



**FACTS AND FINDINGS  
COLUMBIA RIVER GORGE COMMISSION STAFF REPORT**

**APPLICANT:** Robert and Dorothy Nelson

**LANDOWNER:** Same

**FILE NO.:** C17-0001

**REQUEST:** To replace an existing 480 square feet well house and garage accessory building with a 708 square feet building to be used for the same purpose. Minimal grading is required to accommodate the larger building and removed earth will be spread adjacent to the building for a vehicle turnaround. The building will be painted a tan color to match the existing single family home with attached garage.

**LOCATION:** The subject parcel is located at 14 Henderson Rd, south of Centerville Highway, in the SW ¼ of Section 31, Township 3 North, Range 13 East, W.M., Klickitat County, Washington. (Klickitat County Parcel No. 03133310001900).

**LAND USE DESIGNATION:** The 16.5-acre parcel is located in the General Management Area and is designated Residential.

**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
- Friends of the Columbia Gorge
- Klickitat County Planning Department
- Klickitat County Building Department
- Klickitat County Health Department
- Klickitat County Assessor
- Nez Perce Tribe
- Skamania County Planning Department
- U.S. Forest Service National Scenic Area Office
- Washington Department of Fish and Wildlife
- Washington State Historic Preservation Office
- White Salmon Library

Comments were received from Steve McCoy, Friends of the Columbia River Gorge and from Marge Dryden, US Forest Service National Scenic Area. The comments received are addressed in the following findings of fact.

## **BACKGROUND:**

The applicant, Robert Nelson, came into the Gorge Commission Office on December 15, 2016 and again December 19<sup>th</sup> to discuss a project in progress to replace an existing garage and well pump building on the property owned by both Robert and Dorothy on Henderson Road. The building houses a well pump and allows for storage of vehicles and equipment.

Staff identified a previous consistency determination for the original building, which was reviewed after-the-fact in 1996. C96-0017-K-G-11 was signed in July, determining the accessory building to be in compliance with the Management Plan and the Columbia River Gorge Commission Rules. The current owners propose to replace the original 480 square feet accessory building with a 708 square feet building.

Staff deemed Mr. Nelson's application complete under Section 35-81-030 of Commission Rules and noticed for public comment on 10 January 2017. One comment letter was received 30 January 2017 from Friends of the Columbia River Gorge. Staff conducted a site visit on 2 February 2017 to verify several elements of Mr. Nelson's application.

## **FINDINGS OF FACT:**

### **A. LAND USE**

The subject parcel is 16.5 acres, in the General Management Area, and designated Residential. A single-family dwelling with attached garage, well-house, storage shed, smoke-house, dog run, and access drive currently occupy the subject parcel.

Commission Rule 350-81-082 provides for existing uses to continue in the same manner and for the same purpose, so long as the use has not been discontinued for a period of one year or more. The replacement building is required to comply with the following standards:

*(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.*

*(B) The replacement structure may have a different size and/or location than the original structure...*

*(C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.*

Commission Rule 350-81-370(1)(b) allows as a review use "building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel", subject to the following standards:

*(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings, and proposed buildings.*

*(B) The height of any individual accessory building shall not exceed 24 feet.*

Finding: The proposed accessory building is 708 square feet in size and 15'2" in height at roof pitch. The parcel also has a home with attached garage, a metal shed (130 square feet), small shed (28 square feet)

and smoker (16 square feet). In combination with existing accessory buildings on the property, the total footprint of accessory buildings is less than 1500 square feet.

**Conclusion:** The proposed building is an allowed review use pursuant to Commission Rule 350-81-370. This is not an expedited review use. It is a full review use. The proposed development is subject to compliance with the scenic, cultural, natural, and recreation resources guidelines (Commission Rules 350-81-520 through 350-81-620).

## **B. SCENIC RESOURCES**

Commission Rule 350-81-520(1)(b) states that “new buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.”

**Finding:** Staff identified nine parcels within .25 miles of the subject parcel and located in the Residential land use designation. Additional parcels within this radius are undeveloped or are designated for agricultural land use and have large agricultural accessory buildings. The proposed building will be 15’2” in height and approximately 708 square feet. County Assessor’s office records describe only one outbuilding located on an adjacent parcel. This building is 1,344 square feet in size. Additional accessory buildings are visible on aerial imagery but not recorded by the County Assessor. Four of these appear to be larger than the proposed building.

Approximately 25 square feet of previously disturbed earth will be graded and spread immediately adjacent to the structure to provide a turnaround for vehicles and equipment.

**Conclusion:** The accessory building complies with Commission Rule 350-81-520(1).

The Commission determined in its after-the-fact review of the original accessory building that the site is not visible from any Key Viewing Areas. Staff conducted a site visit on 1 February 2017 and confirmed this finding.

**Conclusion:** The development is not subject to scenic resources protections described in 350-81-520(2).

Commission Rule 350-81-520(3) requires all review uses to comply with applicable Landscape Setting guidelines. The development is located within the Rural Residential/Coniferous Woodland Landscape Setting; expansion of existing development shall comply with the guidelines for the Rural Residential and the Coniferous Woodland settings, unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable.

The forest on the subject parcel is mixed ponderosa pine and oak. The building is approximately 15 feet in height; it is well below the height of the forest canopy. Two individual hazard trees were removed from the building site, consistent with Commission Rule 350-520(3)(e)(A) which states “existing tree cover shall be retained as much as possible, except as necessary for site development, safety purposes, or as part of forest management practices.”

**Conclusion:** The proposed development is consistent with the applicable scenic resource guidelines in Commission Rule 350-81-520.

### C. CULTURAL RESOURCES

Commission Rules 350-81-540(1)(c)(A) and (B) include guidelines to determine when a cultural resources reconnaissance survey and a historic survey are required for proposed developments.

Pursuant to Commission Rule 350-81-540(1)(c)(A)(ii)(I), a reconnaissance survey was not required by USDA Forest Service Archaeologist, Margret Dryden.

Pursuant to Commission Rule 350-81-540(1)(c)(B), a historic survey was not required since the proposed development would not alter the exterior architectural appearance of buildings or structures 50 years old or older, and would not compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years or older.

**Conclusion:** The proposed development is consistent with the applicable cultural resource guidelines in Commission Rule 350-81-540.

### D. RECREATION RESOURCES

The subject parcel is not adjacent to any parks or recreation sites.

**Conclusion:** The proposed development is consistent with applicable recreation resource guidelines and Commission Rule 350-81-610 does not apply.

### E. NATURAL RESOURCES

Commission Rule 350-81-560 through 590 provide guidelines for protecting wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife areas and sites, and rare plants.

**Findings:** The Gorge Commission's natural resource inventory indicates that no wetlands, streams, ponds, lakes, riparian areas, or buffers for these areas exist on the parcel. No rare or sensitive plants are known to exist on or within 1,000 feet of the subject parcel.

The natural resource inventory indicates that the subject parcel is within two sensitive wildlife areas, deer and elk winter range, and wild turkey habitat. Commission Rule 350-81-580(4) allows uses within 1,000 feet of a sensitive wildlife area subject to review under Commission Rule 350-80-580(5), and the applicable provisions of Commission Rule 350-81-520. On 2 February 2017, staff contacted Amber Johnson at Washington Department of Fish and Wildlife for comments related to the two habitat types. The Commission received a response that Washington Fish & Wildlife Department does not have any concerns regarding the project.

**Conclusion:** The proposed development is consistent with applicable natural resources guidelines in Commission Rule 350-81.

### F. TRIBAL TREATY RIGHTS

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

property 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 10 January 2017.

Commission Rule 350-81-084(1)(b) lists guidelines for tribal government consultation when those governments submit substantive written comments. No substantive comments were received. Given this information, the proposed development is consistent with Commission Rule 350-81-084(1)(b).

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 property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no substantive 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.

**DATE THIS REPORT WAS PREPARED:** February 23, 2017

**PREPARED BY:** *Jessica Gist, Natural Resources & Land Use Planner, Columbia River Gorge Commission*

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  
Amber Johnson, Washington Department of Fish and Wildlife  
Marge Dryden, United States Forest Service National Scenic Area

END OF STAFF REPORT