



NOTICE OF HEARING

December 7, 2023

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

Wendie Kellington
PO Box 2209
Lake Oswego, OR 97035

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

Hearing Date: January 23, 2024

Time: This item will not begin before 9:30am 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 Complaint and Request for Hearing

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

S:\Code Enforcement\VIOLATION FILES_172nd Ave SE\8540 SE 172nd Ave\V0070714\23-12-07 Updated Notice Of Hearing.Doc

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.



You must have access to the internet or to a telephone line to use the Zoom platform. A Zoom invite has been sent to mrtreeinc@frontier.com and wk@klgpc.com, a copy of the link is provided below.

If you would like to present evidence at the Hearing please email or mail your evidence to Jennifer Kauppi at 150 Beaver Creek Rd, Oregon City, Oregon 97045, **no later than 4 working 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**.

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 503-830-9960 for assistance.

Zoom invite

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join.

<https://clackamascounty.zoom.us/j/85102024166?pwd=R3VtMzRnNTBIN3Mxem90OHFrMmswdz09>

Passcode: 840615

Or One tap mobile:

+13462487799,,85102024166# US (Houston)

+14086380968,,85102024166# US (San Jose)

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 408 638 0968 or +1 669 444 9171 or +1 669 900 6833 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 507 473 4847 or +1 564 217 2000 or +1 646 876 9923 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053

Webinar ID: 851 0202 4166

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 & 8550 SE 172nd Ave., Happy Valley, OR 97086 also known as T1S, R3E, Section 30A, Tax Lot 01200 & 01401, and is located in Clackamas County, Oregon.

3.

On or about the 7th day of November, 2023 the Respondents violated the following law, in the following way:

- a. Respondents violated the Zoning and Development Ordinance, Section 316.03 (A), by placing two job trailers on the subject property without land use approval. This violation is a Priority 2 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 violation was given to Respondents in the following manner: A Notice of Violation was mailed via first class mail on November 7, 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 violation 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 Zoning and Development Ordinance Priority 2 violation being \$500.00 to \$2,500.00 per occurrence as provided by Appendix B to the Clackamas County Code;
3. 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;
4. 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

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

DATED THIS 5 day of December, 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 A violation file was opened on the subject property for building without permits.
- March 22, 2016 Exhibit A The Respondents applied for Conditional Use permit Z0491-15 on November 25, 2015. The Land Use application was approved on March 22, 2016.
- May 1, 2019 Exhibit B On April 2, 2019 the Respondents applied for a modification of approved Conditional Use permit Z0491-15 to build a larger office building instead of the approved proposed office trailer in the land use decision Z0491-15. On May 1, 2019 Land Use permit Z0160-19-C for the modification was approved for an additional 4 years to implement. Land Use permit Z0160-19 expired on May 13, 2023.
- March 2022 This file was reassigned to myself. All previous fines and fees were voided.
- March 2022 Exhibit C I conducted research of the subject property which included 8540 SE 172nd Ave and 8550 SE 172nd Ave, Happy Valley, OR 97086. Job trailer number 1 was placed on the property between April 2002 and July 2022. Job trailer number 2 was placed on the property between July 2007 and June 2008. It appears that around August 2011 job trailer number 2 was upgraded to a larger size. In addition, in 2012 a front patio cover was built for job trailer number 1 and a larger front patio cover was built for job trailer number 2. I reviewed permit history and there were no building permits on file for the placement of the job trailers, utility connections or the patio covers.
- March 14, 2022 Exhibit D Correspondence was sent to the Respondents with a deadline of May 9, 2022 to obtain permits for the placement of the job trailers.
- August 3, 2023 Exhibit E On May 1, 2023 land use application Z0187-23 was submitted for a time extension for land use file Z01601-19-C. Time extension Z0187-23 was approved on August 3, 2023 providing the Respondents with a deadline of August 3, 2025 for implementation.

October 19, 2023 Exhibit F	Further review of the land use decision from Z0491-15 and Z0160-19-C reflected that the two job trailers that were placed in 2002 and 2008 were not part of the proposed land use approval for Z0491-15 and Z0160-19-C. An email sent to Planning Director Jennifer Hughes confirmed that the two job trailers are not included on the land use decision.
November 7, 2023 Exhibit G	Correspondence was sent to the Respondents with a deadline of January 1, 2024 to remove the two job trailers from the subject property to an authorized location.
November 21, 2023 Exhibit H	I received an email from Wendie Kellington requesting a hearing specifically regarding the correspondence that was received by the Respondents concerning the job trailers.
December 5, 2023	I referred this matter to the Hearings Officer.

If the Compliance Hearings Officer affirms the County's position that a violation of the Zoning and Development Ordinance Title 12, Section 316.03 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 Zoning and Development Ordinance within 45 days of the date of the Order by removing the two job trailers from the subject property to an authorized location.
- 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 Zoning and Development Ordinance violation of up to \$2,500.00 for the date of the Notice of Violation mailed on November 7, 2023.
 - The County requests the Hearings Officer to permanently prohibit the Respondents from violating this law in the future.
- If the Respondents fails 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.

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

Regarding an Application for a Conditional Use)	Case File No.
Permit for Commercial Forest Activities)	Z0491-15-C
In Conjunction with a Forest Use.)	(Mr. Tree)

A. SUMMARY

1. The owner and applicant is Wilbur Akins & Mr. Tree Incorporated.
2. The subject property is located at 8540 SE 172nd Avenue, Happy Valley, OR 97086. The legal description is T1S R3E, Section 30A, Tax Lots 1200 and 1401 W.M. The subject property is 2.64 acres and is zoned FF-10 – Farm Forest – 10 Acre Minimum.
4. On March 17, 2016, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on March 17, 2016. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, county planner Sandy Ingalls discussed the staff report and recommended approval of the application.
3. The applicant and his representatives testified in support of the application.
4. No one testified in opposition to the application.
5. At the conclusion of the public hearing the Hearings Officer closed the record.

C. DISCUSSION

The subject property is a 2.64-acre parcel zoned FF-10. The property is located at 8540 SE 172nd Avenue, Happy Valley, OR 97086. The subject property is part of a narrow strip of land in unincorporated Clackamas County between Multnomah County to the north and the City of Happy Valley to the south. The applicant also owns land to the south in the City of Happy Valley which is used in the business. The business has been operating on the property for some time. Complaints from the City of Happy Valley led to code enforcements proceedings which resulted in the present conditional use permit (CUP) application for commercial uses in conjunction with forest operations. The business conducts small and large forest harvest operations, does land clearing work, removes trees, clears stumps, and processes non-merchantable timber into firewood. The subject property currently contains the applicant's home and his mother's home, garage, shed, equipment storage building, repair building, and shop building. The application proposes to remove one of the buildings and construct a new office building. The business has access from an easement on the north. There is a large graveled area in the middle of the site where larger trucks enter and exit the property.

The March 10, 2016 staff report thoroughly analyzes the applicable approval criteria and explain why most of the conditional use approval criteria are satisfied. As there was no opposition to the application, it would be a waste of the County's money and resources to review and repeat all of the findings in the staff report. I therefore adopt and incorporate the findings in the staff report in this decision, except as follows.

The staff report recommended denial until the requirements for the septic system could be met pursuant to Clackamas County Zoning Ordinance (ZDO) 1006.07. The staff report explains that the application proposes to use portions of the applicant's property south of the subject property as the drain field for the septic system from the two residences on the subject property. At the time of the staff report, the applicant had not executed an easement to allow use of the southern property for a septic system drain field. Prior to the public hearing, the applicant executed and recorded an easement grating use of the southern property for the drain field. The County septic expert testified that the

easement resolved all County issues with the septic system. Therefore, all of the applicable approval criteria for a CUP have been satisfied.

The only remaining issues are arguments regarding proposed conditions of approval. The staff report has a number of proposed conditions of approval that the applicant seeks clarification of. Initially, the applicant had concerns about proposed condition of approval IV. (4) regarding sight distances, but after discussions with County staff those concerns were satisfied. The applicant would like to amend proposed condition of approval IV. (5), which would require that proposed building J and the required parking spaces be setback at least 60 feet from the SE 172nd Avenue right of way. Although the required setback is only 30 feet, the County requested a sixty foot setback to accommodate future plans to realign SE 172nd Avenue. The applicant explained that a 60-foot setback would eliminate the necessary room for trucks to maneuver on the rest of the property. The County and the applicant agreed to the following amendment:

“Proposed building ‘J’ and required new parking spaces shall be setback a minimum of 60 feet from the SE 172nd right-of-way to the extent reasonably practicable while maintaining all of the existing and approved uses.”

The applicant would like to amend proposed condition of approval IV. (6), which among other things requires “[a]ll parking and maneuvering areas shall be paved.” The proposed condition of approval was proposed pursuant to ZDO 1015.03(B), which provides that “* * * parking, loading and maneuvering areas shall be hard surfaced, unless a permeable surface is required to reduce surface runoff, as determined by the Department of Transportation and Development.” There are some areas, particularly in the middle of the property, that are currently graveled that the applicant would prefer not to pave. Initially, the applicant argues that the term “hard surfaced” in ZDO 1015.04(B) does not necessarily mean “paved.” According to the applicant, hard surfaced could also be satisfied by compacted gravel. ZDO 1015.03(B) applies to areas inside the Metro urban growth boundary (UGB). ZDO 1015.03(C) applies to areas outside the Metro UGB and provides such areas “* * * shall be surfaced with screened gravel or better, and shall provide for suitable drainage.” While the applicant’s argument is not unreasonable, I believe ZDO 1015.03(C) illustrates that the ZDO drafters knew how to differentiate

between situations when gravel is acceptable and when it is not. ZDO 1015.03(B) also gives the Department of Transportation (DTD) significant discretion to allow non-hard surfaces when necessary for drainage. I also agree with the applicant that the non-CUP activities on the subject property need not comply with the paving requirements. Therefore, the first sentence of the proposed condition of approval is amended as follows:

“All commercial parking, loading, and maneuvering areas shall be hard surfaced unless the Department of Transportation and Development determines they may be graveled for drainage purposes.”

The applicant initially had concerns with proposed condition of approval III. (2), but after discussion with County staff those concerns were satisfied. The applicant also has concerns with proposed conditions of approval IV. (1) & (9)(c). Those proposed conditions of approval address any frontage improvements in the County right of way. The applicant explains that no frontage improvements are proposed by the application or required by the County, so the conditions are unnecessary. County staff explained that proposed condition of approval IV. (1) is merely boilerplate language that provides that if there are any improvements in County right of ways that they must meet County roadway standards. If there are no improvements then there are no standards that need to be met. County staff also agreed that the word “street” should be removed from proposed condition of approval IV. (9)(c).

As discussed later, the City of Happy Valley has submitted proposed conditions of approval in addition to those proposed by County staff. The County proposed condition of approval IV. (3), which provides: “Approval from the City of Happy Valley shall be provided for aspects of the business that occur within city jurisdiction.” I do not see that any aspect of the proposed CUP for the County property is dependent upon any City of Happy Valley approvals. Therefore, I agree with the applicant that the issues with the City of Happy Valley should be decided by the City of Happy Valley and are not pertinent to this application. Proposed condition of approval IV. (3) is amended as follows:

“This approval does not approve any uses within the City of Happy Valley. The applicant should consult the City of Happy Valley regarding its requirements for any uses the applicant makes of its property located within the City of Happy Valley.”

Proposed condition of approval II. (4) is similar in that it provides: “The applicant

is required to obtain all permits required by the City of Happy Valley.” For the same reasons as proposed condition of approval IV. (3), proposed condition of approval II. (4) is amended to the same language as IV. (3).¹

There is apparently some enmity between the applicant and the City of Happy Valley. As mentioned earlier, it was the City of Happy Valley that instigated the code enforcement proceedings against the applicant. Apparently, there is also a dispute between the applicant and the City as to what type of permit is necessary to continue the operations ongoing within the City. The City of Happy Valley proposed six additional conditions of approval that it believes the County should impose. The City’s first argument is that there should be a reciprocal maintenance and access agreement between the County and City sites. While this would make sense if they properties were in different ownership, it is not necessary when all of the properties are in the same ownership. The first City proposed condition of approval is rejected.

The City’s second argument is that the applicant should dedicate right of way along SE 172nd Avenue. ZDO 1007.04(G) provides that new developments “may” be required to dedicate land for right of way purposes if “deemed necessary” by the DTD. As DTD explains, such dedications are necessary if needed to safely accommodate traffic expected by development. DTD further explains that there is no need for additional right of way dedications to handle the traffic on SE 172nd Avenue. The second City proposed condition of approval is rejected.

The City’s third argument is that the access onto SE 172nd Avenue must meet intersection spacing and sight distance requirements. As County staff explains, the intersection spacing requirements are already met and sight distance requirements are already addressed by proposed condition of approval IV. (4). The third City proposed condition of approval is rejected.

The City’s fourth argument is that the applicant should maintain an at least six-foot tall solid vegetative screen along the SE 172nd Avenue frontage. ZDO 1009.05(A) requires screening to reduce visual impacts for “certain areas,” and ZDO 1009.05(C) requires screening around “the material or equipment.” Appropriate screening for these

¹ At the public hearing, County staff testified that a ZDO section was inadvertently included in proposed condition of approval II. (6). The reference to ZDO section 1009.08 has been removed.

areas is provided in the site plan. Furthermore, such a vegetative screen could easily interfere with the required site distances for the access to SE 172nd Avenue. The fourth City proposed condition of approval is rejected.

The City's fifth argument is that all driveways, vehicular parking, and circulation areas within the site should be paved. That issue was addressed earlier with an amended proposed condition of approval. The fifth City proposed condition of approval is rejected.

The City's sixth argument is that the applicant should be required to obtain approval of a conditional use permit from the City of Happy Valley before commencing any activities on the subject property. The applicant disputes whether a conditional use permit is even necessary from the City. While I take no position on whether a CUP is necessary to continue operations in the City, it would not make sense to require the applicant to obtain a permit it might not need. The City provides no authority for this proposed condition of approval, and I am not aware of any. As discussed earlier, the applicant will need to resolve its issues with the City regarding its property within the City. The sixth City proposed condition of approval is rejected.

D. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** application Z0491-15-C, with the following conditions of approval.

E. CONDITIONS OF APPROVAL

I. General Conditions:

- 1) Approval of this land use permit is based on the submitted written narrative and plan(s) originally submitted November 25, 2015. Additional materials were submitted through January 25, 2016 and deemed complete January 25, 2016. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- 2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take

advantage of this meeting please contact Deana Mulder, Clackamas County Engineering at (503) 742-4710 or at deanam@clackamas.us

- 3) **Prior to the issuance of building permits**, the applicant shall submit a Statement of Use to Lori Phillips. She can be contacted at (503) 742-4433 or loriphi@clackamas.us. The statement of use is used to calculate the Transportation System Development charge. A Transportation System Development Charge (TSDC) is included in the final calculation of the building permit fees for new instructional projects; this includes additions and tenant improvements that increase the number of daily trips to the site.
- 4) If approved, the conditional use is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building permit for a new primary structure that was part of the conditional use approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.
- 6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Planning and Zoning Conditions: Sandy Ingalls, (503) 742-4532, sandying@clackamas.us

- 1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.
- 2) A conditional use permit for existing commercial forest activities in conjunction with forest use including: small and large forest harvest operations, land clearing, tree removal, stump clearing and processes non-merchantable timber into firewood and installs hardwood floors. It also includes the storage of equipment used in the business. On average 17 of the 45 people employed are reporting on-site, they then leave for the job sites, while the rest report on site to work in the office or shop, etc. Buildings on site (tax lots 1200 and 1401, County) include two homes, garage, equipment storage building, shed, repair building, shop building, proposed shop and proposed office trailer. One of the dwellings is occupied by the business owner (tax lot 1200), the other by the applicant's elderly mother (tax lot 1401). Hours of operation are from 6am to 3pm. The site takes access off SE 172nd Ave.
- 3) Any outdoor lighting [ZDO 1005.05(A) and (B)] shall be located and designed so that it does not shine onto adjacent properties or right-of-ways. If lighting will be installed, the applicant will submit an outdoor lighting system design plan prior to installation of the outdoor lighting system for review and approval by Planning and Zoning Division.
- 4) This approval does not approve any uses within the City of Happy Valley. The applicant should consult the City of Happy Valley regarding its requirements for any uses the applicant makes of its property located within the City of Happy Valley.
- 5) **Prior to final occupancy:** All signs shall comply with Section 1010 of the ZDO, state regulations; and signs shall be maintained.
- 6) **Prior to building permit approval:** the applicant shall submit a landscape plan to the County's Planning and Zoning Arborist, Sandy Ingalls for review and approval prior to planting, illustrating the location of the vegetation and a legend, per ZDO Section 1009, including subsections 1009.02, 1009.03, 1009.04, 1009.05, and Table 1009-1 requirements, to be planted within and around the proposed structure and parking lot. A minimum of 25% of the site shall be landscaped with a minimum of 75% of the required landscape from Table 1009-1, being planted with a mix of 50% conifer and 50% deciduous native and/or drought-tolerant plants and trees. The site shall be landscaped prior to final Certificate of Occupancy. The applicant will also submit a one year vegetation guarantee to the County, prior to final Certificate of Occupancy.

- 7) **Trash & Recycling: Prior to final occupancy permit issuance:** the applicant shall illustrate to Linda Preisz of the Planning Division that a trash and recycling enclosure does exist on site, or submit plans for their refuse and recycling enclosure to be reviewed pursuant to Section 1021. Contact Linda Preisz, Planning & Zoning Division, 503-742-4528, lindap@clackamas.us. She can provide the necessary information about size of service trucks and appropriate containers. She also must sign off on behalf of the service provider(s). Detailed information, including ZDO 1021, is available on the county web site www.co.clackamas.or.us under “Garbage & Recycling.”
- 8) **Prior to final occupancy** Install one bicycle parking space on site per Table 1015-4 and ZDO Section 1015.05 requirements.

III. Building Code Division Conditions: Richard Carlson, (503) 742-4769, richardcar@co.clackamas.or.us

- 1) All construction activities, and all changes of use (occupancy type), shall comply with applicable Oregon Specialty Codes and local ordinances. All such codes and ordinances apply to all such activities, even when permits and inspections are not required.
- 2) Compliance with the following conditions is required prior to the commencement of any new use or occupancy:
 - a. All necessary development permits (septic, building, electrical, grading, driveways, Manufactured home or RV placement, etc.) for the property, facility, and associated buildings shall be obtained.
 - b. The plans must meet the minimum structural integrity and life safety requirements of the applicable Oregon Specialty Codes.
 - c. Any additional information required by the Building Codes Division, such as engineering, details, and specifications, must be provided to the Plans Examiner reviewing the project.
 - d. All necessary permits and approved plans must be issued and maintained onsite as required.
 - e. All required inspections, corrections, and final approval must be obtained.

IV. Engineering Division Conditions: Ken Kent, (503) 742-4673, KenKen@co.clackamas.or.us

Traffic Engineering and Development Review staff have visited the site and reviewed the application.

The following items are project requirements from the Department of Transportation and Development’s Development Engineering Division. These conditions of

approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

Development Engineering recommended conditions of approval:

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.
- 2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.
- 3) This approval does not approve any uses within the City of Happy Valley. The applicant should consult the City of Happy Valley regarding its requirements for any uses the applicant makes of its property located within the City of Happy Valley.
- 4) The applicant shall provide adequate sight distance at the driveway approach on to SE 172nd Avenue, per Section 240 of the Clackamas County Roadway Standards. Sight distance shall be no less than 555 feet to the north and 500 feet to the south. A sight line easement shall be provided across Tax Lot 13E30A 01400 to the south for the portion of sight line that extends outside the public right-of-way.
- 5) Proposed building "J" and required new parking spaces shall be setback a minimum of 60 feet from the SE 172nd right-of-way to the extent reasonably practicable while maintaining all of the existing and approved uses.
- 6) All commercial parking, loading, and maneuvering areas shall be hard surfaced unless the Department of Transportation and Development determines they may be graveled for drainage purposes. The applicant shall provide adequate on site

circulation for the parking and maneuvering of all vehicles anticipated to use the site, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

- 7) Parking spaces shall meet minimum and maximum *ZDO* section 1015 requirements, both in number and dimensions. The site plan shall include dimension for the parking stalls and back up areas. The applicant shall stripe each parking space in accordance with *ZDO* subsection 1015. The plans shall list the number of parking spaces required and the number of parking spaces provided. The minimum number of parking spaces is 12. The applicant shall label all compact, carpool, disabled (minimum of one required), and loading berth spaces on the plans. Parking layout geometry shall be in accordance with *ZDO* Table 1015-1 and *ZDO* Figure 1015-1.
- 8) Prior to certificate of occupancy, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, and any other required improvements and associated construction costs.
- 9) Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
 - a) Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - b) Written approval from the Department of Transportation and Development for surface water management facilities and erosion control measures.
 - c) A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 - i) The permit will be for driveway, drainage, parking and maneuvering areas, and other site improvements.
 - ii) The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee

structure for commercial/industrial/multi-family development at the time of the Development Permit application.

- iii) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

DATED this 22ND day of March, 2016.



Fred Wilson
Clackamas County Hearings Officer

ENDANGERED SPECIES ACT NOTICE

The federal Endangered Species Act (ESA) is not a criterion for approval of this application. The County has reviewed the approval standards in light of the requirements of the ESA, believes that the criteria for approval are consistent with the terms of the ESA and has submitted the Development Ordinances for consideration for a "4(d)" programmatic limitation. However, the analysis included in this decision does not include an evaluation by the County of the applications for consistency with the ESA nor does the decision reach any conclusions concerning that federal law. The applicant are responsible for designing, constructing, operating and maintaining the activities allowed by an approval of this application in a manner that ensures compliance with the ESA. Any question concerning this issue should be directed to the applicant, their consultants and the federal agencies responsible for administration and enforcement of the ESA for the affected species.

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).

NOTICE OF LAND USE DECISION

This document represents the Planning and Zoning Staff findings and conditions of approval for a Land Use Application for a Conditional Use modification as discussed below. It contains four parts: 1) Summary; 2) Decision; 3) Conditions of Approval; and 4) Findings.

SECTION 1 – SUMMARY

DATE: May 1, 2019

LAST DATE TO APPEAL: May 13, 2019

CASE FILE NOs.: Z0160-19-C

PROPOSAL: Modification of existing Conditional Use, originally approved in 2015. That approval was for commercial uses in conjunction with forest operations. This current request involves replacing the office trailer with larger, permanent structure, along with additional parking. The business conducts small and large forest harvest operations, does land clearing work, removes trees, clears stumps, and processes non-merchantable timber into firewood.

STAFF CONTACT(S): Clay Glasgow, (503) 742-4520, clayg@clackamas.us

LOCATION: 8560 SE 172nd Avenue; T1S R3E Section 30A, Tax Lot(s) 1200, 1401; (also, land to the south in Happy Valley jurisdiction)

APPLICANT(S): Joyce Leard

OWNER(S): Joyce Leard and Wilber Akins

TOTAL AREA: Approximately 2.65-acres (not including portion in City)

ZONING: FF-10, Farm Forest 10-acre lot size minimum

COMPREHENSIVE PLAN DESIGNATION: Rural

CITIZENS PLANNING ORGANIZATION: Rock Creek

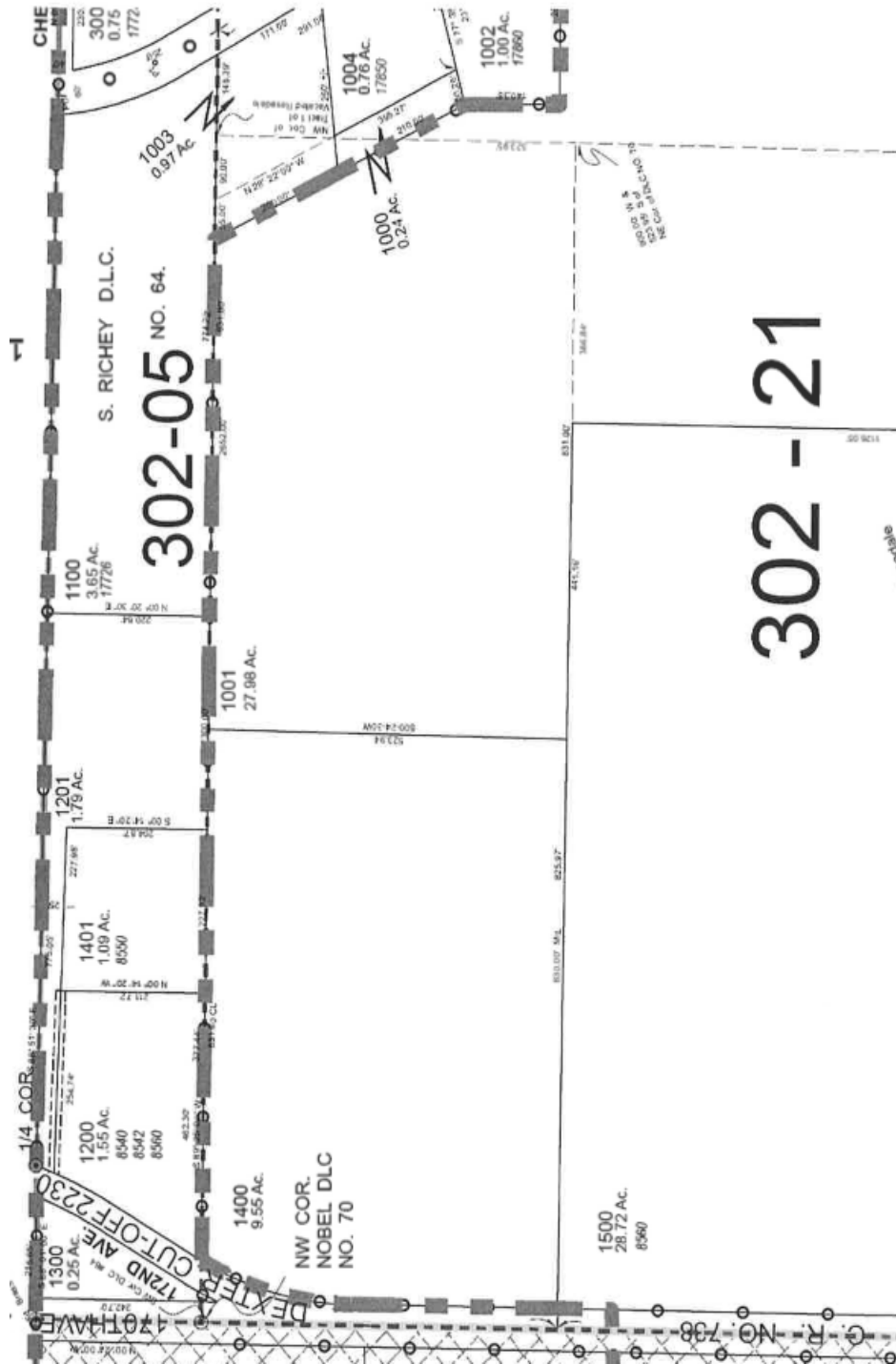
NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: A copy of the Planning and Zoning Staff recommendation and all evidence submitted with this application is available for inspection, at no cost, at the Land Use Development Services Division during normal business hours (Monday – Thursday 8:00 a.m. – 4:00 p.m. and Fridays 8:00a.m. – 3:00p.m.). Copies of all documents may be purchased at the rate of \$1.00 for the first page and 10 cents for each additional page. The Planning and Zoning recommendation contains the findings and conclusion upon which the recommendation is based along with any recommended conditions of approval.

Appeal Procedure: Any party disagreeing with this decision or the conditions of approval, may appeal this decision to the Clackamas County Hearings Officer, pursuant to Section 1307. The cost of the appeal is \$250.00. An appeal must be received by the Planning & Zoning Division by 3:00 p.m. on the last day to appeal which is **May 13, 2019**. This decision will not be effective until the day after the appeal deadline provided an appeal is not filed prior. Unless an appeal is received by the appeal deadline, this decision will be final and no additional written confirmation of the decision will be sent. Any party or parties appealing this decision may withdraw their appeal at any time prior to hearing or Final Decision by the Hearings Officer. A party wishing to maintain individual appeal rights may wish to file an appeal and pay the \$250.00 appeal fee, even if another appeal has been filed.

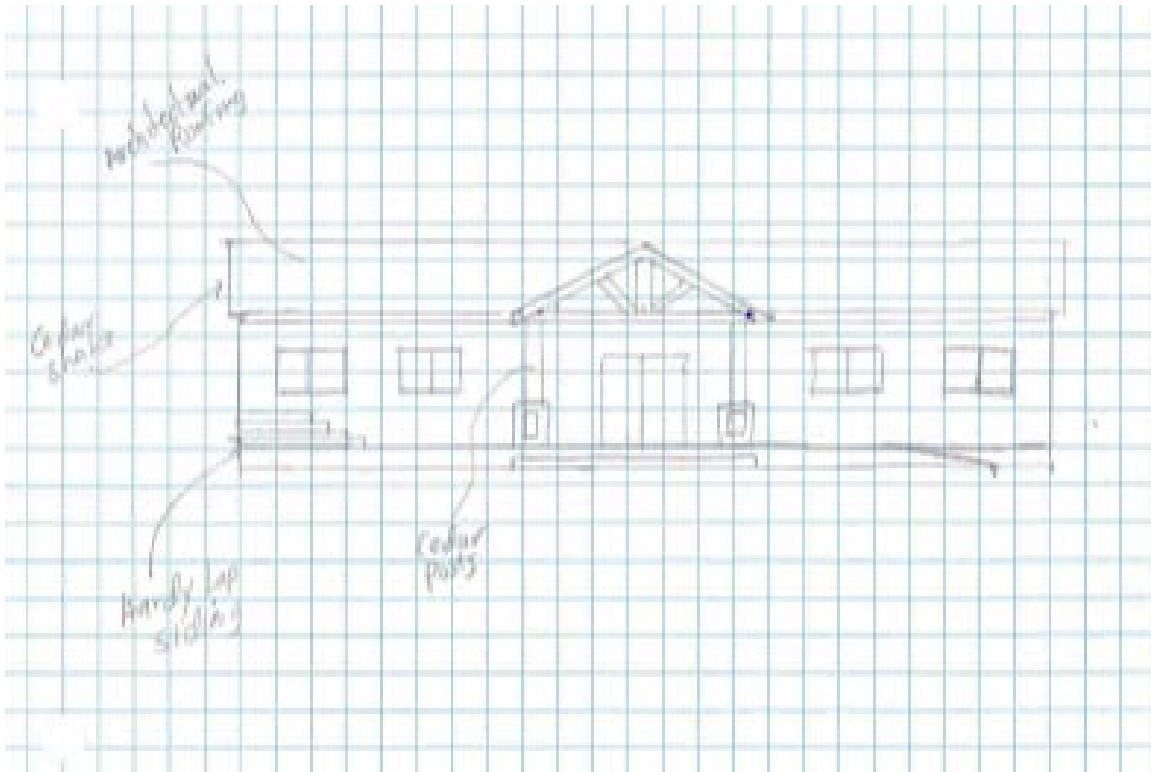
APPLICABLE APPROVAL CRITERIA: This application is subject to the Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 1307 and 1309; Section 1000 et al, and the Comprehensive Plan.

Tax Map



Aerial 2016





SECTION II - DECISION

Approval, with Conditions as outlined below:

SECTION III – CONDITIONS OF APPROVAL

I. General Conditions:

- 1) Approval of this land use permit is based on the submitted written narrative and plan(s) submitted April 2, 2019. The application was deemed complete on April 8, 2019. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

- 2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Deana Mulder, at (503) 742-4710 or at deanam@co.clackamas.or.us.

- 3) **Prior to the issuance of building permits**, the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Development Agency. Wendi Coryell can be contacted at 503-742-4657, or wendicor@clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge. A Transportation System Development Charge (TSDC) is included in the final calculation of the building permit fees for new instructional projects; this includes additions and tenant improvements that increase the number of daily trips to the site.
- 4) If approved, the conditional use is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building permit for a new primary structure that was part of the conditional use approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.
- 6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. **Planning and Zoning Conditions:** Clay Glasgow, (503) 742-4520, clayg@clackamas.us

- 1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.

- 2) Any new outdoor lighting [ZDO 1005.05(A) and (B)] shall be located and designed so that it does not shine onto adjacent properties or right-of-ways. If additional lighting will be installed, the applicant will submit an outdoor lighting system design plan prior to installation of the outdoor lighting system for review and approval by Planning and Zoning Division.
- 3) All signs shall be in compliance with ZDO Section 1010.

III. Engineering Division Conditions: Ken Kent, (503) 742-4673, kenken@clackamas.co

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, and/or on-site transportation improvements shall be in compliance with *Clackamas County Roadway Standards*.
- 2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
- 3) The proposed closure of existing driveways serving single-family homes on the site shall include removal of the existing approach so that vehicular access is no longer available. Access to the homes shall be provided through roadways that connect to the on-site circulation roads/drive aisles.
- 4) The applicant shall design and construct on-site parking and maneuvering areas as follows:
 - a) The applicant shall provide adequate on-site circulation for the parking and maneuvering of all vehicles anticipated to use the site, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces, and 18 feet for 60-degree spaces.
 - b) All curbs shall typically be type "C", or curb and gutter if curb line slope is less than one percent, if they carry, direct or channel surface water. Alternative curbs will be considered when it is determined by the Clackamas County Department of Transportation and Development that type "C" curbs or curb and gutter are not appropriate. Extruded curbs for carrying, directing or channeling surface water, or used as a vehicle wheel stop, shall not be allowed.
 - c) Parking spaces shall meet minimum ZDO section 1015 requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans. The parking lot and drive aisles shall be constructed with screened gravel or better, per Standard Drawing R100. Paved parking spaces shall be striped. Gravel parking spaces shall be provided with wheel stops or similar to delineate the spaces. Required ADA accessible parking spaces and accessible walkway to a building entrance shall be paved.
 - d) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet

standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

- 5) Written approval from the Clackamas Fire District #1 for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

IV. Clackamas Fire District #1 Conditions: Matt Boumann, 503-742-2660,
Matt.Amos@clackamasfire.com

- 1) If you have questions please contact Clackamas Fire District @503-742-2660
- 2) A Fire Access and Water Supply plan for subdivisions and commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, FDC location (if applicable), building square footage, and type of construction. The applicant shall provide fire flow tests per NFPA 291 or hydraulic model when applicable and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority. In addition, a pdf version shall be sent directly to CFD#1.
- 3) CFD#1 Fire Flow/Hydrant worksheet shall be completed and submitted with Fire Access & Water Supply Plan. This can be found on our website at:
<http://www.clackamasfire.com/newconstruction.html>
- 4) Please see our design guide at:
<http://www.clackamasfire.com/documents/fireprevention/firecodeapplicationguide.pdf>

V. Clackamas County Onsite Wastewater Systems Program: Eric Englebert, REHS;
eenglebert@clackamas.us

1. Developer to contact Department prior to construction/expansion.
2. Authorization Notice required prior to connecting new buildings(s) to existing onsite system

SECTION IV – FINDINGS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 1307 and 1309, and the Comprehensive Plan. Clackamas County Land Use and Zoning Staff has reviewed these Sections of the ZDO in conjunction with this proposal and makes the following findings and conclusions:

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. Background:

Prior Land Use Actions:

STP-129-79, approved 7/18/79, to use a mobile home as a residence for the applicant's granddaughter and family, who will provide care and assistance for the applicant – Bessie Morrison.

1898-80-ST, approved 7/17/81 to continue using a mobile home as a residence for the applicant's granddaughter and family, who will provide care and assistance for the applicant – Bessie Morrison.

1116-81-T, approved 7/14/82 to continue using a mobile home as a residence for the applicant's granddaughter and family, who will provide care and assistance for the applicant – Bessie Morrison.

ST-980-82, approved 7/15/83 to continue using a mobile home as a residence for the applicant's granddaughter and family, who will provide care and assistance for the applicant – Bessie Morrison.

Z1446-91-SL and Z1447-91-Z withdrawn 7/27/92.

Z0480-96-C, Approved 7/24/96 to establish a 155-foot high cellular monopole with antennae and five 30"X30"X60" high equipment cabinets.

Z0888-96-D, approved 9/13/96 for a telecommunication facility.

Z0497-02-AA, approved, 7/16/02 for a PCS LLC cell site

Z0491-15-C, approved conditional use for commercial activities in conjunction with forest uses

A. Applicant's discussion of their proposal:

"Replace office trailer with larger, permanent structure, along with additional parking."

2. **Site Description:** The subject property contains multiple tax lots with tax lots 1200 and 1401 being in the County and the others in Happy Valley (1001, 1400 and 1500). The two lots in the County are approximately 2.64 acres total. Buildings on site (tax lots 1200 and 1401, County) include two homes, garage, shed, equipment storage building, repair building, shop building, proposed shop and proposed office trailer. One of the dwellings is occupied by the business owner (tax lot 1200).

4. **Natural Features:** The property is fully developed, e.g. there are no particular “natural features.” Site is essentially level, with no mapped geologic features/natural areas, wetlands, etc. For purpose of this criterion the site contains no “natural features.”
5. **Man Made Features:** The site is developed with structures, parking and circulation areas. See site plans, aerial photographs, etc.
6. **Surrounding Conditions:** other than the business on the subject property, area use is mostly rural residential. The northern edge of the property represents the County line while the southern property line abuts City of Happy Valley.
7. **Service Providers:**
 - A. Surface Water: DTD, Traffic Engineering
 - B. Water: on-site well
 - C. Sewer: septic
 - D. Fire Protection: Clackamas RFPD#1.
8. **Responses Requested:**
 - A. Happy Valley
 - B. Rock Creek CPO
 - C. Clackamas RFPD#1
 - D. Department of Transportation and Development (DTD), Traffic Engineering (TE)
 - E. Department of Transportation and Development (DTD), Planning & Zoning
 - F. Department of Transportation and Development (DTD), Building Division
 - G. Clackamas County Onsite Wastewater Systems Program, DTD
 - H. Property Owners within 500 feet
9. Responses Received:
 - A. Clackamas County Onsite Wastewater Systems Program 4/08/19.

SUBMITTAL REQUIREMENTS – CONDITIONAL USE PERMIT

1. Subsection 1307 of the Zoning and Development Ordinance list the information that must be included in a complete application for a modification of conditional use permit.

This application includes a completed land use application form, site plan, application fee and completed supplemental application addressing the criteria in Section 1309 of the ZDO. The application also includes a description of the proposed use, vicinity map and Preliminary Statement of Feasibility for surface and storm water management. The submittal requirements under Subsection 1203.04 are included in the application. The

application was submitted on April 2, 2019 and deemed complete April 8, 2019. The 120 day deadline for processing this application is August 6, 2019.

The submittal requirements of Section 1203.04 are met.

-

MODIFICATION OF A CONDITIONAL USE PERMIT:

Subsection 1309.01, Approval Criteria:

1. A modification to an approved Type II or III land use permit, or conditions thereto, requires review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:

- A. *A modification shall be consistent with the prior approval;*

Initial land use approval for the facility came through Z0491-15-C. That permit allows the current facility to operate. This current proposal involves replacing a portable office trailer with a larger, permanent structure. New building to be approximately 750 square feet larger than existing portable.

Use on site will not change. The proposal is consistent with prior approval and as such this criterion is satisfied.

- B. *A modification shall be consistent with all Ordinance provisions in effect on the date the modification request is submitted;*

Through the original approval in 2015 the use has been found to meet applicable Ordinance provisions. As proposed, development on site will continue to satisfy original approvals/modifications along with current Ordinance provisions. There have been no substantive Ordinance changes which would impact this proposal. Applicable standards from Section 316, 1203 etc. will continue to be met. This criterion is satisfied.

- C. *A modification shall not result in any of the following:*

1. *A change in the type of use (e.g. commercial, industrial, institutional);*

No change in type of use is proposed with this application.

2. *An increase of greater than 25 percent of the original approved building floor area;*

The addition as proposed will be less than 25% of the original approved building floor area.

This criterion is satisfied.

3. *An increase of greater than 25 percent of the original approved lot coverage;*

The larger replacement building will not result in increase of greater than 25% of approved lot coverage.

This criterion is met.

4. *An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures;*

The applicant states there will be no increase in the density or intensity of uses on site. There will be no change in occupancy rating or modifications to existing structures.

This criterion is met.

5. *An increase in traffic congestion or use of public facilities;*

The applicant states that “*no changes or increases to traffic congestion or use of public facilities are expected...*” This application does not propose any increase in employees or any use or activity on site over that originally approved.

This criterion is met.

6. *A reduction in approved open space;*

The applicant states “*no reduction in usable or approved open space is proposed.*” The area(s) proposed for increased building/roof are not part of any specifically approved open space, rather, this is additional property beyond that which had been considered in previous land use actions. This criterion is met.

7. *A reduction of off-street parking spaces or loading berths, except as provided under Section 1015;*

Proposal will result in additional parking spaces. This criterion is met.

8. *A reduction in required pavement widths or a change in major access locations, except as required by the County.*

This application does not propose any reductions in required pavement widths or changes in major access locations.

This criterion is met.

The standards of Section 1309 are met with this proposal.



12/10/2014

+ 200 ft X:7691932.764981, Y:660509.493281
 -



Results (New Selection):

- Addresses **1**
- Taxlot **1**

Actions	Taxpayer Name	In Care Of Primary Address	Jurisdiction	Map Number	Taxlot Number	Parcel Number
	AKINS WILBUR L & JOYCE RAE LEARD	8550 SE 172ND AVE, Damascus, 97089	Clackamas County	13E30A	13E30A 01401	01692047



Mr. Tree, Inc

Wall 2 Wall Hardwood Floors
8550 SE 172nd Ave

Tree Services

Image U.S. Geological Survey

Imagery Date: 4/30/2002

EXHIBIT C _ PAGE 3 OF 8





Mr. Tree, Inc

Wall 2 Wall Hardwood Floors

8550 SE 172nd Ave

Tree Services

Image © 2023 Metro, Portland Oregon

Imagery Date: 7/31/2002 45°27'41.32" N 122°



Mr. Tree, Inc

Floors
2nd Ave

Image © 2023 Metro, Portland Oregon

Imagery Date: 7/11/2007 45°27'38.75

EXHIBIT C _ PAGE 5 OF 8

USD/EUR +0.0





Mr. Tree, Inc

Hardwood Floors
SE 172nd Ave

Image © 2023 Metro, Portland Oregon

Imagery Date: 6/18/2008 45°27'

EXHIBIT C _ PAGE 6 OF 8

USD/EUR





Mr. Tree, Inc

Hardwood Floors
SE 172nd Ave

Imagery Date: 8/20/2011 45°27'39.73"

EXHIBIT C _ PAGE 7 OF 8 USD/EUR +0.00





Mr. Tree, Inc

Ave



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

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.

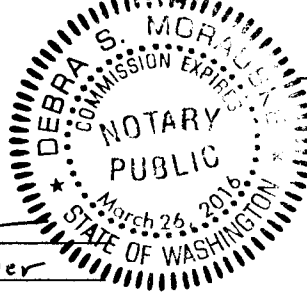
Dated 14th day of December, 2015

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.



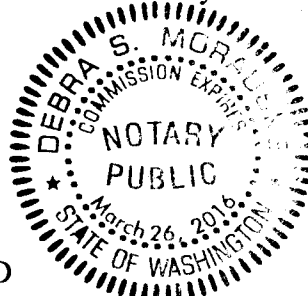
Debra S. Morauske
Notary Public for Washington
My Commission expires: March 26, 2016

*morauske

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



NOTICE OF DECISION ON A TYPE II LAND USE PERMIT

Decision: Approved with Conditions

Permit Type: Time Extension

File No. Z0187-23-TE

Proposal: Application for a time extension of land use file Z0160-19-C, a Modification of a conditional use to build a 72' by 40' office building that will support the approved condition use of commercial forest processing for commercial forest activities in conjunction with forest use which was approved by land use file Z0491-15. The Modification permit was approved in 2019, but the approval has not yet been implemented. The applicant is requesting a 2-year time extension to implement the approval of land use file Z0160-19.

Decision Date: August 3, 2023

Deadline for Filing Appeal: August 15, 2023, at 4:00 pm

Unless appealed, this decision is effective on August 3, 2023 at 4:00 pm.

Issued By: Melissa Lord, Planner II, MLord@Clackamas.us

Assessor's Map & Tax Lot(s): T1S R3E Section 30A Tax Lots 01200, 01400, and 01401

Site Address: 8540 SE 172nd Ave, Happy Valley, OR 97086

Applicant: Wilbur Atkins

Owner of Property: Joyce Leard and Wilbur Atkins

Zoning: Farm Forest 10-Acre (FF-10)

Community Planning Organization (CPO) for Area:
Rock Creek (INACTIVE)

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are

interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

OPPORTUNITY TO REVIEW THE RECORD: The submitted application is available for review online at <https://acela.clackamas.us/citizenaccess/>. Select the Planning tab and enter the file number to search. Select Record Info and then select Attachments from the dropdown list, where you will find the submitted application. The complete application file is available for inspection at no cost by contacting the Planner listed on the first page of this decision. Copies of all documents may be purchased at the rate of \$2.00 per page for 8 1/2" x 11" or 11" x 14" documents, \$2.50 per page for 11" x 17" documents, \$3.50 per page for 18" x 24" documents and \$0.75 per sq ft with a \$5.00 minimum for large format documents.

APPEAL RIGHTS: Any party disagreeing with this decision, or the conditions of approval, may appeal this decision to the Clackamas County Land Use Hearings Officer. An appeal must include a completed County Appeal Form and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified on the first page of this decision.

Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

The County Appeal Form is available at www.clackamas.us/planning/supplemental.html. Any party or parties appealing this decision may withdraw their appeal at any time prior to the hearing or final decision by the Hearings Officer. A party wishing to maintain individual appeal rights may file an individual appeal and pay the \$250.00 fee, even if an appeal by another party or parties has been filed.

A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 316, 1005, 1006, 1007, 1203, 1307, and 1310.

PUBLIC AND AGENCY COMMENTS:

Notice was sent to applicable agencies and owners of property within 750 feet. No comments were received by the Planning and Zoning Division regarding this land use application.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

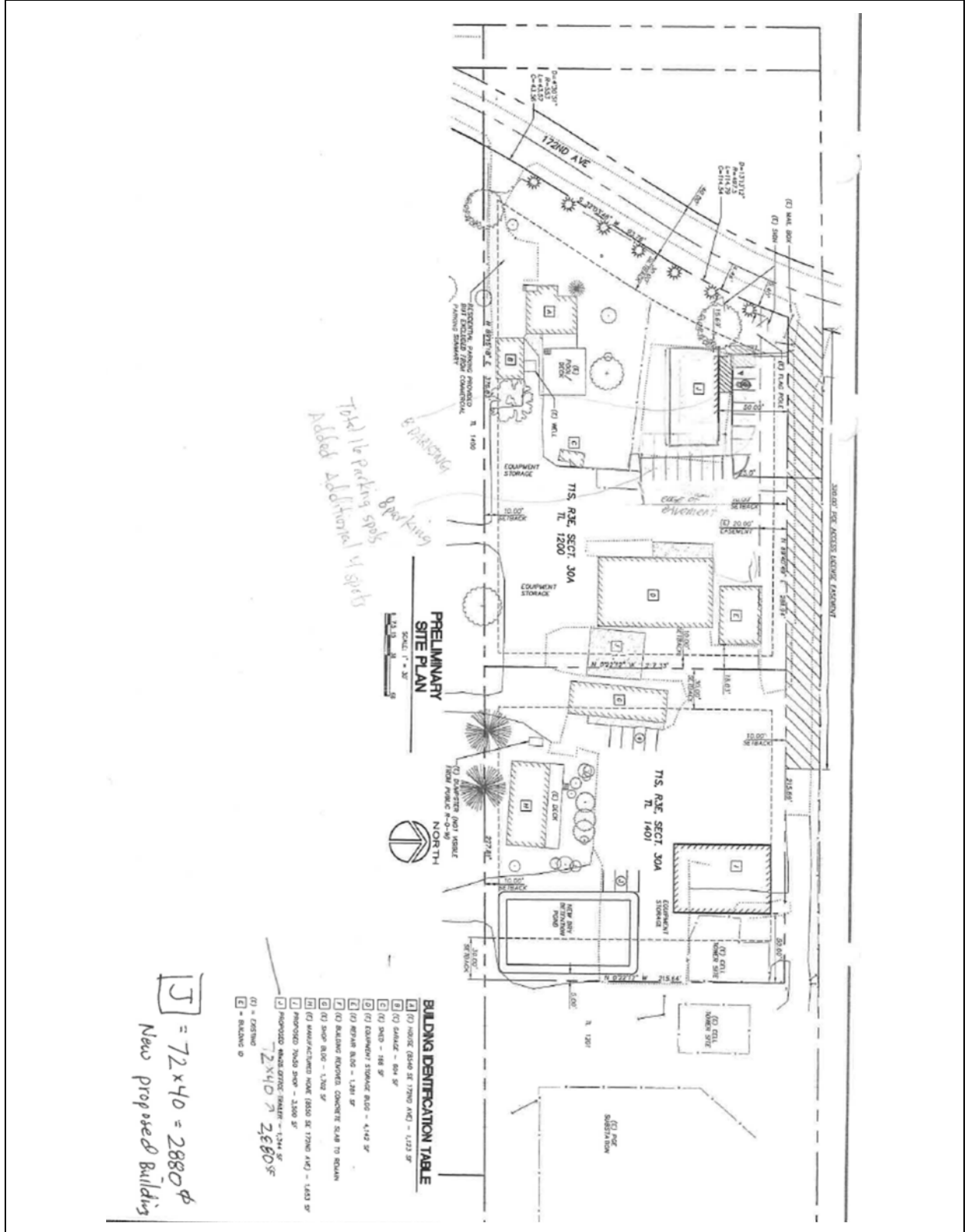
Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email DRenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод? | 翻译或口译? |
Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

Location Map



Site Plan



CONDITIONS OF APPROVAL

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parentheses

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on April 26, 2023, additional materials submitted on June 1, 2023, and all elements of the previously issued land use decisions (Z0160-19) including conditions of approval.

No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.

2. Approval of a time extension application approved under Section 1310 is valid for two years from the date of the final written decision on the time extension, or for two years from the date of expiration of the initial approval period for the land use permit, whichever is longer. Therefore, this Decision authorizes a two-year time extension from the date of this decision. **The new approval period expires August 3, 2025).**

FINDINGS

The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

1. **PROJECT OVERVIEW:** A request for a Time Extension to implement the approved Conditional Use land use permit, authorized under planning file Z0160-19, for the modification of a conditional use to build a 72' by 40' office building that will support the approved condition use of commercial forest processing for commercial forest activities in conjunction with forest use which was approved by land use file Z0491-15.
2. **ZDO Section 1310 – Type II Time Extensions**
 1. *Section 1310.01(A)(1)* The time extension application shall be submitted prior to, but not sooner than one year prior to, the expiration of the initial approval period for the land use permit. However, if the land use permit was modified pursuant to Section 1309, Modification, the application for a time extension shall be

submitted prior to, but not sooner than one year prior to, the expiration of the approval period for the modification;

Finding: The original land use application (Z0491-15) was modified pursuant to ZDO Section 1309 by land use permit Z0160-19. The modification land use permit expired on May 1, 2023. This land use application was submitted to the County for review on April 26, 2023, prior to the expiration of the modification. This criterion is met.

2. Section 1310.01(A)(2) The proposed development as originally approved, or as modified pursuant to Section 1309, Modification, shall be consistent with the relevant provisions of this ordinance in effect on the date the application for a time extension is submitted, provided that the application is complete when submitted or is made complete pursuant to subsection 1307.07(E)(4)

Finding: The application was deemed complete on June 1, 2023. There have been no substantive changes made to the relevant subsections of ZDO Section 806, 1005, 1006, 1007, and 1203, since the initial approval, and no material changes to ZDO Sections 316 (FF-10) or 1307 (Procedures). The proposed development is substantially consistent with the prior land use approval. There have been no comments submitted that otherwise show the applicant cannot meet the current ZDO provisions. This standard is met.

3. Section 1310.01(A)(3) There shall have been no changes on the subject property or in the surrounding area that would be cause for reconsideration of the original decision.

Finding: Staff has not identified any changes to the subject property or the immediate vicinity that would cause reconsideration of the original decision. This criteria is met.

4. Section 1310.03 Approval of a time extension application approved under Section 1310 is valid for two years from the date of the final written decision on the time extension, or for two years from the date of expiration of the initial approval period for the land use permit, whichever is longer.

Finding: The most recent land use application, file Z0160-19, was issued on May 1, 2019 and expired four years after, on May 1, 2023. This time extension decision is written on August 3, 2023 which is later than May 1. Therefore, this time extension decision shall be valid for two years from the date of this decision.

From: Hughes, Jennifer <jenniferh@clackamas.us>
Sent: Thursday, October 19, 2023 11:17 AM
To: Kauppi, Jennifer <JKauppi@clackamas.us>; Lord, Melissa <MLord@clackamas.us>
Subject: RE: Mr. Tree - Z0187-23 - 8540 SE 172nd Ave - Job Trailers

Hi Jen,

I'll take these questions. See below for my responses.

Jennifer Hughes, Planning Director
Planning and Zoning
Clackamas County Department of Transportation and Development
150 Beavercreek Road, Oregon City, OR 97045
503-742-4518

Work Hours: Mon-Fri, 8 a.m. – 5 p.m.

www.clackamas.us

From: Kauppi, Jennifer <JKauppi@clackamas.us>
Sent: Thursday, October 19, 2023 10:24 AM
To: Lord, Melissa <MLord@clackamas.us>
Cc: Hughes, Jennifer <jenniferh@clackamas.us>
Subject: Mr. Tree - Z0187-23 - 8540 SE 172nd Ave - Job Trailers

Melissa,

Hello! I am moving forward with enforcement for the Mr. Tree property. I have some specific questions regarding the 'temporary job trailers'.

These trailers were placed on 8550 SE 172nd Ave – Tax lot 13E30A 01401. These trailers were placed on site between May 2002 and July 2008. It is my understanding that these trailers are not approved under their current land use decision. After speaking with Jeffrey Munns yesterday about this file and how the County is going to proceed, he asked that I get some additional information from you and specific ordinance references as to why they may not be able to obtain certain things.

1. I am confirming that these job trailers are not approved under the current land use, correct?
Correct
2. Is the tax lot for 8550 its own legal lot of record? If so, would there be a separate land use option for them to keep them indefinitely?

The LOR status is not relevant to whether the job trailers can remain or not. The conditional use, as approved, will occupy two tax lots. They have had multiple opportunities to seek land use approval for that site, and they proposed something other than the job trailers. The area where the trailers are located has been designed (by them) to accommodate required landscaping. See the approved site plan attached.

If they want to now propose a different site design and submit a new land use application, they are allowed to do that (no guarantee it will be approved). An applicant can submit land use application after land use application if that's what they want to do (unless one is denied, which changes things a bit and isn't relevant here). If they were not in a state of zoning noncompliance, it would be perfectly fine to do so. However, it makes little sense from an enforcement policy perspective to allow someone currently in violation to sequentially submit different land use applications just to forestall enforcement. Mr. Tree has a land use approval, which they are free to move forward with immediately. In fact, their Engineering Development Permit has been issued and does not include the job trailers, and their building permit for the new office is ready to be issued.

3. If this is one legal lot of record for 8540 and 8550, could they apply for a modification of the land use to keep the trailers? **Same answer as above.**
4. Would there be an option for them to apply for temporary placement permits or land use to have the trailers on site while they're building their office building that is supposed to eliminate the need for the trailers? **No. The use (commercial activity in conjunction with forest use) is allowed in the zone through a CU (Table 316-1), so a temporary permit for a use otherwise prohibited (the only option) is not available (ZDO 1204.02A1). That said, if you want to hold off on enforcement as they move forward with construction, I would support that only if they are showing consistent, measurable, expedient progress toward full implementation of their land use approval. I'd suggest a sequential plan for full implementation of their approved site plan and a clearly identified step at**

which the job trailers will be removed. Clearly they cannot remain until construction is complete because they need to develop that area with landscaping.

Thank you for looking into this! Much appreciated.



Jennifer Kauppi – Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver Creek Rd.

Primary Phone: 503-742-4759

www.clackamas.us

Hours: M-F from 7:30 a.m. until 4:00 p.m.

Lobby hours 8:00 a.m. until 4:00 p.m. Monday – Thursday. Offices are closed to the public on Fridays.

Were you happy with the service you received today?



CLICK A SMILEY



UPDATED NOTICE OF VIOLATION

November 7, 2023

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

Wendie Kellington
PO Box 2209
Lake Oswego, OR 97035

SUBJECT: Violation of Clackamas County Zoning and Development Ordinance, Section 316.03(A)

VIOLATION: V0070714

SITE ADDRESS: 8540 & 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:

Job trailers placed without land use approval

VIOLATIONS & HOW TO RESOLVE

In June 2015, violations on the above reference properties were confirmed by site inspection. Business operations were occurring on site without land use approval. A conditional use permit was applied for and approved file Z0491-15. In 2019, a modification of Z0491-15 to build a larger office building was applied for and approved under Z0160-19. In May, 2023 a 2-year extension of the land use approval was applied for and approved under Z0187-23.

Planning staff have determined that the job trailers that are currently on tax lot 01401 are not approved under these land use decisions. Commercial activity in conjunction with forest use is only allowed through a conditional use approval. In addition, a temporary permit for a use otherwise prohibited is not available per ZDO 1204.02(A)(1). While temporary buildings for uses incidental to construction work are allowed without land use approval, there is no indication that the job trailers are being used for anything incidental to construction work.

The placement of the job trailers without land use approval constitutes a violation of Zoning and Development Ordinance, Section 316.03(A). In order to abate the violation(s), you must complete the following **no later than January 1, 2024**:

The job trailers located on tax lot 01401 must be removed from the subject property to an authorized location.

- Contact Code Enforcement Specialist Jennifer Kauppi to conduct a site inspection to confirm the job trailers have been removed from the subject property.

CONTACT INFORMATION

Planning – If you have questions concerning land use requirements please contact the planning department at 503-742-4500 or on-line at zoninginfo@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. Our offices are closed to the public 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.



November 15, 2023

Via Email

Clackamas County Code Enforcement Section
150 Beaver Creek Rd.
Oregon City, OR 97045
codeenforcement@clackamas.us

RE: REQUEST FOR HEARING "Updated Notice of Violation" dated November 7, 2023 RE: Clackamas County Code Enforcement (V0070714) 8540 & 8550 SE 172nd Ave., Happy Valley, OR 97086

Dear Code Enforcement Section:

This firm represents Wilbur Akins and Joyce Leard concerning the above matter. In the above referenced "Updated Notice of Violation", it is alleged that the site has "Job trailers placed without land use approval" and further asserts that "Planning staff have determined that the job trailers that are currently on tax lot 01401 are not approved under" the land use decisions for the property.

The "Updated Notice of Violation" also asserts:

The placement of the job trailers without land use approval constitutes a violation of Zoning and Development Ordinance, Section 316.03(A). In order to abate the violation(s), you must complete the following no later than January 1, 2024:

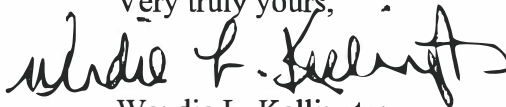
The job trailers located on tax lot 01401 must be removed from the subject property to an authorized location.

- **Contact Code Enforcement Specialist Jennifer Kauppi to conduct a site inspection to confirm the job trailers have been removed from the subject property.**

The "Updated Notice of Violation" includes a paper called "Important Notices." It states: "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." This is Mr Akins and Ms. Leard's request for a hearing. They strongly dispute the "existence of the violations described." Contrary to the allegations in the "Updated Notice", Akins/Leard have land use approval to maintain the temporary office trailers during the time they are constructing the approved office building. In fact, they would have completed the approved permanent office building two years ago had the county not delayed acting on it. In this regard, on August 27, 2020, Akins/Leard submitted their building permit application for the new office structure approved in Z0160-19-C (B0689719). The county did not approve that building permit until

September 2023. It is now the wet season. Nonetheless, Akins/Leard have hired a contractor to pursue the approved construction and he is doing so. It is not likely, however, that the new office building will be completed by your January 1, 2024 date. And completing the office building is the action necessary to remove the office trailers occupied by the staff of the approved forest use of the property. Akins/Leard are, as always, happy to work constructively with the county but there is little more they can do until the office building is completed.

Very truly yours,

A handwritten signature in black ink, appearing to read "Wendie L. Kellington". The signature is fluid and cursive, with a large initial "W" and "L".

Wendie L. Kellington

WLK:wlk

CC: Jennifer Kauppi jkauppi@clackamas.us
Caleb Hugel