



## PLANNING COMMISSION

Tuesday, June 13, 2023 at 6:00 PM  
HYBRID: Council Chambers & Zoom (details below)

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### AGENDA

#### 6:00 P.M. CALL TO ORDER & FLAG SALUTE

**TOPICS FROM THE FLOOR** (Not on Public Hearing Agenda): Limited to five minutes per topic

#### CONSENT AGENDA

- A. Planning Commission Minutes Dated May 9, 2023

#### DISCUSSION ITEMS

- B. Architectural Character Review Revision - 353 S. 1st Street (Crooked Creek Brewery)

#### PUBLIC HEARING AGENDA (times are earliest start time)

- C. Deliberations of appeal of Sensitive Lands Permit SL.2.23 at N. 15th Street

#### PLANNING DIRECTOR DECISIONS (previously e-mailed to the Commission)

- D. Sign Permit (x2) at 465 S Columbia River Hwy - Portland Sign Co. (Pacific One Bank)
- E. Home Occupation at 58710 Noble Court - 1791 Armory, LLC
- F. Temporary Sign Permit at 2100 Block of Columbia Blvd - St. Helens Kiwanis Club

#### PLANNING DEPARTMENT ACTIVITY REPORT

- G. Planning Department Activity Report - May

#### PROACTIVE ITEMS

- H. Architectural Standards

#### FOR YOUR INFORMATION ITEMS

#### ADJOURNMENT

**NEXT REGULAR MEETING: July 11, 2023**

#### VIRTUAL MEETING DETAILS

**Join:**

**<https://us06web.zoom.us/j/83398671391?pwd=ekJRWjR2aGNQWWJnYU5SUlh3S0w0Zz09>**

**Meeting ID: 833 9867 1391**

**Passcode: 883438**

**Dial by your location: +1 253 215 8782 US (Tacoma)**

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Hall at 503-397-6272.

Be a part of the vision and get involved...volunteer for a City Board or Commission! For more information or for an application, go to [www.sthelensoregon.gov](http://www.sthelensoregon.gov) or call 503-366-8217.



## PLANNING COMMISSION

Tuesday, May 9, 2023, at 6:00 PM

### DRAFT MINUTES

- Members Present:** Vice Chair Dan Cary  
 Commissioner Jennifer Pugsley  
 Commissioner Charles Castner  
 Commissioner Ginny Carlson
- Members Absent:** Chair Steve Toschi  
 Commissioner Russ Hubbard  
 Commissioner Russ Low
- Staff Present:** City Planner Jacob Graichen  
 Associate Planner Jenny Dimsho  
 Community Development Admin Assistant Christina Sullivan  
 Councilor Mark Gundersen
- Others:** Brady Preheim  
 Robyn Toschi  
 Shauna Stroup  
 Lynne Pettit  
 Greg Pettit  
 Dan Hatfield  
 Guy Davis

#### CALL TO ORDER & FLAG SALUTE

Chair Steve Toschi was absent, so Vice Chair Dan Cary was the acting Chair.

**TOPICS FROM THE FLOOR** (Not on Public Hearing Agenda): Limited to five minutes per topic

**Preheim, Brady.** Preheim was called to speak. He suggested they clarify the public comment period and that it was for topics that they were not going to take public input on later in the agenda. He wanted to clarify the difference between a public hearing and discussion items. He said he felt that the Chair of the Commission should be removed from his position as the Chair's behavior with the Mayor was making the entire Commission, in his opinion, look bad. He also said he would like to see the Commission discuss improving the Courthouse Plaza area. He also said he would like to see some regulations that keep businesses on the main street from becoming vacant or used for residences.

**Pettit, Lynne.** Pettit was called to speak. She shared she was the Vice Chair of the Parks and Trails Commission. She shared that they had just been presented the Planning Commission's proposal on HB 3115 and she had some concerns about where the encampment proposed would be placed. She shared the space directly behind the Recreation Center along Old Portland Road would be something the Parks and Trails Commission would be okay with, but anything further into the space and along Milton Creek they did not want to see being used. She said the Parks and Trails Commission has plans

to turn it into a reserve to protect the wildlife and the beauty of the area. She also said there was a future to connect this park area to the McCormick Park area with a walking trail.

**Pettit, Greg.** Pettit was called to speak. He expressed his concern about the Planning Commission's HB 3115 proposal and the locations they had named as a place to create an encampment. He said the area in the old Boise Park along the creek was a treasure to be kept. He mentioned he was empathetic to the situation of the homeless and had volunteered many years with Community Action Team. He said if they plan to create an encampment, there should be toilets and trash receptacles that are regularly maintained to help protect the beauty of the area.

**Stroup, Shauna.** Stroup was called to speak. She expressed concern about the people living in their vehicles in residential areas. She wanted to be sure there was attention being paid to this behavior and looking for ways to discourage it. She also said she hoped they would be thoughtful about the other aspects of the City when they considered where to place a homeless camp.

## CONSENT AGENDA

### A. Planning Commission Minutes Dated April 11, 2023

Commissioner Jennifer Pugsley asked for corrections to the motions made on page 6 of 7 of the minutes.

**Motion:** Upon Commissioner Castner's motion and Commissioner Carlson's second, the Planning Commission unanimously approved the Draft Minutes dated April 11, 2023, with the suggested amendments. [AYES: Commissioner Carlson, Commissioner Castner, Commissioner Pugsley; NAYS: None]

## PUBLIC HEARING AGENDA (times are earliest start time)

### B. 6:05 p.m. Variance and Minor Modification Site Development Review at 373 S Columbia River Hwy – 1771 Columbia Blvd, LLC

Chair Dan Cary opened the Public Hearing at 6:16 p.m. There were no ex-parte contacts, conflicts of interests, or bias in this matter.

Commissioner Pugsley shared her potential conflict of interest in the proposal, as she and the applicant had a working relationship with different properties in the City, but she still felt she could make an unbiased decision on the application. No one in the audience objected to her ability to make a fair decision.

City Planner introduced the proposal as presented in the staff report dated May 1, 2023.

Graichen shared where the property was located. He shared a home on this property but burnt down and was a total loss. The owner expanded the parking lot and improved the access off Little Street. Graichen said when this development proposal came in a plan was approved and then was not completely followed.

He said where the plan started to be an issue was with the landscaping islands. He showed the Commission the first island and explained it was supposed to be 17-feet wide with a curb along the opposite side of the sidewalk. It was installed with 13-foot width and no curb. He also said the street tree installed did not meet the minimum two-inch diameter d.b.h. as required by the standard.

He said the second island was described on the plan as seven-feet, but when installed it was only five-feet.



He said the third island was the most off the original plan. He said on the original plan it was proposed to be nine-feet in width but was installed as three-feet in width. He said the tree was planted in the back as there was not enough space in the island to grow.

He said the Variance was the easiest way to address the deficiencies of the parking lot landscaping islands.

**Weigandt, Wayne. Applicant.** Weigandt was called to speak. He said he started on this project almost a year ago. He said he met multiple times with the Planning Department about the plans and there were errors in them that he was not aware of. He said the dimensions of the actual space did not match what was laid out on the plans and so when they were in construction, they were trying to fit the approved plan into the smaller dimensions. He said the discrepancies were not intentional. He mentioned he built the parking lot because the number of customers and employees of the complex was starting to increase, so he felt this would be a nice addition to the property. He said he was trying to improve the area with better access and sidewalks onto Little Street. He said there was some confusion with his draftsman who did his plans and the dimensions of the property, but he felt it turned out nicely and thinks this layout works very well for the customer base, the employees, and the vendors who come in and service the property.

#### **In Favor**

No one spoke in favor of the application.

#### **Neutral**

No one spoke in neutral of the application.

#### **In Opposition**

No one spoke in opposition to the application.

#### **End of Oral Testimony**

There were no requests to continue the hearing or leave the record open.

#### **Close of Public Hearing & Record**

#### **Deliberations**

Chair Cary said he felt it was important for the trees to have enough soil for them to grow. He said he thought the landscaping islands being large enough to support them was important. He did not think it was a good thing to require the landscaping and then not require the appropriate amount of care for them to take root and survive for years to come.

There was a small discussion about landscaping and the standards.

Commissioner Pugsley said she thought the landscaping bump out was too small, but if it was built to the standard, it would be too large for vehicles to navigate around it.

There was a small discussion on the width of the bump out and how it would affect the parallel parking spaces.

There was a discussion on the number of parking spots in between the landscaping islands.

The Commission agreed the first landscaping island closest to Little Street should have the correct size street tree and a curb added. They said the other two landscaping islands were approved as is.

The Commission agreed the undersized parking spot should be eliminated or marked as a compact parking space.

**Motion:** Upon Commissioner Castner's motion and Commissioner Pugsley's second, the Planning Commission unanimously approved the Variance with the conditions of planting a street tree and a curb to the landscaping island number one and eliminating the adjacent parking or marking it as a compact space. [AYES: Commissioner Pugsley, Commissioner Carlson, Commissioner Castner; NAYS: None]

**Motion:** Upon Commissioner Carlson's motion and Commissioner Pugsley's second, the Planning Commission unanimously approved the Chair to sign the Findings. [AYES: Commissioner Pugsley, Commissioner Carlson, Commissioner Castner; NAYS: None]

C. **6:30 p.m. Appeal of Sensitive Lands Permit SL.2.23 at N. 15<sup>th</sup> Street – Infinity Investments-Puget Sound, LLC**

Chair Cary opened the Public Hearing at 7:09 p.m. There were no ex-parte contacts, conflicts of interests, or bias in this matter.

Associate Planner Jennifer Dimsho introduced the proposal as presented in the staff report dated May 1, 2023.

Dimsho said the appeal was of an administratively approved Sensitive Lands Permit to build a retaining wall of up to 12-feet in height. She shared the location of the proposed wall and said there was a City owned wetland just north of the subdivision and a small tract of City owned land between the wetland and the subdivision. The applicant also included a storm line which would daylight onto the City-owned wetland tract. In order for the private storm outfall to be maintained by the future owner of the lot, the wall would have to be setback from the property line. The City Engineering Department also required that they build the storm outfall protection to the standard provided in the report.

She said the applicant supplied engineering on the retaining wall, and it was about 50-feet wide and 50-feet long on the backside of the property.

She shared some of the other conditions placed on the original Sensitive Lands Permit for approval, including that they would need revised wall plans to show a setback to account for the storm infrastructure required by Engineering. They also needed to supply additional wall profile and edge conditions to detail about how the wall would tie into the rock bluff to ensure all rock/fill will be contained on the lot.

After sending the original approval out, a neighboring property appealed the decision citing impacts to the neighboring properties.

She said of the items the appellant brought up, there were two things to consider: the definition of a structure and the definition of a yard.

She said they could regulate this wall as a structure because it was proposed to be built in what was otherwise a ranging setback of approximately 2' to 25' from the rock bluff. A new 12' high structure would block what was otherwise a setback between the appellant's property line and the rock bluff. She said to regulate this, they could consider the wall a structure, and utilize setbacks based on the R5 zone. She said the Planning Department added a recommended condition that the applicant would need to submit revised plans which comply with setback requirements per the R5 zoning district unless variance(s) is/are granted to allow less.

Dimsho said this was different than a fence, as fences are capped at six-feet and this wall was going to be 12-foot in height as proposed.

City Planner Graichen said the appellant asked for additional conditions to be placed on the applicant than what the Planning Department recommended. He said the Planning Commission could require a yard setback to be met and installed.

**Yordy, Alan. Appellant.** Yordy is the representative of the Infinity Investments-Puget Sound, LLC. He said the reason they looked to appeal the decision was for multiple items. He said Lot 10 of the proposed application had part of the property in the wetland area. He also said the 12-foot wall went well beyond the height of the standards and shared some different examples of smaller walls with alternate construction materials. He said there was no landscaping plan to tone down the wall and there was already disturbance to the current landscaping there, including a removal of a tree taken down against City Development Code. He mentioned he was worrying about building something like this in an area that was subject to sloping. He said there were already structures there in the sloping area that had fallen. He also felt it blocked access to his property for emergency evacuation.. He said with the property being a wetland, there were special requirements that needed to be met which were not addressed in the original application. He also said the plans showed a tilting wall, but the plot plan showed a straight wall, so it was not clear on the design, other than it was not a poured concrete, reinforced, wall. He said he would also like to see a seismic report done.

### **In Favor**

No one spoke in favor of the application.

### **Neutral**

No one spoke as neutral testimony.

### **In Opposition**

No one spoke in opposition to the application.

### **Rebuttal**

**Hatfield, Dan. Applicant.** Hatfield was called to speak. He said based on the survey done on his property, the tree was removed legally. He also said they are looking to place the wall the appropriate distance from the property line. He explained how they would have to build the wall and the construction materials to be used. He talked about the anchors and the way it would be placed, based on an engineer's report, to make sure it was sound and stable. He also discussed the storm drainage and the pipe that was connected to all the houses and how it drains into the wetlands. He said that the wall did not have to be 12-foot, there were other options to make this space safe.

There was a small discussion about the drainage of storm water. Hatfield said they could put the drainage on the property and could be moved to be sure that it does not affect the neighboring properties.

**Yordy, Alan. Appellant.** He shared that after hearing all the information from the original applicant, he felt a full plan needed to be laid out before they moved forward with the wall. He felt this would resolve all the issues of how things needed to be laid out on the property. He shared the wall should be moved or smaller. He thinks there could be a solution that satisfies all involved.

### **End of Oral Testimony**

There were no requests to continue the hearing or leave the record open.

### **Close of Public Hearing & Record**

The Appellant asked for the Public Record to be left open. Graichen explained that the applicant and the appellant would have seven days for additional written testimony, another seven days to respond to the new information, and a final seven days for the applicant to prepare any final written argument. Deliberations on this matter will occur at the next Planning Commission meeting on June 13, 2023.

### **DISCUSSION ITEMS**

**D. CUP.2.23, et. al., condition of approval 2.a.G**

Graichen shared the design plan for the mixed-use development on the corner of 6<sup>th</sup> Street and Columbia Blvd. He said one of the conditions was to have the building design brought to them for recommendations and to see if the design fit the neighborhood better.

He shared the roof was a flat layout now. Commissioner Pugsley was still concerned about the siding and did not like the location of the building. She did say the design was much nicer than the original submittal.

There was a small discussion about building location and how it fits the neighborhood. The majority of the present Planning Commissioners agreed that the new design fits in with the neighborhood.

**E. Semi-Annual Planning Department Report**

Dimsho and Graichen discussed the Semi-Annual Report which was given to Council at their April 19 meeting.

**F. Planning Commission Annual Report to Council**

Graichen said the Planning Commission's annual report would be given next month to the City Council. He specifically mentioned the meeting count which increased from 12 to 15. In prior years, sometimes this number was 11. More meetings makes the Planning Department very busy. He shared some more comparisons of years past versus this year's report, including the increase in discussion items from 15 to 35. This is why meetings have been longer than usual over the last year.

He asked the Commission what they felt the City Council could do to support them. He shared some of the requests from last year and that the budget was very lean this year. Commissioner Carlson said she didn't think we should take the request for additional help off the list, as it would be good for the City Council to consider extra help to take pressure off the department.

There were no other suggestions of things to share with the City Council.

**G. Refine HB 3115 Recommendation**

Graichen shared a few changes based on the City Council's review of the proposal from the Planning Commission. He wanted to narrow down the exact location the Planning Commission wanted to recommend to the City Council. He showed the map of the proposed locations and potential sites for approved camping. Commissioner Carlson expressed concern about too much creek frontage for a camp to be placed. Graichen said there was a 100-foot separation from the space to the creek but it would be hard to manage realistically.

Commissioner Castner said he felt the City Council and the Planning Commission were not really on the same page, but he felt moving forward they should stick with their original recommendation. He said just because the Council and the Planning Commission did not agree, did not mean they should change what they felt was the best recommendation. He said if the Council takes all, part, or none, of the recommendation, then they can say they did their best to give a solid recommendation based on their interpretation of the law.

There was a discussion on what specific areas to be utilized for camping. Based on the map provided by Graichen, the Commission felt only locations one and two should be suggested as a location for approved camping.

**PLANNING DIRECTOR DECISIONS** (previously e-mailed to the Commission)

- H. Sign Permit (x6) at 405 N Columbia River Hwy – Sign Craft (Burger King)
- I. Sign Permit at 115 N Columbia River Hwy – ES&A Sign & Awning

- J. Sign Permit at 420 Columbia Blvd – St. Helens Liquor Store
- K. Sign Permit at 373 S Columbia River Hwy – Aman & Kulwinder, LLC (Skinny's)
- L. Temporary Use Permit at 2225 Gable Road – Shyla Kniffin (St. Hellions Grill)
- M. Site Development Review (Minor) at 71 Cowlitz Street – The Klondike Tavern
- N. Site Development Review at SW Corner of the Wyeth Street/US30 Intersection – Odom (Dairy Queen)

Commissioner Carlson asked about the Temporary Use Permit for a food truck to be placed on private property at the new Crooked Creek Restaurant. She did not agree with opening the business with no parking in front of it. Dimsho mentioned they did not plan to open before the brewery opened and when the road closure opened. They are also only operating on site until the brewery's kitchen is up and running.

### **PLANNING DEPARTMENT ACTIVITY REPORT**

- O. Planning Department Activity Report – April

There was no discussion on the Planning Department Activity Report.

### **PROACTIVE ITEMS**

There was no discussion on the Proactive Items.

### **FOR YOUR INFORMATION ITEMS**

Dimsho shared that Crooked Creek was preparing to submit their building permit and there were slight revisions. He discovered the original main entrance door opening was much larger than the door there now. He proposed to add two side windows for the entrance.

Commissioner Pugsley said she thought the materials for the skylights need to be period correct, regardless of the expense. She did not want to see vinyl windows put in. She did not have an issue with the idea of placing skylights in the door frame.

Dimsho also said the stairs for the upstairs unit originally had a switchback and was now being proposed as a straight staircase with the entrance in the back of the building. She also discussed the storage building that was going to be placed in the back was now going to be attached instead of detached.

### **ADJOURNMENT**

*There being no further business before the Planning Commission, the meeting was adjourned at 10:13 p.m.*

*Respectfully submitted,*

*Christina Sullivan*

*Community Development Administrative Assistant*

**From:** [Jennifer Dimsho](#)  
**To:** [Jennifer Dimsho](#)  
**Subject:** [External] Small changes  
**Date:** Tuesday, June 6, 2023 12:37:08 PM  
**Attachments:** [email logo.png](#)  
[D5B0655D3A9C451EB7AE882DE4222563.png](#)

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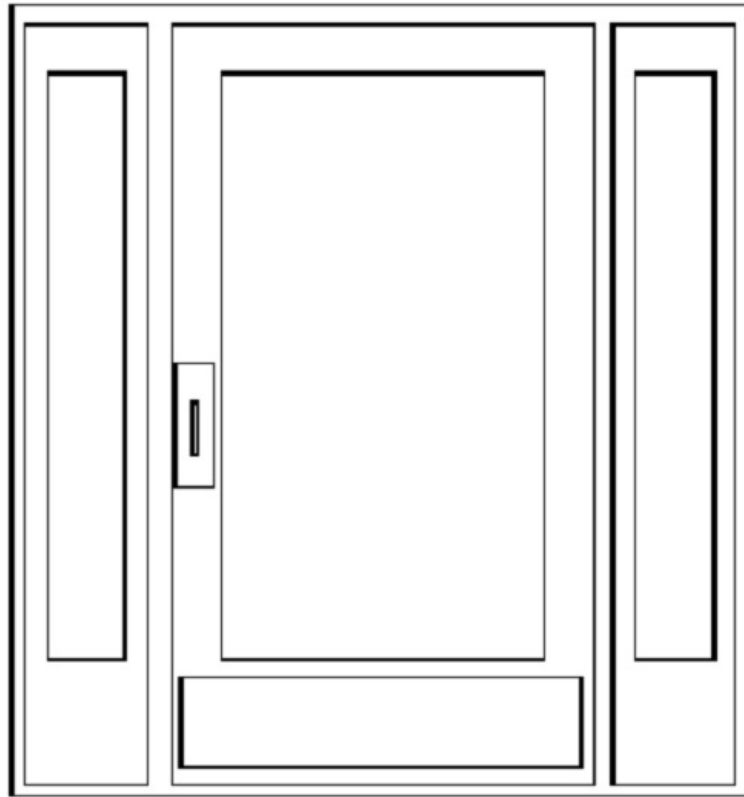
**From:** Dave Lauridsen <d@crookedcreekbrewery.com>  
**Sent:** Tuesday, June 6, 2023 6:03 AM  
**To:** Jennifer Dimsho <jdimsho@sthelensoregon.gov>  
**Subject:** Re: [External] Small changes

Hi Jennifer. I finally got the updated version of the door drawing without the nameplate. Both the front entry and side entry doors would be the same style, just slightly different sizes. They are a solid unit Douglas fir wood door and sidelight assembly with no vinyl and a kick plate on the door. You mentioned that with this clarification you might be able to give the ok without going back to the design review board. Please let me know if this updated drawing works or if we need to take it back to the board.

Best.

Dave Lauridsen  
-----  
Founder / Brewer  
CROOKED CREEK BREWERY  
503.369.7388 / [d@crookedcreekbrewery.com](mailto:d@crookedcreekbrewery.com)







# CITY OF ST. HELENS PLANNING DEPARTMENT

# MEMORANDUM

TO: Planning Commission  
 FROM: Jacob A. Graichen, AICP, City Planner  
 RE: Appeal AP.1.23 of Sensitive Lands Permit SL.2.23  
 DATE: April 6, 2021

This packet constitutes the items submitted to the record after the “live” public hearing on May 9, 2023.

The “record” consists of the following:

1. The staff report dated May 2, 2023 with attachments.

The Commission received this previously as part of your hearing packets for the May 9<sup>th</sup> meeting.

2. Items submitted after May 2<sup>nd</sup> staff report and before the May 9<sup>th</sup> public hearing.

**This packet has this item.** The Commission received a revised appeal narrative from the appellant at the hearing on May 9<sup>th</sup>.

3. Items submitted into the record within the two weeks after the May 9<sup>th</sup> public hearing.

**This packet has these items.** It includes materials from the appellant and applicant, one item each, submitted in the first week (May 10 to May 16).

The second week (May 17 to May 23) was intended to respond in writing to any new evidence. Again, one item was submitted each by the appellant and applicant this week.

4. Applicant’s final written argument.

The applicant did not submit any final written argument. Thus, nothing to attach.

You will deliberate on this matter at your June 13, 2023 meeting. Please consider all items in the record you have already received, oral testimony at the May 9, 2023 public hearing, and the *new items for the record attached to this memo* as you contemplate your decision.

Some observations of the new material by staff:



**Much information has been presented. However, staff observes that some does not appear to be applicable based on an objective review of the code.**

- 17.44.040(1)(a) through (d) does apply. These are the specific criteria for steep slopes.
- 14.44.040(2) does not apply. There is no drainageway as defined by Chapter 17.16 SHMC.
- Site Development Review (SDR) does not apply. Any reference to Chapter 17.96 SHMC is moot. Refence of SHMC 17.44.040(5)(b) to make the SDR connection to this application is incorrect as this is not a listed cultural area or site. This is not an archaeological site.
- Tree issues. A large mature oak (>12" dbh) was removed within the boundary of Lot 10 as noted by the appellant. The appellant notes the potential \$500 civil penalty per SHMC 17.132.070.

- Tree removal permit required if within a sensitive land per Chapter 17.44 SHMC. The Oak tree is not in a sensitive land as photos from appellant show the tree not within a steep slope (25% or greater).
- This tree should have been inventoried as part of the Hannah Place Subdivision since it is >12 inch diameter. Tree inventories are required for land divisions. For some reason, this tree was missed. If deemed to be protected as part of the Subdivision process, it would have been flagged as part of this process.

But the applicant still has the burden of proof.

- A tree as defined by SHMC 17.132.020 within a sanative land (Tract A) was killed. The applicant had no permission from the city to use Tract A for development including pushing debris off the cliff. This act was contrary to law given the upland protection zone. In the original staff report for this Sensitive Lands Permit (page 3) there is a before and after photo, where a big leaf maple is shown alive and atop the cliff (before) and then towards the bottom with a mass of loose rock that was pushed over the edge (after).

Being under 12" dbh, it wasn't inventoried with the subdivision, but being at least 6" dbh, is still a tree per Chapter 17.132 SHMC.

- Not fish and wildlife habitat. References to 17.44.040(4) are moot. No listed habitat at the subject property per 17.44.015(5). "Active wildlife area" due to the presence of deer does not beget regulated wildlife habitat.
- Emergency vehicle access via an adjacent property's setback is not based on any standard to require such. A yard does not grant access. Its purpose is air, light and space.
- The subject property is not part of a riparian area or wetland protection zone, but the adjacent tract (Tract A) is, which was determined as part of the subdivision process (via an Environmental Assessment) that created the subject property and the other lots of the Hanna Place Subdivision.

Some impacts occurred to a generally confined area. This should not have happened and is addressed in the original conditions.

- The applicant was not able to produce a geotech report for the record.

\* \* \*

## Recommendation for the Planning Commission?

**Denial.** The application doesn't address SHMC 17.44.040(1)(a) well and a condition of approval is not necessarily the best option because of the findings to determine minimum extent. Could be hard to determine this without specificity lacking in the application. SHMC 17.44.040(1)(a):

The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than that required for the use;

In this case the Commission should make a finding that this denial has no impact on needed housing as it is still a developable lot; an attached single-family dwelling is still possible without the retaining wall proposed with this application.

This decision should also note that sensitive land impacts still need to be addressed with a Sensitive Lands Permit and any requirements thereof.

**Approved with conditions.** The conditions of the original decision with suggested changes (in red) based on this appeal:

1. This **Sensitive Lands Permit** approval is valid for a limited time (to establish use or conduct activity) pursuant to SHMC 17.44.030. This Sensitive Lands Permit approval is valid for 1.5 years. A 1-year extension is possible but requires an application and fee. If the approval is not vested within the initial 1.5 year period or an extension (if approved), this is no longer valid and a new application would be required if the proposal is still desired. See SHMC 17.44.030.
2. **The following shall be required before any development or building permit issuance for the proposed wall or before any commence of wall construction:**
  - a. Revised wall plans to ensure the wall, outfall, and all related outfall infrastructure is located entirely on Lot 10 (the subject property). Note that per condition 2c, the wall must be set back from property line to contain outlet protection rip rap. **In addition, the yard requirements of the zoning district shall apply based on applicable policy including but not limited to the definition of "structure" and "yard," the zoning district, and SHMC 17.64.050.**
  - b. Additional wall profile and edge conditions to detail how the wall will tie into the existing rock bluff to ensure all rock/fill will be contained on Lot 10 (the subject property).
  - c. Outfall and related infrastructure shall match the Outlet Protection Rip Rap & Rip Rap Details attached. In addition, stormwater infrastructure shall not be designed to encourage runoff onto existing pavement below which is along the west side of Lot 10's north lot line. The final outfall drainage plan shall be reviewed and approved by City Engineering.
  - d. Plans detailing how removal of rock and fill dumped onto City-owned property will be removed **and** how the wall and outfall will be installed without causing additional impact to the wetland and upland protection zone to be approved by City staff.

Applicant shall attest in writing that they understand further impacts to the upland protection zone will result in additional permitting and/or enforcement.

- e. The applicant shall pay a civil penalty of \$500 (or \$1,000 if you want to include both trees) for unauthorized tree removal. In addition, tree(s) shall be replaced in accordance with SHMC 17.132.070(4) including a minimum two-year contract with a landscape contractor for installation and maintenance. See condition 3.f.

*Note: SHMC 17.132.070(4)(d) states that "The planting of a replacement tree shall take place in a manner reasonably calculated to allow growth to maturity." 2 years is a duration from Chapter 17.40 SHMC, but this could be a different number. Does not 100% guarantee tree survival but will increase the odds.*

**3. The following shall be required before any development or building permit issuance to develop Lots 9 and 10 with dwellings:**

- a. The proposed wall shall be completed and approved with all requirements met. This includes written confirmation from the registered professional engineer who designed the wall that they have personally and physically inspected it and acknowledge that it has been constructed per the final approved plans.
  - b. All previous unpermitted impacts to wetlands or wetland protection zones shall be abated.
  - c. Any new impacts to wetlands or wetland protection zones shall be resolved including any necessary permitting. This condition does not indicate this SL permit allows such. See condition 4.
  - d. Revegetation of all areas where natural vegetation has been removed due to grading on Lot 9 and Lot 10 of the Hanna Place Subdivision.
  - e. Plans for development shall specify revegetation of bare earth as a specific requirement of completion of the dwelling(s).
  - f. Any replacement tree per condition 2.e shall be protected from development activities. Plans shall indicate how this will be done, as applicable.
- 4. This SL permit does not allow any new impacts to wetlands or wetland protection zones. It does require previous unapproved impacts to be abated.
  - 5. Owner/Developer shall be solely responsible for obtaining all approvals, permits, licenses, and authorizations from the responsible Federal, State and local authorities, or other entities, necessary to perform land clearing, construction and improvement of the subject property in the location and manner contemplated by Owner/Developer. City has no duty, responsibility or liability for requesting, obtaining, ensuring, or verifying Owner/Developer compliance with the applicable State and Federal agency permit or other approval requirements. This land use approval shall not be interpreted as a waiver, modification, or grant of any State or Federal agency or other permits or authorizations.
  - 6. Owner/applicant is still responsible to comply with the City Development Code (SHMC Title 17).

Appeal of Site Development  
Recommendation:  
Lots 9 and 10, Hanna Subdivision  
(Supplemental material for Land Use Appeal  
Application, filed April 3, 2023)

Submitted by:  
Infinity Investments-Puget Sound LLC  
(An Oregon limited liability company)

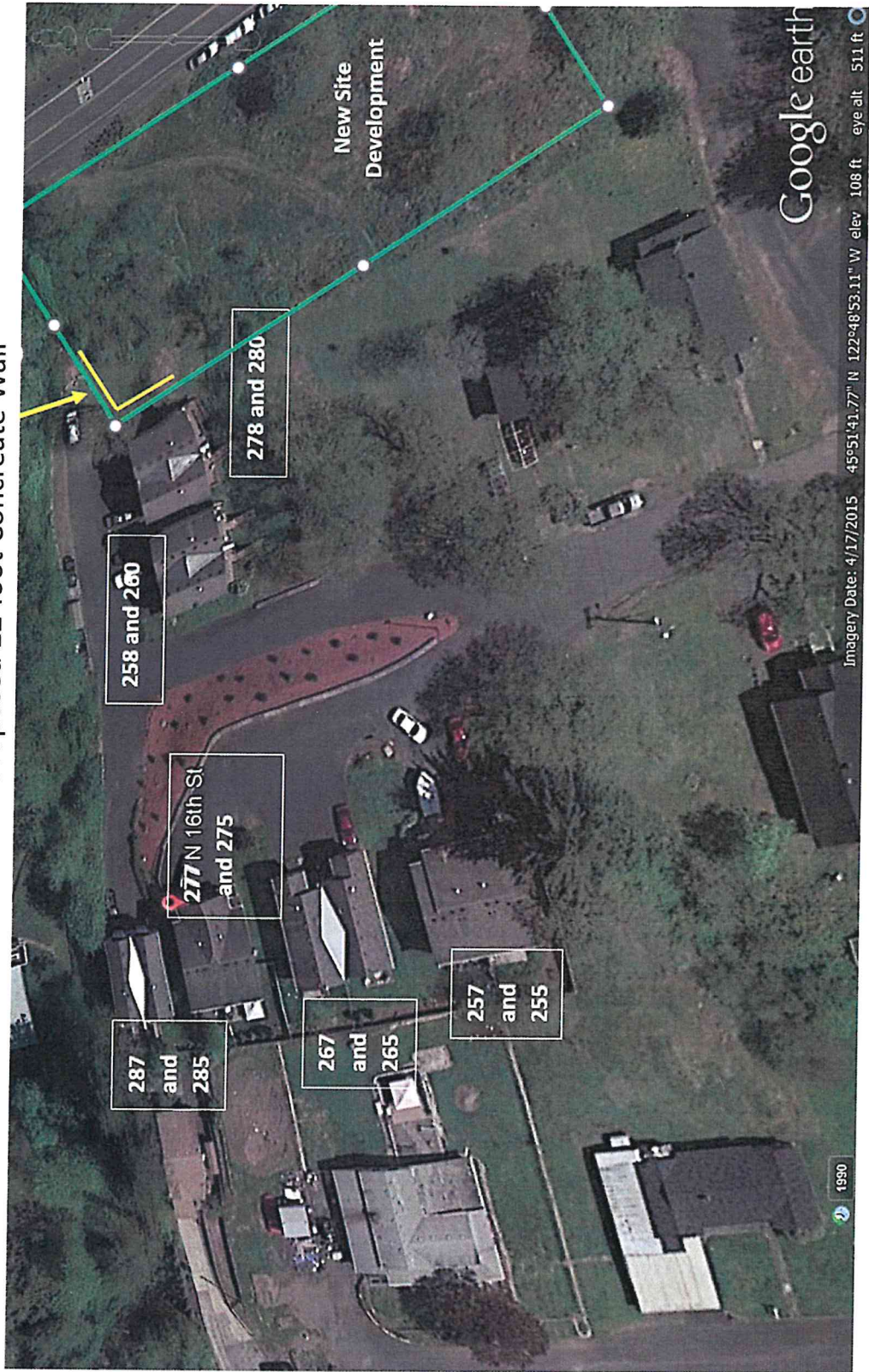
RECEIVED  
MAY - 9 2023  
CITY OF ST. HELENS  
@PLAN.COMM.  
HEARING

# Background

- A letter to adjacent property owners was received on March 30, 2023, which provided details regarding the staff findings and proposed Site Development Plan.
- A letter was sent to city planning staff on March 31, 2023, indicating a number of issues with the determination and asking for an appeal to the determination.
- A formal appeal was filed on April 3, 2023.
- A communication to Mr. Jake Graichen requesting all information relating to this Site Development Application was sent via e-mail on April 13, 2023. Mr. Graichen responded that there “been no amendments to the plan or anything since the initial application,” which was included in the initial mailing. Additionally, there is no filing from the applicant on the City website.
- The appeal hearing was scheduled for May 9, 2023
- NOTE: All *items in italics* are quoted from St Helens Municipal Code. The aerial view on the next page provides the location and context for this appeal.



Proposed 12-foot Concrete Wall



# Basis for Appeal

1. The proposed plan is a Site Development Proposal in a Sensitive Land area. Therefore, it is subject to two Chapters of the SHMC – 17.44 and 17.96. The material provided does not meet the basic standards for submission of a Site Development contained in SHMC 17.96.120 attached as Exhibits A and B. Additionally, the submission is subject to SHMC 17.44.050 through 17.44.100 No detailed plans and elevations to scale are provided to clearly describe the proposed site revisions and meet the criteria of SHMC listed above. Based on these and other deficiencies, staff should have rejected the application until such time that all required materials were submitted.
2. The plan appears to show a 12-foot wall constructed of prefabricated concrete barriers, which are inconsistent with SHMC 17.96.180 and SHMC 17.44.040 1.(a),(d) 2.(a),(d). The wall construction goes well beyond what is necessary for building construction in a Sensitive Land Area. No landscape plan is included in the submittal. In fact, a tree conforming to requirements of this section and providing ground stability was cut without site plan approval, diminishing the views and aesthetic of the adjoining property. Additionally, ground was graded and native vegetation removed without and approved Site plan or tree cutting permit as required by SHMC.

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## Basis for Appeal

3. The proposed revision is part of a wetland/drainage stream, which has exhibited evidence of soil instability. SHMC 17.96.180 requires that buildings (and associated site development structures) be “Located in areas not subject to ground slumping or sliding...”
4. SHMC 17.96.180 (4) requires “*Buffering shall be provided between different types of land uses (for example, between single-dwelling units and multi-dwelling units residential, and residential and commercial), and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:*
  - (a) *The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a **visual barrier**;*

*Additionally. 2 (a) iii requires that buildings (and structures) be:*

- (iii) *Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting;*

No buffering plan or setback data are included in any documents that were provided to the appellant.



## Basis for Appeal

5. This Site Development Application is in an active wildlife area (riparian zone) and within a designated wetland. SHMC 17.44.040 4. (2) requires that approvals *create minimal site disturbance*. This Site Development Proposal creates a large and impassable barrier that fundamentally disturbs the existing landscape and topography and does not comply with this provision of SHMC. SHMC 12.44.028 requires that land with the wetland/riparian zone comply with wetland provisions of SHMC Chapter 17.40.

# Appeal #1

- SHMC Chapter 17.96 Requirement: The site development plan, data, and narrative shall include the following:

- (a) *An existing site conditions analysis, SHMC 17.96.110;*
- (b) *A site plan, SHMC 17.96.120;*
- (c) *A grading plan, SHMC 17.96.130;*
- (d) *A landscape plan, SHMC 17.96.150;*
- (e) *Architectural elevations of all structures, SHMC 17.96.140;*
- (f) *A sign plan, SHMC 17.96.160; and*
- (g) *A copy of all existing and proposed restrictions or covenants. (Ord. 2875 § 1.128.090, 2003)\**

The **highlighted applicable requirements** are missing from the application.

\*A driveway and shared parking easement was filed on January 14, 2021, which is not disclosed in the application.

# Appeal #1

- SHMC 19.44.050 has similar requirements to 19.96. These include:
  - (1) All applications for uses and activities identified in SHMC [17.44.015\(2\)](#) through (5) shall be made on forms provided by the director and shall be accompanied by:
    - (a) Copies of the sensitive lands permit proposal and necessary data or narrative which explains how the proposal conforms to the standards (number to be determined at the preapplication conference) and:
      - (i) The scale for the site plan(s) shall be a standard engineering scale; and
      - (ii) All drawings or structure elevations or floor plans shall be a standard architectural scale, being one-fourth-inch or one-eighth-inch to the foot.
    - (b) The required fee.
  - (2) The required information may be combined on one map.
  - (3) The site plan(s), data and narrative shall include the following:
    - (a) An existing site conditions analysis, SHMC [17.44.070](#);
    - (b) A site plan, SHMC [17.44.080](#);
    - (c) A grading plan, SHMC [17.44.090](#); and
    - (d) A landscaping plan, SHMC [17.44.100](#). (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.050, 2003)

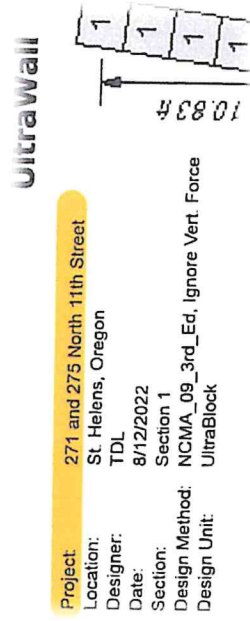
The highlighted applicable requirements were not included in the application packet.

# Appeal #1 Issues

- Due to the incomplete data included in the application, it not possible to accurately assess the design and impacts of the proposed Site Development Plan. At best, it is necessary to interpret from the documentation and staff narrative basic terms of the applicant's proposal. At a minimum, the following issues created significant limitation in understanding the proposal:
  - The hand-drawn site plan is not to scale as required and does not provide clear setback information regarding lot lines and adjacent buildings as required by SHMC.
  - The hand-drawn site plan appears to be in conflict with the elevations provided. For instance, the site plan shows a vertical wall. The wall detail appears to show a tilting "UltraWall."
  - No detailed elevation drawings are provided for each side of the lot affected by the proposal.
  - No building structures are shown on any detail.

# Appeal Issues #1

- No wetland setbacks are shown to demonstrate that the subject development complies with state and federal law, and the 2021 St. Helens Stormwater Plan, sections 5 and 6.
- The “UltraWall” shown in the submission is for a different project (271-275 N. 11th), unrelated to the 15<sup>th</sup> Street Site Development Plan. The proposed wall for this project application should be shown. There is no evidence of any tilted walls in the vicinity of this project.



# Appeal Issues #1

- Due to the lack of clarity in the applicant's submittal, this wall should be part of the building structure and part of the Site Development Plan as defined in SHMC 17.16.010. The proposed structure may also be considered a "wall" under 17.72.90 Under this portion of the code 2. (a) Fences or walls may not exceed four feet in height in a required front yard along local or collector streets or six feet in all other yards and, in all other cases, shall meet vision clearance area requirements (Chapter 17.76 SHMC)

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# Appeal #1 Solution

1. The applicant's plan should have been rejected on procedural grounds that it was incomplete and did not comply with SHMC requirements. Before any further consideration, a complete plan that complies with St Helens Municipal Code should be submitted. This includes:
  - a. Plans and elevations to architectural scale for the Site Development Plan for Lots 9-10, Hanna Subdivision (15<sup>th</sup> Street), showing setbacks from proposed and existing structures.
  - b. Copies of the sensitive lands permit proposal and necessary data or narrative which explains how the proposal conforms to SHMC standards.
  - c. An existing site conditions analysis, including a geotechnical study with soils analysis.
  - d. A grading plan.
  - e. A landscape plan.
  - f. A buffering plan.
  - g. Architectural scale elevations of all structures, including walls.

## Appeal #2

- SHMC 17.96.180 (2) requires that:

Buildings (presumably related structures) shall be:

- (i) Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;*
- (ii) Located in areas not subject to ground slumping or sliding;*
- (iii) Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting; and*
- (iv) Oriented with consideration for sun and wind; and*
- (b) Trees having a six-inch DBH (as defined by Chapter [17.132 SHMC](#)) or greater shall be preserved or replaced by new plantings of equal character.*



## Appeal #2 Issues

- Additionally, any approval of the proposed Site Development is subject to SHMC 17.44.040 1.(a),(d) 2.(a),(d). These sections require in areas of significant slope and potentially unstable ground to:
  - (a) *The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than that required for the use; and*
  - (d) *Where natural vegetation has been removed due to landform alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 17.72 SHMC.*

The Site Development Plan as proposed does not comply with provision (a) above. It is not possible to tell if the applicant's proposal complies with (d) above because no landscape plan was included in the submittal.

## Appeal #2 Issues

- SHMC 17.96.180 2.(b) states that: *Trees having a six-inch DBH (as defined by Chapter 17.132.030 SHMC) or greater shall be preserved or replaced by new plantings of equal character. The approved wall structures does not maintain “trees, natural topography and natural drainage.”* A mature oak of more than 27” in diameter, which was within inches of the property line, was cut without permit or notice. The natural topography is fundamentally changed in an area near a wetland. Additionally, this tree and other vegetation were removed with site grading, which is out of compliance with SHMC and diminishes ground stability.

BEFORE CUTTING



AFTER CUTTING



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## Appeal #2 Solution

1. Require a landscape plan, which takes advantage of the existing topography and creates minimal impact as required by SHMC. Unfortunately, it is too late to preserve “*Trees having a six-inch DBH* (as defined by Chapter 17.132 SHMC) or greater” as required by code. Mitigation for this failure to follow city code should be required, including plantings for slope stabilization and replacing the illegally cut tree with new trees of similar type (Oak) at least 15-20 feet in height.
2. Under SHMC, a civil penalty may be imposed for cutting this tree without a permit.

## Appeal #3

- City code SHMC 17.96.180 requires that the:
  - 2) “Relationship to the Natural and Physical Environment” be considered
    - (a) *Buildings (presumably associate structures) shall be:*
      - (i) *Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;*
      - (ii) ***Located in areas not subject to ground slumping or sliding;***
      - (iii) *Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting;*
- The proposed wall is clearly within an area subject to ground movement, especially during a catastrophic earthquake or extraordinary event.



## Appeal #2 Issues

- The proposed wall is located in an area that is prone to “ground slumping or sloping.” A city provided or required barrier has been sliding down an adjacent slope next to the end of a public street.

Existing concrete barriers at the end of City street sliding toward wetland due to unstable slope, located within 15 feet of proposed structure.



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## Appeal #3 Solution

1. Require a geotechnical study, including soils analysis, to verify stability of the area related to the site development. This will give adjacent property owners assurance that any buildings or other structures with such significant proposed wall and fill structure will not settle and/or fail in an earthquake or other catastrophic event.

## Appeal #4

- Buffering between properties is required by SHMC 17.96.180 4.(a).

*Buffering shall be provided between different types of land uses (for example, between single-dwelling units and multi-dwelling units residential, and residential and commercial), and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:*

*(a) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;*

- “Relationship to the Natural and Physical Environment” be considered

2(a) Buildings (presumably associate structures) shall be:

*(i) Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;*

*(ii) Located in areas not subject to ground slumping or sliding;*

*(iii) Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting;*

*Additionally, SHMC 17.44.070 5 (b) requires that “All requirements of a full site development review have been met” including the buffering requirements in 17.96.180.*

## Appeal #4 Issues

- No provision for such buffering is shown in any of the Site Development documents. Lots 9 and 10 are designed to be owner-occupied separately deeded properties. The adjacent property is multi-family rental property. No buffering is shown or proposed, including any landscaping that may be part of the buffering.
- It is also likely that the distance between the proposed 12-foot wall and the existing building is inadequate for firefighting and/or rescue during such events describe above, assuming the wall does not deteriorate or collapse during such an event.
- All survey markers were removed and one was replaced (without survey confirmation) as described on the following page, following the illegal felling of the tree.



# Appeal Issues #4

- While it is difficult to determine actual 12-foot concrete wall setbacks from the documentation provided in the application, the property marker that was replaced after being dislocated due to the tree felling is 9' 2" from the foundation of the existing building on the adjacent property. SHMC 17.32.070 4.(d) requires that side yards shall be "10 feet for multi-dwelling structures. Corner lots shall have a minimum exterior side yard of 10 feet." The adjacent structure is both a duplex and a corner lot. Furthermore, the 10-foot minimum does not provide adequate circulation for emergency equipment should it be needed to access the rear of the adjacent property. This is the only vehicle access point for the rear of the adjacent properties.

9' 2" measured from existing foundation



## Issue #4 Solution

1. Require that a buffering plan be submitted as part of a complete Site Development Plan packet.
2. Require submission of a complete Site Development Plan that includes all buildings, property lines and setback as required by SHMC.
3. If the city and state ultimately permit the placement of a 12-foot wall in this Sensitive Land Area, require a minimum setback from the property line of at least twenty-five (25) feet to accommodate emergency vehicle and equipment access to existing buildings.



## Appeal #5 Issue

- Lot #10 of Site Development Application is in an active wildlife area and in an area of a wetland/riparian zone. SHMC 17.44.040 4. (2) requires that *“the extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than the minimum required for the use.”* The proposed 12-foot wall creates a major impediment to wildlife migration, frequently seen in the area.
- Although the Site Development Plan shows no building structures as required by SHMC, current practice and existing buildings demonstrate that a habitable structure can be built, which create minimal *“site disturbances”* using foundations that a contoured to the topography. A large concrete barrier is not required.

Wildlife migrate from Lot 10 to drainage



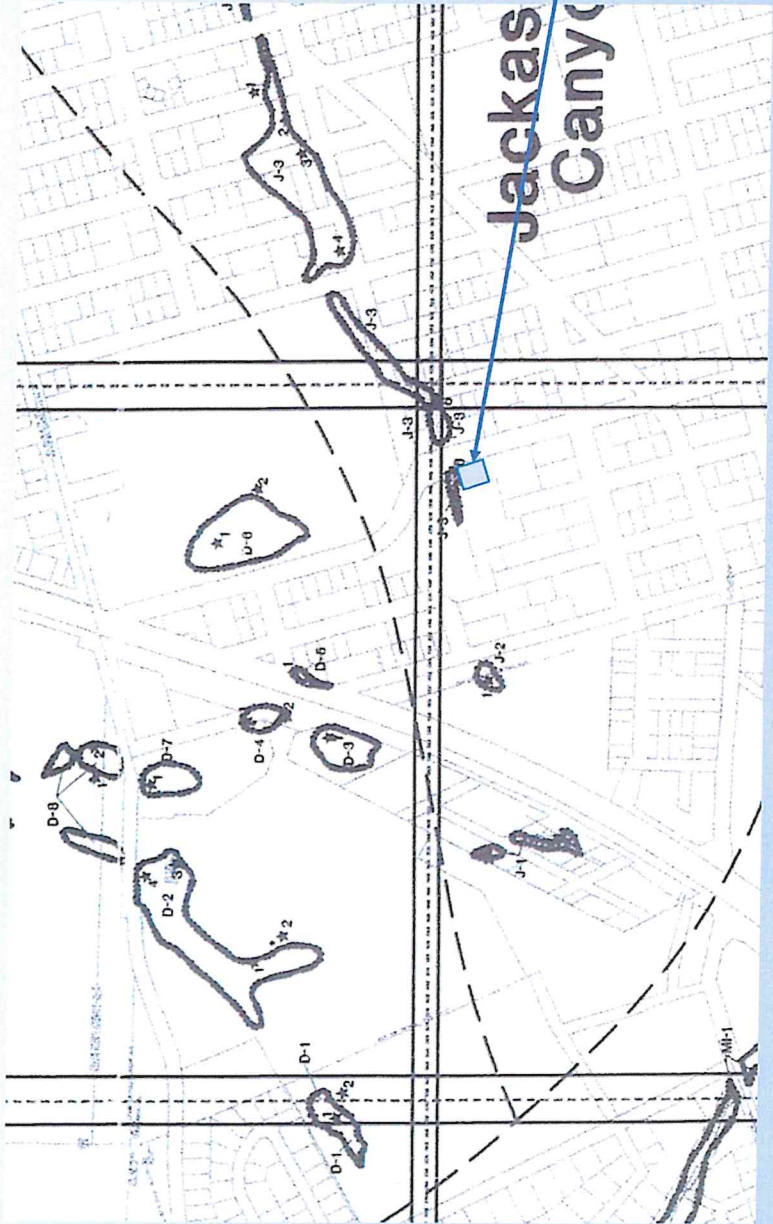
24

## Appeal #5 Issues

- This proposed site is within a designated wetland and riparian zone as mapped by the State Department of Lands. (See map on next page.) The riparian zone referenced above is defined in SHMC as: *“the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem. These areas are part of significant riparian corridors identified in the PHS riparian area report to the city, designated in the comprehensive plan, Ordinance 2824 and SHMC 17.40.015(2).”*
- *A minimum requirement of any construction within a wetland area is the preparation of an Environmental Assessment to meet the requirements of SHMC Chapter 17.40. A mitigation plan must be part of the Site Development Application.*

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Department of State Lands – Wetlands map for St. Helens, Oregon



Site of Site  
Development  
Application



## Appeal #5 Issues

- A *minimum requirement of any construction within a wetland area is the preparation of an Environmental Assessment, which requires:*  
*“that the property owner contract with a registered engineer and/or wetlands biologist as appropriate to determine the precise location of the top of bank, steep slopes, wetland, riparian corridor and protection zone or on a property. A licensed surveyor must then conduct a boundary survey that shows the locations of the tops-of-bank, steep slopes, wetlands, riparian corridors, and the protection zone setback locations on the subject property. Minimum requirements for environmental assessments are set forth in SHMC 17.40.065.”*
- A Site Development Plan must meet the requirements of SHMC Chapter 17.40, which requires that a mitigation plan must be part of the Site Development Application.

# Appeal #5 Issues

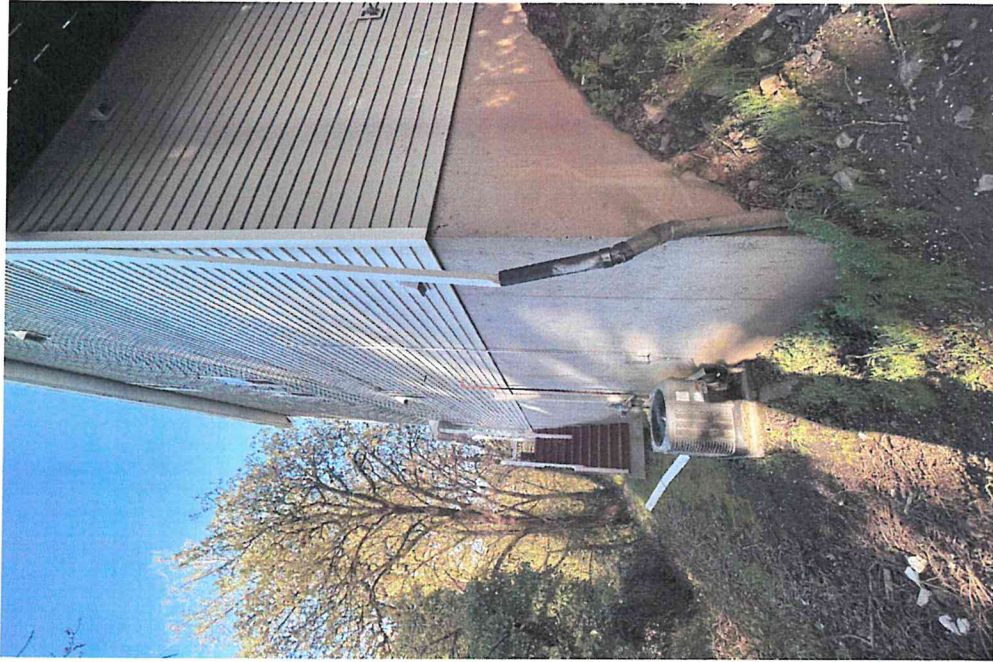
- SHMC 17.40.040 (2) sets forth standards for approving residential construction in a “protection zone” such as a wetland/riparian zone. The essential condition for approval include:
- (b) The building footprint encroaching into the protection zone shall be limited to that which is the minimum necessary to obtain reasonable use of the property for the primary use of residential purposes. Preference in location of the building footprint shall be given to areas devoid of native vegetation; and
- (c) The director or approving authority shall adjust the underlying zone setback standards to the extent necessary to reduce or minimize encroachment into the protection zone. Design shall be to this adjustment. The director or approving authority may approve up to a 50 percent adjustment to any dimensional standard (e.g., front yard, side yard or other setbacks, including height or lot area) to permit development as far outside or upland of the protection zone as is possible; and
- (d) The proposed development shall minimize disturbance to the protection zone by utilizing design options to minimize or reduce impacts of development: (i) multistory construction shall be used; (ii) parking spaces shall be minimized to no more than that required as a minimum for the use; (iii) no accessory structures allowed; (iv) paving shall be pervious; (v) engineering solutions shall be used to minimize additional grading and/or fill...

## Appeal #5

- No Environmental Assessment is included in the Site Development Application.
- No plan is provided to minimize disturbance to the Protective Zone and to minimize additional fill and grading.
- There is a clear precedent in the area for development that minimized impact and does not require the use of a **12-foot wall** constructed of concrete barriers. The proposed construction method substantially changes the topography and the existing natural landscape. The precedent for alternative construction is at 287 N. 16<sup>th</sup> Street and demonstrates that a foundation contoured to the topography is possible, while maintaining the integrity of the surrounding terrain. No precedent exists for extraordinary site disturbance that a 12-foot wall constructed of concrete barriers with backfill creates. (See example of alternate construction method the complies with SHMC on next pages.)



Use of 10-foot stem wall  
contoured to topography



10+-foot slope with contoured foundation







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First Floor

Alternate Construction using short concrete stem walls with wood building wall.

## Appeal #5 Solution

1. Require the requisite Environmental Assessment and plan to comply with SHMC Chapter 17.40 regarding wetlands/riparian zone development within Sensitive Lands.
2. Require construction methods that have been used in surrounding structures, which do not require massive wall structures and are in compliance with the St. Helens Municipal Code related to minimal topography and wildlife impact. A compatible landscape plan that provides buffering and soil stabilization should be part of this update Site Development Plan application.

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# Conclusion and Recommendations

There are no precedents for the scale and type of major wall construction, grading and fill proposed by the land use action in this neighborhood of St Helens where significant number of buildings have been built on challenging slopes and in an environmentally sensitive area. There is a precedent on the adjacent property for grading and use of construction techniques that respect the existing topography, vegetation and wildlife. Therefore, the following recommendations are offered in compliance with St Helens Municipal Code (SHMC):

# Conclusion and Recommendations, Cont.

1. Due to a procedural error in accepting an incomplete Site Development application in a Sensitive Land area, require that a complete application, meeting the full requirements of the St Helens Municipal Code, be submitted prior to further consideration of the proposed Site Development Plan.
2. A geotechnical study, including soils analysis, should be conducted and made part of the applicant's Site Development Plan submission to ensure soil and slope stability in the event of an earthquake or other major catastrophic event.
3. Require an Environmental Assessment to comply with SHMC related to wetland/riparian zones designations as listed on the State Department of Lands mapping of St. Helens wetlands. Include mitigation plans to minimize impact in this wetland/riparian zone.

# Conclusion and Recommendations, Cont.

4. Use construction methods that incorporate steel reinforced stem walls for building construction, which contour to the existing topography. This will eliminate the need for unsightly and potentially unstable retaining walls.
5. Since a mature oak tree was cut without a permit as required by SHMC and native vegetation was removed without an approved Site Development Plan, a detailed landscape and buffering plan to mitigate these violations should be submitted, which includes adequate setbacks for emergency access and the replanting of vegetation and trees of the similar type and species to provide buffering with the adjacent property and ground stability.

Finally, there is a simple commonsense question to consider: Would any of us want a 12-foot wall made of concrete barriers, a wall taller than the first floor of most homes, in Seismic Zone 5 (most potential hazard) to be constructed less than ten feet away from the back or side of the place we live?

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# Request to Keep Record Open

- Following the hearing, this is a formal request to keep the record open for seven days through May 16, 2023 to respond to any questions or new information that is provided during the hearing.



# Exhibit A – SHMC 17.96.180

- **17.96.180 Approval standards.**

*The director shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:*

- (1) *Provisions of all applicable chapters of the Community Development Code per SHMC [17.04.010](#).*
- (2) *Relationship to the Natural and Physical Environment.*

(a) *Buildings shall be:*

- (i) *Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;*
- (ii) *Located in areas not subject to ground slumping or sliding;*
- (iii) *Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting; and*
- (iv) *Oriented with consideration for sun and wind; and*

(b) *Trees having a six-inch DBH (as defined by Chapter [17.132](#) SHMC) or greater shall be preserved or replaced by new plantings of equal character;*

- (3) *Exterior Elevations. Along the vertical face of single-dwelling units – attached and multi-dwelling unit structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following:*

- (a) *Recesses (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet;*
- (b) *Extensions (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet, and maximum length of an overhang shall be 25 feet; and*
- (c) *Offsets or breaks in roof elevations of three or more feet in height;*

## Exhibit A Cont.

### *(4) Buffering, Screening, and Compatibility between Adjoining Uses (See Figure 13, Chapter [17.72 SHMC](#)).*

- (a) Buffering shall be provided between different types of land uses (for example, between single-dwelling units and multi-dwelling units residential, and residential and commercial), and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:*
- (i) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;*
  - (ii) The size of the buffer required to achieve the purpose in terms of width and height;*
  - (iii) The direction(s) from which buffering is needed;*
  - (iv) The required density of the buffering; and*
  - (v) Whether the viewer is stationary or mobile;*

# Exhibit B – SHMC 17.44.080

- *The proposed site development plan shall be at the same scale as the site analysis plan and shall include the following information:*
  - (1) *The proposed site and surrounding properties;*
  - (2) *Contour line intervals (see SHMC [17.44.070\(3\)](#));*
  - (3) *The location, dimensions, and names of all:*
    - (a) *Existing and platted streets and other public ways and easements on the site and on adjoining properties; and*
    - (b) *Proposed streets or other public ways and easements on the site.*
  - (4) *The location and dimension of:*
    - (a) *Entrances and exits on the site;*
    - (b) *Parking and traffic circulation areas;*
    - (c) *Loading and services areas;*
    - (d) *Pedestrian and bicycle facilities;*
    - (e) *Outdoor common areas; and*
    - (f) *Utilities.*
  - (5) *The location, dimensions, and setback distances of all:*
    - (a) *Existing structures, improvements, and utilities which are located on adjacent property and are permanent in nature; and*
    - (b) *Proposed structures, improvements, and utilities on the site.*
  - (6) *The location of areas to be landscaped;*
  - (7) *The concept locations of proposed utility lines; and*
  - (8) *The method for mitigating any adverse impacts upon wetland, riparian, or wildlife habitat areas. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.080, 2003)*

## Exhibit B - 17.44.090 Grading plan

- *The site plan shall include a grading plan which contains the following information:*
  - (1) *Requirements in SHMC [17.44.070](#) and [17.44.080](#);*
  - (2) *The identification and location of the benchmark and corresponding datum;*
  - (3) *Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals; and*
  - (4) *A statement from a registered engineer supported by factual data substantiating:*
    - (a) *The validity of the slope stabilization proposals;*
    - (b) *That other off-site impacts will not be created;*
    - (c) *Stream flow calculations;*
    - (d) *Cut and fill calculations; and*
    - (e) *Channelization measures proposed. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.090, 2003)*

## Exhibit B - 17.44.100 Landscape plan

- (1) The landscape plan shall be drawn at the same scale as the site analysis plan, or a larger scale if necessary, and shall indicate:*
- (a) Location and height of fences, buffers, and screenings;*
  - (b) Location of terraces, decks, shelters, play areas, and common open spaces where applicable; and*
  - (c) Location, type, and size of existing and proposed plant materials.*
- (2) The landscape plan shall include a narrative which addresses:*
- (a) Soil conditions; and*
  - (b) Erosion control measures that will be used. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.100, 2003)*





***Infinity Investments Puget Sound LLC***

May 15, 2023

City of St. Helens  
Planning Department  
265 Strand Street  
St. Helens, OR 97051

RECEIVED  
MAY 15 2023  
CITY OF ST. HELENS

Attn: Jacob Graichen/Jennifer Dimsho  
Appeal Lot 10 of Hanna Place Subdivision  
Response to Hearing Questions and Input

Dear Mr. Graichen and Ms. Dimsho:

This is a follow up to questions and issues raised in the St. Helens Planning Commission hearing on May 9, 2023. The response is based on the five issues outlined in the supplemental material provided as testimony at the hearing. All comments *in italics are citations* from the St. Helens Municipal Code.

**Appeal Issue #1:** The applicant's record is incomplete and does not contain sufficient and required information to act on the development plan. Additionally, staff contends that SHMC Chapter 17.96 is not applicable to the applicant's plan.

Rebuttal 1A: This plan is a Major Modification of an approved plan or existing development under 17.96.070. Staff determined the proposed wall to be a building "Structure" which was not shown in any plans related to the approved Hanna Place subdivision provided by staff related to this appeal. (See Exhibit A-Preliminary and Final Subdivision Plans) Therefore, this must be considered a new part of the building "Structure" requiring site review under 17.96.070 (2) (e), which requires *"an increase in structure height to be reviewed."* There was no structure prior to this application, hence this is a Major Modification. Additionally, 17.96.070 2 (j) (ii) and (iii) require site review when *"amenities are reduced, including screening and landscaping."* The applicant proposes replacing a green space buffer that has native vegetation and grass with a 12-foot-high concrete block Structure. This Structure fundamentally changes both screening and landscaping, which requires a Site Review application under Chapter 17.96. (See more in Appeal #4 below)

Rebuttal 1B: The applicant acknowledged during the hearing that "the wall doesn't have to be twelve feet tall and could come in some" from the property line. Commissioner Cary asked the applicant if there could a "shorter wall or do a pony wall." Therefore, it is unclear what the applicant's proposal actually is. The purpose of requirements set forth in 17.96.090 (3), 17.96.110 and 17.44.050 is to have sufficient detail regarding a Site Development Plan in a



Sensitive Land area to render an informed decision regarding compliance with the code. Insufficient data exists and conflicting testimony from the applicant, which even contradicts the submitted plan, requires further submittals before this applicant's final plan should have further consideration. Additionally, the applicant's hand-drawn map and the incorrectly identified site location of the block wall do not meet SHMC submission criteria. *"The following items required by SHMC should be submitted for review:*

- A. *The site size and its dimensions;*
- B. *Contour lines at two-foot contour intervals for grades zero to 10 percent and five-foot intervals for grades over 10 percent;*
- C. *The location of drainage patterns and drainage courses;*
- D. *The location of sensitive lands;*
- E. *The location of site features including:*
  - (a) *Rock outcroppings; and*
  - (b) *Trees with six inches caliper or greater measured four feet from ground level;*
- F. *The location of existing structures on the site and proposed use of those structures; and*
- G. *Copies of the sensitive lands permit proposal and necessary data or narrative which explains how the proposal conforms to the standards (number to be determined at the preapplication conference) and:*
  - (i) *The scale for the site plan(s) shall be a standard engineering scale; and*
  - (ii) *All drawings or structure elevations or floor plans shall be a standard architectural scale, being one-fourth inch or one-eighth inch to the foot.*
- H. *An existing site conditions analysis, SHMC 17.44.070;*
- I. *A site plan, SHMC 17.44.080;*
- J. *A grading plan, SHMC 17.44.090; and*
- K. *A landscaping plan, SHMC 17.44.100. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.050, 2003)"*

**Rebuttal 1C:** The applicant indicates that the rules contained within the SHMC are: "Like the Bible. Four people have different ideas of what it says." The above standards are clear and unequivocal. These are required by St Helens Municipal Code in order for any Sensitive Land development proposal to be considered in a Sensitive Land area.

**Appeal Issue #2:** SHMC 17.96.180 requires that structures should be located to "preserve trees, topography, and natural drainage...and trees having six-inch DBH be preserved or replaced." Grading was done and a tree, meeting the above criteria, was felled without an approved plan or permit. (See Exhibit B – Protection Zone Map from Environmental Assessment)

**Rebuttal 2A:** The applicant indicated that "that's where we was going to put the wall and that's why the tree came down." No site plan permit for Site Development within Sensitive Land was approved. Therefore, the tree was removed illegally. Grading was also done without permit and the felled oak were pushed into the Riparian Zone and Protection Zone as identified by the city staff when discussing the Environmental Assessment. Additionally, the staff recommends a requirement that all "unpermitted impacts to wetlands or wetland protection zones shall be abated." However, there is no plan documentation to clearly demonstrate what the mitigation plan entails. This should be a requirement prior to final review of any complete Sensitive Land development plan.

**Rebuttal 2B:** Commissioner Carlson asked, “As to the question of the tree being cut down, we don’t have codes for that?” The answer is yes, the City of St Helens has specific codes to address tree removal. SHMC 17.132.030 (1) states that *“Tree removal permits shall be required only for the removal of any tree which is located on or in a sensitive land area as defined by Chapter 17.44 SHMC.”* The subject tree (near the property line) was removed without first obtaining a permit. SHMC 17.132.070 (1) defines that:

*“The following constitute a violation of this chapter:*

*(a) Removal of a tree:*

*(i) Without a valid tree removal permit...”*

Additionally, SHMC 17.132.070 (3) states: *“Notwithstanding any other provision of this code, any party found to be in violation of this chapter pursuant to Chapter 17.12 SHMC shall be subject to a civil penalty of up to \$500.00 and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:*

*(a) Replacement of unlawfully removed or damaged trees in accordance with subsection (4) of this section; and*

*(b) Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture’s Guide for Plant Appraisal.”*

Based on SHMC, appropriate remedial and/or civil action must be taken by the City of St. Helens.

**Rebuttal 2C:** Commissioner Pugsley stated that “Appeals 1,2,3,4 all reference SHMC Chapter 17.96. That’s not part of our criteria.” SHMC 17.44.050 (5) (b) states that *“All requirements of full site development review have been met”* for issuance of a Sensitive Land Permit. The correct understanding is that Appeals 1,2,3,4 also refer to issues in the Sensitive Land permit application process, which significantly mirrors Chapter 17.96. Therefore, the first four appeal issues are within the purview of the St. Helens Planning Commission for the applicant’s proposal.

**Rebuttal 2D:** Vice Chair Cary stated that “It’s not really our purview to require a building plan.” The correct interpretation of SHMC 17.44 is found in Rebuttal 2B above. SHMC 17.44.050 requires submission of *“structure elevations and floor plans”* as part of the application submission package. These are to be at *“standard architectural scale.”*

**Appeal Issue #3:** SHMC Chapters 17.96 and 17.44 both require *“site analysis drawings...showing*

*(b) Slopes in excess of 25 percent;*

*(c) Unstable ground (areas subject to slumping, earth slides or movement)”*

Additionally, approval criteria 17.44.040 (2) (d) requires that: *“The proposed landform alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property.”* The preferred method of meeting this standard is to perform a study by a licensed engineer, which provides data to support the conclusion that the ground is stable and that structures constructed will not create any off-site hazards to life or property.

**Rebuttal 3A:** The applicant stated that he “talked with the engineer” and concluded that the ground was suitable for a 12-foot concrete wall. No documentation of the conversation or official report was provided, nor was any geotechnical analysis attached to the application. Because of demonstrated ground instability in proximity to the proposed wall, the only way to provide assure safety is to have a certified geotechnical report.

**Appeal Issue #4:** SHMC 17.44.050 (5) (b) states that “*All requirements of full site development review have been met.*” This includes provisions of 17.96.180, which requires buffering, including visual barriers between lots and adequate distance between adjoining buildings (structures) to provide for adequate firefighting. The applicant proposes a 12-foot concrete wall set on the property line, which provides inadequate setbacks for buffering and emergency access to the appellant’s property.

**Rebuttal 4A:** The staff stated that “We are struggling with the Site Review connection...this is not a Site Review process.” The staff comment regarding the inapplicability of Site Review criteria does not take into account the requirement of 17.44.050 noted above requiring that site review criteria be met in Sensitive Land applications. Nor does the staff position reflect the fact that the proposed 12-foot wall is a Major Modification to any Subdivision plan or any other previous application filed by the applicant. To state this more clearly, the applicant’s proposal constitutes a site review proposal in a sensitive land area. Therefore, it is not possible to fully separate the criteria contained in Chapter 17.44 from the criteria contained in Chapter 17.96.

**Rebuttal 4B:** The staff report states that “structures are required to have 10’ rear yards and 5’ side yards. It is recommended that a condition be added to require revisions to the plan to meet yard requirements.” While not clearly stated, this would require that the minimum setback of the 12-foot wall structure, if permitted, must be at least ten feet from the rear property line of Lot 10. Of note is that the fencing on Lots 1-8 of the Hanna Place development is at least 15 feet from the rear property line. At least 20-30 feet are required for emergency access to the side of the appellant’s building to provide for emergency vehicle access and/or setting ladders or other emergency equipment to access the upper stories or rear portions of the three-story building.

**Appeal Issue #5:** The Environmental Assessment provided to the appellant following the hearing confirms that at least ten feet of original Lot 10 falls within the Protection Zone of the adjacent wetland/riparian zone. (See Exhibit B – EA Map showing Protection Zone and Tree Location). It was also stated that a portion or all of the Protection Zone that was within Lot 10 was deeded to the city, apparently to minimize or eliminate any applicability of Chapter 17.40 to the applicant’s property and to ensure city protection. SHMC 17.44.080 (8) requires that: “*The method for mitigating any adverse impacts upon wetland, riparian, or wildlife habitat areas*” must be provided in the site plan. Because Lot 10 is immediately adjacent to a Wetland and its Protection Zone, it is a wildlife habitat area through which wildlife regularly migrate, seeking a fresh water source. More important, in Sensitive Land areas, 17.44.040 (1) (a) requires findings that “*The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than that required for the use.*” No evidence was presented that either criteria has been met.

Rebuttal 5A: The applicant stated that Lot 10 “is not a wetland” or in a wetland, which is true. However, it is immediately adjacent to the Wetland Protection Zone and has wildlife regularly migrate through the lot to a fresh water source. The applicant provided no data regarding mitigation related to any protection of this wildlife habitat. A 12-foot wall Structure would substantially disrupt any wildlife habitat, including the adjacent Protection Zone.

Rebuttal 5B: The applicant stated that the “back yard is 34 feet in back of the house.” This presumably is the distance between the back of the house foundation to the property line. Because there is no plan or documentation of this claim as required by SHMC, it can only be assumed this is correct. If so, the 12-foot concrete wall proposed to be on the property line, or if set back ten feet from the property line as recommended by the staff, there is no specific justification for such a wall, since the 12-foot wall is at least 25 feet from the foundation of the house structure.

Rebuttal 5C: The applicant testified that the proposed 12-foot Structure Wall would be “50 feet long by 45-50 feet.” Neither the applicant nor staff provided any evidence of findings that the proposed 12-foot wall Structure minimizes site disturbance “*no greater than required for the use,*” which is a two-story residential structure. No evidence was presented that the 12-foot wall structure is required to build the two-story residence as designed. Further, the applicant was not able to accurately state why and where the location of the residential building would be. One representative for the applicant noted that the buildings “were staggered.” The other representative argued “they are not staggered...I laid them out.” Notwithstanding this confusion, the appellant’s testimony and the sample building location in Exhibit C – Presumed Building Location not Requiring 12-foot Structural Walls, demonstrates that the design of the applicant’s existing structures in Lots 1-8 can be built without the need for a wall. There is only a 10–12-foot difference in elevation from the south side to the north side of the applicant’s proposed house structure. Based on this draft of a presumed building location, the house can be built using construction techniques described during the appellant’s testimony on May 9, 2023. Building a 12-foot wall structure on or near the property line does not comply with the requirement “*not to create disturbances to an extent greater than that required for use.*”

## Conclusion/Summary

There are two overriding issues in this appeal:

- A. The typical procedure is to hold consideration of any Site Development of Sensitive Land proposal until the applicant has submitted a complete application as required by the code. The applicant’s filing for Lot 9 and 10 – Hanna Place Subdivision is incomplete at this time and requires the addition of a number of items to meet St. Helens Municipal Code requirements. Until that time, it is not possible for staff or affected parties to adequately judge the details of the development and the application should be set aside until the application is complete.
- B. The St. Helens Municipal Code is clear in 17.44.040 that unnecessary structures should be minimized in Sensitive Land areas. With viable alternatives for constructing the residential

dwelling, a large wall is unnecessary and not in keeping with the intent or terms of the St. Helens Municipal Code and should be eliminated from the application.

I welcome the opportunity to address any questions of staff or the Planning Commission. I will be traveling on June 13, 2023, the date of the next Planning Commission meeting, and would like to connect via video link. Please provide the information to connect to the meeting virtually.

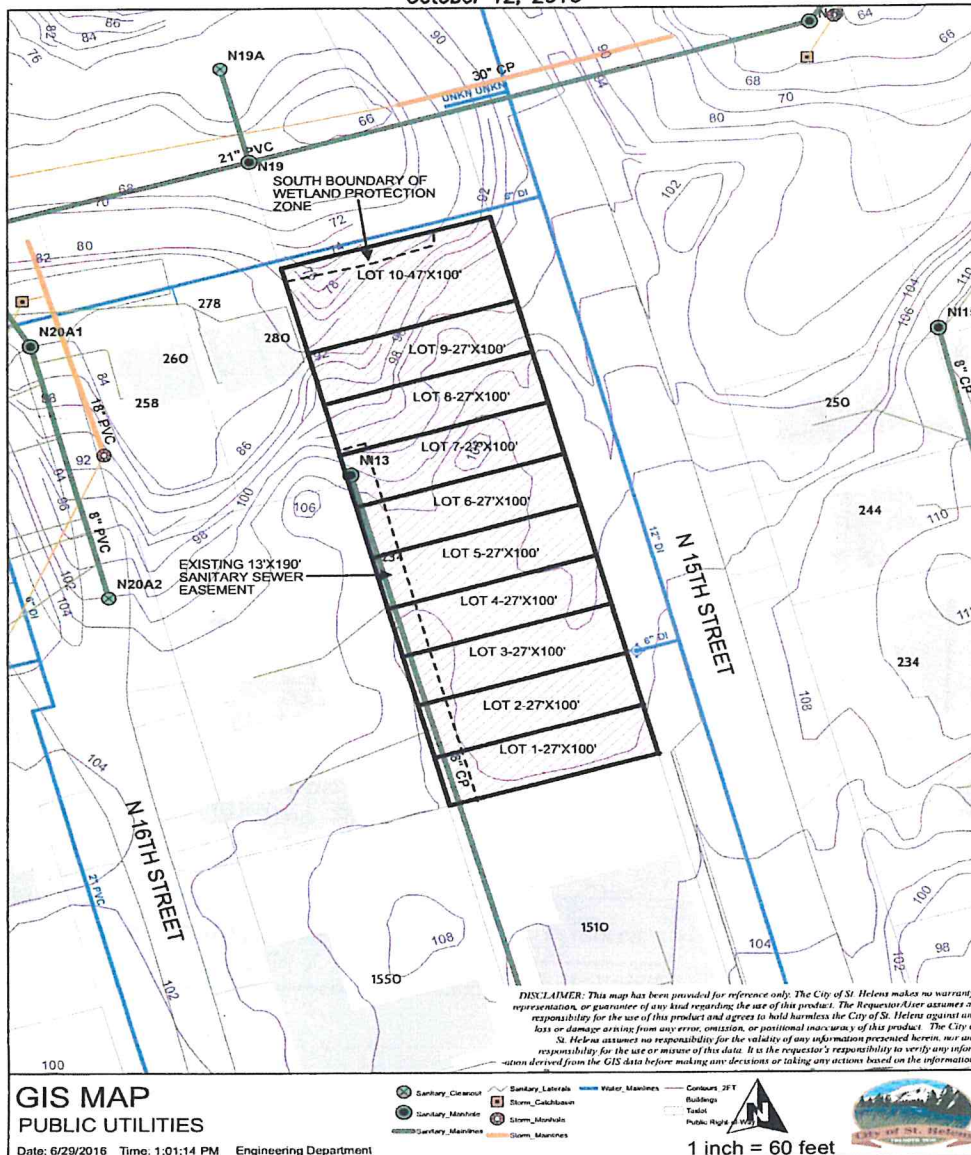
Sincerely,

Alan R. Yordy  
Managing Director

Enclosures

## Exhibit A – Preliminary and Final Hanna Place Subdivision Plats

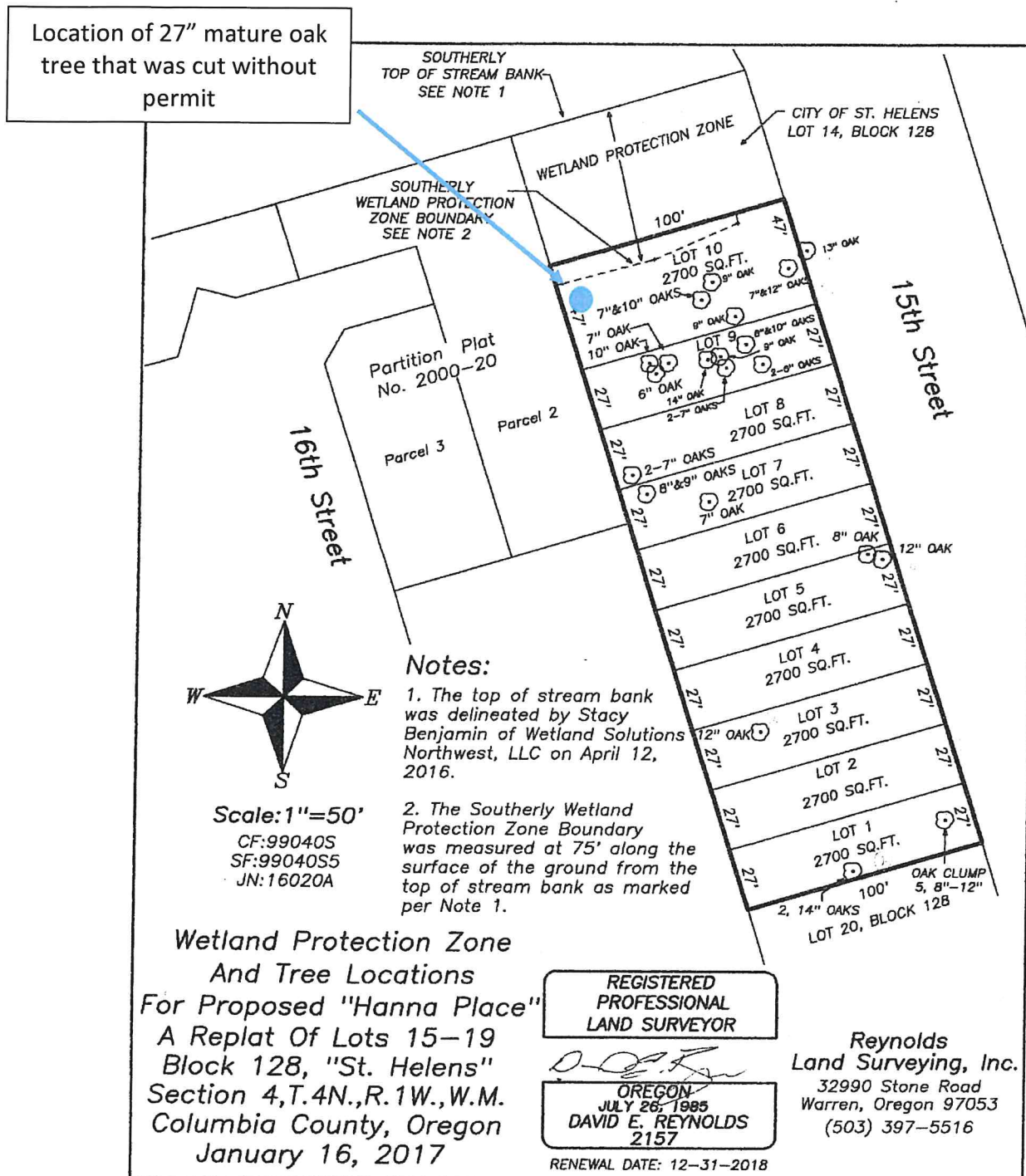
Preliminary Plat  
"Hanna Place"  
A Re-Plat Of Lots 15 Through 19  
Block 128, St. Helens  
Section 4, T.4N., R.1W., W.M. – Columbia County, Oregon  
October 12, 2016







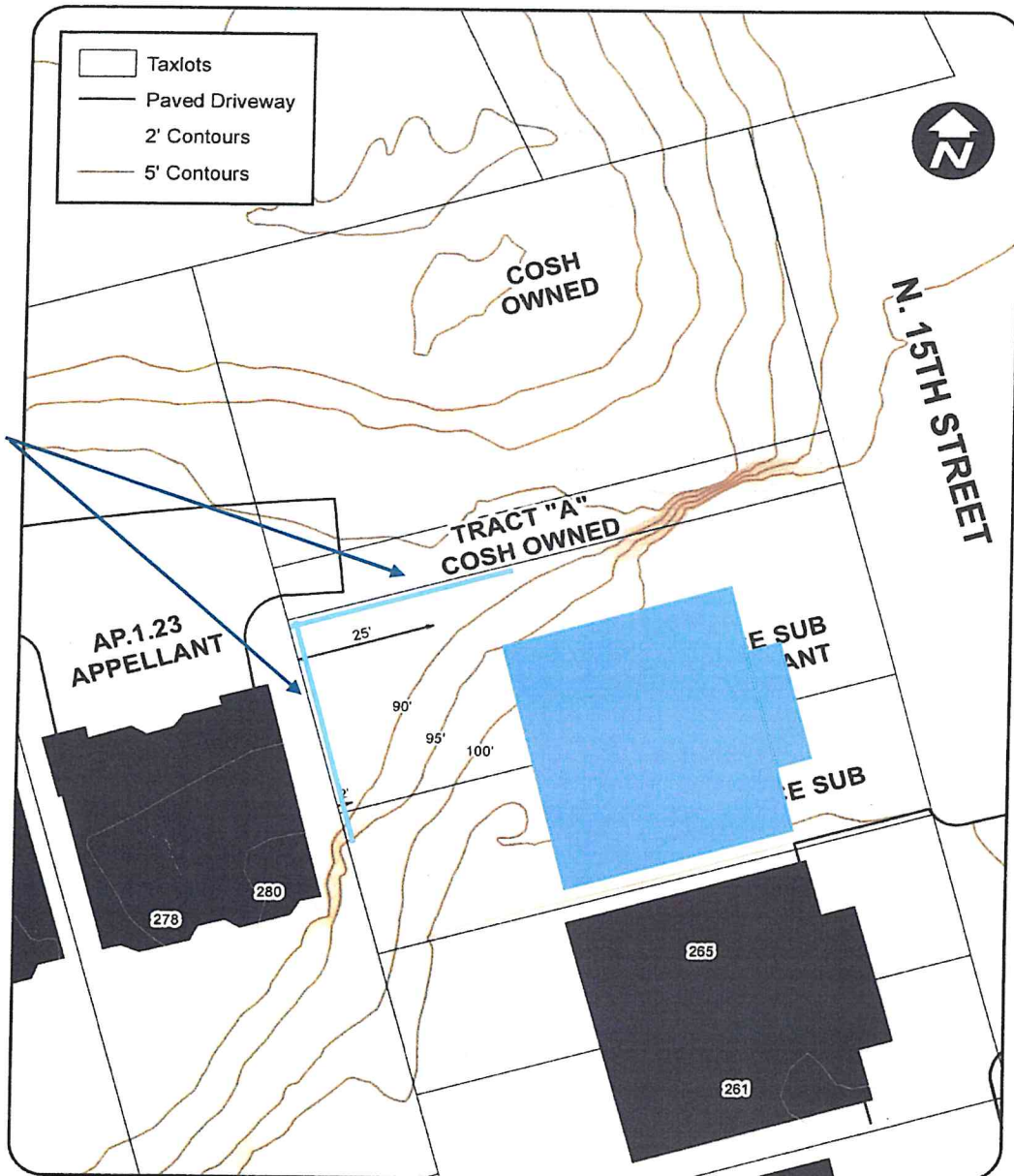
# Exhibit B – EA Map showing Protective Zone and Tree Locations



**Exhibit C - Presumed Building Location not Requiring 12-foot Structural Walls  
(map provided by staff)**

**AP.1.23 (SL.2.23) Topography Map Exhibit**

*Proposed 12-foot Wall Structure  
(approx to scale as described by applicant)*





LaGrand Town Homes, LLC  
1010 NE 102<sup>nd</sup> Ave, Vancouver WA 98664

To: City of St. Helens

To Whom It May Concern,

Dan Hatfield, manager of LaGrand Town homes, submitted the application for 10 units subdivision on 15<sup>th</sup> street, Hanna Place, and it was approved for all 10 units.

8 Units were completed, and the remaining 2 units are in the process of starting construction as they are presold already. We had a wetland expert review the plan and giving 10 feet to the city would relieve the wetland problems and this has been resolved by giving the city 10 feet of lot #10.

Due to the slope of the remaining land for 2 units, the retaining wall is absolutely necessary and we took all the steps to build the retaining wall. We hired the engineering firm to design the retaining wall.

Geotech reviewed the site 2 years ago and they said the retaining wall could be built and they will inspect the wall during the construction of the wall for the stability of the wall.

As far as the row houses down below the wall, I should not have to give them extra land as it is not my responsibility for their parking or anything else. I will work with them anyway I can but I do not like to be forced to give them the land.

I have taken all necessary steps to secure the wall and there should be no issues for city of St. Helen not to approve to build the retaining wall.

Respectfully,

Dan Hatfield, Sr.

Manager of LaGrand Town Homes

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MAY 15 2023  
CITY OF ST. HELENS



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## *Official Record Document*

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MAY 22 2023  
CITY OF ST. HELENS

**MAY 22, 2023**

Appeal Lot 10 of Hanna Place Subdivision  
Response to Applicant Filing

**Abstract**

Responses Regarding Five Appeal Issues

Infinity Investments – Puget Sound  
An Oregon limited liability company



**Infinity Investments Puget Sound LLC**

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May 22, 2023

City of St. Helens  
Planning Department  
265 Strand Street  
St. Helens, OR 97051

Attn: Jacob Graichen/Jennifer Dimsho  
Appeal Lot 10 of Hanna Place Subdivision  
Response to Applicant's Submission

Dear Mr. Graichen and Ms. Dimsho:

This is a follow-up to the applicant's response to the hearing (no date indicated on the letter). Similar to the appellant's response to questions and issues raised in the St. Helens Planning Commission hearing, this response is based on the five appeal issues outlined in the supplemental material provided by the appellant at the hearing. All comments *in italics are citations* from the St. Helens Municipal Code.

**Appeal Issue #1:** The applicant's record is incomplete and does not contain sufficient and required information to act on the development plan. Additionally, staff contends that SHMC Chapter 17.96 is not applicable to the applicant's plan.

Response: There was no staff response to the fact that SHMC 17.44.040 (5) (b) states that *"All requirements of full site development review have been met"* for issuance of a Sensitive Land Permit. The applicant's letter provided no additional detail regarding the items that are missing from the original application. The following required items, among others, remain missing from the application:

- A. *Copies of the sensitive lands permit proposal and necessary data or narrative which explains how the proposal conforms to the standards (number to be determined at the preapplication conference) and:*
  - (i) *The scale for the site plan(s) shall be a standard engineering scale; and*
  - (ii) *All drawings or structure elevations or floor plans shall be a standard architectural scale, being one-fourth inch or one-eighth inch to the foot.*
- B. *Contour lines at two-foot contour intervals for grades zero to 10 percent and five-foot intervals for grades over 10 percent;*
- C. *The location of drainage patterns and drainage courses;*
- D. *The location of sensitive lands;*
- E. *The location of site features including:*
  - (a) *Rock outcroppings; and*

- (b) *Trees with six inches caliper or greater measured four feet from ground level;*
- F. *The location of existing structures on the site and proposed use of those structures; and*
- G. *An existing site conditions analysis, SHMC 17.44.070;*
- H. *A site plan, SHMC 17.44.080;*
- I. *A grading plan, SHMC 17.44.090; and*
- J. *A landscaping plan, SHMC 17.44.100. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.050, 2003)”*

The applicant’s incomplete proposal should not be considered further until the missing elements are provided.

**Appeal Issue #2:** SHMC 17.44.040 (5) (b) states that *“All requirements of full site development review have been met”* for issuance of a Sensitive Land Permit. SHMC 17.96.180 (Site Development Review) requires that structures should be located to *“preserve trees, topography, and natural drainage...and trees having six-inch DBH be preserved or replaced.”* Grading was done and a tree meeting the above criteria was felled without an approved plan or permit. Additionally, SHMC 17.132.030 (1) states that *“Tree removal permits shall be required only for the removal of any tree which is located on or in a sensitive land area as defined by Chapter 17.44 SHMC.”*

Response: There was no response to the issue of illegal cutting and grading. No mitigation plan for these acts was included as staff has recommended, except for a brief reference during the May 9 hearing to “clean up” once the Stop Work order is lifted. A mitigation plan remains a requirement to include replanting/replacing the tree that was felled, according to the terms of Chapter 17.132 of SHMC. The mitigation plan should be submitted as part of the complete application. The other outstanding issue is the fine and civil damages for cutting the tree without permit under Chapter 17.132 of the SHMC, which were previously referenced in more detail.

**Appeal Issue #3:** SHMC Chapters 17.96 and 17.44 both require *“site analysis drawings...showing (b) Slopes in excess of 25 percent; (c) Unstable ground (areas subject to slumping, earth slides or movement)”*

Additionally, approval criteria 17.44.040 (2) (d) requires that: *“The proposed landform alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property.”* The preferred method of meeting this standard is to perform a study by a licensed engineer, which provides data to support the conclusion that the ground is stable and that structures will not create any off-site hazards to life or property.

Response: The applicant’s letter references a Geotech consultation of the “site 2 years ago and they said the retaining wall could be built...” No specific documentation nor engineering study with an official stamp and certification that the site is stable for a 12-foot-tall wall structure was included in the letter. An official geotechnical study that confirms the applicant’s representations should be a requirement in a Sensitive Land area within seismic zone 5, which has a demonstrated pattern of ground slumping of existing concrete barriers as shown in the appellant’s original hearing testimony.

**Appeal Issue #4:** SHMC 17.44.050 (5) (b) approval criteria states that *“All requirements of full site development review have been met.”* This includes provisions of 17.96.180, which requires buffering, including visual barriers between lots and adequate distance between adjoining buildings (structures) to provide for adequate firefighting. The applicant proposes a 12-foot concrete wall set on the property line, which provides no buffering or landscaping plan and inadequate setbacks for emergency access.

**Response:** The applicant’s letter states that “I should not have to give them (the appellant) extra land as it is not my responsibility for their parking or anything else.” There is no documentation that either the staff or the appellant has requested that the applicant donate any land to the City or appellant, other than the land the applicant has already donated to the City of St. Helens. In keeping with St Helens Municipal Code regarding structure setbacks, the staff is requiring a 10-foot setback of any wall structure from the rear (West side) of Lot 10 and a 5-foot setback of any wall structure from the North side of Lot 10. The issue of adequate space for emergency access to the side and rear of the appellant’s building in the event of an earthquake, fire or other emergency remains an unresolved matter. Provision for such access, including vehicles and/or ladders, lifts, etc. should be specifically addressed by the applicant.

**Appeal Issue #5:** The staff provided the related Environmental Assessment following the hearing on May 9, 2023. It confirms that revised Lot 10 is immediately adjacent to the Wetland Protection Zone. Further, the initial staff report notes that the applicant has caused damage to the Wetland Protection Zone as detailed in Appeal Issue #2. SHMC 17.44.080 (8) requires that: *“The method for mitigating any adverse impacts upon wetland, riparian, or wildlife habitat areas”* must be provided in the site plan. Because Lot 10 is immediately adjacent to the Wetland Protection Zone, it appears to be part of a wildlife habitat area through which wildlife regularly migrate, seeking a fresh water source. More important, in Sensitive Land areas, 17.44.040 (1) (a) requires findings that *“The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than that required for the use.”* 17.44.040 (2) (a) contains similar requirements. 17.44.040 (4) (b) requires findings that *“The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than the minimum required for the use...”*

**Response:** The applicant states that “giving them (the City) 10 feet of land would resolve wetland problems and this has been resolved by giving the city 10 feet of lot #10.” Because the applicant has caused damage to the Wetland Protection Zone, there remains the requirement of a mitigation plan noted in the staff report. No mitigation plan was attached to the applicant’s letter. Additionally, the applicant states that “Due to the slope of the remaining land for 2 units, the retaining wall is absolutely necessary...” No evidence was provided as to why the 12-foot wall is necessary. The applicant’s contention is contradicted by the fact that a local St Helen’s contractor built a dwelling on the appellant’s property with a similar topographic profile. Until such time that the applicant provides engineering evidence that it is impossible to construct the Lot 10 residential dwelling without a 12-foot wall structure, such a wall structure will be out of compliance with SHMC 17.44.040 (1) (a), (2) (a) and (4) (b).

**Conclusion/Summary**

The applicant's letter provides no new evidence that mitigates or eliminates any of the original appeal issues. It misrepresents that staff and/or the appellant are asking the applicant to "give them (the appellant) extra land..." There is no intention on the part of the appellant to seek a donation of the applicant's land for parking or other use. The intent is to require the applicant to meet all terms, conditions and requirements of the St. Helens Municipal Code.

I am available to address any questions from staff or the Planning Commission.

Sincerely,



Alan R. Yordy  
Managing Director



Jacob Graichen

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**From:** Dan Hatfield <aebuildersllc@gmail.com>  
**Sent:** Tuesday, May 23, 2023 3:57 PM  
**To:** Jacob Graichen  
**Subject:** Re: [External] Appeal AP.1.23 - first post hearing 7 days stuff in record

Thanks Jacob,

I have been in touch with the geo tech. He is currently out of town until next week but when I meet with him next week he is going to give me a report on the geo. Once I get that I will forward it over to you.

Thanks,  
Dan Hatfield  
AE Builders LLC  
503-803-6112

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# **CITY OF ST. HELENS PLANNING DEPARTMENT ACTIVITY REPORT**



**To:** City Council  
**From:** Jacob A. Graichen, AICP, City Planner  
**cc:** Planning Commission

**Date:** 05.30.2023

This report does not indicate all *current planning* activities over the past report period. These are tasks, processing and administration of the Development Code which are a weekly if not daily responsibility. The Planning Commission agenda, available on the City's website, is a good indicator of *current planning* activities. The number of building permits issued is another good indicator as many require Development Code review prior to Building Official review.

**ASSOCIATE PLANNER/PROJECT MANAGER**—*In addition to routine tasks, the Associate Planner/Community Development Project Manager has been working on: See attached.*

## **PLANNING ADMINISTRATION—NOTEWORTHY ADMINISTRATIVE DECISIONS**

We responded to a Columbia County referral for a new midget racetrack at the fairgrounds (County file DR 23-08)—*see attached.*

## **PLANNING ADMINISTRATION—PREAPPLICATIONS MEETINGS**

Conducted a pre-application meeting for the new police station this month. We had to do this again because it is no longer a public safety facility, having been downsized due to cost.

Had a preliminary Q&A meeting for potential new use of the old Ralph's wrecking yard at 1955 Old Portland Road.

## **PLANNING ADMINISTRATION—MISC.**

Conducted the final inspection for the home at 150 Belton Way. I usually don't comment on dwelling finals in this report, but this one was preceded by a contentious land partition with appeals, so a noteworthy project conclusion.

Prepared Mercury TMDL information for our Engineering Department as they prepare for an upcoming report to DEQ for this. In this case it was an inventory of natural resources and significant sites to be protected related to Oregon's Statewide Land Use Planning Goals 5, 6 and 7.

Conducted final inspection for building F of the Broadleaf Arbor (Gable Road apartments) development. D (community building) and E (multi-family building) inspected previously. F would be the 3<sup>rd</sup> of ten buildings.

Trying to facilitation of donation of land from the landowner who did the Columbia Commons Subdivision of some vacant lots near the US30/Pittsburg Road intersection.

Continuing the HB 3115 "marathon." Preparation of final adoption materials for June.

## DEVELOPMENT CODE ENFORCEMENT

A little bit of political sign enforcement.

## PLANNING COMMISSION (& *acting* HISTORIC LANDMARKS COMMISSION)

May 9, 2023 meeting (outcome): The Commission approved a Site Development Review modification/Variance for the Skinny's Texaco complex parking lot addition that was not constructed to the approved plan. Some additional improvements will be required.

**\*\*note to self – remember this for the next semi-annual department report for before and after photos\*\***

The Commission also held a public hearing for an appeal of a Sensitive Lands Permit for a large retaining wall of a lot along the 200 block of N. 15<sup>th</sup> Street. The public hearing was left open for written testimony. The Commission will deliberate on this matter at their June meeting.

The Commission approved architectural changes to the mixed-use building proposal on the corner of N. 6<sup>th</sup> Street and Columbia Boulevard, which was a condition of approval.

Brief, and probably(?), final discussion on HB 3115.

June 13, 2023 meeting (upcoming): The Commission will deliberate on the Sensitive Lands Permit noted in the May meeting. Perhaps other matters.

## COUNCIL ACTIONS RELATED TO LAND USE

The Council considered the Planning Commission's recommendation regarding Oregon HB 3115 and provided direction to staff to do something different, but within incorporation of some aspects of the Commission's work. The Commission draft has many legal problems per out legal counsel. Ordinance forthcoming in June. We are at the midnight hour on this now, having a deadline of July 1<sup>st</sup> to have the new law in effect.

## GEOGRAPHIC INFORMATION SYSTEMS (GIS)

Data updates this month.

## ST. HELENS INDUSTRIAL BUSINESS PARK PROPERTY

We are going to process the land partition to create the PGE parcel for their substation.

**From:** [Jennifer Dimsho](#)  
**To:** [Jacob Graichen](#)  
**Subject:** May Planning Department Report  
**Date:** Friday, May 26, 2023 11:42:52 AM

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Here are my additions to the May Planning Department Report.

## GRANTS

1. **Safe Routes to School - Columbia Blvd. Sidewalk Project** – Culvert project (County) will be a separate project than the sidewalks project. Will process a sensitive lands permit for this work as soon as property owner signs application. Construction on sidewalk to begin June/July 2023. County working through acquiring construction/slope easements for affected property owners.
2. **Business Oregon – Infrastructure Finance Authority** – Low-interest loan for Streets & Utilities Project and Columbia View Park improvements that are not covered by grants and Parks SDCs. Submitted our first amendment request (for scope of work modifications) and 1<sup>st</sup> reimbursement request which included over 30 invoices!
3. **Riverwalk Project (OPRD Grants x2)** – 100% design completed. Submitted for building permits for stage/picnic shelter on 5/15. Continued interpretive signage review meetings with the CCMA. Mayer/Reed Bid Assistance/Construction Mgmt scope of work approved on 5/3 CC meeting. Began preparing to bid the project with Engineering Dept.
4. **Community Development Block Grants (CDBG)** – Submitted application for \$2.5 million for a design-only project to fund sanitary sewer design/engineering/permitting. CDBG apps include over 30 attachments/narrative/budget/etc. Began fielding application questions from the CDBG grant review coordinators. This is a good sign!
5. **Certified Local Government Historic Preservation Grant Program** – Received our contract for 17k in funding. Mailed announcement letters to 93 eligible property owners. Updated project materials on website and coordinated social media outreach. Began answering questions from property owners about potential projects.
6. **DLCD Technical Assistance Program** – Grant cycle will likely open in August and closes in October. DLCD Regional Rep thinks updating our Economic Opportunities Analysis (EOA) could be funded. Compiled resources to assist with scoping our EOA update and writing our grant application this August.
7. **Veterans Memorial Grant Program** - In partnership with the local VFW, we submitted a grant to fund a flag/monument expansion at the McCormick Park veterans memorial. Grant was due March 31. Request was for \$33k, with a match \$28k of in-kind labor/management/VFW donations. Should find out in June if we are successful.
8. **ODOT Transportation Growth Management Grant** - Providing some assistance to Engineering reviewing TGM grant materials to fund a new Transportation Systems Plan (potentially). Our last TSP was from 2011 and the Engineering Department would like to initiate an update.

## PROJECTS & MISC

9. **Riverfront Streets/Utilities Project** – Attending weekly check-ins to stay in tune with project schedule and any construction delays/issues. Reviewed undergrounding final plans during 5/31 coordination meeting.

10. **S. 1<sup>st</sup> Street & St. Helens St. Gateway Project** – Prepared for and coordinated stakeholder group kickoff meeting with LCE on 4/28 and 2<sup>nd</sup> 30% plan review meeting on 5/24. Preparing for 3<sup>rd</sup> meeting to review rough 60% design plans on the week of June 20. 90% plans will go before PC during July 11 meeting. Anticipated completion date of design July 2023.
11. **St. Helens Industrial Business Park (SHIBP) Public Infrastructure Design** – 30% design for Phase I infrastructure & permitting/grading work for Phase II with Mackenzie. Mackenzie provided preliminary PT for PGE parcel. City will facility partition, PGE will prepare other land use applications. Kicked off Phase II grading work effort.
12. **Warrior Rock Lighthouse Replica Project** – Restoration of the warrior rock lighthouse replica on County-property near Columbia View Park. Councilor Sundeen was able to locate original Warrior Rock lighthouse plans! Coordinated a meeting with SHPO to discuss the 2023 Oregon Heritage grant opportunity which opens this August 2023. This could potentially fund the design and cost of materials for the replica, a kiosk, and signage. Work would be completed in-house by Public Works staff.
13. **Preserving Oregon Grant Review** - SHPO asked me to participate on the Preserving Oregon grant review committee which is a statewide historic preservation or archeological study grant. The grant review committee will meet on 6/7 from 8:30-2pm to select projects for funding. Prior to the meeting, I read through the scoring criteria and scored approximately ~23 grant applications.

Jenny Dimsho, AICP

Associate Planner / Community Development Project Manager

City of St. Helens

(503) 366-8207

[jdimsho@sthelensoregon.gov](mailto:jdimsho@sthelensoregon.gov)

May 1, 2023

**REFERRAL AND ACKNOWLEDGMENT**

**Responding Agency:**

NOTICE IS HEREBY GIVEN that **Studio 3 Architecture**, representing **Columbia County Fairgrounds**, has submitted an application for a Design Review to add a race track and associated building structures. The subject property is located at 58892 Sausler Rd. The subject property is zoned Community Service – Institutional (CS-I). The site contains 34.93 acres and is identified as Tax Map No. 4201-00-03600.  
**DR 23-08**

**THIS APPLICATION IS FOR:** (X) Administrative Review; ( ) Planning Commission, Hearing Date:

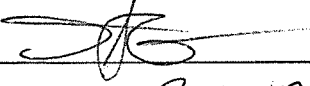
**PLEASE RETURN BY: May 10, 2023**

**Planner: Jake Renney**

The enclosed application is being referred to you for your information and comment. Your recommendation and suggestions will be used by the County Planning Department and/or the Columbia County Planning Commission in arriving at a decision. Your prompt reply will help us to process this application and will ensure the inclusion of your recommendations in the staff report. Please comment below.

1. \_\_\_\_\_ We have reviewed the enclosed application and have no objection to its approval as submitted.
2. ☒ Please see attached letter or notes below for our comments.
3. \_\_\_\_\_ We are considering the proposal further and will have comments to you by \_\_\_\_\_.
4. \_\_\_\_\_ Our board must meet to consider this; we will return their comments to you by \_\_\_\_\_.
5. \_\_\_\_\_ Please contact our office so we may discuss this.
6. \_\_\_\_\_ We recommend denial of the application, for the reasons below:

COMMENTS: SEE ATTACHED MEMO DATED MAY 8, 2023

Signed:  Printed Name: JACOB GRAICHEN  
Title: CITY PLANNER Date: MAY 8, 2023



## CITY OF ST. HELENS PLANNING DEPARTMENT

# MEMORANDUM

TO: Jake Renney, Planner, Columbia County  
 FROM: Jacob A. Graichen, AICP, City Planner  
 RE: Columbia County file DR 23-08  
 DATE: May 8, 2023

Please include the following conditions:

A general condition:

- No tree removal is allowed as it relates to this project.

As a condition of all plans subsequent to this Site Design Review:

- All final development plans shall include notation that no tree removal is allowed and that no cutting or filling is allowed within the dripline of trees. Work in close proximity to the tree area shall include posted signs and temporary barriers to alert workers of the need to avoid tree impacts.

-----basis for conditions and other comments/considerations below-----

### Zoning/Comprehensive Plan Designation:

The site has a city Comprehensive Plan designation of Unincorporated Public Lands, UPL. This designation is consistent with Columbia County ownership for the fairgrounds property and another parcel owned by CRPUD.

The creek that runs along the east side of the proposed midget track and the north side of the existing track is a riparian corridor inventoried in the St. Helens Comprehensive Plan. The stream/riparian area is identified as R-MC-16(b), which is a Type 2 riparian corridor and includes a 50' upland protection zone, an area protected from impacts including tree removal. The wooded area around the creek is within this protection zone area.

**Preserving the existing wooded area is supported by the St. Helens as noted. In addition, the CCZO supports this:**

CCZO 1562.B and C. The wooded area acts as a natural buffer and screen from nearby residential and rural uses. The property line along this project area is also the Urban Growth Boundary.



CCZO 1563.C. Natural areas and features are to be preserved. The applicant has expressed no need to use the wooded area around the creek and is an area subject to protection considerations identified in official plans.

The applicant notes the emphasis of volunteer efforts for this project. This is great, but volunteers can come and go or are simply not always up to speed on all details. Even professional developers have problems with this. Further, conditions of approval in a staff report are not always read by contractors, or those responsible for physical work. This is why we recommended the conditions of approval described above. Using the drip line is based on comparable language in CCZO 1562.A.1.

**COLUMBIA COUNTY  
LAND DEVELOPMENT SERVICES**

COURTHOUSE  
230 STRAND  
ST. HELENS, OREGON 97051  
(503) 397-1501

General Application

File No. DR 23-08**GENERAL LAND USE PERMIT APPLICATION**

**TYPE OF PERMIT:**        Zone Change        Temporary Permit  
  X   Site Design Review        Resource Management Plan

Other: \_\_\_\_\_

Oregon Raceway Quarter Midget Association (ORQMA)

**APPLICANT: Name:** c/o Gene Bolante, AIA Studio 3 ArchitectureMailing address: 275 Court Street NE Salem, OR 97301Phone No.: Office 503-390-6500 Home \_\_\_\_\_Are you the \_\_\_\_\_ property owner?   X   owner's agent?**PROPERTY OWNER:**        same as above, OR:Name: Columbia County FairgroundsMailing Address: 58892 Saulser Road St. Helens Oregon**PROPERTY ADDRESS** (if assigned): 58892 Saulser Road St. Helens Oregon**TAX ACCOUNT NO.:** 29259 Acres: 34.93 ac Zoning: CS-I4101-00-03600

\_\_\_\_\_ Acres: \_\_\_\_\_ Zoning: \_\_\_\_\_

\_\_\_\_\_ Acres: \_\_\_\_\_ Zoning: \_\_\_\_\_

**PRESENT USES:** (farm, forest, bush, residential, etc.)

<u>Use:</u>	<u>Approx. Acres</u>
<u>Multi Use Fairgrounds</u>	<u>34.93 acres</u>

_____	_____
_____	_____

Total acres (must agree with above): \_\_\_\_\_

General Application

File No. \_\_\_\_\_

**PROPOSED USES:**

Add race track and associated building structures.

**WATER SUPPLY:** \_\_\_\_\_ Private well.

Is the well installed? \_\_\_\_ Yes \_\_\_\_ No

\_\_\_\_ ☒ Community system.

Name \_\_\_\_\_

**METHOD OF SEWAGE DISPOSAL:**

\_\_\_\_ Community Sewer. Name \_\_\_\_\_

\_\_\_\_ ☒ Not applicable.

\_\_\_\_ Septic System.

If Septic, does the subject property already have a system? \_\_\_\_ Yes \_\_\_\_ No

If no, is the property approved for a Septic System? \_\_\_\_ Yes \_\_\_\_ No

**CONTIGUOUS PROPERTY:** List all other properties you own which have boundary lines touching this property:Tax Account No.AcresCo-owners (if any)

_____	_____	_____
_____	_____	_____
_____	_____	_____

**CERTIFICATION:**

I hereby certify that all of the above statements, and all other documents submitted, are accurate and true to the best of my knowledge and belief.

Date: 01-25-2023

Signature: \_\_\_\_\_

**NOTE:** Please attach an accurate and detailed plot plan, including property lines, existing and proposed structures, location of septic tank and drainfield, farm - forest areas, large natural features (cliffs, streams, etc.).

+++++

Planning Department Use Only

Date Rec'd. 3-29-23

Hearing Date: \_\_\_\_\_

Or: Administrative \_\_\_\_\_

Receipt No. 400968

Stormwater &amp; Erosion Control Fees 460-

Zoning: \_\_\_\_\_ Staff Member: \_\_\_\_\_

+++++

## Development Review Committee Pre-Application Conference

**Site Design Review Submittal Checklist**

Oregon Raceway Quarter Midget Association (ORQMA)

Applicant's Name: c/o Gene Bolante, AIA Studio 3 ArchitectureProject Name: ORQMA Race TrackProject Location: 58892 Saulser Road St. Helens Oregon

Please submit the following checked items with your completed Site Design Review application and fee to Land Development Services:

- ☐ 1. History - Please list previous land use applications and structures on the site. Were they approved or denied? Did the existing uses and structures exist prior to the adoption of the Zoning Ordinance (1984)? What is the year built, "Blt", date on the Assessor's tax print out? Include any current, active or closed code violations; federal, state, local, building, planning, wetland etc. List other pertinent facts about the property and its history. The property is the Columbia County Fairgrounds.

- ☒ 2. Written Description - Please submit a written project narrative titled "Project Narrative" discussing:

Name of Project. State the project name. On project narrative

Who. State who owns the property, who is the developer, and who will be the contact person (i.e. project manager) for the project. On project narrative

What is the project. Please summarize or conceptualize the project that is the subject of your Site Design Review application and what you intend to do.  
On project narrative

When will the project take place. Give a time line of your best guess estimate of when you intend to begin and finish the project and what are the stages in-between. If you intend phasing of the project please give a time line of when each phase of the project will take place and what work will take place in that particular phase of the project. On project narrative

Where is the project. Please describe the location of the project (i.e. Urban Growth Boundary of the nearest city, street address, or nearest County Road, or area of the county (i.e. Spitzenburg area). Your Tax Account Number is always the best way to locate your property. On project narrative

How do you intend to complete the project and with what help. List the names of those working on the project (i.e. civil engineer for drainage and grading plans, local surveyor for contours, local architect for building elevations, ...etc.)

On project narrative

☒ 3.

Please note the site plans are based on aerial photos and tax maps, the county did not have electronic files or any surveys that we could locate. ☒ 4.

Existing Site Plan:

- ☐ Vicinity Map - Please show site in relation to roads and streams in the vicinity of the site. Attached from WebMaps
- ☐ Tax Assessor's Map- Please show site and its relationship to adjoining properties. Attached from WebMaps
- ☐ Detailed Site Plan of site as it exists, with man made & natural features shown. Attached from WebMaps

Proposed Site Plan:

- ☐ Please show a site plan with proposed structures and improvements as they will appear after the project is complete Attached

☒ 5.

Grading Plan:

- ☐ Relation of property boundaries to cuts and/or grade & fill. Show before and after topography using contours and show all existing features and planned improvements within 200 feet of property boundaries.
- ☐ Slope & Percentage
- ☐ Contour intervals as follows:
  - Slope 0 to 20% = 2' contour intervals
  - Slope > 20% = 5' or 10' intervals
  - Slope > 35% = Identify on plan
- ☐ Quantity of grade and fill. Show stockpiling of soil locations & duration
- ☐ Elevation changes in topography including cuts and/or grade & fills
  - \* Please Note that removal or placement of greater than 50 Cubic Yards of rock, dirt, or other material requires a Removal/ Fill Permit from the County Building Department. Removal or fill of 50 Cubic yards or more in wetland areas or navigable waters of the State requires a permit from the Division of State Lands and/or Corps of Engineers.
- ☐ Potential or existing unstable slopes
- ☐ Wetland areas impacted

☐ 6.

Drainage Plan:

Please include the following if applicable:

We are not proposing any drainage changes.

- ☐ Narrative of purpose & intent
- ☐ Show all water bodies (rivers, lakes, streams, ponds, marshes, existing drainage ditches) on property
- ☐ Runoff Calcs. using recognized procedure (Rational Formula, TR-55, etc.)

- ☐ Design Level - 25 year minimum for Road Standards, 50 year, etc.
  - ☐ Topographic Map with 5' contour intervals
  - ☐ Calculations of design discharges for each drainage basin and sub-basin
  - ☐ Plan & profile of drainage features showing all pipes, ditches, inlets, outlets, including elevations, grades, dimensions and sizes.
  - ☐ Hydraulic computations used to size drainage features including intersecting lines.
  - ☐ Downstream impacts from individual lots, as well as entire site.
  - ☐ Flood Hazard Areas with FEMA Floodplain zones delineated
- ☒ 7. Wetland Mitigation Plan no wetlands
- ☐ National Wetland Inventory Designation
  - ☐ Hydric soil type from Soil Survey of Columbia County, Oregon
  - ☐ Division of State Lands Wetlands Program sign-off
- ☒ 8. Landscape Plan: Please include the following if applicable: No landscape
- ☐ Plan View of site with landscaping
  - ☐ Planting Types/Species: Trees, Shrubs, Bushes, Flowers, Grass
  - ☐ Existing natural landscape features such as streams, gulleys, rock outcrops
  - ☐ Planter locations
  - ☐ Landscape related features: Fencing (Sight Obscuring & Ornamental), Gates, Refuse Containers, Lighting
  - ☐ Paving & Pedestrian Walkways
- ☒ 9. Architectural Plan/Elevations
- ☐ Floor Plan (Plan View)
  - ☐ Side and End View Elevations
- ☒ 10. Sign Plan: Included
- ☐ Specify Free Standing, On-Building, or both
  - ☐ Specifications: Type of materials, size with dimensions, location, color, illumination (external or internal)
  - ☐ Elevations: side, end, with plan view



- ☒ 11. Access, Parking & Circulation Plan:
- ☐ Surface Type Asphalt and gravel and compacted dirt
  - ☐ Show accessibility to site including curb cuts, nearest State Hwy. or County Rd. on site plan
  - ☐ Show parking lot layout, number of spaces, types of spaces, isle width on site plan
  - ☐ Show traffic circulation, turn movements, system capacity, directional arrows existing
  - ☐ Show proposed access and right-of-way lines existing
  - ☐ Describe sight distance & limiting features existing
  - ☐ Obtain County Road Access permit from County Road Department not adding
  - ☐ Obtain Local Fire Department Access/ Driveway Permit. For Fire Department approval of Access/Driveway Permit: attached email to fire
    - ☐ All driveways in excess of 150 feet shall have an approved turnaround
    - ☐ Grades must typically be less than 12%. Consult Fire Department for steeper grades
    - ☐ Driveway shall be 12 feet wide, all weather surface for one home
    - ☐ Address must be marked
    - ☐ Consult Fire Department for bridges and other structural concerns
- ☒ 12. Impact Assessment: Traffic letter included
- ☐ Traffic Impacts
    - ☐ Trip Generation/Destination (Average Daily Trips)? Where From? Where To?)
    - ☐ Mode Split - Truck, Automobile, Walk, Other
  - ☐ Carrying Capacity
  - ☐ Economic/Market - Number of jobs created or number of employees
  - ☐ Environmental: Impervious Surface
- ☒ 13. Exterior Lighting No lighting is included
- ☐ Type
  - ☐ Illuminated Area
  - ☐ Wattage/Intensity
  - ☐ Manufacture's Specifications/Drawings

- ☐ 14. Stormwater & Erosion Control Planning: No altering of stormwater, erosion control plan included.
- ☐ Conceptual Stormwater Plan
- ☐ Preliminary Stormwater Plan
- ☐ Final Stormwater Plan
- ☐ Preliminary Erosion Control Plan
- ☐ Final Erosion Control Plan
- ☐ Erosion Control Measures
- ☒ 15. ☐ List any current, active or closed code violations (local, state or federal, building, planning, wetlands, etc.) code violations on the subject property.  
Aware of none
- ☐ 16. Other:

I, Gene Bolante, have received a copy of this Site Design  
Please Print Name  
 Review Submittal Checklist and understand submittal requirements for the application. Any  
 outstanding code violations must be brought into compliance before proceeding with this project.

Signature:  Date: 03-14-2023

ORQMA

NARRATIVE

**PROJECT NAME:** ORQMA Race Track

**OWNER** Columbia County, Oregon

**APPLICANT:** Gene Bolante, Studio 3 Architecture  
**CONTACT** 275 Court Street NE Salem, OR 97304  
 971-239-0269  
[Gene@studio3architecture.com](mailto:Gene@studio3architecture.com)

**OWNER**  
**CONTACT:** Edward McGlone  
 Columbia County Fairgrounds  
 503-397-3839 x8139  
[edward.mcglone@columbiacountyor.gov](mailto:edward.mcglone@columbiacountyor.gov)

**LOCATION:** The subject property is located at 58892 Saulser Road in St. Helens

**MAP ID #:** 4201-00-03600

**TAX ACCT #:** 29259

**ZONING:** Community Service – Institutional (CS-I)

**SITE SIZE:** 28,800 sq. ft. site on a ~34.93 acre parcel

**REQUEST:** To develop a new race track for children on an existing vacant portion of land on the Columbia County Fairgrounds. The intent is to build an initial track (dirt formed) and over time add supporting structures associated with the use.

## **REVIEW CRITERIA**

### **Columbia County Zoning Ordinance (CCZO)**

**Section 1000 – Community Service Institutional**

**Section 1170 – Riparian Corridors**

**Section 1400 – Off Street Parking and Loading Requirements**

**Section 1450 – Transportation Impact Analysis**

**Section 1550 – Type II Site Design Review**

**County Stormwater & Erosion Control Ordinance**

### **Background:**

The applicant has submitted a request for site plan approval with proposing the development of a race track with accessory structures on a 28,800 sq. ft. site in a vacant area of the Columbia County Fairgrounds. The Oregon Quarter Midgets of America (ORQMA) has entered into a lease agreement with the County Fairgrounds to use this site for the proposed development. The larger property on which the race track will be constructed contains 34.93 acres and is addressed at 58892 Saulser Road. The proposed site is directly northwest of the existing River City race track.

The proposed development site is part of the larger Columbia County Fairgrounds complex which contains structures and fields used for various recreational events and institutional uses such as rodeos, carnivals, the yearly Columbia County Fair, and sports. The Fairgrounds spreads across three adjacent parcels zoned as Community Service – Institutional (CS-I) and Community Service – Recreational (CS-R). The parcel on which this development is proposed is split-zoned between the CS-I and CS-R zones, however the development site appears to be fully within the CS-I area.

### **Timeline:**

The applicant would like to develop the race track portion this year and have local racing by early June 2023. The track would be dirt formed. And as the budget permits and over the years the accessory structures would be added.

### **Team:**

ORQMA is a completely volunteer organization, all the funding is provided through annual fees and donations. The services provided by the architect are donated, ORQMA was unable to fund a civil engineer for the project and hopes their architect can help guide them through the process. The building of the track would be by volunteers. The major expense in the track is the type of dirt to be used and be installed somewhat level. Similar to the River City Track on site, however at a much smaller scale.

The track will be built with imported soil specific to racing, the existing soil will be removed up to 12" and the new soil placed. The track will be flat or follow the existing grade as this area is generally flat. The soil does drain, and is typically worked over during each race and within faces also leveled and recompact. On occasion additional track soil may be added over the years to help level out the track. The soil would be imported in one delivery and no stockpiling of track soil will occur onsite. The soil does not contain any contaminants or chemicals that would be harmful to the local environment.

The lease with the fairgrounds indicates the leased portion may be used for temporary parking for the fairgrounds larger events. No other site improvements are planned within the next few years until funds are raised. ORQMA will not and has no desire to pave any areas. The plans provided show an ideal building out of the track area with permanent structures, this would be

our 5 to 10 year goal to have these structures in place as well as a permanent dirt track (one that is not parked on)

### **As told by the President of ORQMA:**

ORQMA, Oregon Raceway Quarter Midget Association, is a non-profit sports club, for the benefit of our members organization. The ORQMA club members are not only about racing, but truly about families recreating together. Up until 2020, our members enjoyed racing on the community playground property of Alpenrose in SW Portland, where a QMA quarter midget car track was built, back in the 50's. The property was home to many other organizations such as bike racing, softball, and theatre, to name a few.

Our organization is 100% volunteer operated. Our members also have volunteered every year to many of Alpenrose's events. The drivers work in the snack shacks, help with the Easter Egg Hunt and then at Christmas work in the Story Book Lane Exhibits, as well as other events when there was a call for volunteer help.

Our schedule usually consists of an 8-10 race series. The schedule is set at the beginning of the year, to compliment the other tracks schedules and events. We integrate our schedule to other QMA tracks in the Pacific Northwest. Those tracks are in Graham and Monroe, WA and Langley, Canada. Our race series is generally between April and September.

When putting the schedule together, usually the fairground or property where the track is held has other events to schedule around. They provide a calendar with "black-out" dates. We do not schedule any events on the black-out dates.

Early in the year, as soon as January or February, ride days are held. This is dependent on the weather. This is an opportunity for the community to come out and let their child drive a car, learn about the sport, and put a smile on a child's face. This event is both a fundraiser for the club as well as a way to grow our club and membership.

Each club puts on a Region race for all clubs to travel to. And often there are other events, such as QMA Speedweek and other "fun" races before a region race at each club track. Each club also gets to put a bid in to hold the Grand Nationals at their track. Drivers from the East Coast have come to our West Coast National Events. The QMA Region 9 Grand National's for 2021 was at the Little Wheels QMA club track, which is located on Frontier Park, (Graham, WA) Pierce County's 72-acre Fairground.

Each club has race fees. Usually, the fees are \$20-25 for the first car, then \$5 less for each additional car class. Those funds go to support the club expenses. Those expenses include the track building and maintenance, awards and trophies for the drivers, radio, scoring systems, etc. All funds raised by the club are used exclusively for the benefit of



the club and drivers. Most families donate time, equipment, and their expertise in their areas of business.

Our members view our club as one big family. At the races, we share engines and parts. Our members share and do what we can to help all the young drivers have a successful day on the racetrack. We are teaching community support while racing.

## About QMA:

QMA's national website is <https://quartermidgets.org/>. The website offers a video (<https://quartermidgets.org/videos/>) that does a great job of showing the family team unit and while competitive, the drivers and families work to help each other on and off the track. While there are many non-profit organizations, again, our QMA non-profit status is unique in that it is created for the "benefit of its members" versus some clubs and organizations created for the "benefit of the organization". Therefore, ours is designed for the benefits of our children. While some quarter midget organizations have paid positions within their organization, Quarter Midgets of American does not. None of the National Board or members are paid. Their time is 100% donated to supporting the non-profit clubs around America.

## What does a race weekend look like?

Drivers and their families usually arrive on a Friday night. They work on their cars, practice, and help other families out. Saturday morning after Safety and Sign In's are completed, usually by 8:30 AM, a Pit Meeting occurs about 9:00 AM. Then racing begins promptly after the Pit Meeting. After the morning Heats are completed, the American Flag is raised, and the National Anthem is played. Depending on the car count of the race day, most of the Mains are completed around dinner time.

Most members have an RV and would be staying on the grounds for the weekend.

After a day of racing, many would go to town for dinner. Families would enjoy the surrounding area. We would be supporting local businesses. At a minimum restaurant and local gas stations will immediately benefit.

Here is a link to a video made by the Grandparents of one of the local drivers. It shows how everyone comes together and makes our events multi-generational.

<https://www.youtube.com/watch?v=bsRfuaFpPjY>

## What do we have to offer?

Our events are free to spectators and is spectator friendly. People of all ages are drawn to the tracks. Many are surprised by the talent of these young drivers. The ability to react quickly to avoid an accident will help these drivers when they are driving on our roads. The ability to read a 10-car line up in 5-6 seconds is learned at an early age and will give them faster response times than the average driver on our roads.

Why are our events free for spectators? This is a non-profit for the benefit of our drivers. This is not a club trying to make a profit. We want our drivers to bring their friends and family. We do not want finances to prevent these learning opportunities.

Grandparents are absolutely tickled to see such family commitments to the sport and have a place to come and enjoy their grandchildren. In fact, often we have three generations of a family all helping to support their driver(s). They have so much to offer!

Our local club members coming to our track whether to practice for a day or a race day weekend, bring economic support to the local community. Often clubs will solicit a local business to support, and the business shares a certain amount of the proceeds, making fund raising mutually beneficial.

We will include membership requirements in our ORQMA Bylaws, for members to volunteer a required number of hours at the Columbia County Fairground, other eligible events you need help for. It could be to come help at your fair or another event you have. To remain a member in good standing without volunteering, clubs usually have a fee to be paid, such as \$250. Without members volunteering, it puts additional strains on other club members families. Our board could review this fee and consult with your board to determine an equitable gain for both organizations. Again, all monies raised go back into our club and the improvements we will be making to the property.

The National QMA has an insurance policy covering all the clubs. We will have an Additional Insured Insurance certificate issued to Columbia County Fairgrounds ISAOA each year.

We would pay fees for camping and power. We can also bring in a port a potty to have trackside for the drivers and handlers. Please see our next page for more information on our impact.

Our National QMA rules include having a fire extinguisher at the track and in each race trailer. We are required to have them displayed at all region and national events as well. In addition fire lanes are maintained for emergency vehicle access.

While our safety gear has protected our drivers, we also make sure we have someone trained in First Aid. Our Vice President, Nate Curry, as well as other members are trained in First Aid through employment requirements.

## **Our impact and what are we looking for:**

A location to build a quarter midget track. The track itself would eventually be permanent.

We would be bringing walls and fencing in to build around our track. These walls are about 3 feet tall and surround the track. And the fencing would be on the outside of the walls. However, to start racing and build our club, we will likely start with hay bales. None of the fencing is permanent.

A judges stand is needed for score keeping and running the race. Eventually, as funding permits, these land improvements would be permanent. A scale house would be in the future as well as a covered staging area for hot days. Again, many of these improvements to the property are years down the road and depend on funding and growth. We would also like to see a storage building which could be a container to move around as needed. We have already received donated cars, which can be used for our ride days.

Ride Days are a significant part of income for most clubs. After the track is built, we will hold a Ride Day event for the Fairground, such as at one of your fairs, to help benefit the fairground and local community. This is an opportunity for young people to come drive a car and learn about the sport.

On a race day, almost every member has a race trailer for their car(s). We would be parking both our race and RV trailers on the property for the race day and most likely for the entire weekend.

At some tracks they have “snack shacks”. If the Columbia County Fairground has a vendor(s), we could work with them and provide our race schedule and ride days. We always have hungry drivers and handlers. With 100% volunteer run club, it is hard to prepare meals, put on an event and volunteer trackside.

As ORQMA grows we will be providing financial property improvement to the fairgrounds. Although those cannot be measured today, then can be measured after installation.

The initial impact and change most community members would see is the building of the track and families coming out to practice on non-race days.

## Summary of Zoning Requirements:

### COLUMBIA COUNTY ZONING ORDINANCE (CCZO)

#### Section 1000 COMMUNITY SERVICE - INSTITUTIONAL CS – I

1001 Purpose: The purpose of this section is to provide for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, and unusual character or effect on the neighborhood, may not be suitable for listing with the other sections of this Ordinance. The CSI district is intended to provide a mechanism for the establishment of public and assemblies and public and private institutional facilities. This district is intended to function as a regular district within the Community Service designation.

#### 1002 Permitted Uses:

.7 County fairgrounds

**Finding:** Given that there is an existing race track on the Fairgrounds parcel to the south of the proposed site, Staff finds that the applicants' proposal can be considered a permitted use in conjunction with the County Fairgrounds complex.

1003 Restrictions and Conditions: These public facilities have a direct impact upon adjoining properties. The Commission shall study each request to establish a new CS-I use and shall attach adequate conditions to the approval of a CS-I use to insure the adverse impact of the institutional use upon the adjoining land uses have been mitigated.

Conditions shall include:

- .1 Landscaping, berming, fencing, or screening. No new fencing or new landscaping is proposed.
- .2 Increased off street parking. We are proposing to utilize existing parking on site. A majority of the ORQMA events will not conflict with other Fairgrounds events per the executed lease between parties.
- .3 Limitations on the type and amount of external lighting. The applicant is not requesting exterior lighting. The races occur during the day and all races will end by dusk.
- .4 Limitations on the number and location of access points which connect with County roads or public ways. Per the lease the existing access points into the site and to the proposed race track will be utilized, no new accesses into the site are proposed. There is a roadway to the proposed QMA track internally within the existing site that will be utilized for access.
- .5 The Commission may attach as many conditions, such as setbacks, screening, off-street parking and unloading, construction standards, maintenance an

landscaping requirements, as it deems necessary to protect the public health, safety, welfare, the adjoining property owners, and the public interest.

.6 Within an Urban Growth Boundary, a new CS-I use shall be served by public water and public sewer. The Commission may waive the requirement for the connection to public sewer if it can be shown that the proposed use can be safely served in another manner. In this case, the Commission will require the CS-I use be connected to public sewer when it becomes available to the site.

There are existing public restrooms within walking distance to the site. In addition most of the ORQMA families utilize RV's during their racing which contain bathrooms within them. The water and waste within the RV's remain in the RV and driven away as no dumping on site, this is very common.

.10 Off-street parking shall be provided as required in Section 140. The users typically come in race trailers pulled by RV's or trucks and they remain connected during the race. Occasionally visitors will visit or extended family for observing races for the day.

#### 1005 Standards:

.1 There is no designated minimum lot or parcel size. The Commission shall review each proposal on a case by case basis and determine if the site is adequate for the proposed use. The site plan shall be reviewed and determined if the site meets all the provisions of this Ordinance, including the off-street parking requirements listed in Section 1400.

.2 There are no designated minimum setbacks in this district. The applicant shall submit a letter from the Fire Marshall concerning the necessary setbacks for safety. After reviewing the letter and the adjacent land uses, the Commission shall establish setback requirements for each individual site. An email was sent to CRFR Tad Pedersen with no response, see attached email. We will include fire lane access throughout the site, along with direct access to the track. A turnaround is proposed as the site depth is greater than 150'-0".

**Findings:** The Commission will review the proposal for all applicable regulations (including off-street parking) and may give preliminary site plan approval with any conditions they attach. The applicant will need to submit documentation from Columbia County Fire & Rescue regarding any required setbacks for fire safety. The Commission may add additional setback requirements during their review of the proposal.

#### 1006 Signs: Signs shall meet the requirements of Section 1300.

**Finding:** It is unclear at this point if signs are proposed as part of this development. If signs will be utilized, they must comply with the provisions of Section 1300. ORQMA would like to place a small sign at the existing sign located indicating our presence at the fairgrounds, but this will require Columbia County Fairgrounds approval, we have included an image of our preference for sign location.

#### Section 1170 – Riparian Corridors



According to County GIS maps, there is an unnamed non fish-bearing stream which runs through the eastern portion of the subject property. There are no wetlands associated with this stream.

**1171 Purpose.**

A. The purpose of this Section is to protect and restore water bodies and their associated riparian corridors, thereby protecting and restoring the hydrological, ecological and land conservation function these areas provide. Specifically, this Section is intended to protect habitat for fish and other aquatic life, protect habitat for wildlife, protect water quality for human uses and for aquatic life, control erosion and limit sedimentation, prevent property damage during floods and storms, protect native plant species, and conserve the scenic and recreational values of riparian areas.

B. This Section meets the above purpose by prohibiting structures and other development from riparian areas around fish-bearing lakes, rivers, streams and associated wetlands, and by prohibiting vegetation removal and/or other vegetative alterations in riparian corridors. In cases of hardship, the Section provides a procedure to reduce the riparian corridor boundary. Alteration of the riparian corridor boundary in such cases shall be offset by appropriate restoration or mitigation, as stipulated in this Section.

C. For the purposes of this Section, “development” includes **buildings and/or structures which require a building permit under the State of Oregon Uniform Building Code, as amended, or any alteration in the riparian corridor by grading, placement of fill material, construction of an impervious surface, including paved or gravel parking areas or paths, and any land clearing activity such as removal of trees or other vegetation.** We are not proposing any disturbance within this area.

**1172 Riparian Corridor Standards:**

A. The inventory of Columbia County streams contained in the Oregon Department of Forestry Stream Classification Maps specifies which streams and lakes are fish-bearing. Fish-bearing lakes are identified on the map entitled, “Lakes of Columbia County.” A copy of the most current Stream Classification Maps is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B) for reference. The map, “Lakes of Columbia County” is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B), and is incorporated therein. Based upon the stream and lake inventories, the following riparian corridor boundaries shall be established:

4. Other rivers, lakes, streams, and sloughs. Along all other rivers, streams, and sloughs, the riparian corridor boundary shall be **25 feet upland from the top-of-bank**, except as provided in CCZO Section 1172(A)(5), below. The unnamed creek is concentrated under the tree canopy that exists and in our proposal we are not removing any trees. The unnamed creek is also greater than 50’ from the edge of the tree canopy, it is also significantly at a lower elevation than where the proposed track is to occur.

### 1173 Activities Prohibited within the Riparian Corridor Boundary

In addition to the prohibitions in the underlying zone, the following activities are prohibited within a riparian corridor boundary, except as provided for in Sub-sections 1175 and 1176 of this Section:

A. The alteration of a riparian corridor by **grading, placement of fill material, and/or impervious surfaces, including paved or gravel parking areas, or paths, and/or the construction of buildings or other structures which require a building permit under the State of Oregon Uniform Building Code, as amended.**

B. The removal of riparian trees or vegetation No alteration of the riparian corridor will occur.

### 1175 Permitted Uses and Activities.

B. The following development is allowed within the riparian corridor boundary.

1. Streets, roads, and driveways, if: a. If it is not possible to locate the street, road or driveway outside of the riparian corridor boundary; and b. The street, road or driveway is designed to minimize intrusion into the riparian corridor boundary.
2. Pedestrian walkways, paths and trails.
3. Fencing and signs, not including billboards.
4. Drainage facilities, utilities and irrigation pumps.
5. Water-related and water-dependent uses.
6. New or expanded shoreline stabilization and flood control grading and structures.
7. Portable furniture, and other portable outdoor equipment for the private use of the property owner/resident. For purposes of this subsection, “portable” shall mean that the item is not affixed to the ground, other than with a chain or other lock which is capable of being removed at any time.

**Findings:** The proposed development will be subject to a 25 foot Riparian Corridor setback measured from top of bank of the non fish-bearing stream. Under the provisions of subsection 1173, neither the race track itself nor any of the accessory structures can encroach into this setback.

Concurrent with Site Design Review Submittal, the application shall include a site plan which accurately identifies the stream’s required 25' Riparian Corridor will not be

compromised/disturbed. The applicant has no intention to be within the riparian corridor or modify it.

## Section 1400 – Off Street Parking Requirements

**1401 General Provisions:** At the time of the erection of a new building, or an addition to an existing building, or any change in the use of an existing building, structure, or land which results in an intensified use by customers, occupants, employees, or other persons, off-street parking and loading shall be provided according to the requirements of this section.

### 1416 Minimum Required Off-Street Parking Spaces:

Race Track: One space for each 8 seats or 16 feet of bench length.

**Findings:** Applicant states the new race track will utilize existing fairgrounds parking. Applicant must calculate required spaces in subsection 1416 and submit agreement with the Columbia County Fair Board that these spaces will be available during scheduled racing events. This is a difficult item to generate. We have a lease agreement with the Fairgrounds, that will limit our races to occur when other events are happening at the Fairgrounds, there would be no overlapping of major events with our race days. Therefore parking would not be an issue.

## Section 1450 – Transportation Impact Analysis

### Section 1450 TRANSPORTATION IMPACT ANALYSIS

**1450** Transportation Impact Analysis: A Transportation Impact Analysis (TIA) must be submitted with a land use application if the proposal is expected to involve one or more of the conditions in 1450.1 (below) in order to minimize impacts on and protect transportation facilities, consistent with Section 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule.

- .1 Applicability – A TIA shall be required to be submitted to the County with a land use application if the proposal is expected to involve one (1) or more of the following:
  - A. Changes in land use designation, or zoning designation that will generate more vehicle trip ends.
  - B. Projected increase in trip generation of 25 or more trips during either the AM or PM peak hour, or more than 400 daily trips.
  - C. Potential impacts to intersection operations.
  - D. Potential impacts to residential areas or local roadways, including any non- residential development that will generate traffic through a residential zone.

- E. Potential impacts to pedestrian and bicycle routes, including, but not limited to school routes and multimodal roadway improvements identified in the TSP.
  - F. The location of an existing or proposed access driveway does not meet minimum spacing or sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard.
  - G. A change in internal traffic patterns may cause safety concerns.
  - H. A TIA is required by ODOT pursuant with OAR 734-051.
  - I. Projected increase of five trips by vehicles exceeding 26,000-pound gross vehicle weight (13 tons) per day, or an increase in use of adjacent roadways by vehicles exceeding 26,000-pound gross vehicle weight (13 tons) by 10 percent.
- .2 Consistent with the County's Guidelines for Transportation Impact Analysis (TIA), a landowner or developer seeking to develop/redevelop property shall contact the County at the project's outset. The County will review existing transportation data to establish whether a TIA is required. It is the responsibility of the applicant to provide enough detailed information for the County to make a determination. An applicant should have the following prepared, preferably in writing:
- A. Type of uses within the development
  - B. The size of the development
  - C. The location of the development
  - D. Proposed new accesses or roadways
  - E. Estimated trip generation and source of data
  - F. Proposed study area

If the County cannot properly evaluate a proposed development's impacts without a more detailed study, a TIA will be required. The County will provide a scoping summary detailing the study area and any special parameters or requirements, beyond the requirements set forth in the County's Guidelines for Transportation Impact Analysis, when preparing the TIA.

**.3 Approval Criteria. When a TIA is required, a proposal is subject to the following criteria:**

- A. The TIA addresses the applicable elements identified by the County Public Works Director and the County's Guidelines for

#### Transportation Impact Analysis;

- B. The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or, identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the County Public Works Director and, when state highway facilities are affected, to ODOT;
- C. For affected non-highway facilities, the TIA establishes that mobility standards adopted by the County have been met; and
- D. Proposed public improvements are designed and will be constructed consistent with County Road Standards and access spacing standards in the Transportation System Plan.

#### .4 Conditions of Approval.

- A. The County may deny, approve, or approve a proposal with conditions necessary to meet operational and safety standards; provide the necessary right-of-way for improvements; and to require construction of improvements to ensure consistency with the future planned transportation system.
- B. Construction of off-site improvements may be required to mitigate impacts resulting from development that relate to capacity deficiencies and public safety; and/or to upgrade or construct public facilities to County Standards.

Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

**Finding:** Applicant must submit projected trips generated by this new use. Depending on the number of projected daily trips, Planning Staff may require a TIA submitted concurrent with the Site Design application. We have requested a letter for the anticipated number of trips for a traffic engineer, the letter is included.

#### Section 1550 – Type II Site Design Review

**Proposal meets definition of Type II Site Design Review since it exceeds 5,000 sq. feet.**

- 1555 Submittal documents: The following documents, when applicable, are required for a Site Design Review. The scope of the drawings and documents to be included will be determined at the pre- application conference by the Pre-application Conference Committee, and a Site Design Review Submittal

Checklist will be given to the applicant, documenting which items are deemed not applicable or not necessary to determine compliance with County and State standards, with a short explanation given for each item so determined.

- A. History.**
- B. Project narrative.**
- C. Existing site plan.**
- D. Proposed site plan.**
- E. Grading plan.**
- F. Drainage plan.**
- G. Wetland mitigation plan. Goal 5 Resource Protection Plans (streams, wetlands, riparian areas, natural areas, fish and wildlife habitat).**
- H. Landscaping plan.**
- I. Architectural plans.**
- J. Sign drawings.**
- K. Access, parking and circulation plan.**
- L. Impact assessment.**
- M. Site Design Review Submittal Checklist.**

**Finding:** All of these criteria other than 1555(G) will need to be included in the Site Design Application that is submitted to Land Development Services. Please use the Site Design Review Checklist sent in the follow-up email and use this Pre Application Conference Description as a guide to ensure all documentation is submitted.

Section 1561 of the Zoning Ordinance also provides details of submittal requirements.

### **1563 Standards for Approval:**

The Planning Commission or Director shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:

- A. Flood Hazard Areas: See CCZO §1100, Flood Hazard Overlay Zone. All development in Flood Hazard Areas must comply with State and Federal Guidelines.
- B. Wetlands and Riparian Areas: Alteration of wetlands and riparian areas shall be in compliance with State and Federal laws.
- C. Natural Areas and Features: To the greatest practical extent possible, natural areas and features of the site shall be preserved.
- D. Historic and Cultural sites and structures: All historic and culturally significant sites and structures identified in the 1984 Comprehensive Plan, or identified for inclusion in the County Periodic Review, shall be protected if they still exist.
- E. Lighting: All outdoor lights shall be shielded so as to not shine directly on adjacent properties and roads.
- F. Energy Conservation: Buildings should be oriented to take advantage of natural energy saving elements such as the sun, landscaping and land forms.



G. Transportation Facilities: Off-site auto and pedestrian facilities may be required by the Planning Commission, Planning Director or Public Works Director consistent with the Columbia County Road Standards and the Columbia County Transportation Systems Plan

ORQMA

MAPS

## Gene Bolante

---

**From:** Gene Bolante  
**Sent:** Wednesday, December 7, 2022 8:51 PM  
**To:** Pedersenr@crfr.com  
**Subject:** RE: Columbia County Fairgrounds

Sorry Tad autocorrect changed it to Ted and I didn't catch it ...

Gene Bolante, AIA  
**Studio 3 Architecture**  
 275 Court Street NE  
 Salem, Oregon 97301  
 General 503-390-6500  
 Direct 971-239-0269

**From:** Gene Bolante  
**Sent:** Wednesday, December 7, 2022 8:50 PM  
**To:** Pedersenr@crfr.com  
**Subject:** Columbia County Fairgrounds

Hi Ted . . I am hoping you have jurisdiction over Columbia County Fairgrounds? I am assisting Oregon QMA in establishing a new race track at the Columbia County Fairgrounds. QMA recently entered into a lease with the fairgrounds to place a new track adjacent to the River City Track, but with different access points. In our pre-app the Planner asked we reach out to you.

There are no designated minimum setbacks in this district. The applicant shall submit a letter from the Fire Marshall concerning the necessary setbacks for safety. After reviewing the letter and the adjacent land uses, the Commission shall establish setback requirements for each individual site

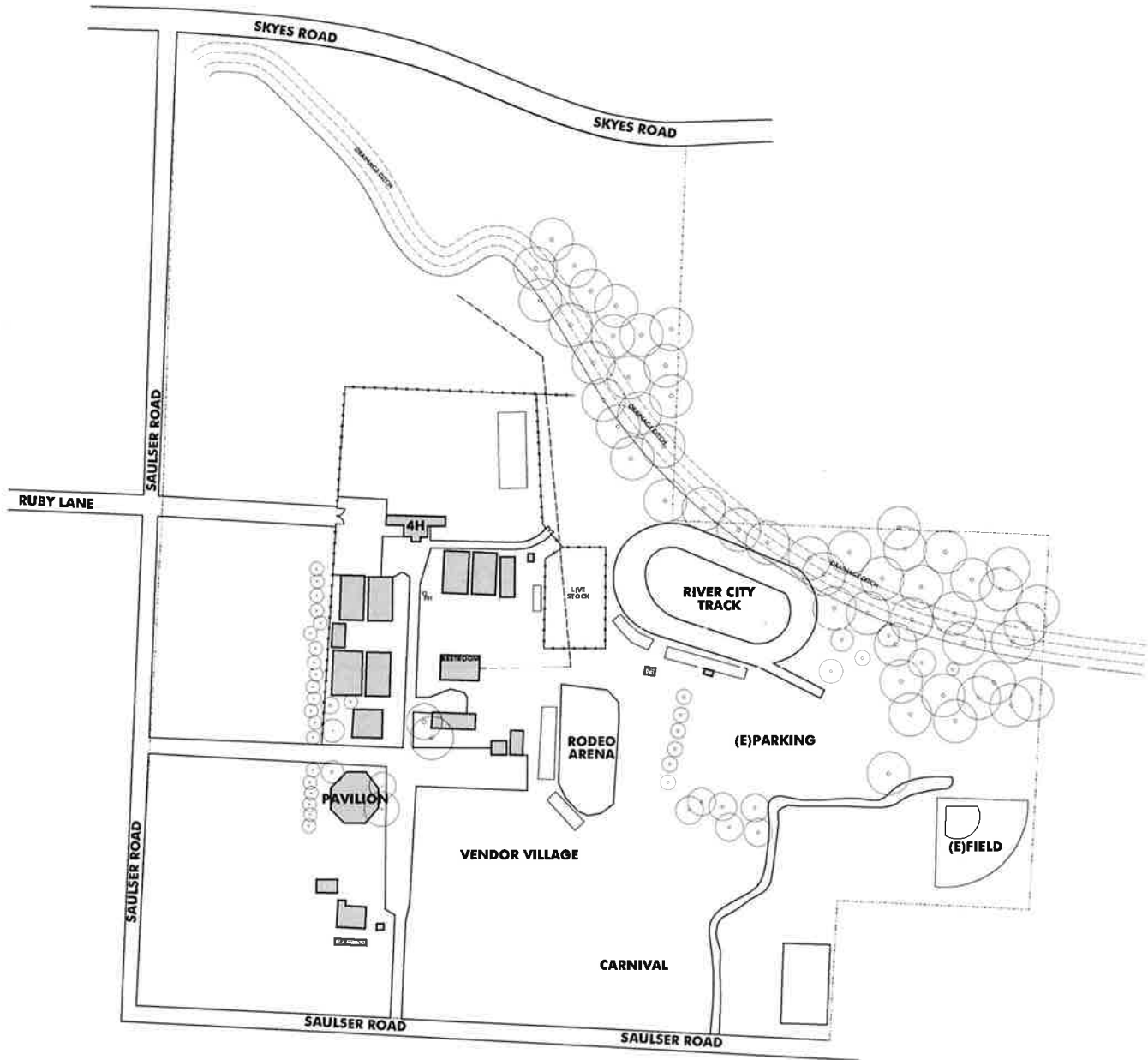
We previously had a race track at Alpenrose, which unfortunately the land was sold and the race track had to move. My kids raced at Alpenrose and a number of other tracks on the west coast, so fire lanes, ambulance access and fire prevention we exercised often. They typically provide direct access to the race track itself and then through the parking areas, fire extinguishers in the race trailers, fuel in approved containers.

I attached a few drawings to help.

Please let me know what else you might need.

Thanks!

Gene Bolante, AIA  
**Studio 3 Architecture**  
 275 Court Street NE  
 Salem, Oregon 97301  
 General 503-390-6500  
 Direct 971-239-0269

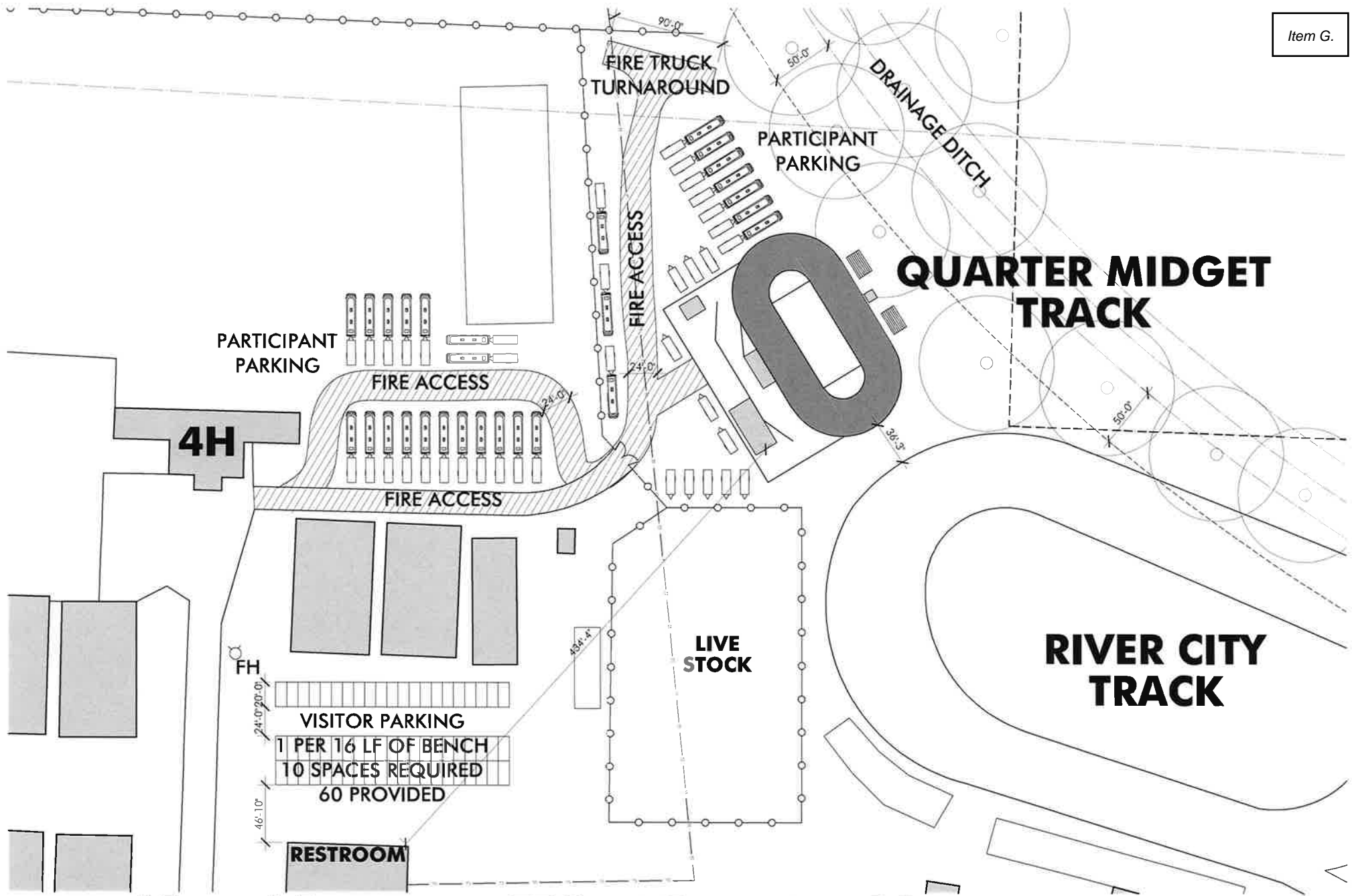


# COLUMBIA COUNTY EXISTING SITE PLAN

1:400 @ 8 1/2 x 11

MARCH 14, 2023





# COLUMBIA COUNTY - SITE PLAN PROPOSED QUARTER MIDGET RACE TRACK

1:50 @ 8 1/2 x 11

MARCH 15, 2023





# Columbia County Web Map



3/14/2023, 11:33:18 AM

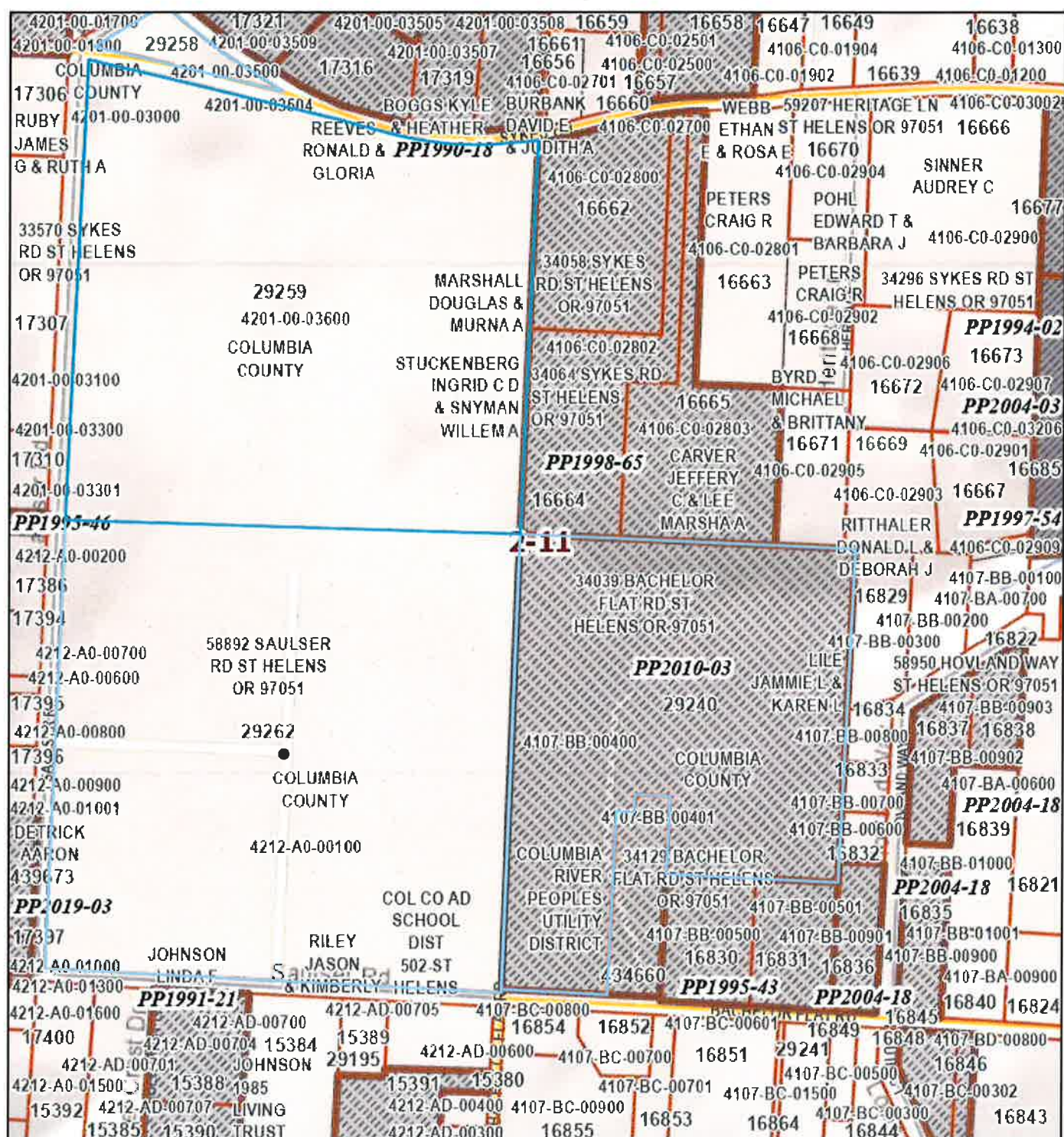
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- Override 1
- Taxlots
- Township & Range
- Sections
- Minor Roads
- Arterial Roads
- Streams
- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3



National Geographic, Esri, Garmin, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.

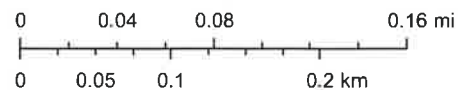




3/14/2023, 11:43:17 AM

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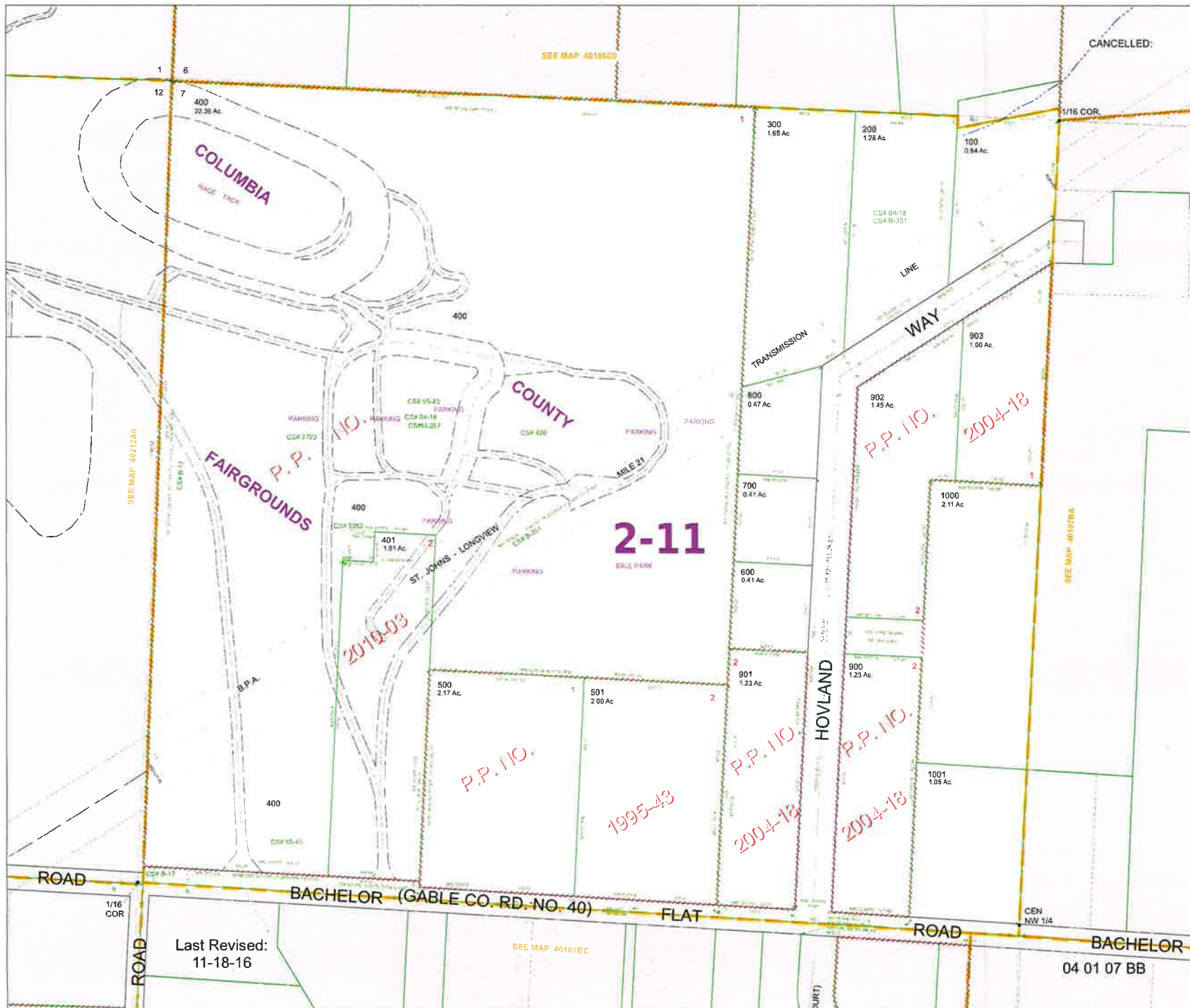
- |   |                      |  |
|---|----------------------|--|
|  | Override 1           | Account Labels   |
|  | Tax Codes            | Taxlot Labels  |
|  | Plats                |  Taxlots        |
|   | Situs Address Labels |  Minor Roads    |
|   | Ownership Labels     |  Arterial Roads |
|  | Ownership            |  |



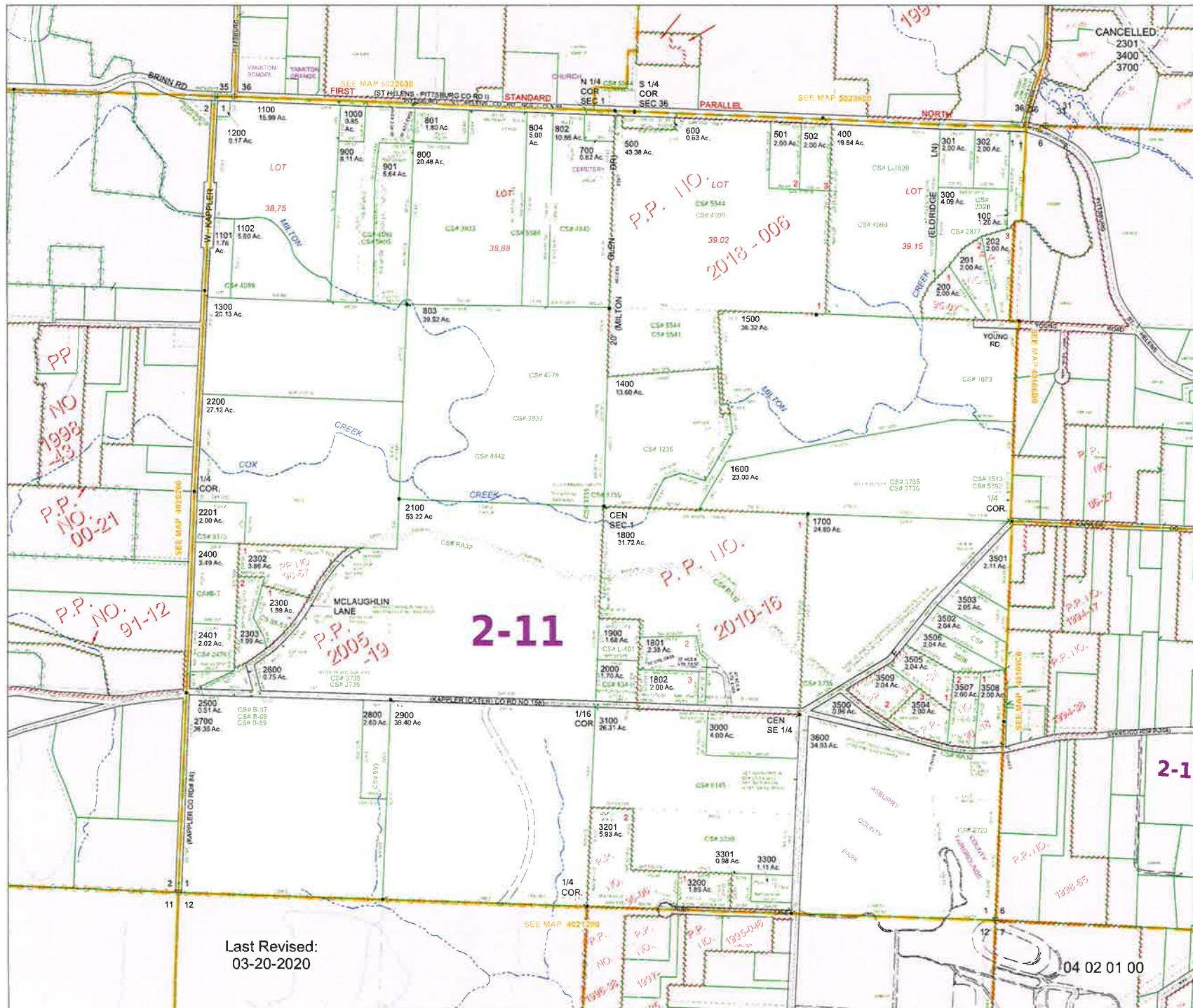
National Geographic, Esri, Garmin, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.



**COLUMBIA COUNTY**

$$1'' = 100'$$


**COLUMBIA COUNTY**

$$1'' = 400'$$




THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

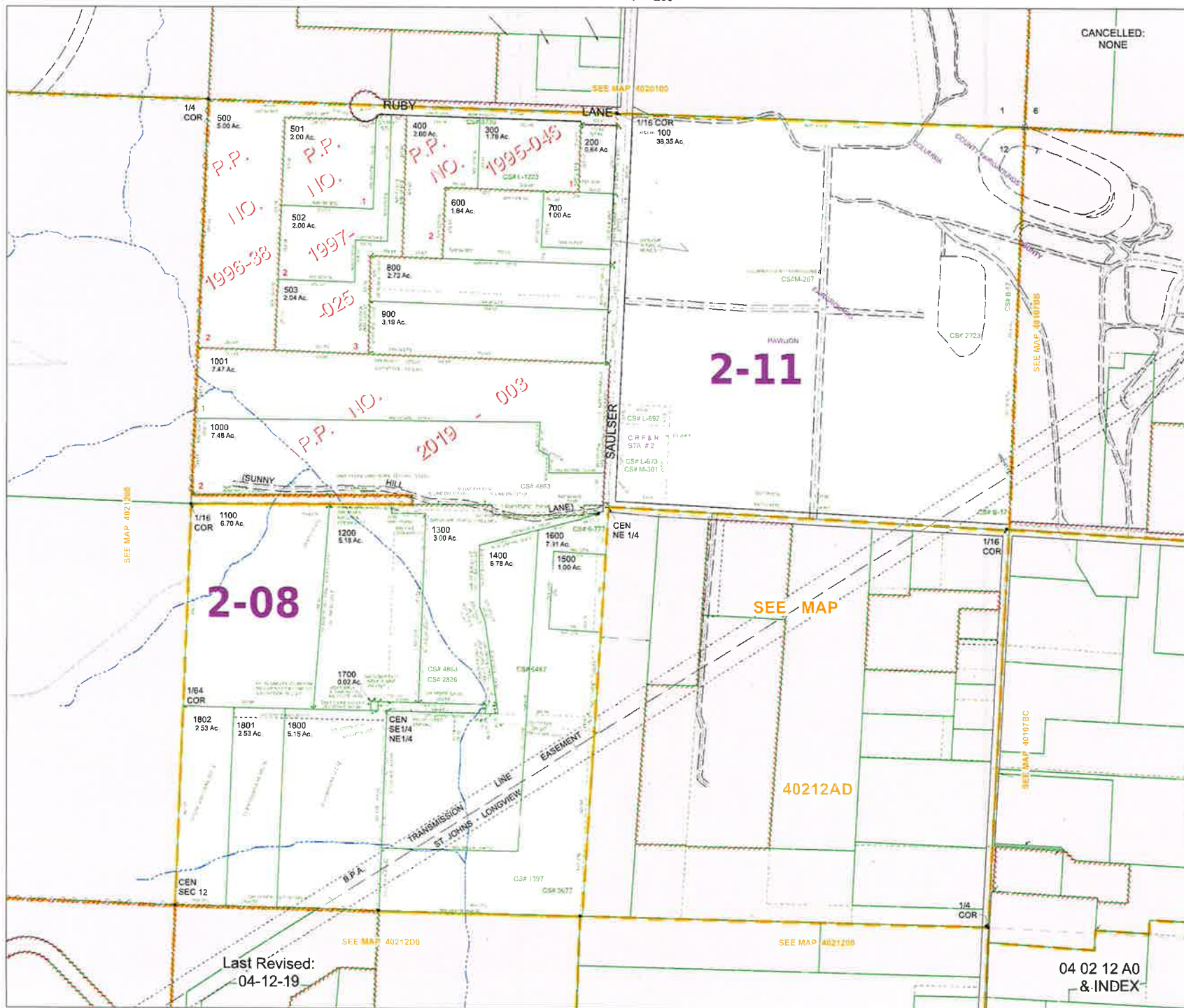
1" = 200'

N.E.1/4 SEC.12 T.4N. R.2W. W.M.

COLUMBIA COUNTY

04 02 12 A0  
& INDEX

Item G.

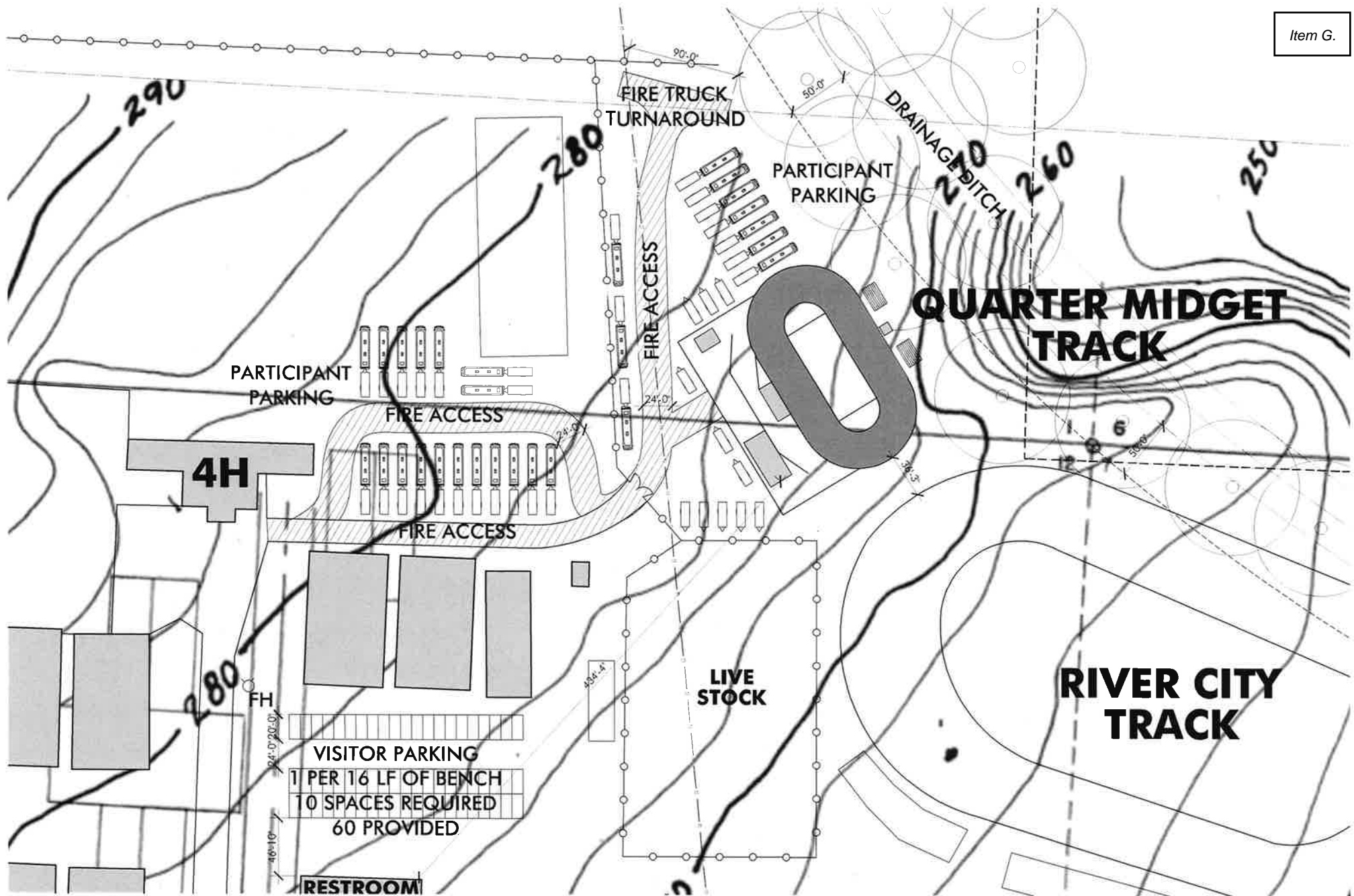


ORQMA

EXISTING &  
PROPOSED  
SITE PLANS

ORQMA

GRADING PLAN



# COLUMBIA COUNTY - GRADING PLAN PROPOSED QUARTER MIDGET RACE TRACK

**1:50 @ 8  $\frac{1}{2}$  x 11**

**MARCH 15, 2023**



ORQMA

DRAINAGE PLAN

(NOT INCLUDED, NO  
DRAINAGE PATTERNS  
ALTERED)



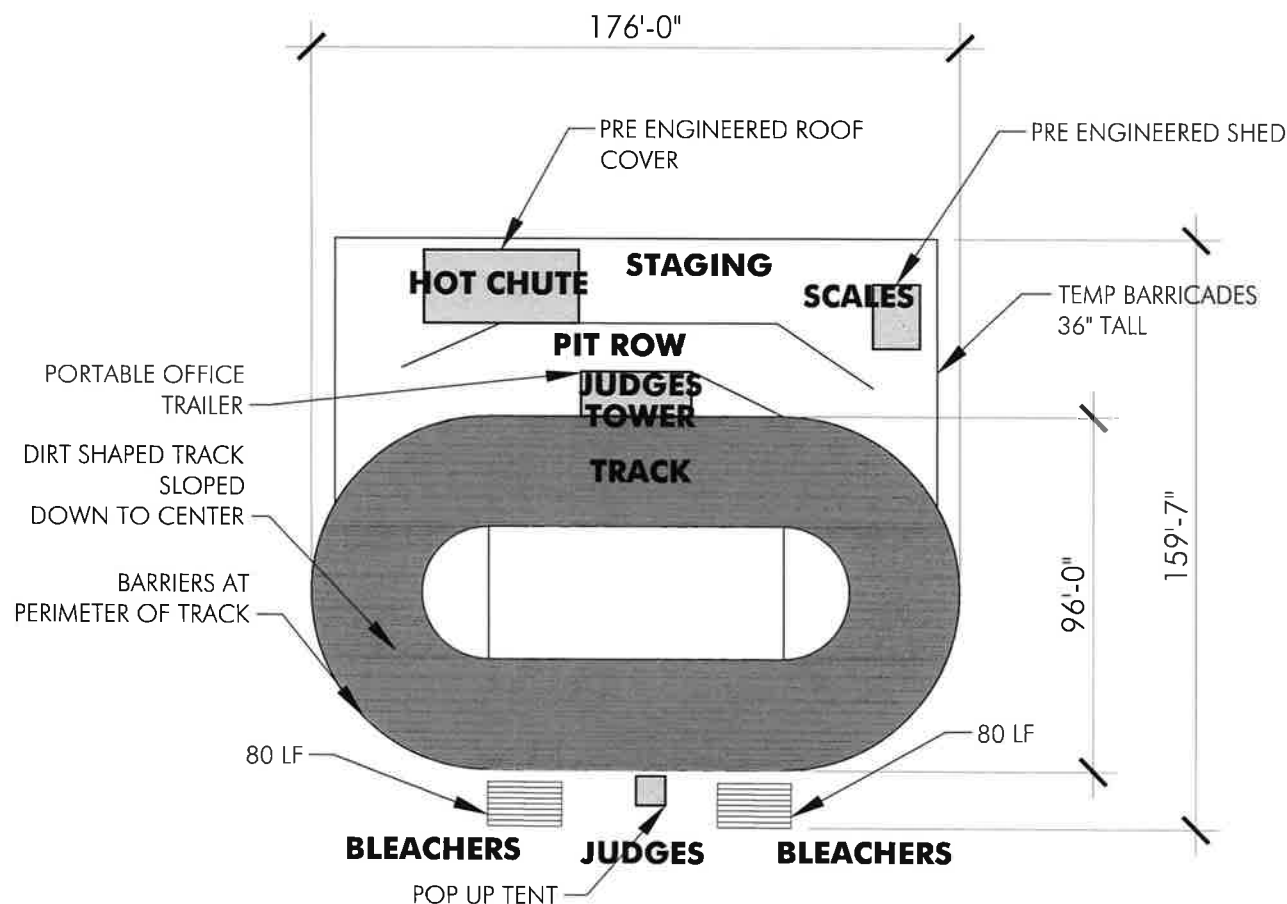
ORQMA

LANDSCAPE PLAN

(NOT INCLUDED, NO  
LANDSCAPING  
PROPOSED)

# ORQMA

## ARCHITECTURAL PLANS

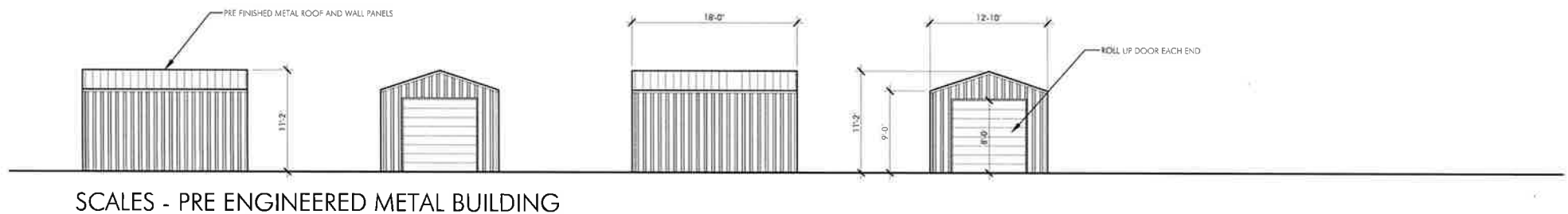
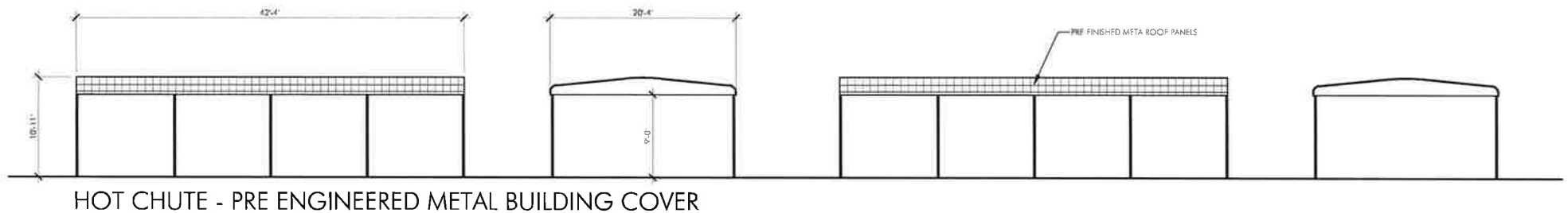
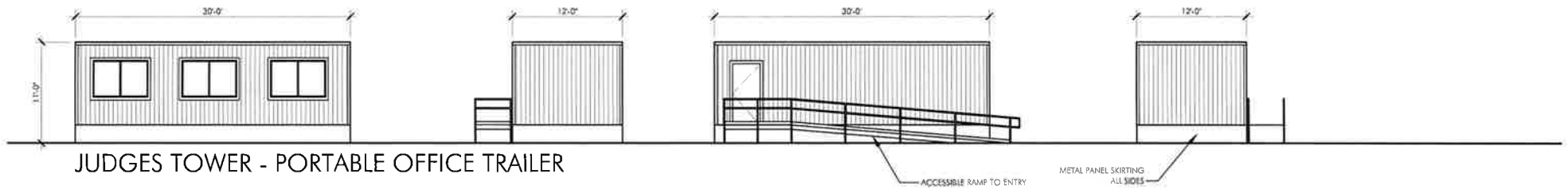


# COLUMBIA COUNTY - SITE PLAN PROPOSED QUARTER MIDGET RACE TRACK

1:50 @ 8 1/2 x 11

JAN 16, 2023





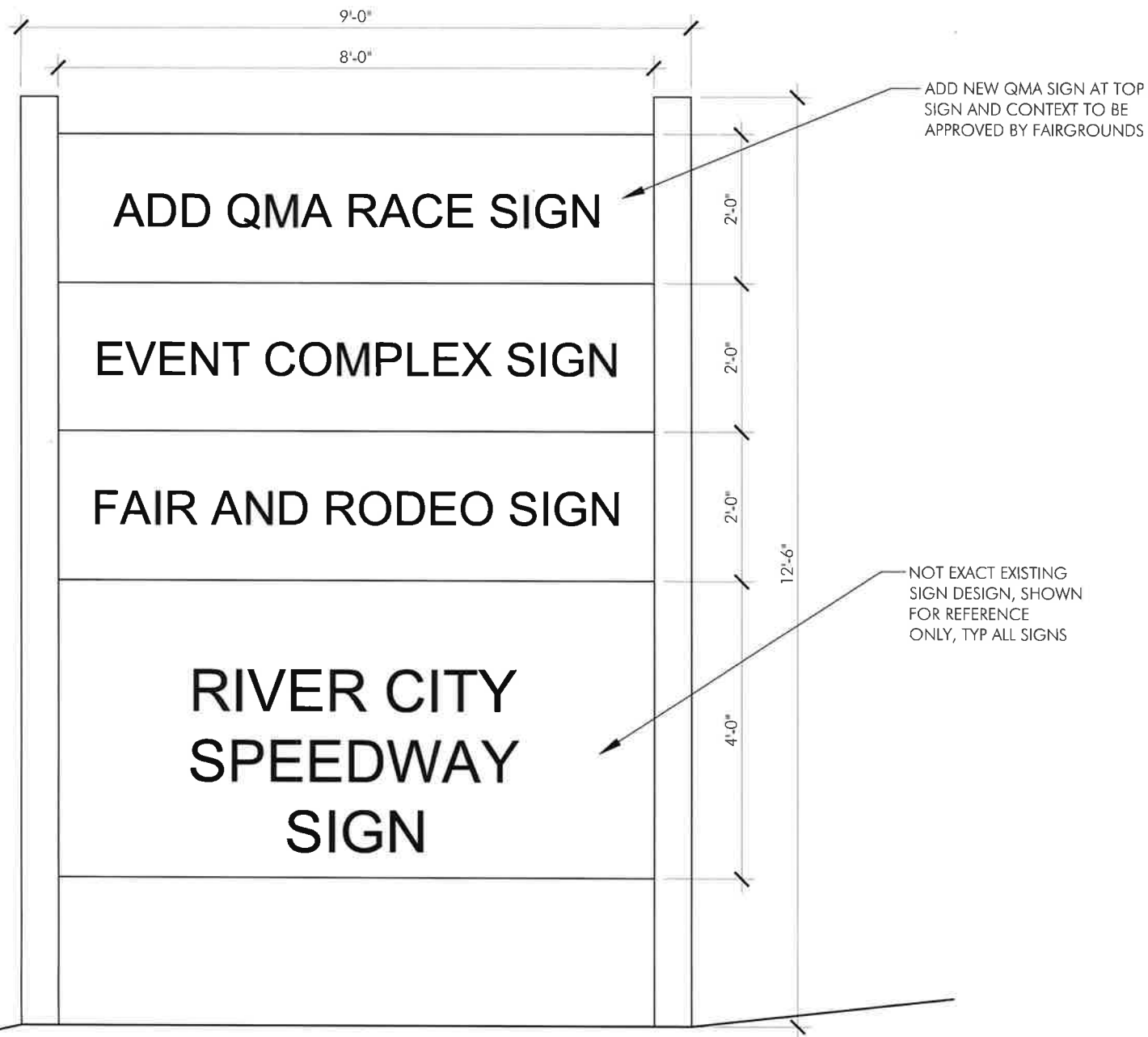
# COLUMBIA COUNTY FAIRGROUNDS PROPOSED BUILDINGS

$\frac{1}{8}" = 1'-0" @ 8 \frac{1}{2} \times 11$

JAN 15, 2023

ORQMA

SIGN PLAN



EXISTING SIGN AT MAIN ENTRY

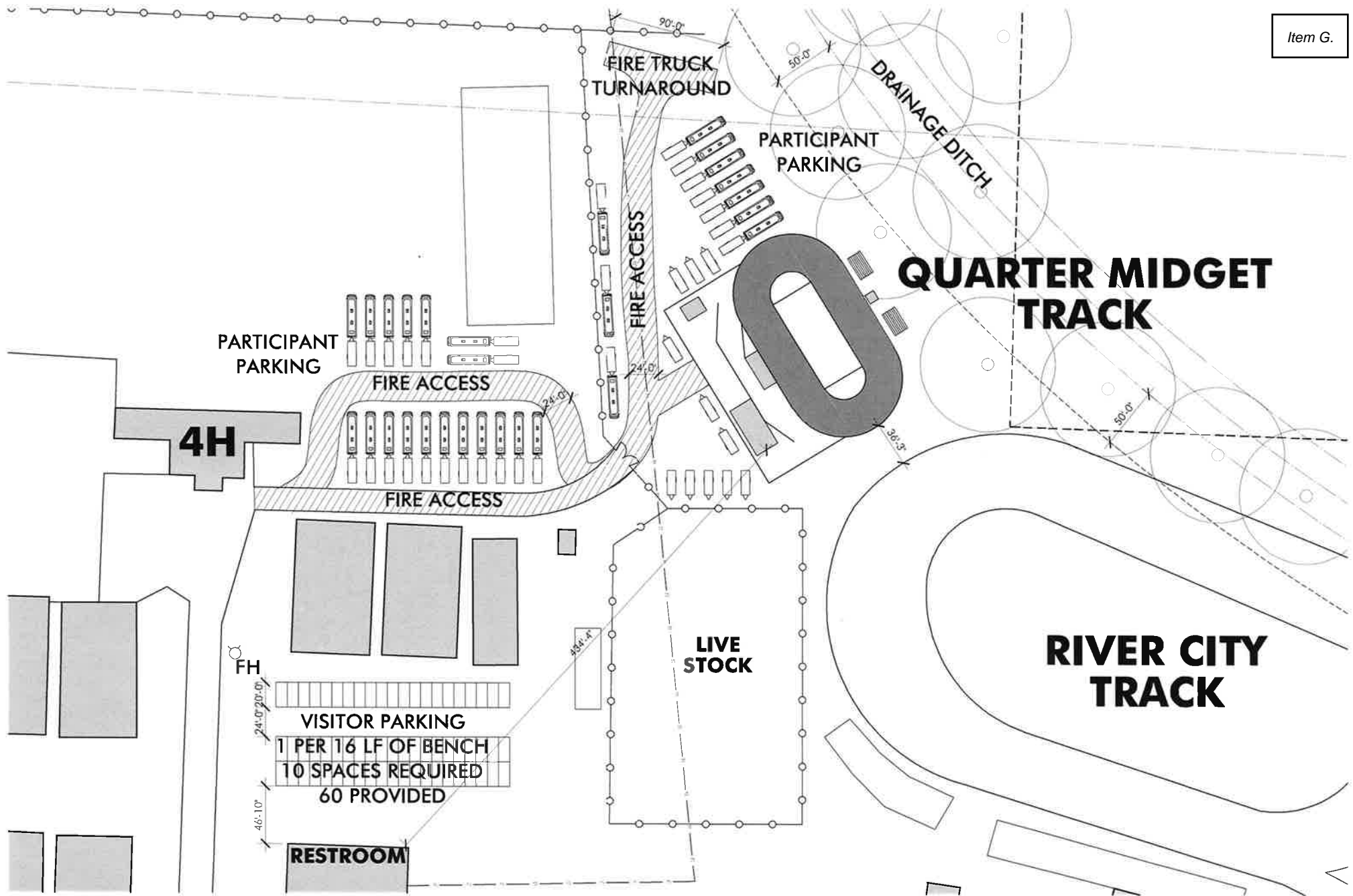
# COLUMBIA COUNTY FAIRGROUNDS PROPOSED SIGN ADDITION

JAN 15, 2023

1" = 1'-0" @ 8 1/2" x 11"



ORQMA  
ACCESS/  
PARKING/  
CIRCULATION  
PLAN



# COLUMBIA COUNTY - SITE PLAN PROPOSED QUARTER MIDGET RACE TRACK

**1:50 @ 8  $\frac{1}{2}$  x 11**

**MARCH 15, 2023**

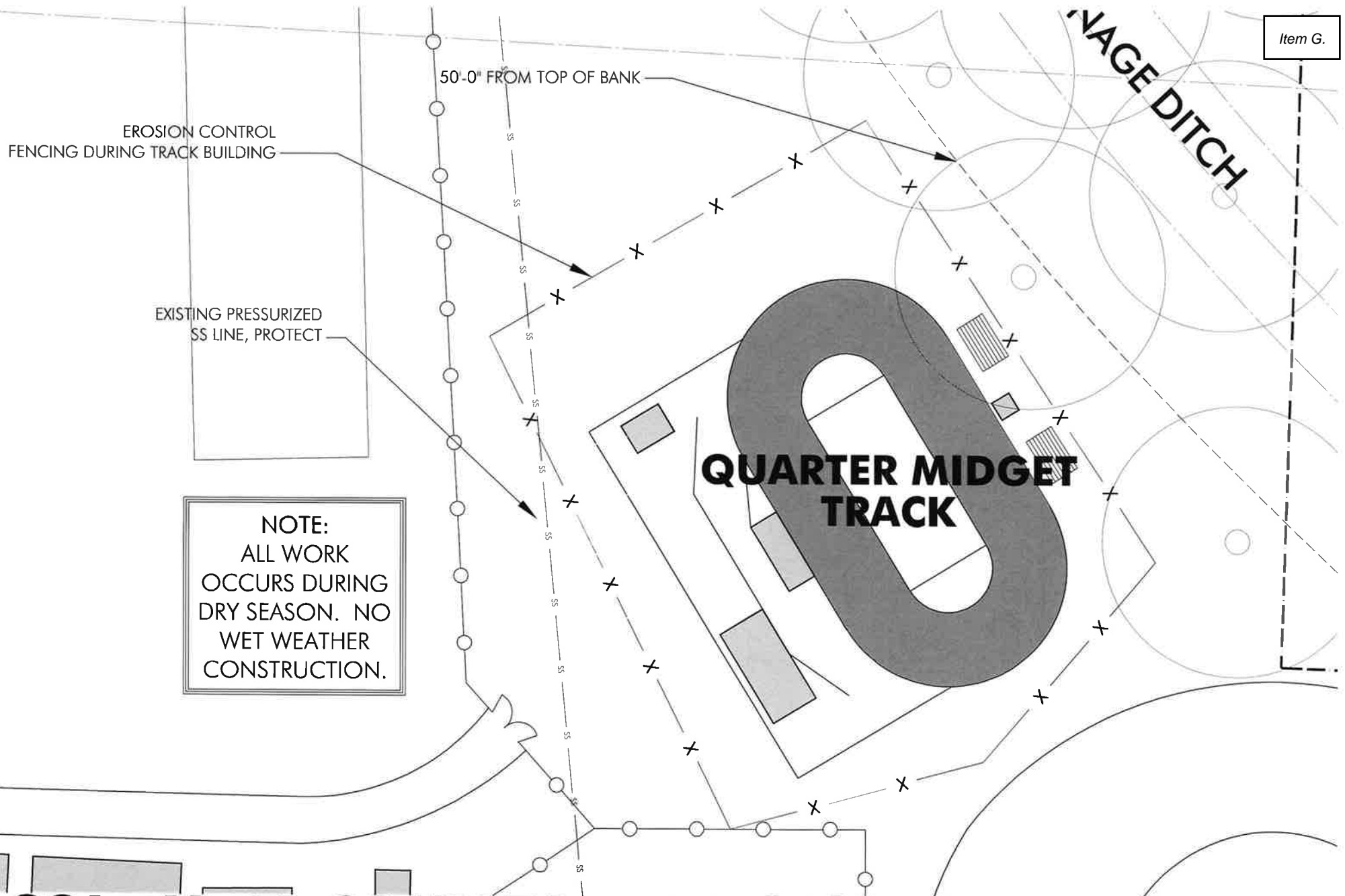


ORQMA  
PRELIMINARY AND  
FINAL STORMWATER  
PLANS

(NOT INCLUDED, NO  
GRADING ALTERED,  
NO STORM AREAS  
ALTERED)

ORQMA

PRELIMINARY AND  
FINAL EROSION  
CONTROL PLANS



# COLUMBIA COUNTY - EROSION CONTROL PLAN PROPOSED QUARTER MIDGET RACE TRACK

1:100 @ 8 1/2 x 11

MARCH 15, 2023

ORQMA

TRAFFIC LETTER



February 22, 2023

Studio 3 Architecture  
Attention: Gene Bolante, AIA  
275 Court Street NE  
Salem, Oregon 97301

Re: **Oregon Raceway Quarter Midget Association**  
**58892 Saulser Road, St. Helens (Columbia County), Oregon**  
*Traffic Impact Study (TIS)*

C&A Project Number 20221202.00

Dear Mr. Bolante,

This Traffic Impact Study (TIS) letter supports the proposed construction of a quarter midget racetrack with accessory structures at the Columbia County Fairgrounds in St. Helens, Oregon, and addresses Columbia County and Oregon Department of Transportation (ODOT) transportation analysis requirements. The following items are specifically addressed:

1. Property Description and Proposed Development
2. Study Parameters
3. Development Trip Generation
4. Summary

## **1. PROPERTY DESCRIPTION AND PROPOSED DEVELOPMENT**

The subject Columbia County Fairgrounds property is located at 58892 Saulser Road in St. Helens, Oregon. It is described as tax lot 3600 on Columbia County Assessor's Map 4201-00.

The proposed Oregon Raceway Quarter Midget Association (ORQMA) development includes a quarter midget racetrack with accessory structures and is located on an undeveloped portion of the 34.93-acre Columbia County Fairgrounds property directly northwest of the existing River City racetrack.

The property is currently zoned Community Service – Institutional (CS-I), and the proposed development is allowed use.



58892 Saulser Road, St. Helens (Columbia County), Oregon  
 C&A Project Number 20221202.00  
 February 22, 2023  
 Page 2

## 2. STUDY PARAMETERS

The subject land use action is for a specific development application consistent with the existing CS-I zone designation; therefore, this TIA addresses the following criteria:

Columbia County Zoning Ordinance (CCZO) Section 1450 states,

*“Transportation Impact Analysis: A Transportation Impact Analysis (TIA) must be submitted with a land use application if the proposal is expected to involve one or more of the conditions in 1450.1 (below) in order to minimize impacts on and protect transportation facilities, consistent with Section 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule.*

1. *Applicability – A TIA shall be required to be submitted to the County with a land use application if the proposal is expected to involve one (1) or more of the following:*
  - A. *Changes in land use designation, or zoning designation that will generate more vehicle trip ends.*
  - B. *Projected increase in trip generation of 25 or more trips during either the AM or PM peak hour, or more than 400 daily trips.*
  - C. *Potential impacts to intersection operations.*
  - D. *Potential impacts to residential areas or local roadways, including any non- residential development that will generate traffic through a residential zone.*
  - E. *Potential impacts to pedestrian and bicycle routes, including, but not limited to school routes and multimodal roadway improvements identified in the TSP.*
  - F. *The location of an existing or proposed access driveway does not meet minimum spacing or sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard.*
  - G. *A change in internal traffic patterns may cause safety concerns.*
  - H. *A TIA is required by ODOT pursuant with OAR 734-051.*
  - I. *Projected increase of five trips by vehicles exceeding 26,000-pound gross vehicle weight (13 tons) per day, or an increase in use of adjacent roadways by vehicles exceeding 26,000-pound gross vehicle weight (13 tons) by 10 percent.”*

Oregon Administrative Rule (OAR) Section 660-012-0045(2)(b) and (e) states,

*“Implementation of the Transportation System Plan*

- (2) *Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities, corridors, and sites for their identified functions. Such regulations shall include:*
  - (b) *Standards to protect the future operation of roads, transitways, and major transit corridors;*
  - (e) *A process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors, or sites;”*

58892 Saulser Road, St. Helens (Columbia County), Oregon  
C&A Project Number 20221202.00  
February 22, 2023  
Page 3

### 3. DEVELOPMENT TRIP GENERATION

The proposed ORQMA racetrack use has a unique business nature with seasonal fluctuation in operations and trip generation. Data for the proposed use is not available in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 11<sup>th</sup> Edition – or any edition, and published data for comparable uses/developments (other than the Applicant's) do not exist. As such, development trip generation is estimated using Applicant-provided data.

The ORQMA schedule typically consists of an 8-10 race series occurring on weekends (Friday – Sunday) from April through September. The schedule is set at the beginning of the year and complements the schedules and events at other Pacific Northwest tracks located in Graham and Monroe, Washington, and in Langley, Canada. The Columbia County Fairgrounds administration also provides a list of the calendar “black-out” dates when the ORQMA cannot schedule events to prevent fairgrounds user conflicts.

The ORQMA proposes using the existing parking area south of the existing River City track. While there may be an occasional event overlap at both tracks, most events will occur at different times, and the existing parking area is sufficient to accommodate all attendees.

Based on the ORQMA race schedule, very little weekday trip generation will occur during the 7:00-9:00 AM or 4:00-6:00 PM peak periods, except for an occasional Friday evening. Based on historic ORQMA participation/attendance, it is also anticipated there will be fewer than 400 daily trips on event days, further noting these events occur on weekend days and evenings when background transportation system volumes are typically low.

The intent of CCZO Section 1450 and OAR Section 660-012-0045(2)(b) is to prevent significant development impacts to the transportation system (without appropriate mitigation) during peak system operating hours – which typically occur from 7:00-9:00 AM and 4:00-6:00 PM on mid-weekdays. Given the size and occurrence frequency of the proposed ORQMA use, and the low background transportation system traffic volumes on weekend days and evenings, it is not anticipated that the ORQMA use will significantly impact the transportation system.

Overall, the existing transportation facilities at the Columbia County Fairgrounds and the adjacent public roadway system are adequate to accommodate the proposed ORQMA use.

58892 Saulser Road, St. Helens (Columbia County), Oregon  
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February 22, 2023  
Page 4

#### 4. SUMMARY

The following conclusions are based on the materials contained in this analysis.

1. The proposed Oregon Raceway Quarter Midget Association (ORQMA) racetrack and accessory structures are located on an undeveloped portion of the Columbia County Fairgrounds property directly northwest of the existing River City racetrack. The ORQMA will use the existing parking area south of the existing River City track.
2. The property is currently zoned Community Service – Institutional (CS-I), and the proposed development is allowed use.
3. Based on the ORQMA race schedule, very little weekday trip generation will occur during the 7:00-9:00 AM or 4:00-6:00 PM peak periods, except for an occasional Friday evening. Based on historic ORQMA participation/attendance, it is also anticipated there will be fewer than 400 daily trips on event days, further noting these events occur on weekend days and evenings when background transportation system volumes are typically low.
4. Given the size and occurrence frequency of the proposed ORQMA use, and the low background transportation system traffic volumes on weekend days and evenings, it is not anticipated that the ORQMA use will significantly impact the transportation system.
5. The existing transportation facilities at the Columbia County Fairgrounds and the adjacent public roadway system are adequate to accommodate the proposed ORQMA use.

Sincerely,



Christopher M. Clemow, PE, PTOE  
Transportation Engineer



RENEWS 31 DEC 2023

ORQMA

ORQMA AND  
FAIRGROUNDS LEASE

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**LICENSE AGREEMENT**  
**by and between the Columbia County Fair Board and**  
**OREGON RACEWAY QUARTER MIDGET ASSOCIATION (ORQMA)**

This Agreement is made and entered into by and between COLUMBIA COUNTY, a political subdivision of the State of Oregon, acting by and through its FAIR BOARD, ("County"), and OREGON RACEWAY QUARTER MIDGET ASSOCIATION (ORQMA), an Domestic Nonprofit Corporation ("Licensee").

**RECITALS:**

WHEREAS, pursuant to ORS 565.230, the Columbia County Fair Board ("Fair Board") has the exclusive management of the Columbia County Fairgrounds ("Fairgrounds") located at 58892 Saulser Road, St. Helens, Oregon 97051; and

WHEREAS, Licensee wishes to secure the use of a portion of the Fairgrounds to construct a Quarter Midget Race Facility including a Racetrack and related structures as showed in Exhibit B (the "Facility") and thereafter hold QUARTER MIDGETS OF AMERICA, INC. ("QMA") sanctioned Quarter Midget Races and related ORQMA events; and

WHEREAS The Fair Board is willing to permit such use, on the terms and conditions set forth in this Agreement;

**AGREEMENT:**

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties above-mentioned, in consideration of the mutual promises hereinafter stated, as follows:

**I. EFFECTIVE DATE**

This Agreement is effective on the date last signed below.

**II. PROPERTY SUBJECT TO LICENSE**

The property licensed under this Agreement includes:

- A. A portion of the Fairgrounds located in the approximate area shown on the attached Exhibit A, that is sufficiently large to accommodate the improvements shown in Exhibit B. This area is hereinafter referred to as the "Track Area";
- B. The roadway between the Track Area and Gate 5, hereinafter referred to as the "Gate 5 Access";
- C. Parking areas as designated by the Fair Board; and

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D. Camping areas as designated by the Fair Board.

Such areas are hereinafter referred to as the "Property."

### III. LICENSE TO CONSTRUCT

- A. On the terms and conditions set forth below, the Fair Board grants Licensee, its employees, agents, independent contractors, and invitees a license to build the Facility in the Track Area:
1. Licensee shall bear all costs for the construction and maintenance of the Facility.
  2. Licensee is required at its own expense to meet all applicable regulatory requirements in constructing to Facility including obtaining all required permits, licenses and approvals. By executing this document, the County does not warrant that any permits, licenses or approvals shall be issued or waived.
  3. The Facility shall be constructed to meet all standards of Quarter Midgets of America ("QMA").
  4. The Gate 5 Access shall be used for all Construction ingress and egress. Licensee shall be responsible for maintaining the Gate 5 Access in good repair and in a condition sufficient for its use for construction purposes. Licensee shall be responsible for locking Gate 5 once it has completed construction operations for the day.
  5. Licensee has been advised that limited utilities are currently available at the proposed location of the Facility that that those utilities are shared with other activities on the fairgrounds. Any enhancements to existing utilities needed to serve the Facility shall be at the sole expense of Licensee.
  6. Licensee shall construct the Facility in such a manner so as to assure the safety of all participants, spectators and bystanders.
  7. All improvements constructed by Licensee become the exclusive property of Columbia County. Licensee shall be entitled to no additional compensation for the construction of these improvements beyond this License.
  8. Licensee shall remove no existing fencing on the Fairgrounds without the express written permission of the Fair Board.

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9. Licensee is aware of the Fair Board's intention to make use of the property during the Blackout period provided for in Section IV (B) of this agreement. Consistent with this intent, all structures placed upon the property shall be constructed in such a manner that they can be removed during the Blackout period.

#### IV. LICENSE TO USE

A. License. On the terms and conditions set forth below, the Fair Board grants Licensee, its employees, agents, independent contractors, and invitees a license to use the Property on dates approved by the Fair Board: This license is non-exclusive. On dates approved by the Fair Board, Licensee shall have exclusive use of the Property, with the exception of the Gate 5 Access, for which it will have shared use. The Fair Board reserves the right to exclusive use of the Property on all other dates.

Unless otherwise directed by the Fair Board in a specific instance, ingress and egress to the Property shall be by way of the Gate 5 Access. Licensee shall be responsible for locking Gate 5 once it has completed operations for the day.

B. Permitted Use. Licensee is permitted to use the Property to hold QMA sanctioned quarter midget automobile races ("Races") and related ORQMA events. In addition, Licensee is permitted to use the Property for camping, setup, cleanup and other activities incidental to holding Races and related ORQMA events. The Races, ORQMA events, and related permitted activities are hereinafter collectively referred to as "Events".

By April 1 of each year Licensee shall provide the Fair Board with a calendar of events for the 12 month period commencing May 1. Licensee will update that calendar with the Fair Board on at least a monthly basis. Races shall be conducted on no more than 16 weekends per 12 month period, on dates specifically authorized in advance by the Fair Board. Absent express written permission, no Event shall be scheduled during the Columbia County Fair and Rodeo or within two weeks of the start or end of the Columbia County Fair and Rodeo, hereinafter referred to as the "Blackout Period".

Upon request of Licensee, the Fair Board, in its sole discretion, may permit Races to take place on more than 16 weekends per calendar year or during the Blackout Period. Licensee acknowledges and understands that all due respect will be given any other engagements booked for the Fairgrounds.

Licensee shall have the right to bring equipment and materials onto the Property as of the commencement of the Term and, unless otherwise agreed to by the Fair Board, shall remove all such equipment and materials and vacate the Property as provided in Section XIII. A of this Agreement no later than the expiration of this Agreement.



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C. Restrictions on Use. In connection with the activities contemplated in this Agreement, Licensee shall, and shall cause its employees, agents, independent contractors and Event participants to:

1. Conform to all applicable laws, regulations, ordinances, rulings, and licensing requirements of any public authority relating to Races or the Property, the use thereof, or any activity thereon. In particular, Licensee shall, and shall cause its employees, agents, independent contractors, and participants in its Races to, comply with the Noise Control Regulations of the Department of Environmental Quality, in particular, OAR 340-035-0015 and OAR 340-035-0040. Licensee also specifically agrees to abide by any rules adopted by the County or Fair Board in connection with the use of the Fairgrounds.
2. Conform to all rules and regulations relating to the use of the Fairgrounds.
3. Refrain from any activity that would make it impossible to insure the Property against casualty, would increase the insurance rate, or would prevent the Fair Board from taking advantage of any reduced premium rates for long-term fire insurance policies, unless Licensee pays the additional cost of the insurance.
4. Not load the electrical system or floors of any structure on the Property beyond a reasonable and safe level.
5. Not make any marks on or attach any sign, insignia, antenna, aerial, or other device to the exterior or interior walls, windows, or roof of any structure on the Property without the written consent of the Fair Board. The Fair Board consents to the Licensee's placement of banners, sponsor signs, and other marketing on structures within the Track area, including the infield, grandstands, and concession stands.
6. Not use any part of the Fairgrounds other than the designated Property.
7. Not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under, the Fairgrounds. Further, with the exception of those petroleum products necessary to the operation of race vehicles, not cause or permit any Hazardous Substance to be used or brought onto the Property.

Prior to the expiration or earlier termination of this License, Licensee shall remove all Hazardous Substances that may have been brought onto the Property.

The term "Environmental Laws" shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or

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the environment.

The term "Hazardous Substance" shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

Prior to commencement of the operation permitted, Licensee shall complete an on-site mitigation plan ("Plan"). The Plan shall provide for Hazardous Substance spill removal procedures. The Plan shall provide for all equipment necessary for Hazardous Substance spill removal. The Plan shall also provide baseline test results for petroleum products. The Plan shall be submitted to and approved by the Fair Board prior to commencement of the Term.

8. Not sell or issue tickets for any one of the Events in excess of 1500, or allow admissions in excess of 1500 (exclusive of Event and security personnel including Race participants) to each of the Events. Upon request, the Fair Board in its sole discretion may wave this limitation for a specific Event. Any such wavier must be in writing.
9. Clean up the Property after each Event, pick up and remove all litter and garbage, repair all damage, remove all graffiti, and in all respects return the Property to first class condition.
10. Prevent the travel of vehicles on and through wetlands on the Property and manage pedestrian travel, if any, across the wetlands in a manner which prevents damage to the wetlands.
11. Ensure that all campers pay camping fees according to then current camping rates established by the Fair Board. Camping on the Fairgrounds shall be subject to the supervision of the Camping Superintendent. Licensee shall make restroom facilities available to campers at all times.
12. Ensure that all racers, other participants, staff, volunteers, and spectators and their legal guardians (if under the age of 18) sign a Release of Liability against Columbia County, the Columbia County Fair Board, and their officers, agents, and employees for their use of the Property. The waiver shall include the following language:

"Racer/Participant/Spectator/Staff/Volunteer (circle one) and legal guardian for  
Racer/Participant/Spectator/Staff/Volunteer (if under the age of 18), shall indemnify, defend, save, and hold harmless Columbia County, the Columbia County Fair Board and their officers, agents and employees, from any and all claims,

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suits or actions of any nature, including claims of injury to Racer, Participant, Spectator, Staff, Volunteer, or to any other person or persons or of damage to property, caused directly or indirectly by reason any error, omission, negligence, or wrongful act by Racer, Participant, Spectator, Staff and/or Volunteer and/or the Oregon Quarter Midget Association, its officers, agents and/or employees arising out the performance of this Agreement."

13. Ensure that all structures placed upon the Property by Licensee are removed prior to the start of the Blackout period provided under Section IV (B) of this agreement. Such structures may be returned to the Property following the end of the Blackout Period. The requirements of this paragraph shall not apply to one storage container and one trailer stored at a location on the Fairgrounds approved by the Fair Board. During this time licensee may also store the walls of the track at the canyon edge. The Fair Board and Columbia County shall have no liability for any loss of damage to items left on the Fairgrounds.

#### V. TERM AND FEE

- A. Term. This Agreement shall commence at 12:01 a.m. on September 1, 2022, and shall expire at 11:59 P.M. on October 31, 2027, ("Term"). The Term of this Agreement will renew annually thereafter for up to three (3) additional one (1) year terms unless either party provides the other Party their notice of intent not to renew the contract at least 60 days before the then current Term expires.
- B. Fee. Licensee shall pay the Fair Board the following fees for each day of each Event for the use of the Property:
  1. A License fee in the amount of \$ 0.00;
  2. A parking fee in the amount of \$10.00 per vehicle, per day parked on the Property. A vehicle with a towed trailer shall be considered one vehicle for the purpose of this fee;
  3. A camping fee for each campsite in use on the Property according to the then current camping rates established by the Fair Board.

Licensee shall pay these fees within five (5) days after each Event, along with an accounting of the parking and camping fees.

#### VI. COVID-19

Licensee shall comply with all applicable state and local COVID-19 related regulations and guidance, and all federal mandates.

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## VII. RIGHTS AND RESPONSIBILITIES

- A. Permits and Licenses. Licensee, at its sole expense, shall apply for and obtain all necessary permits and licenses, pay all charges and fees, and give all notices necessary for its use of the Property.
- B. Payment of Other Fees. Licensee shall also pay the following:
1. All governmental taxes or fees imposed on or as a result of Licensee's activities;
  2. The cost of all insurance Licensee is required to obtain under this Agreement; and
  3. Costs of the following personnel and/or services: Sheriff's deputies, reserve and/or posse, and other public safety and security personnel, by separate contract.
- C. Repair by Licensee. Licensee, at its sole expense, shall keep the Property in first-class repair, operating condition, working order, and appearance. "Repair" includes, but is not limited to keeping the property free from all hazardous substances, as defined herein. If Licensee fails or refuses to make repairs required by this section, the Fair Board may make the repairs and charge the actual costs of repairs to Licensee. Such expenditures by the Fair Board shall be reimbursed by Licensee on demand together with interest at the rate of 10% per annum from the date of expenditure by the Fair Board. Licensee's obligations under Section of the Agreement continue beyond termination of this Agreement.
- D. Fair Board's Maintenance and Inspection of Property. Licensee acknowledges and agrees that during the Term, including during each of the Events, the Fair Board and its officers, agents and employees shall be entitled to perform repairs and maintenance on the Property and other structures or facilities located at the Fairgrounds, and to inspect the Property to determine Licensee's compliance with this Agreement. Licensee agrees that it, its officers, agents and employees, and Race participants will follow the instructions of the Fair Board with respect to such matters. The Fair Board agrees that its activities will not cause unreasonable interference with use of the Property by Licensee. Licensee shall have no right to an abatement of the license fee nor any claim against the Fair Board for any inconvenience or disturbance resulting from the Fair Board's activities performed under this section.
- E. Alterations Prohibited. Except for as provided in Section III and its obligation to maintain the Gate 5 Access, Licensee shall make no improvements or alterations on the Property without first obtaining the Fair Board's written

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permission. All permitted alterations shall be made in a good and workmanlike manner, and in compliance with all applicable laws and building codes.

- F. Sanitation. Licensee is responsible for assuring that sufficient sanitary facilities are on the Property for every event to service the needs of all spectators, participants and campers.
- G. Services Provided by Licensee. Licensee shall at its own cost obtain all other services necessary to perform Events and Licensee's obligations under this Agreement, including without limitation security, ticket sellers, ticket takers, and clean-up, maintenance and janitorial personnel.
- H. Seating/Standing Capacity; No Obstructions. The Fair Board retains the right to determine the seating and standing capacity of the Property based on applicable codes. In addition the Fair Board reserves the right to set the capacity for any structures thereon to allow sufficient space for people to move safely and freely about. Licensee has the right to fence off sensitive areas of the Property and retain complete control of access to these areas during the Events. Fair Board representatives will be given credentials that will allow them access into these areas.
- I. Objectionable Conduct on Property. The Fair Board reserves the right for itself, its officers, agents and employees to evict or cause to be evicted from the Property any objectionable person or persons without liability of the Fair Board therefore provided Licensee is consulted ahead of time.
- J. Concessions. The Fair Board shall have the exclusive right to operate or license concessions at the Racetrack prior to, during and after Events. Licensee agrees that the Fair Board and its designees shall have access to the Property as they may require.

Notwithstanding the above paragraph, Licensee may operate a snack shack at the Track so long as Licensee pays to the Fair Board a concession fee calculated at the rate of ten (10) per cent of the gross revenue of the snack shack.

- K. Good Neighbor Plan. Licensee shall exercise diligent and good faith efforts to develop a good neighbor plan to minimize adverse impacts from Licensee's Events on the neighborhood within a three-mile radius of the Property. Licensee shall listen to the concerns of the neighbors and address issues raised in a good faith manner in an effort to establish a good neighbor agreement or good neighbor plan. The issues addressed shall include, but not be limited to, compliance with noise limits, traffic management, litter cleanup, vandalism prevention, drug use prevention and alcohol management, neighborhood response teams, community hotline, oversight and enforcement.

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- L. Traffic Management. Licensee shall exercise diligent efforts to manage traffic in a manner which promotes public safety and minimizes adverse impacts from Licensee's Events on the roads and neighborhood in the vicinity of the Property.

#### VIII. INSURANCE

- A. General Liability Insurance. Licensee shall maintain commercial general liability and property damage insurance in an amount of not less than \$2,000,000 per occurrence to protect County, its officers, agents, and employees. Licensee shall provide County a certificate or certificates of insurance in the amounts described above which names County, its officers, agents and employees as additional insureds. Such certificate or certificates shall be accompanied by an additional insured endorsement. Licensee agrees to notify County immediately upon notification to Licensee that any insurance coverage required by this paragraph will be canceled, not renewed or modified in any material way, or changed to make the coverage no longer meet the minimum requirements of this Agreement.
- B. Waiver of Subrogation. The County shall not be liable to Licensee (or to Licensee's successors or assigns) for any loss or damage caused by any of the risks enumerated in any insurance policy required to be maintained by Licensee, and in the event of insured loss, Licensee's insurance company shall not have a subrogated claim against the County and the Fair Board, and/or their officers, agents and employees. This waiver of subrogation shall survive the termination of this contract.

#### IX. LIABILITY, INDEMNITY

- A. Liens. Licensee shall pay as due all claims for work done on or material furnished to the Property in connection with its use of the Property under this Agreement, and shall keep the Property free from any and all worker's, supplier's, contractor's, laborer's or similar liens. If Licensee fails to pay any such claims or discharge any lien, the Fair Board may do so and any such amount shall bear interest at the rate of 10% per annum from the date expended by the Fair Board and shall be payable on demand. Such action by the Fair Board shall not constitute a waiver of any right or remedy which the Fair Board may have as a result of Licensee's default.
- B. Indemnification. Licensee shall indemnify, defend, save, and hold harmless the County, its officers, agents and employees, from any and all claims, suits or actions of any nature, including claims of injury to any person or persons or of damage to property, caused directly or indirectly by reason any error, omission, negligence, or wrongful act by Contractor, its officers, agents and/or employees arising out the performance of this agreement.

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This indemnity does not apply to claims, suits or actions arising solely out of the negligent acts or omissions of the County, its officers, agents or employees.

Licensee's obligations under Section IX continue beyond termination of this Agreement.

#### X. DEFAULT

##### A. Events of Default by Licensee. The following shall be events of default by Licensee:

1. Default in Payment. Licensee shall fail to make any payments required under this Agreement when due.
2. Default in Other Covenants. Licensee shall fail to provide the required proof of insurance or to comply with any other term or condition or fulfill any obligation of this Agreement.
3. Permits. Licensee shall fail to obtain all necessary permits or approvals (and provide copies to the Fair Board on request) for Licensee's construction of the Facility or use of the Property.
4. Insolvency. Licensee shall be declared bankrupt or insolvent according to law, an assignment of Licensee's property shall be made for the benefit of creditors, or Licensee shall admit in writing its inability generally to pay debts as they become due.

##### B. Fair Board Default. The Fair Board shall be in default if it shall fail to perform its obligations hereunder in any material respect.

#### XI. TERMINATION/REMEDIES ON DEFAULT

##### A. This Agreement shall terminate:

1. For convenience upon 30 days written notice to the other party;
2. The Property is partly or wholly damaged or destroyed;
3. Through no default of Licensee use of all or part of the Property is restricted by exercise or under threat of the exercise of power by a governmental agency with jurisdiction, and in the Fair Board's reasonable judgment, such occurrence renders performance of this Agreement impossible or unfeasible;
4. If the Fair Board loses the legal authority to permit the use of the Property for the purposes provided under this agreement for the Term of this agreement or for any of the Events; or



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5. If Licensee ceases operations, abandons the property, dissolves or ceases to exist;
  6. If, after 60 days written notice that a party is under default as provided Section XI, that party has failed to correct that default.
- B. In the event this Agreement is terminated under Subsections A 1-4 of this Section, neither party shall be liable to the other for any damages, including indirect, incidental, or consequential damages, suffered as a result of such event, the cancellation of Events, nor the termination of this Agreement. If such event occurs during or after any of Events, Licensee shall not be entitled to any reduction in the fees owed for such Event. After such event occurs, Licensee shall promptly surrender the Property and shall have 60 days from the date of termination to remove equipment and personal property not affixed to the land. After 60 days any equipment or personal property remaining on the Property shall become property of the Fair Board.
- C. In the event this Agreement is terminated under Subsections A 5 or 6 of this Section, the Fair Board may re-enter and take immediate possession of the Property, and remove any persons or property without liability for damages. The Fair Board shall be entitled to the following damages:
1. The loss of income resulting from the termination of this Agreement from the date of termination until the expiration of the Term.
  2. The reasonable costs of re-entry and repairs, including without limitation the cost of any cleanup, refurbishing, removal of Licensee's property and fixtures, or any other expense occasioned by Licensee's default including but not limited to, any remodeling or repair costs, attorney fees and court costs.
- D. The rights and remedies for breach of this Agreement shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement. Any termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued before such termination.

## XII. FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, terrorist act, pandemic, epidemic, declared state of emergency, public health emergency or other cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with the Fair

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Board. Each party shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

### XIII. MISCELLANEOUS

A. Surrender of Property. At the expiration of the Term or upon any sooner termination of the Agreement, Licensee will quit and peaceably and quickly deliver up the Property to the Fair Board litter-free, broom-clean, and in as good order and condition, in full repair as immediately prior to Licensee's first use of the Property under any Agreement. In the event Licensee does not comply with this provision, Licensee shall reimburse the Fair Board on demand for the cost of all janitorial, repair, including but not limited to environmental mitigation, and other expenses incurred in connection with the cleanup and/or repair of the Property. Upon termination, or in the event Licensee determines to cease operations, abandons the Property, or dissolves or ceases to exist, this agreement shall terminate, Licensee will have the right to remove equipment for a period of 60 days, after which time, Licensee will give up all rights to buildings, the Racetrack, fencing, guard rails and any other improvements, and all improvements to the real estate shall revert to the Fair Board, and shall be held the same as any other improvements to said Fairgrounds. Licensee shall be deemed to have abandoned the Property if no Race occurs within a one year period.

B. Contract Representatives. Contract representatives for this Agreement shall be:

For County:

Julie Pelletier  
President  
Columbia County Fair Board  
PO Box 74  
St. Helens, OR 97051  
503-397-4231  
julie.pelletier@columbiacountyfairgrounds.com

For Licensee:

Rose-Ann Hamness  
President  
Oregon Raceway  
Quarter Midget Assoc.  
1405 SW 14<sup>th</sup> Avenue  
Portland, Oregon 97201  
503-222-1951/(c)503-816-8847  
[rose-annh@abdins.com](mailto:rose-annh@abdins.com)

All correspondence shall be sent to the contract representatives at the mailing address listed above when written notification is necessary. Contract representatives can be changed by providing written notice to the other party at the address listed.

C. No Partnership. The Fair Board is not by virtue of this Agreement a partner or joint venturer with Licensee in connection with the activities contemplated by this Agreement, and shall have no obligation with respect to Licensee's

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debts or other liabilities, and no interest in Licensee's profits.

- D. Assignment. Licensee may not assign its rights or obligations under this Agreement without the Fair Board's prior written consent.
- E. Entire Agreement. This document constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes any prior oral, written, or contemporaneous agreement between the parties.
- F. Time. Time is of the essence of this Agreement.
- H. Attorneys' Fees. In the event an action, suit or proceeding, including appeal therefrom, is brought regarding performance of this Agreement, each party shall be responsible for its own attorneys' fees, expenses, costs and disbursements for said action, suit, proceeding or appeal.
- I. Severability. If any provision of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.
- J. Governing Law; Venue. This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed under the laws of the State of Oregon (without regard to conflicts of law principles). Venue shall lie exclusively in the circuit courts of the State of Oregon for Columbia County in St. Helens, Oregon.
- K. Amendment. This Agreement may only be amended by a writing signed by the Fair Board and Licensee.
- L. No Waiver. Waiver by either party of the strict performance of any term or covenant of this Agreement or of the timely payment of license fee due or any right under this Agreement shall not be a continuing waiver.
- M. Successors and Assigns. This Agreement and the covenants, agreements, obligations, and restrictions herein contained shall be binding upon and shall inure to the benefit of the parties hereto and to their respective representatives, successors, and permitted assigns.
- N. Notices. Any notice required or permitted under this Agreement shall be given when actually delivered or 48 hours after deposited in United States mail as certified mail, return receipt requested, addressed to the address first given in this Agreement or to such other address as may be specified from time to time by either of the parties in writing.

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- O. Independent Contractor. Licensee is solely an independent contractor and shall not be considered an employee, agent, partner, joint venturer or representative of the Fair Board for any purpose whatsoever. The Fair Board does not have the right of direction or control over the manner in which Licensee delivers services under this Agreement and does not exercise any control over the activities of the Licensee, except the services must be performed in a manner that is consistent with the terms of this Agreement. The Fair Board shall have no obligation with respect to Licensee's debts or any other liabilities of Licensee. Licensee shall be responsible for furnishing all equipment necessary for the performance of the services required herein. In addition:
1. Licensee will be solely responsible for payment of any Federal or State taxes required as a result of this Agreement.
  2. This Agreement is not intended to entitle Licensee to any benefits generally granted to Fair Board employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Agreement to the Licensee are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, social security, workers' compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Licensee is presently a member of the Public Employees Retirement System).
  3. The Licensee is an independent contractor for purposes of the Oregon workers' compensation law (ORS Chapter 656) and is solely liable for any workers' compensation coverage under this Agreement. If the Licensee has the assistance of other persons in the performance of the Agreement, the Licensee shall qualify and remain qualified for the term of this Agreement as a carrier-insured or self-insured employer under ORS 656.407. If the Licensee performs this Agreement without the assistance of any other person, unless otherwise agreed to by the parties, Licensee shall apply for and obtain workers' compensation insurance for himself or herself as a sole proprietor under ORS 656.128.
- P. Statutory Provisions. Pursuant to the requirements of ORS 279B.220 through 279B.235 and Article XI, Section 10 of the Oregon Constitution, the following terms and conditions are made a part of this Agreement:
1. Licensee shall:
    - (a) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the prosecution of the work provided for in this Agreement.

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- (b) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or any subcontractor incurred in the performance of this Agreement.
  - (c) Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
  - (d) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
2. Licensee shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness and injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collects or deducts from the wages of employees under any law, contract or agreement for the purpose of providing or paying for such services.
  3. Licensee shall pay persons employed under this Agreement at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.  
  
Any employer working under this Agreement shall give notice in writing to employees who work on this Agreement, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
  4. All subject employers working under this Agreement are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
  5. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.

#### XIV. NON-DISCRIMINATION

Contractor agrees that no person shall, on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, marital status, handicap, age, or any other characteristic protected by law, suffer discrimination in the performance

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of this Agreement when employed by Contractor. Contractor certifies that it has not discriminated and will not discriminate, in violation of ORS 279A.110, against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business enterprise that is certified under ORS 200.055 in awarding a subcontract.

# XV. COUNTERPARTS

This Agreement may be executed in several counterparts (facsimile or otherwise), all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original

# XVI. ENTIRE AGREEMENT

**THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. LICENSEE, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE(S) BELOW, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

OREGON RACEWAY QUARTER  
MIDGET ASSOCIATION

COLUMBIA COUNTY, OREGON  
ACTING BY AND THROUGH ITS FAIR

By: Rose Ann Hamness  
Rose-Ann Hamness, President

By: \_\_\_\_\_  
Julie Pelletier, President

Date: 9/1/2022

Date: \_\_\_\_\_

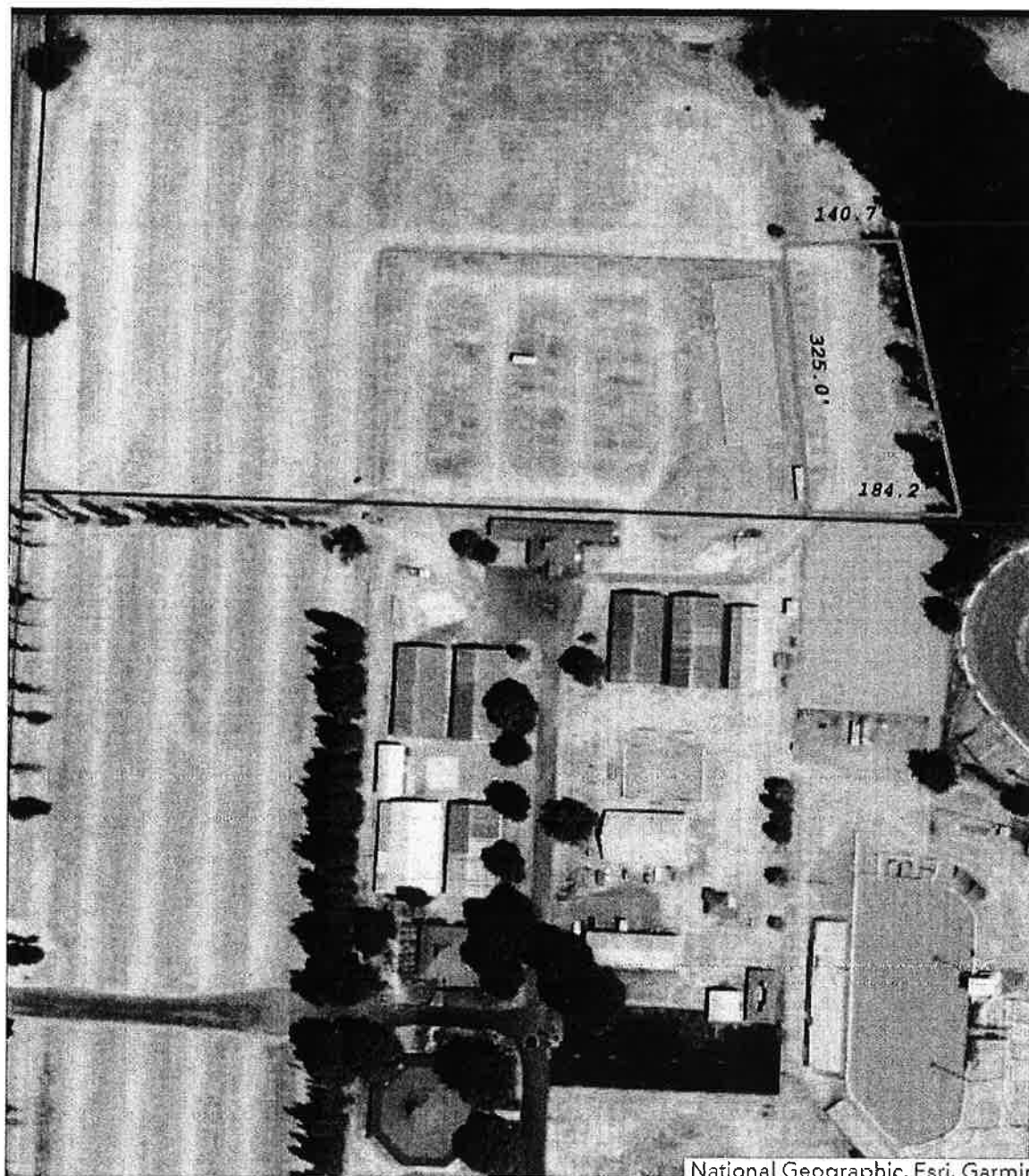
Approved as to form

By: \_\_\_\_\_  
Hanna Russell, Secretary

By: E. D. Mesa  
Office of County Counsel

Date: \_\_\_\_\_

Exhibit A



National Geographic, Esri, Garmin



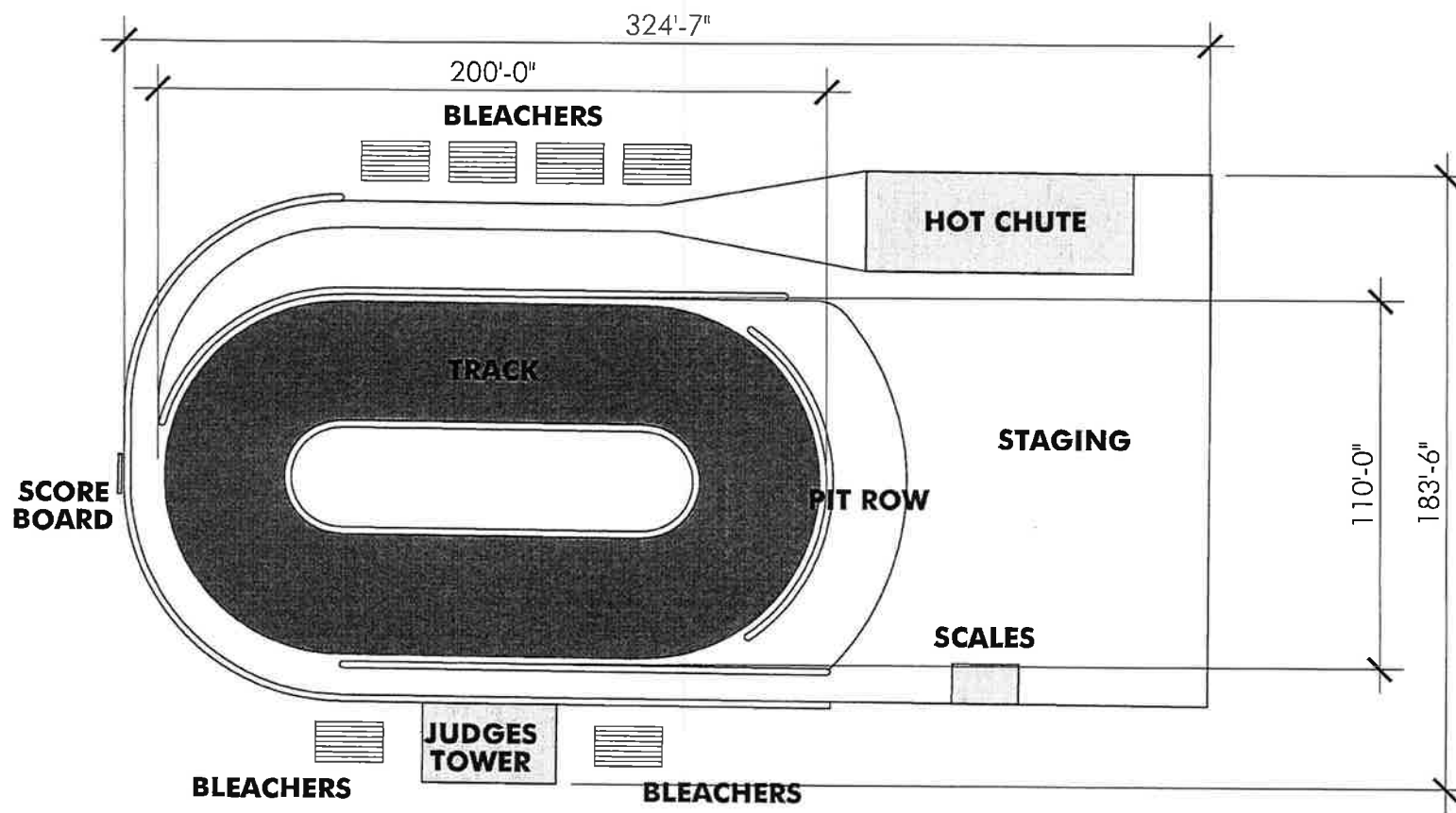


Exhibit B

# COLUMBIA COUNTY - SITE PLAN PROPOSED QUARTER MIDGET RACE TRACK

1:50 @ 8 1/2 x 11

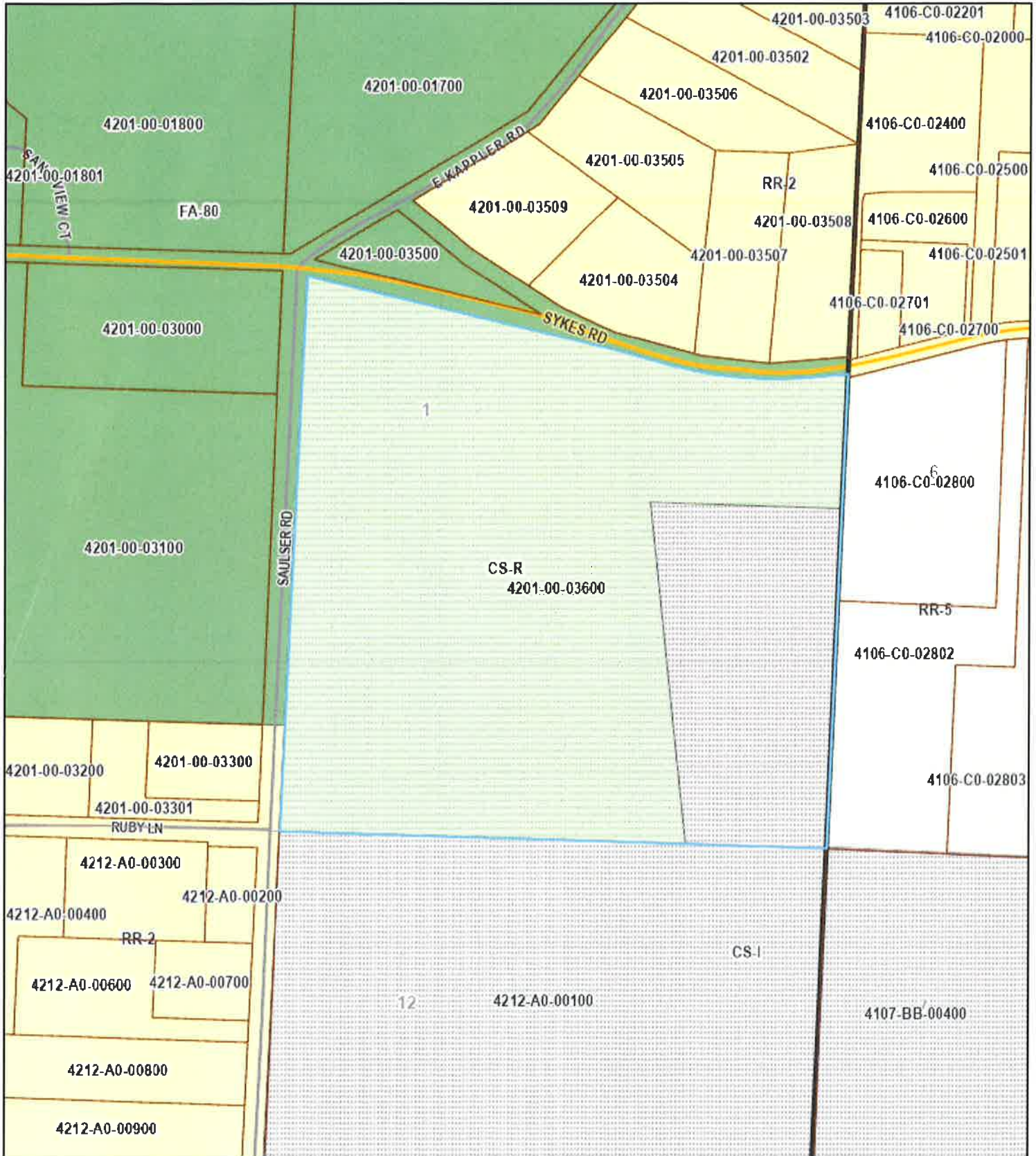
MAY 15, 2022

# ORQMA

## APPLICATIONS



# DR 23-08 Zoning



3/27/2023 9:21 AM

0

**Disclaimer:** This map was produced using Columbia County GIS data. The GIS data is maintained by the County to support its governmental activities and is subject to change without notice. This map should not be used for survey or engineering purposes. Columbia County assumes no responsibility with regard to the selection, performance or use of information on this map





# DR 23-08 Aerial

Item G.



3/27/2023 9:22 AM

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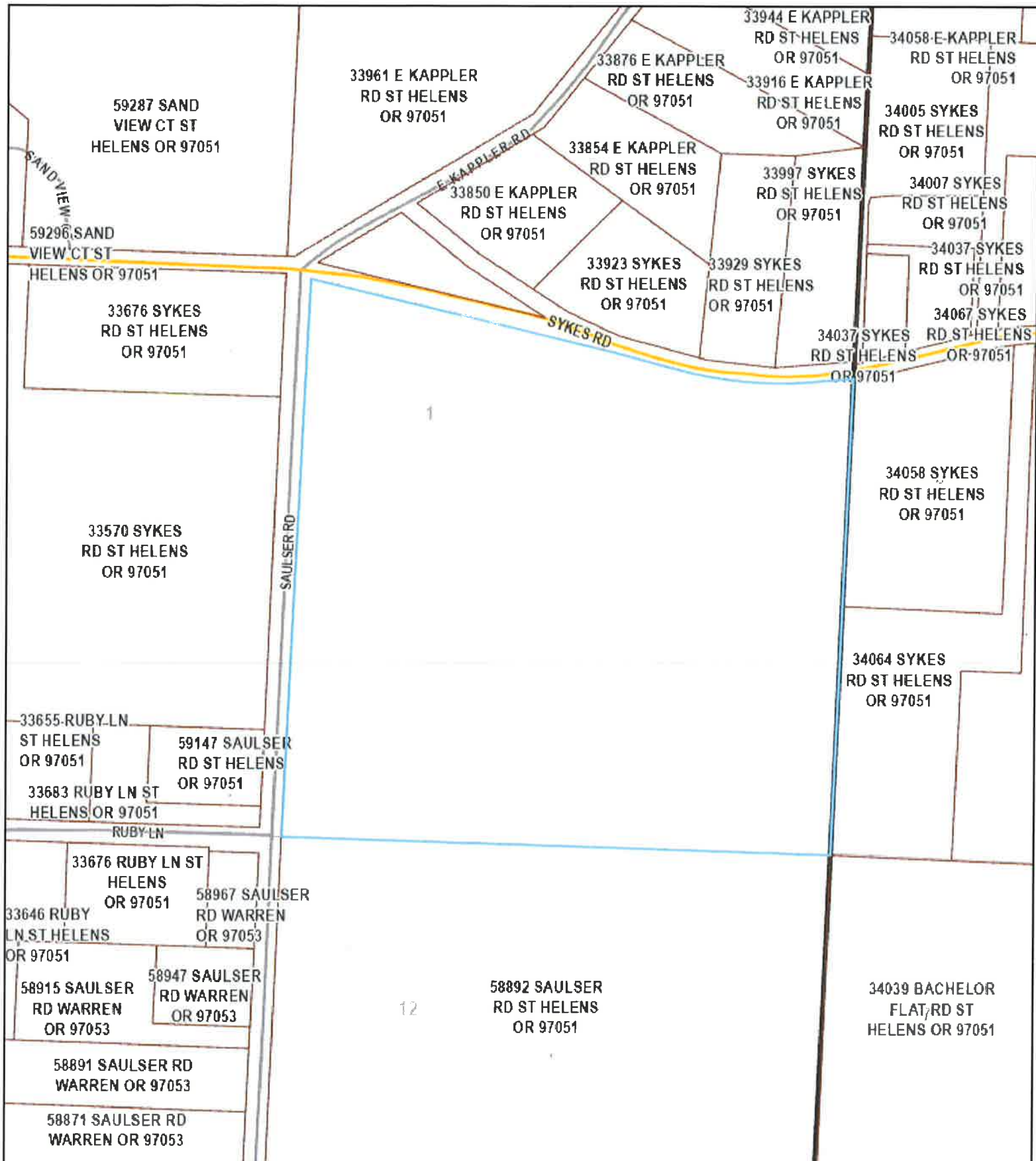
**Disclaimer:** This map was produced using Columbia County GIS data. The GIS data is maintained by the County to support its governmental activities and is subject to change without notice. This map should not be used for survey or engineering purposes. Columbia County assumes no responsibility with regard to the selection, performance or use of information on this map





# DR 23-08 Address

Item G.



3/27/2023 9:24 AM

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# DR 23-08 Vicinity

Item G.



USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road Data; Natural Earth Data; U.S. Department of State Humanitarian Information Unit; and NOAA National Centers for Environmental Information, U.S. Coastal Relief Model. Data refreshed June, 2022.

0

5

10 mi

3/27/2023 9:28 AM

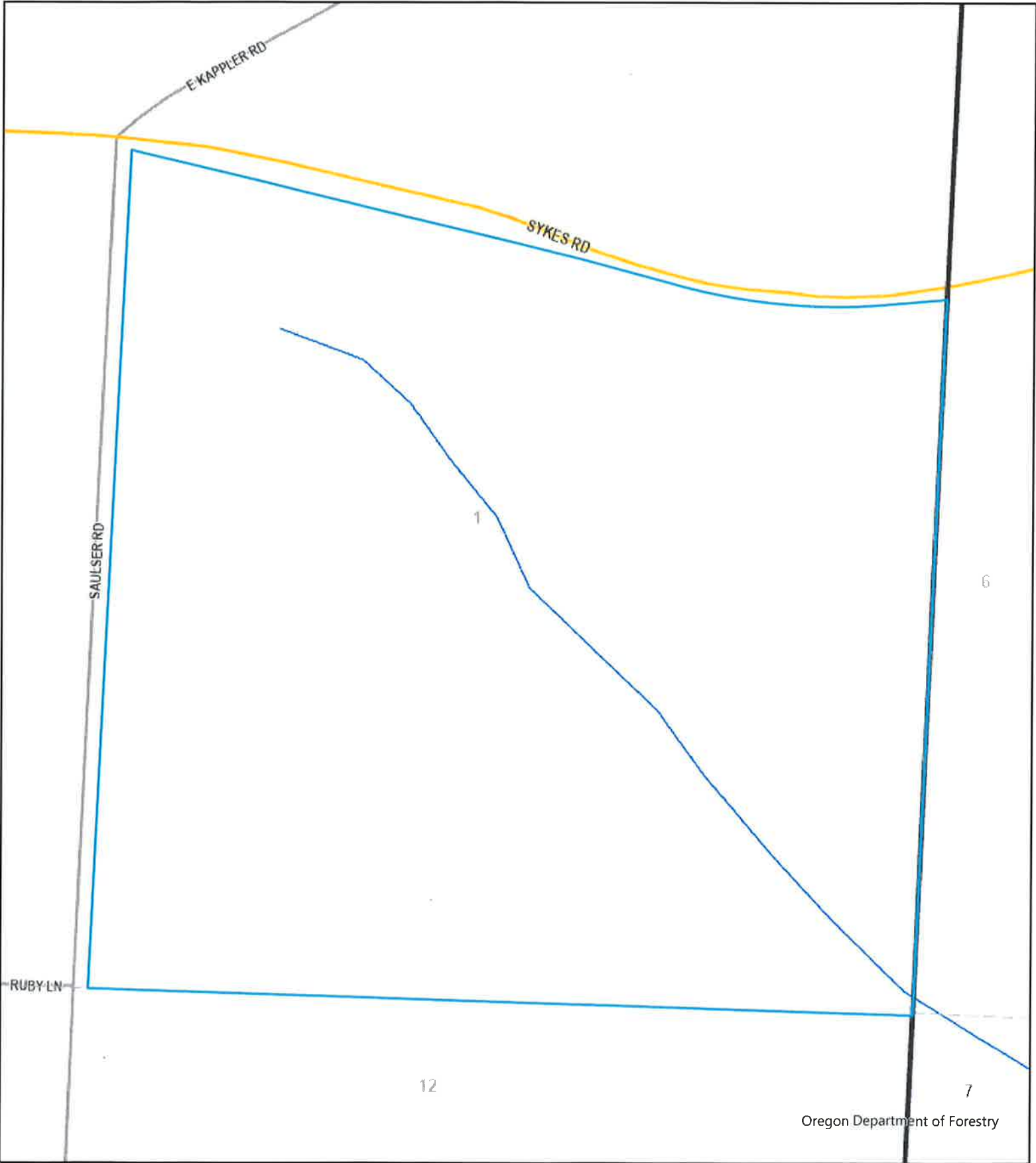
**Disclaimer:** This map was produced using Columbia County GIS data. The GIS data is maintained by the County to support its governmental activities and is subject to change without notice. This map should not be used for survey or engineering purposes. Columbia County assumes no responsibility with regard to the selection, performance or use of information on this map.





# DR 23-08 Stream Map

Item G.



3/27/2023 9:30 AM

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ORQMA  
LAND USE  
APPLICATION  
MATERIALS

MARCH 15, 2023