



JEFFERSON COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT

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<http://www.co.jefferson.wa.us/260/Community-Development>

May 10, 2019

Via email

Via USPS first class mail

Fort Discovery, Inc.
Attn: Joe D'Amico
250 Center Park Way
Sequim, WA 98382

Re: COM18-00191 / March 22, 2019 Summary of Jefferson County Site Visit – Parcel 801073003 and 801074004 (the Cedar Hills Property)

Mr. D'Amico –

Thank you for hosting Jefferson County and the Washington State Department of Ecology during the March 22, 2019 coordinated site visit of the Cedar Hills Property near Tarboo Lake. Donna Frosthalm, an Associate Planner – Lead conducted this site visit on behalf of Jefferson County's Department of Community Development (DCD). Stuart Whitford, Environmental Public Health (EPH) Director and Austin Watkins, Civil Deputy Prosecuting Attorney accompanied Ms. Frosthalm during this site visit.

As discussed more fully below, during this site visit, DCD investigated citizen allegations of: (1) wetland violations, including potential development within the wetlands and their associated buffers; (2) unpermitted clearing and grading; and (3) unpermitted structures. The purpose of this letter is twofold: to review in detail the substantial history with you, your properties and the history between you and Jefferson County regarding permitted and unpermitted activities; and, to describe in more detail what, based upon DCD's March 22, 2019 site visit, DCD was able to confirm regarding violations of Title 15 and Title 18 of the Jefferson County Code that have occurred and continue to occur on your current site.

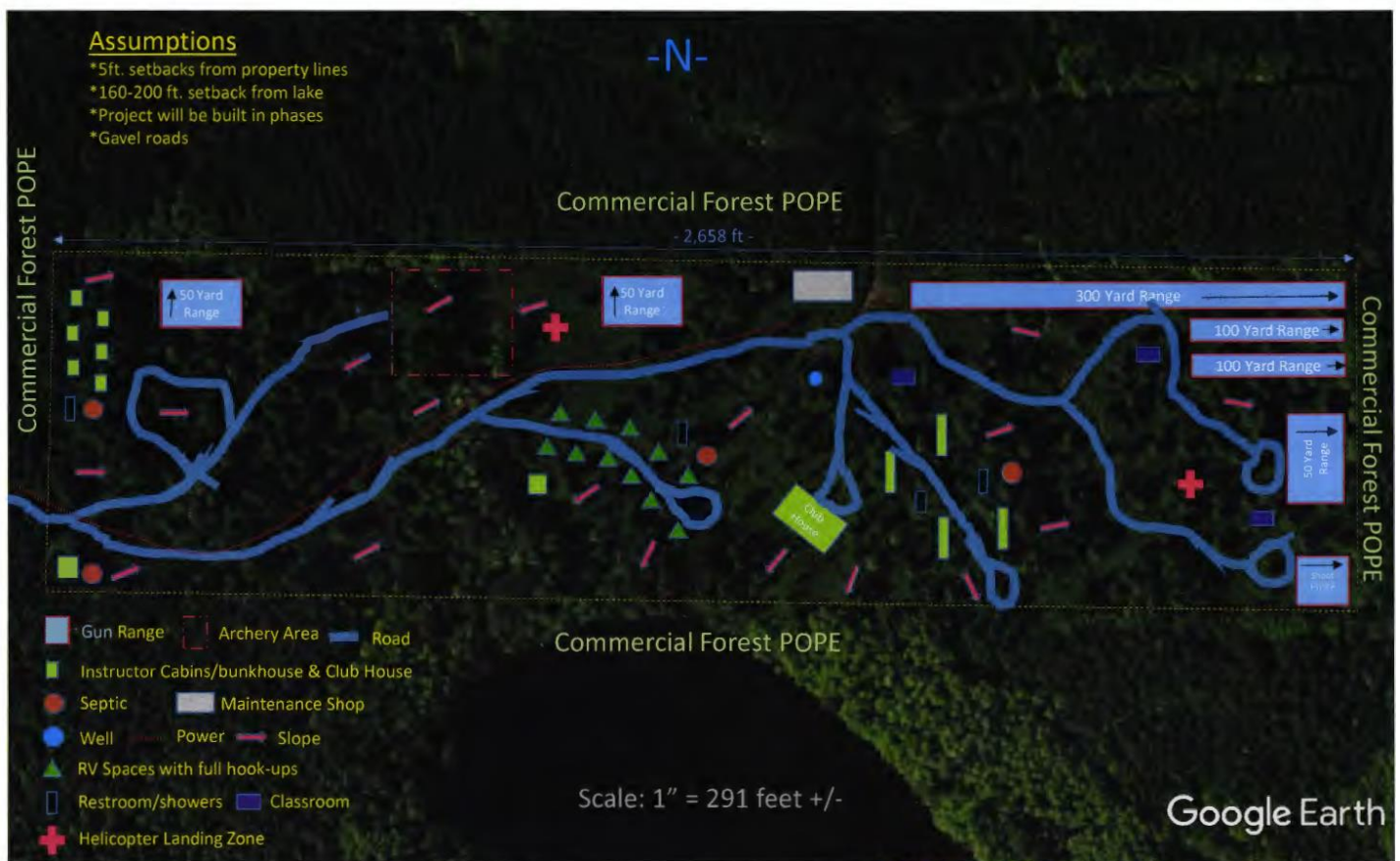
Background

On June 9, 2017, the then owner of the Cedar Hills Property, James Worthington, submitted a request for a pre-application conference that designated Joe D'Amico (Mr. D'Amico) as his agent related to the

pre-application conference. The request for a pre-application conference described the project as follows:

This will be a private instituonal (sic) gun range and training facility bringing customers to the peninsula, both locally and from around the world. We have 40 acres RF located near Tarboo Lake. Services to be provided include firearms safety and instruction, hunters safety, firearms qualifications, security training, educational seminars, business retreats, and special events. Facilities are to include gun ranges (pistol, rifle, trap shoot, archery), classroom, shoot house, helicopter landing zone, food preparation (sic) and serving area, restroom and showers, sleeping (sic) quarters, tent and RV sites, caretaker cabin, support staff housing, and a pro shop. The amenities (sic) will be sited to conform to the landscape with minimal intrusion, with the goal of providing a safe yet natural outdoor experience.

With the pre-application request, a diagram of the proposed project was included:



This diagram demonstrates knowledge of the need for septic systems and the requirement of setbacks from neighboring properties and from Tarboo Lake. The pre-application request also contained a diagram of where a proposed road was to be built for access across adjoining land owned by Pope Resources.

On June 30, 2017, Fort Discovery Corporation's (FDC) president, Mr. D'Amico, attended a pre-application conference with representatives of Jefferson County Community Development and the Environmental Health Department. At the pre-application conference, Mr. D'Amico explained that the project was to be built in phases over 3-5 years, but that the project would start with a range, bunkhouse and bathroom. Mr. D'Amico was advised that for the project proposal, a Type III Conditional Use Permit would be required and that would include: (1) A Master Permit Application; (2) A Supplemental Application for a Conditional Use; (3) a Project Description/Narrative; (4) A SEPA Checklist; (5) A Stormwater Plan; (6) A Wetland Delineation, if required; and, (7) Permit fees. The pre-application notes provided to Mr. D'Amico after the pre-application conference state that there were "No mapped wetlands or streams" and if "streams or wetlands present, a delineation or determination will be required."

Also at the June 30, 2017 pre-application conference, Susan Porto and Randy Marx of EPH advised Mr. D'Amico that permits for a public water system and a septic system would be required. It appears FDC already was aware of this before the pre-application conference because he or Ms. Scott already had talked to Mike Deeney of Creative Design Solutions, Inc. about an on-site septic system. According to his web site, "experience allows Mr. Deeney the ability to determine the most cost effective system for a given site that will meet local and state code and provide a long system life." <http://www.cds4you.com/ExperienceSavesMoney.html>.

In September of 2017, the County was advised by counsel for Reed Gunstone and The ARK Group, LLC (TAG) that there were permit violations on property leased by Mr. D'Amico from the Gunstone family at 3501 Old Gardiner Road, Sequim, WA 98382 (the Old Gardiner Road Property). Mr. Gunstone's counsel claimed that there also were uses by Mr. D'Amico that violate the zoning laws, as decided in a 2009 land use decision of the Jefferson County Hearing Examiner. Mr. Gunstone's counsel also informed the County that red tags placed on unpermitted structures have been removed.

Since 2005, for the Old Gardiner Road Property, the County had sought Mr. D'Amico's compliance with zoning limitations and the need to bring unpermitted structures and on-site sewage systems into compliance with the Jefferson County Code. A land use dispute between Mr. D'Amico and the County began in 2005 when Mr. D'Amico attempted to build structures on Gunstone family property without proper permits. The County issued a stop work order to Mr. D'Amico in 2005. The land use dispute was appealed to the Washington court of appeals, which issued its decision in 2008. *Sec. Servs. Nw., Inc. v. Jefferson Cty.*, 144 Wash. App. 1002, *5 (2008). The court of appeals remanded the case to the Hearing Examiner.

After the remand from the court of appeals, Security Services Northwest (SSNW) stipulated to the Hearing Examiner that the following structures were not part of SSNW's nonconforming use of the Old Gardiner Road Property in 1992, "but SSNW intends to submit an 'after-the-fact' building permit once the full scope of its legal non-conforming use is established." Mr. D'Amico has admitted under oath that he built the following structures without permits:

- A new bunkhouse built in about 2004. Mr. D’Amico’s November 16, 2005 Testimony, Tape 3 at 14:15-22 and 59:16-24.
- A new classroom built in about 2004. *Id.* at 14:15-22.
- A range house built in about 2000. *Id.*, Tape 4 at 10:3-13.

See also June 11, 2009 Stipulation for Remand Hearing at 2. Mr. D’Amico admitted that neither the bunkhouse nor the classroom contain any sanitary facilities and that a latrine had been built without permit to serve both. *Id.*, Tape 3 at 16:6-15. Mr. D’Amico testified that between 1988 and 2005, he never applied for any septic, fire, electrical or structural permits. *Id.* at 10:23-11:1. Unpermitted structures were red tagged by the County. Mr. D’Amico admitted under oath in 2007 that the County had the right to post the buildings with stop work orders that had not received permits. Mr. D’Amico’s May 10, 2007 Deposition at 47:4-7. In a letter dated September 27, 2017, the County advised both Mr. D’Amico and Mr. Gunstone that: “The County continues to expect respect for and compliance with the 2009 land use decision and the permit requirements. After-the-fact permits for all the unpermitted structures listed may be possible, except the SSNW gun ranges on Parcel 002363008 (owned by TAG).”

On September 15, 2017, Mr. Gunstone terminated Mr. D’Amico’s lease of the Old Gardiner Road Property, effective October 31, 2017. On September 27, 2017, Fort Discovery Corporation purchased the Cedar Hills Property (Parcels 8011073003 and 801074004) from James Worthington. Mr. D’Amico decided to move the buildings he built at the Old Gardiner Road Property to the Cedar Hills Property.

On October 23, 2017, the County advised Mr. Gunstone and Mr. D’Amico the requirements that must be met for moving the buildings from the Old Gardiner Road Property to the Tarboo Property, including that:

- “All necessary permits and rights of way for moving the buildings and placing them at another location in Jefferson County must be obtained before attempting to move the buildings.”
- “At any new location in Jefferson County, the moved buildings must meet the permit requirements for sewage and water, zoning requirements for setback or other applicable County building requirements.”

Subsequently, FDC moved the buildings Mr. D’Amico built from the Old Gardiner Road Property to the Cedar Hills Property. Mr. D’Amico never obtained any permits for the buildings before or after the buildings were moved to the Cedar Hills Property. Thus, FDC moved buildings built without any permits at the Old Gardiner Property and that were red tagged by the County to the Cedar Hills Property.

FDC attempted to apply for a County permit for stormwater and a County foundation permit. DCD asked FDC whether it intended to pursue a conditional use permit for that included a commercial shooting

facility. But FDC never answered that question. Ultimately, both applications were determined to be incomplete by the County on October 26, 2018. FDC has not submitted any applications for new permits for the Cedar Hills Property as of the date of this letter.

On October 17, 2018, Mr. D'Amico advised DCD that he intended to install a foundation for buildings at the Cedar Hills Property on or shortly after October 20 and 21, 2018, even though he did not yet have any foundation permit. As a result of this conversation, DCD issued a Notice of Voluntary Correction which stated that: 'Putting in a foundation without a permit would be a violation of Jefferson County's Uniform Development Code (UDC), 18.50.020(1) JCC, which states: "It is a violation of this UDC for any person to initiate or maintain, or to cause to be initiated or maintained, any use, alteration, construction, location, or demolition of any structure, land, or property within Jefferson County without first obtaining permits or authorizations required by this UDC.'"

Subsequently, DCD received information that the permit violations described earlier were occurring at the Cedar Hills Property and began an investigation. A request for site access was made, and FDC made the Cedar Hills Property available for inspection on March 22, 2019.

Wetlands and Wetlands Buffers

During the March 22nd site visit, DCD confirmed the following critical area ordinance violations: (1) the removal, excavation, grading, or dredging of material of any kind within a regulated wetland or its buffer, Jefferson County Code (JCC) 18.22.310(1); (2) the dumping or discharging of any material or placement of any fill in a regulated wetland or its buffer, JCC 18.22.310(2); and (3) modification of and activities within regulated wetland buffers JCC 18.22.310(9) and JCC 18.22.330(3).

DCD informally reviewed FDC's wetland report prepared by Westech Company in July 2018, which described on-site wetlands, including a map depicting the location each wetland identified by Westech. The report received by DCD did not include supporting data located in the appendices (wetland data forms, wetland rating forms, and wetland maps). During the site visit DCD did not verify Westech's delineated wetland boundaries or wetland ratings.

However, based on plot data collected during the March 22nd site visit by DCD and Ecology more wetlands are present on the site than was identified by Westech's July 2018 report. Attached Figure 1 demonstrates the approximate location of areas that were investigated during the site visit. The results are as follows:

- One plot was determined to be non-wetland (flagged as TP 1);
- Three plots were determined to be wetland (flagged as TP 2, 3, 4);
- One soil sampling location was determined to be wetland (flagged as SS 1); and,

- One area was identified as having wetland hydrology (no soil sample or flagging was placed at this location because it may be offsite).

The next step in the DCD process is for FDC to apply for after-the-fact critical area permitting. FDC's biologist needs to return to the site to delineate and rate all on-site wetlands and to rate all off-site wetlands for the purposes of determining protective buffers as needed. Given the deficiencies in the Westech report submitted, such as missing supporting data appendices and missing wetland delineations, and additional wetlands confirmed by DCD, a revised wetland report will be required for permitting. It should be noted that there may be more unidentified wetland areas on the property than is shown in the attached Figure 1.

Stormwater

During the March 22nd site visit, DCD confirmed that more than 2,000 square feet of new development and more than 7,000 square feet of new land disturbing activities occurred on the site. Therefore, a stormwater permit is required under JCC 18.30.070. The next step in the DCD process is for FDC to apply for a stormwater permit.

Unpermitted Buildings

During the March 22nd site visit, DCD confirmed that the following three unpermitted structures on were on site: (1) an instruction and meeting area building; (2) a bathroom building; and (3) an accessory building. DCD believes that these are the same unpermitted structures built by Mr. D'Amico at the Old Gardiner Road Property.

Jefferson County has adopted the 2015 International Building under JCC 15.05.30. Under R 105.1 of the 2015 International Building Code, under which building permits are required unless the work exempt is under R 105.2. Based upon our site visit, the structures moved to the Cedar Hills Property do not appear to be exempt. The next step in the DCD process is for FDC to apply for after-the-fact building permits for these structures.

Land Use / Health and Safety Permitting

Based upon the March 22nd site visit observations and FDC's statements, it appears that FDC intends to build and operate a commercial shooting facility as defined under JCC 18.10.030 in the near future. The zoning designation for the Cedar Hills Property is Inholding Forest 20 (IF 20). IF 20 allows a commercial shooting facility as a Conditional Use. The next step in the DCD process is for FDC to apply for a Conditional Use permit for an outdoor commercial shooting facility. FDC is cautioned that failure to provide a SEPA Checklist for the original scope of the project would likely result in FDC having to re-do the entire SEPA Checklist process. That could be costly.

Concurrent with the Conditional Use permit, you will be required to apply for a commercial shooting facility operating permit under Article III of Chapter 8.50 of the Jefferson County Code.

During the March 22nd site visit, we identified the presence of an unpermitted septic holding tank. We understand that there may be a letter coming from Jefferson County Environmental Public Health on the unpermitted holding tank.

Again, we thank you for allowing DCD to visit your site to investigate these allegations. Based upon DCD's site visit and information available to us at this time, we believe this letter sets a path forward for you to achieve full compliance with the JCC of your site and proposed operations. DCD looks forward to processing your permit applications in the near future.

Please contact this office within fifteen days or by May 20, 2019 regarding your plan of action to acquire permits as described in this letter.

Respectfully,



Patty Charnas, Director
Department of Community Development

Cc:

Greg Overstreet, Fort Discovery Counsel

Stuart Whitford, Jefferson County Environmental Public Health Director

Philip Hunsucker, Chief Civil Deputy Prosecuting Attorney

Figure 1

GIS MAPPING OF CLEARING AND GRADING ZONES 1-7 IDENTIFIED ON FORT DISCOVERY PROPERTY, FROM NOVEMBER 11, 2018 AERIAL PHOTO



Wet
(off-site?)

- TP1 - upland
- TP2 - wetland
- TP3 - wetland
- TP4 - wetland
- SS1 - wetland
- Observation of wetland (may be off-site).

TP3 & TP4:
ground had been
scraped and
graded; wetland
impacted (by
fill materials).