

Rebecca Messinger

From: Kathleen Otto
Sent: Thursday, February 29, 2024 9:59 AM
To: Rebecca Messinger
Subject: FW: :LEONTIY OLENA & LEONTIY DINO - PO BOX 1023, WA, BRUSH PRAIRIE, Wash. 98606 Tax Lot # 193615000 permits NHC-2022-00039 and ADS-2022- 00052 and WHR-2022-00218



Kathleen Otto
County Manager

564.397.2458



From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Wednesday, February 28, 2024 8:28 PM
To: Gary Medvigy <Gary.Medvigy@clark.wa.gov>; Karen Bowerman <Karen.Bowerman@clark.wa.gov>; Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Glen Yung <Glen.Yung@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>; Brent Davis <Brent.Davis@clark.wa.gov>
Subject: Fw: :LEONTIY OLENA & LEONTIY DINO - PO BOX 1023, WA, BRUSH PRAIRIE, Wash. 98606 Tax Lot # 193615000 permits NHC-2022-00039 and ADS-2022- 00052 and WHR-2022-00218

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Clark County Citizens United, Inc. P.O. Box 2188 Battle Ground, Washington 98604 E-Mail
cccuinc@yahoo.com

----- Forwarded Message -----

From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
To: Gary Medvigy <gary.medvigy@clark.wa.gov>; Karen Bowerman <karen.bowerman@clark.wa.gov>; Michelle Belkot <michelle.belkot@clark.wa.gov>; Glen Yung <glen.yung@clark.wa.gov>; Sue Marshall <sue.marshall@clark.wa.gov>; Kathleen Otto <kathleen.otto@clark.wa.gov>; Brent Davis <brent.davis@clark.wa.gov>
Sent: Wednesday, February 28, 2024 at 05:41:23 PM PST
Subject: :LEONTIY OLENA & LEONTIY DINO - PO BOX 1023, WA, BRUSH PRAIRIE, Wash. 98606 Tax Lot # 193615000 permits NHC-2022-00039 and ADS-2022- 00052 and WHR-2022-00218

Clark County Council
2024
P.O. Box 5000
Vancouver, Washington 98666
CC: Brent Davis

February 28,

FOR THE PUBLIC RECORD

**Re:LEONTIY OLENA & LEONTIY DINO - PO BOX 1023, WA, BRUSH PRAIRIE,
Wash. 98606**

Tax Lot # 193615000

permits NHC-2022-00039 and ADS-2022- 00052 and WHR-2022-00218

Dear Councilors,

When Clark County Citizens United, Inc. thought it couldn't get any worse for a landowner,... it did. CCCU was recently contacted by Olena Leontiy concerning land they bought just on the edge of the City of Battle Ground, Washington. She said they called Battle Ground to see if they needed to speak to them, and they were directed to Clark County Community Development. They were told by that agency that their land was a legal lot with no wetlands or other concerning conditions. The parcel is zoned 5 acre Rural and is being used for farming. Agriculture and forestry are allowed uses in all Rural zones.

Now, after thousands of dollars of additional costs, they are left with being required to "enhance" a supposed wetland, with 967 plantings of trees and shrubs on their farmland. She has forwarded all her information to CCCU, and copies will be made of the documents and placed in a binder. As CCCU reads the various items, it is very clear that something is terribly wrong with what has happened to this family. It's clear that county staff has made a critically flawed mistake, which must be corrected and reversed.

We see in the county reports that 64,469 square feet of the lot must be dedicated to *enhanced* mitigation plantings. That land is also subject to a permanent covenant, whereby the county has control of the land. Otherwise, the owners cannot get a permanent occupancy permit. This would prevent them from farming or selling the homesite in the future. In other words, they are being held hostage to clearly erroneous county regulations. When one considers that five acres equals 217,800 sq. feet, the regulated portion equals and occupies approximately a third of the lot. At today's market rates, the county is attempting to take approximately \$100,000 of land, through regulation. That falls under the category of a "takings" of private property. If the county wants the land, they must pay market price for it. In addition, these county demands are taking productive farmland out of production.

CCCU will be including the emails that Olena has sent to our organization, asking for help, which includes eleven emails, with many attachments. Her story takes on a nightmarish appearance, and no doubt these folks are having a hard time sleeping at night, worrying about the county's Wetland and Critical Land Determination letter. As is CCCU's custom, representatives have visited this parcel site to determine what is there, after reading the documents she provided from the county and AshEco. These reports are very different than what CCCU saw. The following is CCCU's report concerning the Leontiy property.

Sincerely,

Carol Levanen, Exec. Secretary

Clark County Citizens United, Inc.
P.O. Box 2188
Battle Ground, Washington 98604

February 27, 2024

Brent Davis, Clark County Community Development

Clark County Council

For the public record

Dear Mr. Davis,

My name is Olena Leontiy. I'm writing this email regarding our property in Battle Ground, Washington. We purchased the 5 Acre in September of 2019 located at :

19825 NE 89th Avenue, Battle Ground, Washington 98604,

Property Identification Number #193615000,

Before buying it, we went to the Clark County Community Development office and talked to one of their representatives, to make sure there were no wetlands or other issues with the land. We wanted to build a house in the farm field and wanted to be sure we could do that. He told us that it's a buildable lot and there were no wetlands or anything else we should be aware of or concerned about.

After we bought the parcel and applied for building permits in the beginning of 2022, the county sent out their biologist Ariel Whitaker. We then got a letter from her stating that our lot has a wetland, and all sorts of requirements and demands were in the letter. We protested that the county agent said there were no wetlands or problems. We were told that we talked to the wrong person.

They then started doing everything possible to make it difficult for us to get those permits issued. We had to switch the house location three times, apply for road modification, right of way

permit, apply for two wetland permits and get a mitigation plan. Every time the house location was switched, new stormwater plans had to be made, as well as septic location changes. All of these changes were a heavy financial burden for us, as we incurred a lot of extra charges for all that work. We were not able to build the house where we wanted it, and we couldn't put the driveway where we had planned. Now everything is all changed around, making for a bad situation.

They made our 5 acre lot basically unusable. We had hay harvested from the lot since we owned it. There would be no possibility for us to harvest hay, do agricultural activities or raise any farm animals on the land, in the future. They are telling us that we have to plant 967 trees and shrubs as part of a mitigation. This would make a jungle out of our farm field. A woman named Andrea, from AshEco was also involved, and she is the one who drew up the mitigation plan map and the report. In addition, they are making us sign a covenant to our land as a condition of being able to live in our new house.

We wanted to build our house in an open farm field, that is why we chose this lot. We don't want all of those trees and plants on the land. It doesn't have any of those things on it now and we don't want them on the lot in the future. We don't think it is right that the county is dictating what our five acre will look like, after the home is finished.

We understand our land was part of a historic farm in the area. It was used as a hay field, even this last year, and has always been used that way. There is no wetland and no wetland plants on our land. The only place it does get wet, after heavy rains is on the West edge of the property, where water from the neighbor's land and a road, form a narrow wet strip.

We have contacted Clark County Citizens United, Inc. for help, as we are desperate as to what we can do about this problem. We have a lot of money tied up in this home, with all the demands by the county, and we simply can't buy and plant 967 trees and shrubs on our land. We don't want all those plants on our farm field. We believe those demands are wrong and we are asking that changes to the determination be made, to reflect our land is just an open farm field, that was used to make hay, for many years. It is not a wetland.

Sincerely,

Olena Leontiy

P.O. Box 1023

Brush Prairie, Washington 98606

503-516-6953

**Property Fact Sheet for Account
193615000**

February 26, 2024

For Account 193615000

February 26, 2024

General Information

Property Account	193615000
Site Address	19825 NE 89TH AVE, BATTLE GROUND, WA 98604
Legal Desc	#97 SEC 8 T3N R2EWM 5.01A
Owner	LEONTIY OLENA & LEONTIY DINO
Mail Address	PO BOX 1023 BRUSH PRAIRIE WA , 98606 US
Tax Status	Regular
Property Status	Active
Area (approx.)	218,236 sq. ft. / 5.01 acres
Section- Township-Range	NE 1/4,S08,T3N,R2E

Environmental Public Health

Public Health Food Inspector District	District 1
Public Health Food Plan Review Area	District A
Public Health WRAP Inspector District	District 2

Wetlands and Soil Types

Critical Aquifer Recharge Area	Category 2 Recharge Areas
FEMA Map / FIRM Panel	53011C0239D
Flood Hazard Area	Outside Flood Area
Shoreline Designation	none
Soil Types / Class	Non-Hydric / DoB Hydric / HvA
Water Resource Inventory Area	Name: SALMON-WASHOUGAL Sub-Basin: Salmon
Watershed	Salmon Creek
Sub Watershed	Mill Creek
Wetland Class	No Mapping Indicators
Wetland Inventory	Presence

Assessment (2023 Values for 2024
Taxes)

Land Value	\$389,732.00
Building Value	\$231,240.00
Total Property Value	\$620,972.00
Total Taxable Value	\$620,972.00

Most Recent Sale

Sale Date	09/26/2019
Document Type	D-SWD
Sale Number	810594
Sale Amount	\$260,000.00

Geological Hazards

Geological Hazard	
Liquefaction	Very Low to Low
NEHRP Class	C
Slope Stability	

Development Moratorium

none

Administrative

Jurisdiction	Clark County
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Land Use Planning

Comprehensive Plan Designation	R-5
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Comprehensive Plan Overlay(s)	none
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Urban Growth Area	County
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Zoning Designation - Codes	Rural-5 (R-5)
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Zoning Overlay(s)	none
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Miscellaneous

Census Tract	404.08
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Drainage District	n/a
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Neighborhood	Meadow Glade
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Park District	n/a
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Public Safety

Burning Allowed	Yes
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EMS Response Area	AMR
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Fire District	Clark-Cowlitz Fire Rescue
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Increased Wildfire Danger Area	No
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Police Jurisdiction	CCSO Central
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Schools

School District Name	Battle Ground
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Elementary School Attendance Area	Maple Grove
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Middle School Attendance Area	Daybreak
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High School Attendance Area	Prairie
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Transportation

C-TRAN Public Transportation Benefit Area	No
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Traffic Impact Fee (TIF) District	Rural
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Transportation Analysis Zone	1988
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Utilities

CPU Lighting Utility District	n/a
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Last Street Sweeping	n/a
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Sewer District	Rural/Resource
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Waste Collection Provider	n/a
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Cultural Resources

Archaeological Probability	High
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Archaeological Site Buffer	No
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Historic Site	No Mapping Indicators
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Habitat and Species Resources

Habitat and Species Impacts	No Mapping Indicators
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Soil Survey of Clark County, Washington

Hydric Soil – HvA – On Page 20 of the *Soil Survey of Clark County, Washington – United State Department of Agriculture Soil Conservation Service – November 1972* it states:

“Hockinson-Dollar Loam, 0 to 3 percent slopes (HvA) – This complex is made up of approximately 60 percent Hockinson loam, 0 to 3 percent slopes, and 40 percent Dollar loam, 0 to 5 percent slopes. These soils occur on terraces and in low microrelief that creates drainage differences. The Hockinson soil is at a slightly lower elevation and is somewhat poorly drained. The Dollar soil is moderately well drained. These soils are used mainly for hay, pasture, and grain. Truck crops and high-producing hay and pasture can be grown if these soils are drained. (Capability unit IIIw-1; wildlife site 9; not assigned to a woodland suitability group.”

CCCU NOTES: There is a great deal of impressive discussions from both the county and AshEco regarding wetlands. But most of it does not actually apply to the Leontiy parcel. But regardless of what county staff says, the soils manual says something different. It confirms what the representative from the Merriman Hay Farm discussed with CCCU, about the hay harvest. He said the land is good hay producing ground and has been farmed for decades. The land has other soil on it that is not hydric and what is being labeled as such, is not a true wetland hydric soil, according to the soils manual.

Clark County Citizens United, Inc. Site Visit to the 5 acre property of Olena Leontiy, located at 19825 NE 89th Avenue, Battle Ground, Washington 98604

In February, 2024, CCCU Board members made a site visit to the Leontiy property, located on the city limits line of Battle Ground, Washington. A county two lane public road known as 199th Street borders the North of the property, and what appears to be a short plat road called NE 89th Avenue, borders the West of the property. To the South is another five acre parcel and to the East is the City of Battle Ground. There are a number of five acre fields in that area, as a result of five acre segregations of a large farm, which occurred in 1991.

Construction of a home was in progress, and CCCU agents walked onto the land via a base rocked driveway. On the West of the land, along its border was seen what appeared as a shallow ditch, that had some water in it, which was also next to NE 89th Avenue. The owners say it is only there after rainy days. It appeared to function as a drainage ditch for the road, as the roadway was never formally ditched. The water runoff just flows onto this property. Otherwise, the parcel was a clear, fairly flat field, that had a slight slope to the West. The land demonstrated that the field grass had been cut within the past growing season and the new grass was dark green and growing well. This

indicates the land had been tilled and fertilized. There really was nothing more to see there, other than a flat farm field.

CCCU agents walked throughout the lot, looking for wetland plants, but none were found. What was observed was field grass, mixed with dandelions and other weed varieties in that class. The GIS map shows a portion of the land has hydric soil, which is one of the parameters within a wetland. But to confirm a wetland, there has to be long term water inundated hydric soil and predominant wetland plants. Neither of those things were observed. CCCU's visit occurred after days of rainy weather and some areas of the ground were soft under foot, but most of the land was firm and no wetlands were observed. For all practical purposes, the five acres appears to be simply a clear open field that was growing grass.

Looking at the GIS information regarding this lot, there were no wetlands and no streams. It was indicated as *possible* wetland, which no doubt was because of the hydric soil, but that is not the only criteria to be used, mandated by law, to determine a wetland. There must be three statutorily authorized conditions, according to the Washington Department of Ecology. Those conditions are **Water**, Inundated **Soil** and **predominant** wetland **Plants**. Those conditions were not present on this lot.

CCCU sees on the GIS arials, that the land in question has been a farm field since 1955. The following is what is recorded in the aerial photography provided by GIS.

- 2021 - infrared shows an open field with areas of thicker vegetation.
- 2019 - shows an open field with more uniform field vegetation
- 2009 - infrared shows an open field with no distinct features
- 2007 - shows a cultivated field
- 2002 - infrared shows a clear field
- 2000 - shows a cultivated field
- 1994 - shows a clear field
- 1968 - shows an open field with a crop of vegetation
- 1955 - shows an open field

The various maps provided by county staff and AshEco have their information overlaid onto a photo of the parcel. The photos shows that parcel had recently been plowed and cultivated and the photo shows all the many cultivated channels produced by the farm equipment.

CCCU will attempt to decipher what was Ariel and AshEco's intent, when they drafted their reports. CCCU will forward their information along with CCCU NOTES that will be interspersed between the lines, for clarifications and corrections.

Sincerely,

Carol Levanen, Exec. Secretary

Clark County Wetland and Habitat Code - 40.450.010 Introduction

C. Exemptions.

1. Exempt Activities and Impacts to Wetlands. All exempted activities shall use reasonable methods to avoid potential impacts to wetlands and buffers. Exemptions from permits are not exemptions from wetland stewardship responsibilities. The following developments, **activities, and associated uses shall be exempt** from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

b. The harvesting or normal maintenance of vegetation in a manner that is not injurious to the natural reproduction of such vegetation.

c. Existing agricultural activities and structures:

(1) Agricultural activities and structures **in operation at the time of adoption of the ordinance codified in this chapter that are affecting wetlands not associated with a riparian corridor are exempt from regulation under this chapter;**

(2) Changes in agricultural practices within the same "footprint" as the existing agricultural activities in subsection (C)(1)(c)(1) of this section, including reconstruction of existing agricultural structures, or **construction of new agricultural structures, are exempt from regulation under this chapter;**

(3) Agricultural activities and structures **in operation at the time of adoption of the ordinance codified in this chapter that are affecting wetlands associated with riparian corridors shall be regulated through Chapter 40.440, Habitat Conservation.**

d. The removal or eradication of noxious weeds so designated in Title 7 of this code or other exotic nuisance plants including non-native blackberries; provided, that ground disturbing heavy machinery (scraping, ripping, etc.,) is not used. Cutting, mowing, and ground disturbance with hand tools is allowed.

e. Site investigative work necessary for land use application submittals such as surveys, soil logs, and percolation tests.

CCCU NOTES: The Leontiy five acre parcel is exempt from wetland regulation, under Clark County Code 40.450.010. (C) (1)(b)(c) (1) (2) (3) (d) and (e). It has been farmed since 1955 and a hay crop was harvested in 2023 by Merriman Hay Farm. It is farmland and has been used for that purpose all those years, even though it is in the R-5 zone. It is currently being used for those same agricultural activities. If 967 trees and plantings were placed on this land, it would consume almost the entire lot and prevent any, and all hay harvests or agricultural activities in the future.

CCCU called Merriman Hay Farm, who was the farming company who harvested the hay from the lot in 2023, to inquire about the hay harvest. He said he has been harvesting the field for two years, along with four other parcels in the same area. Prior to that time, Gene Maul Hay Farm was harvesting the same fields since approximately 1989. He said the hay was good quality and he didn't see any sign of any wetland or wetland plants on the parcel during the harvest. There were no problems operating the farm equipment on the lot. He said there was a small drainage area, from 89th and adjoining lots, on the West of the parcel, but it didn't stop any harvests from occurring.

(This is the county's report supported by AshEco)

Wetland and Habitat Review Type I Staff Report and Decision

Working together. Securing your safety. Protecting your investment.

Public Service Center 1300 Franklin St., Vancouver, WA 98660 564.397.2375
devserv@clark.wa.gov www.clark.wa.gov/community-development

For other formats, contact the Clark County ADA Office Voice: 564.397.2322 Relay: 711 or 800.833.6388 Fax: 360.397.2011

General Information Project Name: Leontiy Residence Case Number(s): WHR-2022-00218 Description:

Construction of a single-family residence, shop and driveway partially within a **Category II** wetland and buffer.

AshEco Solutions, LLC has prepared a wetland mitigation plan to offset the project impacts.

Parcel Number(s): 193615000 Site Address(es): Applicant: Address Andrea Aberle PO Box 1122Kelso, WA 98626USA

Contacts: Email Address Phone Property Owner: Address LEONTIY OLENA & LEONTIY DINO PO BOX 1023, WA, BRUSH PRAIRIE, 98606

Responsible Staff: Email Phone Whitacre, Ariel ariel.whitacre@clark.wa.gov (564) 397-4717

Applicable Codes 40.450 (Wetland Protection) 40.500 and 40.510 (Procedures)

Scope of Decision Permit/Plan Revision: N WHR Wetland Review/Permit Determinations Included: Yes/No Wetland Determination N Habitat Determination N Type S Ordinary High Water Mark Determination N

Project Overview Wetland permit for impacts to a **Category III wetland** associated with permits **NHC-2022-00039** and **ADS-2022- 00052**.

Parcel: 19813 NE 89TH AVE, BATTLE GROUND, WA 98604

Page 2 of 4 Wetland

and Habitat Type I Review Staff Report **WHR-2022-00218** Analysis Category Subcategory

Findings Conditions 1. Wetland Determination General Staff visited the site on February 14th, 2022 and determined that the site contains a **Category III** Depressional wetland with a habitat score of 5 on the Wetland Rating Form requiring a 40 foot low land use intensity wetland buffer and a 60-foot moderate land use intensity buffer.

CCCU Notes: First, staff calls this land category II and then later calls this land Category III. Which is it? Do they really know what they are talking about or are they just guessing? Did they dig auger holes to confirm the wetland? Did they count the wetland plants to confirm a predominance? Could they confirm water inundated soil over the large area that they are calling a wetland?

2. Reasonable Use Assurance General The proposed single family residence cannot be constructed in accordance with the standards of CCC 40.450.040. However, it can be considered essential for reasonable economic use of the site. This single family residence and shop must be permitted pursuant to CCC 40.450.010.B.4.a.

3. Wetland Impacts

General The applicant provided a Wetland Mitigation Plan authored by AshEco Solutions, dated July 7th, 2022. However, **the plot plan has been revised since the mitigation plan was submitted** for review. AshEco Solutions has provided a revised mitigation map dated August 8th, 2022 to account for the revised plans. County

CCCU NOTES: The county staff claims a home cannot be constructed in this hay field. CCCU sees nowhere in the county staff or AshEco information that a quantitative evaluation was conducted or that best available science was used. Just walking on land, checking the GIS soil type, looking at a photo and checking off a subjective chart is not enough to cause such extensive and burdensome regulatory requirements. There is much in the way of descriptive language in the reports, but it does not reflect the parcel, and are only generalized comments regarding wetland soil or plants. The information belies the fact that no real foundation was used to determine that a wetland was actually on this property.

Wetland Review Staff concur that the proposed single family residence and shop will result in approximately 11,261 square feet of indirect wetland impacts. The proposed residence will also result in approximately 159 square feet of direct wetland impacts due to a stormwater dispersion trench.

4. Wetland Mitigation General The revised mitigation map (AshEco Solutions, August 8th, 2022) proposes mitigation in the form of onsite **wetland enhancement**.

CCCU Notes: There is no requirement under Clark County Code 40.450 that wetland *enhancements* must be performed, except in the case of reduced function. But in this case, there is literally nothing on the parcel except hay grass. There is no “reduced function”, that would occur with a homesite as there was nothing that was reduced except a portion of the grass hay field. Therefore, a wetland enhancement is not warranted. See 40.450.040 *Wetland Permits 1) Buffer Enhancement. Improve the function of the buffer such that buffer areas with reduced function can function properly*

Mitigation in the form of wetland enhancement is typically required at an 8:1 ratio. However, because the single family residence project is considered a reasonable use exception, a reasonable use mitigation cap of 7.5% of the building valuation is applied. The permit center confirmed that the permit fees were based off of a valuation of \$691,522.30.

CCCU NOTES: There is no “reduced function” to this hay field and there is no reduced function to a wetland, that isn’t there. Why is staff using a percentage of the building valuation as mitigation criteria. What has the cost of the house got to do with whether land is needing mitigation. In this case, none of this

information applies. But CCCU questions the use of such criteria, and whether or not it is legal.

Using the attached mitigation cap worksheet, staff determined that the mitigation would be capped at 1.48 acres. Therefore, staff find that the proposed revised mitigation plan (AshEco Solutions, August 8th, 2022)

The applicant shall enhance 64,469 square feet of the wetland as shown in the attached map.

The applicant shall **plant 322 trees and 645 shrubs for a total of 967 plants** consisting as identified in the attached planting list. Alternative native plant species may be substituted with prior approval from a County Wetland Biologist.

Page 3 of 4

Wetland and Habitat Type I Review Staff Report WHR-2022-00218 Category Subcategory Findings Conditions will result **in no net loss of wetland functions and values and meets the approval criteria in CCC 40.440.040.**

5. Maintenance and Monitoring General After installation of the mitigation, maintenance and monitoring are required in order to ensure long term performance of the mitigation. Monitoring reports are required for a period of five growing seasons following approval of the as-built report. Reports shall be submitted at years 1, 2, 3 & 5.

The applicant shall be required to maintain the mitigation site. Routine maintenance of the site is necessary to ensure the integrity and success of the installed plants which includes, but is not limited to, removing invasive species and weeds, irrigation (if required), and plant replacement to meet the performance standards. Adaptive management and alternate species may be considered if plantings appear to have massive failures; any changes shall be coordinated with Habitat/Wetland Review staff. Reviews will generally be conducted without a site inspection, however the County may require inspection fees if the required report does not clearly demonstrate that performance standards are being met. The applicant (or successor in ownership) shall implement the approved mitigation maintenance and monitoring plan and submit performance reports (Years, 1, 2, 3, & 5) to the County for periodic inspection and approval as specified. The applicant shall maintain the following performance standards until the mitigation objective has been met:

Objective 1: Establish diverse scrub shrub and forested wetland communities over 64,167 square feet to offset direct and indirect wetland impacts.

CCCU NOTES: The county is requiring this landowner to “establish diverse scrub scrub and forested wetland communities” on land that has never had any of this vegetation, or at least since 1955. Historical documents confirm this area

of the county as being farmland. The parcel just grows grass and has for approximately 70 plus years. This staff requirement goes way beyond reason, logic and legality.

In the photo history book, “*Battle Ground, In and Around,*” authored by Louise Tucker, one finds photos of this area of 199th Street as farmland, with trees, far off in the distance (page 51). Included in that book is pictured the farmland to the West of Battle Ground in the same general area (1905 – page 89) On page 168 there are pictures showing the open fields around Crawford (later named Battle Ground,) in 1871.

Performance Standard 1a. Document the installation of the native plant species specified in the attached planting list.

Submit As-built documenting planting locations, plant species, and plant quantities.

Performance Standard 1b. In Year 1, planted species are to achieve **100 percent (100%) survival one year after the site is planted.** The survival rate is to be determined by comparison of baseline vegetation data collected during production of the As-built Map (if dead plants are replaced in Year 1 to achieve the 100 percent survival rate, this performance standard will be met). Performance Standard 1c. In Year 2, planted species are to achieve 90 percent (90%) survival. Performance Standard 1d. In Year 3, planted species are to achieve 80 percent (80%) survival. Performance Standard 1e. In Year 5, the mitigation plant community will achieve 30-percent (30%) aerial cover of woody species and/or 80% survival (if plants are added, that achieve this cover requirement, this performance standard will be met).

Performance Standard 1f. In All Years,

Page 4 of 4

Wetland and Habitat Type I Review Staff Report WHR-2022-00218 Category Subcategory Findings Conditions non-native/invasive plant species will not exceed 20-percent (20%) aerial cover across the onsite mitigation area. 6. Mitigation As-Built Building A Mitigation As-Built report must be submitted to the County prior to issuance if a Certificate of Occupancy for all associated building permits. **The As-Built submittal can be postponed a specified date with written approval from a County Biologist.** The As-Built needs to include documentation of any revisions to or deviations from the approved plan, demonstrating that any changes meet the requirements of CCC 40.450. Prior to issuance of a Certificate of Occupancy for any building permit or associated construction requiring wetland mitigation, the applicant shall submit a Mitigation As-Built report to the County. The submittal deadline may be extended with a financial assurance or approval from a County Biologist. 7. Standard Conditions Building Pursuant to CCC 40.450.030.F, a conservation covenant shall be recorded in a form approved by the Prosecuting Attorney as adequate to incorporate the other

restrictions of this section and to give notice of the requirement to obtain a wetland permit prior to engaging in regulated activities within a wetland or its buffer.

Decision:

APPROVAL With Conditions Issued: 8/23/2022 Based upon the proposed plan (attached), and the findings and conclusions stated above, the Wetland and Habitat Review Manager APPROVES this request, subject to the understanding that the application is required to adhere to all applicable codes and laws, and is subject to the conditions of approval listed above.

Appeal Rights This Type I decision may be appealed by the applicant, or any other Party of Record, to the County Hearing Examiner. **The appeal fee is \$1,166.** Appeals must be filed with the Department of Community Development, Permit Services Center, 1300 Franklin Street, Vancouver, Washington 98668 within fourteen (14) calendar days from the date the notice of final land use decision is mailed to the applicant.

Detailed instructions for filing an appeal are available at the Permit Services Center or online at: <https://www.clark.wa.gov/sites/all/files/community-development/land-use/appeals-motions.pdf> Appeals must be received at the Permit Services Center by 3:00PM. Note: The Responsible Official reserves the right to provide additional analysis and findings or fact regarding this decision, if appealed. The case file for this decision can be reviewed at: Public Service Center Community Development Department 1300 Franklin Street P.O. Box 9810 Vancouver, WA 98666-9810 Phone: (564) 397-2375 A copy of the Clark County Code is also available at: <http://www.codepublishing.com/WA/ClarkCounty/> Wetland and Habitat Permit Condition Summary Working together. Securing your safety. Protecting your investment. Public Service Center 1300 Franklin St., Vancouver, WA 98660 564.397.2375 devserv@clark.wa.gov www.clark.wa.gov/community-development For other formats, contact the Clark County ADA Office Voice: 564.397.2322 Relay: 711 or 800.833.6388 Fax: 564.397.6165

Project Name: Leontiy Residence Case Number: WHR-2022-00218 Ongoing

1. The applicant shall enhance 64,469 square feet of the wetland as shown in the attached map. The applicant shall plant 322 trees and 645 shrubs for a total of 967 plants consisting as identified in the attached planting list. Alternative native plant species may be substituted with prior approval from a County Wetland Biologist.

2. The applicant (or successor in ownership) shall implement the approved mitigation maintenance and monitoring plan and submit performance reports (Years, 1, 2, 3, & 5) to the County for periodic inspection and approval as specified. The applicant shall maintain the following performance standards until the mitigation objective has been

met: Objective 1: Establish diverse scrub shrub and forested wetland communities over 64,167 square feet to offset direct and indirect wetland impacts. Performance Standard 1a. Document the installation of the native plant species specified in the attached planting list. Submit As-built documenting planting locations, plant species, and plant quantities. Performance Standard 1b. In Year 1, planted species are to achieve 100 percent (100%) survival one year after the site is planted. The survival rate is to be determined by comparison of baseline vegetation data collected during production of the As-built Map (if dead plants are replaced in Year 1 to achieve the 100 percent survival rate, this performance standard will be met). Performance Standard 1c. In Year 2, planted species are to achieve 90 percent (90%) survival. Performance Standard 1d. In Year 3, planted species are to achieve 80 percent (80%) survival. Performance Standard 1e. In Year 5, the mitigation plant community will achieve 30-percent (30%) aerial cover of woody species and/or 80% survival (if plants are added, that achieve this cover requirement, this performance standard will be met). Performance Standard 1f. In All Years, non-native/invasive plant species will not exceed 20-percent (20%) aerial cover across the onsite mitigation area.

Prior to Building Occupancy

3. Prior to issuance of a Certificate of Occupancy for any building permit or associated construction requiring wetland mitigation, the applicant shall submit a Mitigation As-Built report to the County. The submittal deadline may be extended with a financial assurance or approval from a County Biologist.

CCCU NOTES: Only under the Wetland and Habitat Ordinance can staff create such expensive, unreasonable and burdensome requirements, that can stop a person from living in their house or from selling their home. Without this ordinance, they would only be able to do that if there was a public danger of some kind. Private property rights are being compromised when a permanent covenant attached to the deed is also required, which gives the power over the land to the county government, forever. Such power and control over private land must be paid for by that government.

4. Pursuant to CCC 40.450.030.F, a conservation covenant shall be recorded in a form approved by the Prosecuting Attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a wetland permit prior to engaging in regulated activities within a wetland or its buffer. See the Staff Report and Decision for analysis and findings NE 199th St. 40' 60' P R Proposed Septic Proposed Driveway Proposed Shop Proposed Residence Direct Wetland Impacts (103 sf.) Wetland Enhancement @ 5.5:1 ratio to total Direct & Indirect Wetland Impacts (63,598 sf.) Total Wetland Impacts (11,571 sf.) Wetland A (Cont.) (11,669 sf.) Category III Depressional Low Habitat Score Min WQ Buffer = 40' Mod LUI Buffer = 60' Wetland A (66,026 sf.) Category III Depressional Low Habitat Score Min WQ Buffer = 40' Mod LUI Buffer = 60' 3' x 10' Dispersion Trench (30 sf.) Direct Wetland Impacts 3' x

53' Dispersion Trench (159 sf.) Indirect Wetland Impacts (5,786 sf.) Direct Wetland Impacts (48 sf.) Indirect Wetland Impacts (2,627 sf.) 10' Indirect Wetland Impacts (2,848 sf.) 10' 40' 60' 60' 40' 60' N LEGEND: I:\Autocad Files\AshECO Autocad\Leontiy\2022.39_BM-080322.dwg Site Boundary Wetland Boundary Wetland Buffer PURPOSE: DATUM: ADJACENT PROPERTY OWNERS:

APPLICANT: PROJECT NAME: PARCEL #: SITE LOCATION ADDRESS:
 PROPOSED: IN: NEAR: COUNTY: STATE: FIGURE: DATE: Line 1 Line 2 Adj 1 Adj 2
 XX NAVD 88 PROPOSED SITE PLAN Olena & Dino Leontiy Leontiy Residence
 193615000 19813 NE 89TH Ave. XX Salmon Creek Clark 5 8-5-22 WA Add 2 Battle
 Ground *Note: Proposed Mitigation meets the Proportionality Threshold Calculation for
 Reasonable Use Assurance based on the Total Building Valuation (1.46 acres).
 Leontiy Residence (WHR-2022-00218) Critical Areas Report & Mitigation Plan Update
 August 18, 2022

Table 3. **Enhancement Planting Specifications.**

Common Name (Facultative Status)	Scientific Name	Stock Type/Size	Spacing	Quantity
Wetland Enhancement (64,469 sf) Trees				
Western red cedar (FAC)	Thuja plicata	18 to 36-inch bare root or 1-gallon container	10 feet (on center)	72
Oregon ash (FACW)	Fraxinus latifolia	18 to 36-inch bare root or 1-gallon container	10 feet (on center)	70
Scouler willow (FAC)	Salix scouleriana	18 to 36-inch bare root or 1-gallon container	10 feet (12 clusters of 5)	60
Pacific crabapple (FAC)	Malus fusca	18 to 36-inch bare root or 1-gallon container	10 feet (on center)	60
Cascara (FAC)	Frangula purshiana	18 to 36-inch bare root or 1-gallon container	10 feet (on center)	60
Total =				322
Shrubs Vine				
Vine maple (FAC)	Acer circinatum	18 to 36-inch bare root or 1-gallon container	4-6 feet (20 clusters of 5)	100
Pacific ninebark (FACW)	Physocarpus capitatus	18 to 36-inch bare root or 1-gallon container	4-6 feet (21 clusters of 5)	105
Douglas hawthorne (FAC)	Crataegus douglasii	18 to 36-inch bare root or 1-gallon container	4-6 feet (22 clusters of 5)	110
Salmonberry (FAC)	Rubus spectabilis	18 to 36-inch bare root or 1-gallon container	4-6 feet* (22 clusters of 5)	110
Douglas spirea (FACW)	Spiraea douglasii	18 to 36-inch bare root or 1-gallon container	4-6 feet* (22 clusters of 5)	110
Peafruit rose (FAC)	Rosa pisocarpa	18 to 36-inch bare root or 1-gallon container	4-6 feet (22 clusters of 5)	110
Total =				645
Grand Total =				967 plants

CCCU Notes: To anyone's knowlege, this land has not had any of these plants on it. throughout history. According to the Sunset Western Garden Book, the plantings that staff are requiring have a growth rate per the charts:

Western Red Cedar – bushy, can grow to 200 feet

Oregon Ash – spreads, can grow to 50 feet

Scouler willow – spreads , can grow to 50 feet

Pacific crabapple – spreads, can grow to 50 feet

Cascara – spreads, can grow to 50 feet

Vine Maple – spreads, can grow to 30 feet

Pacific ninebark – can grow to 8 feet

Douglas hawthorne – keep on dry side, can grow to 25 feet

Salmonberry – can grow to 10 feet

Douglas spirea – needs pruning, can grow to 8 feet tall

Peafruit rose – can grow to 8 feet tall

If all of these 967 plants were actually planted on what is left of this five acre parcel, there would not be enough room for them to grow. Most of them would die, leaving a great deal of dead and brittle limbs and trees, creating an extreme fire hazard. All of them have certain space, soil and nutrient requirements to be healthy, and what is being required here does not appear to take that into account. Even more alarming is the fire danger that will be produced with all this bushy dead and dying vegetation. A smooth harvested hay field is much more desirable when it comes to fire hazard protection.

There is much more to be discussed, regarding this five acre parcel. but CCCU sees that councilors claim they want to preserve farming and farmland, and yet, they are allowing staff to destroy the farms through the Wetland and Habitat Ordinance. This Leontiy case is a prime example of staff overstepping their jurisdictional boundaries, and creating law as they go along. This wetland decision was a mistake, and it needs to be reversed.

Sincerely,

Carol Levanen, Exec. Secretary

Clark County Citizens United, Inc.
P.O. Box 2188
Battle Ground, Washington 98604

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