

June 21, 2024

VIA Email – Jamie.Viveiros@columbiacountyor.gov

Columbia County
Planning Division
230 Strand St.
St. Helens, OR 97051

Re: Pre-Planning Commission Submission for The Lake House CU 23-12

Dear Ms. Viveiros:

On behalf of Bart Hafeman III (“Applicant”), Davis Wright Tremaine LLP (“DWT”) submits the following information in response to the public comments filed by Jeff and Laurie Mapes dated June 3, 2024 (“Mapes Letter”).

Project Description and Clarification of Request

Applicant’s property is located at 51600 SE 9th St., Scappoose, OR 97056 and is accessed via a flag lot from SE 9th Street, which extends into the City of Scappoose (“City”). The property is about four one-quarter (4 ¼) acres and is zoned Primary Agriculture-80 (PA-80) under the Columbia County Zoning Ordinance (“CCZO”). The property hosts a personal residence (occupied by Applicant), a barn, gardens, open space, and three accessory structures. The property includes wetlands and a man-made lake. The property is in the Flood Hazard Overlay Zone (FH), Zone A. The existing development is served by a private groundwater well and septic system.

Applicant seeks approval to host weddings and other events, such as baby showers, memorials, birthday celebrations, corporate holiday gatherings, and fundraising events at the Lake House. Applicant will use the barn for events and to a much lesser degree, outdoor spaces on the property. Applicant requests includes 15 weddings, 4 large commercial events, and 6 fundraiser events with up to 60 guests, and 10 small commercial events with up to 20 guests a year. No more than five employees would be employed, and events would occur between the hours of 12:00 pm and 9:30 pm, with all guests off the property by 10:00 pm. Applicant will use a shuttle service to transport guests on and off the property. Applicant is coordinating with the City on approval of the guest parking location, which will accommodate parking for up to 60 guests and will include shuttle routes and signage.

Applicant previously requested approval to use the three accessory structures for overnight wedding lodging. Applicant wishes to revise the Project Description to eliminate this element of the project – no overnight wedding lodging is now proposed. Further, Applicant plans to remove Accessory

Building 3 and covert Accessory Building 1 into a chicken coop. See Attachment 1 (Site Plan). Applicant will work with the County to bring Accessory Building 2 into compliance. Applicant continues to seek County approval to use Access Building 2 as a place for brides to prepare for a wedding. Applicant understands that Accessory Building 2 needs to be relocated and detached from the existing dock to comply with state and county requirements. Further, Applicant is aware that the dock must either be removed or the proper permits will need to be obtained from the county and the Oregon Department of State Lands. Applicant will continue to coordinate with the County on this compliance measure.

Response to Mapes Letter

In their public comments, the Mapes discuss at length past events held at The Lake House. However, Applicant's proposed events, including weddings and other events, will run differently than in the past. Applicant seeks to provide an event venue that can support and is compatible with surrounding uses. This is demonstrated by Applicant's request to host modest-sized events with no more than 60 guests and ensuring that all amplified sound (played inside the barn) ceases at 9:30 pm. Past events should not be viewed as representative of future events at the Lake House. Nonetheless, Applicant recognizes that the Mapes raise relevant points that go to the applicable review criteria for the proposed use and address each in turn below.

1. Applicant's home occupation will occur "substantially in" the barn structure pursuant to CCZO 1507.3A.

In their public comments, the Mapes assert that Applicant does not meet CCZO 1507.3A because "outdoor areas will be used for substantial activities and time periods and because nothing in the application commits Applicant to holding events or portions of events indoors." Mapes Letter at 2. Applicant recognizes the importance of holding events "substantially in" the barn structure to abide by CCZO 1507.3A and to support good neighbor relationships.

CCZO 1507.3(A) states that a "home occupation shall be operated substantially in ... other buildings normally associated with uses permitted in the zone in which the property is located." CCZO 1507.3(A) implements ORS 215.448, which provides the same requirement. In conducting statutory interpretation, LUBA opined in *Green v. Douglas County*, 63 Or LUBA 200, 2011 WL 8055397 (2011), that "substantially in" means that "events must be carried out in 'large part,' 'in the main,' or as the 'main part' in the . . . buildings, compared to the portion that is conducted outside the . . . buildings." *Green*, 63 Or LUBA at 222. As part of its analysis, LUBA found that a day care facility, which operated in a building and provided children "outdoor play periods in a small, fenced-in play area" was permissible outdoor activity under ORS 215.448(1)(c). *Id.* at 221. *Green* provides guidance for the proposed use and the limits on its outdoor presence.

The barn is the focal point for all events given its rustic chic character, which wood siding, cement slab floors, and interior wood walls. For the smaller events, such as baby showers, birthday celebrations, charity events, and fundraisers, these activities will occur "substantially in" the barn. Outdoor activities may include limited outdoor seating on the barn patio, which is located on the eastern side of the barn. See Attachment 1 (Site Plan). For larger events like weddings, activities will also occur "in large part" the barn. All reception activities, including food and bar service, dancing, toasts, and other general reception activities will occur in the barn. The wedding ceremony itself may occur

outdoors on the lawn, which is located on the northeastern side of the lake. See Attachment 1 (Site Plan). Like the daycare facility described in *Green*, wedding ceremonies, lasting between 15-30 minutes, represent a small portion of the overall event period. Other outdoor wedding activities may also include limited outdoor seating on the barn patio. See Attachment 1 (Site Plan). Applicant commits to providing all reception music and dancing to inside of the barn.

Table 1 provides a succinct view of the event types, number of events and guests, and where activities will occur at the Lake House.

Table 1- Lake House Event Overview			
<i>Event Type</i>	<i>Maximum Number of Events / Guests</i>	<i>Indoor Activities</i>	<i>Outdoor Activities</i>
Weddings	<ul style="list-style-type: none"> • 15 per year • 60 Guests 	<ul style="list-style-type: none"> • Bride preparations (accessory building) • Reception activities 	<ul style="list-style-type: none"> • Wedding Ceremony • Limited outdoor seating on the barn patio
Large Commercial Events	<ul style="list-style-type: none"> • 4 per year • 60 Guests 	<ul style="list-style-type: none"> • Event activities 	<ul style="list-style-type: none"> • Limited outdoor seating on the barn patio
Small Commercial Events	<ul style="list-style-type: none"> • 10 per year • 20 Guests 	<ul style="list-style-type: none"> • Event activities 	<ul style="list-style-type: none"> • Limited outdoor seating on the barn patio
Fundraisers / Charitable Events	<ul style="list-style-type: none"> • 6 per year • 60 Guests 	<ul style="list-style-type: none"> • Event activities 	<ul style="list-style-type: none"> • Limited outdoor seating on the barn patio

2. Applicant use of buildings on his property are associated with events and will obtain proper permits.

In their public comments, the Mapes assert that Applicant’s use of Accessory Buildings does not meet the requirements of CCZO 1507.3A, which requires a home occupation to be operated substantially in “[o]ther buildings normally associated with uses permitted in the zone in which the property is located.” Moreover, the Mapes posit that the barn was permitted as an ag-exempt structure and that the structures do not meet the Flood Hazard Overlay Ordinance. Mapes Letter at 4-5.

Applicant’s buildings are appropriate for the proposed event uses. The Lake House barn provides an aesthetically pleasing space, especially for clients looking for a unique and memorable experience. As the Mapes offered, *Green* was a case about weddings held in a memorable location, however, Applicant’s events will be held “substantially in” a barn. As described above, Applicant will no longer offer the three accessory structures for overnight wedding lodging. Prior to operation, Applicant will bring the barn and Accessory Building 2 into compliance.

3. Applicant will employ no more than five full-time or part-time persons.

In their public comments, the Mapes assert that Applicant will have more than five employees on-site based on past events. Mapes Letter at 6. Applicant acknowledges the requirement in CCZO 1507.2(B) that limits a home occupation to “no more than five full-time or part-time persons.” CCZO 1507.2(B) implements ORS 215.448(1)(b), which provides the same requirement.

Applicant anticipates offering “packaged events” where Applicant organizes food service, such that meals are prepared off-site and are served buffet style to guests. This will reduce the need for on-site food service personnel. As weddings provide the greatest need for employees, Applicant anticipates employees having diverse roles, depending on the contractors the Lake House clients plan to have onsite. For example, one person may serve as the photographer and wedding planner, or one person may serve as the cater and provide bar service (recognizing that the 5 persons limit applies to employees and contractors).

4. Applicant will use the property in a manner to diminish and avoid impacts to residential uses in the PA-80 zone.

In their public comments, the Mapes state that the Applicant’s event will interfere with their residential use in PA-80 zone, running counter to the requirement of CCZO 1507.3(B). Mapes Letter at 7. CCZO 1507.3(B) requires that a “home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.”

Applicant recognizes that the Mapes are neighbors and events must not unreasonably interfere with the residential nature of their property. Regarding amplified sound, Applicant is committed to maintaining and monitoring amplified sounds, so events are not intrusive for any neighbors. Music played during the reception and music for dancing will be played inside the barn. Toasts given during the reception will occur in the barn. Applicant seeks to use outdoor amplified sound only during the wedding ceremony. Specifically, outdoor amplified sound would be used when the wedding party arrives and leaves the ceremony and for the wedding officiant. In both cases, Applicant will limit amplification to one speaker that will be pointed towards the southeast, which is away from all residential areas, including the Mapes’ residence. As described above, 15 wedding events are requested and wedding ceremonies are typically 15-30 minutes. Wedding ceremonies are typically held in the late afternoon or early evening and not after sunset. The short time frame will help reduce noise impacts to the surrounding residential uses.

5. CCZO 308.3 road frontage requirement does not apply to Applicant’s home occupation request.

In their public comments, the Mapes argue that Applicant must meet the 50-foot of frontage requirement in CCZO 308.3 to obtain a conditional use permit. Mapes Letter at 9. CCZO 308.3 states that “lots . . . with . . . conditional uses, shall have a minimum 50 foot frontage on a public or private right-of-way and an approved access in accordance with [the CCZ].” Although CCZO 308 does not include a purpose and intent provision, it appears that this provision is designed to provide for compatibility and ensure legal access.

As an initial matter, Applicant’s property is a flag lot with access to a public-right of-way that is within the City’s jurisdiction. The City does not have a requirement that conditional uses have a 50-foot

frontage. See SDC 17.130.050. Therefore, Applicant maintains that because the Lake House frontage is not within the County's jurisdiction the criterion is not applicable. Setting that position aside, Applicant's proposed use is compatible with surrounding uses as a shuttle service will bring guests to the property for events. Moreover, Applicant has legal access. According to the Columbia County Tax Maps, Applicant's flag lot was subdivided through the Seven Oaks Phase 2 Development, which subdivided lots along 9th Street, including Applicant's flag lot. See [Attachment 2](#) (Tax Map).

6. Applicant will maintain fence line to prevent trespass on adjacent properties.

In their public comments, the Mapes assert that their shared boundary "is neither fenced or marked." Mapes Letter at 10. This is incorrect. A fence runs along the property boundary and is visible on Applicant's property. The fence may be obscured on the Mapes' property due to dense blackberries briar, tree groves, tall grass, and marsh areas. Given the degree of screening and vegetation along the fence line, gaining access to the Mapes' property would be difficult and the likelihood of trespass low. See [Attachment 3](#) (Fence line photos).

The Mapes also identify concerns related to the Accessory Building 2¹ due to its proximity to their property. Mapes Letter at 10. As discussed above, Applicant will seek County approval to use Accessory Building 2 as a place for brides to prepare for their wedding. County approvals will require Applicant to relocate this structure farther away from the shared property line and away from the wetland areas. Moreover, this building will not be used for overnight wedding lodging. To address the Mapes' concerns that Lake House events guests could trespass onto their property, Applicant will place signage along Applicant's southern property boundary to advise guests not trespass.

7. Applicant's property meets the requirements of CCZO 1507.

In their public comments, the Mapes argue that Applicant's "application does not meet each and every criterion required for approval," under CCZO 1507.2, and therefore, the County should not grant Applicant's request. Mapes Letter at 11.

Applicant meets the criteria established in CCZO 1507.2 and will memorialize the requirements in conditions of approval. Consistent with CCZO 1507.2, Applicant, who lives on the subject property, will "operate ... the business" and "employ on the site no more than five full-time or part-time persons," as described in detail in section 3 above. Consistent with CCZO 1507.3, Applicant will hold events "substantially in" the barn with limited outdoor activities, as detailed in section 1 above. Likewise, consistent with CCZO 1507.3, the barn and Accessory Building 2, are "buildings normally associated with the uses permitted in the zone in which the property is located." A barn is a building typically found in the PA-80 zone and has a look and feel of a barn on a farm with wood siding, cement slab floors, and wood interior. See [Attachment 4](#) (Barn photo). Accessory Building 2 is similar to a building used for art/music/writing studio purposes and has look and feel of a rustic cabin. See [Attachment 5](#) (Accessory Building 2 photo).

¹ The Mapes cite Accessory Building 1 in their public comments, however Accessory Building 2 is closer to the shared property line.

8. The County re-noticed the Planning Commission July 1, 2025 Public Hearing

The Mapes express concern about improper notice for the Columbia County Planning Commission hearing on July 1, 2024. Mapes Letter at 11. CCZO 1630.2 requires the Director to “publish a notice of Applicant’s request in a paper of general circulation not less than 10 calendar days prior to the scheduled public hearing.” In addition, the county is to mail notices to “adjacent individual property owners in accordance with ORS 197.663.” It appears the County’s initial mailed notice did not meet the requirements established in ORS 197.663. However, no procedural error or injury has occurred because the County issued a re-notice on June 5, 2024 that met the requirements established in ORS 197.663.

9. Applicant agrees to the majority of the Mapes’ proposed conditions of approval and proposes some modifications of the same.

In their comments, the Mapes propose eight conditions of approval and Applicant is generally agreeable to these conditions of approval. Therefore, based on the discussion above and the Mapes’ proposed conditions of approval, Applicant proposes the following conditions of approval. A notation is provided as to the origin of each condition.

1. Applicant will not offer overnight wedding lodging on the property. (Proposed by Applicant)
2. Applicant will obtain necessary approvals from the City of Scappoose for guest parking that will accommodate up to 60 guests that will include shuttle routes and signage. (Proposed by Applicant)
3. Prior to operation, Applicant will work with the County to bring Accessory Building 2 into compliance, remove Accessory Building 1 from the property, and covert Accessory Building 3 into an agricultural building. (Proposed by Applicant)
4. Applicant will hold events “substantially in” the barn consistent with CCZO 1507.3(A) and ORS 215.448(1)(c). (Proposed by Mapes, #1)
5. Applicant’s use of amplified sound will be limited to inside the barn, except during an outdoor wedding ceremony. (Proposed by Mapes, #2)
6. Applicant will include the following “event terms” in event venue contracts:
 - a. The total number of guests that may attend an event shall not exceed 60.
 - b. The Lake House event venue is located adjacent to residential properties.
 - c. All event guests must be respectful of neighboring residential properties, including abiding by access, parking, and noise limits.
 - d. Amplified sound is limited to the inside of the barn, except during an outdoor wedding ceremony.

- e. The County retains authority to enforce all conditions of Applicant's land use approval including a cease order for violations occurring during an event. (Proposed by Mapes, #3)
7. Applicant will post the event terms on a sign in the barn in a conspicuous manner and in a text size and font that is easy for guests to read. (Proposed by Mapes, #4)
8. Applicant will include the event terms on Applicant's website in a conspicuous manner. (Proposed by Applicant)
9. Applicant will have no more than five part- or full-time employees on-site. (Proposed by Mapes, #5)
10. Applicant will notify properties located within 500 feet of the of property of scheduled events at least two weeks prior to the event date. Applicant will notify properties by email. (Proposed by Mapes, #7)
11. Applicant or an event coordinator will be on the premises during an event. The event coordinator will be familiar with the event terms and identified in the event venue contracts. The event coordinator will count towards the maximum of five employees allowed by the Home Occupation permit. (Proposed by Applicant)
12. Applicant will place signage along Applicant's southern property boundary to advise guests not to trespass. (Proposed by Applicant)

In the Mapes' proposed in condition #8, the Mapes assert that Applicant should hire and pay for survey, by a professional land surveyor, of their shared property line and build a fence to prevent Lake House Guests from trespassing. Applicant declines to accept this condition. As explained above, a fence already demarcates the property boundaries and dense foliage would make trespassing difficult and unlikely. Moreover, Applicant will place signage along Applicant's shared property boundary to advise guests not to trespass.

Applicant seeks to provide an event venue that serves the local community in a manner that is compatible with and respects neighboring properties. Applicant hopes the proposed conditions of approval address the Mapes' concerns. Please let us know if you have any questions.

Sincerely,

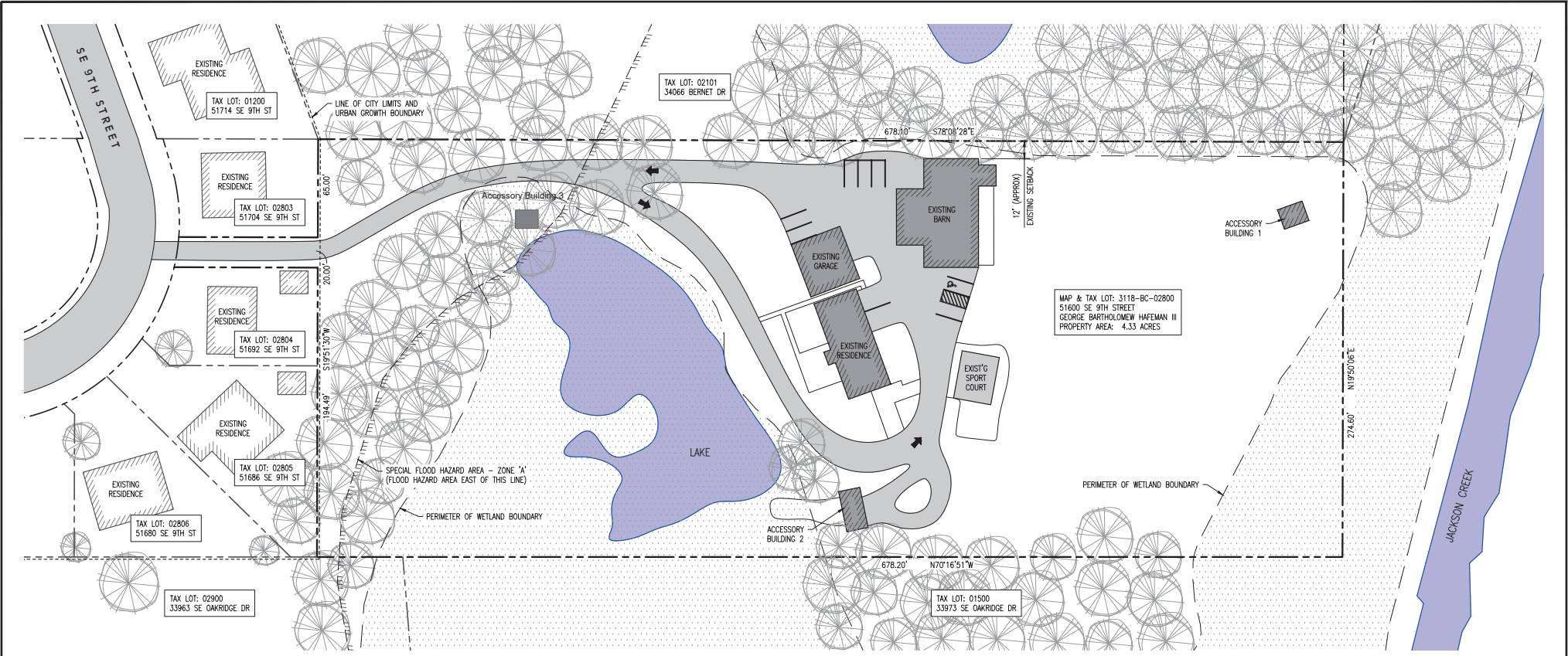
Davis Wright Tremaine LLP



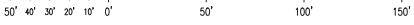
Caroline A. Cilek

cc: Client

Attachment 1 (Site Plan)



SITE PLAN FOR THE LAKE HOUSE
SCALE: 1" = 30'



DATE: 01/25/2024
REVISED PRINT
VOID ALL PREVIOUS

DATE: 01/23/2023
FOR
REFERENCE
ONLY

REV.	REVISION RECORD	DATE
A	ADDRESSED D.W.T. COMMENTS	01/25/2024



PROJ. NO.	3566	THE LAKE HOUSE SITE PLAN
DWG. BY	BMK	THE LAKE HOUSE (HAFEMAN)
APPR. BY	DAVIS WRIGHT TREMAINE LLP	SHEET
FILE	D-3566-C-1-A	DATE 11/21/2023

C-1

Attachment 2 (Tax Map)

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

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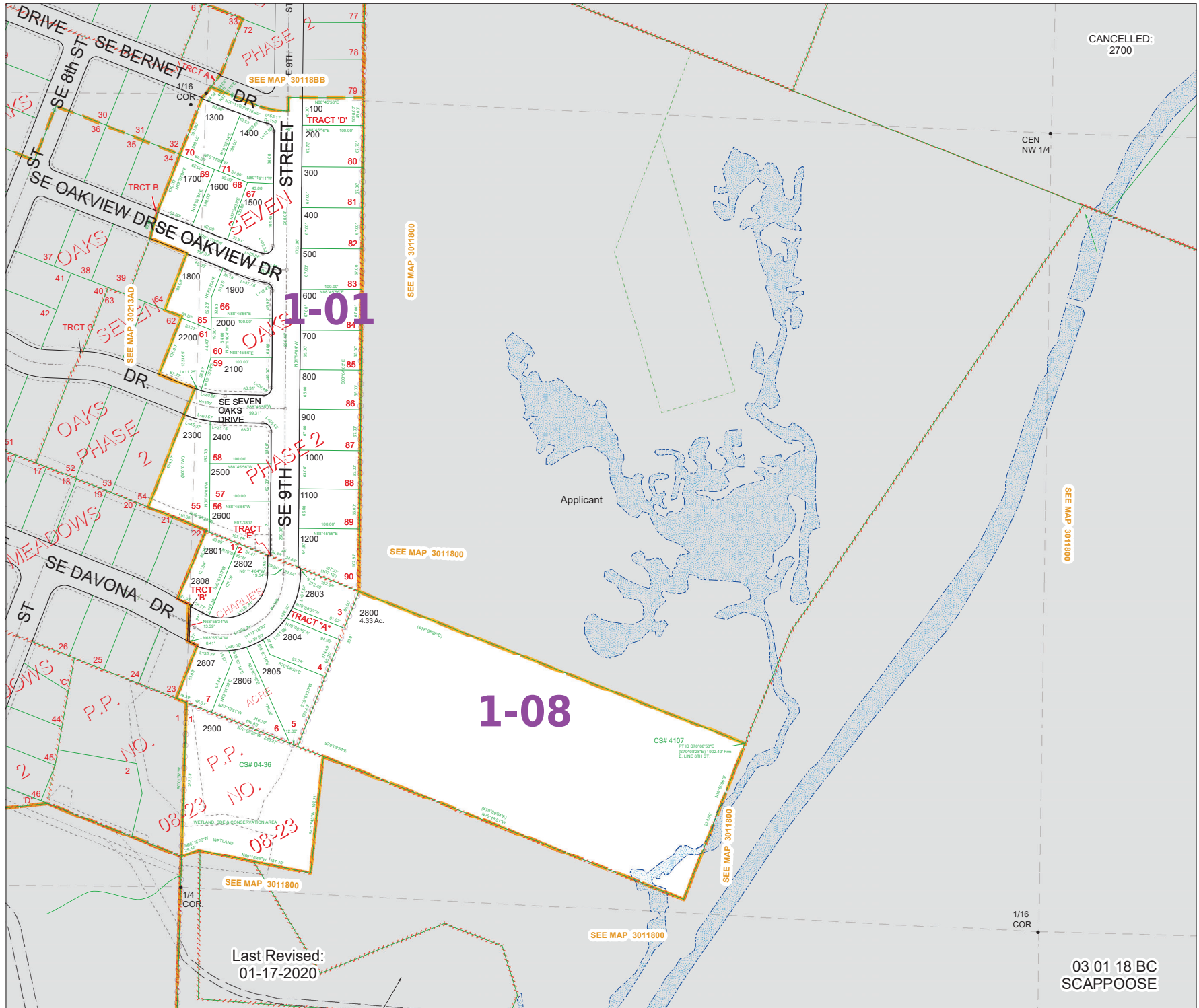
S.W.1/4 N.W.1/4 SEC.18 T.3N. R.1W. W.M.

03 01 18 BC
SCAPPOOSE

COLUMBIA COUNTY

1" = 100'

CANCELLED:
2700



Last Revised:
01-17-2020

03 01 18 BC
SCAPPOOSE

Attachment 3 (Fence line photos)



Attachment 4 (Barn photo)



Attachment 5 (Accessory Building 2 photo)

