

Return Address: Dennis Crow & Anita Gahimer Crow
161 Fouts Road
Cook, WA 98605

**Skamania County
Community Development
Department**

Skamania County Courthouse Annex
Post Office Box 790
Stevenson, Washington 98648
509 427-3900 FAX 509 427-3907

Administrative Decision

APPLICANT: Dennis Crow & Anita Gahimer Crow

**PROPERTY
OWNER:** Anita Gahimer Crow

FILE NO.: NSA-08-61

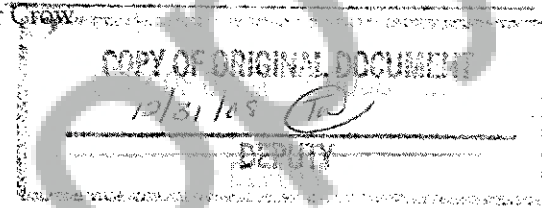
PROJECT: For the operation of three home based business: Icel, LLC – no employees, land management for subject parcel. RiverBrook, LLC – no employees, professional services, currently inactive. Kinetics, Inc. – three family employees, all live onsite. Software research and development under contract. Space utilized for all three businesses is 602.85 square feet. No ground disturbance or construction is associated with this application.

LOCATION: 161 Fouts Road, Cook; Section 23 of T3N, Range 9E, W.M. and identified as Skamania County Tax Lot #03-09-00-0-0-4100-00.

LEGAL: See attached page 7.

ZONING: General Management Area- Commercial Forest (F-1).

DECISION: Based upon the record and the Staff Report, the application by Dennis Crow and Anita Gahimer Crow, described above, **subject to the conditions set forth in this Decision**, is found to be consistent with SCC Title 22 and **is hereby approved.**



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Although the proposed development is approved, it may not be buildable due to inadequate soils for septic and/or lack of potable water. These issues are under the jurisdiction of Skamania County's Building Division and the Skamania County Environmental Health Division.

Approval of this request does not exempt the applicant or successors in interest from compliance with all other applicable local, state, and federal laws.

CONDITIONS OF APPROVAL:

The following conditions are required to ensure that the subject request is consistent with Skamania County Code Title 22. **This document, outlining the conditions of approval, must be recorded by the applicant in the deed records of the Skamania County Auditor** in order to ensure notice of the conditions of approval to successors in interest. SCC §22.06.120(C)(2).

- 1) As per SCC §22.06.120(C)(2), this Administrative Decision **SHALL BE RECORDED** by the applicant in the County deed records prior to commencement of the approved project.
- 2) All developments shall be consistent with the enclosed site plan, unless modified by the following conditions of approval. If modified, the site plan shall be consistent with the conditions of approval. (See attached)
- 3) All structures, except fences, including eaves, awnings and overhangs shall meet the following setbacks: **Front yard:** 50 feet from the centerline of the street or road or 20 feet from the front property line, whichever is greater. **Side yard:** 20 feet. **Rear yard:** 20 feet. Setbacks are established from property lines, not fence lines. If any question arises regarding the location of the property lines, the applicant shall be required to hire a professional land surveyor to locate the property lines and mark them with temporary staking prior to a building permit being issued. Staking must remain during construction and all building inspections.
- 4) The home occupations shall employ only residents of the home.
- 5) No more than twenty-five (25%) of the total actual living space of the dwelling may be utilized for the home occupations.
- 6) No more than 500 square feet of an accessory structure may be utilized for the home occupations.
- 7) There shall be no outside, visible evidence of the home occupation, including outside storage.
- 8) No retail sales may occur on the premises.
- 9) One non-animated, non-illuminated sign, not exceeding two square feet in area, may be permitted on the subject structure or within the yard containing the home occupation.

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10) Fire Safety Provision:

- a) All buildings shall be surrounded by a maintained fuel break of fifty (50) feet. Irrigated or fire resistant vegetation may be planted within the fuel break, including green lawns and low shrubs (less than twenty-four (24) inches in height). Trees should be placed greater than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet) branches. Accumulated leaves, needles and other dead vegetation shall be removed from beneath trees.
- b) Hazardous fuels shall be removed within the fuel break area.
- c) Buildings with plumbed water systems shall install at least one (1) standpipe at a minimum of fifty (50) feet from the structure(s).
- d) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering twenty (20) gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.
- e) Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a finished grade of twelve percent (12%). 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. However, variances to road provisions may be made after consultation with the local fire marshal and the Washington State Department of Natural Resources.
- f) Within one (1) year of the occupancy of a dwelling, the Administrator shall conduct a review of the development to assure compliance with these this section
- g) Telephone and power supply shall be underground whenever possible
- h) Roofs of structures should be made of fire-resistant materials, such as fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.
- i) Any chimney or stovepipe on any structure for use with a wood stove or fireplace should be screened with no coarser than a quarter (1/4) inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.
- j) 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.
- k) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than a quarter (1/4) inch mesh metal screen that is noncombustible and corrosion resistant.

11) The applicant shall meet all conditions of approval prior to final inspection by the Community Development Department. A final inspection approval will not be issued until compliance with all conditions of approval. The inspection may take up to four business days from the time of calling for the inspection. Inspections should be arranged by calling the Community Development Department at 509-427-3900.

12) The following procedures shall be effected when cultural resources are discovered during construction activities:

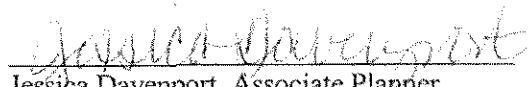
- a) Halt Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

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- b) Notification. The project applicant shall notify the Administrator and the Gorge Commission within twenty-four (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 twenty-four (24) hours.
 - c) Survey and Evaluations. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the DAHP. (See Revised Code of Washington 27.53) 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 provisions in Section 22.22.030 of this Chapter. Based upon the survey and evaluation report and any written comments, the Administrator shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.
 - d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation and report provisions contained in Section 22.22.050 of this Chapter. Construction activities may recommence when conditions in the mitigation plan have been executed.
- 13) 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.
 - b) Notification. Local law enforcement officials, the Administrator, 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 of the Indian tribal governments shall be contacted immediately and have an opportunity to monitor the inspection.
 - d) Jurisdiction. If the remains are modern, the appropriate law enforcement official shall assume jurisdiction and the cultural resource protection process may conclude.
 - e) Treatment. The procedures set out in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/ historic. If 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 set out in Section 22.22.050 of this Chapter. The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when conditions set forth in Section 22.22.050(C) of this Chapter are met and the mitigation plan is executed.

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Dated and Signed this 30th day of October, 2008, at Stevenson, Washington.


Jessica Davenport, Associate Planner
Skamania County Community Development Department

NOTES

Any new residential development, related accessory structures such as garages or workshops, fences, and additions or alterations not included in this approved site plan, will require a new application and review.

As per SCC §22.06.150(A), this Administrative Decision approving a proposed development action shall become void in two years if the development is not commenced within that period, or when the development action is discontinued for any reason for one continuous year or more.

APPEALS

The Director reserves the right to provide additional comment and findings of fact regarding this decision, if appealed.

This Administrative Decision shall be final unless reversed or modified on appeal. A written Notice of Appeal form must be filed by an interested person within 20 days from the date hereof. Appeals are to be made to the Skamania County Hearing Examiner, P.O. Box 790, Stevenson, WA 98648. Notice of Appeal forms and mailing lists are available at Community Development Department office and must be accompanied by a \$500.00 nonrefundable-filing fee and a Certificate of Mailing.

WARNING

On November 30, 1998 the Columbia River Gorge Commission overturned a Skamania County Director's Decision 18 months after the 20 day appeal period had expired. You are hereby warned that you are proceeding at your own risk and Skamania County will not be liable for any damages you incur in reliance upon your Administrative Decision or any amendments thereto.

A copy of the Decision was sent to the following:

Skamania County Building Division

A copy of this Decision, including the Staff Report, was sent to the following:

Persons submitting written comments in a timely manner
Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs

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Nez Perce Tribe

Cowlitz Tribe

Department of Archaeology and Historic Preservation

Columbia River Gorge Commission

U.S. Forest Service - NSA Office

Board of County Commissioners

State of Washington Department of Community Trade and Economic Development – Valerie Grigg Devis

Department of Fish and Wildlife

Unofficial
Copy

EXHIBIT 'A'

The southeast quarter of the southwest quarter and the southwest quarter of the southeast quarter of Section 23, Township 3 North, Range 9 East of the Willamette Meridian.

EXCEPT the following described tract; Beginning at the quarter corner on the south line of the said section 23; thence east 780 feet; thence north 988.60 feet; thence south $50^{\circ}27'$ west 725.95 feet; thence south $22^{\circ}41'$ west to the point of beginning.

Gary H. Martin, Skamania County Assessor

Date 4/26/06 Parcel # 3-9-4100

SITE PLAN:

North:



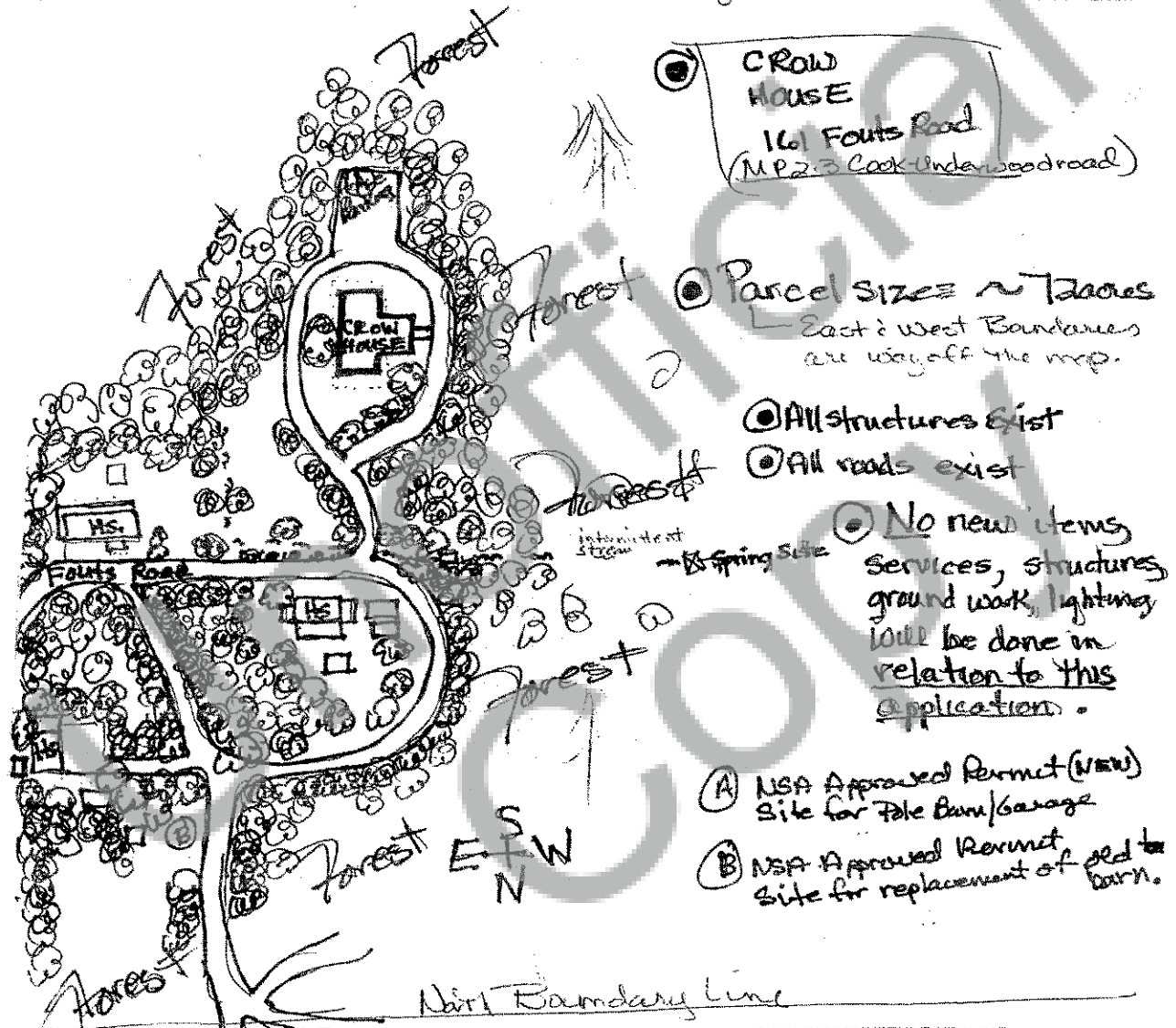
Scale:

inches :

DEPT OF FLORIDA AND

Character Development

Sixty Banding Line



Columbia River Gorge National Scenic Area.



Skamania County
**Department of Planning and
 Community Development**

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STAFF REPORT

National Scenic Area

For the operation of three home based business: Icel, LLC – no employees, land management for subject parcel. RiverBrook, LLC – no employees, professional services, currently inactive. Kinetics, Inc. – three family employees, all live onsite. Software research and development under contract. Space utilized for all three businesses is 602.85 square feet. No ground disturbance or construction is associated with this application.

FILE No. NSA-08-61

Dennis Crow & Anita Gahimer Crow

October 30, 3008

This Staff Report is to address the application by Dennis Crow and Anita Gahimer Crow, for the operation of three home based business: Icel, LLC – no employees, land management for subject parcel. RiverBrook, LLC – no employees, professional services, currently inactive. Kinetics, Inc. – three family employees, all live onsite. Software research and development under contract. Space utilized for all three businesses is 602.85 square feet. No ground disturbance or construction is associated with this application. The subject parcel is in the General Management Area, zoned Commercial Forest (F-1). The parcel is approximately 72 acres and is owned by Anita Gahimer Crow. It is located at 161 Fouts Road, Cook, Section 23 of T3N, R9E, W.M. and is identified as Skamania County Tax Lot Number 03-09-00-0-0-4100-00.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

CHAPTER Administration
22.06

22.06.010 Review and Approval Required

No building, structure or parcel of land shall be used, and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by local, state or federal agencies, in that portion of the County lying within the Columbia River Gorge National Scenic Area in any manner that is inconsistent with the provisions of this Title.

Finding: This application is for the operation of three home based business: Icel, LLC – no employees, land management for subject parcel. RiverBrook, LLC – no employees, professional services, currently inactive. Kinetics, Inc. – three family employees, all live onsite. Software research and development under contract. Space utilized for all three businesses is 602.85 square feet. No ground disturbance

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or construction is associated with this application.

Conclusion: **This application shall be reviewed under this Chapter.**

22.06.020 Administrator

The Director of the Skamania County Department of Planning and Community Development is vested with the duty of administering the provisions of this Title and shall ensure that this Title is enforced through the proper legal channels. No building permit, subdivision, short subdivision, recreational vehicle park, or other development permit shall be approved unless such development conforms in all aspects with the provisions and regulations of the Title. The Administrator shall prepare and require the use of such forms as determined to be essential to the administrations of this Title.

Finding: This application is for the operation of three home based business: Icel, LLC – no employees, land management for subject parcel. RiverBrook, LLC – no employees, professional services, currently inactive. Kinetics, Inc. – three family employees, all live onsite. Software research and development under contract. Space utilized for all three businesses is 602.85 square feet. No ground disturbance or construction is associated with this application. The proposed development shall be reviewed by the Administrator to ensure compliance with the provisions and regulations of this Title.

Conclusion: **This application shall be reviewed under Title 22.**

22.06.060 General Management Areas – Application and Site Plan Information Required

Finding: The application was submitted on June 18, 2008; additional information was submitted and it was deemed complete on August 19, 2008.

Conclusion: **A complete application was received on August 19, 2008**

22.06.070 General Management Areas – Additional Application and Site Plan Information for Specific Developments, Uses and Site

Applications for the following uses or developments shall include the additional information required under other chapters of this Title or as required by the Administrator:

(H) Any review use within 1,000 feet of a sensitive plant, wildlife area or site. See Chapter 22.20. Large-scale uses shall also include field survey information.

Finding: The application involves operation of three home occupations in an existing single-family dwelling in the GMA; all required additional information was submitted on date.

Conclusion: **The application shall be reviewed for compliance with Sections 22.12.060 and 22.14.030 below.**

22.06.110 Acceptance of Application; Notice of Development Review; Comment Period.

(D) COMMENT PERIOD. Persons receive notice of a development review application shall have twenty (20) days from the date upon which the notice of development review is mailed to them by the Department within which to submit written comments to the Administrator.

Finding: Notice of the development review was sent to adjacent property owners within 500' of the subject property and interested parties on September 11, 2008. They were given twenty days to provide written comments. Two written comments were received. One from the Friends of the Columbia Gorge and the second from the

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Cowlitz Indian Tribe. The points of concern will be addressed as a part of the review of Sections below.

Conclusion: This provision has been met. Review of Chapter 22.06 can be concluded.

| Chapter 22.10 | Zoning |
|--------------------------------|--|
| 22.10.060 | Minimum Lot Size |
| (A) | <i>In General Management Areas, minimum lot sizes shall be as set forth on the maps referred to in Section 22.10.010(A), unless a larger minimum lot size is required by the local health department authority. The following Zoning Classifications are established on the maps with the following minimum lot sizes:</i> |
| (E) | <i>Where authorized in the General Management Areas, parcels smaller than the designated minimum size may be created, as specified in Section 22.08.020.</i> |
| (F) | <i>In Special Management Areas, new residential development is prohibited on parcels of less than forty (40) acres.</i> |
| (G) | <i>In the National Scenic Area, the fact that a parcel is of sufficient size to meet the minimum lot size does not mean that residential use of the property is otherwise allowed. All residential development is subject to compliance with other standards set out in this Title.</i> |
| Finding: | The subject parcel is 72 acres in size and is located in the GMA Commercial Forest (F-1), which has a 80-acre minimum lot size. According to the Statutory Warranty Deeds on file with the Skamania County Auditor's Office, the subject 72 acres parcel has been separately described by deed prior to November 17, 1986. (Parcel # 03-09-00-0-0-4100-00 recorded November 21, 1933 in Book X, Page 402). The subject parcel is a legal parcel and was created prior to the National Scenic Area minimum lot standards |
| Conclusion: | The subject parcel is a legal lot of record. |
| 22.10.070 | Minimum Lot Line Setbacks |
| | <i>The following are the minimum lot line setbacks for all structures except fences. The lot line setbacks shall not reduce or otherwise affect the buffers in this ordinance that protect agricultural and forest lands as well as scenic, natural, cultural, and recreation resources (resource buffers). If a conflict arises between the property line setbacks and the resource buffers, the resource buffers shall prevail. Variances to the minimum lot line setbacks may be granted through Section 22.06.040.</i> |
| (B) | <i>Parcels of land two (2.0) acres or greater:</i> |
| (1) | <i>Front Yard: fifty (50) feet from the centerline of the street or road or twenty (20) feet from the front property line, whichever is greater.</i> |
| (2) | <i>Side Yard: twenty (20) feet.</i> |
| (3) | <i>Rear Yard: twenty (20) feet.</i> |
| Finding: | The application involves a parcel of land 72 acres in size. |
| Conclusion: | The setbacks in Section 22.10.070(B), listed above, shall be A CONDITION OF APPROVAL for this application. |
| Chapter 22.12 | Zoning Supplemental Standards on Uses and Structures (GMA Only) |
| 22.12.060 | Home Occupation and Cottage Industries |
| | <i>Home occupations and cottage industries may be established as authorized in</i> |

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specified zones consistent with the following:

(A) *A home occupation may employ only residents of the home.*

Finding: The proposed home occupations has three employees, all of which live at the residence located at 161 Fouts Road in Cook, Wa.

Conclusion: **A CONDITION OF APPROVAL shall state that the home occupations shall employ only residents of the home.**

(B) *A cottage industry may employ up to three (3) outside employees.*

Finding: The applicant has applied for a home occupation, employing only residents of the home.

Conclusion: **This application does not involve a cottage industry.**

(C) *No more than twenty-five percent (25%) of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.*

Finding: The subject dwelling is 3,954 square feet in size according to the Skamania County Assessor's records. Portions of the ground floor of the dwelling are used for the home occupations. The applicant submitted a floor plan of the ground floor indicating what portions of the dwelling are being used for the home occupation. A total of 602.85 square feet are being used for the three home occupations. The 25% allowance of the total actual living space would allow for the usage of up to 988.5 square feet to be used for the home occupations. The amount used is under this allowance.

Conclusion: **A CONDITION OF APPROVAL shall state that no more than twenty-five (25%) of the total actual living space of the dwelling may be utilized for the home occupations.**

(D) *No more than 500 square feet of an accessory structure may be utilized for a home occupation or cottage industry.*

Finding: No portion of any accessory structures will be used for these home occupations at this time. However, this provision will be listed as a condition of approval for the potential use of accessory structures.

Conclusion: **A CONDITION OF APPROVAL shall state that no more than 500 square feet of an accessory structure may be utilized 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.*

Finding: No outside work will be conducted for the proposed home occupations, no outdoor storage is involved and no walk in customers. The applicants conduct their work through contract with governmental agencies and do not advertise or market other than on the internet. No outside employees that would need to park are employed by the businesses and the only other traffic that would occur will be the occasional delivery. This provision will be included as a condition of approval.

Conclusion: **A CONDITION OF APPROVAL shall state that there shall be no outside, visible evidence of the home occupation, 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.*

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Finding: No structural alterations are proposed or needed for the home occupations.
Conclusion: **This provision has been met.**

(G) *No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in this chapter.*

Finding: The proposed home occupations include software research and development, property management and maintenance for the subject parcel and a professional services business. No retail sales are associated with these home occupations.
Conclusion: **A CONDITION OF APPROVAL shall state that no retail sales may occur on the premises.**

(H) *One non-animated, non-illuminated sign, not exceeding two square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.*

Finding: The applicant has not proposed any signs for the home occupations; however, a sign meeting the above criteria is allowed if the applicant chooses to do so in the future.
Conclusion: **A CONDITION OF APPROVAL shall state that one non-animated, non-illuminated sign; not exceeding two square feet in area may be permitted on the subject structure or within the yard containing the home occupation.**

(I) *Parking not associated with residential use shall be screened from Key Viewing Areas.*

Finding: No parking is needed for the home occupations. The applicants conduct their work through contracts with governmental agencies and do not advertise or market other than on the internet. No outside employees that would need to park are employed by the businesses and the only other traffic that would occur will be the occasional delivery.
Conclusion: **No parking is needed or proposed for the home occupations.**

(J) *Bed and breakfast lodging establishment which is two (2) bedrooms or less is considered a home occupation, but shall also comply with the provisions of Section 22.12.020, except in the SMA 22.12.020(D) is not required.*

Finding: This application does not involve a Bed and Breakfast lodging establishment.
Conclusion: **This provision does not apply. Review of Chapter 22.12 can be concluded.**

| Chapter 22.14 | Zoning Classifications General Management Areas |
|--------------------|--|
| 22.14.030 | Commercial Forest (F-1). |
| Finding: | This application involves lands zoned Commercial Forest (F-1). |
| Conclusion: | This application <u>shall be reviewed for compliance with Section 22.14.030 below.</u> |
| (A) | <i>Fire Safety Provisions.</i> |
| (1) | <i>All buildings shall be surrounded by a maintained fuel break of fifty (50) feet. Irrigated or fire resistant vegetation may be planted within the fuel break, including green lawns and low shrubs (less than twenty-four (24) inches in height). Trees should be placed greater than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet) branches. Accumulated</i> |

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leaves, needles and other dead vegetation shall be removed from beneath trees.

- (2) *Hazardous fuels shall be removed within the fuel break area.*
- (3) *Buildings with plumbed water systems shall install at least one (1) standpipe at a minimum of fifty (50) feet from the structure(s).*
- (4) *A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering twenty (20) gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.*
- (5) *Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a finished grade of twelve percent (12%). 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. However, variances to road provisions may be made after consultation with the local fire marshal and the Washington State Department of Natural Resources.*
- (6) *Within one (1) year of the occupancy of a dwelling, the Administrator shall conduct a review of the development to assure compliance with these this section.*
- (7) *Telephone and power supply shall be underground whenever possible.*
- (8) *Roofs of structures should be made of fire-resistant materials, such as fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.*
- (9) *Any chimney or stovepipe on any structure for use with a wood stove or fireplace should be screened with no coarser than a quarter (1/4) inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.*
- (10) *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.*
- (11) *Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than a quarter (1/4) inch mesh metal screen that is noncombustible and corrosion resistant.*

Finding: The proposed development is within the Commercial Forest (F-1) zone, the fire safety provisions are required for this use in the Commercial Forest zone as stated below in Section 22.14.030(E)(2)(d)(ii). These requirements were conditions of approval for the construction of the house the previous Director's Decision for NSA-96-42.

Conclusion: **A CONDITION OF APPROVAL shall include the fire safety provisions.**

(B) *Siting Criteria.*

- (1) *The approval of new dwellings and new accessory buildings and structures on forest lands shall comply with the following standards:*

Finding: The application does not propose any new dwellings.

Conclusion: **Siting criteria does not apply to this application.**

(E) *Review Uses.*

- (2) *The following uses are subject to review by the Administrator for compliance with all applicable provisions protecting scenic, cultural, natural, and recreational resources, and may be allowed if:*
 - (a) *The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;*

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- (b) *The use will be sited in such a way as to minimize the loss of forest or agricultural land and to minimize the chance of interference with accepted forest or agricultural practices on nearby lands;*
- (c) *The owners of land that is classified as F-1, F-2, F-3, Ag-1 or Ag-2 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 ten (10) days to comment prior to a final decision; and, the use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel; and*
- (d) *Complies with the standards set out in Section 22.14.030(A);*
- (ii) *Home occupations or cottage industries in existing residential or accessory structures. See also Section 22.12.060.*

Finding: This application involves the operation of three home based business: Icel, LLC – no employees, land management for subject parcel. RiverBrook, LLC – no employees, professional services, currently inactive. Kinetics, Inc. – three family employees, all live onsite. Software research and development under contract.

The Fire Safety provisions in Section 22.14.030(A) will be included as a condition of approval. All adjacent property owners within 500 feet of the perimeter of the subject property were sent the Notice of Development Review on September 11, 2008. They were given 20 days to provide written comments, and none were received. No concerns regarding potential effects to forest and agricultural practices surrounding the development were raised. The proposed home occupations will not significantly increase the fire hazard, fire suppression costs or risk to fire suppression personnel as the occupations will occur within an existing single-family dwelling and will employ only residents of the home.

Conclusion: This application is an allowed use and is in compliance with Section 22.14.030(E)(2)(ii).

CHAPTER 22.18 Scenic Resource Protection

22.18.010(A) Savings.

- (1) *Except for production and/or development of mineral resources, nothing in this Section shall be used as the ground(s) upon which to deny proposed uses otherwise authorized within GMA land use zones. The provisions of this Section may affect the siting, location, size and other design features of proposed developments.*

Finding: The application involves home occupations in an existing single-family dwelling in the GMA Commercial Forest (F-1) zone, a proposed use authorized subject to review in this zone under Section 22.14.030(E)(2)(ii).

Conclusion: The application shall be reviewed for compliance with the provisions of Section 22.18.020, which may affect the siting, location, size and other design features of the proposed development but may not be used as the grounds upon which to deny the proposed use.

- (2) *Nothing in this Section shall affect agriculture or forest practices, nor equipment or structures (other than buildings) associated with those practices.*

Finding: The application does not involve agriculture, forest practices nor equipment or structures (other than buildings) associated with those practices.

Conclusion: The application shall be reviewed for compliance with the provisions of Section 22.18.020.

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22.18.020(A) Standards Governing New Developments.

- (1) *New buildings and associated roads shall be sited and designed to retain the existing topography and minimize grading activities to the maximum extent practicable.*

Finding: The proposed home occupations will occur within an existing single-family dwelling. No new structures or roads are needed for this proposal.

Conclusion: **This provision does not apply.**

- (2) *New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development of a similar nature. Expansion of existing development shall comply with this provision to the maximum extent practicable.*

Finding: No new buildings are proposed in this application.

Conclusion: **Section 22.18.020(A)(2) does not apply.**

- (3) *A site plan and land use application shall be submitted for all new buildings, except those smaller than sixty (60) square feet in area and less than or equal to ten (10) feet in height, as measured at the roof peak. The site plan shall include all requirements of Section 22.06.060 and if necessary Section 22.06.070.*

Finding: An appropriate site plan has been submitted.

Conclusion: **This provision has been met.**

- (4) *A determination of compatibility with the landscape setting shall be made by the Administrator and shall be based upon information submitted in the site plan.*

Finding: The subject property is located within the Coniferous Woodland landscape setting.

Conclusion: **Compatibility with the landscape setting provisions shall be reviewed under Section 22.18.040.**

- (5) *Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required under this chapter.*

Finding: The proposal does not require any structural changes or ground disturbance. No vegetation is required as a part of this application.

Conclusion: **This provision does not apply.**

- (6-7) *Not applicable.*

22.18.030 Additional Standards Governing New Developments Visible From KVAs.

- (A) *The provisions in the section shall apply to proposed developments on site topographically visible from key viewing areas.*

Finding: When the existing single-family dwelling was reviewed in NSA-96-42 it was found that the site was not topographically visible from key viewing areas. The applicant has applied for three home occupations within an existing single-family dwelling. No structural changes to any existing buildings are proposed and no outside evidence of the home occupations are allowed. Review under this Section is not required.

Conclusion: **Review of Section 22.18.030 is not required.**

22.18.040 Landscape Settings.

- (A) *General Provisions. Landscape settings shall be as designated on the map entitled "Landscape Settings", adopted on October 15, 1991 as part of the Columbia River*

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Gorge Commission's comprehensive management plan, and any amendment thereto.

Finding: The subject property is in the Coniferous Woodland landscape setting as designated on the map entitle "Landscape Settings."

Conclusion: **This application shall be reviewed for compliance with the provisions applicable to the Coniferous Woodland landscape setting.**

(C) Coniferous Woodland

Finding: The subject parcel is located within the Coniferous Woodland landscape setting.

Conclusion: **The application shall be reviewed for compliance with the provisions of Section 22.18.040(C) below.**

(a) Structure height shall remain below the forest canopy level

Finding: This application does not involve any new structures. The proposal is for three home occupations within an existing single-family dwelling.

Conclusion: **No additional conditions of approval are necessary to satisfy Section 22.18.040(C)(1).**

(2) In portions of the setting visible from key viewing areas, the following provisions shall be employed to achieve visual subordination:

(a) Except as 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.

Finding: The application does not propose removal of any existing tree cover. The application is for three home occupations within an existing single-family dwelling, no structural changes or ground disturbance will occur.

Conclusion: **This provision does not apply.**

(b) At least half (1/2) 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, vine maple, red alder, ponderosa pine, Oregon white oak and various native willows (for riparian areas).

Finding: The application is for three home occupations within an existing single-family dwelling, no structural changes or ground disturbance will occur. No new screening trees are required to be planted.

Conclusion: **This provision does not apply.**

(c) At least half (1/2) of any trees planted for screening purposes shall be coniferous to provide winter screening.

Finding: The application is for three home occupations within an existing single-family dwelling, no structural changes or ground disturbance will occur. No new screening trees are required to be planted.

Conclusion: **This provision does not apply.**

(3) Compatible Recreation Use. Resource-based recreation uses of varying intensities may be compatible with this setting. Typically, outdoor recreation uses are low intensity, and include trails, small picnic areas and scenic viewpoints. Although infrequent, some more intensive recreation uses, such as campgrounds occur. They tend to be scattered rather than concentrated, interspersed with large areas of

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undeveloped land and low-intensity uses (Section 22.24.020).

Finding: The application does not involve resource-based recreation use.

Conclusion: **Section 22.18.040(C)(3) does not apply.**

Chapter 22.20 *Natural Resource Protection – General Management Area*

22.20.020 *Development Review for Water Resource Zone Protection*

- (A) *The following uses may be allowed in a water resource or its buffer, subject to review by the Administrator for compliance with the standards set for in this Section and with the provisions for the protection of scenic, natural, cultural, and recreational resources.*

Finding: The proposed home occupations will occur within an existing single-family dwelling. No structural changes or ground disturbance will occur, and the proposed use is not within a water resource or a water resource buffer.

Conclusion: **Further review of Water Resource Zone Protection is not required.**

22.20.030 *Development Review for Wildlife Habitat Protection*

- (A) *Review Uses – Wildlife. Except uses allowed without review pursuant to Section 22.10.040, review uses may be allowed within 1,000 feet of a sensitive wildlife area or site, subject to review by the Administrator for compliance with the provisions for the protection of scenic, natural, cultural and recreational resources and the following:*

- (1) *Site Plans and Field Surveys.*

- (a) *In addition to the information otherwise required for 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 one (1) inch equals 100 feet (1:1,200) or a scale providing greater detail.*

Finding: The subject property is within Elk and Columbian Black Tailed Deer habitat, as well as within 1,000 feet of a Larch Mt. Salamander site and Western Toad Site. An site appropriate site plan was submitted with the application that was deemed complete on August 19, 2008.

Conclusion: **This provision has been met.**

- (2) *Review by Department of Fish and Wildlife.*

- (a) *Site plans and field surveys for uses proposed within 1,000 feet of a sensitive wildlife area or site shall be submitted by the Administrator to the Washington Department of Fish and Wildlife (WDFW) and shall be reviewed by WDFW to determine if the proposed use would adversely affect a sensitive wildlife area or site. Within twenty (20) days the WDFW biologists shall review the site plan and their field survey records to:*

- (i) *Identify/ verify the precise location of the wildlife area or site,*
- (ii) *Ascertain whether the wildlife area or site is active or abandoned, and*
- (iii) *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.*

Finding: The application information was forwarded to the Washington State Department of Fish and Wildlife on August 21, 2008.

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Conclusion: The application and site plan was forwarded to WDFW on August 21, 2008 for their review.

- (c) Review by the Administrator under this Section may terminate if, after consultation with the WDFW, the Administrator determines that:
 - (i) The sensitive wildlife area or site is not active; or
 - (ii) 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.

Finding: Bill Weiler, WDFW Habitat Biologist, submitted comments on August 22, 2008 stating, "We have reviewed NSA-08-61 and as there appears to be no ground disturbance involved with the project. WDFW has no fish and wildlife resource concerns associated with the application."

Conclusion: The proposed development will not compromise the integrity of the wildlife area or site. Review of Wildlife Resource protection can be concluded.

22.20.040 Development Review For Sensitive Plant Protection.

Review Uses. Except uses allowed without review as listed in Sections 22.10.040, review uses may be allowed within 1,000 feet of a sensitive plant, subject to the provisions for the protection of scenic, natural, cultural and recreational resources and the following:

Finding: The subject property is not within 1,000 feet within any known sensitive plants.

Conclusion: Review of Sensitive Plant Protection is not required. Review of Chapter 22.20 can be concluded.

Chapter 22.22 Cultural Resource Protection – General Management Areas

22.22.010 General Provisions for Implementing the Cultural Resource Protection Process.

- (A) All cultural resource information shall remain confidential and exempt from public records requests, according to Section 6(a)(1)(A) of the National Scenic Area Act and RCW 42.17.310(k). Federal agency cultural resource information is also confidential and exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.
- (B) 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 set out in 36 Code of Federal Regulations (CFR), Part 61 and in Guidelines for Evaluation and Documenting Traditional Cultural Properties (Parker and King, no date).
- (C) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and if appropriate, any party of record. 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 a historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.
- (D) The responsibility and cost of preparing an evaluation of significance, assessment or 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

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evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(E) *Reconnaissance and Historic Surveys and Survey Reports.*

(1) *Reconnaissance Survey requirements and exceptions.*

(a) *A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exempt in Section 22.22.010(E)(1)(b).*

Finding: The application information was forwarded to Marge Dryden, Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area on August 21, 2008. Ms. Dryden submitted a Cultural Resources Survey Determination dated September 5, 2008 in which she determined that neither a Cultural Resource Reconnaissance Survey nor a Historic Survey is required.

Conclusion: **Neither a Cultural Resource Reconnaissance Survey nor a Historic Survey is required.**

(2) *Historic Surveys and Reports.*

Finding: The application information was forwarded to Marge Dryden, Heritage Resources Program Manager for the Columbia River Gorge National Scenic Area on August 21, 2008. Ms. Dryden submitted a Cultural Resources Survey Determination dated September 5, 2008 in which she determined that neither a Cultural Resource Reconnaissance Survey nor a Historic Survey is required.

Conclusion: **Neither a Cultural Resource Reconnaissance Survey nor a Historic Survey is required.**

22.22.020 *Cultural Resource Reconnaissance and Historic Surveys.*

(B) *Notice of Survey Results.*

(1) *The Administrator shall submit a copy of all cultural resource survey reports to DAHP and to the Indian tribal governments. Survey reports may include measures to avoid potentially affected resources, such as a map that shows a reasonable buffer zone.*

(2) *DAHP and the Indian tribal governments shall have thirty (30) calendar days from the date a survey report is mailed to submit written comments to the Administrator.*

(3) *The Administrator shall record and address all written comments in the Administrative Decision and Staff Report.*

Finding: The Notice of Development Review and copies of the Cultural Resources Survey Determination were sent to the five Native American Tribal Governments and the Department of Archaeological and Historic Preservation on September 11, 2008. They were given thirty days to provide written comments. One comment letter was received from the Cowlitz Indian Tribe on September 22, 2008 stating their interest in the project. They did not address any concerns with the project.

Conclusion: **This provision has been met.**

(C) *Conclusion of Cultural Resource Protection Process.*

(1) *The Administrator shall make a final decision on whether the proposed use would be consistent with the provisions of this Chapter. If the final decision contradicts the comments submitted by the DAHP, the Administrator shall justify how he reached an opposing conclusion.*

(2) *The cultural resource protection process may conclude when the Administrator*

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makes a final, written determination that one (1) of the following conditions exists:

- (a) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantial concerns were voiced by parties of record within the twenty (20) day comment period on the application.*

Finding: A Reconnaissance Survey was not required for this project. Notice of the Development Review was sent to interested parties and adjacent property owners within 500 feet of the subject property. They were given twenty days to submit written comments. One comment letter was received from Friends of the Columbia Gorge. They did not raise any substantial concerns regarding cultural resources.

Conclusion: This provision has been met.

22.22.060 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 Administrator and DAHP. 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 Administrator and the Gorge Commission within twenty-four (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 twenty-four (24) hours.*
- (C) Survey and Evaluations. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the DAHP. (See Revised Code of Washington 27.53.) 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 provisions in Section 22.22.030 of this Chapter. Based upon the survey and evaluation report and any written comments, the Administrator shall make a final decision on whether the resources are significant. A mitigation plan shall be prepared if the affected cultural resources are significant. Construction activities may recommence if the cultural resources are not significant.*
- (D) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation and report provisions contained in Section 22.22.050 of this Chapter. Construction activities may recommence when conditions in the mitigation plan have been executed.*

Finding: The USFS stated in a Cultural Resource Survey Determination received September 8, 2008 and dated September 5, 2008 that no Cultural Resource Reconnaissance and no Historic Survey are required; however, cultural resources may be discovered during construction of the proposed development.

Conclusion: A CONDITION OF APPROVAL shall require the procedures set forth in Section 22.22.060(A through D) be followed when cultural resources are discovered during construction activities.

22.22.070 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 Administrator, 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 of the Indian tribal governments shall be contacted immediately and have an opportunity to monitor the inspection.*
- (D) *Jurisdiction. If the remains are modern, the appropriate law enforcement official shall assume jurisdiction and the cultural resource protection process may conclude.*
- (E) *Treatment. The procedures set out in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/ historic. If 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 set out in Section 22.22.050 of this Chapter. 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 Section 22.22.050(C) of this Chapter are met and the mitigation plan is executed.*

Finding: The USFS stated in a Cultural Resource Survey Determination received September 8, 2008 and dated September 5, 2008 that no Cultural Resource Reconnaissance and no Historic Survey are required; however, human remains may be discovered during construction of the proposed development.

Conclusion: **A CONDITION OF APPROVAL shall require the procedures set forth in Section 22.22.070(A through E) be followed when human remains are discovered during construction activities. Review of Chapter 22.22 can be concluded.**

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| Chapter 22.24 | Recreational Resource Protection – General Management Areas |
| 22.24.010 | <p><i>Applicability of Chapter – Maps.</i></p> <p><i>Proposed resource-based recreation facilities or uses shall be consistent with recreation intensity classes as set out on the Recreation Intensity Class maps adopted by the Columbia River Gorge National Scenic Area</i></p> |
| Finding: | This application does not involve any resource-based recreational uses. |
| Conclusion: | Review of Recreational Resource Protection is not required. <u>Review of Chapter 22.24 and Title 22 can be concluded.</u> |

