

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application)
by Mark and Marlene Gift for a)
Conditional Use Permit in the)
in the Primary Agriculture (PA-38))
Zone)
_____)

ORDER NO. 28-00
Findings and Conclusions

WHEREAS, on October 25, 1999, Mark and Marlene Gift filed an application for a Conditional Use Permit to place an accessory farm dwelling in the Primary Agriculture (PA-38) zone; and

WHEREAS, on December 6, 1999, the Columbia County Planning Commission held a hearing at which all proponents and opponents present were allowed to speak; the Planning Commission voted to adopt the findings and conclusions in the Staff Report (CU 00-21) and to approve the application subject to fifteen conditions; and on December 10, 1999, the Chair of the Planning Commission signed Final Order (CU 00-21) approving the application; and

WHEREAS, on December 27, 1999, Nancy Schuette filed an appeal of the Planning Commission's decision with the Columbia County Department of Land Development Services; and on December 30, 1999, the appeal was again filed with the Columbia County Clerk; and

WHEREAS, on January 26, 2000, the Board of County Commissioners held a public hearing to consider the Gifts' application and Ms. Schuette's appeal of the Planning Commission decision; each of the Board members declared they hadn't had any ex parte contacts and didn't have any conflicts of interest; John K. Knight, County Counsel, gave the pre-hearing statement required by ORS 197.763; Glen Higgins read the January 26, 2000, staff report into the record; Marlene Gift testified in favor of the application, Nancy Schuette spoke in opposition, and Ms. Gift spoke again in rebuttal; there being no further testimony offered, the hearing was closed for deliberations and continued until February 9, 2000; and

WHEREAS, on February 9, 2000, the deliberations were continued to March 1, 2000, and the parties were encouraged to enter into a voluntary road maintenance agreement for the roads in the vicinity of the property subject to the application; and

WHEREAS, on March 1, 2000, the Board re-convened deliberations; declared no new ex parte contacts or conflicts of interest, except that Commissioner Peterson accompanied Mike Wehage to the County Counsel's office; Glen Higgins read an updated staff report dated March 1, 2000, into the record; the Board reopened the record for further testimony; Mark Gift, son of the applicants,

offered to assist Ms. Schuette to accommodate her concerns about the application and Nancy Schuette expressed her agreement to Mark Gift's offer of assistance; the Board once again closed, reopened and closed the public hearing, deliberated on the matter, and voted tentatively to approve the application subject to fifteen conditions; and directed County Counsel to draft a written for review and approval by the Board; and

WHEREAS, the following exhibits were received during the proceedings:

Exhibit 1 - Board packet (including copies of application, the Planning Commission Staff Report, Final Order CU 00-21, materials relating to the appeal by Nancy Schuette, the Board Communication dated January 26, 2000, from Todd Dugdale, Director of Land Development Services, with materials including the Board of County Commissioners' Staff Report, and the Notices of Public Hearing for publication and for property owners and Affidavits related thereto;

Exhibit 2 - photographs of the Schuette and Gift properties, and roads in the vicinity, mounted in a map format;

Exhibit 3 - before/after photographs of the driveway to the Schuette property and the property subject to the application;

Exhibit 4 - Nancy Schuette's written testimony;

Exhibit 5 - draft road maintenance agreement for Dahlgren Extension Road and Gift Place;

Exhibit 6 - Statutory Warranty Deed from Mark H. Gift and Marlene Gift to Robin O. Stanley and Mary E. Stanley;

Exhibit 7 - Right of Way Easement from Mark H. Gift and Marlene J. Gift to Robin O. Stanley and Mary E. Stanley;

Exhibit 8 - a copy of an Assessor's map showing the ownerships in the area; and

Board Communication dated March 1, 2000, from Todd Dugdale, Director of Land Development Services with draft road maintenance agreement attached;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners for Columbia County, Oregon, adopts Findings 1 through 22, the Conclusion and Recommendation, and Conditions 1 through 14 in the Columbia County Board of Commissioners Staff Report dated November 15, 1999, a copy of which is attached hereto, labeled Attachment 1 and incorporated herein by this reference.
2. The Board adopts the following additional Finding and Conclusion:

On January 26, 2000, Nancy Schuette expressed concerns about the manner in which the applicants constructed or improved the shared driveway access to her home and their proposed accessory farm dwelling across her property, about the

applicants cutting off her access to the shared driveway, about the number of Gift family members who might visit the accessory dwelling, about the speed of traffic along the shared driveway access, and the lack of need to place the accessory farm dwelling in that location since cattle don't use that portion of the Gift property. She requested a road maintenance agreement for Dahlgren Extension Road and for the shared driveway. She also requested a five mile per hour speed limit for the driveway.

Marlene Gift responded that they didn't contact Ms. Schuette about the construction work because they didn't realize their daughter had sold the property to her. She didn't think it would be possible or practical to set a cap on the amount of traffic using the driveway access. She had no objection to entering into a road maintenance agreement for Dahlgren Extension Road. The reason why cattle haven't used that portion of their property is because they couldn't watch over the cattle without the accessory farm dwelling. But this is the most practical location and is where they can provide water to the dwelling.

On March 1, 2000, the applicants' son Mark Gift said that a meeting had been held on February 28, 2000, and all of the neighbors who use Dahlgren Extension Road and Gift Place had agreed to the terms of a road maintenance agreement for these roads. He said that there was no need for a road maintenance agreement for the shared driveway that provides access to the Schuette property and the accessory farm dwelling since it wasn't a road. Rather, the driveway constructed by his father was almost entirely on the Gift property, not on the Schuette property, and was simply intended as access to the accessory farm dwelling. Ms. Schuette was also using it for access to her property but, to accommodate her concerns he was willing to construct a separate, parallel driveway adjacent to the Gift driveway on her property. The condition of this offer was that she pay for the cost of fuel, rock, PUC's (i.e., highway use tax at 14 cents per mile). The Gifts retained a 30 foot easement across the Schuette property when they deeded it to their daughter and if they exercise that easement, they will enter into a road maintenance agreement with Ms. Schuette at that time. Ms. Schuette agreed to Mr. Gift's offer.

The Board FINDS that Mrs. Gift's testimony about the need for an accessory farm dwelling is supported, not undermined, by the current lack of use of that portion of their property for grazing purposes. Concerns raised about the condition of Dahlgren Extension Road can be satisfied by the road maintenance agreement which was orally agreed to by the neighbors. The Board has no authority to regulate speed on Dahlgren Extension Road and the shared driveway access since

they are private easements. The Board has no authority to require a road maintenance agreement for the shared driveway since most of it is on the Gifts' property and Ms. Schuette apparently has no easement to cross the Gifts' property to access her parcel. The Board has no authority to impose limits on the amount of traffic which can use the Gifts' private driveway access. In addition, Ms. Schuette has direct access to Dahlgren Extension Road and can construct and maintain her own driveway access.

The Board CONCLUDES that Ms. Schuette's concerns have been adequately addressed by the applicants or can be adequately addressed through the conditions imposed on approval of the application.

3. The Board adopts the following additional conditions for approval of the application:

15. The applicant shall enter into a road maintenance agreement for Dahlgren Extension Road and Gift Place and provide proof it has been recorded in the Clerk's Office before a mobile home siting permit is issued.

16. If the applicants ever decide to exercise their right to use the 30 foot easement across the Schuette property, they will enter into a road maintenance agreement with Ms. Schuette or the then-current property owner for maintenance of the shared easement.

17. Until a separate driveway access is constructed to the Schuette property, the applicants will allow her to use the current shared driveway access to her property.

4. Subject to Conditions 1 through 17 adopted herein, the Board APPROVES the application of Mark and Marlene Gift for a Conditional Use Permit for an accessory farm dwelling in the Primary Agriculture (PA-38) zone.

DATED this 5th day of April, 2000.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Jack G. Peterson
Chairman

By: John M. Richard
Commissioner

By: [Signature]
Commissioner

Approved as to form

By: John Klyw
Office of County Counsel
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**COLUMBIA COUNTY
BOARD OF COMMISSIONERS
STAFF REPORT**

Conditional Use Permit

DATE: November 15, 1999

FILE NUMBER: CU 00-21

APPLICANT: Dewey Surveying (Karen Erlandson)
621 Columbia Blvd.
St. Helens, OR 97051

OWNER: Mark & Marlene Gift
P.O. Box 448
Scappoose, OR 97056

PROPERTY LOCATION: Approximately 2 miles northwest of the City of Scappoose, at 54501 Dahlgren Road.

TAX ACCT. NUMBER: 4235-000-00200

ZONING: (PA-38) Primary Agriculture

SIZE: 69.38 Acres

REQUEST: To site an accessory farm dwelling for a relative to help assist the farm operator in the management of the farm, on a parcel in a PA-38 zone, pursuant to ORS 215.283 (e) and (t) and Section 300 of the Columbia County Zoning Ordinance.

APPLICATION COMPLETE: 10/28/99 **150 DAY DEADLINE:** 03/26/00

BACKGROUND:

Currently, structures existing on the subject property are the primary farm residence, and a barn. The owners request to site an accessory farm dwelling for a relative to help assist them in the management of the farm. They intend to do this by siting a mobile home in the northeast corner of the property. This will be used as an accessory farm dwelling for their granddaughter and her family, who will help manage the farm.

Physically the subject parcel has variable terrain that is characterized by deep ravines filled with Alder and maple. As you move up from the bottom of the ravine, the vegetation mixes with Douglas Fir. Once at the top of the ravine, the Douglas Fir begins to thin into brushy areas that eventually open to rolling pastures. Vegetation on site consists predominantly of areas dominated by mixed forest and brush or areas that are dominated by pasture grass. Adjacent properties to the south, west, and northeast, are predominantly zoned rural residential (RR-5), however, there is a large resource parcel zoned primary forest (PF-76) to the northwest and a large parcel to the east zoned primary agriculture (PA-38).

Access to the subject property is via Dahlgren Road which is a paved, two-lane. Road in fair condition on a public right-of-way. Once the road reaches the subject property, it continues as a two-lane, gravel road on a 60' wide private easement. The subject parcel is not within the Scappoose urban growth boundary. Emergency services are provided by the Scappoose Fire Protection District and the Columbia County Sheriff. There are floodplains located on the subject parcel as indicated on the FEMA flood hazard map (41009C0450C). The National Wetland Inventory, Chapman Quad map, indicates there is a palustrine forested wetland in the bottom of one of the ravines on the subject property. The proposed farm help relatives dwelling is greater than 600 feet away from the indicated wetland and should have no impact on it whatsoever. The applicant proposes to provide water to the new farm help relatives dwelling by using an existing well. Sewage will be treated by installing a new subsurface septic system, authorized by the County Sanitarian.

REVIEW CRITERIA:

SOILS:

<u>Soils on the 69.38 acre subject parcel are as follows:</u>	<u>Est. % of Area</u>	<u>Ag.Cap. Class</u>	<u>Prime Soil</u>
10B - Cascade silt loam, 3 to 8 percent slopes.	7.5%	IIIw	Yes
14B - Cornelius silt loam, 3 to 8 percent slopes.	3.8%	Ile	Yes
14C - Cornelius silt loam, 8 to 15 percent slopes.	12.5%	IIIe	No
40B - Quatama silt loam, 3 to 8 percent slopes.	16.9%	Ile	Yes
40C - Quatama silt loam, 8 to 15 percent slopes.	19.3%	IIIe	No
70E - Xerochrepts, Steep.	40.0%	VIe	No

Finding 1: According to the Soil Survey of Columbia County, 60% of the subject property is highly suited for agricultural production (Ag. Capability Class I - III) with 28% of the land listed as prime farmland.

Oregon Revised Statutes:

RS 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties.

- (1) The following uses may be established in any area zoned for exclusive farm use:
 - (e) A dwelling on real property used for farm use if the dwelling is:
 - (A) Located on the same lot or parcel as the dwelling of the farm operator; and
 - (B) Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.

Finding 2: The owner's of the subject property propose to site a mobile home for their granddaughter and her family to live in, so they can assist with the management of the farm. The home will be sited on the 69.38 acre subject parcel known as tax lot 4235-000-00200. The owner's will continue to be the primary farm operator's.

Oregon Administrative Rules:

Chapter 660, Division 33

Rule 120, Table 1

Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

- (1) **A** use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.
- (2) **R** Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(3) * Use not permitted.

Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

Table 1 R9, 30 A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operators's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.

Finding 3: The owner's request to site a mobile home for their granddaughter and her family so they can assist with the management of the farm. The mobile home will be sited on the same parcel as the farm operator's dwelling. The subject parcel is a 69.38 acre parcel known as tax account number 4235-000-00200. The above table indicates this may be approved after reviewing standards 9 and 30 and holding a public hearing. This application will be heard in a public hearing and will be decided upon by the Columbia County Planning Commission.

Continuing with Oregon Administrative Rules:

660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

- (9) To qualify, a dwelling shall be occupied by persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

Finding 4: The dwelling that will be sited on the subject parcel will be occupied by the farm operator's granddaughter and her family. The farm operator's (Mark and Marlene Gift) will continue to play the predominant role in the management of the farm. A letter has been submitted to the file stating the farm operator's need the help of their granddaughter's family in the management of the farm. Approximately 65 acres of the subject property is currently in farm deferral.

- (30) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim of relief or cause of action alleging injury from farm or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Finding 5: The owner will be required as a condition of approval to record a waiver of remonstrance to standard accepted farm and forest practices in the area. This document will run with the land and will be binding on successors in interest. This document will protect owners of neighboring resource parcels from being taken to court for practicing normal farm and forest use.

Columbia County Zoning Ordinance:

Section 300 Primary Agriculture - 38

- 301 **Purpose:** This district is intended to preserve, enhance, and stabilize those prime agricultural lands and farm use areas within the County which are being used, and offer the greatest potential, for food and fiber production.

Agricultural land is comprised of predominantly Class I-IV soils as identified in the Soil Capability Classification System of the Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, and accepted farming practices. Agricultural land shall also include other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands.

- 302 **Permitted Uses:**

- .4 A dwelling on real property used for farm use if the dwelling is:
- A) Located on the same lot or parcel as the dwelling of the farm operator; and
 - B) Occupied by a relative, which means, grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.

ding 6: The owner/farm operator is requesting to site a mobile home in the northeast corner of the subject property. This is the same parcel that contains the primary farm operator's residence. The accessory dwelling will be occupied by their granddaughter and her family whose assistance in

the management of the farm is required. The Zoning Ordinance lists this as a permitted use, however, this is not consistent with the state rules which require a public hearing. Hence, it will be reviewed by the Planning Commission in a public hearing format.

Continuing with Columbia County Zoning Ordinance:

- 310 Fire Siting Standards for Dwellings and Roads: The following fires siting standards or their equivalents shall apply to all new dwellings in this zone:
- .1 If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
 - .2 The owner of the dwelling shall maintain a primary fuel-free break area around all structures, shall clear and maintain a secondary fuel-free break area, and shall maintain adequate access to the dwelling for fire fighting vehicles in accordance with the provisions in "Protecting Your Home From Wildfire" published by the National Fire Protection Association.
 - .3 All roads in this zone, except private roads and bridges for commercial forest uses, shall be constructed so as to provide adequate access for fire fighting equipment, according to the standards provided by the local rural fire protection district or State Department of Forestry.

Finding 7: The farm help relative's dwelling will not be sighted near a water source other than an existing well. The vegetation surrounding the proposed homesite is mainly pasture to the north and west and mixed forest to the south and east. The proposed homesite location will be required to meet the 130' fire break requirements in all directions. Private roads and driveways leading to the homesite will need to be approved by the Scappoose RFPD prior to issuance of a building permit.

Continuing with Columbia County Zoning Ordinance:

Section 1150 AIRCRAFT LANDING FIELD OVERLAY ALF

- 1151 Purpose: The purpose of this overlay zone is to allow for the establishment and expansion of airport facilities, while preventing air space conflicts in approach and departure zones. This zone includes all areas lying within the approach, departure, horizontal and conical zones of the airport facility as shown on the zoning maps.
- 1156 Criteria for Approval of Uses Allowed in the Underlying Zones: The Planning Director or his (her) designee shall approve any request that complies with the underlying zone when it can be shown that the proposed use or structure:
- .1 Will not be located within an approach or departure zone.

Finding 8: All development proposed by this application will not be in an approach or departure zone. The development will be located in the area around the airport called the horizontal surface.

Continuing with Columbia County Zoning Ordinance Section 1156:

- .2 Will not exceed the height limitations established in Section 1158.2.

Finding 9: Section 1158.2 states "No use of structure shall exceed 50 feet in height, ..." The applicants development proposal will not exceed 50 feet in height.

Continuing with Columbia County Zoning Ordinance Section 1156:

- .3 Will not create electrical interference with navigational signals or radio communications between airport and aircraft.
- .4 Will not create confusion between airport lights and others.
- .5 Will not create glare.
- .6 Will not impair visibility.
- .7 Will not create bird/aircraft conflicts.

Finding 10: The proposed farm help relative's dwelling would not be expected to create electrical interference with navigation signals or radio communication with the airport. Additionally, the proposed dwelling is not expected to create confusion with airport lighting or create glare or impair visibility. The siting of a mobile home also should not increase the risk of bird/aircraft conflicts. There is an existing dwelling in close proximity to the proposed homesite location. LDS has not been made aware of any problems due to the existing dwelling, therefore, it would be reasonable to assume that this dwelling will not cause any problems.

Continuing with Columbia County Zoning Ordinance Section 1156:

- .8 Requests under this section shall be processed in accordance with Section 1601.1, Staff Approval Criteria.

Finding 11: Since this request is listed as a public hearing review in the state rules, it will be processed in accordance with Section 1603.1 which requires a public hearing and decision by the Planning Commission.

Continuing with Columbia County Zoning Ordinance Section 1156:

- 1161 **Notification Requirements:** In addition to the notification requirements outlined elsewhere in this ordinance, the airport owner shall be notified of all requests for permits or variances proposed within the A.L.F. Overlay Zone.

Finding 12: The airport is owned and operated by the Port of St. Helens. A written notice of the application and request for comment was sent to the Port of St. Helens.

Continuing with Columbia County Zoning Ordinance:

1503 CONDITIONAL USES:

- .1 **Status:** Approval of a conditional use shall not constitute a change of zoning classification and shall be granted only for the specific use requested; subject to such reasonable modifications, conditions, and restrictions as may be deemed appropriate by the Commission, or as specifically provided herein.
- .2 **Conditions:** The Commission may attach conditions and restrictions to any conditional use approved. The setbacks and limitations of the underlying district shall be applied to the conditional use. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds, and other reasonable conditions, restrictions, or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use being allowed.
- .3 **Conditional Use Permit:** A Conditional Use Permit shall be obtained for each conditional use before development of the use. The permit shall stipulate any modifications, conditions, and restrictions imposed by the Commission, in addition to those specifically set forth in this ordinance. On its own motion, or pursuant to a formal written complaint filed with the Planning Department, upon proper notice and hearing as provided by Sections 1603 and 1608 of this ordinance, the Commission, (or Board on appeal) may, but is not required to, amend, add to or delete some or all of the conditions applied to Conditional Use Permits issued by the Planning Commission or Board of Commissioners. The power granted by this subsection may only be exercised upon a finding such amendment, addition or deletion is reasonably necessary to satisfy the criteria established by Section 1503.5 below.

Finding 13: The applicants request will not change the zoning classification of the subject parcel. The Commission may attach reasonable conditions to the application. The conditional use will be applicable to this request only, regarding siting a farm help relative's dwelling. Any other requests by the applicant or owner will require a new conditional use application.

Continuing with Columbia County Zoning Ordinance Section 1503:

- .5 **Granting a Permit:** The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence
* substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates the proposed use also satisfies the following criteria:

- A. The use is listed as a Conditional Use in the zone which is currently applied to the site;
- B. The use meets the specific criteria established in the underlying zone;

Finding 14: The applicants request is listed as a permitted use (Section 302.4 CCZO) in the Primary Agriculture zone, however, this is not consistent with the Oregon Administrative Rules which require a public hearing. See findings 3 and 11. Therefore, the application will be reviewed as a conditional use permit application. The requested use has not been found to be inconsistent with any portion of section 300 CCZO.

Continuing with Columbia County Zoning Ordinance 1503.5:

- C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;

Finding 15: The owner is requesting a dwelling for a relative that will assist in the management of the farm. The proposed homesite location is on a gentle slope, less than 10%. This site is in the northeast corner of the subject property and is clustered near an existing home. This location will take advantage of an existing gravel road that leads directly to the site. Additionally, there is a well already located very near the site. There are no natural features on the site that are listed in the County Comprehensive Plan. The site is located approximately 2 miles from the City of Scappoose. Emergency services are provided by the Scappoose RFPD and the Columbia County Sheriff. These characteristics make the site very suitable for development.

Continuing with Columbia County Zoning Ordinance 1503.5:

- D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

Finding 16: The site is located 2 miles northwest of the City of Scappoose. The property has frontage along Dahlgren Road, a two lane, paved, public right of way. Once the road reaches the property, it continues through the property as a private gravel road easement. The main transportation route from Scappoose to the site would be U.S. Hwy. 30, to Wickstrom Road, to Dahlgren Road, to the private driveway. All of these transportation routes are adequate to handle the increase in average daily trips from this location, however, the graveled private easement is rough and does not meet County private road standards. Approximate ADT for one single family residence is 10 trips. There are no public services (water or sewer facilities) existing in this area, and none are currently planned for in the next 20 years. Therefore, the property will most likely remain in resource use, making a farm help relative's dwelling appropriate for this area at this time.

Continuing with Columbia County Zoning Ordinance 1503.5:

- E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;

Finding 17: The vicinity near this location is characterized by agricultural and forest uses mixed with scattered residential uses. The applicant proposes to site a farm help relative's dwelling on the same parcel as the farm operator's dwelling. It appears to be a legitimate request as the farm operator maintains livestock on a 69.38 acre parcel zoned primary agriculture. The request proposes to site the farm help dwelling in the northeast corner of the parcel, in an area that is near the edge between pasture and forest uses. This site will cluster the residence near a home on an adjacent parcel and will take advantage of an existing road and well. The majority of the parcel will continue to be used for resource use. Therefore, the farm help relative's dwelling is not expected to change the character of the area or substantially limit surrounding properties from farming.

Continuing with Columbia County Zoning Ordinance Section 1503.5:

- F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;

Finding 18: The Columbia County Comprehensive Plan "Agriculture" section contains the following goal:

Goal: To preserve agricultural land for agricultural uses.

The applicants proposed request would allow a farm help relative's dwelling for the farm operator's granddaughter and family to reside in while they assist with the management of the farm. By allowing this use, it promotes the agricultural use of the land and helps preserve the agricultural use of the land by continuing to keep the land in active management. It is recommended that the owner complete a conservation plan in conjunction with the USDA Natural Resources Conservation Service District Office. The owner's request will be consistent with the policies of the Agriculture section of the Comp. Plan as long as the farm help dwelling is not separated from the farm operator's dwelling. These two homes must stay together on the same parcel. The farm help relative's dwelling is justified by the need for assistance by the farm operator. This home is sited to help maintain the farm use of the land. If the need for assistance in operation of the farm is no longer necessary, the farm help dwelling should be removed from the property. This home is not to become a rental unit for persons who are not relatives involved with the management of the farm. Under no circumstances should the dwelling and a portion of the land be sold separately from the subject property containing the farm operator's residence. Selling the farm help relative's dwelling and a portion of the land, without the remainder of the farm parcel would not be consistent with policies 4, 7, 8, 13, and 14 of the Comp. Plan. This application is not for a nonfarm dwelling. The existence of the farm help relative's dwelling also should not be used as justification for a zone change or land division. The mobile home that is proposed to be sited as a farm help relative's dwelling, may be used as a residence, as long as it is removed from the subject property.

Continuing with Columbia County Zoning Ordinance Section 1503.5:

G. The proposal will not create any hazardous conditions.

Finding 19: One hazardous condition may be the fact the private easement (Dahlgren Road) does not meet County standards. County private road standards require a 20' side travel surface with 8" of base rock and 2" of 3/4 minus gravel. Currently, the existing road easement contains only the base rock, with no 3/4 minus gravel. Another concern is there is not some type of emergency vehicle turnaround at the end of the shared driveway. Finally, the address to the home should be clearly marked where the shared driveway intersects with the Dahlgren road private easement and again at the homesite. Each of these concerns can be relatively easily mitigated. By adding gravel to the road, clearing a turnaround, and clearly marking the address, each potential hazard should be adequately covered. No other hazardous conditions are expected by this proposed use.

Continuing with Columbia County Zoning Ordinance Section 1503:

.6 **Design Review:** The Commission may require the Conditional Use be subject to a site design review by the Design Review Board or Planning Commission.

Finding 20: The Planning Commission may require a site design review if it is determined necessary.

Continuing with Columbia County Zoning Ordinance:

Section 1600 ADMINISTRATION

1603 **Quasijudicial Public Hearings:** As provided elsewhere in this ordinance, the Hearings Officer, Planning Commission, or Board of Commissioners may approve certain actions which are in conformance with the provisions of this ordinance. Zone Changes, Conditional Use Permits, Major Variances, and Temporary Use Permits shall be reviewed by the appropriate body and may be approved using the following procedures:

.1 The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. The application shall be reviewed for completeness and the applicant notified in writing of any deficiencies. The application shall be deemed complete upon receipt of all pertinent information. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 5 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of this section upon receipt by the Planning Department of the missing information. [effective 7-15-97]

- .2 Once an application is deemed complete, it shall be scheduled for the earliest possible hearing before the Planning Commission or Hearings Officer. The Director will publish a notice of the request in a paper of general circulation not less than 10 calendar days prior to the scheduled public hearing. Notices will also be mailed to adjacent individual property owners in accordance with ORS 197.763. [effective 7-15-97]

[Note: ORS 197.763 requires 20 days notice (or 10 days before the first hearing if there will be 2 or more hearings), and that notice be provided to property owners within 100' (inside UGBs), 250' (outside UGBs), or 500' (in farm or forest zones).]

- .3 At the public hearing, the staff, applicant, and interested parties may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or what modifications are necessary for approval. [effective 7-15-97]
- .4 Approval of any action by the Planning Commission at the public hearing shall be by procedure outlined in Ordinance 91-2. [effective 7-15-97]

Finding 21: This application was deemed complete by LDS on October 28, 1999. Notice was sent to adjacent property owners within 500 feet of the subject parcel, the Scappoose CPAC, and affected agencies. Notice of the hearing will be published in the Spotlight, the Chronicle, and the Columbia County Review, on November 24, 1999. The application has been scheduled on the December 6, 1999 planning commission agenda. At that time, the Planning Commission will take testimony from all interested parties regarding the requested action. The Commission will then make a decision to approve, approve with conditions, or deny the application.

Continuing with Columbia County Zoning Ordinance:

Section 1700 APPEALS

- 1703 Appeal of a Planning Commission Action: Any land use decision by the Planning Commission or Hearings Officer (in lieu of the Planning Commission), over which either body had original review authority, may be appealed to the Board of Commissioners by the Board of Commissioners, or by persons who appeared before the lower decision making body, either in person or in writing. The appeal may concern the approval or denial of an application or any conditions attached to the approval of an application. The de novo appeal hearing shall be scheduled before the Board of County Commissioners at the earliest opportunity, and notice of the appeal shall be sent in accordance with procedures outlined in CCZO 1701.4. [effective 7-15-97]

Finding 22: Any person who provided comments either in person or in writing may appeal the Planning Commission decision to the Board of Commissioners pursuant to Section 1701 CCZO..

COMMENTS:

1. The County Sanitarian has reviewed the application and has no objection to its approval as submitted.
2. The County Roadmaster has reviewed the application and comments: "The access road is a pit rock road that is rough to drive on. The existing road should be covered with 3/4-0 for improved emergency access."
3. The Soil and Water Conservation District has reviewed the application and has no objection to its approval as submitted.
5. The Scappoose Fire District has reviewed the application and comments: "Driveway will need to be to County driveway standards."
6. The Scappoose CPAC has reviewed the application and recommends denial for the following reasons:

"(1) Applicant did not adequately address the impact issues and has not explained why he needs to have home so close to his neighbors.

However, if this application is approved, we recommend these conditions for approval:

(1) Written Road Maintenance Agreements for Dahlgren Road, Gift Place, and the 'Access Road' pursuant to ORS 105.170 - 105.185.

(2) Applicant submit (for approval) a written farm management plan.

(3) That the home be placed in a location where there is less or no impact on neighbor's property and homes.

(4) Access road be placed elsewhere.

(5) Applicant either bring forth a survey of the area including access road and home site; or pay for one-half the cost of the survey of the access road site."

No other comments have been received from notified nearby property owners or government agencies as of the date of this staff report (November 15, 1999).

CONCLUSION AND RECOMMENDATION:

The point of a farm help relative's dwelling is to allow family members to live on the land while assisting the farm operator with the management of the farm unit. When siting a home using this criteria, it is vital to maintain the close link between the farm operator and the relative providing assistance. Hence, the farm help relative's dwelling must be sited and maintained on the same property as the farm operator. If there is any separation between the two dwellings, the farm help relative's dwelling should be removed or re-authorized under separate farm dwelling criteria.

Based on the findings in the above staff report (CU 00-21), staff recommends **APPROVAL**, with conditions, of this request to site a farm help relative's dwelling for the farm operator's granddaughter and her family, who will assist with the operation of the farm. The farm help relative's dwelling will be sited on the same parcel as the farm operator which is a 69.38 acre parcel that is zoned Primary Agriculture (PA-38) and is further identified as 4235-000-00200.

Conditions of Approval:

1. This permit shall become void 2 years from the date of the final decision if development has not begun on the property. Extensions of time may be granted by the Planning Director if requested in writing before the expiration date and if the applicant was not responsible for the failure to develop.
2. A well constructor's report shall be submitted by the applicant showing adequate domestic water for the farm help relative's dwelling, before a building permit may be issued for construction of a septic system.
3. The applicant shall site the proposed dwelling as shown on the submitted site plan. All utilities shall be routed along the driveway or use the shortest course to the residence.
4. The applicant shall provide the Department of Land Development Services with documentation from the Scappoose Rural Fire Protection District indicating that preliminary driveway improvements are adequate for temporary access by fire service equipment prior to receiving any building or septic permits.
5. The applicant shall provide further documentation from the fire district indicating final improvements to the driveway, emergency apparatus turnaround, clearly identifying the address near the road, and any other fire safety concerns have been inspected and approved, prior to receiving an occupancy permit for the dwelling.
6. Prior to issuance of a building permit or septic permit, the applicant shall submit an County Road Department access permit for the access to Dahlgren Road.
7. Prior to issuance of a building permit or septic permit, the applicant shall provide documentation from the County Road Department stating the section of Dahlgren Road that is in private easement leading to the proposed farm help relative's dwelling, has been improved to an acceptable private road standard. This may include adding 3/4 minus gravel to the existing base road.
8. The owner shall sign a "Waiver of Remonstrance" regarding current and accepted farm and forest management practices on adjacent properties devoted to agricultural use or timber production. This document, obtained from the Department of Land Development Services and recorded with the County Clerk's office, shall be binding upon all property heirs and assigns.
9. Pursuant to ORS 215.283(e), the farm help relative dwelling must be located on the same lot or parcel as the dwelling of the farm operator. The owner is prohibited from dividing the property so that each dwelling is on a separate parcel.

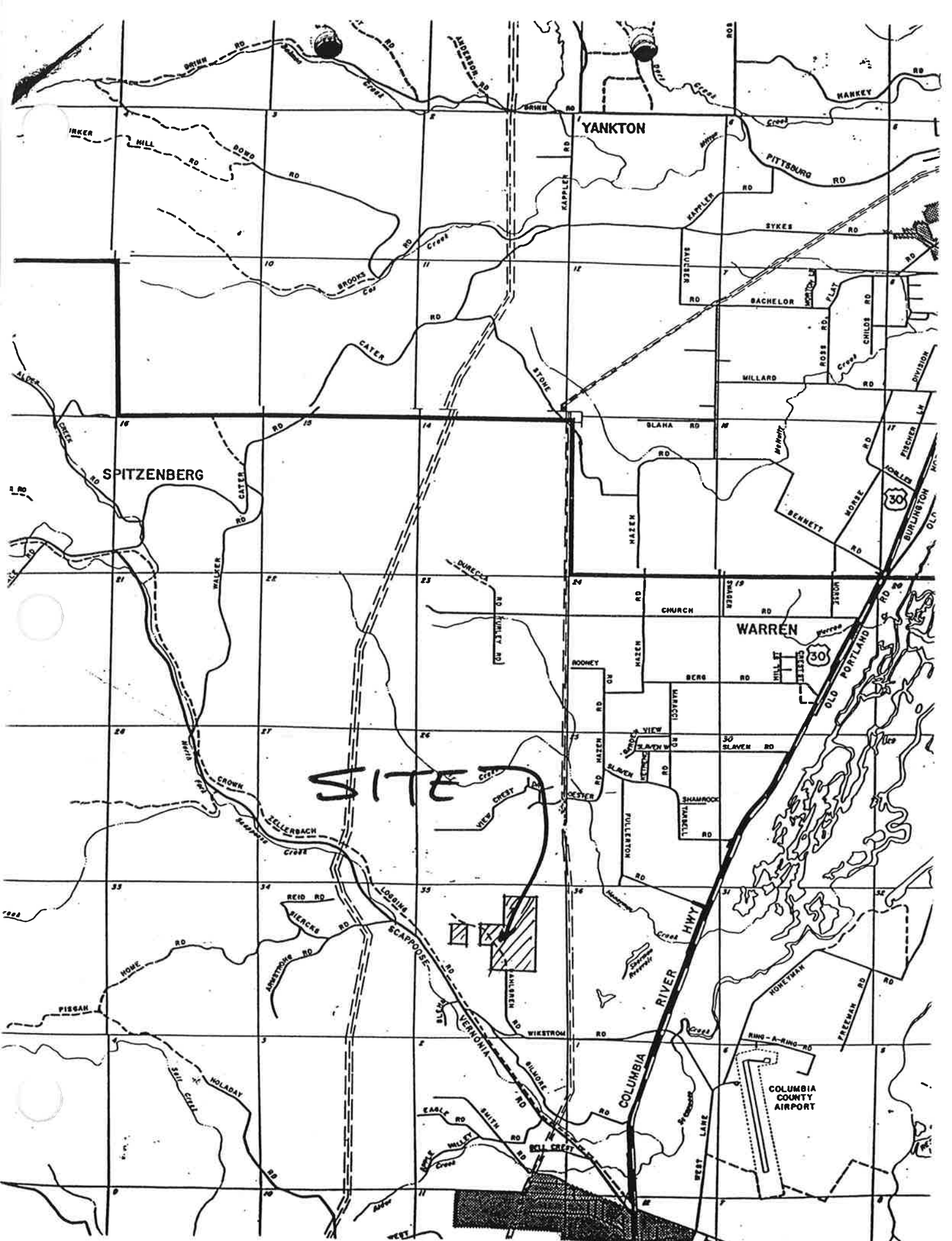
10. The applicant shall maintain the vegetation on this property in a way that is consistent with OAR 660-06-035 Fire Siting Standards for dwellings and Structures. This includes maintaining a primary fire safety zone around all structures and a secondary fuel break wide around the primary safety zone. The requirements of CCZO 510 and OAR's 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March 1991, shall be followed in the construction of all structures on the site, and the access driveway. Applicant shall strictly follow the requirements of OAR 660-06-035 in the placement and construction of the dwelling, including a fire retardant roof and spark arresters on all chimneys, and not placing the residence on a slope greater than 40%.
11. Depending upon the percentage of slope of the homesite area, a 30' (0-9% slope), 50' (10-19% slope), 75' (21-25% slope), or 150' (26'-39% slope) primary fuel-free break area shall be created around all structures; in addition, a 100' secondary fuel-free break area shall be created and maintained around all structures. Fire Break equivalents can be substituted when distances cannot be met.
12. No structures shall be allowed that exceed 50 feet in height. Further, all exterior lighting shall be shielded so as not to shine directly into the sky.
13. The farm help relative's dwelling must be occupied by a family member who is assisting the farm operator with the management of the farm.
14. The applicant shall submit a farm management plan prior to receiving a building permit. This plan will help ensure the long term resource use of the property. Conservation plans done in conjunction with the USDA Natural Resources Conservation Service are acceptable.

GH/ML/mos

[h:\PA-38\cu00-21.Gift.ml]

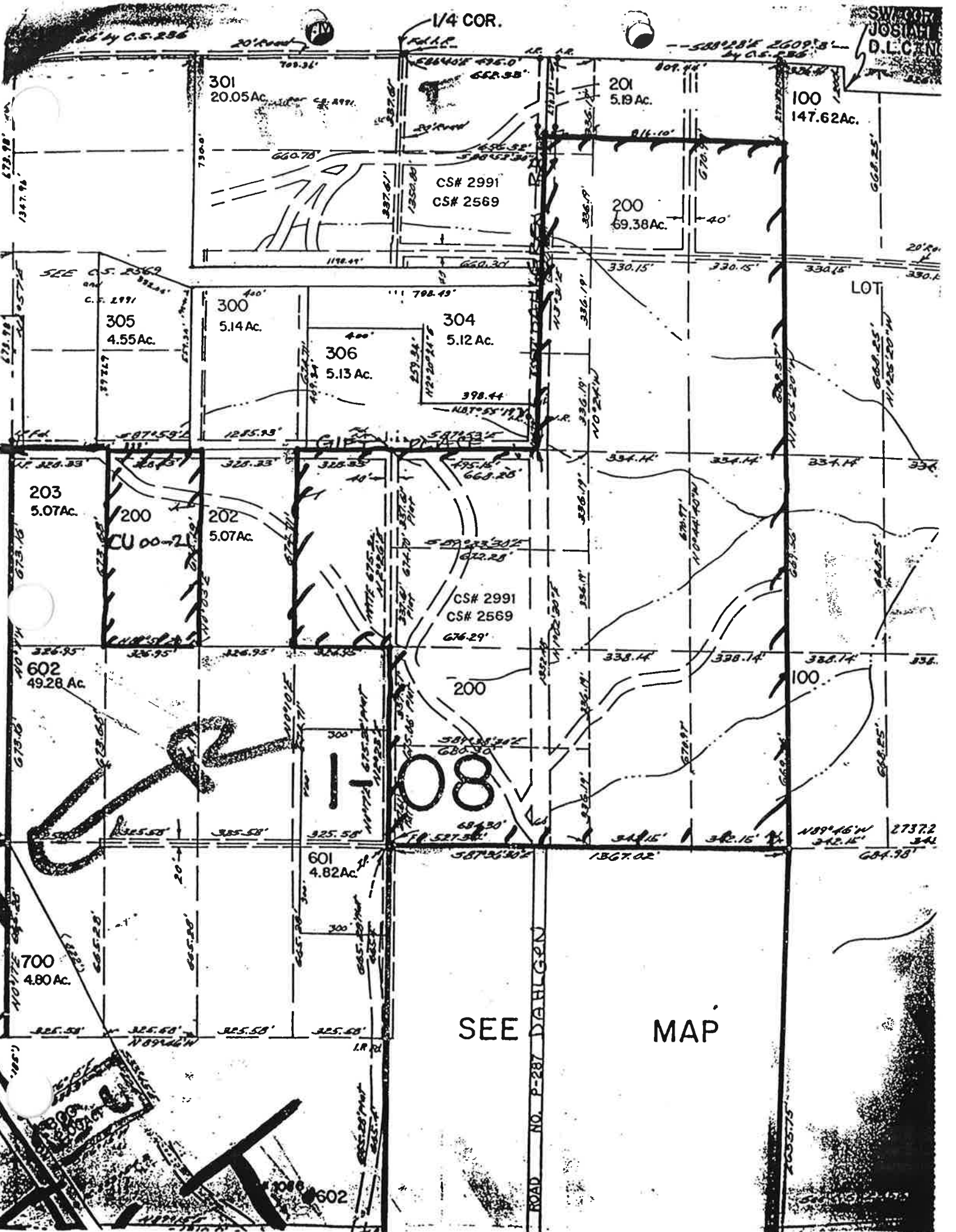
Attachment: - Vicinity Map
- Location Map
- Vegetation Overlay Map
- Site Plan

CC: Mark & Marlene Gift
File



SW COR
JOSIAH
D.L.C.

1/4 COR.



SEE

MAP

ROAD NO. P-287 DARLGEN

108

301
20.05 Ac.

201
5.19 Ac.

100
147.62 Ac.

300
5.14 Ac.

304
5.12 Ac.

306
5.13 Ac.

203
5.07 Ac.

202
5.07 Ac.

602
49.28 Ac.

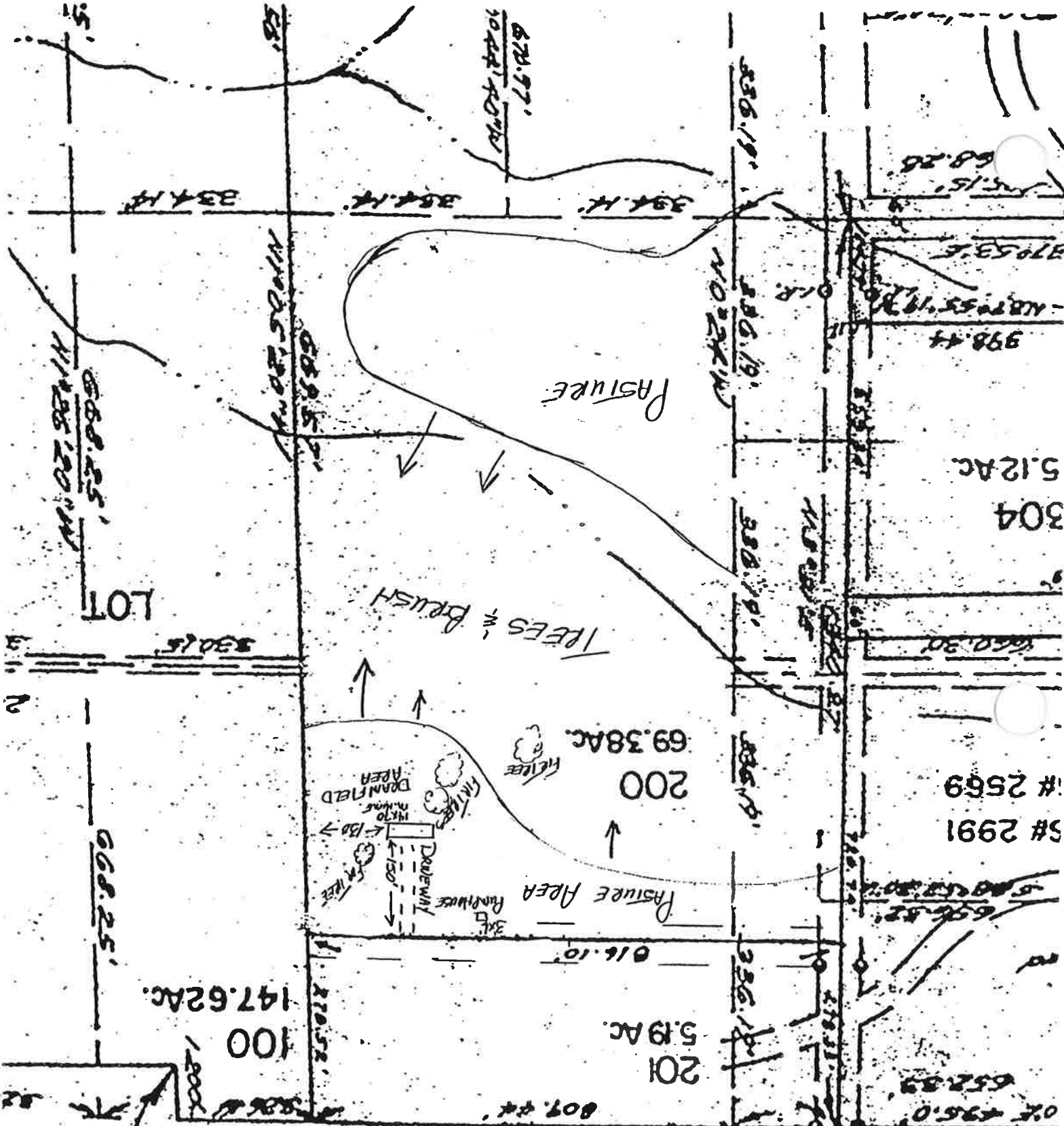
200
69.38 Ac.

100

601
4.82 Ac.

700
4.80 Ac.





SW, CO
 JOSIAI
 D.L.C.
 Mark Split
 1" = 200'
 26
 2
 1-COR

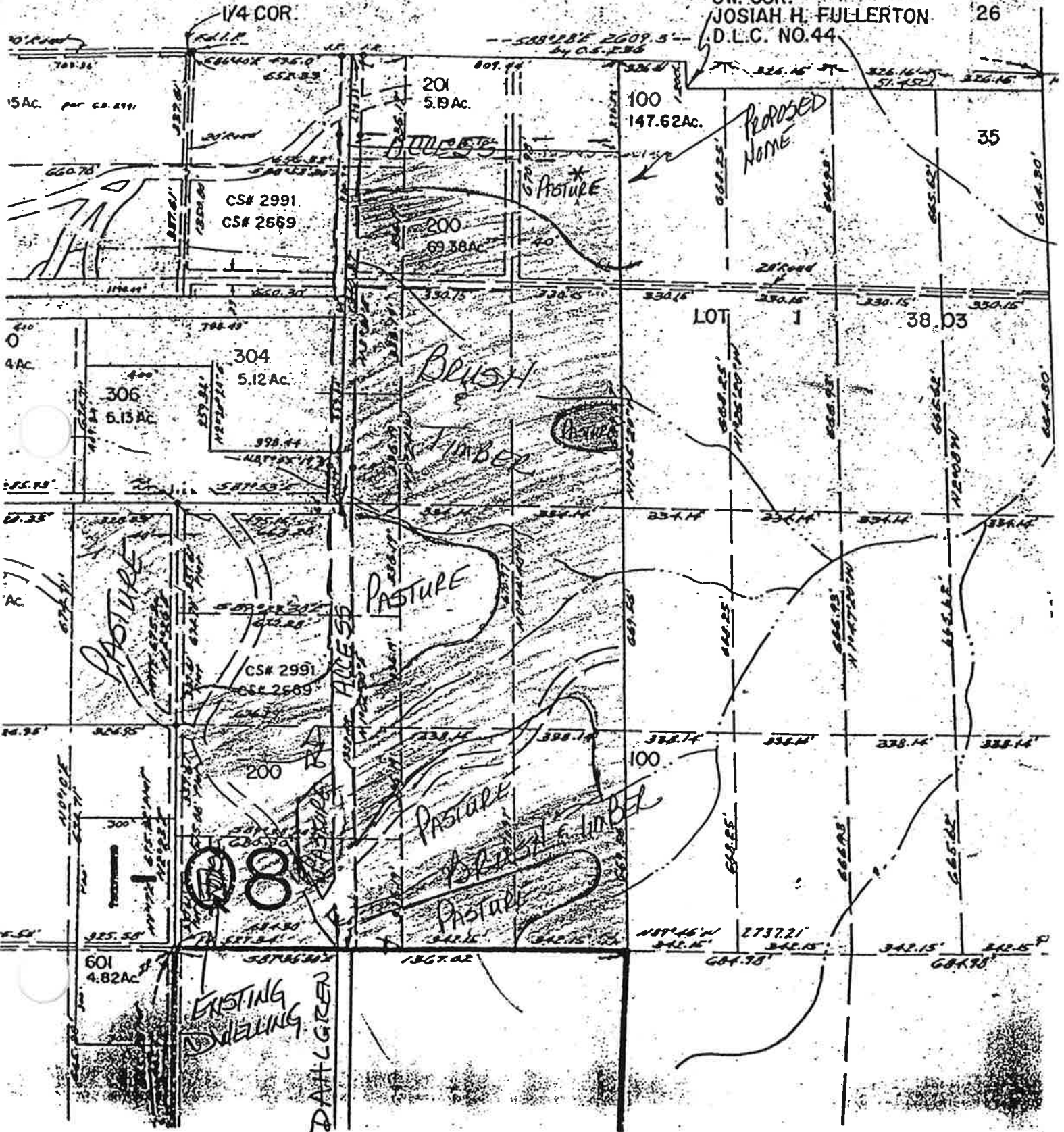
OLUMBIA COUNTY

PREPARED FOR ASSESSMENT PURPOSES ONLY

Current Revision Date: 4 / 1 / 94

SEE MAP 4 2 26

SW. COR. JOSIAH H. FULLERTON D.L.C. NO. 44 26



SECTION 35 T.4N. R.2W. W.M.
COLUMBIA COUNTY

1" = 400'

CAPOOSE RURAL FIRE DISTRICT

8700

SEE MAP 4 2 26

SW. COR. JOSIAH H. FULLERTON 26
D.L.C. NO. 44

CANCEL 500

