DIRECTOR’S DECISION

CASE FILE: C20-0019

PROPOSAL: The Columbia River Gorge Commission has received an application for an approximately 879 sq. ft. addition to an existing agricultural building for the purpose of additional storage for wine barrels, cased goods, and harvesting equipment.

APPLICANT: COR Cellars, LLC

LANDOWNER: Old Hwy, LLC

LOCATION: The subject parcel is located at 151 Old Highway 8, approximately 1 mile northwest of Lyle, in the SE 1/4 of Section 28, Township 3 North, Range 12 East, W.M., Klickitat County Parcel No. 03122800001300.

LAND USE DESIGNATION: The subject parcel is 22.8-acres in size, located in the General Management Area, and designated Small-Scale Agriculture.

DECISION: Based upon the following findings of fact, the land use application by COR Cellars, LLC to construct an approximately 879 sq. ft. addition to an existing agricultural building for the purpose of additional storage for wine barrels, cased goods, and harvesting equipment 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 with conditions.

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 C20-0020, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor’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.

Columbia River Gorge Commission | PO Box 730, 57 NE Wauna Avenue, White Salmon, WA 98672
509.493.3323 | www.gorgecommission.org
3. Any new land uses or structural development such as new buildings, accessory structures, additions to existing buildings, or grading not included in the approved application or site plan will require a new application and review.

4. The final development shall be sited and constructed as described in the staff report and as shown on the approved site plan and elevation drawings. Any changes must be reviewed and approved by the Executive Director pursuant to Commission Rule 350-81-046 (Changes or Alterations to an Approved Action).

5. All exterior building materials, including siding, roofing, trim, and flashing, shall be nonreflective or have low reflectivity. The torch down roofing shall be in a matte finish and maintained as necessary to ensure that the material is nonreflective.

6. Only the approved dark earth-toned colors for exterior materials shall be used. The approved color for the siding is TimberSoy "Deep Ebony," a dark brown stain in a matte finish. The approved color for the roofing is dark grey. Any proposed changes to these colors shall be submitted for review by the Executive Director for consistency with this condition of approval.

7. Except for dead trees or other dead vegetation that may serve as a fire hazard, all existing vegetation on the site shall be retained and maintained for screening purposes.

8. 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. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

9. 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.

10. The applicants 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 5th day of April 2021 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 5 day of April 2023 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 5 day of May 2021.
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 Planning Department
Washington Natural Heritage Program
Washington Department of Fish and Wildlife
Friends of the Columbia Gorge

Attachments:
Staff Report for C20-0019
CASE FILE: C20-0019

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LANDOWNER: Old Hwy, LLC

LOCATION: The subject parcel is located at 151 Old Highway 8, approximately 1 mile northwest of Lyle, in the SE 1/4 of Section 28, Township 3 North, Range 12 East, W.M., Klickitat County Parcel No. 03122800001300.

LAND USE DESIGNATION: The subject parcel is 22.8-acres in size, located in the General Management Area, and designated Small-Scale Agriculture.

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 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 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

Written comments were received from the following parties:
Steve McCoy, Friends of the Columbia Gorge
Christian Nauer, Confederated Tribes of the Warm Springs Reservation of Oregon
FINDINGS OF FACT:

A. Land Use

1. Luke Bradford of COR Wine Cellars, LLC is requesting an approximately 879 sq. ft. addition between two existing agricultural buildings for the purpose of additional storage for wine barrels, cased goods, and harvesting equipment. The proposed addition is to enclose a storage room within the existing footprint of the winery.

2. The subject parcel is in the General Management Area (GMA) and is designated Small-Scale Agriculture. The parcel is approximately 22.8 acres in size and is located along the north side of Old Highway 8 (County Road 1230) in Klickitat County.

3. Existing development on the property includes several structures: a single-family dwelling; a barn; a tasting room and storage building; a winery laboratory and mechanical building; a covered storage area; and another winery building. Other existing development also includes two signs; a well; and approximately 1.7 acres of vineyard.

4. Construction of the original winery building was approved by the Gorge Commission through Development Review C94-0080 in January 1995. Use of the structure as a winery and tasting room were approved by the Gorge Commission in Development Review C05-0006. The winery facility has been in continuous operation since opening in 2006.

5. Three additional winery buildings were approved by the Gorge Commission in Development Review C13-0011. These are the existing storage building, a winery laboratory and mechanical building, and a covered storage area.

6. Commission Rule 350-81-190(1)(v) allows additions to existing buildings greater than 200 sq. ft. in area or greater than the height of the existing building. Commission Rule 350-81-020 (60) defines existing structure as any structure that was legally established.

   The applicant proposes an approximately 879 sq. ft. addition between the winery laboratory and mechanical building and the covered storage area. The addition will connect the two buildings, resulting in one building. The winery laboratory and mechanical building and covered storage area were approved by the Gorge Commission in 2015 through Development Review C13-0011 and permitted for building by Klickitat County in 2015. The existing structures are legally established and eligible for additions under Commission Rule 350-81-190(1)(v).

7. Commission Rule 350-81-076(1) contains setbacks from adjacent properties for buildings on lands adjacent to parcels designated Large-Scale or Small-Scale Agriculture. This rule states:

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

   Adjacent parcels designated Small-Scale Agriculture are used for livestock grazing, haying and pasture. The setback requirements of Commission Rule 350-81-076(1) require a 100-foot setback in open or fenced buffer areas as are found on the subject property. This setback applies to the proposed new buildings and is measured from all adjacent property lines.
All of the existing buildings are located more than 150 feet from all adjacent property lines. The proposed addition to is within the existing building footprint and is over 100 feet from adjacent property lines.

8. Commission Rule 350-81-190(1) allows agricultural buildings in conjunction with current agricultural use. Commission Rule 350-81-020(4) defines an agricultural structure/building as:

   A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

The applicant proposes an addition of approximately 879 sq. ft. to agricultural buildings approved through Director’s Decision C13-0011. The applicant provided a description of current agricultural use on the subject parcel and a description of the intended use of the addition. The proposal for the addition is to use approximately one third of the building footprint for the storage of wine barrels, one third for cased good storage, and one third for grape harvest equipment. The subject parcel is currently used as a working vineyard and winery. There is approximately 1.7 acres of vineyard on the subject property. The proposed addition will allow for additional storage of goods and equipment used in conjunction with the agricultural use.

Conclusion:

The proposed addition between two existing winery buildings is an allowed review use in the Small-Scale Agriculture land use designation and subject to compliance with the guidelines in Commission Rules 350-81-520 to 350-81-610 that protect scenic, cultural, natural and recreation resources.

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 addition is proposed in the space between two existing winery buildings, within the footprint of an existing concrete pad, and no grading is required. The siting of the development is designed to retain existing topography and minimizes grading activities to the maximum extent practicable, consistent with this rule.

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. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

   To assess compatibility of the proposed development, Commission staff looked at development within a study area that was defined based on several factors, including land use designations and visibility from key viewing areas. The study area encompasses the parcels to the north and south of Old Hwy 8 between Balch Road to the west and Canyon Road to the East. Staff analyzed development within the area using records from the Klickitat County Assessor’s Office.
Commission staff evaluate height and dimensions using feet, and square feet as the means of comparing overall mass.

The proposed addition is approximately 879 sq. ft. and 16.5 feet tall from finished grade. The addition is proposed between two buildings, the covered storage building and the mechanical and lab building, connecting the two buildings. The existing covered storage building is 1,300 square feet and 14 feet high at the tallest point from finished grade. The existing mechanical and lab building is 660 square feet and 17 feet high at the tallest point from finished grade. With the proposed addition, the buildings will form a combined building of approximately 2,839 sq. ft., with a maximum height of 17 feet.

Existing nearby development consists of a mix of one and two-story single-family dwellings, agricultural buildings and accessory buildings. Many of the buildings in the study area are two stories in height, ranging from 15 feet to 28 feet tall. The proposed addition is one story in height connecting two building that are each also one story in height. The tallest point of the existing buildings is 17 feet, and the tallest point of the proposed addition is 16.5 feet above finished grade. The proposal is within the range of building heights of existing nearby development. Existing development in the area ranges in size up to 4,618 sq. ft. Approximately 1,000 feet to the west of the proposed development, there is a dwelling that is 3,508 sq. ft. in size. The applicants’ proposed addition resulting in a combined building of 2,839 sq. ft. is compatible with the overall scale of nearby development.

Staff finds that the general scale of the proposed addition is compatible with the general scale of existing nearby development, 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 planted vegetation is proposed, and non is required by the guidelines in this chapter.

4. Commission Rule 350-81-520(1)(d) and (e) state:

   *(d) A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" 350-81-032(5). Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter."

   *(e) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.*

   A site plan was provided consistent with Commission Rule 350-81-032 (Application for Review and Approval). The landscape setting for the subject parcel is Rural Residential in Pastoral. Commission Rule 350-81-520(3)(f) contains the design guidelines for proposed uses in the Rural Residential in Pastoral landscape setting. Findings B.21 through B.23 address the applicable guidelines in Commission Rule 350-81-520(3)(c) using information submitted in the site plan, consistent with this rule.

5. Commission Rule 350-81-520(2)(a) states:
The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

The subject parcel is topographically visible from three key viewing areas: Old Highway 8 (County Road 1230), the Historic Columbia River Highway and Tom McCall Point, which is part of the Rowena Plateau and Nature Conservancy Viewpoint. Thus, Commission Rule 350-81-520(2) is applicable.

6. Commission Rule 350-81-520(2)(b) states:

Each development shall be visually subordinate to its setting as seen from key viewing areas.

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.

The key viewing areas from which this development is topographically visible are between approximately 0.08 and 3 miles from the site. The closest key viewing area, Old Highway 8, is directly south of the development site. Although the development is in the foreground of this key viewing area, the existing development on the subject parcel and existing on-site vegetation effectively screen the proposed addition from view. As seen from the key viewing areas farther away, the Historic Columbia River Highway and Tom McCall Point, the proposed development is at such a distance that makes it imperceptible to unaided eye. Commission staff estimates that the proposed addition may be partially visible as seen from key viewing areas, but the size, siting, and design of the proposal ensures the development is not visually dominant in relation to its surroundings. With conditions of approval ensuring the use of dark earth-tone colors, non-reflective materials, and the retention of existing vegetation, the proposed development will be visually subordinate from all key viewing areas as discussed in the following findings.

7. Commission Rule 350-81-520(2)(c) states:

Determination of potential visual effects and compliance with visual subordinance policies shall include consideration of the cumulative effects of proposed developments.

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.

To determine cumulative effects of the proposed development, staff analyzed existing development and development potential of the subject parcel and nearby parcels. The subject parcel is designated General Management Area (GMA) Small-Scale Agriculture and is adjacent to an area of GMA-Residential with minimum parcel size of 10 acres. The subject parcel is designated
General Management Area (GMA) Small-Scale Agriculture and is adjacent to an area of GMA-Residential with minimum parcel size of 10 acres. Most of the existing parcels in the area, including the subject parcel, have development in clusters. New parcels are unlikely to be created due to minimum parcel size requirements. As seen from key viewing areas, the subject parcel is in an area where existing development is visible but sparsely scattered throughout the landscape. The undulating topography of the area and thick stands of mature oak trees and pine trees serve to partially screen these buildings, helping to make them visually subordinate from KVAs. The visual character of the area is consistent with the Rural Residential in Pastoral landscape setting. The proposed development on the subject parcel within an existing developed area will not change the visual character of the area.

The proposed development is designed and conditioned to be visually subordinate as seen from key viewing areas. If new buildings in the vicinity of the proposed development are built according to applicable Land Use Designations and designed in a similar manner to existing development and consistent with the guidelines of this chapter, they will be held to the same visual resource protection standards and required to be visually subordinate. Similarly, the design guidelines for the Rural Residential in Pastoral landscape setting in the GMA recommend existing tree cover screening the development from KVAs be retained. If new development is built in a comparable manner to the proposed development and held to the same scenic resource protection standards, there will be no significant increase in the visibility of new development on the landscape, and adverse cumulative effects to scenic resources will be avoided. Development designed and sited to fit with the landscape setting and achieve the scenic standard visually subordinate will not generate adverse cumulative scenic impacts.

The proposed addition is approximately 879 sq. ft. and 16.5 feet tall from finished grade. The addition is proposed between two existing buildings. With the proposed addition, the buildings will form a combined building of approximately 2,839 sq. ft., with a maximum height of 17 feet. The net increase of the addition to the existing buildings is 879 sq. ft. However, the incremental change to the visible character of the site and the surrounding landscape is minimal because the addition is within an already developed area between two existing buildings, is the same height as those buildings, and is the same dark earth-tone colors as the existing buildings.

For the reasons above, the proposed development will not cause adverse scenic impacts, and will not cause adverse cumulative scenic impacts, consistent with Commission Rule 350-81-520(2)(c).

8. Commission Rule 350-81-520(2)(d) states:

The extent and type of conditions applied to a proposed development to achieve visual subordinance should 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 proposed development site is topographically visible in the foreground from the Old Highway 8 (County Road 1230) key viewing area directly south of the subject parcel. The site is visible in the middle-ground and background views from portions of the Historic Columbia River Highway to the southwest and in the background from Tom McCall Point (Rowena Plateau) to the south. The one non-linear key viewing area, Tom McCall Point, is approximately 3 miles from the subject parcel.

The site is approximately 0.08 miles from Old Highway 8 at its nearest point and is topographically visible along this key viewing area for a linear distance of approximately 0.4 miles. Existing on-site vegetation screens the proposed development site from view from the key viewing area for this linear distance.

The development site is visible from the Memaloose Overlook section of the Historic Columbia River Highway (HCRH) at a distance of 2-2.5 miles away. The site is topographically visible at the Memaloose Overlook and intermittently for a linear distance of approximately 1 mile long heading east starting 0.5 miles east of the Memaloose Overlook. The HCRH and the development site are at about the same elevation, which reduces the visibility of the site along the highway as does the existence of screening trees located between the development site and the HCRH. Although the site is topographically visible, the proposed addition is not visible at all from this key viewing area at any point due to the existing development on the parcel completely screening the addition from view.

The proposed development site is topographically visible at a distance of approximately 3 miles away at Tom McCall Point. This viewpoint is at a higher elevation than the development site, and staff estimates that only the roof of the addition may be visible from this point. However, given the distance of this key viewing area from the site, the development is in the background and will not be visible to the unaided eye.

As explained below, 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. With the retention of the existing trees on the subject parcel, the proposed development will not noticeably contrast with the landscape.

9. Commission Rule 350-81-520(2)(d)(B) states:

   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

Commission staff estimates that the proposed addition may be partially visible as seen from key viewing areas, but the size, siting, and design of the proposal ensures the development is not visually dominant in relation to its surroundings. With conditions of approval ensuring the use of dark earth-tone colors, non-reflective materials, and the retention of existing vegetation, the proposed development will be visually subordinate from all key viewing areas as discussed in the following findings. Application of conditions of approval to ensure that the development will be
visually subordinate to the surrounding landscape as seen from key viewing areas, consistent with Commission Rule 350-81-520(2)(d)(B), are discussed in the findings below.

10. Commission Rule 350-81-520(2)(e) states:

New development shall be sited to achieve visual subordinance from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

As discussed in Section C below, the development is located near a sensitive wildlife site but does not conflict with natural resource guidelines. Similarly, as discussed in Section D, the development does not conflict with cultural resource guidelines. The proposed development is consistent with Commission Rule 350-81-520(2)(e).

11. Commission Rule 350-81-520(2)(f) states:

New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordinance from key viewing areas.

The applicant proposes an addition to an existing building, which is located amongst mature trees on the subject parcel. As proposed, the addition will be screened from view of key viewing areas by the existing evergreen and deciduous trees, consistent with Commission Rule 350-81-520(2)(f).

12. Commission Rule 350-81-520(2)(g) states:

Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines in 350-81-520(3).

Findings for the Landscape Settings Design Guidelines are addressed below in B.20 through B.23. Consistent with Commission Rule 350-81-520(3)(a)(B)(i) a condition of approval is included requiring the applicant to retain existing tree cover on the property except for safety purposes including, but not limited to, fire protection and hazard tree removal.

13. Commission Rule 350-81-520(2)(h) states:

The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

A ridge located to the north of the subject property forms the skyline behind the proposed development as seen from all key viewing areas. The addition is at 585 ft elevation and the ridge to the north rises to 890 ft. The northern edge of the property boundary is at 750 ft elevation. The elevation at the closest key viewing area, Old Highway 8, from where the development is topographically visible is approximately 550 ft. The elevation of the Historic Columbia River Highway from where the development may be visible is at an elevation of 520 ft. The furthest key
viewing area from where the development may be seen is Tom McCall point, which is at an elevation of approximately 1,714 ft. From the vantage of all key viewing areas, the height of the ridge is well above the existing and proposed development, ensuring that the silhouette of the proposed development will remain below the skyline. The proposed development is consistent with Commission Rule 350-81-520(2)(h).

14. Commission Rule 350-81-520(2)(j) states:

The following guidelines apply to new landscaping used to screen development from key viewing areas:

(A) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.

(B) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.

(C) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(D) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

No new screening vegetation is required by the guidelines of Commission Rule 350-81-520.

15. Commission Rule 350-81-520(2)(l) states:

Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval.

The applicant proposes to use the same exterior materials and colors for the addition as those used for the existing buildings approved through Director’s Decision C13-0011. The color for the siding proposed is TimberSoy “Deep Ebony”, a dark brown stain in a matte finish. The proposed roofing is a torch-down roofing in dark grey matte color with dark grey gravel ballast.

These dark browns and greys are found within the shadows of the surrounding landscape. A condition of approval requires all exterior surfaces of the proposed development be these dark earth-tone colors to ensure consistency with Commission Rule 350-81-520(2)(l).

16. Commission Rule 350-81-520(2)(m) 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.

All proposed exterior materials for the addition are the same as those used for the existing buildings the addition is added to, as approved through Director’s Decision C13-0011. The siding proposed is wood siding stained a dark brown color, TimberSoy “Deep Ebony” matte finish stain. The proposed roofing is a torch-down roofing in dark grey matte color with dark grey gravel ballast. The dark gravel will mitigate any reflectivity from the matte roofing. The proposed materials have low reflectivity and are consistent with Commission Rule 350-81-520(2)(m).

17. Commission Rule 350-81-520(2)(n) states:

In addition to the site plan requirements in 350-81-032(5), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)’ height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

A site plan was provided consistent with Commission Rule 350-81-032 (Application for Review and Approval) and Commission Rule 350-81-520(2)(n).

17. Commission Rule 350-81-520(2)(p) states:

Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

No exterior lighting is proposed. Commission Rule 350-81-520(2)(p) does not apply.

18. Commission Rule 350-81-520(2)(y) states:

New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent.

The proposed addition is sited on an existing concrete slab between two buildings. The building site is flat with no slope. The proposal is consistent with Commission Rule 350-81-520(2)(y).

19. Commission Rule 350-81-520(2)(z) states:

Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.

The proposed development does not include any grading, therefore Commission Rule 350-81-520(2)(z) does not apply.

20. Commission Rule 350-81-520(2)(aa) states:

All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan.
The proposed development does not include any grading, therefore Commission Rule 350-81-520(2)(aa) does not apply.


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


(A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields. 
(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:
   (i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.
   (ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
   (iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

Consistency with this rule is discussed below in Finding B.23.


(A) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.
(B) In portions of this setting visible from key viewing areas, and not exempt from visual subordinance guidelines (see 350-81-520(3)(k)), the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:
   (i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.
(ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.
(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.
(C) Compatible recreation uses should be limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as scenic overlooks).

The proposed addition is sited within the existing developed portion of the property. Several mature trees on the subject parcel are located south of the existing and proposed development, sited between the development and views from KVAs. Development is sited so that the existing trees screen the development from view from KVAs. These trees will be retained, consistent with this guideline. No additional vegetation is required for screening purposes. With a condition of approval requiring the retention of existing tree cover, the proposed development is consistent with Commission Rule 350-81-520(3)(f) for new development within the Rural Residential in Pastoral landscape setting.

24. Commission Rule 350-81-520(4) contains guidelines for new uses within ¼ mile of scenic travel corridors. The closest scenic travel corridor, Washington SR 14, is more than ¼ mile from the subject property. Commission Rule 350-81-520(4) does not apply to the proposed development.

Conclusion:

With conditions of approval addressing building materials and color, retentions of existing vegetation, the proposal is consistent with Commission Rule 350-81-520 that protects Scenic resources in the National Scenic Area.

C. Natural Resources

1. Commission Rules 350-81-560 through 590 contain provisions for the protection of natural resources. Commission Rule 350-81 protects wetlands (350-81-560); streams, ponds, lakes and riparian areas (350-81-570); sensitive wildlife areas and sites (350-81-580); and sensitive plants (350-81-590).

Commission natural resource inventories do not show any wetlands, streams, ponds, lakes of riparian areas on the subject parcel. The inventories show that the proposed development site is more than 200 feet from any wetland, stream, pond, lake or riparian resources protected by Commission Rules 350-81-560 and 570. Therefore, Commission Rules 350-81-560 and 570 is not applicable.

3. The Gorge Commission’s sensitive wildlife inventory identifies the subject property as located within 1000’ of deer and elk winter range. Commission Rule 350-81-580(4) contains guidelines for review of proposed uses within 1000’ of sensitive wildlife areas and sites. Subsection (a) of this section requires that site plans for such uses be submitted to the Washington Department of Fish and Wildlife to review the application and: (A) verify the location of the wildlife area or site; (B) ascertain whether the wildlife area or site is active or abandoned; and (C) determine if the proposed use may compromise the integrity of the wildlife area or site or occur at a time when wildlife species are sensitive to disturbance.

Previous Directors Decision C13-0011 approved development within the same site as the current proposed development. The application and site plan for C13-0011 were submitted to Samuel
Kolb, Habitat Biologist for the Washington Department of Fish and Wildlife on February 26, 2014 for review, pursuant to Commission Rule 350-81-580(4). In an email on February 26, 2014, Mr. Kolb verified that winter range habitat is located in the vicinity of the proposed development. Mr. Kolb stated that the impacts of the proposed development “would not compromise the integrity of winter range habitat in the area” and did not propose any modifications to the proposal.

Commission staff notified Amber Johnson, with Washington Department of Fish and Wildlife of the current proposed development and sent a copy of the site plan on December 9, 2020. No comments were received. Commission staff determines that because the current proposed development is within the same footprint of the development approved through Director’s Decision C13-0011 and because no comments were received regarding the proposed development from Washington Department of Fish and Wildlife, the proposal is consistent with Commission Rule Commission Rule 350-81-580(4).

4. Commission Rule 350-81-580(1)(c) states:

**Proposed uses within 1,000 feet of a sensitive wildlife area or site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.**

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 noted above, the development site is located within 1000’ of a deer winter range, a sensitive wildlife area referred to as the Klickitat River Winter Range by local wildlife biologists.

The Klickitat River Winter Range is nearly 123,000 acres spanning the hills to the north of the subject parcel from the west side Klickitat River on up through the Major and Catherine Creek drainages to the northwest. The subject parcel is located at the southern margin of the winter range in a stretch of rural development along Old Highway 8 (County Road 1230). Existing conditions in the project area can be described as rural with dispersed structural development. The subject property has an existing fence that runs across the southern portion of the parcel from the barn to the west property line to separate their farm animals from other portions of the parcel. No new fences are proposed. The proposed development is sited in areas previously disturbed and is developed. No aspect of the proposal will affect the movement of game animals within the winter range. Other development in the area that is similarly sited to avoid winter range and to minimize the development footprint would have a similarly negligible impact. The cumulative effects resulting from the proposed development have little potential for an adverse effect on existing deer habitat.

Washington Department of Fish and Wildlife did not indicate any concerns with the proposed development. Staff believes the proposed development will have little effect on existing deer and elk habitat. Pursuant to Commission Rule 350-81-580(1)(c), staff does not believe the proposed development creates any adverse effects, including cumulative effects, to the integrity of the parcel as wildlife site due to the size and location of the development and the previously established uses on the parcel.
5. Commission Rule 350-81-590 contains provisions for the protection of sensitive plants within 1,000 feet of the proposed development. Commission Rule 350-81-590(3) states that review uses may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-81-590(4) and reviewed under the applicable provisions of 350-81-520 through 620.

According to the Commission’s sensitive plant inventory, a sensitive plant, *Lupinus latifolius*, Thompson’s broad-leaved lupine, may be found on the subject parcel and within 1,000 feet of the proposed development.

7. Commission Rule 350-81-590(4)(a) states:

   *Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant’s site plan.*

   *If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.*

Commission staff provided application information to of the Washington Natural Heritage Program on December 9, 2020. No comments were received.

Previous Directors Decision C13-0011 approved development within the same site as the current proposed development. The application and site plan for C13-0011 were submitted to the Washington Natural Heritage Program. In an email dated February 28, 2014, Jasa Holt stated that no known sites of sensitive plants or high quality ecosystems occurred within 1,000 feet of the proposed development.

8. Commission Rule 350-81-590(4)(b) states that the rare plant protection process may conclude if the Executive Director, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

   Commission staff consulted with Natural Heritage Program staff and confirmed that the proposed development would not occur within 1,000 feet of any known sensitive plant site. Given this information, the rare plant protection process may conclude pursuant to Commission Rule 350-81-590(4)(b).

**Conclusion:**

The proposed development is consistent with the guidelines in Commission Rule 350-81, Sections 560 through 590, that protect natural resources in the National Scenic Area.

**D. Cultural Resources**

1. Except as specified in Commission Rule 350-81-540(1)[c][A](ii), new development requires a reconnaissance survey. Commission Rule 350-81-540(3) requires that, if cultural resources are discovered, an evaluation of the significance shall be conducted. Commission Rule 350-81-540(3)(d)(C) states that if it is determined that the cultural resources are significant, the effects of the proposed use shall be assessed. Commission Rule 350-81-540(5)(a) requires mitigation plans
when proposed uses would have an adverse effect on significant cultural resources. Mitigation plans shall reduce an adverse effect to no effect or no adverse effect.

Staff sent the site map and project proposal for the proposed development to USFS Archaeologist Chris Donnermeyer on December 9, 2020. Mr. Donnermeyer reviewed the cultural resource inventories for the area and sent a cultural resources survey determination letter dated December 11, 2020 stating that based on the information in the resource inventories, he recommends that a cultural reconnaissance survey is not required.

3. Commission Rule 350-81-540(1)(c)(B) describes when a historic survey is required.

In his December 11, 2020 survey determination letter, Mr. Donnermeyer concluded that a historic survey is not required because the development would not alter the exterior architectural appearance of significant buildings or structures that are 50 years old or older, and would not compromise other historic features in the surrounding area that are important in defining the historic or architectural character of significant historic structures. Given this information, a historic survey is not required, consistent with Commission Rule 350-81-540(1)(c)(B).

4. 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.

The project notice was mailed on December 9, 2020, and the comment period ended December 30, 2020. As explained above, the proposed use did not require a reconnaissance survey or historic survey and no comments were received regarding cultural resource concerns. No comments were received during the project notice period by interested persons regarding cultural resources. Therefore, pursuant to Commission Rule 350-81-540(2)(c)(A), 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. This requirement is consistent with the comments of the Washington Department of Archaeology and Historic Preservation.

A condition of approval states that 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.

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 states 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.

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) and 350-81-540 that protect cultural resources from adverse effects.

E. Recreation Resources

1. 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.

Conclusion:

The proposed development is consistent with applicable recreation resource guidelines in Commission Rule 350-81-086.

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.

2. Commission Rule 350-81-084(1)(a) lists additional notice requirements 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 Treaty Tribe governments on December 9, 2020. The notice included a comment period of 21 days that ended on December 30, 2020.

3. 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.

4. 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 does 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 treaty rights or other rights of any Indian tribe.

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