



NOTICE OF HEARING

April 13, 2023

Wilbur Akins and Joyce Leard
8560 SE 172nd Ave
Boring, OR 97009

RE:: County of Clackamas v. Wilbur Akins and Joyce Leard
File: V0070714

Hearing Date: May 11, 2023

Time: This item will not begin before 11:00 am however it may begin later depending on the length of preceding items.

Location: Hearing will be held by virtual Zoom meeting. Please see attached information regarding the process for the Zoom meeting.

Enclosed you will find the following:

1. Notice of Rights;
2. Copy of Exhibits which have been submitted by the County

You **must** appear at the time set forth in this Notice of Hearing or the relief requested in the **Complaint** may be **granted against you by default**.

You can access the complete hearing packet at <https://www.clackamas.us/codeenforcement/hearings>

You may contact Jennifer Kauppi, Code Compliance Specialist for Clackamas County at (503) 742-4759, should you have any questions about the violation(s) in the **Complaint**. Do not call the Compliance Hearings Officer.

Enclosures

CC: Carl Cox -Compliance Hearings Officer



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Enclosures

CC: Carl Cox -Compliance Hearings Officer

STATEMENT OF RIGHTS

1. **Prior to the Hearing.** You have the right to make the following requests:
 - (A) You can request the opportunity to review public records and to talk to County staff about the violations or request a subpoena for that purpose if the County does not allow you to do so.
 - (B) You can request that the Hearings Officer postpone the hearing for good cause by writing the Hearings Officer at least 7 calendar days prior to the scheduled hearing date.
 - (C) You can request that the Hearings Officer decide the matter based exclusively on written materials from the parties or conduct the hearing by phone.
2. **Procedure.** The hearing will be governed by general rules of procedure designed to allow you to hear and confront the evidence against you, and for you to present evidence favorable to you. You are not required to present any evidence, the burden is on the County to establish by a preponderance of the evidence that a violation exists, or existed. Either party may, at their own expense, obtain an attorney to represent them at the hearing. If you wish to be represented by an attorney they need only notify the County and the Hearings Officer in writing of their intent to appear on your behalf. The County will present evidence first, and then you may question that evidence. You may then present your own evidence, if you wish, and the County may question your evidence. Testimony by witnesses is evidence. The Hearings Officer may inquire into any facts that are relevant to the hearing and may question the parties or witnesses about the case. Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.
3. **Record of Proceedings.** An audio record will be made of the proceedings when a hearing is conducted. The audio record is available through the Clackamas County Code Enforcement Section and is available to you upon request.
4. **Hearings Officer.** The Hearings Officer is an independent contractor paid by the County to conduct hearings and render decisions. He/she is not a County employee. His/her function is to preside over the hearing, make a record of proceedings, consider admissible evidence, and interpret and apply the law. After the hearing is closed the Hearings Officer will enter written findings of fact, conclusions of law, and any Order deemed proper. If a violation is proven, then the Order may include civil penalties, fines, administrative fees, or may require the respondent to take certain actions, or refrain from certain actions. An Order issued by the Hearings Officer may be a Final Order or Continuing Order. The Hearings Officers Order is the final decision of the County, and may be appealed pursuant to Oregon law. The Hearings Officer for Clackamas County is:

Carl Cox
Attorney at Law
14725 NE 20th Street, #D-5
Bellevue, WA 98007
5. **Right to Recess.** If, during the course of the hearing, Respondent or the County requests a recess or postponement, or additional time to present crucial evidence, the Hearings Officer may allow a continuance of the hearing for good cause. The Respondent may also request that the proceeding be continued after the end of the hearing if the Respondent determines that additional evidence should be brought to the attention of the Hearings Officer.
6. **Right to Appeal.** The Final Order of the Hearings Officer shall set forth the right of the respondent to appeal any adverse Order. Appeal may be taken pursuant to Section 2.07.130 of the Clackamas County Hearings Officer Code, and Oregon Revised Statute 34.010-34.100. If appeal is taken, appellant is responsible for all costs of appeal including preparation of transcript.



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

You must have access to the internet or to a telephone line to use the Zoom platform. We have sent you the Zoom invite to MRTREEINC@FRONTIER.COM AND SM@KLGPC.COM.

Please contact Jennifer Kauppi if you are unable to find the email.

If you would like to present evidence at the Hearing please email or mail your evidence to JKauppi@clackamas.us or 150 Beaver Creek Rd, Oregon City, Oregon 97045, no later than 4 work days prior to the hearing. Staff will number your evidence for the hearing and provide the numbered documents to the Hearings Officer and send them back to you for reference.

If you are unable to participate in a hearing through the Zoom platform please contact Jennifer Kauppi at 503-742-4759 **within 3 calendar days of receipt of the notice of hearing packet.**

If you do not know how to use Zoom, please Google "how to use Zoom" and there are many interactive guides on the internet.

If you experience difficulties connecting to the Zoom hearing before your scheduled start time, please call 503-348-4692 for assistance.

**Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that a \$75.00 monthly Administrative Compliance Fee will be assessed if a violation has been determined and has not been abated. When a property owner works cooperatively with the County to resolve a confirmed code violation, the County may waive all or part of that fee.*

Department of Transportation and Development

Nondiscrimination Policy:

The Department of Transportation and Development is committed to non-discrimination. For more information go to: www.clackamas.us/transportation/nondiscrimination, email JKauppi@clackamas.us or call (503) 742-4452.

¡LE DAMOS LA BIENVENIDA! Spanish

El Departamento de Transporte y Desarrollo está comprometido con la no discriminación. Para obtener más información, visite: www.clackamas.us/transportation/nondiscrimination, envíe un correo electrónico a JKauppi@clackamas.us o llame al 503-742-4452.

ДОБРО ПОЖАЛОВАТЬ! Russian

Департамент транспорта и развития инфраструктуры стремится к соблюдению политики недопущения дискриминации. Для получения дополнительной информации посетите веб-сайт: www.clackamas.us/transportation/nondiscrimination, отправьте письмо на адрес эл. почты JKauppi@clackamas.us или позвоните по телефону 503-742-4452.

欢迎! Chinese (Mandarin)

交通和发展部致力于实现非歧视。如需了解更多信息，请访问 www.clackamas.us/transportation/nondiscrimination，发送电子邮件至 JKauppi@clackamas.us 或致电 503-742-4452。

CHÀO MỪNG! Vietnamese

Bộ Vận Tải và Phát Triển cam kết thực thi chính sách không phân biệt đối xử. Để biết thêm thông tin, vui lòng truy cập trang mạng: www.clackamas.us/transportation/nondiscrimination, gửi email đến JKauppi@clackamas.us hoặc gọi điện thoại theo số 503-742-4452.

환영합니다. Korean

운송개발부는 차별 금지를 위해 모든 노력을 기울이고 있습니다. 자세한 내용은 홈페이지 www.clackamas.us/transportation/nondiscrimination을 참조하거나 이메일 JKauppi@clackamas.us, 또는 전화 503-742-4452번으로 연락 주십시오.

BEFORE THE COMPLIANCE HEARINGS OFFICER
for the
CLACKAMAS COUNTY BOARD OF COMMISSIONERS

COUNTY OF CLACKAMAS,

Petitioner,

v.

WILBUR AKINS AND
JOYCE LEARD,

Respondents.

File No: V0070714

COMPLAINT AND REQUEST FOR HEARING

I, Jennifer Kauppi, Code Enforcement Specialist for Clackamas County, allege the following:

1.

Respondent's mailing address is: 8560 SE 172nd Ave, Boring, OR 97009.

2.

The address or location of the violation(s) of law alleged in this Complaint is:

8540 and 8550 SE 172nd Ave, Damascus, OR 97089 also known as T1S, R3E, Section 30A, Tax Lot 01200 & 01401, and is located in Clackamas County, Oregon.

3.

On or about the 8th day of March, 2023 the Respondents violated the following laws, in the following ways:

- a. Respondents violated the Clackamas Building Code, Section 9.02.040 by failing to obtain approved permits and approved final inspections for a detached garage and accessory structures. This violation is a Priority 4 violation pursuant to the Clackamas County

Violation Priorities.

On or about the 8th day of March, 2023 the Respondents violated the following laws in the following ways:

- b. Respondents violated the Clackamas Building Code, Section 9.02.040 by failing to obtain approved permits and approved final inspections for electrical installed without permits. This violation is a Priority 1 violation pursuant to the Clackamas County Violation Priorities.

4.

The Department initiating this procedure is the Code Enforcement Section of the Department of Transportation and Development.

5.

Notice of the violations was given to Respondents in the following manner: Administrative Citation #1400707 in the amount of \$1,700.00 was mailed via first class mail on March 8, 2023. A copy of the notice document is attached to this Complaint as Exhibit G, and incorporated by this reference.

6.

Based on these allegations, petitioner requests that a hearing be set in this matter. Petitioner seeks an Order from the Hearings Officer granting the following relief:

1. Pursuant to Clackamas County Code Section 2.07.090, ordering Respondents to immediately abate the violations and bring the property at issue into compliance with all laws, and permanently enjoining Respondents from violating these laws in the future;

2. Pursuant to Clackamas County Code Section 2.07.090, imposing a civil penalty against Respondents for each violation, within the range established by the Board of County Commissioners. Said range for a Building Code Priority 1 violation being \$750.00 to \$1,000.00 per occurrence as provided by Appendix B to the Clackamas County Code.

3. Pursuant to Clackamas County Code Section 2.07.090, imposing a civil penalty against Respondents for each violation, within the range established by the Board of County Commissioners. Said range for a Building Code Priority 4 violation being \$250.00 to \$1,000.00 per occurrence as provided by Appendix B to the Clackamas County Code.

4. Pursuant to Clackamas County Code Section 2.07.090, ordering Respondents to pay an administrative compliance fee as provided by Appendix A to the Clackamas County Code;

5 Pursuant to Clackamas County Code Section 2.07.090, ordering Respondents to reimburse the County for any expense the County may incur in collection of any penalties, fines or fees that may be imposed:

and

6. Ordering any other relief deemed reasonably necessary to correct the violations.

DATED THIS 13 day of April, 2023.

Jennifer Kauppi

Jennifer Kauppi
Code Enforcement Specialist
FOR CLACKAMAS COUNTY

COUNTY OF CLACKAMAS,

Petitioner,

WILBUR AKINS AND JOYCE LEARD,

Respondents.

File No.: V0070714

STATEMENT OF PROOF

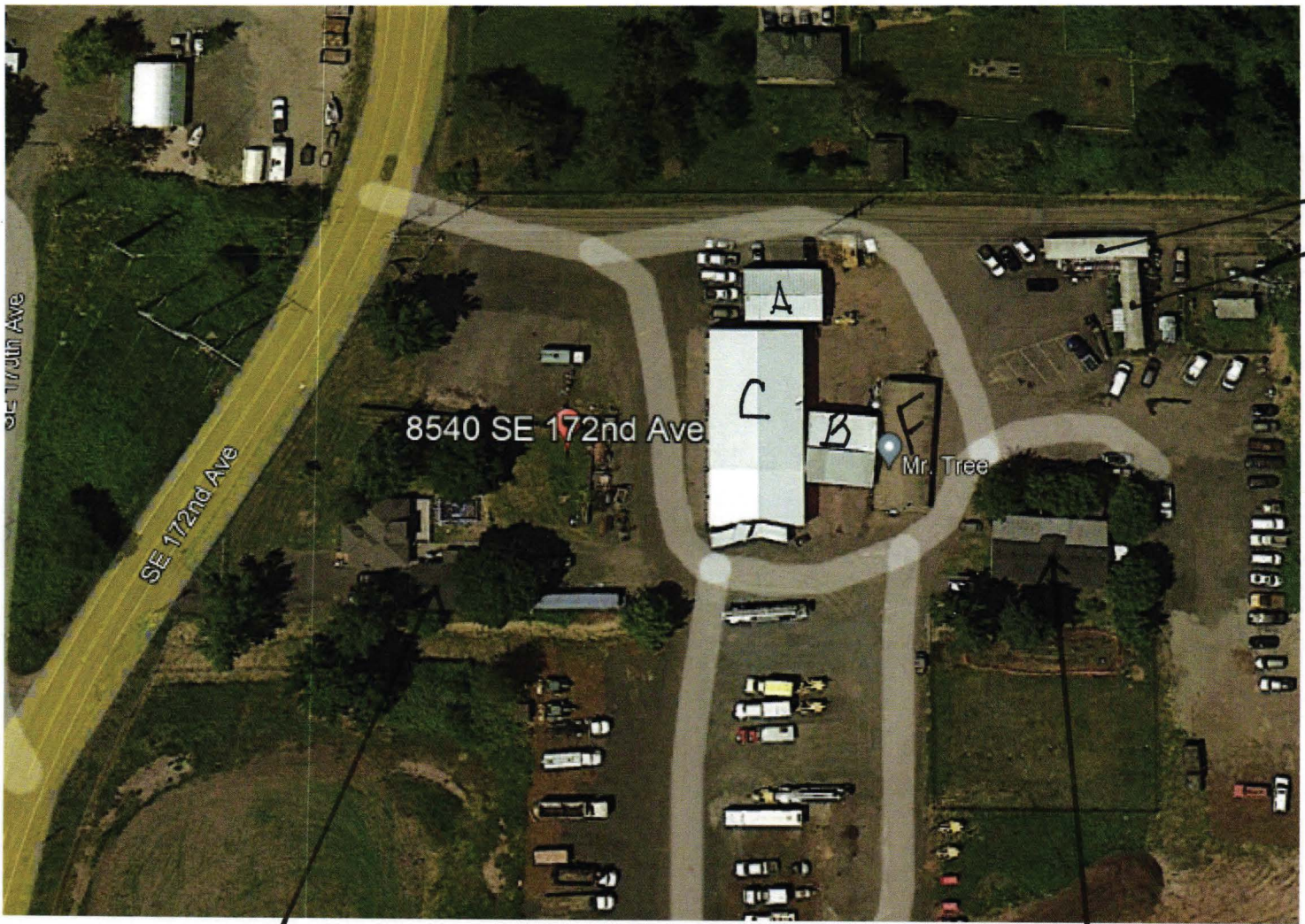
History of Events and Exhibits:

October 21, 2014	Clackamas County received a complaint regarding a garage being built without permits.
March 2022	This file was reassigned to myself. All previous fines and fees were voided.
March 2022 Exhibit A	I conducted research on the subject property which included 8540 SE 172 nd Ave and 8550 SE 172 nd Ave, Happy Valley, OR 97086. I reviewed photos taken of the site on by former Code Enforcement Specialists. The photos reflect the work being done to the garage of the single family residence and several other buildings found onsite. I conducted research of County records and found no permits had been issued for the garage or the several accessory structures on site. In addition, the manufactured home had not received final approved inspection for the placement of the home.
March 14, 2022 Exhibit B	Correspondence was sent to the Respondents with a deadline of May 9, 2022 to abate the violations.
May 9, 2022 Exhibit C	I received an email from the Respondents attorney Sarah Mitchell in response to the correspondence that was sent to the Respondents on March 14, 2022.
May 19, 2022	Sarah Mitchell and myself met on a zoom meeting to discuss the violation on the subject property. Sarah acknowledged that the garage had been enlarged without permits. We reviewed each building and the current uses. All building do have electrical installed to them. Sarah did not know if there was any plumbing added to any of the structures. Sarah stated that buildings D & E will be removed when the new building is built. They considered these temporary structures. I explained to Sarah these structures were placed in 2002 and 2007 and would not be considered temporary use.
June 14, 2022 Exhibit D	Agricultural exemptions were submitted for some of the buildings. AG012722, AG012822, AG012922 at address 8540 and AG013022 at address 8550. It is unclear what buildings these are for as the measurements that were submitted do not match what is on site and the applications did not indicate a building letter as noted on the submitted site plan.

November 22, 2022 Exhibit E	I received an email from attorney Sarah Mitchell. She stated MH0005616 received an approved final inspection and Dan Symons with Symons Engineering was preparing a building permit for the garage. An estimated time for submittal of the garage was December 23, 2022.
February 8, 2023 Exhibit F	I reviewed the County records and found that the agricultural exemption permits had not been approved. I sent an email to planning to ask what was required. Senior Planner Clay Glasgow responded that planning will not sign off without a statement of use from the applicant that limits the use of the buildings to the scope of the approved Conditional Use or an outright permitted farm or forest use in the applicable zone.
March 8, 2023 Exhibit G	A review of County records found no permits had been issued for the garage or additional accessory structures. Citation 1400707 for \$1,700.00 for the Priority 1 and Priority 4 Building Code violations was issued. The citation was sent first class mail and was not returned to the County. The citation remains unpaid.
April 13, 2023	This matter was referred to the Hearings Officer.

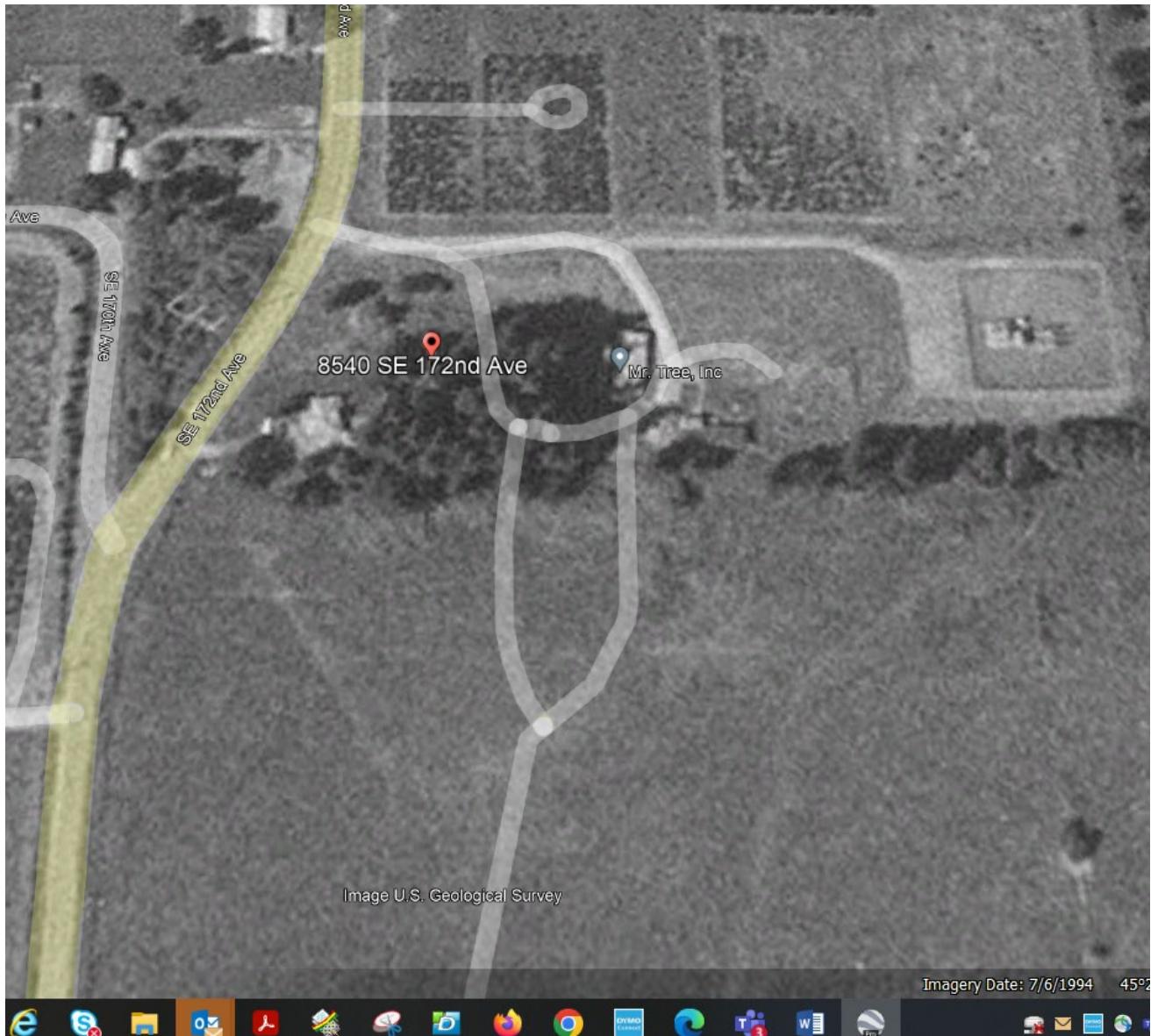
If the Compliance Hearings Officer affirms the County's position that a violation of the Building Code, Title 9.02.040 exists, the County may request a Continuing Order in this matter recommending the following:

- The Respondents be ordered to bring the property into compliance with the Building Code by submitting the Statement of Use to Clay Glasgow with the Planning and to update the pending agricultural exemption permit application with the corresponding building letter per the submitted site plan within 15 days of the date of the order. Within 30 days, submit a technically complete building permit application for the detached garage and a building permit or agricultural exemption for the job trailers indicated as building D and E and all applicable electrical, plumbing and mechanical permits for the detached garage and accessory structures. Respond to all requests for additional plan review information within 10 days of being notified. Permits to be paid for within 10 days of being notified they are ready to be issued by the building department. All required inspections including approved final inspections to be obtained within 60 days of permits being issued.
- Code Enforcement to confirm compliance of the above item and the County will submit a Post Hearing Status Report. The report will be sent to the Compliance Hearings Officer and to the Respondents.
- The report may include the following recommendations:
- The imposition of civil penalties for the Building Code violation of up to \$7,000.00 for date cited March 8, 2023.
- Payment for Citation No. 1400707 issued on March 8, 2023 for \$1,200.00 for the Priority 4 Building Code violations and \$500.00 for the Priority 1 Building Code violation for a total amount due of \$1,700.00.
- The administrative compliance fee to be imposed from April, 2023 until the violation is abated. As of this report the total is \$75.00
- The County requests the Hearings Officer to permanently prohibit the Respondents from violating this law in the future.
- If the Respondents fail to comply with the Hearings Officer's Continuing Order the County will request the Hearings Officer to issue a Final Order and will also request the Hearings Officer to authorize the County further enforcement action including to proceed to Circuit Court.



Garage

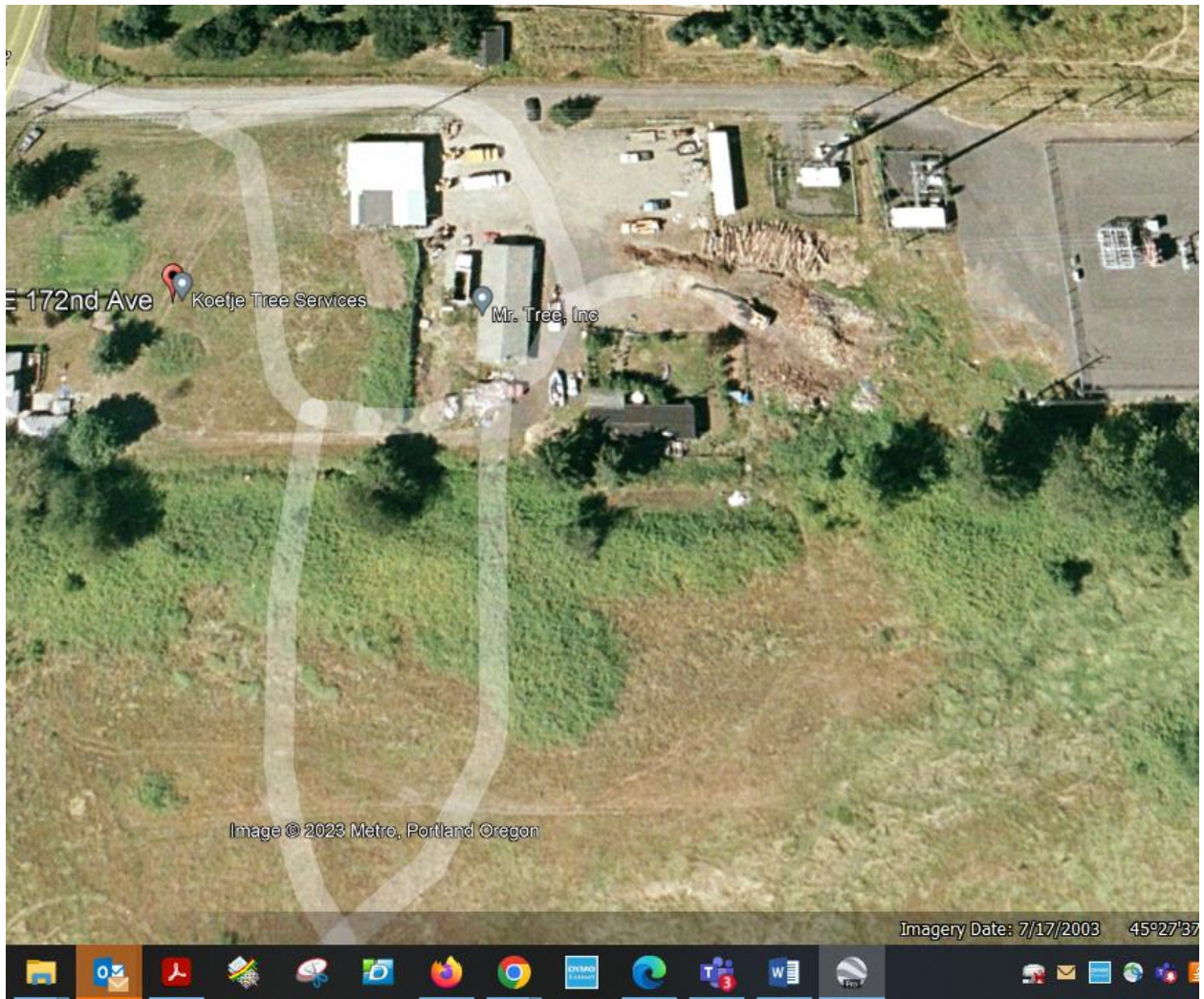
Manufactured Home



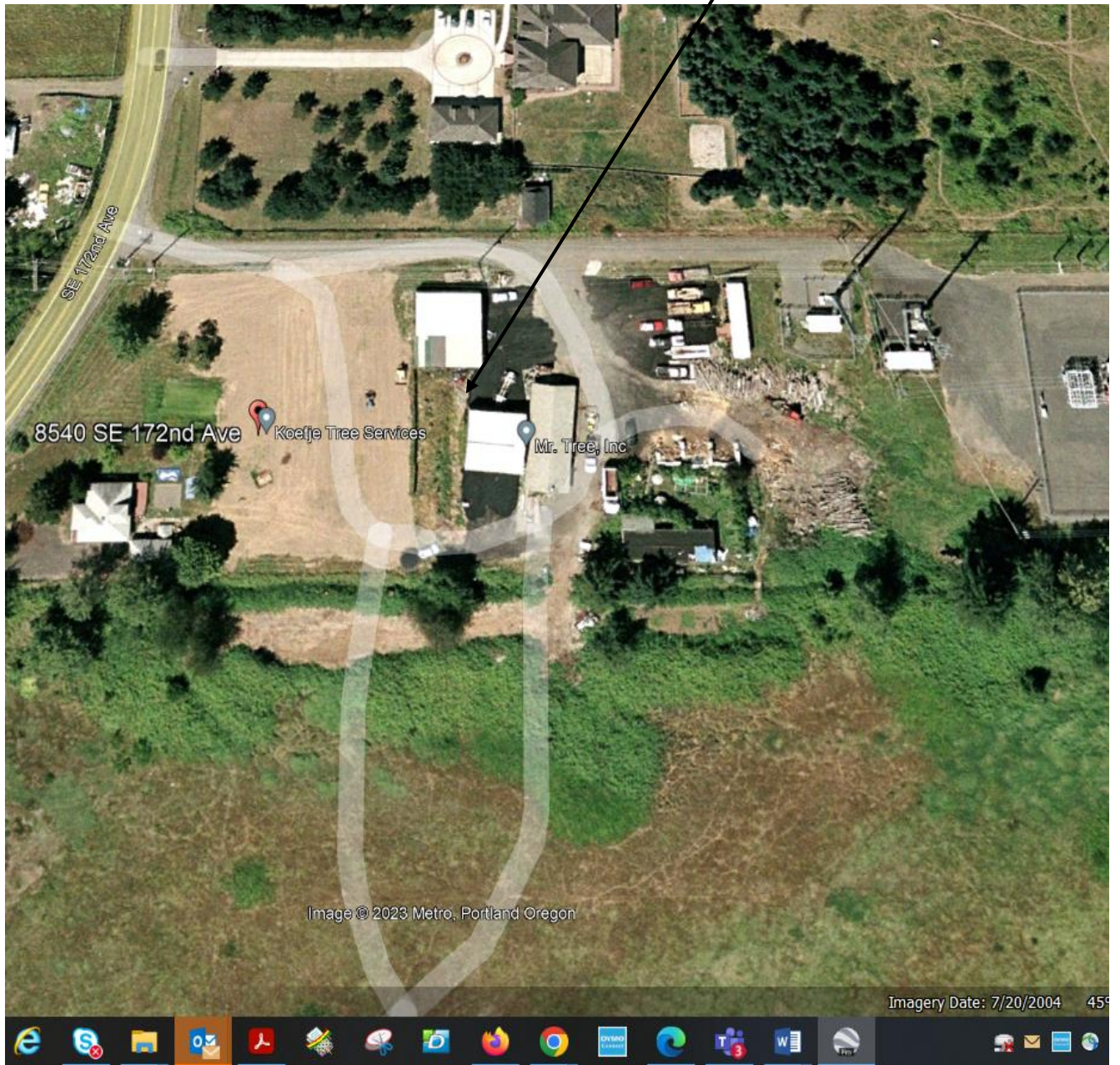




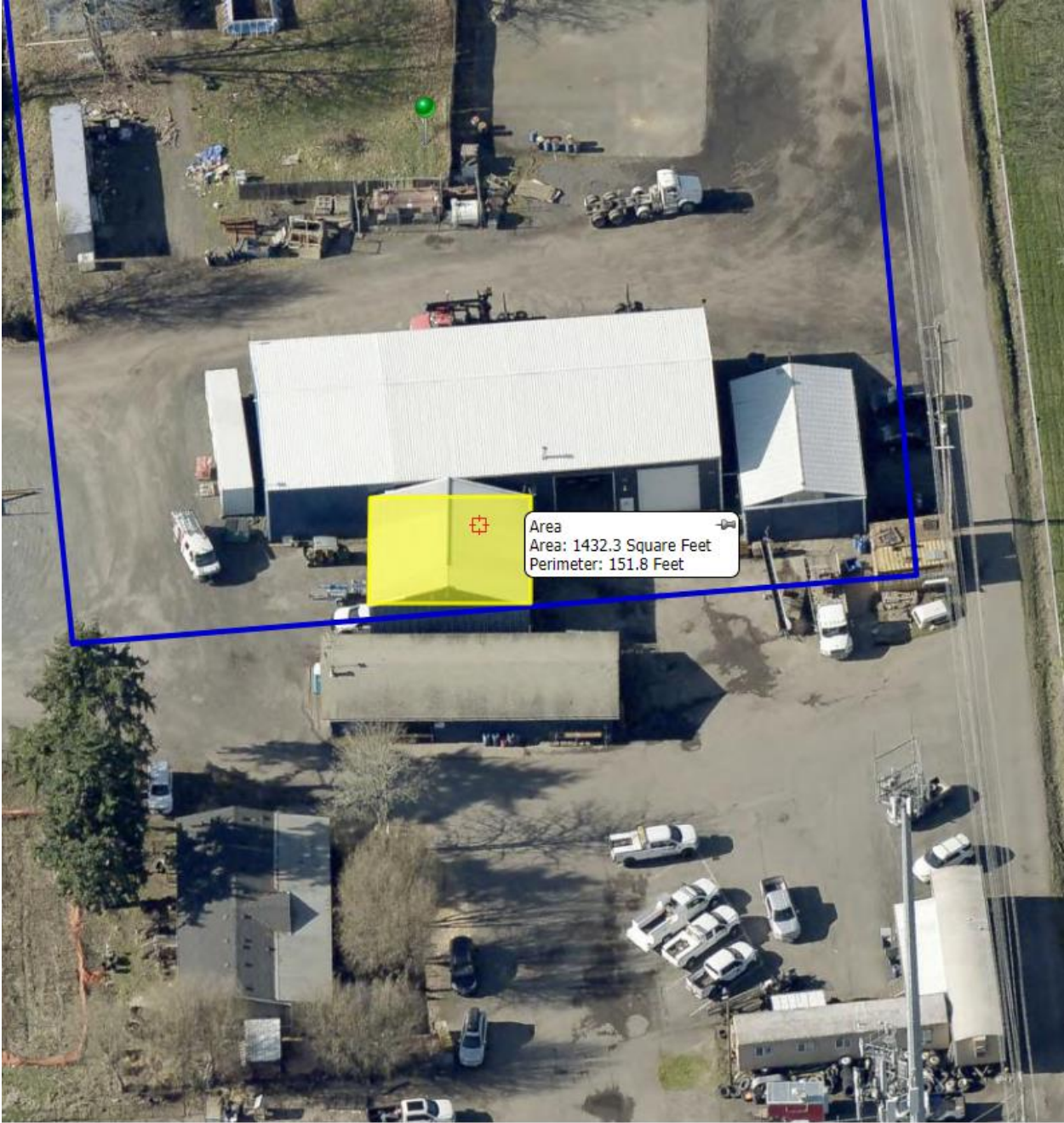
BUILDING B Before



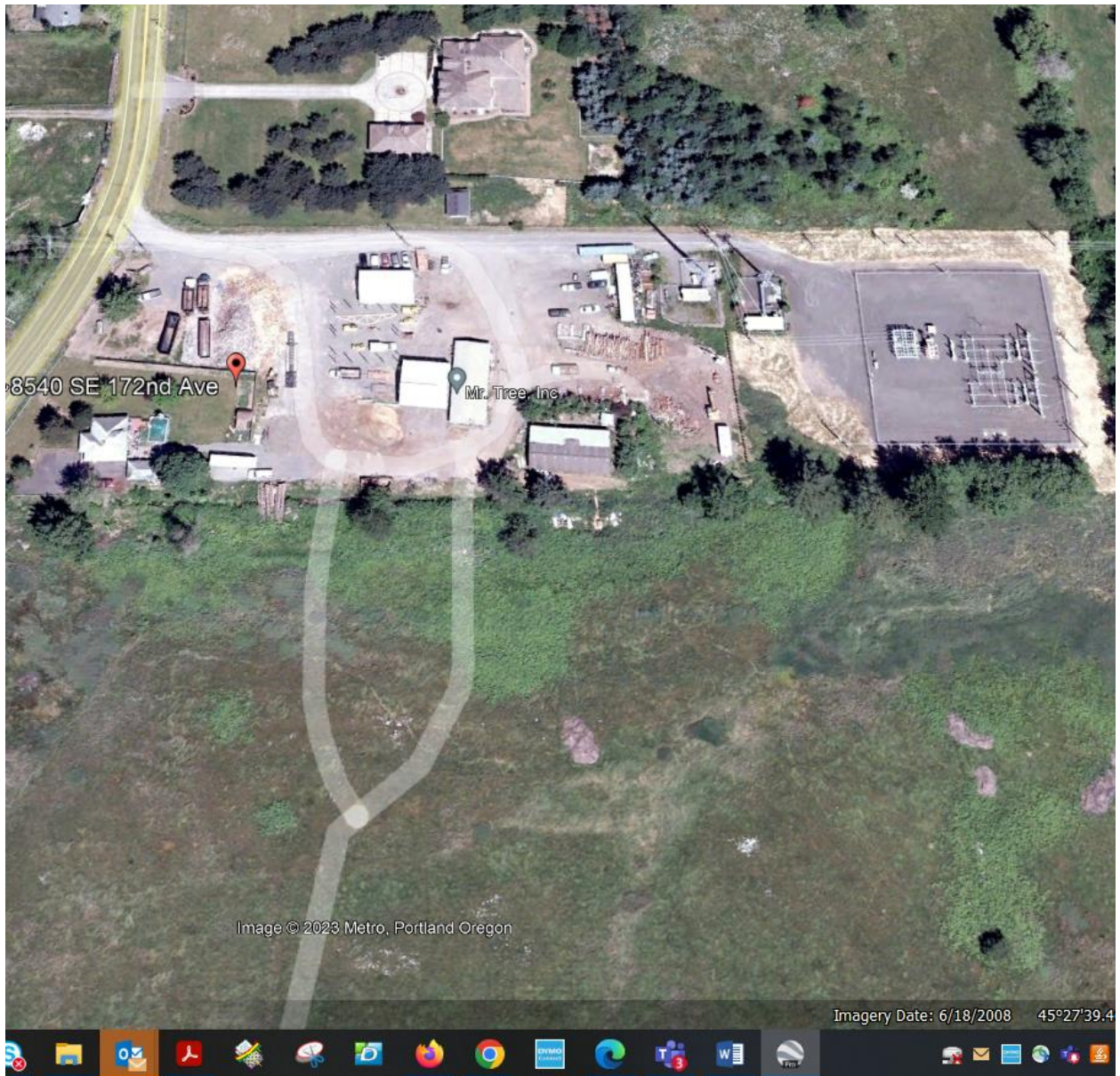
Building B After



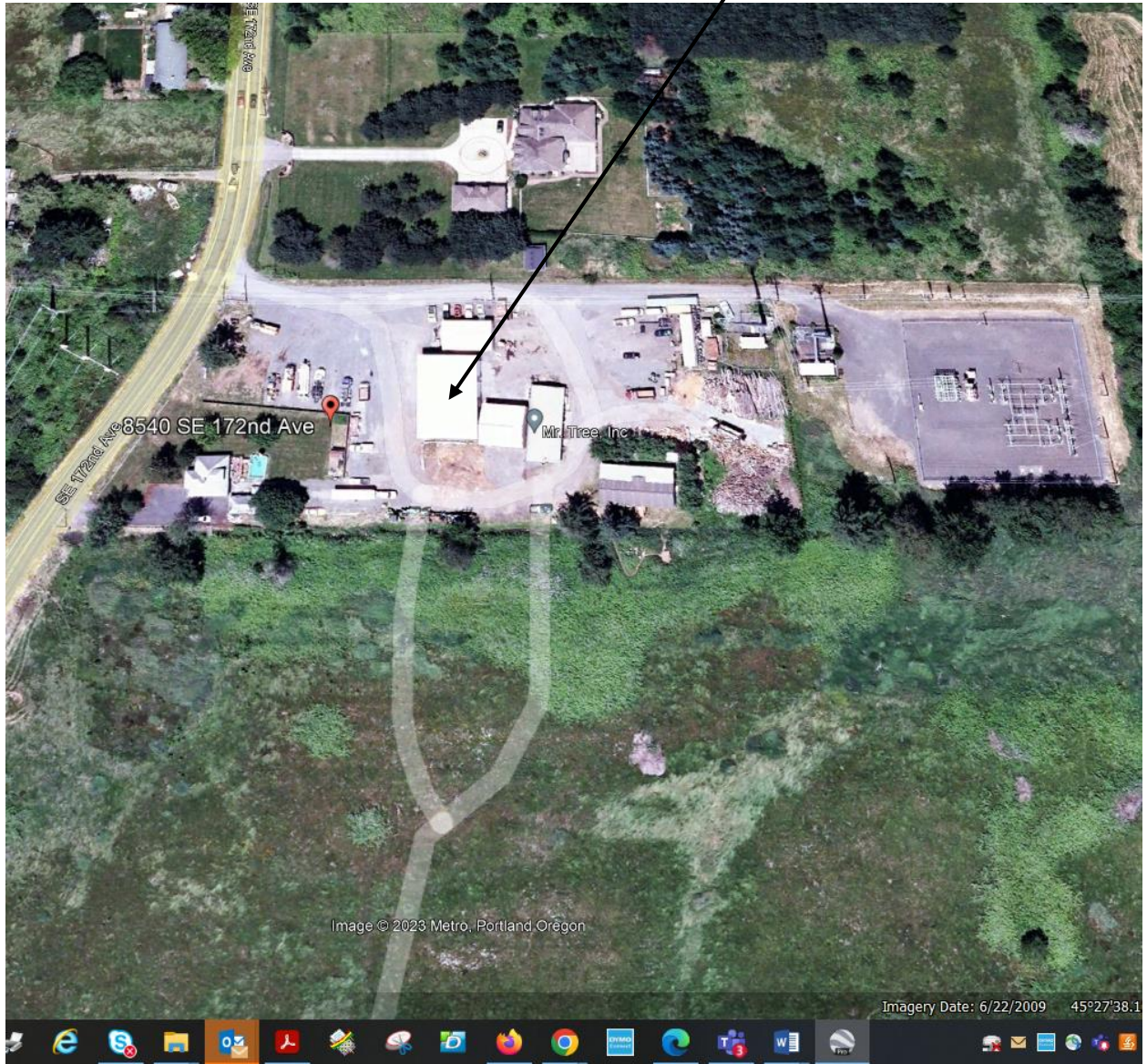
Building B Size



BUILDING C Before



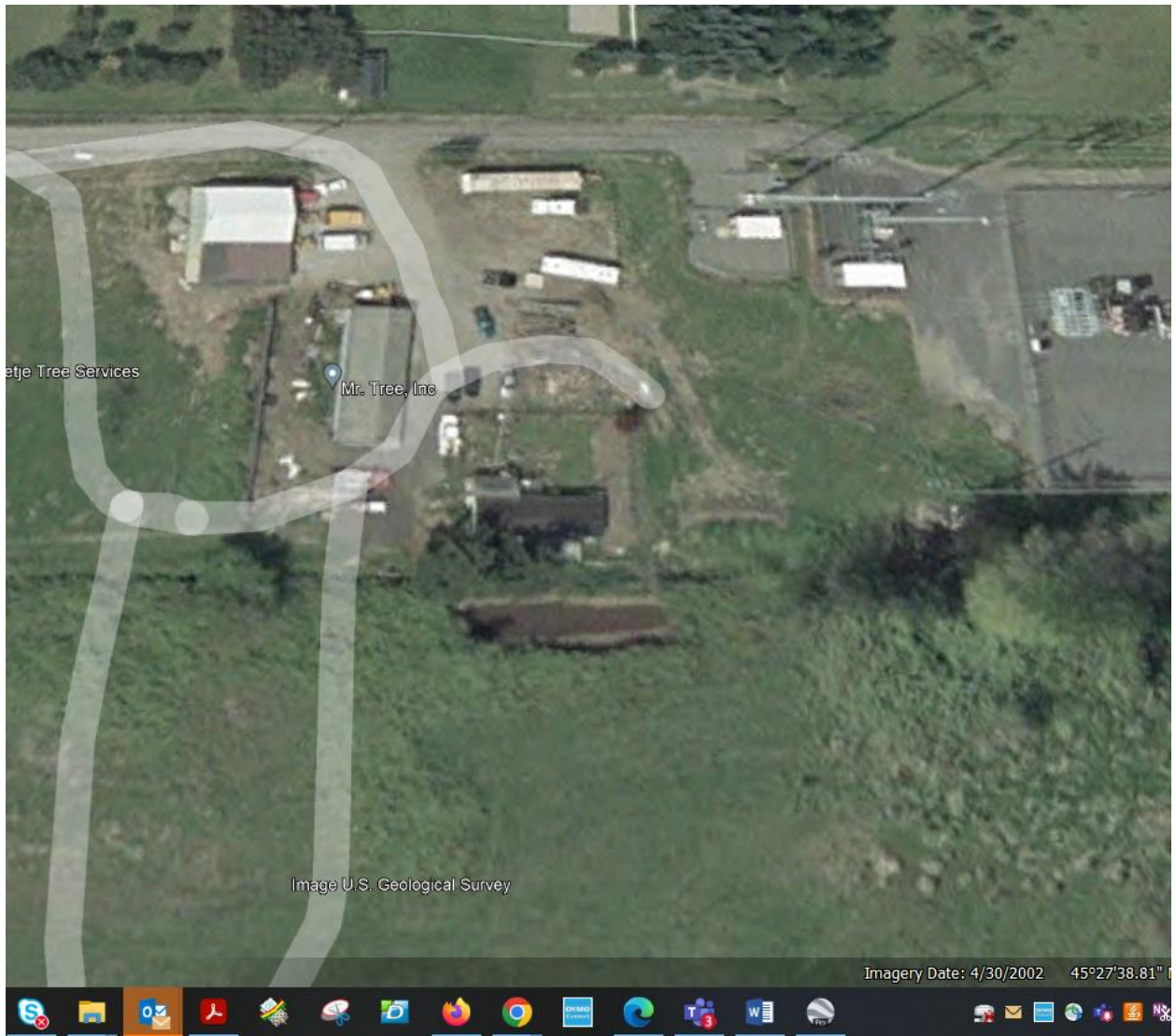
Building C After



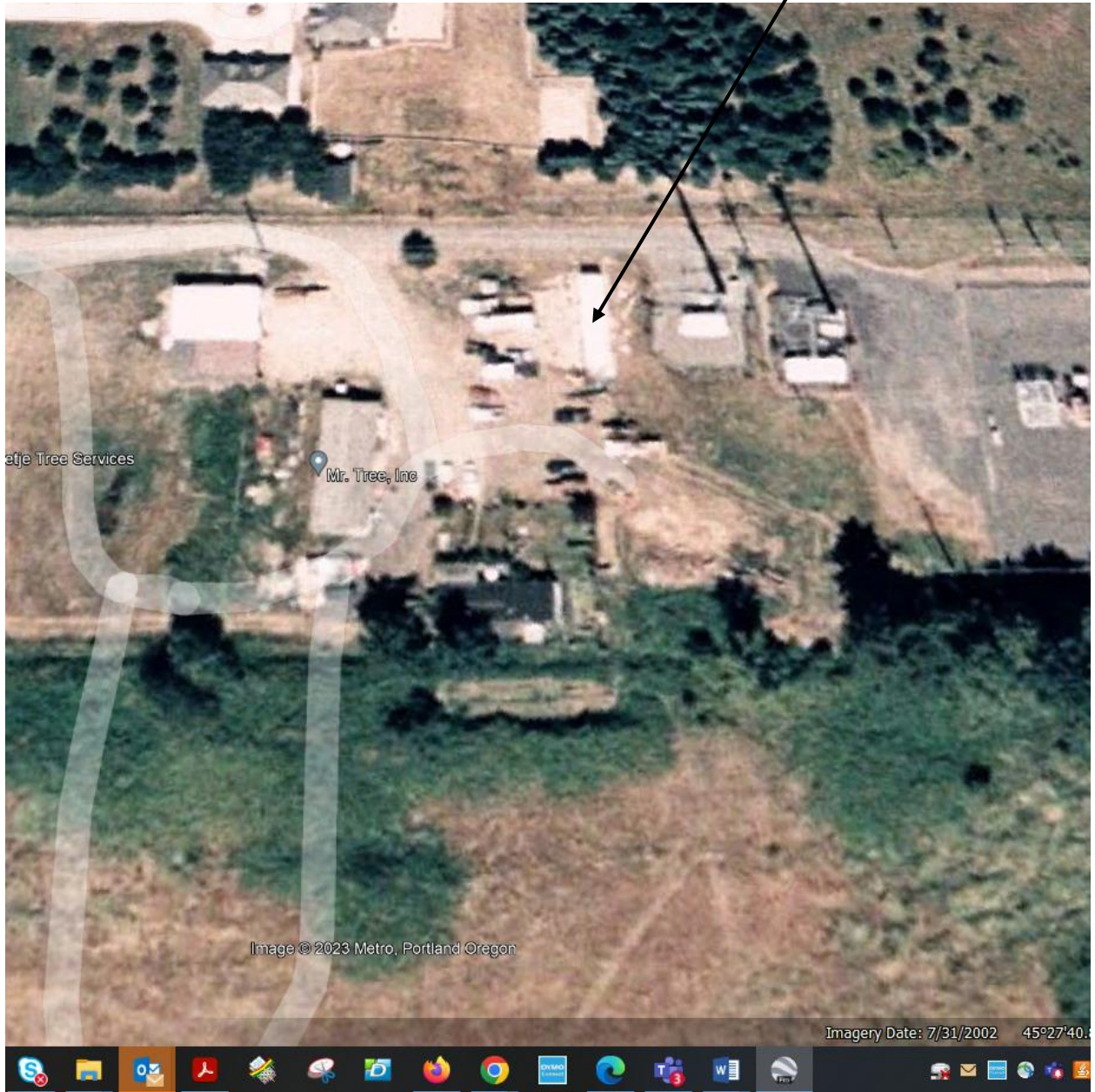
Building C Size



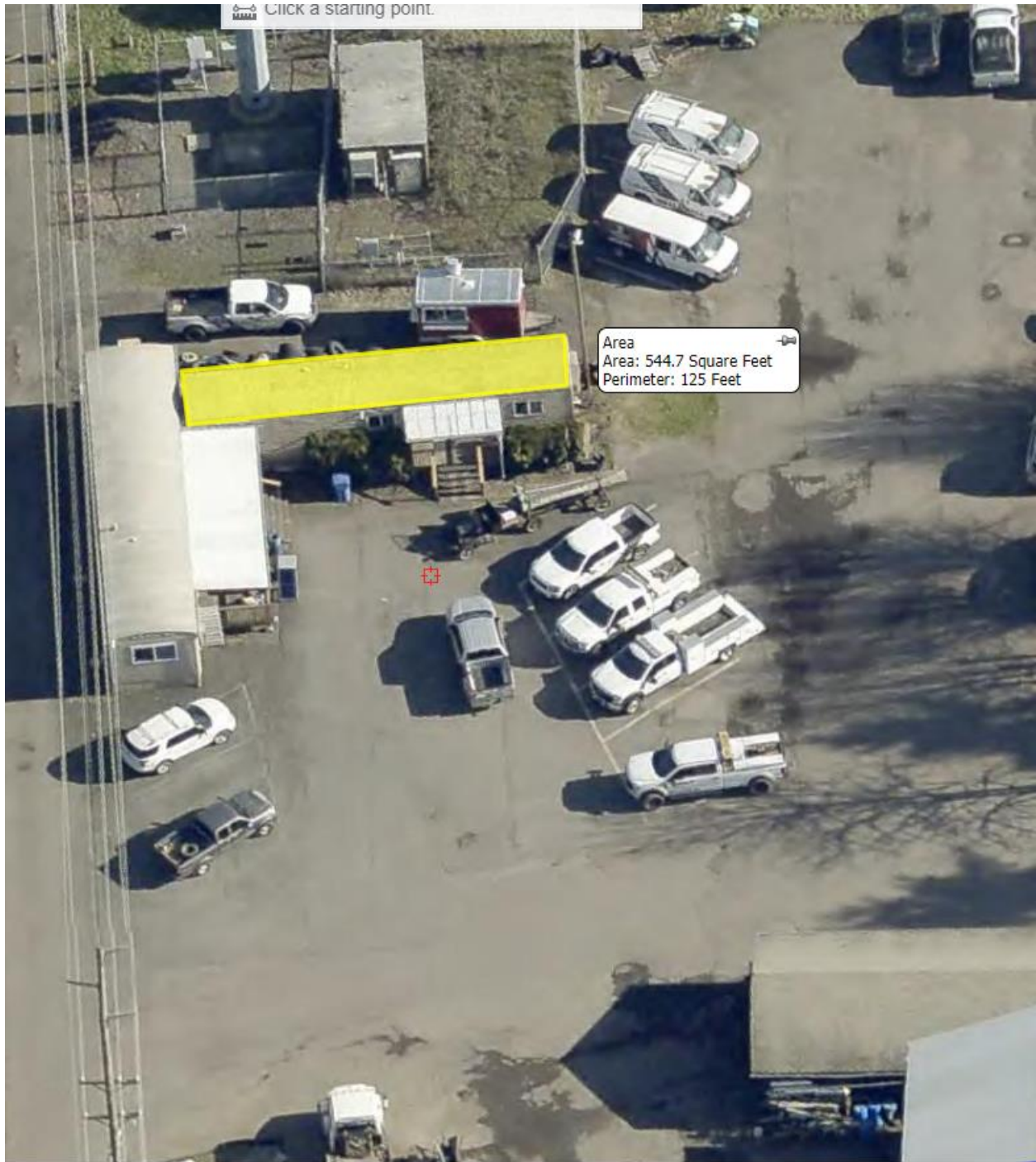
BUILDING D Before



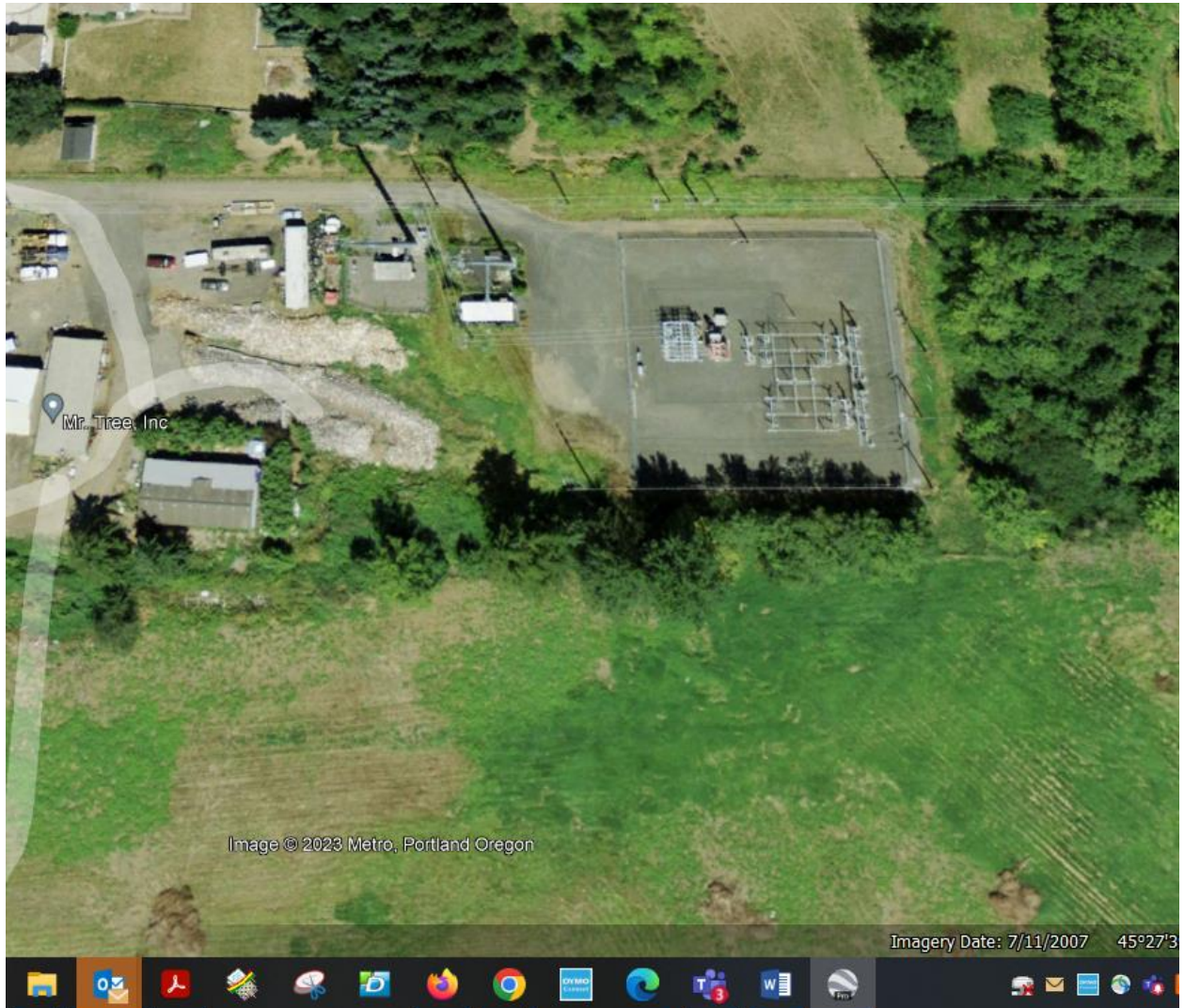
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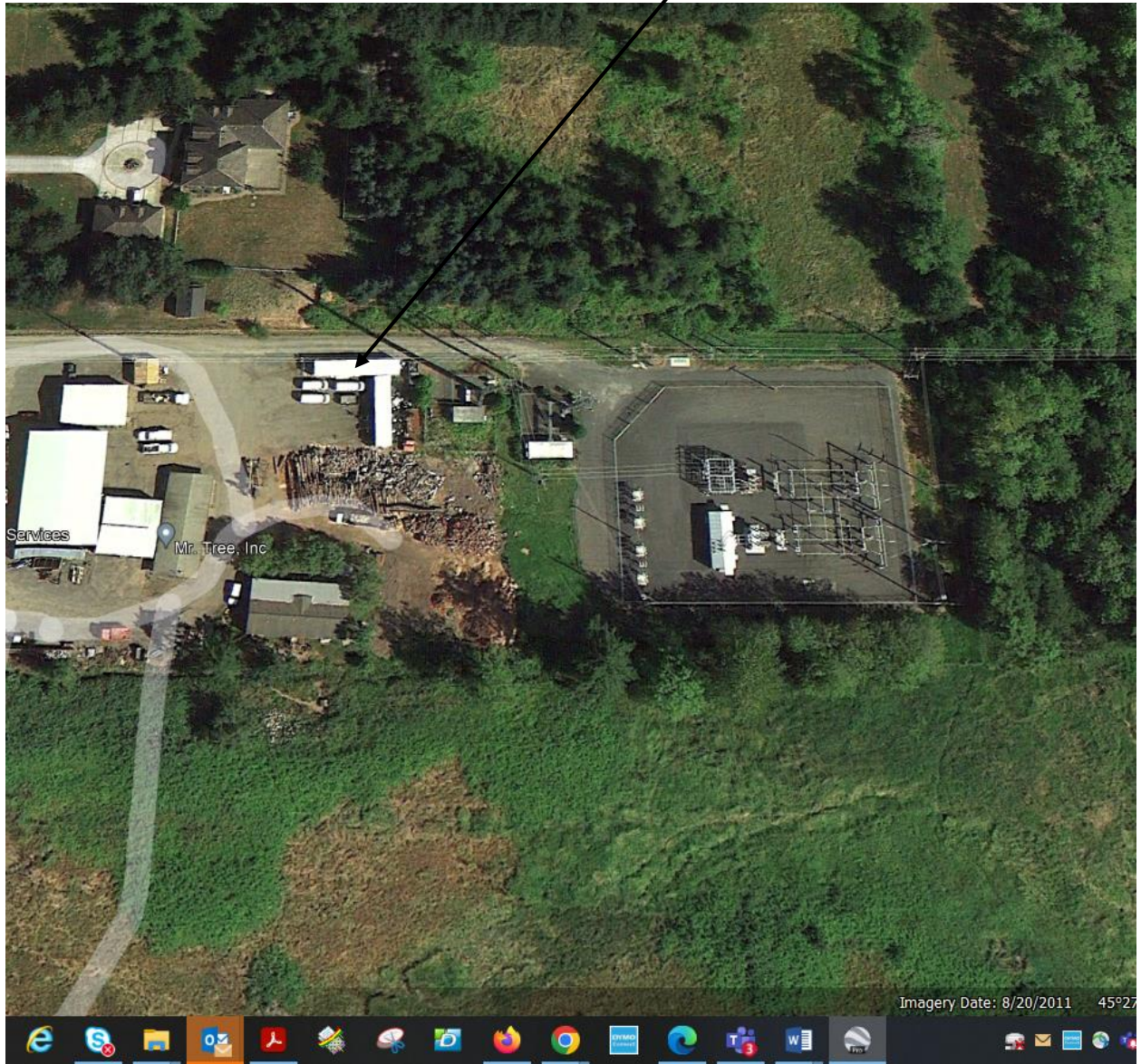
Building D Size



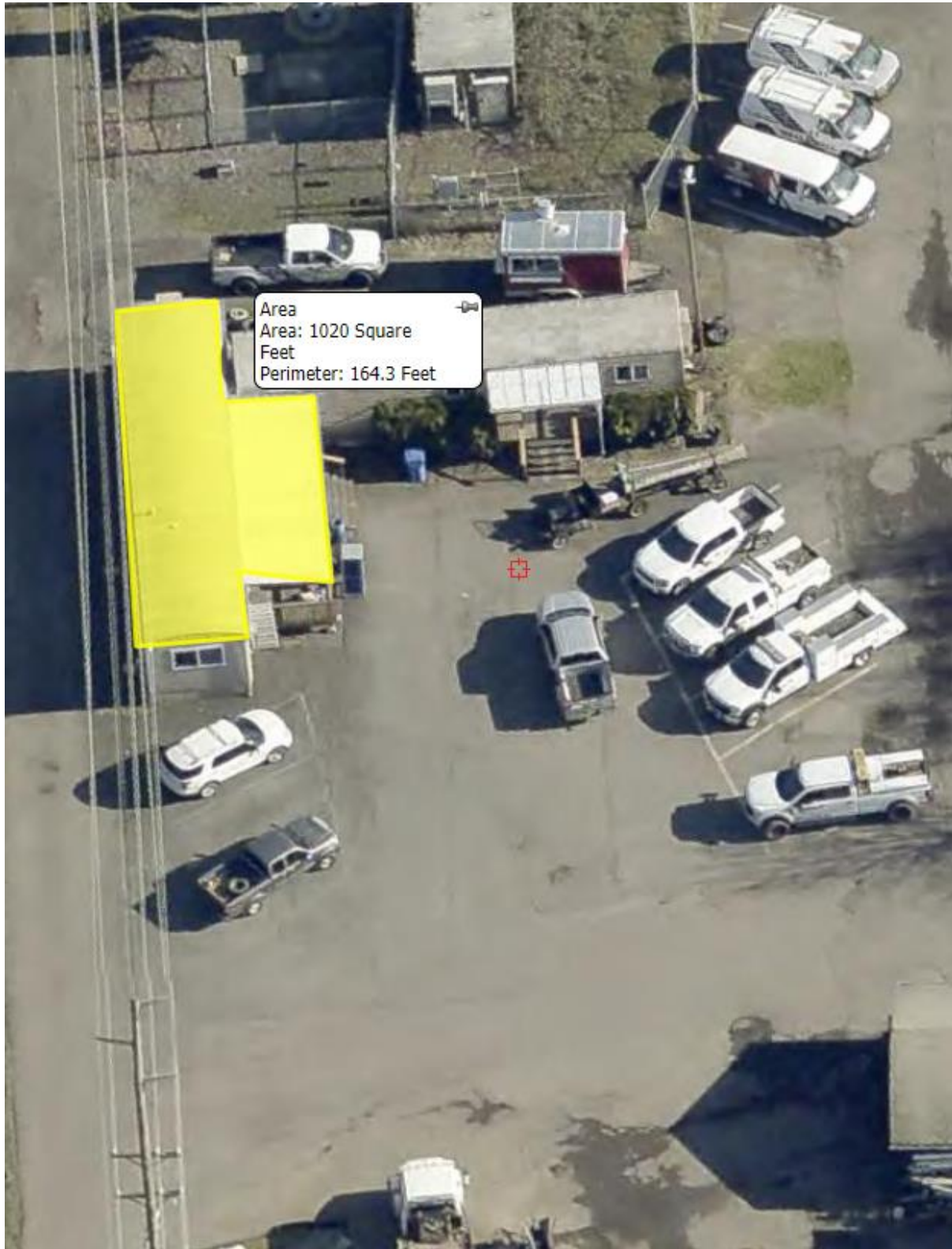
BUILDING E Before



Building E After



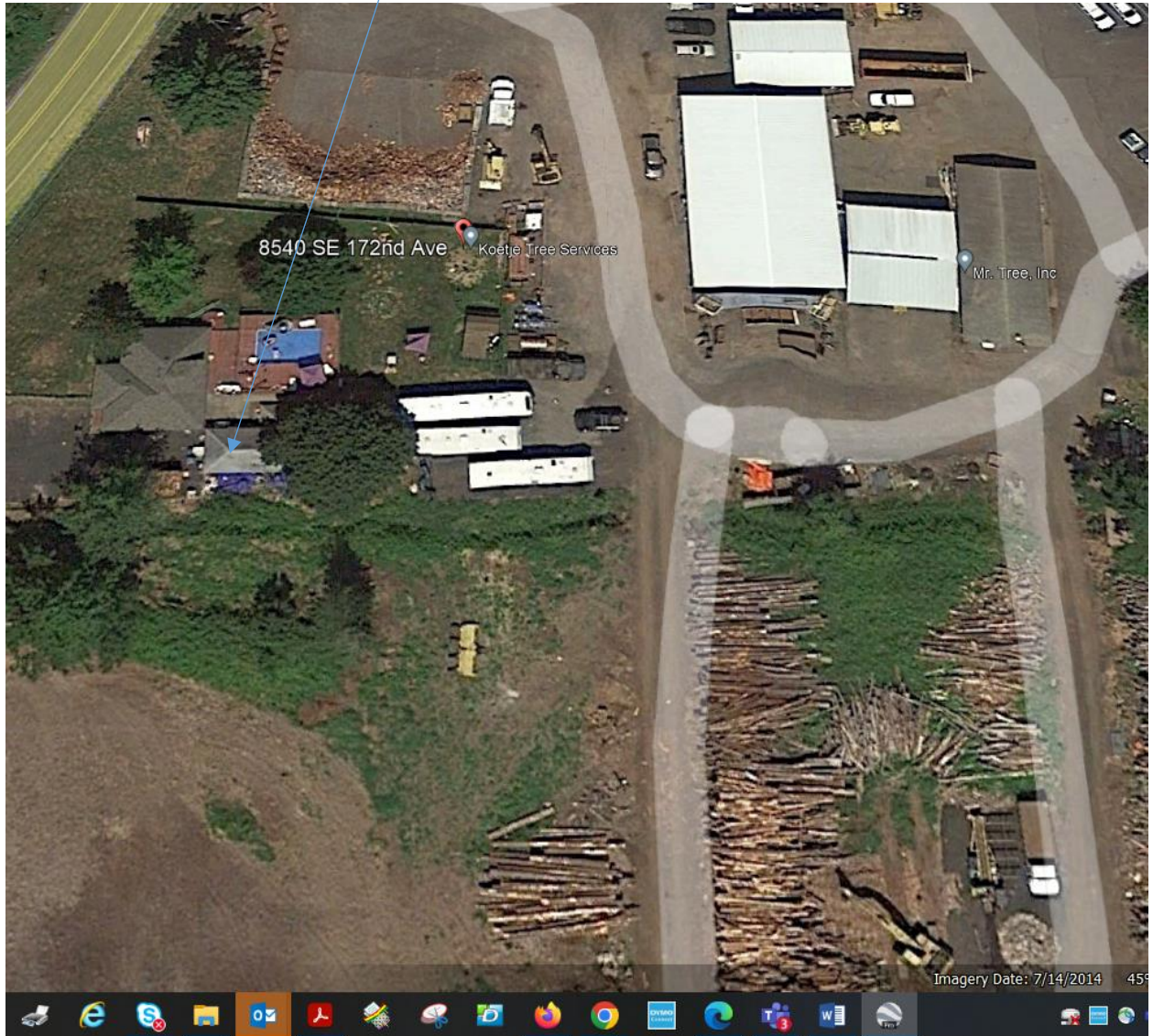
Building E Size



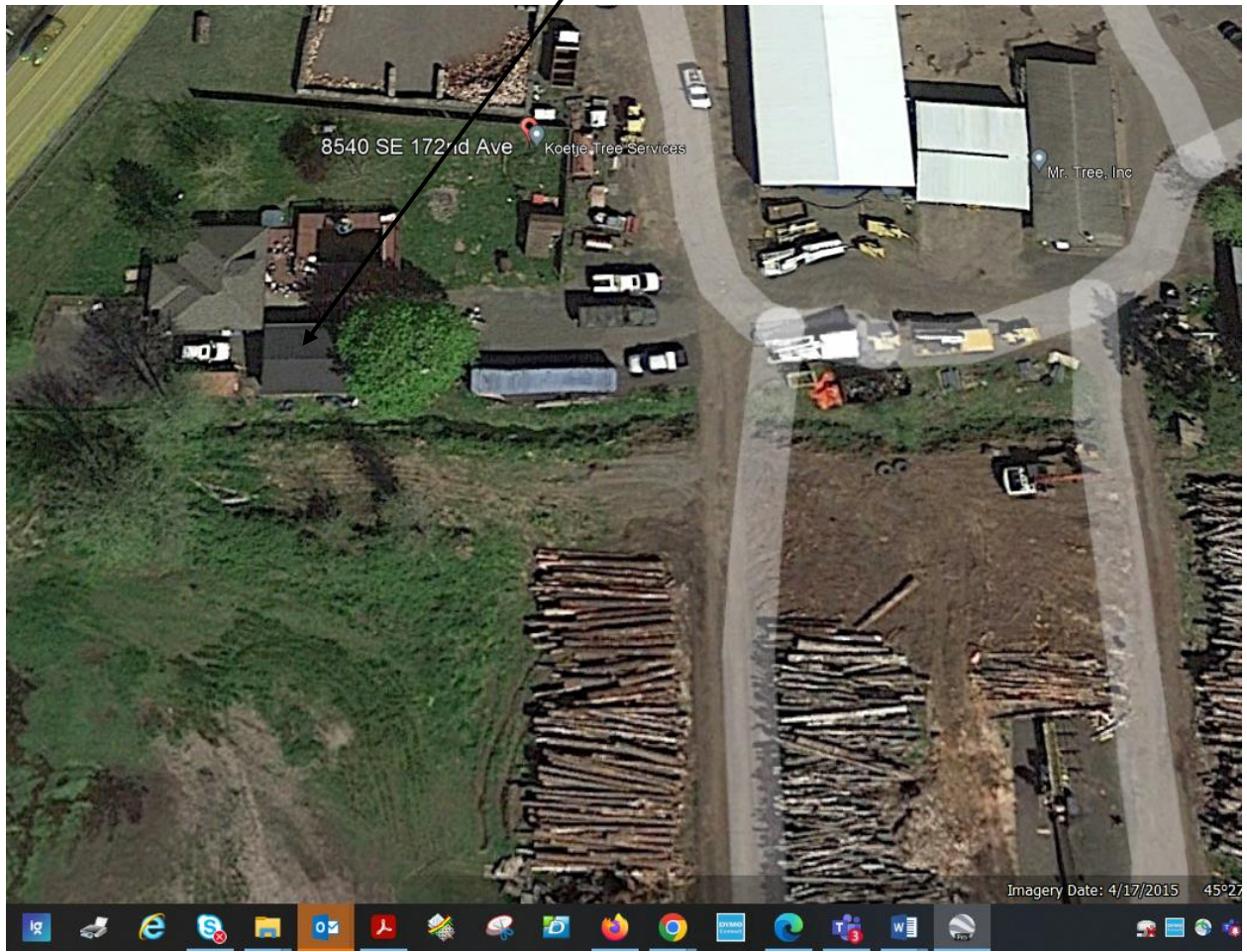




GARAGE approx. 16 x 24



Garage After Approx 25 x 28



Garage Area Before



image 1 of 5 > 05/04/2011



Garage Area After



Current day measurement





March 14, 2022

Wilbur Atkins and Joyce Leard
8560 SE 172nd Ave
Boring, OR 97009

SUBJECT: Violation of the Clackamas County Building Code, Title 9.02.040 (A)(B)(C)(D)(E) and Zoning and Development Ordinance, Title 12, Section 316.03(A)

VIOLATION: V0070714

SITE ADDRESS: 8540 SE 172nd Ave., Happy Valley, OR 97086
8550 SE 172nd Ave., Happy Valley, OR 97086

LEGAL DESCRIPTION: T1S, R3E, Section 30A, Tax Lot 01200 & 01401

This letter serves as notice of a violation of the Clackamas County Code. The violations include:

Construction of accessory structures without permits
Construction of commercial structures without permits
Failure to comply with Conditions of Approval per land use decision Z0160-19

VIOLATIONS & HOW TO RESOLVE

In June of 2015 the violations on the above reference properties were confirmed by site inspection. Several accessory buildings, an addition of a garage to a single family residence, expired manufactured home placement permits and business operations occurring on site that were outside of land use decision Z0491-15. A modification of the CU Z0491-15 was applied for Z0160-19 and approved. The land use approved replacing the office trailer with a larger permanent structure (Building C) and increased parking. The conditions of approval on that land use decision have not been met.

Construction without permits constitutes a violation of Clackamas County Building Code Chapter 9.02.040(A),(B),(C),(D), and (E) and failure to comply with the Conditions of Approval in land use decision Z0160-19 constitutes a violation of Zoning and Development Ordinance, Title 12, Section 316.03(A) In order to abate the violation(s), you must complete the following **no later than May 9, 2022** :

Engineering Development Permit SC007120 was applied for on 9/29/2020 as part of the Conditions of Approval for Z0160-19. An email was sent on October 20, 2020 with a list of information needed in order to complete SC007120. I have attached a copy of the email for your reference. Please complete the following **no later than May 9, 2022**

- Please submit, or have your professional submit, the required information, technically complete plans to the Engineering Department. Permits are accepted online only, for more information on this process for the Engineering Department please contact 503-742-4691.
 - The permit(s) must have the fee(s) paid in full within ten days of your being notified by Engineering
 - Please schedule all required inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

Garage built without permits

Between July 2014 and April of 2015 a garage was constructed next to the single family residence without permits. A photo of the garage has been included with this letter. In order to abate the Building Code violation, please complete the following **no later than May 9, 2022:**

- Please submit, or have your professional submit, the building permit application(s), technically complete plans and appropriate fee(s). Permits are accepted online only, for more information on this process please refer to the County's website at <https://www.clackamas.us/building>
 - The permit(s) must have the fee(s) paid in full within ten days of your being notified by Building Codes.
 - Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

Accessory Structure without permits (Building A)

Based on aerial imaging, the accessory structure labeled as Building A was built between 1994 and 2000 with an addition to the building done in 2002. In order to abate the Building Code violation, please complete the following **no later than May 9, 2022**

- Please submit, or have your professional submit, the building permit application(s), technically complete plans and appropriate fee(s). Permits are accepted online only, for more information on this process please refer to the County's website at <https://www.clackamas.us/building>
 - The permit(s) must have the fee(s) paid in full within ten days of your being notified by Building Codes.
 - Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

Accessory Structure without permits (Building B)

Based on aerial imaging, the accessory structure labeled as Building B was built between 2002 and 2004. In order to abate the Building Code violation, please complete the following **no later than May 9, 2022**:

- Please submit, or have your professional submit, the building permit application(s), technically complete plans and appropriate fee(s). Permits are accepted online only, for more information on this process please refer to the County's website at <https://www.clackamas.us/building>
 - The permit(s) must have the fee(s) paid in full within ten days of your being notified by Building Codes.
 - Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

Accessory Structure without permits (Building C)

Previous site inspections confirmed the construction of Building C between 2008 and 2009. Permit B0689719 was submitted for this structure. As of this date the permit has not been issued. The issuing of this permit is dependent on the completion of the Engineering Development permit SC007120. To abate the Building Code violation, please complete the following **no later than May 9, 2022**:

- Complete all requirements for the approval of SC007120
- The permit B0689719 must have the fee(s) paid in full within ten days of your being notified by Building Codes.
- Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

Job Trailers placed without permits (Building D & E)

Based on aerial imaging, Job Trailer D was placed on site between May 2002 and August of 2002. Job Trailer E was placed on site between July 2007 and July 2008. In order to abate the Building Code violation, please complete the following **no later than May 9, 2022**:

- Please submit, or have your professional submit, the building permit application(s), technically complete plans and appropriate fee(s). Permits are accepted online only, for more information on this process please refer to the County's website at <https://www.clackamas.us/building>
 - The permit(s) must have the fee(s) paid in full within ten days of your being notified by Building Codes.
 - Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

Accessory Structure (Building F)

The accessory structure labeled as Building F appears to have been permitted in 1985 as a general purpose building for equipment storage. It appears that Mr. Tree Inc is operating from this building. The change of use from a shop to a business requires Change of Use permits. In order to abate the Building Code violation, please complete the following **no later than May 9, 2022**:

- Please submit, or have your professional submit, the building permit application(s), technically complete plans and appropriate fee(s). Permits are accepted online only, for more information on this process please refer to the County's website at <https://www.clackamas.us/building>
 - The permit(s) must have the fee(s) paid in full within ten days of your being notified by Building Codes.
 - Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

Manufactured Homes Expired Permits

In 2016, permits MH0005616 and E0324016 were issued for the replacement of the Manufactured Home. The permits are expired and have not received final approved inspections. In order to abate the Building Code violation, please complete the following **no later than May 9, 2022**:

Please contact the Building Department at bldservice@clackamas.us or call 503-742-4240 to renew permits MH0005616 and E0324016.

- The permit(s) must have the renewal fee(s) paid in full within ten days of your being notified by Building Codes.
- Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of receipt of your approved permit(s).

CONTACT INFORMATION

Building – If you have questions concerning permitting requirements please contact the building department at 503-742-4240 or on-line at bldservice@clackamas.us.

You may also stop by the Planning, Permitting and Code Enforcement Offices at the Development Services Building, 150 Beaver Creek Road, Oregon City. The lobby is open between the hours of 8:00 a.m. to 4:00 p.m. Monday through Thursday and 8:00 a.m. to 3:00 p.m. on Fridays.

If you have any questions my direct telephone number is 503-742-4759 and my email is jkauppi@clackamas.us.

Jennifer Kauppi

Code Enforcement Specialist
Clackamas County Code Enforcement

Important Notices

1. **Administrative Compliance Fees.** It is important that you contact the Code Enforcement Section to resolve the violations described in the enclosed letter. **An administration compliance fee of \$75 will now be assessed monthly until the violations are abated.**
2. **Failure to resolve those violations may result in one or more of the following:** (1) a citation and fine, and (2) referral of this matter to the County Code Enforcement Compliance Hearings Officer.
3. **Request for a Hearing:** If you dispute the existence of the violations described in the enclosed letter you may request a hearing before the Hearings Officer by sending a written request for a hearing, including your name and address to: Code Enforcement Section, 150 Beaver Creek Rd., Oregon City, OR 97045, or at codeenforcement@clackamas.us.
4. **Potential Fines and Penalties:** The Clackamas County Code provides for Citation fine amounts of up to \$500 and additional civil penalties imposed by the Hearings Officer of up to \$3,500 for each day the County verifies the noncompliance. Fine amounts and civil penalties may be assessed for each cited violation and may be assessed separately against each named party. In addition, the Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.
5. **Voluntary Compliance:** Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that when a property owner works cooperatively with the County to resolve a confirmed code enforcement violation, the County may in its discretion waive all or part of the \$75 per month administrative fee.
6. **Non-Compliance may result in a lien upon your property:** Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.
7. **Final Order may be enforced in Circuit Court:** Also, be advised that non-compliance with a Hearings Officer's Order may result in the matter being referred to County Counsel for legal action in Circuit Court which may result in additional penalties or other sanctions.
8. **Recurrences will result in additional Citations:** Finally, recurrences of abated violations may result in the issuance of a citation without prior notice.

Grantor's Name and Address:

North Pacific Union Conference Association of Seventh-Day
Adventists (NPUCA)
5709 N. 20th St.
Ridgefield, WA 97009

Clackamas County Official Records
Sherry Hall, County Clerk

2016-015758

Grantee's Name and Address:

Wilbur L. Akins and Joyce Rae Leard
8560 SE 172nd Ave.
Boring, OR 97009



01931030201600157580030031

\$63.00

03/08/2016 11:50:37 AM

D-D Cnt=1 Stn=9 COUNTER1
\$15.00 \$16.00 \$22.00 \$10.00

Until a change is requested, all tax statements shall be sent to the following address:

Wilbur L. Akins and Joyce Rae Leard
8560 SE 172nd Ave.
Boring, OR 97009

After recording return to:

Wendie L. Kellington
Kellington Law Group, PC
PO Box 159
Lake Oswego OR 97034

Joyce Leard

**WARRANTY DEED IN FULFILLMENT OF
REAL ESTATE CONTRACT**

North Pacific Union Conference Association of Seventh-Day Adventists which acquired title as North Pacific Union Conference Association, Grantor, conveys and warrants to Wilbur L. Akins and Joyce Rae Leard, husband and wife as tenants by the entirety, Grantee, the following described real property free of encumbrances, except as specifically set forth herein:

See Exhibit "A" for Legal Description

This is given in fulfillment of that certain real estate contract dated January 16, 2003, and recorded on March 11, 2003, in the records of Clackamas County as Recording No. 2003-030034 ("Contract"). The covenants of this warranty deed will not apply to any title, interest, or encumbrance arising by, through, or under Grantee or Grantee's successors in interest, nor to any taxes, assessments, or other charges levied, assessed, or becoming due subsequent to the date of the Contract, nor to any exceptions accepted by grantees as buyer or purchaser in connection with the sale of property pursuant to the Contract.

Subject to the preceding paragraph, this property is conveyed free of encumbrances except those matters of public record.

The true and actual consideration paid by Grantee to Grantor is \$245,000.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE

1 -WARRANTY DEED IN FULFILLMENT OF REAL ESTATE CONTRACT

APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

In construing this instrument, where the context so requires, the singular includes the plural.

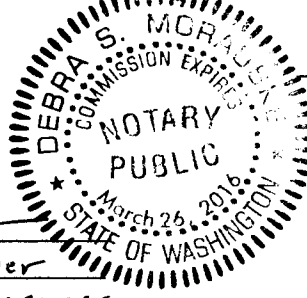
Dated 14th day of December, 2015

NORTH PACIFIC UNION CONFERENCE ASSOCIATION OF SEVENTH-DAY ADVENTISTS:

Kimberley Schroeder
By: Kimberley Schroeder
Title: NPUCA Secretary

State of Washington)
) ss.
County of Clark)

This instrument was acknowledged before me on December 14, 2015, by Kimberley Schroeder, in his/her capacity as Secretary of North Pacific Union Conference Association of Seventh-Day Adventists.

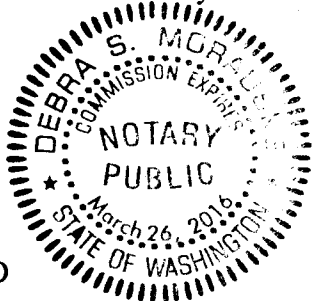


Debra S. Morauske
Notary Public for Washington
My Commission expires: March 26, 2016

Jon Corder
By: Jon Corder
Title: NPUCA Treasurer

State of Washington)
) ss.
County of Clark)

This instrument was acknowledged before me on December 14, 2015, by Jon Corder, in his/her capacity as Treasurer of North Pacific Union Conference Association of Seventh-Day Adventists.



Debra S. Morauske
Notary Public for Washington
My Commission expires: March 26, 2016

LEGAL DESCRIPTION

PARCEL I: **13E30A 01200**

00136383

A tract of land situated in the North one-half of Section 30, Township 1 South, Range 3 East of the Willamette Meridian and also being in the S. Richey No. 64 Donation Land Claim, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the S.W. Corner of the S. Richey Donation Land Claim; thence North 89°25'40" East along said Donation Land Claim line 85.05 feet to a point on the East line of S.E. 170th Avenue and the true point of beginning of the herein described tract; thence along the arc of a 553.00 foot radius curve right, through a central angle of 4°30'45" a distance of 43.55 feet; thence North 32°20' East 93.78 feet; thence along the arc of a 497.50 foot radius curve left, through a central angle of 13°16'50", a distance of 115.32 feet to the South line of the tract deeded to Portland General Electric Company, an Oregon corporation recorded Mach 20, 1970 as Recorder's Fee No. 70-5281 in the Clackamas County Deed Records; thence South 88°50'56" East, along said line 254.74 feet; thence South 0°14'20" East 211.72 feet; thence South 89°25'40" West, along the S. Richey Donation Land Claim line 377.44 feet to the true point of beginning.

PARCEL II: **13E30A 01401**

01692047

A tract of land situated in the North one-half of Section 30, Township 1 South, Range 3 East of the Willamette Meridian and also being in the S. Richey No. 64 Donation Land Claim, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the S.W. corner of the S. Richey Donation Land Claim; thence North 89°25'40" East along the South line of the said Richey Donation Land Claim 462.30 feet to the true point of beginning; thence North 0°14'20" West 211.72 feet to the South line of that tract of land deeded to Portland General Electric Company, an Oregon corporation recorded March 20, 1970 as Recorder's Fee No. 70-5281 in the Clackamas County Deed Records; thence South 88°50'56" East, along the said South line of said P.G.E. Tract 227.98 feet; thence South 0°14'20" East 204.87 feet to a point on the South line of the S. Richey Donation Land Claim; thence South 89°25'40" West, along said Richey Donation Land Claim line, 227.93 feet to the true point of beginning.

djs

3

Kauppi, Jennifer

From: Sarah Mitchell <sm@klgpc.com>
Sent: Monday, May 9, 2022 1:51 PM
To: Kauppi, Jennifer
Cc: Wendie Kellington; wilbur@mrtreeinc.com; Dan Symons
Subject: Code Enforcement Letter V0070714

Categories: CE SPECIALIST CASES

Warning: External email. Be cautious opening attachments and links.

Good afternoon,

Please see the attached letter which responds to your March 14, 2022 code enforcement letter re alleged violations on property located at 8540 & 8550 SE 172nd Ave. in Happy Valley. We trust that the county is willing to work with us to reach a mutually agreeable solution and resolve this matter in a timely manner. I'd be happy to discuss this with you at a time that works for you, just let me know. Thank you.

Best,
Sarah



Sarah C. Mitchell|Associate Attorney

P.O. Box 159
Lake Oswego, OR 97034
(503) 636-0069 office
(503) 636-0102 fax
sm@klgpc.com
www.wkellington.com

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May 9, 2022

Via Electronic Mail
jkauppi@clackamas.us

Jennifer Kauppi
Clackamas County Code Enforcement
150 Beaver Creek Rd.
Oregon City, OR 97045

RE: March 14, 2022 Clackamas County Code Enforcement Letter (V0070714)
8540 & 8550 SE 172nd Ave., Happy Valley, OR 97086

Dear Jennifer:

This firm represents Mr. Tree, Inc., the business located at 8540 and 8550 SE 172nd Ave. in Happy Valley, and its President, Wilbur Akins, (collectively, “Owners”). We are in receipt of your March 14, 2022 Clackamas County code enforcement letter concerning these properties. This letter responds to that letter. Your letter alleges violations of the Clackamas County Building Code, Title 9.02.040(A)-(E), ZDO 316.03(A) and land use decision Z0160-19, for eight separate structures on the subject property. It is respectfully submitted that you are mistaken with regard to several allegations. Some are puzzling because they seem to allege that particular structures that were built decades ago, were built without required permits, to include some that were constructed before the current landowner’s ownership; some may have merit and for those we are investigating and, with regard to Mr. Akins’ mother’s mobile home, it appears that all required permits were obtained and inspected, but there may not have been a final county sign off.

May 9, 2022 Compliance Deadlines

Your letter imposes a compliance deadline of **May 9, 2022**, by which date the Owners are required to submit building permit applications (or permit renewal applications) for all of the structures alleged to be in violation of the county code or Z0160-19 (the approval of a modification of the conditional use approved in Z0491-15). With all due respect, it isn’t even clear that there are violations, so it is more than a little presumptuous to demand “compliance” by May 9. Moreover, that “compliance” deadline is unreasonably short for the large undertaking you seek, especially given your letter’s allegations of building permit lapses by someone decades ago. The Owners are investigating the allegations in your letter and will promptly respond to all alleged code violations. However, please understand that investigation requires county cooperation, and the county moves slowly. In that regard, it is not possible to get through *any* building permit processes with the county by May 9, 2022, regardless of when the effort started

either on or after March 14, 2022. The Owners have submitted public records requests to the county requesting copies of the permits and related files that you cite in your letter, since you did not provide them. We have not yet received the requested information. However, if you will provide those permits and related files electronically in PDF form, that will expedite our investigation. Otherwise, we await a county response to our records request to evaluate whether there are violations or not and, if so, the appropriate course.

Your letter also says that by May 9, 2022, the Owners must submit information listed in an October 20, 2020 email from county DTD staff Deana Mulder to complete SC007120. Respectfully, there is no basis for that demand. SC007120 is being pursued under the Z0160-19 approval, which provides that the applicant has *four years* from the date of the decision (May 1, 2019) to “implement” the approval, which includes obtaining all “necessary County development permits”. This means that the Owners have until May 1, 2023 (presuming no extension is applied for and granted) to complete permits B0689719 and SC007120. The Owners are working diligently with the county to provide the information required to complete B0689719 and SC007120 and to ensure that the conditions of approval in Z0160-19 are met on or before May 1, 2023.

Mistaken Assumptions

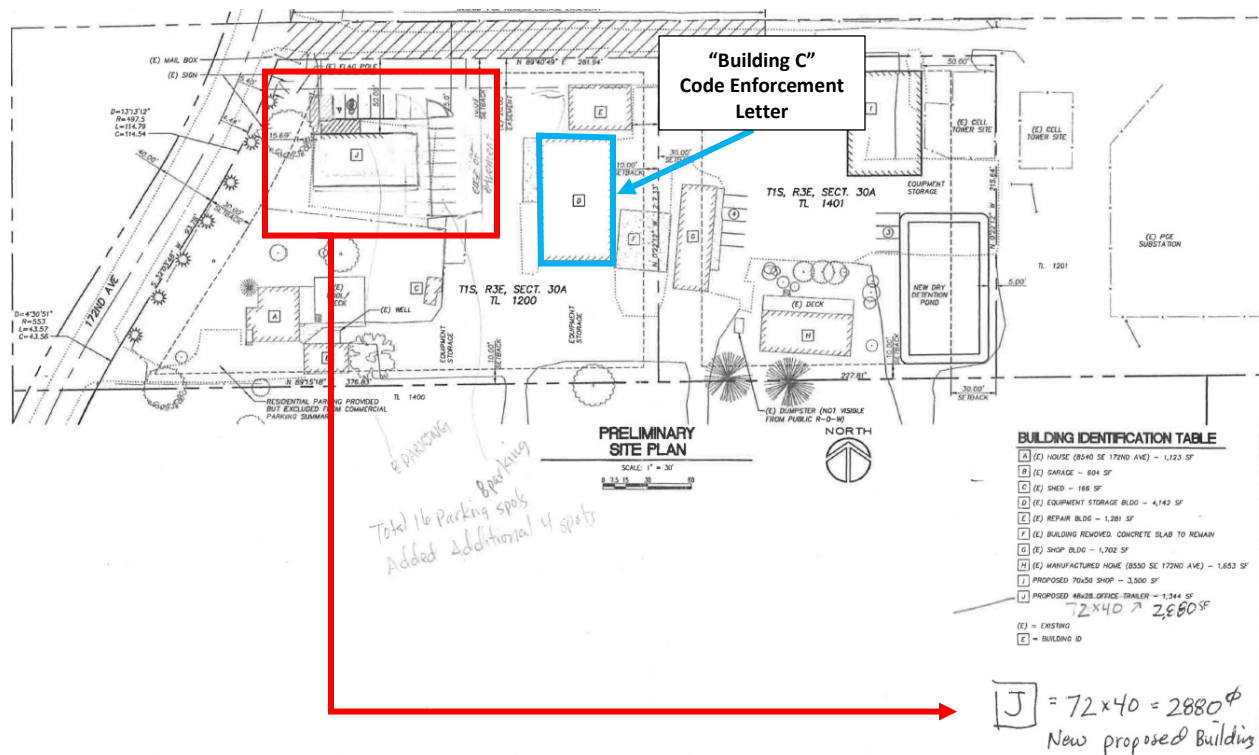
Your letter contains several incorrect assumptions, which we clarify below.

With respect to the alleged violations of Z0160-19, which is a May 1, 2019 county land use decision that approved a modification to the Owners’ original CUP approved in 2016 by a county hearings officer (Z0491-15), those allegations lack merit. Z0160-19 is a new approval that “modifies” Z0491-15. Its legal effect was to change the approval period to May 1, 2023. Accordingly, the Owners have the right to continue working toward implementation of the approved CUP, as modified by Z0160-19, which includes obtaining all necessary permits for structures approved under the CUP under condition III(2) of Z0491-15 and condition I(4) of Z0160-19. The Owners are working diligently to implement the approval and will do so by **May 1, 2023**. You may be aware that a global pandemic intervened, making it unreasonably hard to get anything done.

Further, all of the structures alleged to be in violation of county codes, have land use approval – they are either allowed primary or accessory uses in the FF-10 zone in which the subject property is located or are conditional uses approved in Z0491-15, as modified by Z0160-19. The garage is an allowed accessory use to the single-family residence on the property. ZDO Table 316-1. The manufactured home is an allowed primary use. *Id.* Building B (lean-to) is an allowed accessory structure. *Id.* Buildings A (repair building), C (equipment storage building) and F (shop building) are allowed accessory structures approved as part of the commercial uses in conjunction with forest operations conditional use approval in Z0491-15, as modified by Z0160-19. Buildings D and E (“job trailers”) are being used as temporary offices while the permanent office building approved as part of the CUP, as modified, is constructed. They are allowed “temporary buildings for uses incidental to construction work” accessory uses. ZDO Table 316-1.

Moreover, your letter incorrectly describes “Building C”. Your letter incorrectly states that CUP modification Z0160-19 “approved replacing the office trailer with a larger permanent structure (**Building C**) and increased parking.” However, Z0160-19 did not modify what you identify as “Building C” in your letter, which is the Owners’ existing equipment storage building approved in Z0491-15. Z0160-19 approved replacing a proposed office trailer approved in Z0491-15 with a larger, permanent structure (“**Building J**” on the approved 2019 site plan) and increased parking, which permanent structure has pending permits (B0689719 and SC007120), but has not yet been constructed.

2019 Approved Site Plan:



Your letter goes on to say that building permit B0689719 was submitted for “Building C” and that that permit has not been issued because it is dependent on the completion of Engineering Development permit SC007120. This is mistaken. B0689719 and SC007120 do not relate to “Building C”. Rather, as noted above, those permits relate to “Building J” on the approved 2019 site plan, that has not yet been constructed.

To the extent that your letter purports to allege that the not-yet-constructed office building (“Building J”) is in violation of the county’s code or the Z0491-15 or Z0160-19 land use approvals, that position is incorrect. As we explain above, Z0491-15 and Z0160-19 must be implemented by May 1, 2023 and the owner intends to do so.

Response to Allegations re Garage

The garage is an allowed accessory use to the single-family residence on the property. ZDO Table 316-1. The garage is accessory to a house and the house is a 1930s-vintage structure. The garage was there when the owner bought the property around 2002. It may or may not have building permits, but your presumption that it requires them or, if so, does not have them, is unfounded. It is very likely that the garage was built before permits were even required. We are investigating this. However, we find it odd, not to mention unfair in the extreme, that there has never been an issue about the Owner's garage until now. The Owners will investigate whether there is a violation in the first place and, if so, will resolve it. However, it will not be simple or swift to resolve because no one knows how or even when the garage was built. The garage was enlarged in 2014 or 2015 without building permits. We presume the changed areas require building permits and will obtain them. But the entire garage almost certainly does not require any permits because it was likely built before permits were required.

Response to Allegations re "Building A"

Building A is an equipment repair building (storage of farm tractors) that was on the property long before the Owners bought it and was approved as part of the commercial uses in conjunction with forest operations conditional use approved in Z0491-15, as modified by Z0160-19. Building A is an "agricultural building" that is exempt from application of the state structural specialty code under ORS 455.315(1). Building A is "a structure located on a farm or forest operation" that is used for "[s]torage, maintenance or repair of farm or forest machinery and equipment". ORS 455.315(2)(a)(A). Accordingly, Building A is exempt from the Clackamas County Building Code, Title 9.02.040(A), which adopts the state structural specialty code. Owners will obtain any other necessary permits (e.g. electrical, plumbing) by May 1, 2023.

Response to Allegations re "Building B"

Building B is a lean-to structure that shelters and stores equipment used in the approved forest operation. Building B is also an "agricultural building" exempt from the state structural specialty code under ORS 455.315(1) as a "a structure located on a * * * forest operation" that is used for "storage" of "forest machinery and equipment". ORS 455.315(2)(a)(A). Accordingly, Building B is exempt from Title 9.02.040(A). Building B does not have any mechanical systems, plumbing or electric and is not a residential structure, so no permits are required under Title 9.02.040(B)-(E) either. Building B is not in violation of the Building Code.

To the extent that Building B must be removed in order for the county to issue the required permits, if any, for Buildings C and F, the Owners will remove Building B as proposed in Z0491-15, as modified by Z0160-19. However, this does not change the Owners' position, explained below, that Buildings C is an "agricultural building" that is exempt from the state structural specialty code under ORS 455.315(1) as a "a structure located on a * * * forest operation" that is used for "storage" of "forest machinery and equipment" (ORS 455.315(2)(a)(A)), and that no permits are required for Building F.

Response to Allegations re “Building C”

Building C is an equipment storage building that was approved as part of the commercial uses in conjunction with forest operations conditional use approved in Z0491-15, as modified by Z0160-19. As explained above, permit B0689719 does not relate to Building C and so the completion of Engineering Development permit SC007120 is not required to abate any alleged violation for this structure.

Building C is an “agricultural building” exempt from the state structural specialty code under ORS 455.315(1) as a “a structure located on a * * * forest operation” that is used for “storage” of “forest machinery and equipment”. ORS 455.315(2)(a)(A). Accordingly, Building C is exempt from Title 9.02.040(A). The Owners will obtain any other necessary permits (e.g. electrical, plumbing) by May 1, 2023.

Response to Allegations re “Buildings D and E”

Buildings D and E (“job trailers”) are being used as the Owners’ temporary offices while the permanent office building (“Building J”) approved as part of the CUP, as modified, is constructed. Recall, that permits B0689719 and SC007120 for Building J are currently pending and the Owners are actively working to complete those permits. Accordingly, Buildings D and E are allowed “temporary buildings for uses incidental to construction work” accessory uses. ZDO Table 316-1. Owners will remove Buildings D and E after completion of construction and the issuance of a final occupancy permit for the new permanent office building.

Response to Allegations re “Building F”

Building F is an equipment storage and shop building that has also been established on the property since long before the Owners acquired it and it was also approved as part of the commercial uses in conjunction with forest operations conditional use approved in Z0491-15, as modified by Z0160-19. Your letter states that Building F was “permitted in 1985 as a general purpose building for equipment storage.” Your letter incorrectly states that the Owners are “operating” the business from this building and that a “change of use from a shop to a business requires Change of Use permits.” The Owners are not operating the business from Building F. Building F is and, as you state, was permitted in 1985 as, a “general purpose building for equipment storage”. There has been no change in use of this building and so no Change of Use permit is required.

Response to Allegations re “Manufactured Home”

The manufactured home occupied by Mr. Akins’ elderly mother on the subject property is an allowed primary use in the FF-10 zone. ZDO Table 316-1. The Owners agree that in 2016, permits MH0005616 and E0324016 were issued for the replacement of the manufactured home. The Owners believed that those permits were finalized and were surprised by your allegation otherwise. We are tracking down the status of that permitting and, if you are correct, then

Owners will as promptly as possible renew MH0005616 and E0324016 and complete final inspection at least by May 1, 2023, but likely well-before.

Very truly yours,



Sarah Mitchell

SM:sm

CC: Clients



SYMONS ENGINEERING CONSULTANTS, INC.

12805 s.e. foster road
portland, oregon 97236
phone 503 760 1353
www.symonsengineering.com

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CLIENT

MR. TREE, INC.
8540 SE 17th AVE
HAPPY VALLEY, OR 97066
303-289-3663

PROJECT

MR. TREE
AG PERMITS

SITE ADDRESS

8540/8550 SE 17th AVE
HAPPY VALLEY, OR 97066

SHEET NAME

SITE PLAN

REVISION

- ▲ 6/13/22 ISSUED FOR AG PERMIT
- ▲
- ▲
- ▲
- ▲

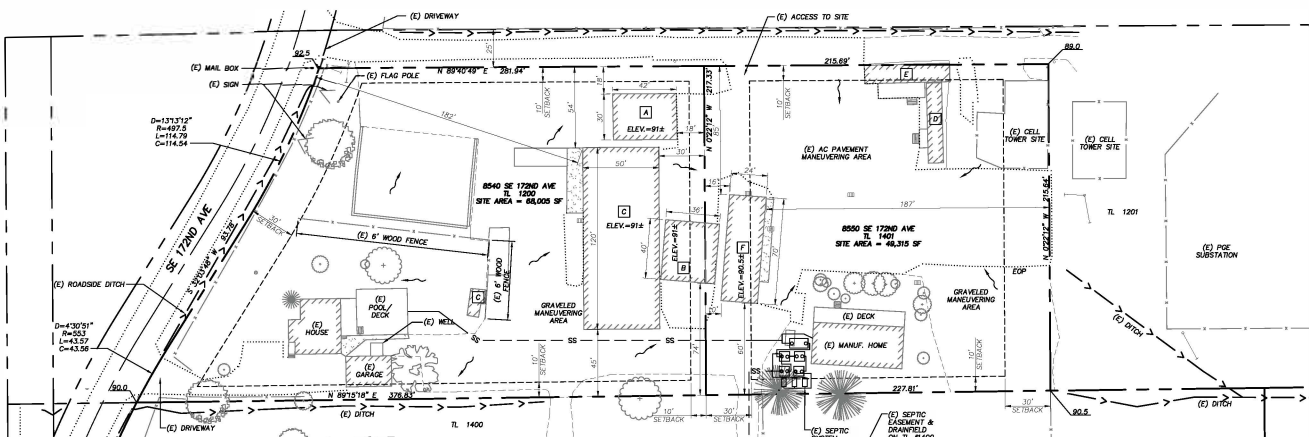
ISSUE DATE JUNE 13, 2022

DRAWING FILE 15-41c-AGDWG

PROJECT NUMBER 15-41

C1

SHEET NO.



CIVIL LEGEND

- EXISTING PROPERTY LINE
- - - - OFF SITE PROPERTY LINE
- - - - EXISTING FENCE LINE
- - - - EXISTING GANEBAK-SOWER LINE
- - - - STREET CENTERLINE
- - - - EXISTING ASPHALT EDGE
- - - - EXISTING EDGE OF GRAVEL
- - - - EXISTING CONCRETE SURFACE
- XXX.XX SPOT ELEVATION
- EXISTING INLET
- DIRECTION OF SLOPE

OVERALL SITE PLAN

SCALE: 1" = 30'



BUILDING IDENTIFICATION TABLE

- A (E) REPAIR BLDG
- B (E) EQUIPMENT STORAGE BLDG
- C (E) EQUIPMENT STORAGE BLDG
- D (E) OFFICE TRAILER
- E (E) OFFICE TRAILER
- F (E) SHOP BLDG
- (E) = EXISTING
- [] = BUILDING ID



Permit #: AG012722 Applied: 06/14/2022
 Type: NA / Agriculture Approved:
 Status: In Review Final:
 Valuation: \$0.00 Expiration:
 Address: 8540 SE 172ND AVE HAPPY VALLEY, OR 97086

Applicant: Larry Shirts (503) 760-1353
 Owner: Larry Shirts 5037601353
 Contractor:

Parcel: 13E30A 01200	Certificate of Occupancy Required:	
Entered By:	Class:	
Insp Area:	Occupancy:	
Printed: 04/11/2023	Units:	Bldgs:
Description: AG EXEMPT C1 30X42 POLE BLD	Violation:	
Conditions:		

SFR/Dup 1st Unit(sqft):	Additional Unit(sqft):	
Total Fees:		
Total Payments:		
Balance Due:		\$0.00

Our goal is to provide you with excellent service. If you would like to discuss your experience with us, contact one of our Customer Service Specialists at 503-742-4400, dtdcustomerinfo@clackamas.us or simply fill out our online survey at <https://www.surveymonkey.com/s/cccustomersurvey>



Permit #: AG012822 Applied: 06/14/2022
 Type: NA / Agriculture Approved:
 Status: In Review Final:
 Valuation: \$0.00 Expiration:
 Address: 8540 SE 172ND AVE HAPPY VALLEY, OR 97086

Applicant: Larry Shirts (503) 760-1353
 Owner: AKINS WILBUR L & JOYCE RAE LEARD
 Contractor:

Parcel: 13E30A 01200	Certificate of Occupancy Required:	
Entered By:	Class:	
Insp Area:	Occupancy:	Bldgs:
Printed: 04/11/2023	Units:	
Description: 36'X40' Pole Building	Violation:	
Conditions:		

SFR/Dup 1st Unit(sqft):	Additional Unit(sqft):	
Total Fees:		
Total Payments:		
Balance Due:		\$0.00

Our goal is to provide you with excellent service. If you would like to discuss your experience with us, contact one of our Customer Service Specialists at 503-742-4400, dtdcustomerinfo@clackamas.us or simply fill out our online survey at <https://www.surveymonkey.com/s/cccustomersurvey>



Permit #: AG012922 Applied: 06/14/2022
 Type: NA / Agriculture Approved:
 Status: In Review Final:
 Valuation: \$0.00 Expiration:
 Address: 8540 SE 172ND AVE HAPPY VALLEY, OR 97086

Applicant: Larry Shirts (503) 760-1353
 Owner: AKINS WILBUR L & JOYCE RAE LEARD
 Contractor:

Certificate of Occupancy Required:

Parcel: 13E30A 01200 Class:
 Entered By: Occupancy:
 Insp Area: Units: Bldgs:
 Printed: 04/11/2023 Violation:
 Description: AG BLDG - TOOLS, EQUIPMENT, GRAPPLE TRUCK, LOG TRUCK
 Conditions:

SFR/Dup 1st Unit(sqft): Additional Unit(sqft):

Total Fees:
 Total Payments:
Balance Due: \$0.00

Our goal is to provide you with excellent service. If you would like to discuss your experience with us, contact one of our Customer Service Specialists at 503-742-4400, dtdcustomerinfo@clackamas.us or simply fill out our online survey at <https://www.surveymonkey.com/s/cccustomersurvey>



Permit #: AG013022 Applied: 06/14/2022
 Type: NA / Agriculture Approved:
 Status: In Review Final:
 Valuation: \$0.00 Expiration:
 Address: 8550 SE 172ND AVE HAPPY VALLEY, OR 97086

Applicant: Larry Shirts (503) 760-1353
 Owner: AKINS WILBUR L & JOYCE RAE LEARD
 Contractor:

Certificate of Occupancy Required:

Parcel: 13E30A 01401 Class:
 Entered By: Occupancy:
 Insp Area: Units: Bldgs:
 Printed: 04/11/2023 Violation:
 Description: AG EXEMPT BLDG - TOOLS, RIGGING EQUIPMENT
 Conditions:

SFR/Dup 1st Unit(sqft): Additional Unit(sqft):

Total Fees:
 Total Payments:
Balance Due: \$0.00

Our goal is to provide you with excellent service. If you would like to discuss your experience with us, contact one of our Customer Service Specialists at 503-742-4400, dtdcustomerinfo@clackamas.us or simply fill out our online survey at <https://www.surveymonkey.com/s/cccustomersurvey>

Kauppi, Jennifer

From: Sarah Mitchell <sm@klgpc.com>
Sent: Tuesday, November 22, 2022 4:37 PM
To: Kauppi, Jennifer
Cc: Wilbur Akins
Subject: RE: V0070714 - 8540 SE 172nd Ave
Attachments: InspectionReport MH Akins 11-21-2022.pdf

Warning: External email. Be cautious opening attachments and links.

Hi Jennifer,

Thank you for your patience as we continue to work through this matter. Final inspection of the mobile home at issue was completed and approved yesterday. Attached is the inspection report.

Dan Symons of Symons Engineering is preparing a building permit submittal for the garage. Because he's been so short staffed, he estimates they'll be able to submit by 12/23.

I will continue to update you as we work through all of the county's other concerns.

Best,
Sarah



Sarah C. Mitchell | Associate Attorney

P.O. Box 2209
Lake Oswego, OR 97035
(503) 636-0069 office
(971) 314-7011 direct
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www.wkellington.com

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From: Kauppi, Jennifer <JKauppi@clackamas.us>
Sent: Thursday, November 3, 2022 12:58 PM
To: Sarah Mitchell <sm@klgpc.com>
Subject: RE: V0070714 - 8540 SE 172nd Ave

Sarah,
Hello. Attached is my responses to your September 27, 2022 email.
Thank you

Clackamas County

150 Beaver Creek Rd
Oregon City, OR 97045

Tel: Inspection: 503-742-4720

Location:

8550 SE 172ND AVE DAMASCUS OR 97089

Inspection Date:

Mon, 21 Nov 2022

Record Type:

Building - Mobile Home

Record ID:

MH0005616

Inspection Type:

899 MH Final

Inspector:

Tom Miltenberger

Inspector Phone:**Inspector Email:**

TMiltenberger@co.clackamas.or.us

Result:

Approved

Submit Time:

Mon, 21 Nov 2022 1:39:PM

Comments:

Kauppi, Jennifer

From: Glasgow, Clay
Sent: Wednesday, February 8, 2023 3:08 PM
To: Kauppi, Jennifer; Hughes, Jennifer
Subject: RE: 8540 SE 172nd Ave - AG012722, AG012822, AG012922 - MR Tree

Hello,

After reading through the Hughes Jennifer's explanation, I remain at her final sentence: " Planning will not sign off without a statement of use from the applicant that limits the use of the buildings to the scope of the approved CU or an outright permitted farm or forest use in the applicable zone."

The buildings in question have *not* been approved as part of the conditional use or subsequent modification for Mr. Tree. If they are to be used in conjunction with that business it will require land use process and approval for either modification of, or a new conditional use (the Home Occupation mentioned seems a stretch.) If, on the other hand, the buildings are to be used separate from the Mr. Tree business and as Ag Exempt buildings as meant in the discussion, below, then Planning could sign-off. Until we get a Statement of Use we are unable to determine which path this must follow. Thanks. - Clay

From: Kauppi, Jennifer <JKauppi@clackamas.us>
Sent: Tuesday, February 7, 2023 8:43 AM
To: Hughes, Jennifer <jenniferh@clackamas.us>
Cc: Glasgow, Clay <ClayGla@clackamas.us>
Subject: RE: 8540 SE 172nd Ave - AG012722, AG012822, AG012922 - MR Tree

Thank you for this. I will wait for Clay's information before proceeding.

Jen

From: Hughes, Jennifer <jenniferh@clackamas.us>
Sent: Tuesday, February 7, 2023 8:38 AM
To: Kauppi, Jennifer <JKauppi@clackamas.us>
Cc: Glasgow, Clay <ClayGla@clackamas.us>
Subject: RE: 8540 SE 172nd Ave - AG012722, AG012822, AG012922 - MR Tree

Hi Jen,

I reviewed my emails regarding Mr. Tree, which were in response to questions from Nate Boderman (he was contacted by the attorney for Mr. Tree) and Matt Rozzell, who asked whether the use qualified as a forest use and would therefore be permissible in an ag-exempt building.

To be clear, I don't know what the AG permits are for nor have I reviewed the scope of their previously approved conditional use and modification. I'm copying Clay because he likely has knowledge of the CU and can either view the AG permits in Development Direct or work with Liz or Mel so that he can access those.

If Mr. Tree is proposing new or expanded use of structures for their approved conditional use and that new or expanded use has not been approved through their modification, they need a new CU or modification, depending on the specifics.

As I understand it, their attorney was arguing to Nate that if “Building C” could be expanded as an ag-exempt building, it doesn’t require a conditional use. That’s not correct under our code. Ag-exempt buildings may require land use review; it depends on what they are using the building for.

Assuming they propose buildings that have been authorized by their CU (or are allowed outright for some other permissible use on the property), there is still the question of whether they can be ag-exempt. Unfortunately, it is not completely clear, which led to analysis and discussion between Nate, Matt and me. In the end, the determination was that a “forest operation” can qualify for the building permit exemption **as long as the business is related to the establishment, management or harvest of forest tree species**, even if the forest tree species are located on off-site forestland. Note, however, that **“operation” does not include “[t]he establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.**

From Mr. Tree’s website, it seemed that their use goes beyond a forest operation. My last email to Matt in July reads:

In reviewing the Mr. Tree website, some of their services seem to fall within the concept of a forest operation; however, some of their services do not (excavation, structure demolition, ornamental tree pruning). I don’t know if all of their uses are housed in the structures they propose to qualify as exempt structures, and it seems a statement of use is appropriate. If they choose to pursue a building permit for the non-forest-related uses, they are likely to encounter a land use issue, as I suspect their conditional use would not cover everything I see on their website.

The non-forest uses could potentially be a home occupation, presumably with an exception, if the operator lives in a dwelling on the property.

The remainder of the ag-exempt standards are administered by Building, not Planning (no public access, cap on number of people in the building, etc.).

I hope this helps, and Clay can weigh in on whether the submitted ag permits are consistent with the approved CU, as modified. Planning will not sign off without a statement of use from the applicant that limits the use of the buildings to the scope of the approved CU or an outright permitted farm or forest use in the applicable zone.

Jennifer

Jennifer Hughes | Planning Director

Planning and Zoning | Clackamas County Department of Transportation & Development
Development Services Building | 150 Beaver Creek Road | Oregon City, OR 97045 | 503-742-4518

The Planning and Zoning public service telephone line at 503-742-4500 and email account at zoninginfo@clackamas.us are staffed Monday through Thursday from 8:00 a.m. to 4:00 p.m. and Friday from 8:00 a.m. to 3:00 p.m., and the public service lobby is open Monday, Tuesday and Thursday from 8:00 a.m. to 4:00 p.m.

Were you happy with the service you received today?



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From: Kauppi, Jennifer <JKauppi@clackamas.us>

Sent: Thursday, February 2, 2023 2:04 PM



Citation No. 1400707

Case No. V0070714

ADMINISTRATIVE CITATION

Date Issued: March 8, 2023

Name and Address of Person(s) Cited:

Name: Wilbur L Akins
Name: Joyce Rae Leard
Mailing Address: 8560 SE 172nd Ave
City, State, Zip: Boring, OR 97009

Date Violation(s) Confirmed: On the 8th day of March, 2023, the person(s) cited committed or allowed to be committed, the violations(s) of law described below, at the following address:

Address of Violation(s): 8540 & 8550 SE 172nd Ave. Happy Valley, OR 97086

Legal Description: T1S, R3E Section 30A, Tax Lot(s) 01200 & 01401

Law(s) Violated:

Chapter 9.02 of CCC Application and Enforcement of the Clackamas County Building Code, Section 9.02.040, (A)

Description of the violation(s):

- 1) Detached garage built without approved permit or approved final inspections.
Maximum Civil Penalty \$1,000.00 Fine \$200.00
- 2) Electrical installed in the detached garage without approved permit or approved final inspections.
Maximum Civil Penalty \$1,000.00 Fine \$500.00
- 3) Accessory structure A built without approved permits or approved final inspections.
Maximum Civil Penalty \$1,000.00 Fine \$200.00
- 4) Accessory structure B built between 2002 and 2004 without approved permits or approved final inspections
Maximum Civil Penalty \$1,000.00 Fine \$200.00
- 5) Accessory structure C built between 2008 and 2009 without approved permits or approved final inspections.
Maximum Civil Penalty \$1,000.00 Fine \$200.00
- 6) Accessory structure D placed on site between May 2002 and August 2002 without approved permits or approved final inspections.
Maximum Civil Penalty \$1,000.00 Fine \$200.00

7) Accessory structure E placed on site between July 2007 and July 2008 without approved permits or approved final inspections.

Maximum Civil Penalty \$1,000.00

Fine \$200.00

You may avoid paying the civil penalty by abating the violation(s) and paying a total fine of \$1,700.00. If you have questions regarding how to abate the violation(s) contact Clackamas County Code Enforcement at the number listed below. Please be advised a \$75 monthly administrative fee is being assessed.

I hereby certify under penalties provided by ORS 153.990 that I have reasonable grounds to and do believe that the above person(s) committed or allowed to be committed the violation(s) described on this form.

Citation issued by: Jennifer Kauppi

Date: March 8, 2023

Telephone No.: 503-742-4759

Department Initiating Enforcement Action: Code Enforcement

PLEASE READ CAREFULLY!

You have been cited for the violation(s) of law stated on the front of this form. You MUST exercise ONE of the following options within fifteen calendar days of the date of this citation.

If you fail to exercise one of these options within fifteen calendar days of the citation date, the County may request a hearing before the Code Enforcement Hearings Officer following which you may be ordered to pay the maximum civil penalty and abate the violation.

Options:

- 1. Abate the violation and pay the fine. Sign the statement of Understanding below and deliver or mail this form, together with a check or money order payable to Clackamas County in the amount of the fine to:
 Clackamas County Code Enforcement Section
 150 Beaver Creek Rd.
 Oregon City, OR 97045
- 2. Request a hearing in writing. You may request a hearing to contest the violation(s) alleged. A written request for a hearing must be mailed to Clackamas County at the address listed above or sent to codeenforcement@clackamas.us

A request for hearing must contain all of the following information:

- a. Your name and address
- b. A copy of the citation or the Citation No. and Case No.; and
- c. The description of the relief you are requesting

At the hearing, an administrative fee may be assessed by the Hearings Officer in addition to civil penalty(ies) if the Hearings Officer concludes you are responsible for the violation. If a civil penalty is imposed the amount will likely exceed the fine amount on this citation.

STATEMENT OF UNDERSTANDING

I, the undersigned, do hereby acknowledge that I understand the following:

- 1. By paying the fine I admit the existence of the violation(s) alleged on this citation and my responsibility for it.
- 2. Paying the fine does not relieve me of my responsibility to correct the violation and to comply with all applicable laws.
- 3. Additional citations may be issued to me if I fail to correct the violation or violate other applicable laws.

Signature: _____ Date: _____

Address: _____

City, State, Zip

Contact Number: _____ Email: _____