

July 15, 2024

VIA Email – DeborahJacob@columbiacountyor.gov

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

Re: Applicant’s Rebuttal Filing for the Lake House CU 23-12

Dear Ms. Jacob:

On behalf of Bart Hafeman III (“Applicant”), Davis Wright Tremaine LLP (“DWT”) provides Applicant’s Rebuttal Filing for the Lake House CU 23-12. This filing includes revised conditions of approval and a modified noise control plan developed following review of public comments from neighbors submitted during the open record period and conversations with Mr. and Mrs. Mapes.

Revised Conditions of Approval

Applicant proposes revised conditions of approval in Attachment 1 (Proposed Conditions of Approval). The revised condition language is based on public comments in the record and DWT’s engagement with Mr. and Mrs. Mapes following the initial public hearing. The proposed revised conditions were developed with Mr. and Mrs. Mapes and provide Applicant an opportunity to host successful events while also providing for compatibility with surrounding residential uses.

The proposed revised conditions also address concerns from neighbors who live in the residential areas adjacent to Applicant’s property in the City of Scappoose. In response to comments regarding the shuttle bus, parking in the neighborhood, and noise, Applicant revised Condition 12 and 16. Condition 12 now requires the shuttle bus driver to announce to event guests before departing to and from the Lake House that the shuttle bus will travel through residential neighborhoods and that guests must be respectful during transit. The shuttle bus will also not play any music. Applicant revised Condition 16, regarding Event Terms, to state that event attendees shall not park in the residential neighborhoods adjacent to the Lake House. Importantly, the Event Terms are included in the client contracts for events, on the Applicant’s website, and posted on the property for guests to read. It is Applicant’s intention that event guests will be informed of this condition through multiple sources.

In Applicant's July 8, 2024, filing, Applicant provided a draft Noise Control Management Plan. In response to public comments from neighbors regarding amplified sound concerns, applicant adds the noise control plan to Condition 14. In the plan, Applicant provides the locations where noise levels will be measured. See Attachment 2 (Noise Management Control Plan - Figure 1 (Measurement Locations)). The measurement locations were chosen to provide a noise level readings near the closest residential uses. In addition, Applicant has amended the number of readings at large events (21-60 people) from one to two readings per event.

In response to Applicant's open record filing on July 8, 2024, the Mapes requested that the information related to public comments be withdrawn. Applicant agrees to this request and withdraws the following sentences from the July 8, 2024 filing: At the Planning Commission hearing on July 1, 2024, two individuals provided public comment in support of the application. [Insert statements by Samatha Slater and Steven Quick]. [Insert public comments in support of the application provided by email.]. Applicant will provide additional updated Findings of Fact consistent with this filing with Applicant's final legal argument.

Status Update on Parking for Lake House Events

Several public comments from residents who live in the residential areas adjacent to Applicant's property raised concerns about event guests parking in the neighborhood. In response to these concerns, Applicant notes that he is diligently working towards filing a parking facility application with the City of Scappoose that will address these concerns. As the preferred choice, Applicant aims to update the current Hafeman Plaza parking agreement to provide sufficient event parking. As an alternative, Applicant is also exploring use of a vacant property located on the northwest corner of SW Old Portland Rd and SW Dutch Canyon Rd in the City of Scappoose to provide event parking. Like other Conditions of Approval, Applicant will obtain the necessary approvals for a parking facility to provide sufficient event parking prior to operation.

Please let me know if you have any questions.

Sincerely,

Davis Wright Tremaine LLP



Caroline A. Cilek

cc: Client

Attachment 1 – Proposed Conditions of Approval

Hafeman CU 23-12

Conditions of Approval for 7/15/2024 Filing

Condition 1: Applicant proposes no changes to Condition 1 in the Staff Report.

Condition 2: Applicant proposes no changes to Condition 2 in the Staff Report.

Condition 3: Applicant proposes no changes to Condition 3 in the Staff Report.

Condition 4: No more than five persons/employees required to support an event shall be on site at any one time. This includes without limitation the property owner, ~~band members~~ musicians, auctioneers, vendors, and any food and beverage servers, all of whom are considered as employees and agents, independent contractors, and staff persons of independent contractors, pursuant to the requirements in Section 1507.2(B) of the County Zoning Ordinance and ORS 215.448(1)(b).

Condition 5: ~~The number of persons attending any single event, other than the maximum five (5) persons involved in producing the event, may not exceed 60. Applicant may hold up to 35 events as follows:~~

Weddings. Up to 15 wedding days per year with up to 60 guests. Pre-event preparation would begin around 12 pm with dancing ending at 9 pm, all sound ceasing at 9:30 pm, and all guests off property by 10 pm.

Commercial events. Up to 4 large commercial events per year with up to 60 guests. Events may include celebrations (baby showers, memorials, birthdays), acoustic jazz nights, seasonal celebrations (corporate holiday parties), and wine tasting and food- or art-related events. Pre-event preparation would begin around 12 pm with all sound ceasing at 9:30 pm and all guests off property by 10 pm.

Small Events. Up to 10 small commercial events per year with up to 20 guests. Events may include celebrations (baby showers, memorials, birthdays), acoustic jazz nights, seasonal celebrations (corporate holiday parties), and wine tasting and food- or art-related events. Pre-event preparation would begin around 12 pm with all sound ceasing at 9:30 pm and all guests of property by 10 pm.

Fundraisers/Charitable Events. Up to 6 fundraisers or charitable events per year with up to 60 guests. Example of these events are fundraisers for Columbia Food Bank, Scappoose Wrestling, Human Society, or United Way of Columbia County. Pre-event preparation would begin around 12 pm with all sound ceasing at 9:30 pm and all guests of property by 10 pm.

All events shall be single day events; multi-day events are not permitted. All events shall comply with Condition 4.

Condition 6: Per the requirements in Section 1507.3 of the County Zoning Ordinance, the property owner shall hold event “substantially in” the barn and either (1) remove the 3 Accessory structures intended for” wedding party preparation and/or overnight lodging of guests” from the property with demolition permits issued by the County or (2) have these structures approved by

the County Planning and Building Officials for any other permitted ~~non-residential~~ uses normally associated with PA-80 zoned properties.

In addition, for events other than weddings, activities will occur in the barn, and other than dining outside during a meal at the limited outdoor seating on the barn patio on the east side of the barn, walking the Applicant's property and gardens, transporting to and from vehicles, taking photos on the property, use of the bathroom facilities located outside the barn, and other similar, quiet activities, there will be no gatherings of people outside the barn. Use of the outdoor seating on the barn patio is limited to dining during a meal; no other gatherings or activities are permitted there. Once the meal is over, guests are expected to return to the inside of the barn.

For wedding events, outdoor activities may include the wedding ceremony limited to approximately thirty minutes, dining outside during a meal at the limited outdoor seating on the barn patio on the east side of the barn, walking the Applicant's property and gardens, transporting to and from vehicles, wedding photos, and use of bathroom facilities located outside the barn, and other similar, quiet activities. Use of the outdoor seating on the barn patio is limited to dining during a meal; no other gatherings or activities are permitted there. Once the meal is over, guests are expected to return to the inside of the barn. There shall be no gathering of people outside the barn other than as specifically described here.

Except for outdoor wedding ceremonies, which are limited to one speaker as noted in Condition 15, amplified live music at any event is limited to a single musician playing a guitar inside the barn.

Condition 7: Applicant proposes no changes to Condition 7 in the Staff Report.

Condition 8: The property owners shall be required to either apply for the appropriate ~~Demolition~~ Permit(s) to relocate or remove any structures that are closer than 30' from any property line or to submit the necessary Variance Applications for the county to review and approve these non-conforming structures pursuant to the provisions in Section 1504 of the County Zoning Ordinance.

A. The County shall review and approve all Variance Applications prior to the acceptance of any related building permits for said structures.

Condition 9: Applicant proposes no changes to Condition 9 in the Staff Report.

Condition 10: The County Building Official and Scappoose Fire District shall review and approve an On-Site Parking Plan for compliance with the criteria in Sections 1405, 1408, and 1410 related to Plans Required, Design Standards and Size for guests and vendors for up to 10 parking stalls.

Condition 11: Applicant proposes no changes to Condition 11 in the Staff Report.

Condition 12: The property owner shall submit confirmation to the County that the City of Scappoose has approved all Off-Site Parking Facilities and the related Transportation of Venue Attendees for compliancy with Land Use Referral Comments dated May 28, 2024 and the City of Scappoose Municipal Code. In addition, the shuttle bus driver shall announce to event guests

that the shuttle bus will travel through residential neighborhoods and guests must be respectful during transit. The shuttle bus shall not play any music.

Condition 13: Applicant proposes no changes to Condition 13 in the Staff Report.

Condition 14. Sound levels during these events will not exceed those limits imposed by the Columbia County Noise Control Ordinance (Ordinance No. 91-8, October 16, 1991). Noise will not exceed 60 dba between 7 am and 10 pm and will not exceed 50 dba after 10 pm. In addition, Applicant shall adhere to the Noise Control Plan approved under [CU 23-12].

Condition 15: Except for outdoor wedding ceremonies, which shall be limited to one speaker, No no speakers, voice amplification, microphones, electronic musical instruments, or other electronic sound sources are allowed to be used for any events other than sources confined entirely within the interior of existing, enclosed structures the barn. Electronic sources of sound outside of ~~buildings~~ the barn are prohibited, including without limitation sources attached to the exterior of any buildings or coming from automobiles. Speakers located inside the barn shall be directed towards the interior of the barn.

Condition 16: The “Event Terms” ~~terms~~ and conditions of the conditional use and home occupation permit must shall be posted in prominent locations in the barn and on the subject property. Such signage shall be and printed in large enough font to be read easily by event attendees. The Applicant shall also include the Event Terms on the Applicant’s website in a conspicuous manner and in event contracts. The Event Terms and shall include the following:

1. The total numbers of persons attending any event may not exceed 60;
2. The property adjoins residential properties;
3. All persons attending events must ~~behave in a manner~~ be respectful of neighboring residential uses, including abiding by access, parking, and noise limits particularly with regard to noise levels;
4. Event attendees shall not park in the residential neighborhoods adjacent to the Lake House property.
5. Except for outdoor wedding ceremonies limited to approximately thirty minutes, activities at the Lake House must be conducted in the barn except for dining during a meal at the outdoor seating on the patio on the east side of the barn, walking the Lake House property and gardens, transporting to and from vehicles, taking photos on the property, use of the bathroom facilities located outside the barn and other similar, quiet activities. Once a patio meal is over, guests are expected to return to the inside of the barn. There shall be no gathering of people outside the barn other than as specifically described here.
6. Except for outdoor wedding ceremonies limited to approximately thirty minutes, which shall be limited to one speaker, no-No speakers, voice amplification, microphones, electronic musical instruments, or other amplified electronic sound sources are allowed other than sources confined entirely within the interior of existing, enclosed, permitted buildings the barn; and

7. Columbia County retains authority to enforce all conditions of Columbia County Conditional Use Permit 23-12 Approval, including a cease order for violations occurring during an event. Electronic or amplified sources of sound outside of buildings are prohibited, including sources attached to the exterior of buildings or coming from automobiles;
8. The Lake House (meaning its owner, employees and agents), as well as the Lake House's customers and all guests, are responsible for compliance with these Event Terms. If the Lake House, becomes aware of a violation of these Event Terms or any of the conditions of its conditional use permit to hold events, the Lake House must take whatever steps are necessary to either bring the event immediately into compliance or immediately terminate the event.

In addition, Applicant or an event coordinator will be on the premises during an event. The event coordinator will be familiar with the Event Terms. The event coordinator will count towards the maximum of five employees allowed by the Home Occupation permit.

Condition 17: Property owner must provide written notice of each large event (21-60 guests) and its date and time, mailed no less than twenty days before the date of each large event, to owners of record of property on the most recent property tax assessment roll where such property is located within 500 feet of the subject property. The mailed notice shall contain the contact information for the onsite operational contact to report noise concerns.

Condition 18: The property owner shall install "No Trespassing" signs ~~construct a fence or another barrier~~ along the surveyed eastern property line to deter event attendees from trespassing onto and getting injured on the adjacent ~61-acre PA-80 zoned tract.

Condition 19: Applicant proposes no changes to Condition 19 in the Staff Report.

Condition 20: Prior to the commencement of any events, the County Planning Official shall conduct a Site Visit to verify that each of the Conditions of Approval have been satisfied including without limitation, the requirements of Conditions ~~23~~ 16 and ~~25~~ 18 for CU 23-12 have been satisfied related to posted Terms and Conditions of the home occupation permit and the installation of ~~a fence or another barrier~~ "No Trespassing" signs along the surveyed eastern property line.

Condition 21: Applicant proposes no changes to Condition 21 in the Staff Report.

Condition 22: CUP 23-12 is personal to the applicant and shall not be deemed to run with the land.

Attachment 2 – (Noise Management Control Plan)

Lake House
Noise Management Control Plan

7.15.2024

1. Purpose

The purpose of this noise control plan is to monitor and manage sound from Lake House events, as approved under CUP _____ (“CUP Approval”), and to ensure compliance with Condition ___ of the CUP Approval.

2. Operational Contact Information

Onsite Operational Contact: Bart Hafeman

Phone Number: 503-543-7664

The onsite operational contact is responsible for implementing this noise control plan and responding to noise complaints received during an event. The contact information for the onsite operational contact will be provided to all adjacent property owners within 500 feet.

3. Noise Thresholds and Measurement Locations

The Oregon Department of Environmental Quality (“DEQ”) regulates sound from commercial and industrial activities under OAR chapter 340 div. 35 (“DEQ rules”). The Lake House venue is a new noise source on a previously unused site under the DEQ rules, specifically OAR 340-035-0035(1)(b)(B).

The DEQ rules require Lake House to meet certain noise levels at noise sensitive receptor. All sound generated at the Lake House will be during Daytime measurement hours.

Allowable Statistical Noise Levels in Any One Hour

Statistical Descriptor	Daytime (7 a.m. – 10 p.m.) (dBA)	Nighttime (10 p.m. – 7 a.m.) (dBA)
L ₅₀	55	50
L ₁₀	60	55
L ₁	75	60

Source: OAR 340-35-0035, Table 8.

Sound levels will be measured from the noise sensitive receptor property line closest to the property. Lake House will measure noise levels at the locations identified on the attached map Figure 1 - (Measurement Locations).

4. Noise Monitoring and Equipment

Lake House will take a noise level measurement at least ~~one-time~~ twice during a large event (as defined in the CUP Approval) at each Measurement Location. Measurement readings will be kept in a log onsite.

Figure 1- (Measurement Locations)

