a 1-acre, 2-acre, or 5-acre minimum lot size. This use typically requires larger acreage than is generally found in denser Residential zones. Additionally, Residential zones with smaller lot sizes are more likely to have potential compatibility conflicts with the proposed use than the 10-acre Residential zone. Staff thus finds this to not be a practicable alternative.

The sixth alternative was to wait for the next Plan Review process to consider the proposed change. This alternative was suggested by the Friends of the Columbia Gorge in their comments. The currently-operating horse rescue organization in Klickitat County cannot initiate any new development without Gorge Commission approval. The Commission cannot approve any new development under the existing Land Use Ordinance for Klickitat County because the use is currently not allowed. Because the next Plan Review process will not begin for at least several years, waiting to address the proposed amendment would cause the Klickitat County organization to postpone any new development for years. The Klickitat County horse rescue organization has building projects that would ideally begin as soon as possible. Asking the organization to wait for the next Plan Review process would cause undue hardship to the organization. Furthermore, because the existing horse rescue organization lacks permits for its current activities, this alternative would mean either indefinitely delaying an enforcement action against the organization or even potentially shutting the organization down. Finally, because of the information presented above, particularly that horse abuse is increasing and that law enforcement often depends on horse rescue organizations to house abused horses that have been removed from abusive situations, staff finds there is a need to allow this use in the Scenic Area that should not be delayed until the next Plan Review process. Staff thus finds this to not be a practicable alternative.

The seventh alternative considered was to not allow any horse rescue organizations to occur in the Scenic Area. This would have the effect of closing the current operation in Klickitat County. The current operation, however, is similar to other uses allowed in the Scenic Area and could be consistent with protection of Gorge resources. Furthermore, if the operation had to close, the owner could disband the non-profit and claim the horses as his personal property. If this were to happen, the Gorge Commission would lose control over regulating the use and its impacts except for the construction of new buildings because the Management Plan does not regulate the number of personal animals an individual can own. Not allowing the use could therefore result in greater impacts on Gorge resources due to the loss of Commission oversight of the use. This alternative is thus not practicable and less consistent with the standards and purposes of the Act than the proposed plan amendment.

Because no practicable alternatives to the proposed amendment exist that are more consistent with the purposes and standards of the Scenic Area Act, the proposed amendment is consistent with criterion 3.

V. Options and Recommendations

Option 1: Adopt the Proposed Amendment

If the Commission finds the proposed amendment consistent with all three plan amendment criteria, then the Commission should adopt it.

Option 2: Reject the Proposed Amendment

If the Commission finds the proposal is inconsistent with one or more of the Plan Amendment criteria and cannot be made consistent, then the Commission should deny it.

Option 3: Make Changes to the Recommended Language

If the Commission makes clarifying changes to the recommended language, then it must provide an opportunity for public comment on the new language before voting. If the Commission makes substantive changes to the recommended language, then before voting, the Commission must either (1) provide an opportunity for additional public comment on the new language at the hearing or (2) continue the hearing to a new date. If the Commission continues the hearing, a new public hearing could be scheduled for the February 13, 2007 meeting, which would allow time to provide a 30-day notice of hearing for the recommended modification.

Recommendation: Staff recommends the Commission select option 1 and adopt the proposed amendment. Staff believes there is a need to amend the Management Plan to allow non-profit horse rescue centers. Our review has shown that the proposed amendment is consistent with all plan amendment criteria and should therefore be adopted.



Jill Arens
Executive Director

27 December 2006
Date

Director's Report – PA-06-04
December 27, 2006
Page 12

Appendix A: Proposed Plan Amendment Language (PA-06-04)
Appendix B: Comments Received on Proposed Plan Amendment PA-06-04



APPENDIX A: PROPOSED PLAN AMENDMENT LANGUAGE (PA-06-04)

Plan Amendment PA-06-04 consists of the following specific requests (proposed deletions are shown with a strikeout, proposed additions are underlined):

1. Change the following definition in the Glossary (pg. 10, *Revisions to the Management Plan*):

Horses, boarding of (GMA): The stabling, feeding, and grooming ~~for a fee~~, or the use ~~renting~~ of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a non-profit organization.

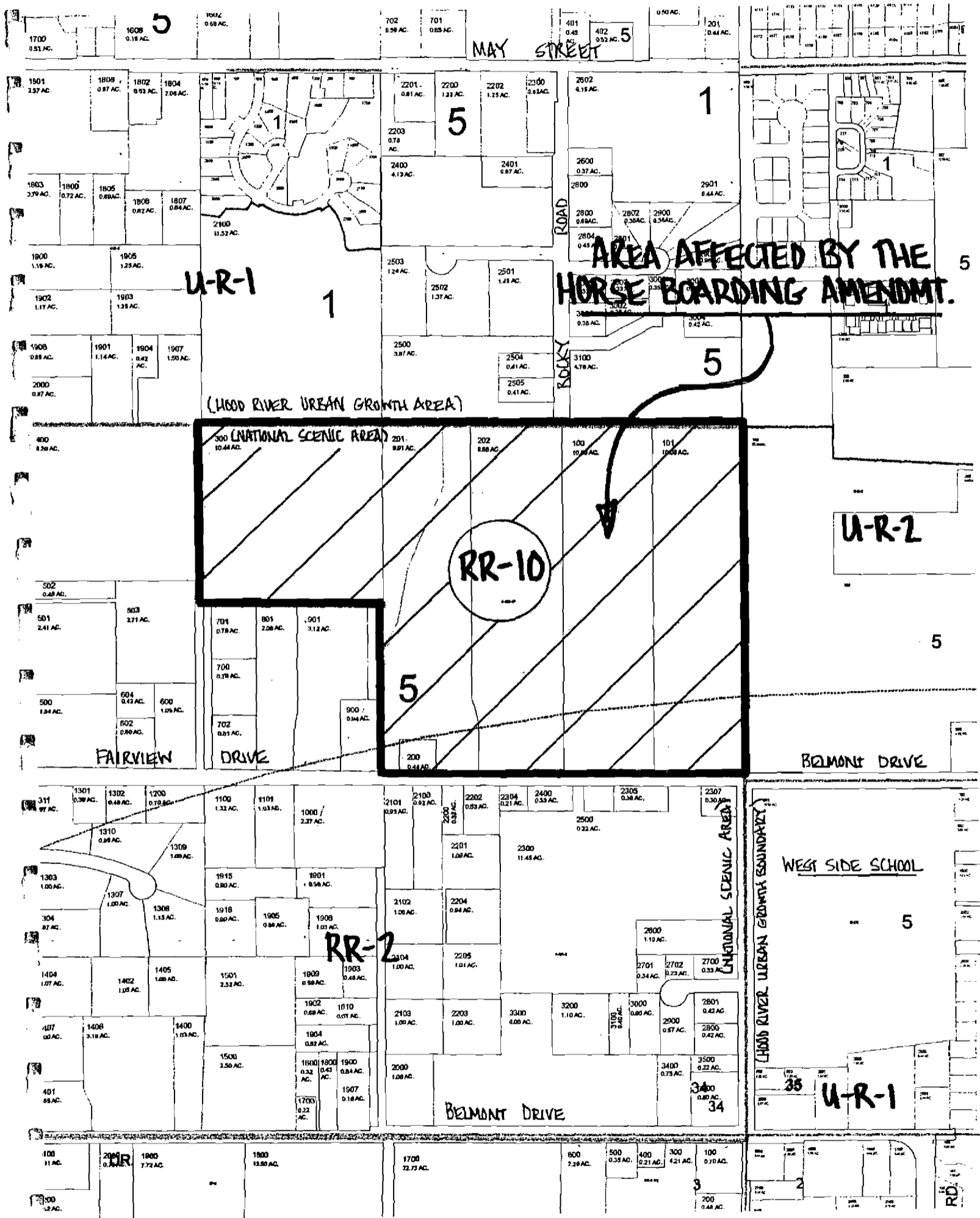
2. Add the following review use to Part II, Chapter 4: Residential Land, GMA Guidelines, Review Uses (pg. II-67, *Revisions to the Management Plan*):

- (2) The following uses may be allowed on lands designated Residential, subject to compliance with the guidelines for protection of scenic, cultural, natural, and recreation resources and "Approval Criteria for Specified Review Uses," below.

M. Boarding of horses on lands designated 10-acre Residential.

APPENDIX B: COMMENTS RECEIVED ON PROPOSED PLAN AMENDMENT PA-06-04





AREA AFFECTED BY THE HORSE BOARDING AMENDMT.

U-R-1

(HOOD RIVER URBAN GROWTH AREA)

(NATIONAL SCENIC AREA)

RR-10

U-R-2

RR-2

(NATIONAL SCENIC AREA)

(HOOD RIVER URBAN GROWTH BOUNDARY)

WEST SIDE SCHOOL

U-R-1

BELMONT DRIVE

U-R-1

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

In the Matter of a Proposed
Amendment to the *Management
Plan for the Columbia River Gorge
National Scenic Area*

CRGC No. PA-06-05

FINAL ORDER APPROVING
PLAN AMENDMENT

On December 12, 2006, the Columbia River Gorge Commission met to conduct a hearing on a proposed amendment to the *Management Plan for the Columbia River Gorge National Scenic Area*. The proposed plan amendment would consolidate the *Management Plan for the Columbia River Gorge National Scenic Area (1992)* and *Revisions to the Management Plan (2004)* into one document; revise or delete outdated non-regulatory text, procedures, and tables; correct oversights and errors; make typographical, grammatical, and cross-reference corrections; and reorganize sections.

The Commission considered the text of the proposed changes constituting the amendment, a November 30, 2006 Director's Report prepared by the staff of the Gorge Commission, all written comments received by the staff of the Gorge Commission prior to the hearing, and the testimony and written comments submitted at the hearing. The staff report recommended the Commission find the changes in the amendment consistent with the Management Plan.

FINAL ORDER APPROVING
PLAN AMENDMENT

submitted at the hearing. The staff report recommended the Commission find the changes in the amendment consistent with the Management Plan.


Based on the evidence and testimony, the Commission voted unanimously to approve PA-06-05. Specifically, the Commission relies on the discussion and recommendations in the Director's Report and the oral staff report at the hearing in making its decision, except that the Commission varied from the recommendations in the Director's Report in two specific places.

First, the Commission believes that Table 1, the list of inventories that the Commission conducted in the late 1980s to initially develop the Management Plan is useful to retain in the Plan as background information to help understand development of the Plan. The Commission recognizes that the list is not a list of documents in the Commission's office, but is rather a list of sources that the Commission considered. The Commission decided to retain the table and clarify its title to reflect the nature of the document.

Second, the Commission concurs with both the staff and Friends of the Columbia Gorge's goal to make sure that persons using the Plan know where to find the most up-to-date lists of sensitive flora and fauna species. To this end, the Commission voted to include in the Natural Resource policies that sensitive species lists are available at the Gorge Commission office in addition to being on the Commission's website.

Other than these two variations from the recommendation in the Director's Report, the Commission adopts the recommendation and the reasoning

IT IS SO ORDERED this 15 day of December, 2006


Judy S. Davis
Chair

NOTICE: You are entitled to judicial review of this final order within 60 days of the date of this order pursuant to section 15(b)(4) of the Scenic Area Act.



PO Box 730 • #1 Town & Country Square • White Salmon, Washington 98672 • 509-493-3323 • fax 509-493-2229
www.gorgecommission.org

September 18, 2007

Chair Ron Rivers
Hood River County Board of Commissioners
601 State Street
Hood River, OR 97031-1871

Dear Chair Rivers:

On behalf of the Columbia River Gorge Commission, I am transmitting the text of two amendments to the Management Plan for your adoption. The first amendment (PA-06-05) was adopted by the Gorge Commission in December 2006 to consolidate the *Management Plan for the Columbia River Gorge National Scenic Area* (1992) and *Revisions to the Management Plan* (2004) into one document; revise or delete outdated non-regulatory text, procedures, and tables; correct oversights and errors; make typographical, grammatical, and cross-reference corrections; and reorganize sections. The second amendment (PA-06-04) was adopted by the Gorge Commission in March 2007 to change the definition of horse boarding to allow non-profit horse boarding, add horse boarding as a review use with additional approval criteria to the General Management Area (GMA) 10-acre Residential Land Use Designation, and add a review criterion to horse boarding in the GMA Agriculture and Forest Land Use Designations. Linda Goodman, Regional Forester for USDA Forest Service Region 6, formally concurred with these Plan Amendments as consistent with the National Scenic Area Act under authority delegated to her by the United States Secretary of Agriculture on March 20, 2007 and June 1, 2007 respectively.

By transmitting these amendments to the Management Plan, I am requesting that you initiate local adoption of the amendments into your county's land use ordinance as spelled out in Section 7 of the National Scenic Area Act. Under the Act, the deadlines that apply to county action are as follows:

- Within 60 days of receipt of these Plan Amendments, each Gorge County should notify the Gorge Commission about their intent to revise its Gorge land use ordinance to enact these revisions.
- Within 270 days of receipt of these Plan Amendments (including the 60 days spelled out above), each County should adopt its revised ordinance and submit those ordinances to the Commission for review.
- Within 90 days of receiving your revised ordinance, the Gorge Commission will review whether your modified land use ordinance is consistent with the Management Plan as amended. We will make final determinations for the portions of your ordinance that applies in the General Management Area and will make recommendations to the Secretary of Agriculture (or his designee) about the portions of the ordinance that apply in the Special Management Area. In the event that any portion of your county's ordinance is not found to be consistent with the Management Plan, we will make specific recommendations to you for changes.

Management Plan Policy 1 of "County Ordinances" (Part IV, Chapter 1 of the Management Plan) states:

Chair Rivers
September 18, 2007
Page 2 of 2

Counties may adopt ordinances with provisions that vary from the policies and guidelines in the Management Plan as long as the ordinances provide greater protection for the scenic, cultural, natural and recreation resources of the Scenic Area.
[Management Plan, pages IV-1-6 and IV-1-7]

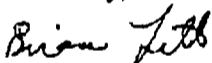
Pursuant to the above Management Plan policy, county ordinances can include provisions that vary from Management Plan direction if they provide greater levels of protection. However, any plan amendment adopted by the Gorge Commission that increases levels of protection of gorge resources must be included in county ordinances. The subject plan amendments provide several additional land uses. Because the additional review uses do not increase resource protection levels, their implementation is optional. In the case of the horse boarding plan amendment, adding horse boarding as a review use to the GMA 10-acre Residential Land Use Designation and changes to the horse boarding definition are optional under the Management Plan, but the remainder of the plan amendment (conditional language for the review use on Forest and Agriculture lands) will increase protection levels for natural resources and, thus, must be incorporated into your ordinance.

With regard to the Management Plan consolidation amendment, some provisions have no impact on gorge resources but may provide important clarification or cross-reference corrections. I recommend you check to ensure these errors were not inadvertently transferred into your ordinance. The enclosed text changes (shown in underline and highlighted) include both the mandatory provisions (such as exterior color requirements for additions) as well as some that may not be required. To assist you with your work in revising your land use ordinance, Gorge Commission staff will be assigned to provide technical assistance to each county.

The Gorge Commission looks forward to working with your county in adopting these changes into the land use ordinances that affect the National Scenic Area. County governments are critical partners in implementing the Scenic Area Act.

Please feel free to contact me with any questions.

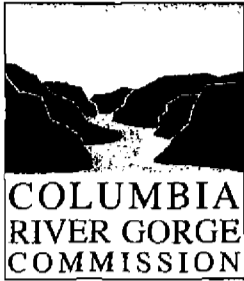
Sincerely,



Brian Litt
Planning Manager

Enclosure

cc: Columbia River Gorge Commission
Dan Harkenrider, Area Manager, USDA Forest Service
National Scenic Area Tribal Nations
County Planning Directors



PO Box 730 • #1 Town & Country Square • White Salmon, Washington 98672 • 509-493-3323 • fax 509-493-2229
www.gorgecommission.org

Att
Circulate

DIRECTOR'S REPORT

November 30, 2006

Proposed Amendment to the *Management Plan for the Columbia River Gorge National Scenic Area (PA-06-05)*: The proposed plan amendment would consolidate the *Management Plan for the Columbia River Gorge National Scenic Area (1992)* and *Revisions to the Management Plan (2004)* into one document; revise or delete outdated non-regulatory text, procedures, and tables; correct oversights and errors; make typographical, grammatical, and cross-reference corrections; and reorganize sections.

Applicant: None. This is a legislative plan amendment that the staff of the Columbia River Gorge Commission and USDA Forest Service Scenic Area Office are proposing.

Commission Hearing: December 12, 2006, Gorge Discovery Center, The Dalles, Oregon.

Action Requested

Staff recommends that at the December 12, 2006 hearing the Gorge Commission:

- (1) Find the proposed amendment to the *Management Plan for the Columbia River Gorge National Scenic Area (PA-06-05)* consistent with Commission Rule 350-50-030 and the Scenic Area Act and submit the amendment to the Secretary of Agriculture to make a determination of concurrence or non-concurrence, and
- (2) Adopt the Recreation Development Proposals list as a separate document, acknowledging that it needs to be updated in the near future.

I. Application Summary

The proposed plan amendment would consolidate the *Management Plan for the Columbia River Gorge National Scenic Area (1992)* and *Revisions to the Management Plan (2004)* into one document; revise or delete outdated non-regulatory text, procedures, and tables; correct oversights and errors that were missed when the staff developed the Revisions document; make typographical, grammatical, and cross-reference corrections; and reorganize sections. A list of the proposed changes is attached (Exhibit B) and the actual proposed changes to the Management Plan text are available for review on the Commission's website (www.gorgecommission.org).

The overall scope of the project includes making minor corrections to the Management Plan that will bring it up to date and make the document more user friendly. Most of the proposed changes are of a housekeeping nature and can be done without review by the Gorge Commission. Some changes, while

minor, are substantive enough in nature to require a Plan Amendment. We divided the proposed changes into the following five categories:

1. Consolidation of the original Management Plan with the Revisions
 - Add sections of original Management Plan not included in the Revisions
 - Revise outdated non-regulatory text and procedures
 - Omit unnecessary tables and references
 - Reorganization – relocate Agriculture-Special section & Public Involvement chapter
2. Incorporate Approved Plan Amendments (PA-05-02 and PA-99-05)
3. Correct Oversight or Error/Reconcile Conflicting Guidelines
4. Grammatical/Editing/Format Corrections
5. Referencing/Renumbering Errors, or Add a More Complete Reference

For the most part, the typographical and grammatical corrections, cross-reference corrections, and reorganization are matters that do not constitute a Plan Amendment as defined in Commission Rule 350-50-035. The reorganization includes the relocation of the policies and guidelines for the Agriculture-Special land use designation from the resource protection and enhancement sections in Part I to the land use designations in Part II. It also includes moving public involvement policies in Part IV from Chapter 4 into Chapter 1, Gorge Commission Role. The revisions to non-regulatory text and procedures, such as some introductory information, do not change the substantive or regulatory provisions of the Management Plan, but because they were adopted as part of the Management Plan in 1991, they require a Plan Amendment to update. The oversights are mistakes or inadvertent omissions from the Revisions that are housekeeping in nature, but may have a substantive effect on the regulatory provisions of the Management Plan. This Plan amendment does not recommend any new policy direction in the Management Plan.

Included among the minor substantive changes are removing wildlife and plant species inventory tables, removing the recreation development proposals list, adding expedited review uses and four review uses to the Agriculture Special land use designation, and revising references to the Code of Federal Regulations (CFR). These changes are summarized below.

II. Criteria for Amending the Management Plan

Section 6(h) of the Scenic Area Act authorizes the Gorge Commission to amend the Management Plan, and requires the Secretary of Agriculture to concur with a plan amendment adopted by the Gorge Commission before the plan amendment can go into effect.

Commission Rule 350-50 specifies the procedures for amending the Management Plan, based on the requirements of the Scenic Area Act. Proposed plan amendments must be considered after a public hearing. They must be adopted by a majority vote of the members appointed to the Gorge Commission, including at least three members from each state. According to Commission Rule 350-50-030, the Gorge Commission must find that the following three criteria are satisfied before it approves an amendment to the Management Plan:

- (1) Conditions in the Scenic Area have significantly changed. This means:

- (a) Physical changes that have widespread or major impacts to the landforms, resources, or land use patterns in the Scenic Area;
 - (b) new information or inventory data regarding land uses or resources that could result in a change of a plan designation, classification, or other plan provision;
 - (c) changes in the legal, social, or economic conditions, including those that affect public health, safety, or welfare, not anticipated in the Management Plan; or
 - (d) a demonstrable mistake in the Management Plan that has resulted in significant impacts or that involve significant issues, such as, but not limited to, a land use guideline that is less protective of Gorge resources than the policies the guideline was intended to implement; a land use designation that does not conform to the corresponding designation policies; or two or more guidelines that cannot be reasonably reconciled.
- (2) The proposed amendment is consistent with the purposes and standards of the Scenic Area Act; and,
 - (3) No practicable alternative to the proposed amendment more consistent with the purposes and standards of the Scenic Area Act exists.

The Gorge Commission may conclude that conditions in the Scenic Area have significantly changed if it finds that at least one of the four subsections under Criterion 1 in Commission Rule 350-50-030(1) have been satisfied. It does not have to find that a proposed plan amendment meets all four of these subsections.

III. Background

Gorge Commission and Forest Service staffs have been working since early 2006 to incorporate the *Revisions to the Management Plan* (Revisions) into the *Management Plan for the Columbia River Gorge National Scenic Area* (Management Plan) to produce a new, consolidated document. Currently, we have the 1991 Management Plan (printed in 1992) in one document and the 2004 Revisions in another. The Revisions includes only those chapters in which the Commission made any changes, so users must flip between the Revisions and the Management Plan depending on whether there were changes made in the chapter. Having two documents is cumbersome and confusing. This is especially so for the Forest Service, because it regularly uses the Management Plan for consistency reviews of federal projects. This project will create one Management Plan document.

In doing this project, staff has followed through on direction initiated by Martha Bennett, former Columbia River Gorge Commission Executive Director, to remove outdated non-regulatory language, remove outdated or obsolete tables, restructure or relocate several chapters, correct things missed when drafting the final Revisions document during Plan Review, and make other minor changes to bring the

entire document up to date. The goal of the project is to create a consolidated Management Plan that is user friendly.

The proposed amendment includes two issues that were discussed during Plan Review. During Plan Review, the Commission directed Staff to remove the Natural Resources Tables 5, 6, 8, and 9 from the Management Plan and update the inventories administratively and without the need for a Plan Amendment every time the states provide new inventory information. The Revisions document does not include the tables – in strikeout or otherwise – and there has been some question raised as to whether this action was taken. Staff recommends removing these tables as part of this plan amendment to clarify and resolve this question. The Forest Service has created a list of protected wildlife and plant species that are specific to the National Scenic Area and that list (Exhibit D) will be widely available to the public on the Commission's webpage.

Also discussed during Plan Review was whether to update references to the Code of Federal Regulations (CFRs). Updating the references was originally on the Commission's workplan, but was eliminated when the Commission's budget for Plan Review was cut and the Commission reduced its workplan. Because the text of the CFRs had changed, the Commission could not treat the CFR updates simply as ministerial corrections. In the process of preparing this plan amendment, however, staff has had the time to do the analysis necessary to determine which CFR references should be updated. Ultimately, we have determined that the recommended updates are minor and should be made at this time. However, it required many hours of Commission and Forest Service staff time to make that determination.

For example, the 1986 version of 36 CFR 800 (used when drafting the original Management Plan) included language to treat the adverse effects to significant cultural resources (e.g. demolishing a historic building) as "not adverse" if the resources' historical significance is only for historical research that can be documented by a qualified professional. The current version of 36 CFR 800 changes the terminology from "not adverse" to say the adverse effect can be "resolved" but that it is still an adverse effect. The Scenic Act prohibits uses that would adversely affect a cultural resource. Staff had to thus carefully evaluate whether updating the CFR reference might inadvertently conflict with the Scenic Act's prohibition on adverse effects. Because the Management Plan contains another guideline reflective of the 1986 CFR language (which allows an adverse effect to be mitigated to a less than adverse level), staff determined that incorporating the updated CFR would not cause a conflict with the Act or the Management Plan. Thus, although this update was ultimately found to be a minor change – and not a change in policy direction, it raised potentially significant issues that needed careful analysis.

IV. Public Comments and Consultation

According to Commission Rule 350-50-085, the Commission sent public notice of this proposed plan amendment to interested persons and published notice in local and regional newspapers. Interested persons had 30 days from the date the notice was posted to submit written comments (October 11, 2006 through November 10, 2006). Four written comments were received (see attached letters and emails from: Kristen Stallman, ODOT Scenic Area Coordinator; Sally Bird, Warm Springs Tribal Government Cultural Resources Manager; Ian Whitlock, Port of Portland Assistant General Counsel; and Nathan Baker, Friends of the Columbia Gorge). Oral and written comments also were received prior to the public comment period from Bob Liepper and Friends of the Columbia Gorge.

Additionally, Gorge Commission staff had telephone conversations with representatives of the four Indian tribal governments and five Gorge county planning offices. Forest Service staff also had telephone conversations with representatives of fifteen transportation and utility agencies prior to the October 11, 2006 public notice.

Attached to this Director's Report is a summary of public comments received during the public comment period along with a summary of the staff recommendation about whether the specific item should be included in the consolidated Management Plan. In general, staff agreed to include or recommends including items that clearly fall into the scope of the proposed Plan Amendment. Those include suggested changes that correct an oversight or error. Items that staff does not recommend including in the Plan Amendment are related to issues that, in our estimation, involve a policy issue that is beyond the scope of this Plan Amendment.

V. Options for Commission Action

There are three options for Commission action: (1) Find that the plan amendment meets the three criteria and approve it as proposed with recommended changes noted in this report; (2) Find that the proposed plan amendment does not meet the three criteria for plan amendment approval and not approve the plan amendment; and direct staff to combine the two documents without a plan amendment; and (3) Find that only parts of the plan amendment are consistent with the three criteria and adopt only those parts.

For legislative amendments, the Commission may modify the proposed language in any manner pursuant to Commission Rule 350-50-100(3)(g).

If the Commission approves the amendment as submitted with additional staff recommendations (Option 1), a consolidated Management Plan document will be printed and distributed accordingly. If the Commission does not adopt the amendment (Option 2), then the Commission will print a consolidated document that only includes those corrections that do not constitute a Plan Amendment. Under this scenario, the newly consolidated Management Plan would continue to include some of the problems that the staff discovered in creating this document, and outdated non-regulatory text, procedures and tables. Option 3 would result in a consolidated Management Plan that differs somewhat from what is proposed by staff.

VI. Staff Recommendation

Staff recommends the Commission approve Option 1 – approval of the amendment as submitted and with additional revisions recommended in this report. Approving the proposed amendment will result in an up-to-date, complete, and more user-friendly Management Plan that will be less cumbersome to use than the current two incomplete documents. It will also more accurately reflect current administrative practices and procedures. The result will be more consistent implementation of the Management Plan which, in turn, will provide better protection of Gorge resources.

Staff recommends a number of changes from the proposed amendment sent out for public comment. In large part these changes are a result of public comments received. The changes include retaining text in the Introduction, correcting CFR and professional standard references for cultural resources,

and revising the introduction for the Recreation Development Plan. The changes are described in detail in Exhibit A attached to this report.

VII. Staff Analysis of Consistency of Proposed Amendment With Criteria

Criterion 1 (Conditions in the Scenic Area Have Changed Significantly):

A significant change in legal conditions – adoption of Revisions to the Management Plan - triggered the need to create one updated Management Plan document that combines the original plan with the Revisions. Plan Review resulted in the printing of the Revisions as its own document showing the resulting changes with strikeouts and underlines. Chapters that were unchanged in Plan Review were not included in the Revisions.

In the process of combining the original Management Plan and the Revisions staff discovered some errors and outdated procedures and text in other parts of the Plan. While these errors and outdated procedures and text do not make the Management Plan inconsistent with the Act, it makes sense to make the corrections and changes throughout the Management Plan at this time. Not all of the proposed changes directly relate to changes made during Plan Review. Taken as a whole, however, the need for the proposed amendment was created by the action of revising the Plan, which itself constitutes a significant change in the legal conditions in the Scenic Area.

In addition, each proposed change results from new information or inventory data, changes in legal conditions, or a demonstrable mistake. Attached to this Director's Report is a list of changes with a notation of the type of significant change (Exhibit B). The following includes examples of each:

New information or inventory data: The Commission can determine that conditions in the Scenic Area have significantly changed if there is new information or inventory data regarding land uses or resources that could result in a change of a plan designation, classification, or other plan provision. Several of the proposed changes stem from new information or inventory data. For example:

- The removal of Tables 2 and 11: Tables 2 and 11 provide information about the acreage of land in each land use designation and recreation intensity class (RIC) respectively. With the completion of the Section 8(o) process (under which SMA properties which have been offered for sale to the USDA Forest Service, and not purchased by the agency within a three year period, become subject to the GMA land use guidelines) and the approval of some plan amendments, the land use designation of many properties has changed since Table 2 was published. To a lesser extent, this also is true for Table 11. The new inventory data of land use designations and RICs would result in a change to these tables. Because this situation will arise again and the tables aren't static, staff proposes to update the tables and remove them from the Plan, to allow for future updates without a plan amendment.
- Recreation Development Proposals list: The Recreation Development Plan (Part III, Chapter I) includes two lists of recreation development proposals in the GMA and urban areas, and the SMA respectively. These lists have not been updated since the original adoption of the Management Plan and are very outdated. New information about many of the proposed projects or sites would result in a change of these lists. For example, in the

GMA, the Drano Lake and Historic Columbia River Highway/Mosier Tunnels proposals, among others, are complete. Based on new information that could result in a change of the plan provision of the lists, staff proposes to remove the project lists from the Management Plan, create a new document incorporating the list of recreation development proposals, and provide for the document to be updated without the need for a plan amendment.

Changes in legal conditions: The Plan Review process and resulting adoption of the Revisions resulted in a significant change of the Management Plan. The adoption of the Revisions changed some of the regulatory policies and guidelines of the Management Plan, thus changing the legal conditions in the Scenic Area. Legal conditions in the Scenic Area have changed as a result of plan amendments and Commission rulemaking over the past fifteen years as well. Examples of proposed changes where a change in legal conditions affects Plan provisions include:

- The removal of Tables 5, 6, 8 and 9 in Natural Resources: These tables list the wildlife and plant species that met the Management Plan definitions of "sensitive wildlife species" and "sensitive plant species" at the time the original Management Plan was adopted by the Commission in 1991. The tables list those species by classifications such as "endangered", "threatened" and "sensitive." New inventory information since that time has changed the status of some species. For example, Table 5 lists Coho salmon as a "sensitive species" in Oregon. However, the Oregon Department of Fish and Wildlife currently lists the Lower Columbia River Coho Salmon as "endangered." The inventory information is not static; it has changed since 1991 and will continue to change over time as habitat and other factors change. The Oregon Department of Fish and Wildlife Commission, for example, reviews its threatened and endangered species list approximately every five years. A change in status of species provides a change in legal conditions in the Scenic Area that supports the proposed removal of Tables 5, 6, 8 and 9. Again, the Commission removed these tables during Plan Review, but because the Revisions document did not show the tables in ~~strikeout~~, there has been confusion about whether it was actually done. Removing the tables as part of this Plan Amendment will clarify any confusion.
- Code of Federal Regulations: Sections of the Code of Federal Regulations (CFRs) referenced in the Management Plan have been revised since the original adoption of the Plan. Updates to the CFRs constitute a change to legal conditions that affect Plan provisions protecting cultural resources. The recommended updated references are shown in the changes document (Exhibit B) and in the additional staff recommendations (Exhibit A). Copies of the former and revised federal regulations are available on the Commission's website. Changes to the federal regulations provide the change in legal conditions that supports the need to change the CFR references in the Plan.
- Economic Development, page III-51: This part of the plan amendment includes the proposed addition of two GMA Economic Development policies to add commercial events and commercial uses in historic buildings to the list of commercial uses allowed in the Scenic Area outside Urban Areas. The basis for adding commercial events is that commercial events was added as a review use in most GMA land use designations during Plan Review. The basis for adding commercial uses in historic buildings is the approval of Plan Amendment PA-05-02. Both Plan Review and the adoption of PA-05-02 significantly

changed the regulations (i.e. legal conditions) in the Scenic Area, which provides the basis for the two new policies.

Demonstrable mistake: The Commission can determine that conditions in the Scenic Area have significantly changed if there is a demonstrable mistake in the Management Plan that results in two or more guidelines that cannot be reasonably reconciled. Staff has found cases in the Management Plan for which this applies. Examples include:

- **Agriculture Special:** During Plan Review, a number of uses were added to all land use designations as "Uses Allowed Outright". The specific uses are included in Part II, Chapter 7 and are cross-referenced in each land use designation. One GMA land use designation – Agriculture Special – was inadvertently left out of this section. Omitting Agriculture Special from the "Uses Allowed Outright" section was a mistake that resulted in guidelines that present a conflict. For example, Part II, Chapter 7 GMA/SMA Guideline 1 (Page II-124) provides for uses allowed without review "in all GMA and SMA land use designations, except GMA and SMA Open Space." Those uses include some underground utility facilities. On the other hand, the Agriculture Special land use designation prohibits utility facilities (Page II-22, Uses Prohibited Guideline 1.G.). In addition, unlike other land use designations, the Agriculture Special land use designation includes its own list of uses allowed outright. This amendment would correct the mistake by excepting Agriculture Special from the uses allowed outright listed in Part II, Chapter 7, thereby ensuring that a prohibited use such as an underground utility facility isn't mistakenly allowed without review.
- **SMA Scenic Standards:** The SMA includes two scenic standards: visually subordinate and not visually evident. The GMA, on the other hand, requires a visually subordinate scenic standard (with only a couple of exceptions). In a couple of instances, the Revisions include language that refers only to the visually subordinate scenic standard in the SMA. For example, page II-146 includes a measure to ensure that actions taken in response to an emergency/disaster do not adversely affect scenic resources by requiring them to be "visually subordinate as seen from key viewing areas..." On the other hand, SMA scenic resource guidelines on pages I-42–43 provide for two different scenic standards based on the landscape setting and land use designation. This amendment proposes to correct the SMA language to ensure that the more protective standard of 'not visually evident' applies where the Management Plan intends it to.

Conclusion regarding Criterion 1: Overall, the amendment is consistent with Criterion 1 because of a significant change in legal conditions – the adoption of the Revisions. When considering each element of the proposal, the amendment also is consistent with subsections (b), (c), or (d) of Criterion 1, as illustrated above and in Exhibit B. Staff recommends the amendment is consistent with Criterion 1.

Criterion 2 (Application is Consistent with Purposes and Standards of Scenic Area Act):

Purposes of the Act: The first purpose of the Scenic Area Act is "to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge." The second purpose of the Scenic Area Act is "to protect and support the economy of the Columbia

River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner consistent with paragraph 1 (the first purpose).”

The Gorge Commission and Forest Service have already found the Management Plan and Revisions consistent with the purposes of the Scenic Area Act. Changes to the non-regulatory provisions do not change the consistency of the Management Plan with the purposes of the Act because what is being changed is *non-regulatory* and, therefore, has no impact on the regulatory policies, objectives, goals, and guidelines of the Management Plan. Examples of proposed changes to the non-regulatory provisions of the Management Plan that would not change the consistency of the Management Plan with the purposes of the Act, are:

- The removal of Tables 5, 6, 8 and 9 in Natural Resources: These tables include information that changes over time. While the lists of wildlife and plant species included in the tables are helpful when updated, the lists themselves do not affect the regulations in place to protect wildlife and plant species. The protection of natural resources (which is part of the first purpose) stems from the goals, policies, guidelines, and definitions related to sensitive wildlife species and sites and rare plants – not Tables, 5, 6, 8 and 9. Deleting the tables has no effect on the consistency of the Management Plan with the purposes of the Act.
- The removal and separate adoption of the list of recreation development proposals in Part III, Chapter 1 (Recreation Development Plan): Similar to the Natural Resource tables, removing the list of recreation development proposals does not affect the policies and guidelines that regulate, and therefore, protect the recreation resources of the Scenic Area. The consistency of the Management Plan with the protection of recreation resources (first purpose of the Act) is unaffected by this amendment.

Other proposed changes in the amendment would reconcile guidelines to facilitate consistent implementation of the Management Plan. These changes are consistent with the protection of Scenic Area resources the Act is intended to provide. Examples include:

- Page I-12 & 13, Scenic Resources GMA Guideline 17: This correction makes the exterior color requirement for additions larger than the existing building consistent with the exterior color requirement for new development by requiring dark earth-tone colors found at the site or in the surrounding landscape. As currently written, the guideline for additions references color requirements in the landscape setting section. Because color requirements were removed from the landscape setting guidelines during Plan Review, the correction will help ensure consistent implementation of a measure intended to protect scenic resources. This correction is consistent with the protection of scenic resources in the first purpose of the Act.
- Page I-44, SMA Guideline 6.B.: Changes “they are visually subordinate” to “they meet the scenic standard” for the standard by which conditions of approval are applied to development to protect scenic resources. The SMA has two scenic standards: visually subordinate and not visually evident. The existing language erroneously omits “not visually evident” from the guideline. Making a correction to add the “not visually evident” scenic standard to this guideline is consistent with the protection of scenic resources (first purpose of the Act). Failure to do so could result in significant impacts to scenic resources

if the visually subordinate scenic standard were erroneously applied in an SMA landscape setting where the 'not visually evident' scenic standard is required.

Standards of the Act: Section 6(d) of the Act contains nine standards for the Management Plan. Standards 1 and 2 require protection and enhancement of farm and forest lands for farm and forest uses. Standard 3 requires the protection and enhancement of open spaces; Standard 4 requires that public and private recreation resources are protected and enhanced; and Standard 5 prohibits major development actions in the SMA. Standard 6 prohibits industrial development outside urban areas; Standard 7 requires that commercial development outside urban areas occur without adversely affecting scenic, cultural, natural, or recreation resources; Standard 8 requires that residential development not adversely affect Gorge resources; and Standard 9 requires that mining outside urban areas not adversely affect Gorge resources.

As noted above, the Gorge Commission and Forest Service have already found the Management Plan and Revisions to be consistent with the standards of the Scenic Area Act. The proposed changes ensure the Management Plan will be consistent with the standards of the Act by correcting mistakes. For example, fixing the exterior color requirement for additions is consistent with Standards 7 and 8. Where non-regulatory information is proposed to be removed, the consistency of the Management Plan with corresponding standards of the Act is not affected because the policies and guidelines protecting the corresponding resources are not removed (e.g. Natural Resource tables 5, 6, 8, and 9 and list of Recreation Development Proposals).

All of the proposed changes are intended to make the Management Plan clearer and easier to use, not to change regulatory policy. By correcting these items, the entire document will better serve the function of carrying out the purposes and standards of the Scenic Area Act. This amendment, in effect, cleans up some of the internal inconsistencies from Plan Review and other items discovered in the process of combining the Revisions with the Management Plan. Taken as a whole or looked at individually, the provisions of the amendment are consistent with the purposes and standards of the Scenic Area Act.

Conclusion regarding Criterion 2: Staff recommends the amendment is consistent with the purposes and standards of the Scenic Area Act and, therefore, consistent with Criterion 2.

Criterion 3 (No Practicable Alternative More Consistent with Scenic Area Act):

Staff considered two alternatives to the proposed plan amendment: (a) "no action" and (b) "non-substantive changes." Alternative (a) would mean that we continue to operate using two regulatory documents: the Management Plan (1992) and the Revisions (2004). Under Alternative (b), staff could combine the Management Plan and Revisions into one document, making only changes that do not constitute a plan amendment under Commission Rule 350-50-035. Alternative (b) would allow for corrections to typographical, grammatical, cross-referencing and other similar errors that do not change the substantive provisions of the Management Plan. This action could be done without formal action by the Commission.

Staff considered both alternatives and determined that neither is more consistent with the Scenic Area Act because both would carry forward mistakes, internally inconsistent language, and outdated language. By continuing to use regulatory documents that contain such language, for example, there is

a risk of inconsistent implementation of the Management Plan which could possibly provide less protection of Scenic Area resources. Using the example of correcting references to "visually subordinate" instead of "scenic standard" for several SMA provisions, Alternatives (a) and (b) are not more consistent with the Scenic Area Act than the proposed amendment because they leave open the possibility of decisions that do not reflect the intent of the Management Plan with respect to scenic resources. Alternatives (a) and (b) also don't serve the public need for one clear, user-friendly Management Plan document.

Conclusion regarding Criterion 3: Staff has not identified other alternatives that are more consistent with the Scenic Area Act and, therefore, recommends the amendment is consistent with Criterion 3.

Jill Arens
Jill Arens
Executive Director

11/30/2006
Date

Exhibits:

- A: Additional Staff Recommendations
- B: List of Changes for the Consolidated Management Plan, with references for Criterion 1 (significant change)
- C: Summary list of public comments and staff responses
- D: Sensitive Wildlife and Plant Species
- E: Recreation Development Proposals List

Attachments:

- Letter from Kristen Stallman, ODOT Scenic Area Coordinator to the Gorge Commission, dated November 8, 2006
- Letter from Ian Whitlock, Port of Portland Assistant General Counsel to Jennifer Ball Kaden, dated November 9, 2006
- Email from Sally Bird, Warm Springs Tribal Government Cultural Resources Manager to Jennifer Ball Kaden, dated November 9, 2006
- Letter from Nathan Baker, Friends of the Columbia Gorge to Jill Arens, dated November 9, 2006
- Email from Karen Witherspoon, Skamania County Director of Planning to Jennifer Ball Kaden, dated November 16, 2006

EXHIBIT A

ADDITIONAL STAFF RECOMMENDATIONS

Management Plan Consolidation Plan Amendment PA-06-05

Staff recommends the following changes be made to PA-06-05 from what was provided for public comment:

1. **Main Introduction:** Retain Congressional Record statements, section called "Historical Background," and section called "Development of the Management Plan." Two public comments were received requesting this text be retained in the consolidated Management Plan because it provides important context for the overall management of the Scenic Area. The text does not affect the consistency of the Plan with the Scenic Area Act.
2. **GMA Cultural Resources Policy #5, p. I-55:** The last sentence of Policy 5 states that tribal governments do not have to be consulted if the cultural resources are associated with non-Native Americans. This is inconsistent with the GMA "Notice of Survey Results" Guideline 1, which provides that the "local government shall submit a copy of all cultural resources reports to the SHPO and tribal governments." There are two options for correcting this inconsistency: either delete the final sentence of Policy #5 or add to the last sentence "... if interest was not shown during the response period for the initial Historic Survey and Report." Staff recommends the Commission err on the side of providing all surveys, evaluations, assessments, and mitigation plans to the tribal governments and delete the last sentence of Policy #5.
3. **GMA Cultural Resources Policy #4, p. I-55:** This policy references professional standards for principal investigators of cultural resource surveys, evaluations, assessments, and mitigation plans. The amendment sent out for public comment recommended changing the referenced standards. This change was proposed in error. Upon the advice of NSA Archeologist Marge Dryden, staff recommends no change be made to this policy.
4. **GMA/SMA Cultural Resources, National Register Criteria for Evaluation references, p. I-58, p. I-64, p. I-77, and p. II-151:** Proposed changes in the references to the Code of Federal Regulations 36 CFR 60.4 (to 36 CFR 63) were in error in the draft sent out for public comment. Although changes were made to 36 CFR 60 in 2002, the amendments do not affect 36 CFR 60.4. After further consideration, NSA Archeologist Marge Dryden determined that the original citations were correct and recommends the references remain 36 CFR 60.4.
5. **SMA Cultural Resources Step 4: Assessment of Effect, p. I-78:** Two proposed changes in the references to the Code of Federal Regulations on p. I-78 were in error in the draft sent out for public comment. In Step 4, Part A, 36 CFR 800.4 should be changed to 36 CFR 800.5. In Step 4, Part C, 36 CFR 800.7 in the last sentence should be changed to 36 CFR 800.11. Friends of the Gorge identified these errors and NSA Archeologist Marge Dryden agrees with the proposed corrections.

6. **Part III, Chapter 1: Introduction for Recreation Development Plan:** After consulting with the Multnomah County planning department, Gorge Commission staff reconsidered the proposed changes to the introduction to the Recreation Development Plan. Given the proposal to remove the list of recreation development proposals, the changes proposed for the introduction as presented for public comment do not adequately describe the relationship between the Recreation Development Plan and the Recreation Development Proposals list. Staff recommends the attached proposed introduction be adopted in lieu of what was originally proposed.
7. **Recreation Development Plan, Part III, Chapter 1:** The GMA and Urban Area Provisions include many references to the "Recreation Development Plan" with respect to specific recreation development projects. If the Commission agrees with the staff recommendation to remove the list of recreation development proposals from the Management Plan, many of these references should be changed to "Recreation Development Proposals list" for consistency with the updated Management Plan. These references occur in GMA and Urban Areas policies 1, 2, 5, 6, 7, 9, and 10. In addition, in Policy 4, the word "projects" at the beginning of the last sentence should read "Recreation Development proposals."
8. **Indian Tribal Treaty Rights and Consultation Policy, SMA Policy 1, p. IV-28:** The proposed amendment changes language in this policy to change the Forest Service responsibility for treaty rights consultation with the Indian tribal governments from all new SMA developments and land uses to only federal actions reviewed by the Forest Service. The new language reflects current administrative practices. Upon further consideration, staff realized the proposed change does not address the responsibilities for treaty rights consultation with the Indian tribal governments for non-federal actions in the SMA. Therefore, staff proposes another sentence be added to the policy to read:
 1. The Forest Service shall consult with the Indian tribal governments to determine the effect of all federal actions reviewed by the Forest Service new development or uses in the SMA on treaty rights, and shall notify the county or reviewing agency of the determination. Reviewing agencies shall use the procedures defined by the Gorge Commission for the GMA for all non-federal actions.
9. **Glossary – Definition of Maintenance:** The amendment sent out for public comment included a proposed change to the definition of maintenance in the SMA. The issue was raised because of potential internal inconsistencies between the definition of maintenance and the regulation of forest practices in the SMA, and to clarify the original intent of what is meant by "right-of-way." Concerns about the proposed change were raised by ODOT, Port of Portland, and Skamania County. Based on that input, staff recommends not making any change to the maintenance definition at this time and, instead, to address this definition for both the SMA and GMA in the future as a plan amendment or during plan review. To address this issue in both the SMA and GMA would be a policy issue that is outside the scope of this amendment.

Information Related to the
“General Housekeeping Amendments”

Attachment “D”

**National Scenic Area Code Amendments
(*Article 75 of County Zoning Ordinance*)**

“Written Comments Received”



Oregon

Theodore R. Kulonowski, Governor

Oregon Department of Transportation

ODOT Region 1
123 NW Flanders St
Portland, OR 97209 - 4037
Telephone (503) 731-8200
FAX (503) 731-8259

File code: PLA9-2C -
ODOT Case No: 2370
10/22/2008

Hood River County
Planning Dept
601 State St
Hood River, OR 97031

Attn: Eric Walker, **Principal Planner**

Re: Article 75: County Zone Ordinance Amendments

Dear **Eric Walker**,

We have reviewed the applicant's proposal to amend National Scenic Area Ordinance and related code changes. For the specific amendments proposed to Article 75, ODOT has no comments. If the amendments and changes are adopted, ODOT will continue to require notification on all future development applications as specified under the Oregon Transportation Planning Rule and House Bill 2219.

ODOT Contact Information

- Contact Avi Tayar, ODOT Region 1 Traffic at (503) 731-8221 for information regarding the traffic analysis review.
- Contact Michael Keyes, ODOT District 2C, at (503) 669-9314 for information on the written permit application process.

Please send a copy of the Notice of Decision including conditions of approval to:

**ODOT Region 1 Planning
Development Review
123 NW Flanders St
Portland, OR 97209**

Thank you for providing ODOT the opportunity to participate in this land use review. If you have any questions regarding this matter, please contact me at (503) 731-8445.

Sincerely,

Sarah Abbott
Development Review Planner

C: Michael Keyes, ODOT District 2C

November 20, 2008

To: Hood River County Planning Commission
From: Kurt and Betty Osborne
Ref: Proposed Amendments to Article 75
(Meeting scheduled for December 10)

We own approximately four acres of property in Hood River County and a small horse boarding facility. We received the Article 75 mailing – and because the County's concerns regarding horse boarding aren't clear to us, it's difficult to comment – but we'd like to share our thoughts.

Shortly after we purchased our property in 2006, the issue of horse boarding arose. I visited the County Planning office, spoke with someone in Mike Benedict's office and provided documentation, approving construction in the 1980s of the indoor arena (which is connected to the original four-stall barn) and five additional horse stalls, bringing the total to nine. There were no limitations or restrictions set forth for the use of the facility. (The previous owners stated that, at one time, there were as many as 14 horses.) The approvals came from the Columbia Gorge Commission, Sierra Club, Friends of Oregon plus several Indian tribes. The County planning representative reviewed the document, said to go ahead with what we were doing. No further discussion was required.

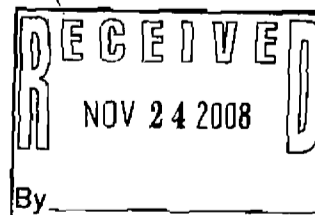
We're unclear regarding the "number of horses per acre" as it relates to boarding. If pasture overcrowding is the concern, that's understandable. Large numbers of horses confined to limited pasture for long periods, particularly without proper protection from weather, can lead to starvation, neglect, illness and injury – as in the case of "animal collectors". With a proposal being considered to allow non-profit horse boarding facilities (e.g., horse rescue operations, which are often supported through grants or other funding), perhaps the "horses per acre" concern relates primarily to this proposal.

We board six horses. Each has an indoor stall with an outdoor run. Only one is pastured in good weather. The others, at owners' request, are not. (Horses not raised on pasture tend to overeat, which can cause colic, foundering/laminitis and other serious conditions.) We also own three horses. Two are turned out on good weather days, and the three are rotated at 2 to 3-hour intervals, aren't left out all day or overnight. When considering guidelines for number of horses per acre, each facility and how it operates should be considered individually vs a "one size fits all" number.

The pastures aren't a food source. While the horses graze when turned out, we have storage for 15 to 17 tons of hay and alfalfa, which I feed twice daily, along with grain and other supplements. The owners generally come once a day to ride. A private driveway around our house to the barn provides in/out access, we don't share a driveway or road with neighbors, and traffic isn't an issue.

If manure is a concern, stalls are cleaned daily with fresh wood shavings placed on the floors which, when mixed with manure, makes excellent compost. One neighbor collects it regularly to fertilize his berry farm; another uses it for his organic orchard, so there's never a manure stockpile.

(Continued, page 2)



With only a few boarding facilities in Hood River County and so many other serious issues facing both county and city government, we don't understand the nature of the county's concerns. Have officials visited to talk with the owners, see how the facilities operate or whether they are well-managed and safe in all respects?

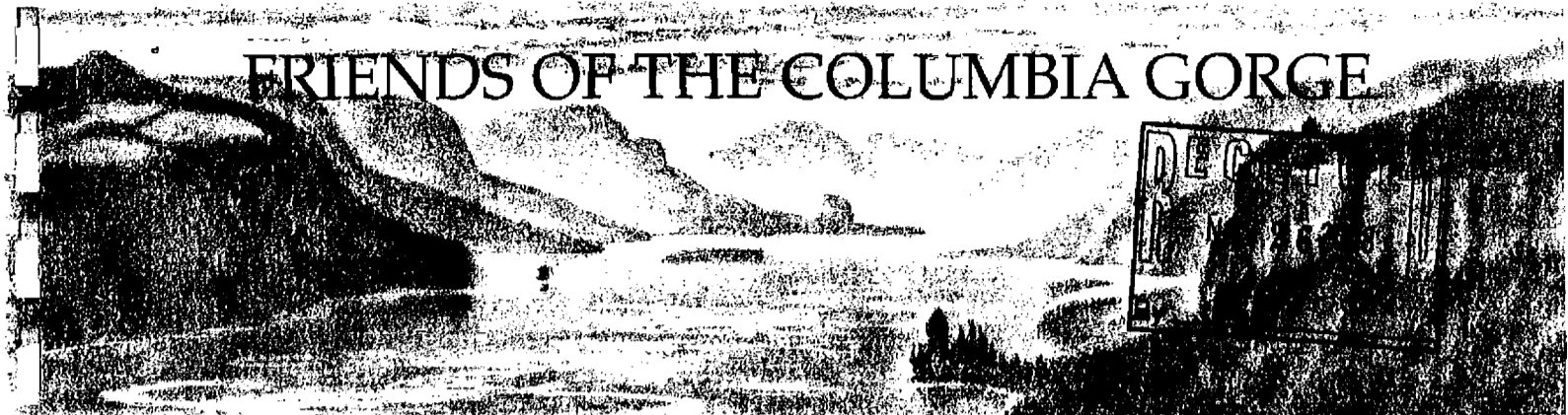
While it's difficult to know how to comment, we appreciate the opportunity and anticipate learning more at the December 10 meeting.

Thank you.

Handwritten signature of Kurt and Betty Osborne in cursive script.

Kurt and Betty Osborne
4281 Post Canyon Drive
Hood River, OR 97031

cc: Mike Benedict, Director



SUBMITTED VIA E-MAIL AND FIRST-CLASS MAIL

November 25, 2008

Hood River County Planning Commission
c/o Hood River County Planning & Community Development
601 State Street
Hood River, Oregon 97031-1871

Re: Proposed Amendments to Article 75 of the Hood River County Zoning Ordinance to implement recent changes to the Management Plan for the Columbia River Gorge National Scenic Area.

Dear Commissioners:

Friends of the Columbia Gorge ("Friends") has reviewed and would like to comment on the proposed amendments to Article 75 of Hood River County Zoning Ordinance. Friends is a non-profit organization with over 5,000 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Our membership includes hundreds of citizens who reside in the six counties within the Columbia River Gorge National Scenic Area.

The County must ensure that the proposed changes to Article 75 are no less protective than the Management Plan for the CRGNSA. However, the County does have some discretion to vary its Scenic Area ordinance from the language in the Management Plan. Friends provides the following recommendations for implementing the Special Uses in Historic Buildings Plan amendment and the Horse Boarding Plan Amendment.

The County may delay implementation of the "Special Uses in Historic Buildings" Plan Amendment until two Oregon Supreme Court cases are resolved

As a preliminary matter, the Oregon Supreme Court is deliberating on two appeals filed by Friends and other parties involving the Special Uses in Historic Buildings Plan Amendment. The first appeal relates to the consistency of the Plan Amendment with the requirements of the Act. The Planning Department's October 15, 2008 memorandum to the Planning Commission correctly explains that if the Supreme Court upholds certain arguments made in Friends appeal, then the County will be required to repeal ordinance provisions implementing the Plan Amendment.

The second appeal relates to Multnomah County's implementation of the ordinance, which the Gorge Commission overturned in part when it reviewed Multnomah County's amended ordinance for consistency with the Plan Amendment. Multnomah County interpreted the Plan Amendment as granting some discretion to counties when implementing the plan amendment. Multnomah County concluded that the plan amendment allowed it to limit commercial uses in historic buildings to buildings that are actually listed on the National Register.

Multnomah County's interpretation was based on a plain reading of the Plan Amendment. The Plan Amendment provides that three categories of uses—gift shops, re-establishment of former uses, and commercial uses—that “shall be permitted” only on properties with buildings listed on the National Register. Management Plan at II-7-65-66. The plan amendment then provides that counties “may allow” ten additional categories of uses on properties that are either listed or eligible for listing in the National Register. Multnomah County interpreted this provision as granting discretion as to where those ten uses may be allowed and decided to allow commercial uses only in buildings that are actually listed. The Gorge Commission disagreed and required that Multnomah County allow all uses in both listed and eligible buildings. Depending on the outcome of the Supreme Court case, the County may have discretion modify the circumstances under which listed uses could be allowed.

Recognizing the contingencies created by the two pending Supreme Court rulings, the County should defer implementing the Plan Amendment until the litigation is resolved and the County's implementation options are clarified.

The County Should Adopt Guidelines to Address Health, Safety, and Potential Impacts to Surrounding Property.

The Special Uses in Historic Buildings Plan Amendment states that “[c]ounties may impose additional requirements to address health, safety, and potential impacts to surrounding properties. For example, they may limit noise, parking, traffic, lighting and operating hours.” Management Plan at II-7-67. Friends' experience has been that proposals for commercial uses in historic buildings in rural and residential areas have the potential to be very controversial. Citizens want clear guidelines to protect them from the disruption that commercial uses, such as large-scale commercial events, can bring to a community. The cited provision of the Plan Amendment allows the County to adopt clear guidelines that ensure local communities have the tools to protect against these adverse impacts. As such, Friends encourages the County to adopt specific guidelines to protect Hood River County's communities and quality of life.

To assist the Commission in its deliberations, Friends has attached recommendations for additional requirements for Special Use in Historic Building.

Horse Boarding

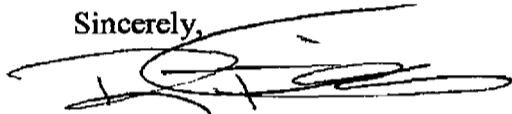
The County has authority to adopt provisions that vary from the Management Plan, so long as the variations do not reduce protection of scenic, natural, cultural, and recreational resources.

The Horse Boarding plan amendment provisions require that "[t]he reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings." *See e.g.* Management Plan at II-1-13. The County has discretion to provide specific guidance that will help determine the maximum number of horses that may be allowed on a property.

Other counties within the Scenic Area have adopted specific guidelines that clarify and implement the Plan Amendment. For example, Multnomah County included substantive requirements that help ensure that horse boarding operations will be compatible with neighboring land uses and the carrying capacity of the land. *See attached.* Skamania County similarly adopted requirements for approving horse boarding operations. Friends encourages the Planning Commission to consider adopting similar criteria.

Thank you for this opportunity to comment, which preserves our standing.

Sincerely,



Richard Till
Land Use Law Clerk

**Proposed Amendments to the Draft Hood River County Ordinance
Special Uses in Historic Buildings in the National Scenic Area**

**Submitted by Friends of the Columbia Gorge,
Hood River County Board of County Commissioners
November 25, 2008**

Proposed Language	Explanation
<p>§ 75.162(3) The following standards address health, safety, and potential impacts to surrounding properties and apply to all proposed Special Uses in Historic Buildings.</p>	<p>Proposal #1: The County should include an additional subsection that address health, safety, and potential impacts to the surrounding community, as allowed by the Management Plan. Management Plan at II-7-67.</p>
<p>§ 75.162(3)(a) All parking areas associated with the use shall be provided on the subject property and shall be located at least 30 feet from the outer boundary of the subject property..</p>	<p>Proposal #2: Require all commercial parking lots to be located at least 30 feet from the outer boundary of the subject property.</p> <p>In order to protect conflicts with neighboring properties, a buffer for all commercial parking areas should be provided in order to protect neighboring property owners. The county should require a buffer of 30 feet from all lot lines for all commercial parking lots.</p>
<p>§ 75.162(3)(b) All sanitary facilities associated with a use allowed under § 75.162 shall be located within permanent buildings on the subject property.</p>	<p>Proposal #3: Require sanitary facilities to be located within permanent buildings on the subject property.</p> <p>Allowing the use of portable restroom facilities would likely increase the scope, size, and impacts of individual events and has the potential to adversely affect scenic, natural, recreational, and cultural resources. The County should address these concerns by requiring all sanitary facilities to be located within permanent buildings on the subject property.</p>
<p>§ 75.162(3)(c) The owner of the subject property shall live on the property and shall operate and manage the use.</p>	<p>Proposal #4: Ensure that the owner of the subject property lives on the property and operates and manages the use.</p> <p>County rules for bed and breakfast inns in the National Scenic Area require the owner/manager to live on site. The County should require the same for Special Uses in Historic Buildings. Requiring</p>

	<p>the owner/manager to live on site has the potential to better ensure compliance with applicable rules and conditions of approval, and in many cases could ensure that commercial events remain incidental and subordinate to residential use. In addition, requiring the owner/operator to live on site could ensure that such persons are more available and responsive to addressing neighbors' concerns about traffic, noise, safety, and related issues.</p>
<p>§ 75.162(3)(d) Outdoor uses shall be limited to the hours of 7:00 a.m. 9:00 p.m. Indoor uses except for overnight lodging shall be limited to the hours of 7:00 a.m. to 10:00 p.m.</p>	<p>Proposal #5: Require a year-round cutoff time of 9:00 p.m. for outdoor uses and 10:00 p.m. for indoor uses.</p> <p>The draft language would place no limit on the duration of commercial events, whether they be indoor or outdoor. The County should apply a cutoff time of 9:00 p.m. year-round to all outdoor uses and 10:00 p.m. for all indoor uses. This will reduce noise impacts and conflicts with surrounding properties.</p>
<p>§ 75.162(3)(e) The use of outdoor amplification in conjunction with a use authorized under § 75.162 is prohibited. All amplification must be contained within the historic building associated with the use.</p>	<p>Proposal #6: Limit outdoor music to acoustic stringed instruments.</p> <p>Sound travels very easily in residential and rural parts of the Gorge, especially in summer months when Gorge landowners are likely to be outside and likely to keep their windows open to enjoy summer breezes. In order to minimize impacts to neighboring landowners and recreational uses, the County should limit outdoor music to acoustic stringed instruments.</p>
<p>§ 75.162(3)(f) Use of the subject property by buses, vans, shuttles, and similar vehicles for shuttling passengers to and from an event shall be limited to pickup and drop off only, with a maximum of 20 minutes per visit.</p>	<p>Proposal #7: Limit the impacts of shuttle vehicles by limiting their use to pickup and drop off only.</p> <p>The parking or idling of shuttle vehicles on the property during commercial events could cause significant impacts to scenic, natural, and recreational resources as well as impacting the neighboring community. The County should ensure against this kind of disruption by limiting shuttle vehicle use to pickup and drop off only.</p>
<p>§ 75.162(3)(g)(i) A maximum of 18 events may be held on the property during each calendar year.</p>	<p>Proposal #8(a): Provide limits in the ordinance of 18 events per year.</p>

<p>§ 75.162(3)(g)(ii) Each event shall host no more than 100 guests and 50 vehicles per event.</p>	<p>As it stands, the draft ordinance language contains no limitations on the number of events per year, nor on the number of guests and vehicles per event. This gap in the ordinance is very likely to cause commercial events to exceed the requirement to be incidental and subordinate to the primary use of the property and to harm resources and uses on adjacent properties.</p> <p>Limiting the number of events per year and the number of people and vehicles per event would better protect surrounding uses and resources, would apply uniformly and fairly to all applicants, and would provide applicants and neighboring landowners with more certainty. This would also be consistent with the plan amendment, which expressly provides the County with the authority to address potential impacts to surrounding properties.</p>
<p>§ 75.162(3)(h) The proposed use shall be compatible with the surrounding area. Review of compatibility shall include but not be limited to impacts associated with the scale of the use, effects of noise, traffic generation, and hours of operation. Land use approvals for commercial events shall include conditions of approval limiting the number of allowed events per year and the number of guests and vehicles at each event. Such conditions may include fewer and/or smaller events than allowed in § 75.162(3)(g) if the County find such limits necessary to ensure compatibility with the surrounding area.</p>	<p>Proposal #8(b): Ensure that the size, scope, and frequency of commercial events are evaluated on a case by case basis with conditions of approval.</p>
<p>§ 75.162(1)(h) Land use approvals for Special Uses in Historic Buildings shall be subject to review every five two years from the date the original approval was issued.</p>	<p>Proposal #9: Revise § 75.162(1)(h) to require review of special use approvals every two years rather than every five years.</p> <p>The draft ordinance language would require the County to review special use approvals only once every five years. Because the plan amendment would allow potentially controversial new uses, approvals should be reviewed more frequently than every five years.</p>

	<p>A review requirement of once every two years would provide better County oversight, allow for more citizen input, result in more applicant accountability, and more effectively protect and enhance historic resources.</p>
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Exhibit B: Plan Amendment PA-05-02 (adopted Nov. 15, 2005)

NEW CULTURAL RESOURCES POLICY (Part I, Chapter 2 of Management Plan)

Provide incentives to protect and enhance historically significant buildings by allowing uses of such buildings that are compatible with their historic character and that provide public appreciation and enjoyment of them as cultural resources.

SPECIAL USES IN HISTORIC BUILDINGS (Part II, Chapter 7 of Management Plan)

Additional Review Uses for Historic Buildings

1. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines 2.A and B, 3, 4 and 5; and all Scenic, Recreation, Agriculture and Forest Lands Guidelines. Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.
2. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places, and which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines 2.A and B, 3, 4 and 5; and all Scenic, Recreation, Agriculture and Forest Lands Guidelines. The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.
3. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines 2 through 5; and all Scenic, Recreation, Agriculture and Forest Lands Guidelines.

ER-8

4. The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture-Special on a property with a building either on or eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and "Additional Resource Protection Guidelines for Uses in Historic Buildings":
- A. Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use.
 - B. Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006.
 - C. Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property.
 - D. Wineries upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.
 - E. Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006.
 - F. Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006.
 - G. Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.
 - H. Gift shops within a historic building, as the building existed as of January 1, 2006 that are:
 - (1) incidental and subordinate to another approved use included in Guideline 1 of "Additional Review Uses for Historic Buildings"; and
 - (2) no larger than 100 square feet in area.
 - I. Interpretive displays, picnic areas or other recreational day use activities on the subject property.



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PLANNING PROGRAM
1600 SE 190th Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

AMENDED STAFF REPORT TO THE PLANNING COMMISSION

NATIONAL SCENIC AREA UPDATE APPROVAL CRITERIA FOR HORSE BOARDING

SEPTEMBER 8, 2008 CONTINUANCE OF PUBLIC HEARING
FROM JUNE 2, 2008
CASE FILE # PC 08-007

PART 1 – INTRODUCTION

At the June 2, 2008 Planning Commission meeting, a public hearing was held to establish new approval criteria for horse boarding facilities. In March 2007, the Gorge Commission adopted amendments regarding horse boarding in the Columbia River Gorge National Scenic Area. These changes to the Management Plan modified the definition for horse boarding, added approval criteria, and expanded areas where the use may be allowed to include lands within the Gorge General Residential – 10 (GGR-10) zone district. The proposed ordinance will bring the County's zoning ordinance for the Columbia River Gorge National Scenic Area into compliance with the revised Management Plan.

Planning staff held work sessions on the horse boarding amendments at the April 7th and May 5th Planning Commission meetings. The amendments were then brought before the Planning Commission in June for a public hearing. At the public hearing, the Planning Commission had the following concerns:

- The definition of horse boarding is unclear and too broad.
- The code section on horse shows and events needs work, such as the number of events, definition of event, collection of fees.
- Can riding lessons be given to non-boarders?

Planning staff discussed these topics further with Gorge Commission staff and has modified or deleted the proposed code language to address these concerns where feasible. Part 3 of this staff report discusses the various revisions in detail, and proposed code language is in Part 4.

PART 2 – MANAGEMENT PLAN LANGUAGE FOR HORSE BOARDING

Staff discussion: *The County is required to add approval criteria to regulate horse boarding facilities in the Forest and Agricultural districts where it is allowed. The Management Plan contains four approval criteria that are very general and do not give good guidance to staff or applicants as to what should be reviewed (see GMA Guidelines below). Planning staff discussed these criteria with Gorge Commission staff in order to better understand their intent. The following is the direction we received:*

- ▶ "Property Characteristics" should mitigate for any natural and cultural resource, erosion concerns, and vegetated versus non-vegetated pasture coverage on the property.
- ▶ "Parcel Size" relates to the overall proposed operation and whether the site can physically handle it.
- ▶ "Impact to Neighbors" should consider the horse boarding operation plan to control flies, dust, odor, manure management, nutrient run-off etc to adjacent properties.

The first three criteria should then be used to determine via a stewardship plan, the number of horses the operation will be permitted. The proposed code language in Part 4 is intended to address these impacts.

GMA Guidelines:

Review Uses (Specified Review Uses)

2. The following uses may be allowed on lands designated Large-Scale or Small Scale Agriculture, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources and the "Approval Criteria for Specified Review Uses," below.

K. Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

- (A) Property Characteristics
- (B) Parcel Size
- (C) Impacts to Neighbors
- (D) Maximum Number of Horses

PART 3 – PLANNING COMMISSION CONCERNS

In the subsections below, staff has included the language from the June 5th hearing for comparison with the revised proposed code language. Existing code language is in bold, while proposed language is underlined. Language to be deleted is shown with ~~strike through~~.

A. Definition of Horse Boarding

Staff discussion: After the June 5th Planning Commission meeting, staff contacted the Gorge Commission staff to discuss modifications to the definition. Through these discussions, it became clear that the Gorge Commission really intended the non-profit portion to be for horse rescue operations. Since this is the case, staff feels that it would be easier to create two definitions and add Non-Profit Horse Rescue Facility to the GGA, GGF and GGR-10 zones. In addition, staff has tried to clarify that agricultural use involving horses is not subject to the approval requirements of the horse boarding use.

June 5th Language:

MCC 38.0015 Definitions. Horses, boarding of (GMA): The stabling, feeding and grooming for-a-fee, or the renting use of stalls and related facilities, such as training arenas, corrals and exercise tracks, for the care of horses not belonging to the owner of the property. These facilities are either operated for a fee or by a nonprofit organization.

Proposed Modification:

MCC 38.0015 Definitions. ~~Horses, boarding of~~ Boarding of Horses (GMA): The stabling, feeding and grooming for a fee, or the renting of stalls and related facilities, such as training arenas, corrals and exercise tracks, for the care of horses not belonging to the owner of the property. The leasing, renting or use of a pasture for horses by an individual or family does not constitute the boarding of horses provided the use of the pasture is for a single individual or family's animals.

MCC 38.0015 Definitions. ~~Non-Profit Horse Rescue Facility (GMA):~~ Non-Profit Horse Rescue Facility (GMA): The stabling, feeding, grooming and provision of care for sick, abandoned, or rescued horses, operated by a non-profit organization to facilitate the rehabilitation, adoption, and permanent placement of abused, neglected or unwanted horses.

B. Horse Shows and Training Events

Staff discussion: *At the June 5th meeting, the Planning Commission raised a number of issues regarding the promotional event language and its restrictions. The language proposed at that hearing had been crafted in an attempt to allow a horse boarding operation the opportunity to have promotional events for their business. Staff now recommends that provision for events not be included pending resolution of the commercial events amendments to the Management Plan.*

In 2004, the Gorge Commission amended the Management Plan to allow commercial events in certain circumstances. The Friends of the Gorge have appealed to the Oregon Supreme Court, the Gorge Commission's provision allowing "large-scale outdoor commercial events on GMA lands outside of urban and commercial areas". Since this portion of the Management Plan update was appealed, the County decided not to implement it until such time as the matter was settled. Recently, the Oregon Supreme Court granted the Friends' petition for review and will be hearing the matter possibly in October of this year.

Many of the concepts the Planning Commission brought up at the June 5th public hearing, such as the number of events that should be allowed, what constitutes an "event," and charging fees, are included in the contested commercial events concepts of the Management Plan. When planning staff began looking at refining the promotional event language for the Planning Commission, it appeared that we would be encroaching into the unresolved commercial events amendments. Therefore, staff is recommending that we drop the horse show and training events language until such time as the County decides to move forward with adopting the commercial events provisions.

For non-profit horse rescue facilities, the Gorge Commission staff has indicated that fund-raising events would not fall under the commercial events language because these uses are not a business but a charity. Staff has included language in the accessory use section which would allow fund-raising events by a non-profit horse rescue operation.

June 5th Language:

1. Horse Shows and Training Events provided no fee or payment is collected and the event is to promote the horse boarding facility or the enjoyment of horse ownership;
 - (a). No more than 2 promotional events shall occur in a year.
 - (b). Adequate parking, traffic and dust management shall be provided for these events.
 - (c). The hosting of fund-raising events for a non-profit horse rescue or other non-profit horse organization located within the National Scenic Area is not subject to the collection of fees or the 2 promotional event limit.

Proposed Modification

(C) The following accessory uses, if proposed, shall be evaluated as part of the boarding of horses use or non-profit horse rescue facility: ...

9. The hosting of fund-raising events for a non-profit horse rescue operation.

C. Horse Riding Lessons

Staff Discussion: At the June 5th hearing, the Planning Commission discussed changing the accessory use language from "Lessons to Boarders (minor component)" to "Lessons (minor component)". This change would have allowed a horse boarding facility to give lessons to non-horse boarders. Planning staff asked the Gorge Commission staff if this change would be acceptable. The Gorge Commission staff felt that lessons to non-horse boarders was a different use (horse rental, educational) and was not necessarily associated with a horse boarding facility. Horse rental would be considered a commercial activity and lessons to non-boarders would be considered an educational use. Neither of these uses is allowed in the GGA, GGF or GGR-10 zones and would be less restrictive than the Management Plan. When adopting new zoning regulations, the County may only be more restrictive. Staff therefore recommends retaining the limitation that lessons are only allowed for boarders.

PART 4 - ZONING CODE AMENDMENTS TO PROVIDE FOR HORSE BOARDING CRITERIA IN THE NATIONAL SCENIC AREA ORDINANCE (CHAPTER 38)

The sections below include the County's current code with the proposed amendments underlined for addition or with ~~strickethrough~~ for existing code that is being deleted. Under **Staff Discussions**, staff indicates whether the changes are just clarifications or have more significance. Staff comments are in *italics*.

Bold = Existing language

Underlined = To be added to Zoning Ordinance

~~Strickethrough~~ = To be Deleted

1. **§ 38.0015 DEFINITIONS**

As used in MCC Chapter 38, unless otherwise noted, the following words and their derivations shall have the following meanings:

Animal-unit-month: The amount of forage or feed required to feed one horse, one cow/calf pair, 5 sheep/ 5 goats, 4 llamas/alpacas or other livestock for 30 days.

2. **Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by the raising, harvesting and selling of crops, or by the feeding, breeding, management and sale of livestock, poultry, fur-bearing animals or honeybees, or dairying and the sale of dairy products, or any other agricultural or horticultural use including Christmas trees. Agricultural use does not include livestock feedlots, the boarding of horses or non-profit horse rescue facility and their accessory uses. Current employment of land for agricultural use includes:**

- (a) **The operation or use of farmland subject to any government agricultural program;**

- (b) Land lying fallow for one year as a normal and regular requirement of good agricultural management;
- (c) Land planted to orchards or to other perennial crops prior to maturity; and
- (d) Land under buildings supporting accepted agricultural practices.
- (e) ~~Current employment does not include livestock feed lots.~~

3. ~~Horses, boarding of~~ Boarding of horses (GMA): The stabling, feeding and grooming for a fee, or the renting of stalls and related facilities, such as training arenas, corrals and exercise tracks, for the care of horses not belonging to the owner of the property. The leasing, renting or use of a pasture for horses by an individual or family does not constitute the boarding of horses provided the use of the pasture is for a single individual or family's animals.

Non-profit horse rescue facility (GMA): The stabling, feeding, grooming, and provision of care for sick, abandoned, or rescued horses, operated by a non-profit organization to facilitate the rehabilitation, adoption, and permanent placement of abused, neglected or unwanted horses.

* * *

Staff Discussion: See the discussion above under Part 3, A.

4. **FOREST DISTRICTS – GGF and GSF**

§ 38.2025 REVIEW USES

(A) The following uses may be allowed on lands designated GGF, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(17) The following uses when found to comply with MCC 38.7310:

* * *

(g) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

* * *

AGRICULTURAL DISTRICTS - GGA and GSA

§ 38.2230 CONDITIONAL USES

(A) The following conditional uses may be allowed on lands designated GGA, pursuant to the provisions of MCC 38.0045, and 38.7300 (A) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(9) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

* * *

Staff Discussion: See the discussion above under Part 3, A.

5. **RESIDENTIAL DISTRICTS - GGR and GSR**

§ 38.3030 CONDITIONAL USES

(A) The following conditional uses may be allowed on lands designated GGR, pursuant to the provisions of MCC 38.0045, and MCC 38.7300(C) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

* * *

(15) Boarding of horses or non-profit horse rescue facility on lands designated GGR-10, subject to MCC 38.7385.

* * *

Staff Discussion: *See the discussion above under Part 3, A.*

6. **§ 38.7385 Boarding of horses or non-profit horse rescue facility.**

(A) The boarding of horses or a non-profit horse rescue facility may be established as authorized in various districts provided the approval authority finds that the property characteristics, parcel size and impacts to neighbors are considered in establishing the use on the proposed property and setting a maximum number of horses that may be boarded at any one time.

(B) The applicant shall submit the following information with related supporting evidence to demonstrate compliance with the criteria under (A):

(1) A description of the proposed horse facility with all accompanying accessory uses shall be provided. This shall include the maximum number of horses to be boarded on site, number of employees, accessory uses and services to be provided and hours that the facility will be available to the horse owners. The description shall include a site plan identifying the uses intended for a specific area, and floor plans and building elevations for all proposed buildings.

(2) A Stewardship Plan consisting of an Operations Plan and Maximum Usage Plan shall be created by the applicant in consultation with the Oregon Department of Agriculture, East Multnomah Soil and Water Conservation District or Oregon Extension Service for the proposed site of the horse boarding facility.

1. The Operation Plan shall include the following:

- (a). Soil types and its animal-unit-month rating for all pastures to be used as part of the operation;
- (b). Irrigation techniques, if proposed;
- (c). Off-stream stock watering;
- (d). Pasture management;
- (e). Manure, waste and compost management;
- (f). Mud, dust and fly control;
- (g). Dedicated all-weather paddock;

- (h). Stream bank and riparian vegetation preservation;
 - (i). Capture and reuse rainwater and snowmelt on the site from areas of animal confinement and impervious surfaces.
2. The Maximum Usage Plan shall specify the maximum number of horses to be boarded based upon the animal-units-month rating of the site.
- (a). The plan shall:
 - (1). Consider all livestock to be pastured on the site in establishing the number of horses to be boarded.
 - (2). Maintain adequate ground cover and vegetation for all areas to be used as part of the horse boarding use to prevent soil erosion.
 - (3). Provide basic measurements to verify that the operation plan is achieving the necessary impact reductions for erosion & sediment control, dust control and insect control.

7.

(C) The following accessory uses, if proposed, shall be evaluated as part of the boarding of horses use or non-profit horse rescue facility:

- 1. Riding arena, covered or uncovered;
- 2. Lessons to boarders (minor component)
- 3. Training tracks;
- 4. Hot walkers, covered or uncovered;
- 5. Horse pool, covered or uncovered;
- 6. Storage building for hay and grains;
- 7. Farrier services & veterinarian services on an intermittent basis provided only for the use of owners of horses boarded at the facility;
- 8. Horse trailer storage only for the use of owners of horses boarded at the facility. The area where the horse trailers are to be stored shall be screened by evergreen vegetation or topography from the public road, adjacent properties and from all key viewing areas.
- 9. The hosting of fund-raising events for a non-profit horse rescue operation.

Staff Discussion: *See the discussion of riding lessons under Part 3, C. The discussion on promotional events can be found under Part 3, B.*

Eric Walker

From: Tom Ascher [Ascher@gorgecommission.org]
Sent: Monday, December 08, 2008 3:28 PM
To: Eric Walker
Subject: Hood River Ordinance

Hi Eric,

I finally managed to do a complete review of your ordinance revisions last week. Overall it looks very complete. In fact I can only find two things to comment on:

1. pp. 56: Grading plan requirements. Missing change that requires grading if over 100 cy on slopes greater than 10% as shown:

(A) In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes ~~greater than~~ ~~between 10 and 30~~ percent shall include a grading plan;

See Management Plan pp. II-7-60 Review Uses- GMA/SMA Guidelines 5.

2. pp. 64: "(4) The Director shall ~~mail sent~~ a copy of the decision to the applicant, the Commission,..."

Maybe should be "send"?

Let me know if I can answer any questions for you. Have you received many inquiries regarding your proposed changes?

Tom

*Tom Ascher
Planner
Columbia River Gorge Commission
P.O. Box 730
White Salmon, WA 98672
509-493-3323 ext. 225*

Attachment “E”

**National Scenic Area Code Amendments
(Article 75 of County Zoning Ordinance)**

“Planning Commission’s Draft Meeting Minutes”

Hood River County Planning Commission
County Administrative Building
601 State Street
Commissioners Conference Room
December 10, 2008

MINUTES

PRESENT

Chair: Bill Uhlman; Commissioners: Bob Schuppe, Carl Perron, Kathy Alley and Pat Moore
Non voting members of Commission: Will Carey, County Counsel, and Mike Benedict, Planning Director
County Staff: Eric Walker, Principal Planner, and Kim Paulk, Office Manager.

A. Call to Order

Chair Uhlman opened the meeting at 7:00 p.m.

B. Meeting Minutes

Commissioner Schuppe moved and Commissioner Perron seconded to approve the minutes of November 12, 2008. A vote was called and the minutes were approved.

C. Director's Report:

- Mike Benedict reported that personnel levels remain stable however building inspection revenue is down 40% and the decline is expected to continue. We have started the process of identifying spending priorities and ways to cut back. The planning revenue is also down about 40%.
- Benedict stated that the Board has directed planning staff to draft a cell tower citing ordinance; Anne Debbaut is the lead planner for this project and will put our draft together shortly.
- The executive board of the Gorge Commission voted to recommend to the full Commission to allow the School District to submit their application to the Gorge Commission for an urban area expansion.
- The Health Hazard Overlay Zone will go before the Board next Monday night for public hearing.
- The PUD application scheduled for tonight was cancelled due to an error on the application

D. Land Use Counsel's Report:

Mr. Carey stated that he attended the Association of Oregon Counties meeting in Eugene, OR and was able to network with counsels from 36 other counties. Mr. Carey spoke of the recent Federal Court ruling out of Jackson County concerning Measure 37.

Unscheduled Items:

- a. From the General Public: None
- b. From Commissioners: None

E. Public Hearing:

Amendments to Article 75 of the Hood River County Zoning Ordinance to reflect changes to the Management Plan for the Columbia River Gorge National Scenic Area recently adopted by the Columbia River Gorge Commission.

Staff Report

Eric Walker stated that the hearing involved a proposal for a Comprehensive Plan & Zoning Ordinance text amendment regarding Article 75 (NSA Ordinance) of the County Zoning Ordinance. The purpose of the amendments is to bring Article 75 into compliance with the Management Plan. Mr. Walker explained that since the October 22nd work session, staff uncovered documentation to confirm that Article 48 (Scenic Protection Zone) and Article 49 (Columbia Gorge Combining Zone) had already been repealed and, therefore, those amendments were being eliminated as tasks. He also indicated that notice of this hearing was provided to all 422 property owners within the NSA, affected agencies, and others. Notice was also published in the Hood River News. These notices resulted in a total of 3 written comments from: ODOT, Friends of the Columbia Gorge, and Kurt & Betty Osborne. He also indicated that an email was received after their packets were mailed from the Gorge

Commission staff indicating that they found 2 additional items under the "general housekeeping" amendment that needed to be corrected.

Mr. Walker summarized that there were four main amendments proposed:

1. Removing an unauthorized provision that allows "commercial events in conjunction with an established farm;"
2. Adding provisions to allow "commercial uses in historic buildings;"
3. Adding and amending certain provisions concerning the "boarding of horses;" and
4. Adding and amending certain provisions considered as "general housekeeping"

Under the "Commercial Events" Amendment, Mr. Walker explained that this amendment involved removing an allowance from Section 152(J) of Article 75 concerning "commercial events in conjunction with an established farm." He explained that this amendment was intended to comply with two conditions of approval implemented by the Gorge Commission when they last acknowledged Article 75 in 2005. As part of these conditions, the County agreed to remove the provisions allowing "commercial events in conjunction with an established farm" from Article 75 as soon as possible and not to implement this provision in the meantime. Because this amendment is required to comply with the Gorge Commission's earlier decision, Mr. Walker indicated that no issues were anticipated and, therefore, recommended that it be adopted as proposed.

Mr. Walker explained that the second amendment involving "commercial uses in historic buildings." He indicated that the amendment only applies in certain zones within the General Management Area and that it only affects buildings at least 50 years old as of 1/1/06 and listed on or determined eligible for listing on the National Register of Historic Places. He explained that the purpose of this amendment is to protect cultural resources by providing incentives for property owners to maintain and enhance certain historic buildings and, as a result, adoption of this amendment was considered by the Gorge Commission as mandatory. Mr. Walker also explained that the Friends of the Columbia Gorge had appealed the original amendment to the Oregon Supreme Court, but that County Counsel advised that the County could still adopt the amendments with an active lawsuit. He also indicated that the potential for cumulative impacts associated with this amendment were expected to be insignificant given the finite number of historic buildings, the lack of buildings currently on or eligible for listing on the National Register, and the need of a willing property owner. Mr. Walker also questioned whether or not the Planning Commission wanted to revise the criteria to make it more restrictive. However, he expressed that the Planning Department believed that there were adequate safeguards already in place to minimize the potential for impacts (e.g. CUP review, size & capacity limitations, etc.). Based on this information, Mr. Walker recommended that the Planning Commission adopt the provisions as written.

The third amendment described by Mr. Walker, involved the boarding of horses. This amendment involved three main components: (1) amending the existing definition of "horse boarding" to allow non-profit facilities, which is an optional change; (2) adding horse boarding to the list of "review uses with additional approval criteria" in the RR-10 zone, which is also an optional change; and (3) adding a standard (*that would apply in all zones*) limiting the number of horses per acre based on the size and characteristics of the particular site and potential impacts to neighbors, which is a mandatory change, but could be made more restrictive if so desired. Mr. Walker explained that the main reasons to adopt these amendments were to (1) address potential inequity between commercial and non-profit facilities, (2) provide greater opportunities for horse boarding in the County by allowing facilities in the RR-10 zone, and (3) provide greater protections for Gorge resources and limit the potential for impacts upon adjacent properties.

A few potential issues regarding this amendment were discussed. First of all, should not commercial and non-profit horse boarding facilities be treated the same? The Planning Commission agreed that the potential impacts would be the same regardless of which type of facility was proposed. Second, should horse boarding facilities be allowed in the RR-10 zone? The Planning Commission felt that adopting this particular change would have a very limited impact since only 6 parcels in the County are zoned RR-10 and none have the potential to be further divided. They took into consideration that the provision to allow horse boarding in the RR-10 zone is provided as a "review use with additional approval criteria" (similar to a CUP), which will ensure that neighbors will be notified and given the opportunity to comment. Third, should more restrictive standards be adopted? The Planning Commission heard from staff that they felt that there were adequate safeguards in the language proposed

to ensure that the impacts to neighbors and upon the land are minimized. The last potential issue raised was should a hard and fast limit on the number of horses per acre be established as part of the mandatory amendment or should it be left to be determined at the time of application? The Planning Commission heard from staff that the proposed language provided greater flexibility to consider unique land/or operational characteristics and potential concerns from neighboring property owners than a set horse limit per acre.

The final amendment discussed involved a correcting a number of minor text errors not caught during the Management Plan revision process in 2004. Mr. Walker explained that the purpose of this amendment is to correct errors and insure proper implementation of Article 75. He also indicated that the changes were considered mandatory in order to comply with the Management Plan. No specific issues were raised regarding this amendment since none of the changes imparted policy or discretion and were necessary to properly implement the ordinance. Staff recommended that the amendments be adopted as proposed, as well as two additional corrections to Article 75 that were found by Gorge Commission staff after the Planning Commission's packet had already been mailed out. The first item (on Page 53) concerned grading plans on slopes greater than 10%, while the second item (on Page 60) concerned changing the word "mail" to "send."

Public Testimony

Bart Vervloet, 720 Pine Street, asked why the horse boarding rules were being restricted to RR-10 zone only? He was concerned that much of the RR10 zoned property was in the process of being acquired by the school and then not being available for horse boarding, but it could abut next to one and then they may have problems with dust or odor. He questioned why the standards were limited to horses only and not other equines. He didn't have any issue with profit & non-profit facilities being treated the same. He also expressed concern about how the County intends to determine the number of horse per acre limitation. He indicated that the number of horses per acre is dependent upon how well they are taken care of.

Natasha Bacheller, 720 Pine Street, asked how many horse experts had the Planning Department talked to regarding the language about limiting the number of horses per acre? Mr. Walker explained that the proposed rule changes actually came from the Gorge Commission and that he was unsure who they spoke to as part of their process. However, he indicated that the proposed rules were developed with a certain level of flexibility to allow horse experts to be used to determine a reasonable number of horses per acre give the type of operation involved and the characteristics of the site. Ms. Bacheller stated that there was a horrible situation in Trout Lake where horses were sick and some died due to their treatment, even though the property had many acres. She hoped that the Planning Commission would make common sense decisions out of this.

Kurt Osborne, 4281 Post Canyon Dr., explained that there was a non-profit across the river that had filed for a 501(C)(3) for grant money, but the Gorge Commission would not allow the permit and so there was no place to put the rescued horses. He explained that he had received a letter from the County that a complaint was filed about his existing horse boarding facility. Someone came out and stated that he could not have a boarding facility, and then he showed them the necessary paper work to prove that he was grandfathered in. He questioned why the rules single out horses and not other animals like llamas. He thought the impacts associated other types of animal (waste and odor) would be about the same as horses. He questioned why people thought there was a problem with horse boarding in the scenic areas. He talked about how the County had zoned property in the past to allow residential development near existing farm operations and then the new residents would complain about the dust and odors even though the farm had been there well before residents. He expressed a concern that all the development that is being allowed is pushing the boundaries on the horses and farms and that is wasn't fair to put more restrictions on the farmers. Mr. Osborne recommended that the rules be changed or not adopted.

Will Carey explained that the rules being considered were mandated by the Gorge Commission and, as a result, the County was unable to adopt less stringent rules. He explained that when the National Scenic Area Ordinance [Article 75] was originally proposed for adoption, the County identified 51 areas that it didn't agree with and requested to be changed, but the Gorge Commission did not give a single concession.

Chair Uhlman asked if there are any issues before closing the hearing for deliberations. Mr. Osborne reiterated his concern about the Gorge Commission not allowing 501(C)(3). He also stated that that each case should be reviewed on its own merit. The question also came up regarding why horse boarding was only being allowed in the RR10 zone.

Chair Uhlman indicated that 501(C)(3) operation are non-profit facilities and that they would be allowed under the amendment proposed.

Mr. Walker explained that horse boarding facilities are already allowed in the farm and forest zones within the National Scenic Area and that rule is not intended to allow horse boarding only on RR10 zoned property. He went on to explain that horse boarding would not be allowed in the other RR zones though.

Lynn Roberge, 1104 Wilson Street, asked if the Planning Commission passed the ruling would it take away people's right to board horses on other RR zoned land. The example she used was if a property owner has 2½ acres and 4 horses and they sell the property can the new owners have one horse and board out the other 3 stalls?

Mr. Benedict stated no, because that would be considered boarding.

Mr. Vervloet asked if you could amend the rules to make the maximum number of horses high for each area so people could have a more leeway. Mr. Benedict stated that the number must be based on some sort of reasonable justification.

Ms. Bacheller indicated that because the language was mandatory, it was better to adopt the proposed language given the greater flexibility it provides over adopting an absolute number.

Mr. Walker read the new language concerning the limit on the number of horse per acre. He explained that wording specifically allows the property owner to justify the number of horses he or she is proposing and that the Planning Department would be able to consider that information on a case-by-case basis.

Chair Uhlman asked if there were any more questions?

Mr. Osborne asked if this goes to the BOC could it be thrown out?

Mr. Benedict replied that the Board will be faced with the same legal restrictions as the Planning Commission with regard to their options.

Chair Uhlman closed the meeting for deliberations.

Planning Commission Deliberations

Commissioner Moore stated that we have to do what we have to do, this is mandatory.

Commissioner Perron stated that he appreciated the input and feels it is of value. He favors staff's recommendation with staying on the flexible side.

Commissioner Alley agrees with Commissioner Perron.

Commissioner Schuppe stated that he commends staff for what they have done and supports staff's recommendations. He agreed that the proposed language provided greater flexibility and that this was advantageous.

Chair Uhlman stated that he is also in agreement with staff's recommendations.

Commissioner Schuppe moved to adopt Article 75 with staff's recommendations and to have the Chair sign the recommendation to the Board.

Commissioner Moore seconded the motion.

Chair Uhlman asked for all those in favor:

Commissioner Schuppe	Yes
Commissioner Alley	Yes
Commissioner Perron	Yes
Commissioner Moore	Yes
Chair Uhlman	Yes

F. The meeting adjourned at 8:28

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