

## DIRECTOR'S DECISION

**APPLICANT:** Brian & Ronda Griffin

**LANDOWNER:** Brian & Ronda Griffin

**FILE NO.:** C17-0015

**REQUEST:** The Columbia River Gorge Commission received an application for the replacement of a mobile home with a single-family dwelling.

**LOCATION:** The subject parcel is located at 27 Monagon-Howard Road, Lyle, WA 98635, in the NE ¼ of the NE ¼ of Section 28, Township 3 North, Range 12 East, W.M., Klickitat County Tax Lot Number 03122854000200.

**LAND USE DESIGNATION:** The subject parcel is designated Small-Scale Agricultural in the General Management Area and is 9.84 acres in size.

### DECISION:

Based upon the following findings of fact, the land use application by Brian & Ronda Griffin to replace an existing mobile home with a single-family dwelling is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and approvable under Commission Rule 350-81, and is hereby **approved**.

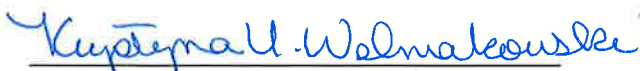
### CONDITIONS OF APPROVAL:

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. Compliance with them is required. **This decision must be recorded in county deeds and records to ensure notice of the conditions to all successors in interest** (Management Plan, Review Uses Guideline 1, pg. II-96).

1. To ensure notice of the conditions to successors in interest, this Director's Decision, Staff Report for C17-0001, and approved site plan shall be recorded in county deeds and records at the Klickitat County Assessor's Office. Once recorded, the applicants shall submit a copy of the recorded document to the Executive Director at the Commission.
2. This decision does not exempt the proposal from other non-Scenic Area rules and regulations. It is the applicant's responsibility to ensure the use complies with all other applicable federal, state, and county laws; and obtain necessary approvals, including utility easement approvals.
3. Any new land uses or structural development such as residences; garages, workshops, or other accessory structures; additions or alterations; or grading not included in the approved application or site plan will require a new application and review.

4. If over 200 cubic yards of grading is necessary, the applicant shall submit a new land use application for grading activities including a grading plan and narrative, consistent with Commission Rule 350-81-520(2)(aa); and revised elevation drawings, including the natural grade and finished grade surrounding the proposed structures and other improvements if applicable, consistent with Commission Rule 350-81-032(5) to the Gorge Commission Development Review Officer for review and approval.
5. The development shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director before the changes are implemented.
6. Pursuant to Commission Rule 350-81-078 which specifies agricultural setbacks, a vegetated barrier shall be retained south of the accessory building. Wildfire prevention measures may be implemented in the retention area, including the clearing of downed limbs and other debris, removal of ladder fuels and limbing of trees.
7. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or [guy.tasa@dahp.wa.gov](mailto:guy.tasa@dahp.wa.gov). The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
8. If human remains are discovered during construction activities, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.
9. 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).

DATED AND SIGNED THIS 13<sup>th</sup> day of February 2018 at White Salmon, Washington.



Krystyna U. Wolniakowski  
Executive Director

**EXPIRATION OF APPROVAL:**

Commission Rule 350-81-044 governs the expiration of this Director's Decision.

***This decision of the Executive Director becomes void on the 13<sup>th</sup> day of February 2020 unless construction has commenced in accordance with Commission Rule 350-81-044(4).***

Commission Rule 350-81-044(4) specifies that commencement of construction means actual construction of the foundation or frame of the approved structure.

Construction must be completed within two years of the date that the applicant commenced construction. The date of the Executive Director's preconstruction inspection to confirm the location of proposed

structural development as required by this decision shall be considered the date the applicant commenced construction, unless the applicant demonstrates otherwise.

Once the applicant has commenced construction of one element in this decision, the applicant will need to complete all elements in this decision in accordance with Commission Rule 350-81-044. The Commission does not use different "commencement of construction" dates for different elements in this decision.

The applicant may request one 12-month extension of the time period to commence construction and one 12-month extension to complete construction in accordance with Commission Rule 350-81-044(6). The applicant must submit the request in writing prior to the expiration of the approval. If the applicant requests an extension of time to complete construction after commencing construction, the applicants shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicants were not responsible, would prevent the applicants from commencing or completing the proposed development within the applicable 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 on the 15<sup>th</sup> day of March 2018.***

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

**NOTES:**

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

This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

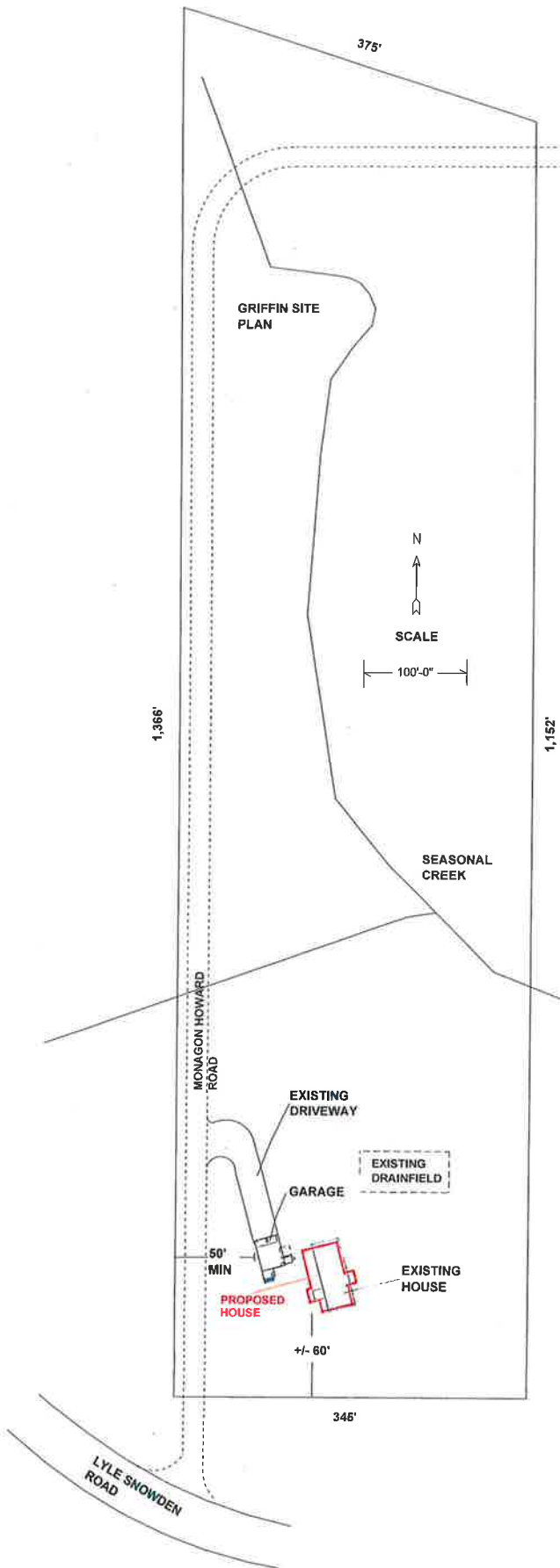
cc:

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

Attachments:

Staff Report for C17-0015  
Approved site plan

C17-0015



**APPROVED**

*Kyrtone U. Wolnakehi*

C17-005

THE GRIFFIN RESIDENCE  
2130 FG REVERSE



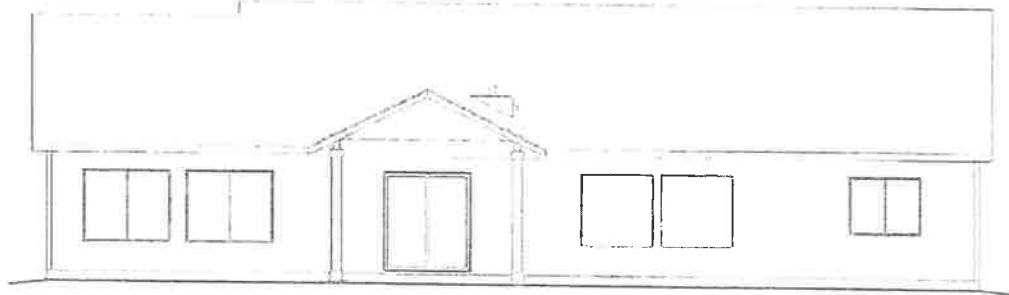
FRONT ELEVATION  
1/8" = 1'-0"



LEFT ELEVATION  
1/8" = 1'-0"



RIGHT ELEVATION  
1/8" = 1'-0"



REAR ELEVATION

APPROVED

Drawn for: *Travis Griffin*  
 Drawn by: *Ronda Griffin*  
 DATE: 04/28/2017

OFFICER: ADAIR HOMES

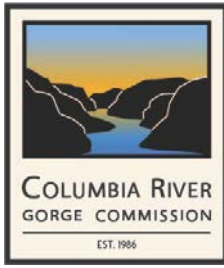
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ADAIR HOMES  
© COPYRIGHT 2017

CLASSIC ELEVATION

APPROVED  
*Kylemell Water*



## STAFF REPORT

- Proposal:** The Columbia River Gorge Commission received an application for the replacement of a mobile home with a single-family dwelling.
- Applicant:** Brian & Ronda Griffin
- Landowner:** Brian & Ronda Griffin
- Location:** The subject parcel is located at 27 Monagon-Howard Road, Lyle, WA 98635, in the NE ¼ of the NE ¼ of Section 28, Township 3 North, Range 12 East, W.M., Klickitat County Tax Lot Number 03122854000200.
- Case File:** C17-0015
- Zoning:** The subject parcel is designated Small-Scale Agricultural in the General Management Area and is 9.84 acres in size.

### COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the subject request was mailed to property owners within 200 feet of the subject parcel and the following organizations/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 Public Works Department  
Klickitat County Health Department  
Klickitat County Assessor  
Washington Natural Heritage Program  
Washington Department of Fish and Wildlife  
Friends of the Columbia Gorge

Written comments were received from Steven McCoy, Friends of the Columbia River Gorge.

## FINDINGS OF FACT:

### A. Land Use

1. The subject parcel is in the General Management Area (GMA) and is designated Small-Scale Agriculture.
2. The subject parcel is approximately 9.84 acres, is rectangular, and has west and southwest-facing slopes. It contains a mix of mature oak woodlands, scattered pine trees and open grasslands. The topography of the parcel varies. There are steep slopes along the western and northern property lines that range from 20% to 45% or more<sup>1</sup>. Existing development is located near the southern property line in a depression that was previously cleared and graveled and includes the single-story mobile home and detached two-story garage.
3. There have been three prior Gorge Commission decisions approving development on the subject property. In 1989, Director's Decision C89-0002 approved a short plat of a 20-acre parcel into two 10-acre parcels. The subject parcel is one of the short plat parcels created after this decision. Decision C89-0002 also approved the placement of a mobile home on the parcel. The mobile home approved in that 1989 decision is the mobile home currently on the parcel.
4. Director's Decision C12-0008 approved a request to remove an existing shed and construct a two-story detached garage with an attached pump-house, attached garden shed and raised deck. The shed was removed and the approved garage with attached pump-house, garden shed, and raised deck was constructed.
5. Director's Decision C13-0010 approved replacing a covered porch from the existing mobile home with a new detached, covered pergola with stone patio in the exact same location.
6. In the current application, the applicant proposes to remove the existing mobile home and replace it with a new single-family dwelling in the exact same location. The new home will be one story and be approximately 2,386 square feet, with covered porches on the front and back. The existing detached garage will remain.
7. Commission Rule 350-81-076 states that all new buildings in the GMA adjacent to lands designated Large or Small-Scale Agriculture and currently used for or suitable for an agricultural use, shall comply with the applicable agriculture setback.

The subject parcel is surrounded by parcels designated Small-Scale Agriculture. The parcel to the east appears to currently be used for cattle grazing. Adjacent properties to the west, north, and south contain scattered forests and do not appear to have any active agricultural uses. In their current state, however, the adjacent properties appear suitable for livestock grazing. Setbacks specified for livestock grazing, pasture, and haying include a 100-foot buffer for open or fenced areas, a 15-foot buffer when a natural or created vegetation barrier exists, and a 20-foot buffer when a terrain barrier exists. The building site contains an existing vegetation barrier of oak and pine trees on all sides. Intervening topography provides a terrain barrier to the west. As proposed, the replacement dwelling will be located more than 1,000 feet from the northern property line, 200 feet from the eastern property line, 60 feet from the southern property line, and at least 75 feet from the western property line. With a condition of approval

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<sup>1</sup> This description of the slope on the subject parcel comes from Director's Decision C13-0010.



to retain the existing vegetative barrier south of the building site, the proposed development is consistent with this rule.

8. Commission Rule 350-81-190(1) lists the review uses that may be allowed on lands designated Small-Scale Agriculture in the GMA, subject to compliance with scenic, cultural, natural, and recreation resources guidelines of the Commission Rule 350-81, Sections 520 through 620.
9. Commission Rule 350-81-190(1)(j) allows, "On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel." Commission Rule 350-81-020(112)(c) defines parcel as, "A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines."

As noted in finding A.2 above, prior Commission Decision C89-0002 approved the creation of the subject parcel in 1989. The parcel was legally created on October 4, 1989 as Parcel 2 of Klickitat County Short Plat No. 89-08.<sup>2</sup>

#### Conclusion:

The subject parcel is a legally existing parcel, designated Small-Scale Agriculture. A single-family dwelling is an allowable use, subject to compliance with the guidelines in Commission Rules 350-81-520 to 350-81-590 that protect scenic, cultural, natural, or recreation resources. Furthermore, as proposed, the development is consistent with the buffer requirements in Commission Rule 350-81-076 for the protection of adjacent agricultural lands.

#### B. Scenic Resources

1. Commission Rule 350-81-520(1)(a) states, "New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable."

The parcel contains western and southwestern-facing slopes with steep terrain near the western and northern property lines. The existing gravel driveway will remain the access road from the main road to the new dwelling, and no further grading will be necessary. The proposed development site will be in the exact same location as the existing mobile home. The building design does not include a basement or crawl space. As proposed, the dwelling is sited and designed to retain the existing topography and reduce necessary grading to the extent practicable, consistent with Commission Rule 350-81-520(1)(a).

2. Commission Rule 350-81-520(1)(b) states, "New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development."

The Commission applies this guideline by comparing development within an area that it defines based on a number of factors including nearby development, land use designations, and visibility from key viewing areas. To determine compatibility of the proposed development with existing nearby development, Commission staff looked at development within a study area of an approximately one-half mile radius surrounding the subject parcel. Staff chose one-

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<sup>2</sup> Klickitat County, WA. Short Plat No. SP-89-08.

half mile as the surrounding extent because parcels within that area are in the same land use designation as the subject parcel, are within the same landscape setting, and all the parcels have similar visibility from key viewing areas. Additionally, most of the parcels in the area are developed, and all of those that are developed have a single-family dwelling.

To find the scale of the buildings within this study area, staff consulted property valuation documents from Klickitat County's records. Many of these evaluations were found in the folders of former development reviews of projects on parcels within the study area. The property valuation information could not be found for three parcels, so staff removed these three parcels from the study (as described below, removing these three lots from the study does not affect the analysis). Staff then recorded the story height and square footage of every building on all the parcels in the study area. Of the 30 parcels in the area, staff identified 24 parcels with development. There are currently 94 buildings in the study area. These buildings include garages, agricultural structures, accessory structures, and dwellings.

Regarding height, the proposed replacement dwelling is one story. Many of the buildings in the study area are one story in height. The proposal is similar and thus compatible with the height of existing nearby development.

The Commission uses square foot size as its means of calculating and comparing overall mass of buildings. The areas of covered decks are included when calculating the overall mass of a building because a covered deck adds to the overall visual mass of a building. The proposed replacement dwelling will be approximately 2,130 square feet, with covered porches on the front and back. The combined area of the covered porches is 256 square feet, for an overall mass of 2,386 for the dwelling. The size of existing development in the surrounding area ranges in size from 64 to 3,440 square feet. The average size of buildings within the area is 1,009 square feet. The adjacent parcel to the east has a dwelling that is 2,495 square feet. The proposed dwelling of 2,386 square feet is within the size range of nearby buildings and thus compatible with the overall mass of nearby development.

The commission also considers linear dimensions of buildings when evaluating for compatibility with the dimensions of other buildings in the area. Dimensions are evaluated to determine the compatibility of the proposed development's proportions with those of existing nearby development. Staff referenced building dimension information provided in the property valuation documents, which are recorded in feet, and noted the linear dimensions of all buildings in the study area. The aspects of length and width are not noted separately but are both regarded as linear dimensions. Dimensions of buildings in the study area range from 5 feet to 88 feet. The average dimension is 30 feet. The dimensions of the proposed dwelling are approximately 64 feet by 36 feet, and are thus compatible with the dimensions of existing nearby development.

Based on the above findings, the proposed replacement dwelling is consistent with Commission Rule 350-81-520(1)(b).

3. Commission Rule 350-81-520(1)(c) states, "Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in this chapter."

No new vegetation will be required to protect scenic resources. This rule does not apply.

4. Commission Rule 350-81-520(1)(d) states that the “site plan and application shall include all information required in the site plan guidelines in “Review Uses” 350-81-032(5).”

The applicant provided an application form, project description, site plan, and elevations drawings consistent with Commission Rule 350-81-032(5). The applicant indicated that grading of the building site and driveway was previously completed; therefore, additional grading is not necessary for the proposed dwelling. As a condition of approval, if over 200 cubic yards of grading is necessary, the applicant shall submit a new land use application for grading activities. That application shall include a grading plan, consistent with Commission Rule 350-81-520(2)(aa), and revised elevation drawings, including the natural grade and finished grade surrounding the proposed structures and other improvements if applicable, consistent with Commission Rule 350-81-032(5).

5. Commission Rule 350-81-520(2) contains guidelines for all review uses visible from key viewing areas.

Staff visits to the site verified that the development site is not topographically visible from key viewing areas. Therefore, Commission Rule 350-81-520(2) does not apply to the proposed development.

6. Commission Rule 350-81-520(3) contains guidelines that pertain to the landscape setting. The subject parcel is in the Oak-Pine Woodland landscape setting. Commission Rule 350-81-520(3)(c) contains standards for new development in the Oak-Pine Woodland Landscape Setting. Because the building site is not topographically visible from key viewing areas and no new recreation is proposed, the only portion of this rule that applies is 350-81-520(3)(c)(A) which states, “Structure height shall remain below the tree canopy level in wooded portions of this setting.”

The proposed building will reach a maximum height of 19 feet and is clustered with existing development at the south end of the parcel. The development is surrounded by mature oak trees with canopies that exceed 24 feet in height. Given this information, the proposed development is consistent with the requirements of Commission Rule 350-81-520(3).

#### Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-81-520 that protect scenic resources in the National Scenic Area from adverse effects.

#### C. Cultural Resources

1. The Heritage Resources Program Manager for the Columbia River National Scenic Area, Chris Donnermeyer, reviewed the development proposal and submitted a Cultural Resources Survey Determination to the Gorge Commission on January 16, 2018. Based on information in the National Scenic Area records and inventories and the requirements of the Gorge Commission’s Land Use Ordinances, Mr. Donnermeyer determined that a Cultural Resource Reconnaissance Survey is not required, and a Historic Survey is not required.
2. Commission Rule 350-81-540(1)(c)(A)(i) states, “A reconnaissance survey is required for all proposed uses within 500 feet of a known cultural resource.”

As confirmed by the Cultural Resources Survey Determination, the proposed development will not occur within 500 feet of a known cultural resource. This rule does not apply.

3. A cultural reconnaissance survey is required for all proposed uses except for those stated under Commission Rule 350-81-540(1)(c)(A)(ii). This rule specifies that “The modification, expansion, replacement, or reconstruction of existing buildings and structures” is exempt from a reconnaissance survey.

The proposed use is a replacement of an existing dwelling in the exact same location. The proposed development is exempt from a reconnaissance survey.

4. Commission Rule 350-81-540(1)(c)(A)(ii)(IV) states that cultural surveys are not required for, “Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance.”

The project proposal submitted by the applicant demonstrates that land-disturbing activities have already occurred on the proposed development site. The proposed use will occur on the same site previously graded for the existing mobile home.

5. Commission Rule 350-81-540(1)(c)(A)(ii)(V) does not require a reconnaissance survey for projects that have been adequately surveyed in the past.

The proposed use will occur on a site that has been adequately surveyed in the past, as confirmed by the Cultural Resources Survey Determination.

6. Commission Rule 350-81-540(1)(c)(B) states, “A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

The existing mobile home is less than 50 years old. The proposed development will not compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older. Commission Rule 350-81-540(1)(c)(B) does not apply to the proposed development.

7. 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 implementing this requirement is included in this decision.
8. Commission Rule 350-81-540(7) contains provisions addressing discovery of human remains during construction. A condition of approval requiring adherence to these measures if human remains are discovered is included in this Director’s Decision.

#### Conclusion:

With conditions to protect unknown cultural resources or human remains discovered during construction, the proposed development is consistent with the guidelines in Commission Rule 350-81-540 that protect cultural resources in the National Scenic Area from adverse effects.

D. Natural Resources

1. Commission Rule 350-81 provides guidelines for protecting wetlands (Section 560); streams, ponds, lakes, and riparian areas (Section 570); sensitive wildlife areas and sites (Section 580); and sensitive plants (Section 590).

There are no wetlands, or wetlands buffer zones on the subject parcel. The proposed development is consistent with Commission Rule 350-81-560.

2. An intermittent stream not used by anadromous or resident fish is located on the subject parcel. Commission Rule 350-81-570(7)(a)(B) requires a 50-foot buffer zone on each side of intermittent streams.

The proposed dwelling is located approximately 300 feet from the stream, outside the buffer zone for the stream and consistent with Commission Rule 350-81-570.

3. Commission Rule 350-81-570(1)(c) requires consideration of cumulative effects of proposed developments within streams or their buffer zones.

As described above, the proposed development is located outside of the stream and its buffer zone. Therefore, no cumulative effects analysis is required, pursuant to Commission Rule 350-81-570(1)(c).

4. Commission Rule 350-81-580 contains criteria for the review of potential impacts to sensitive wildlife.

The Gorge Commission's sensitive wildlife inventory shows the development site is located within Deer and Elk Winter Range, a sensitive wildlife area defined by Commission Rule 350-81-580(1)(a)(A).; no other sensitive wildlife area exists within 1,000 feet of the development site.

5. Commission Rule 350-81-580(4)(a) requires the Gorge Commission to notify the Washington Department of Fish and Wildlife and submit a site plan when a new development or land use is proposed within a sensitive wildlife area.

Commission staff notified Washington Department of Fish and Wildlife of the proposed development and sent a copy of the site plan. On February 12, 2018, Commission staff received an email from Amber Johnson, Habitat Biologist for the Washington Department of Fish & Wildlife, that stated, "I have no concerns because the project is just replacing an existing structure." The proposed development will be sited in the exact same location as the existing dwelling, an area that was previously disturbed and is regularly maintained. The new development poses no new adverse effects to the sensitive wildlife area, and is consistent with Commission Rule 350-81-580.

6. Commission Rule 350-81-580(1)(c) requires the determination of potential effects of significant natural resources to include the consideration of cumulative effects of proposed developments within 1,000 feet of sensitive wildlife areas and sites. 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 subject parcel has a previously-cleared and graveled driveway and home site. The home site includes the following: a single-story mobile home; a detached covered pergola with stone patio with a footprint of 128 square feet; a detached garage with an attached pump-house, attached garden shed and raised deck, with a combined ground footprint of 868 square feet. The proposed development will be built on the exact same site as the existing mobile home and requires no additional clearing or disturbance on the parcel. With these characteristics of the proposal, the development would not change any impact on winter range relative to the existing development. The development will not generate adverse cumulative winter range impacts.

7. Commission Rule 350-81-590 contains provisions for the protection of rare and sensitive plants.

The Gorge Commission's sensitive plant inventory does not show any sensitive plant sites within 1,000 feet of the proposed development. Therefore, this rule is not applicable.

Conclusion:

As proposed, the development is consistent with guidelines in Commission Rules 350-81-560 through 350-81-590 that protect natural resources from adverse effects.

#### E. Recreation Resources

1. Commission Rule 350-81-086 states, "If new buildings or structures may detract from the use and enjoyment of established recreation sites, an appropriate buffer shall be established between the building/structure and the parcel."

No recreation sites or facilities exist on parcels that are adjacent to the subject parcel, consistent with this rule.

Conclusion:

The proposed development is consistent with applicable recreation resource guidelines in Commission Rule 350-81-086 that protect recreation resources from adverse effects.

#### F. Treaty Rights Protection

1. Commission Rule 350-81-084(1) provides protection of Tribal treaty rights from new development in the National Scenic Area. Commission Rule 350-81-084(1)(a) lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments.

The subject parcel has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or emailed to the four tribal governments on December 7, 2017 and notice of the cultural resource survey was emailed to the four tribal governments on January 23, 2013. The notice included a comment period of 21 days.

2. Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No comments were received. Given

this information, the proposed dwelling is consistent with Commission Rule 350-81-084(1)(b).

3. Commission Rule 350-81-084(c)(B) states, “The treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.”

The subject parcel does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Commission Rule 350-91-084(c)(B).

Conclusion:

The proposed development is consistent with the guidelines in Commission Rule 350-81-084, which provides protection for treaties and any other rights of any Indian tribe.

JK  
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