

DIRECTOR'S DECISION

- APPLICANT:** Bryan and Sande Irwin
- LANDOWNER:** Same
- FILE NO.:** C11-0008
- REQUEST:** To remove an existing manufactured home, construct a replacement dwelling in the same location, expand the existing parking area, and construct a woven wire fence adjacent to the dwelling.
- LOCATION:** The subject parcel is located at 15 Locke Road in the NE ¼ of Section 34, Township 3N, Range 11E, Willamette Meridian, Klickitat County, Washington (Klickitat County Assessor's ID 03113457000400).
- LAND USE DESIGNATION:** The subject parcel is in the Special Management Area and is designated Agriculture.

DECISION:

Based upon the findings of fact in the Staff Report for Director's Decision C11-0008, the land use application by Bryan and Sande Irwin to remove a mobile home and construct a replacement dwelling and expanded parking area is found to be consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act P.L. 99-663, and the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and approvable under Commission Rule 350-81 and is hereby **approved**.

CONDITIONS OF APPROVAL:

The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. **These conditions must be recorded in county deeds and records to ensure notice of the conditions to successors in interest (Management Plan, Review Uses Guideline 1, pg. II-96).**

1. Locations for the new dwelling and parking area shall be staked for Commission inspection prior to grading or excavation. Staking shall include identification of trees to be retained with construction fencing or similar material. The applicant shall notify the Commission once staking is complete to arrange for an inspection. Grading and excavation, including the removal of the existing home, may begin after Commission inspection and approval of staking.
2. The development shall be constructed as shown on the approved site plan and elevation drawings.

3. Existing trees screening the development site from key viewing areas shall be retained as shown on the approved site plan. All oak trees except one medium-sized tree at the southwestern corner of the house shall be retained.
4. All exterior building materials shall be opaque dark earth-tone colors. Opaque stains are approved for the siding and trim of the dwelling in the following colors: Sikkens' "058 Oxford Brown" in a solid stain for the siding, Miller paint in "0529 Black Licorice" for all trim and deck railing. Dark brown windows also are approved. For the roof, a stone coated metal shingle by Decra in the Shadowood or similar color is approved. With approval from the Executive Director, similar opaque dark colors or composite shingles may be used.
5. All exterior building materials shall be non-reflective or have low reflectivity. Approved exterior building materials include wood 'board plank siding' board and composite or stone coated metal roofing. Wood or simulated wood is approved for the deck and railing.
6. All graded areas shall be reseeded with native grasses.
7. Five new Oregon white oak trees, approximately 3 feet tall or 2 gallon size, shall be planted in locations approved by the Executive Director in consultation with either a U.S. Forest Service biologist or a Washington Department of Fish and Wildlife biologist. At site plan showing the proposed tree locations shall be submitted for review. The new trees shall be enclosed in wire mesh for protection from deer, spaced approximately 10 feet apart, and planted as soon as possible and no later than one year after the start of construction. The trees shall be irrigated and maintained in a healthy state to ensure survival. Any trees which fail to survive shall be replaced in accordance with this condition.
8. The applicants or subsequent land owners shall submit to the Executive Director color photographs of the new oak trees three years after they are planted to allow staff to evaluate the condition of the trees.
9. No outdoor lights are shown on the development plans. If any outdoor lights are installed, they shall be directed downward and sited, hooded and shielded so as to not be highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
10. **The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for an inspection to confirm compliance with conditions of approval.** Project completion means completion of all work on exteriors of structures (including painting), completion of grading and excavation and installation of any required screening vegetation.
11. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall cease and the applicants shall notify the Gorge Commission within 24 hours. The cultural resources shall remain as found; further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
12. If human remains are discovered during construction activities, all activities shall cease upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

DATED AND SIGNED THIS 18th day of January, 2012 at White Salmon, Washington.



Jill Arens
Executive Director

EXPIRATION OF APPROVAL:

This decision of the Executive Director becomes void on the 18th day of January, 2014.

As per Commission Rule 350-81-044(6), an extension of the validity of a development approval may be requested. Such a request shall be submitted in writing prior to the expiration of the approval. The Executive Director may grant an extension if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing the proposed development within the original time limitation. The Executive Director shall not grant an extension if the site characteristics and/or new information indicate that the proposed use may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

APPEAL PROCESS:

The appeal period ends the 17th day of February, 2012.

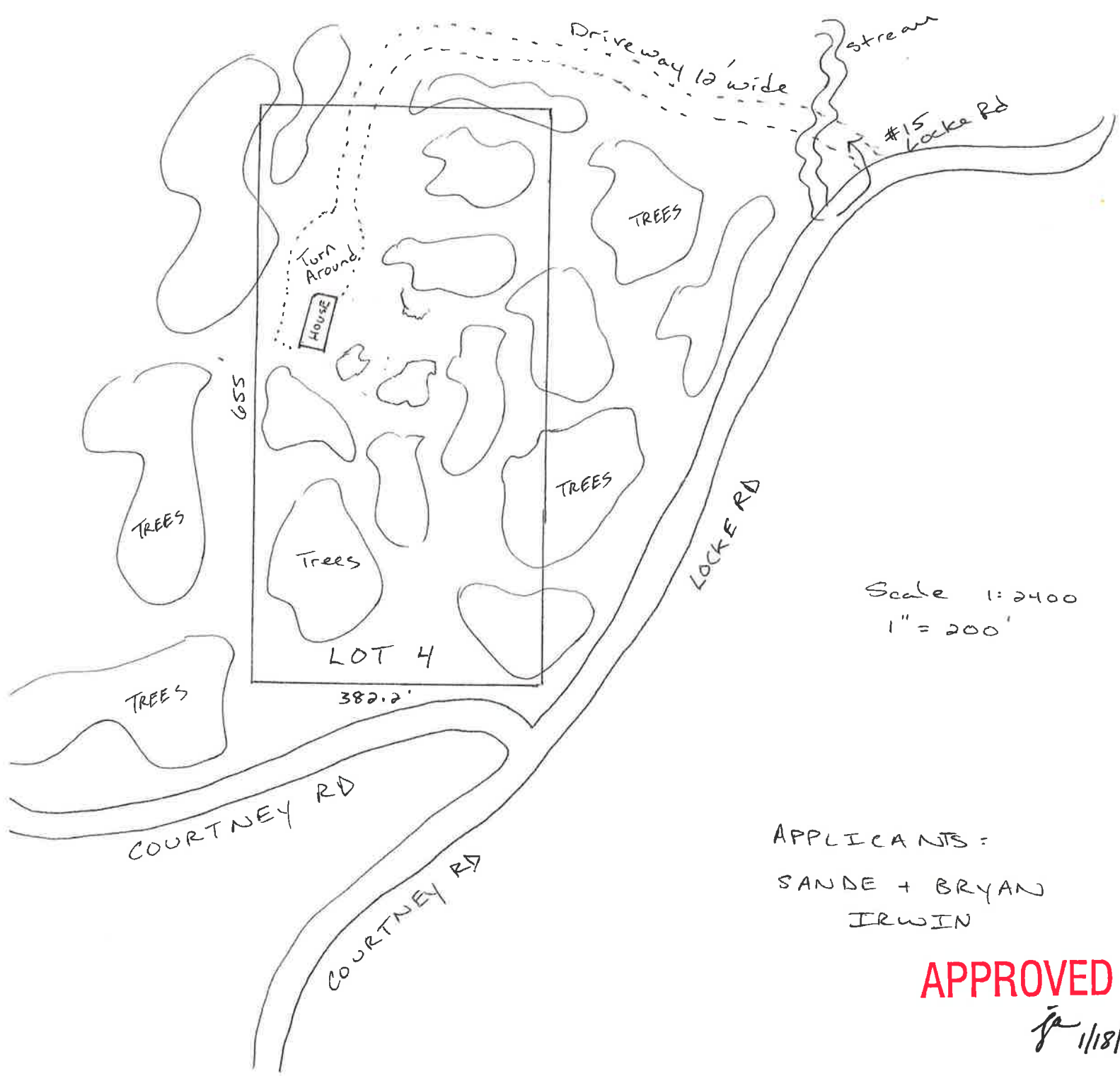
The decision of the Executive Director shall be final unless a Notice of Intent to Appeal and Petition is filed with the Commission within thirty (30) days of the date of this decision by the applicant or any person who submitted comment. Information on the appeal process may be obtained at the Commission office.

NOTES:

Any land uses or structural development such as accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. Any change of use of structures or buildings will require a new application and review.

- cc: Confederated Tribes and Bands of the Yakama Indian Nation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of Warm Springs Reservation
- Nez Perce Tribe
- Klickitat County Planning
- Klickitat County Building
- Friends of the Columbia Gorge
- George Fornes, Washington Department of Fish and Wildlife
- U.S. Forest Service, Scenic Area Office

JBK
DEC0008.11



Scale 1:2400
1" = 200'

APPLICANTS:
SANDE + BRYAN
IRWIN

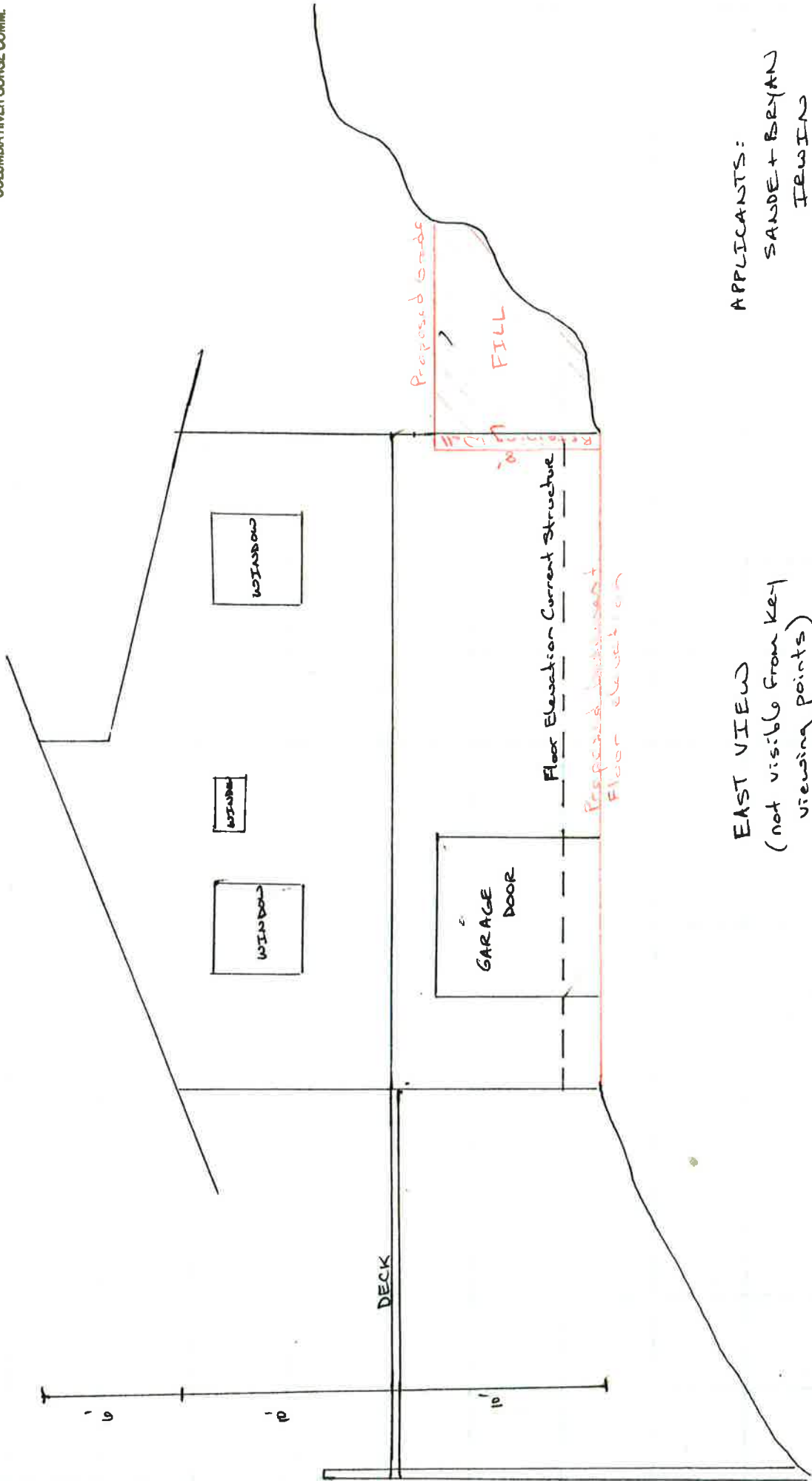
APPROVED

ja 1/18/12

RECEIVED

AUG 31 2012

COLUMBIA RIVER GORGE COMM.



APPLICANTS:
SANDE + BRYAN
IRWIN

EAST VIEW
(not visible from key
viewing points)

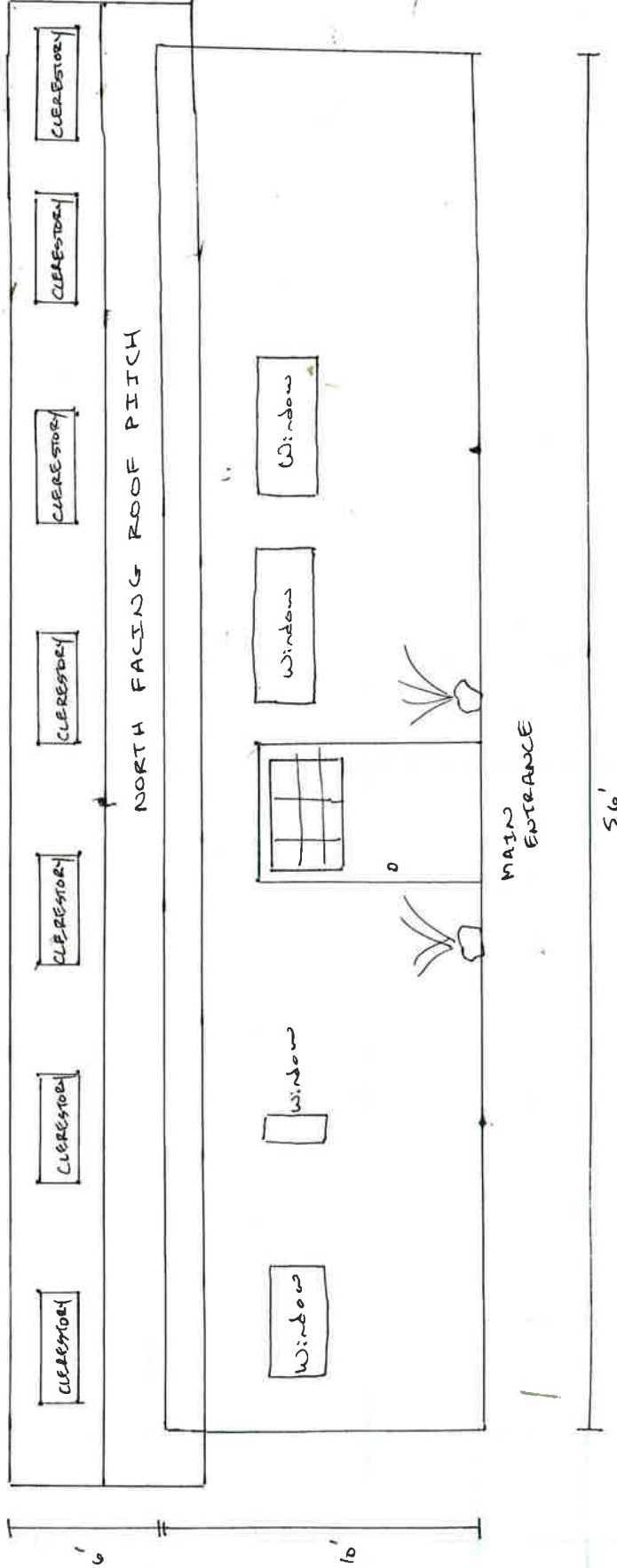
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MAR 31

COLUMBIA RIVER GORGE COMM.



APPLICANTS :
 BRYAN + SANDE
 IRWIN

NORTH VIEW
 (not visible from key viewing points)

APPROVED

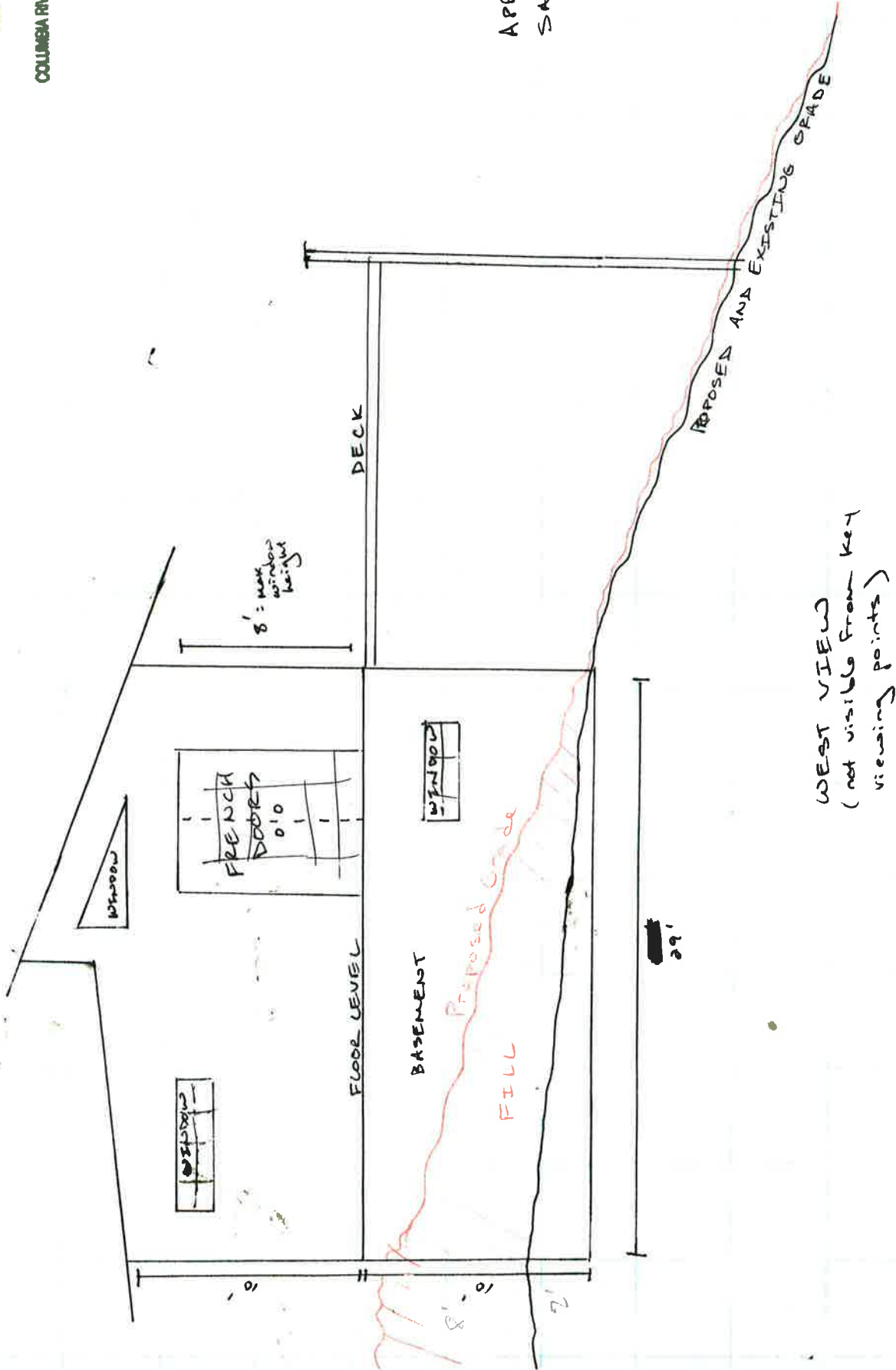
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AUG 31

COLUMBIA RIVER GORGE COMM.

APPLICANTS:
SANDE + BRYAN
IRWIN



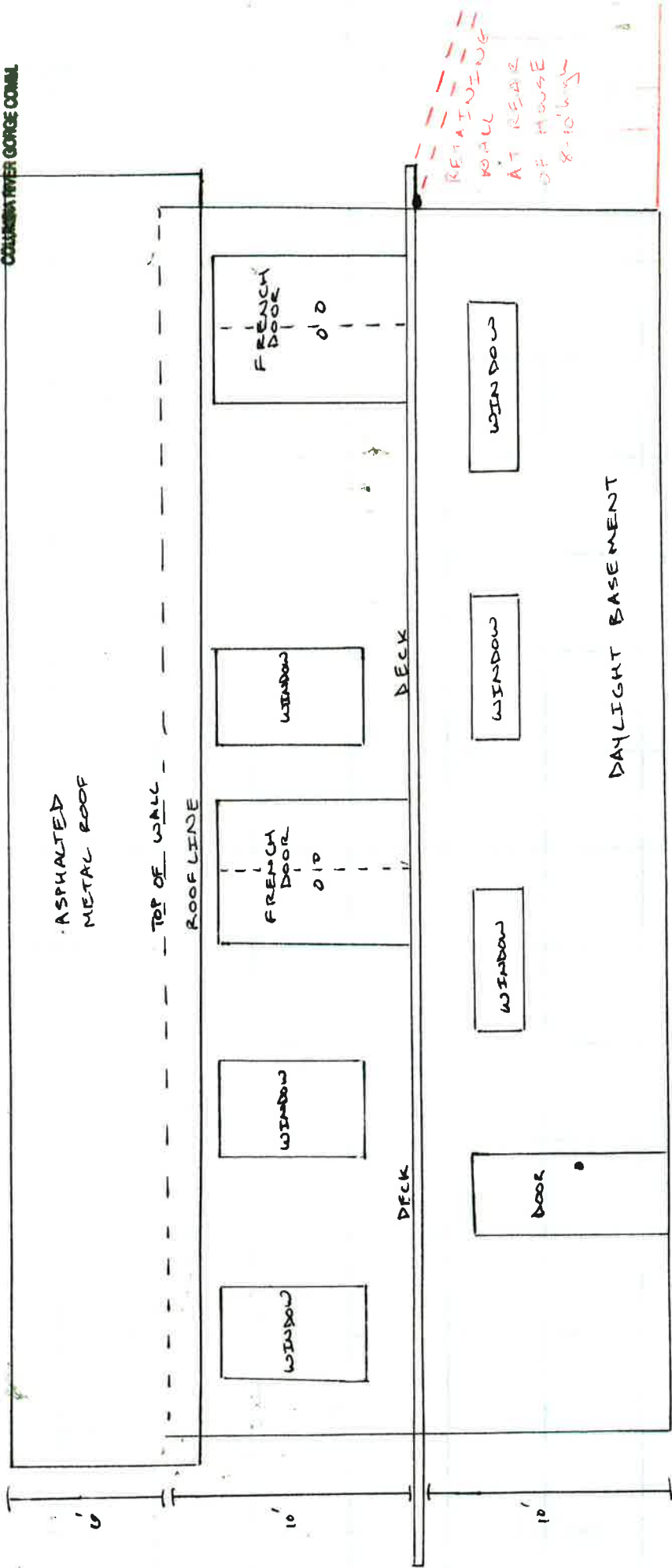
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for 1/18/12

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COLUMBIAN RIVER GORGE COMM

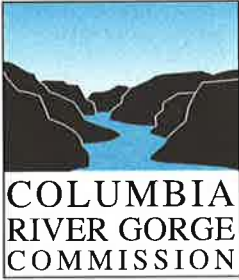


SOUTH VIEW

APPLICANTS:
SANDE + BRYAN
IRWIN

APPROVED

for 1/18/12



PO Box 730 • #1 Town & Country Square • White Salmon, Washington 98672 • 509-493-3323 • fax 509-493-2229
www.gorgecommission.org

STAFF REPORT

APPLICANT: Bryan and Sande Irwin

LANDOWNER: Same

FILE NO.: C11-0008

REQUEST: To remove an existing manufactured home, construct a replacement dwelling in the same location, expand the existing parking area, and construct a woven wire fence adjacent to the dwelling.

LOCATION: The subject parcel is located at 15 Locke Road in the NE ¼ of Section 34, Township 3N, Range 11E, Willamette Meridian, Klickitat County, Washington (Klickitat County Assessor's ID 03113457000400).

LAND USE DESIGNATION: The subject parcel is in the Special Management Area and is designated Agriculture.

COMMENTS FROM OTHER INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the subject request was mailed to property owners within 200 feet of the subject parcel and the following individuals/agencies/governments:

Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation of Oregon
Nez Perce Tribe
U.S. Forest Service National Scenic Area Office
Washington Department of Archaeology and Historic Preservation
Klickitat County Planning Department
Klickitat County Building Department
Klickitat County Health Department
Klickitat County Assessor
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

Written comments were received from Johnson Meninick with the Confederated Tribes and Bands of the Yakama Nation and Richard Till with the Friends of the Columbia Gorge.

FINDINGS OF FACT:

A. Land Use

1. Bryan and Sande Irwin are seeking approval to remove an existing manufactured home, construct a replacement dwelling in the same location, expand an existing parking area, and construct a woven wire fence adjacent to the dwelling. The subject property is approximately 5 acres in size and is designated Agriculture in the Special Management Area. It is situated above Courtney Road on the south-facing hillside

of what is known as Burdoin Mountain. Except for the driveway, house site, and fenced, cleared area downslope of the house (roughly 50 or 60 feet wide and 100 feet downslope), the property is heavily forested with Oregon white oak trees and some pine and fir trees scattered throughout. The property has slopes ranging between 10 and 30 percent.

2. Commission Rule 350-81-082(2) allows for the replacement of legally existing structures if used for the same purpose as the original structure, consistent with guidelines that protect scenic, cultural, recreation, and natural resources, and the use has not been discontinued. Commission Rule 350-81-082(2)(a)(B) allows for the replacement structure to have a different size and location.

The applicants submitted documents from Klickitat County and the U.S. Forest Service that demonstrate the existing manufactured home was legally placed on the property in 1988. The applicants purchased the property in 2002 and have used the dwelling as a second home since that time. The applicants also submitted information from the Klickitat County PUD to demonstrate the dwelling has had continuous electrical service since at least August 1987. Furthermore, Commission staff has observed furniture and other household items that show the dwelling is currently used for residential purposes and the use has not been discontinued. Consistent with Commission Rule 350-81-082, the original structure has been used continuously as a dwelling.

The applicants propose a replacement structure that will be used for the same purpose, in the same location but with a different size, as allowed in Commission Rule 350-81-082. The existing manufactured home has a footprint of approximately 1,000 square feet and is one-story in height. The proposed replacement dwelling will be a single story with a daylight basement and have a footprint of 56' by 28' (1,568 square feet). At its tallest point, the proposed height of the replacement dwelling is 26 feet, approximately 8 feet taller than the existing dwelling.

The existing driveway is long and the parking area is narrow and difficult to turn around vehicles, particularly if more than one is parked at the house. The expanded parking area will include a turn out to create space for vehicles to turn around. It will also include a concrete retaining wall, up to 40 feet in length and varying from 4 to 8 feet in height to allow a lower garage entrance and an accessible ramp to the house entry.

Pursuant to Commission Rule 350-81-082, the replacement structure is an allowed use, subject to review for consistency with provisions that protect scenic, cultural, natural, and recreation resources.

3. Pursuant to Commission Rule 350-81-050(1)(m), the removal of structures that are less than 50 years old are allowed using the expedited development review process, provided they comply with the applicable resource protection guidelines in Commission Rule 350-81-052. Because the review of the removal of the mobile home is combined with the review for a new dwelling, staff used the procedural guidelines for standard reviews instead of Commission Rule 350-81-054. According to Klickitat County records submitted by the applicant, the existing mobile home proposed to be removed was manufactured in 1987 (the final inspection for the home was in 1988). The existing structure to be demolished is less than 50 years old, consistent with Commission Rule 350-81-050(1)(m).
4. Commission Rule 350-81-074(1)(a)(F) allows woven wire fences for gardens and yards up to 500 feet in length and 10 feet in height that are accessory to a dwelling without

review if the posts and wire are brown or black (on lands visible from key viewing areas). The applicants propose to install a black cyclone woven wire fence to enclose an area for a dog on the west side of the proposed dwelling. The enclosure will be approximately 100' by 30', for a total fence length of 260 feet. The fence will be 50 inches in height. The use, length, height, and color of the fence are consistent with Commission Rule 350-81-074(1)(a)(F) and, therefore, allowed outright with no further review necessary.

5. Commission Rule 350-81-084(2) lists guidelines for Indian Tribal Treaty Rights and Consultation within the Special Management Area. Commission Rule 350-81-084(2)(a) requires the Forest Service to determine the effects of proposed development on treaty rights. Commission staff consulted with Margaret Dryden, Heritage Resources Program Manager with the USDA Forest Service National Scenic Area, who determined that because the project is not located along the Columbia River or its fish bearing tributaries, the proposed development will have no effects on treaty rights. Additionally, a comment letter received from Johnson Meninick of the Confederated Tribes and Bands of the Yakama Nation dated September 26, 2011 did not identify any treaty rights issues.

Conclusion:

The proposed replacement dwelling is an allowed use, subject to compliance with the guidelines in Commission Rules 350-81-530 to 350-81-600 that protect scenic, cultural, natural and recreation resources. The removal of the mobile home is an allowed expedited review use, subject to compliance with the guidelines in Commission Rule 350-81-052. As proposed, the woven wire fence is allowed without further review.

B. Scenic Resources

1. Commission Rule 350-81-052(1)(a) lists scenic resource protection guidelines for expedited review uses. The removal of the mobile home is eligible for expedited review. Commission Rule 350-81-052(1)(a) includes color, reflectivity and visual subordination guidelines for new structures. Because the mobile home will be removed, these guidelines are not applicable.
2. Commission Rule 350-81-530 lists scenic resource protection guidelines for review uses in the Special Management Area that are not eligible for expedited review. The proposed replacement dwelling is not eligible for expedited review.
3. The Landscape Settings map in the Management Plan classifies the subject parcel as Oak-Pine Woodlands. Commission Rule 350-81-530(1)(a)(B) requires new development in this landscape setting to retain the overall visual character and natural appearance of the Oak-Pine Woodland landscape and:
 - (i) *Buildings shall be encouraged to have ... a horizontal overall appearance in the Oak-Pine 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.*

The proposed dwelling design includes a shed roof with no gables, giving it a horizontal appearance. A deck proposed along the entire width of the structure also provides a

horizontal design feature. The dwelling has been designed to have a horizontal appearance consistent with this requirement.

The subject property is densely vegetated with Oregon white oak trees and some scattered ponderosa pines. No new landscaping is required for scenic resource protection. As discussed in the natural resource section of this decision, new Oregon white oak trees, native to this setting, will be required to off-set the habitat impacts associated with the proposed removal of one oak tree. Oregon white oaks are native to this setting, consistent with Commission Rule 350-81-530(1)(a)(B).

4. Commission Rule 350-81-530(2) includes guidelines for development on lands topographically visible from key viewing areas. The subject property is topographically visible from three key viewing areas: the Columbia River, Interstate 84, and the Historic Columbia River Highway. Thus, the guidelines in Commission Rule 350-81-530(2) apply.
5. Commission Rule 350-81-530(2)(b) requires new development be evaluated to ensure the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects. Commission Rule 350-81-530(2)(c) identifies the scenic standard for lands in the Oak-Pine Woodland portion of the Agriculture land use designation as “visually subordinate.” Commission Rule 350-81-020(170) defines visually subordinate as follows:

Visually subordinate: A description of the relative visibility of a structure where the structure 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.

Commission Rule 350-81-530(2)(d) further describes that the scenic standard shall be met by blending new development with the adjacent natural landscape. As described in Findings B.6 through B.15, the proposed replacement dwelling has been sited and designed to be visually subordinate as seen from key viewing areas.

Commission Rule 350-81-020(40) defines “cumulative effects” as:

The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

As discussed further in findings below, the distance from key viewing areas, use of exterior building materials and colors that blend with the landscape, and the retention of existing oaks and will ensure the proposed dwelling will not cause adverse scenic impacts as viewed from key viewing areas.

For this analysis, staff looked at the eight lots adjacent to and surrounding the subject property because these are the properties a person would likely notice when viewing the subject property from key viewing areas. In the greater area, land use designations, property sizes, ownership, and existing trees aid significantly in the ability to ensure

minimal visual impacts of new or replacement development. The eight lots surrounding the subject property range in size from approximately 3 to 20 acres. Six of the adjacent parcels are 5 acres in size. Seven of the adjacent parcels are designated Agriculture in the Special Management Area and, although there is no minimum parcel size, land divisions may only be approved to facilitate land acquisition by the federal government for purposes consistent with the Management Plan. One parcel located kitty-corner to the northeast of the subject property, is in the SMA but was designated GMA Small-Scale Agriculture with an 80 acre minimum parcel size through the now expired Section 8(o) process. Nearby land divisions are highly unlikely and are not allowed for the purpose of constructing new dwellings. Six of the eight adjacent lots are owned by the U.S. Forest Service, are essentially undeveloped (with the exception of Courtney and Locke Roads), and are managed for the protection of oak woodlands. Dwellings exist on the GMA-designated parcel to the northeast and the parcel to the west. A replacement home was approved and constructed on the parcel to the northeast several years ago and the dwelling on the parcel to the west was replaced in 1998, so staff assumes the likelihood that replacement of the existing dwellings on adjacent parcels any time soon is very low. New dwellings on the adjacent properties federally owned and designated SMA Agriculture are not permitted under the Management Plan or Scenic Area Act because they are less than 40 acres in size. In short, the likelihood that new or replacement dwellings would be proposed in the near future is very low and, therefore, other similarly sited, sized, and designed dwellings will not generate adverse cumulative scenic impacts.

Pursuant to Commission Rule 350-81-190(2), no other permanent dwellings are allowed on the subject property given its size and, thus, the proposed development could not be repeated on the 'same piece of ground' to generate cumulative effects.

For the reasons above, the proposed development will not cause adverse scenic impacts, and is unlikely to cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-530(2)(b).

6. Commission Rule 350-81-530(2)(e) requires new development to be sited to be visually subordinate, fit the natural topography, take advantage of landform and vegetative screening, and minimize visible grading or other landscape and vegetation modifications. The use of existing topography and vegetation shall be prioritized over planting new vegetation or creating artificial berms to screen development from key viewing areas.

The subject property slopes southward with little opportunity to use topographic features to screen new development. The property is heavily wooded, primarily with oak trees and some interspersed ponderosa pine and fir trees. The only significant areas cleared of trees are the driveway, dwelling site, and a fuel break area below the dwelling. Because the site is heavily wooded, only a small portion of the existing dwelling is visible from key viewing areas. By using the same building site, the applicants are taking advantage of existing vegetation to screen the new house from key viewing areas. The proposed grading will be fully screened by existing vegetation from key viewing areas and a condition will require graded areas to be reseeded. As designed, the proposed replacement dwelling and parking improvements are consistent with Commission Rule 350-81-530(2)(e).

7. Commission Rule 350-81-530(2)(f) states:

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).*

The subject parcel is at an elevation of approximately 880 feet, much higher than most of the key viewing areas (KVAs) from which it is visible. The entire building site is topographically visible from three key viewing areas: the Columbia River, Interstate 84, and the Historic Columbia River Highway. However, most of the building site is not exposed to key viewing areas because it is fully screened by existing vegetation. Only a portion of the top half of the existing dwelling is not screened by vegetation and staff needed binoculars to see it. The site is intermittently visible from a segment of the Historic Columbia River Highway beginning about 1/4 mile east of Mosier and ending about 3½ miles further east. Similarly, the building site can be seen from Interstate 84 for a short distance west of Mosier and beginning ½ mile east of Mosier up to Memaloose State Park, a linear distance of 2½ miles. The building site is also visible from a 1-mile stretch of the Columbia River beginning about ¾ mile east of Mosier. The distance from the building site to the KVAs is approximately 1½ to 2 miles.

The subject building site is not highly visible from key viewing areas because of the distance from KVAs, elevation of the site above KVAs, and the presence of existing screening vegetation.

9. Commission Rule 350-81-50(2)(f)(B) states:

(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.

The applicants have sited the replacement dwelling in the same location as the existing dwelling, taking advantage of an existing building site on an otherwise sloped and heavily wooded property. Like the existing home, the replacement dwelling is situated parallel with the topography of the hillside. Without significant grading, it is impractical to re-orient the dwelling perpendicular to the hillside. No conditions are necessary related to siting to ensure the dwelling is visually subordinate as seen from key viewing areas.

Existing vegetation – primarily oak trees – screens most of the existing dwelling from key viewing areas. Although the oak trees are deciduous, they provide year-round screening because of their density in number and the density of the branches. The western portion of the existing dwelling is not fully screened by vegetation, but because of the distance of the site from key viewing areas, is only visible with binoculars. One medium size oak tree, several small pines, one sumac tree, and a couple arborvitae shrubs will be removed for the new dwelling to accommodate a larger building footprint. None of the vegetation to be removed screens the dwelling from key viewing areas. The development has been designed to retain screening vegetation and a condition of approval will ensure it is retained.

As explained later in this section, conditions are applied to the development's color and reflectivity to ensure the development is visually subordinate to its setting as seen from key viewing areas. The design of the structure emphasizes horizontal lines. It is modestly sized and will have a dark roof void of dormers or skylights. Well spaced windows on the building facade will also help it blend with the landscape. The new structure will be approximately 8 feet taller than the existing and, as a result, more of the structure will be visible from key viewing areas. However, with the retention of the existing trees behind the house, the dark roof will blend with the backdrop and not noticeably contrast with the landscape. The applicants also propose a 4 foot roof eave on the south side of the house that will help shade a portion of the main story windows. The deck will shade the daylight basement, effectively screening those windows. The dwelling has been designed to blend well with the surrounding landscape.

In sum, the distance to key viewing areas, use of an existing building site, use of dark colors and materials with low reflectivity, and the retention of existing screening vegetation will ensure the new dwelling is visually subordinate as seen from key viewing areas without the need for new landscaping.

10. Commission Rule 350-81-530(2)(g) requires building sites to be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and their respective buffers, and guidelines to protect cultural resources. Cultural resource protection is discussed in Section C of this report. Natural resource protection is discussed in Section D of this report.
11. Commission Rule 350-81-530(2)(h) prohibits new development from protruding above a bluff, cliff, or skyline as seen from key viewing areas.

The subject property is mid-way up the eastern slope of Burdoin Mountain. Because the land continues to rise behind the development, the dwelling will not break the skyline as seen from any key viewing area. The development is consistent with Commission Rule 350-81-530(2)(h).

12. Commission Rule 350-81-530(2)(i) requires the height of structures to remain below the average tree canopy height, with some exceptions. The height of the proposed house is approximately 26 feet above grade, well below the canopy of the surrounding oak trees which are two to three times that height. Thus, the proposed dwelling is consistent with Commission Rule 350-81-530(2)(i).
13. Commission Rule 350-81-530(2)(j) applies to new landscaping required to screen development from key viewing areas. As described in this section, no new landscaping is required. Therefore, the provisions in Commission Rule 350-81-530(2)(j) are not applicable.
14. Commission Rule 350-81-530(2)(k) requires the use of dark earth-tone colors found at the specific site or in the surrounding landscape for structures on sites visible from key viewing areas.

The applicants propose to use a semi-transparent stain by Sikkens in a "214 Hickory" color. The surrounding landscape is dominated by Oregon white oak trees which have a mix of light and very dark brown colors in the bark. From a distance, darker colors generally blend with the landscape better than light or medium shade colors. Also, staff has found that fully opaque stains are less likely to fade over time than stains with some transparency. According to its website, Sikkens also makes a solid wood finish, Rubbol Siding Finish, in the same colors as the semi-transparent stains. The use of dark colors is necessary to ensure the portion of the building not screened by vegetation from key viewing areas blends with the vegetation below, behind, and to the side of it. As such, staff recommends using a darker, solid stain for the siding color. A condition of approval will require the darker "058 Oxford Brown" or similar color in a solid stain. The proposed trim color, a Miller paint in "0529 Black Licorice," is approved as a dark earth-tone color found in the surrounding landscape. For the roof, the applicant proposes a asphalt-coated metal in a dark brown shade. A sample was submitted without manufacturer or color specifications, but it appears to be Decra stone coated roofing in the Chestnut color which has a mix of medium and dark brown colors. The medium tones may not blend with the dark colors of the landscape and staff recommends a darker color such as the Shadowood color. As conditioned, the exterior colors are dark earth-tones found in the surrounding landscape, consistent with Commission Rule 350-81-530(2)(k).

15. Commission Rule 350-81-530(2)(l) states:

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... Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination.

The proposed exterior materials include wood 'board plank siding' and an asphalt or stone coated metal roof. The wood siding is not reflective. The applicants submitted a

roof sample and its appearance is the same as composite shingles. It is also not reflective.

The elevating drawings for the dwelling indicate no large banks of windows are proposed. The façade of the dwelling facing key viewing areas includes three windows and two French doors on the main, upper level. The easternmost French door and window should be fully screened by vegetation from key viewing areas. Portions of the other French door and two windows will be screened by deck railing and shaded by the roof eave, leaving limited amounts of glass unscreened. The windows are modest in size (approximately 15 square feet each) and well spaced. Three small windows in the daylight basement will be shaded by the deck. As designed, the exterior of the replacement dwelling is consistent with the reflectivity provisions in Commission Rule 350-81-530(2)(l).

16. Commission Rule 350-81-530(2)(m) requires exterior lighting to be placed, 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.

The applicants have not shown any exterior lighting on the proposed dwelling. A condition of approval shall require all outdoor lights to be hooded and shielded so as to minimize their visibility from key viewing areas and the surrounding landscape. With this condition, the proposal is consistent with Commission Rule 350-81-530(2)(m).

17. Commission Rule 350-81-530(3) includes guidelines for new development adjacent to scenic routes or in the foreground of key viewing areas and Commission Rule 350-81-530(4) includes requirements for development not seen from key viewing areas. The subject property is visible from key viewing areas, but is not located along a scenic route or in the foreground of key viewing areas. Thus, Commission Rules 350-81-530(3) and (4) do not apply.

Conclusion:

With conditions of approval for color, reflectivity, outdoor lighting and retention of existing screening vegetation, the proposed development is consistent with guidelines in Commission Rule 350-81-530 that protects scenic resources from adverse effects.

C. Cultural Resources

1. Commission Rule 350-81-052(1)(b) lists cultural resource protection guidelines for expedited review uses. The removal of the mobile home is eligible for expedited review. Commission Rule 350-81-052(1)(b) states:

(A) *The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to 350-81-540(1)(c)(A) or historic survey, pursuant to 350-81-540(1)(c)(B).*

(B) *The GMA guidelines that protect cultural resources and human remains discovered during construction [350-81-540(6) and (7)] shall be applied as conditions of approval for all development approved under the expedited development review process.*

As explained in Finding C.2 below, Margaret Dryden, U.S. Forest Service Archaeologist, determined that a reconnaissance survey was not required as the use would occur on a site with a low probability of cultural resources. A historic survey also is not required for the removal of a building less than 50 years old. Findings C.5 and C.6 below apply Commission Rules 350-81-540(6) and (7) which protect cultural resources and human remains discovered during construction as conditions of approval. With these conditions of approval, the removal of the mobile home is consistent with Commission Rule 350-81-052(1)(b).

2. Commission Rule 350-81-550 lists cultural resource protection guidelines for uses not eligible for expedited review. The proposed replacement dwelling is not eligible for expedited review. Commission Rule 350-81-550(2) requires use of the procedures and guidelines in Commission Rule 350-81-540 for all proposed development in the Special Management Area that is not on federal lands, a forest practice, or a federally assisted project. The proposed development is on private land, does not include a forest practice, and is not federally assisted. Thus, the procedures and guidelines in Commission Rule 350-81-540 are applicable.
3. Commission Rules 350-81-540(1)(c)(A) and (B) include guidelines to determine when a cultural resource reconnaissance survey and a historic survey are required. In a cultural resources survey determination dated October 4, 2011, Margaret Dryden, U.S. Forest Service Archaeologist, reviewed the proposed use pursuant to these rules. Ms. Dryden determined that the proposed use did not require a historic survey as the use would not alter the exterior architecture of buildings or structures that are 50 years old or older nor would it 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, pursuant to Commission Rule 350-81-540(1)(c)(B).

Ms. Dryden determined a reconnaissance survey of the proposed use was not required because it would occur on a site disturbed in the past, it is in an area with a low probability of containing cultural resources, and is not within 500 feet of a known archaeological site. The proposed use is thus exempt from reconnaissance survey requirements pursuant to Commission Rules 350-81-540(1)(c)(A)(i) and (ii)(IV) & (VI).

4. Commission Rule 350-81-540(1)(g) requires consideration of cumulative effects of proposed developments that require a reconnaissance or historic survey, a determination of significance, an assessment of effect, or a mitigation plan. As described above, this development proposal did not require a reconnaissance or historic survey. Additionally, because no known cultural resources are affected by the proposal, no determination of significance, assessment of effect or mitigation plan is required. No cumulative effects analysis is required, pursuant to Commission Rule 350-81-540(1)(g).
5. Commission Rule 350-81-540(2)(c)(B)(i) states the cultural resource protection process may conclude when the following conditions exist:

The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.

As explained in Finding C.3 above, the proposed use does not require a reconnaissance or historic survey. A comment was received from Johnson Meninick of

the Yakama Nation dated September 26, 2011. Mr. Meninick requested results from a cultural resources survey. However, as explained above, no surveys are required for the proposed development. No other concerns were raised in the letter. Pursuant to Commission Rule 350-81-540(2)(c)(B)(i), the cultural resource protection process may conclude.

6. Commission Rule 350-81-540(6) protects cultural resources discovered during construction. It requires that if cultural resources are discovered after construction begins, all construction activities within 100 feet of the discovered cultural resource shall cease; further disturbance is prohibited, and the Gorge Commission shall be notified within 24 hours of the discovery. A condition of approval will alert the applicant to this requirement.
7. Commission Rule 350-81-540(7) protects human remains discovered during construction. It requires that if human remains are discovered after construction begins, all construction activities shall cease and the Gorge Commission, local law enforcement officials and the Indian tribal governments shall be contacted immediately. A condition of approval will alert the applicant to this requirement.

Conclusion:

With conditions requiring the cessation of work and Commission notification if cultural resources or human remains are discovered during construction, the proposed development is consistent with applicable cultural resources guidelines in Commission Rules 350-81-052(1)(b), 350-81-550, and 350-81-540 that protect cultural resources from adverse effects.

D. Natural Resources

1. Commission Rule 350-81-052(1)(d) lists natural resource protection guidelines for expedited review uses. The removal of the mobile home is eligible for expedited review. Commission Rule 350-81-052(1)(d) states:

(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 or Washington 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.

The mobile home to be removed is outside buffer zones for wetlands, streams, rivers, ponds, and lakes as explained in Finding E.2 below. There are no known sensitive plants on the subject property or within 1,000 feet of the mobile home. The mobile home being removed is within Oregon white oak woodlands, a priority habitat identified in Commission Rule 350-81-600(3)(d)(I), however the removal of the existing structure does not require the removal of trees and would not compromise the integrity of the oak habitat. Potential impacts of the replacement dwelling on the oak habitat are addressed in Findings D.6 through 8. The removal of the mobile home is consistent with the natural resource protection measures in Commission Rule 350-81-052(1)(d).

2. Commission Rule 350-81-600 contains guidelines to protect natural resources in the Special Management Area from any adverse affects. Commission Rule 350-81-600(2) contains guidelines for the protection of water resources, including wetlands, streams, ponds, lakes and riparian areas and their buffer zones.

The existing driveway for the dwelling site crosses an intermittent stream located west of the subject property. The proposed development is located more than 500 feet from the stream, well outside of the 50 foot buffer zone for intermittent streams in Commission Rule 350-81-600(2)(a)(B)(ii). Commission inventories, confirmed in staff site visits, do not identify any other water resources near the subject development. Therefore, the proposed development is consistent with the guidelines for the protection of water resources, including wetlands, streams, ponds, lakes and riparian areas.

3. Commission Rule 350-81-600(3) contains guidelines for the protection of wildlife and plants. According to Commission inventories, the project area is not located within 1,000 feet of known sensitive plants. However, Commission inventories identify the subject property as within a protected wildlife area – deer winter range – and a protected priority habitat – Oregon white oak woodlands. As such, Commission staff provided site plans to George Fornes, Habitat Biologist with the Washington Department of Fish and Wildlife and Robin Dobson, a Forest Service biologist for review consistent with Commission Rule 350-81-600(3)(b).

4. Commission Rules 350-81-600(3)(c) and (d) require Commission staff to consult with Forest Service and state wildlife botanists and biologists to determine whether the proposed development would adversely affect, including cumulative effects, protected wildlife areas and priority habitats. As noted above, the proposed development is located within deer winter range (the Big White Salmon Deer Winter Range), a sensitive wildlife area, and Oregon white oak woodlands, a priority habitat.

The applicants proposed to remove five mature oak trees to accommodate the replacement dwelling and enlarged parking area. George Fornes, WDFW, and Robin Dobson, USFS, advised that the proposed development would have no adverse effect on deer winter range, but would adversely affect Oregon white oak woodlands if mature oaks were removed. They advised avoiding tree removal if possible because oak trees take decades to mature and replace lost habitat function. In the event tree removal was required, Mr. Fornes advised, and Mr. Dobson agreed, a replacement tree mitigation ratio greater than 1:1 should be required to avoid adverse effects of mature oak tree removal and minimize cumulative adverse effects. They recommended planting replacement trees at a 6:1 ratio, using the tree canopy area and a planting density of 300 stems/acre to calculate the number of replacement trees, to avoid adverse effects.

Through several conversations and site visits, including one site visit with the applicant, staff was able to work with the applicants to slightly modify the site plan and reduce the number of trees to be removed to one medium-sized oak tree on the southwest side of the house. The tree to be removed is located within the footprint of the replacement dwelling and has a canopy approximately 113 square feet in area. Using the above described mitigation ratio, 5 new Oregon white oak trees will be required. A condition of approval will require the trees to be seedlings (approximately 3 feet tall, 2 gallon size), spaced approximately 10 feet apart, enclosed in wire mesh for protection from deer, and to be planted as soon as possible.

Commission Rule 350-81-020(40) defines "cumulative effects" as:

The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

The action considered is the removal of one medium-sized mature oak tree within an Oregon white oak woodland. To evaluate the cumulative effects, staff considered the size of the woodland, the existing conditions of the woodland, and the likelihood of similar tree removal in the woodland.

The oak woodland covers most of the area on the southeastern flank of Burdoin Mountain in the vicinity of Courtney Road and is connected to a larger woodland in the Major Creek and Catherine Creek drainages. For the purposes of this review, staff considered the Courtney Road area. The oak woodland in this area is roughly 670 acres in size.

The existing condition of the oak woodland in this area is good according to Mr. Dobson, a Forest Service Scenic Area botanist. In the past six years or so, the Forest Service has conducted oak woodland enhancement work on its land in this area to thin trees such as Douglas fir that compete with the oaks and very small oaks for

enhancement of the overall stand. The Forest Service owns about one-third of the land in this area. As a result, the condition of the oak woodland has improved from poor to good in the last ten years.

The likelihood of similar tree removal in the Courtney Road oak woodland area is low on SMA lands and probably higher on GMA designated lands. Oregon white oak woodland is protected in the SMA. Roughly two-thirds of the land in this area is designated Agriculture in the SMA and about half of that is owned by the Forest Service so the likelihood of similar tree removal is low. The rest of the lots are privately owned and were granted GMA land use designations by the Forest Service through the now expired Section 8(o) process. In the GMA, Oregon white oak woodland is not itself protected. In the GMA, the protection of Western gray squirrels may ensure protection of some of the oak woodland because it is prime habitat for the squirrel, but it is conceivable that some trees may be removed on GMA lands in the event of proposed new development. A full analysis of potential impacts to the oak woodland in this area from possible development on GMA lands is outside the scope of this analysis. Nothing in this proposal triggers new development in the GMA.

As described above, 5 new oak trees will be required to offset the impact of removing one medium-sized mature oak tree for the proposed development. Taking into account the low likelihood of similarly situated development – replacement dwellings on SMA lands – no additional impact to the oak woodland is anticipated that would make the cumulative effect of this development different from the effect of the individual action, which, with mitigation, has no adverse effect to the oak woodland. Staff finds the proposed development would not generate adverse cumulative impacts.

5. Commission Rule 350-81-600(3)(e) states:

The wildlife/plant protection process may terminate if the Executive 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 Executive Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.

As explained above in Finding D.3, the development is not located within 1,000 feet or any required buffers of known sensitive plants, therefore the plant protection process may terminate pursuant to Commission Rule 350-81-600(3)(e)(2). Additionally, the Executive Director, in consultation with the Forest Service and the Washington Department of Fish and Wildlife, determined the proposed development would not compromise the integrity of deer winter range, and terminated that portion of the wildlife protection process consistent with Commission Rule 350-81-600(3)(e)(2).

As explained in Finding D.4, staff consulted with the Forest Service and the Washington State Fish and Wildlife regarding potential impacts to Oregon white oak woodlands, a priority habitat. Although the development has been modified to avoid removal of several mature oak trees, the removal of one mature tree is unavoidable. As such, the

development would compromise the integrity of the oak habitat and requires mitigation as described in Findings D.6 through 8.

6. In cases where a proposed development cannot be modified to avoid all impacts to sensitive plants, wildlife areas or sites, or priority habitat areas, Commission Rule 350-81-600(3)(f) requires the development to meet a practicable alternatives test and a mitigation plan to offset the adverse effects. Commission Rule 350-81-600(3)(g) requires the review of and comments on the mitigation plan by the Forest Service and state wildlife agency. In this case, the mitigation plan was prepared jointly by the wildlife agencies, Commission staff, and the project applicant/landowner as described in Finding D.8 below.
7. The practicable alternative test in Commission Rule 350-81-600 requires demonstration that the proposed development meet three criteria:
 - (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 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 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.*

The basic purpose of the use is residential. The applicants propose to replace the existing mobile home with a site built home in the same location but a larger size as allowed in Commission Rule 350-81-082(2)(a)(B). Possible locations for the replacement dwelling are limited to the parcel owned by the applicants. Consistent with criteria (a), there are no other locations on the subject property that would have less impact on the oak habitat because the applicants proposed to replace the dwelling using the same, already disturbed location which minimizes the impacts to oak woodland.

The proposed dwelling size will result in the likely removal of one mature oak tree on the southwest side of the house. Approximate measurements in the field indicated the subject tree is located in about the same place as the southern foundation wall. Shifting the dwelling location a few feet to the north to avoid the tree removal was explored, however doing so would likely threaten other mature oak trees on the north side of the house and not result in less adverse effects. As described in Finding D.4, the applicants agreed to other changes in design of the deck and parking area to avoid removing four larger oak trees, consistent with criteria (b).

Consistent with criteria (c), the applicants have made reasonable accommodations and changes in design to minimize impacts to the oak woodlands. There are no infrastructure, parcel size, land use designation, or other similar constraints that could be accommodated or removed to eliminate the impacts.

Consistent with the practicable alternative test in Commission Rule 350-81-600(3), there are no alternative sites for the proposed use and reasonable changes in project design have been agreed to by the applicants to minimize the impacts to oak woodlands taking into account cost, overall project purposes, and other factors.

8. Commission Rule 350-81-600(3) requires a mitigation plan when a proposed development is located within sensitive wildlife area or site, including priority habitat resources, and there is no practicable alternative (as described in Finding D.7). Mitigation plans are the responsibility of the applicant and must be prepared by a qualified professional. In this case, the mitigation plan was prepared by Robin Dobson, botanist for the Forest Service Scenic Area office and George Fornes, habitat biologist with the Washington Department of Fish and Wildlife. As explained in Finding D.4, the proposed development was modified to reduce the number of oak trees removed for the project from five to one. Mr. Dobson made a site visit to confirm the removal of one medium-sized oak tree was not an alternative to complete avoidance of tree removal. As explained above, Mr. Fornes and Mr. Dobson agreed on a mitigation plan based on a tree replacement ratio of 6:1, using the tree canopy area and a planting density of 300 stems/acre to calculate the number of required replacement trees.

A condition of approval will require the applicant to submit a site plan for review and approval by the Executive Director that specifies where the replacement trees will be planted. The condition of approval also will specify the requirement to plant five seedlings (approximately 3 feet tall, 2 gallon size), spaced approximately 10 feet apart, enclosed in wire mesh for protection from deer, as soon as possible and no later than one year after the start of construction. In addition, the condition will require replacement of trees that do not survive and the submittal of color photographs of the trees after three years for monitoring purposes. Upon the advice and expertise of the Forest Service and Washington Department of Fish and Wildlife, this mitigation plan will offset the impact of removing one medium-sized mature oak tree and, over time, result in no net loss of habitat, Consistent with the mitigation plan requirements in Commission Rule 350-81-600(3).

Conclusion:

Project modification and the requirement of replacement oak trees ensure the proposed development is consistent with applicable guidelines in Commission Rule 350-81-600 to protect natural resources from adverse effects.

E. Recreation Resources

1. Commission Rule 350-81-052(1)(c) lists recreation resource protection guidelines for expedited review uses. Only the removal of the mobile home is eligible for expedited review. Commission Rule 350-81-052(1)(c) states:

(A) The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

Established recreation sites do not exist on parcels that adjoin the subject parcel. Commission Rule 350-81-052(1)(c)(A) is not applicable.

2. Commission Rule 350-81-086 applies to the proposed development that is not eligible for expedited review. Commission Rule 350-81-086 states:

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.

Established recreation sites do not exist on parcels that adjoin the subject parcel. Commission Rule 350-81-086 is not applicable.

3. Commission Rule 350-81-620 includes guidelines for new recreation development. No new recreation development is proposed and, therefore, the guidelines in Commission Rule 350-81-620 are not applicable.

Conclusion:

No new recreation development is proposed and the proposed replacement dwelling is consistent with guidelines in Commission Rules 350-81-052(1)(c) and 350-81-086 that protect nearby recreation resources.

cc: Confederated Tribes and Bands of the Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs Reservation
Nez Perce Tribe
Klickitat County Planning
Klickitat County Building
Friends of the Columbia Gorge
Washington Department of Fish and Wildlife
U.S. Forest Service, Scenic Area Office

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