



## NOTICE OF HEARING

August 5, 2024

Chris & Tammie Cory  
7925 S Zimmerman Rd.  
Canby, OR 97013

**RE::** County of Clackamas v. Chris & Tammie Cory  
**File:** V0002718

**Hearing Date:** August 27, 2024

**Time:** This item will not begin before 12:30pm 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 Shane Potter, Code Compliance Specialist for Clackamas County at (503) 742-4465, 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

## 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 Officer's 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 20<sup>th</sup> 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 copy of the link is provided below.

If you would like to present evidence at the Hearing please email or mail your evidence to Shane Potter 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 Shane Potter at 503-742-4465 **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/84557478927?pwd=4TxqCcXizgPaAAmb0O8rM8dAJTA2eU.1>

Passcode: 013781

Or One tap mobile:

+13462487799,,84557478927# US (Houston)

+14086380968,,84557478927# 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 +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 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

Webinar ID: 845 5747 8927

## 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](http://www.clackamas.us/transportation/nondiscrimination), email [JKauppi@clackamas.us](mailto: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](http://www.clackamas.us/transportation/nondiscrimination), envíe un correo electrónico a [JKauppi@clackamas.us](mailto: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](http://www.clackamas.us/transportation/nondiscrimination), отправьте письмо на адрес эл. почты [JKauppi@clackamas.us](mailto: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](http://www.clackamas.us/transportation/nondiscrimination)，发送电子邮件至 [JKauppi@clackamas.us](mailto: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](http://www.clackamas.us/transportation/nondiscrimination), gửi email đến [JKauppi@clackamas.us](mailto: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/nondiscrimination](http://www.clackamas.us/transportation/nondiscrimination)을 참조하거나 이메일 [JKauppi@clackamas.us](mailto: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,

FILE NO: V0002718

Petitioner,

v.

CHRIS D & TAMMIE E CORY,  
CHRIS D CORY TRUSTEE, &  
TAMMIE E CORY TRUSTEE,

Respondents.

COMPLAINT AND REQUEST FOR HEARING

I Shane Potter, Code Enforcement Specialist for Clackamas County, allege the following:

1.

Respondents' mailing address is: 7925 S Zimmerman Rd., Canby, OR 97013

2.

The address or location of the violation(s) of law alleged in this complaint is:  
7925 S Zimmerman Ln., Canby, OR 97013, also known as T4S, R1, Section 29, Tax  
Lot 00100, and is located in Clackamas County, Oregon.

3.

On or about the 19<sup>th</sup> day of August, 2020, and on or about the 18<sup>th</sup> day of  
November, 2020, and on or about the 7<sup>th</sup> day of April, 2021 the Respondents violated  
the following laws, in the following ways:



Title 9 of the Clackamas County Building Code Section 9.02.040 for operating a commercial business in an agriculturally exempt building. This violation is a Priority 1 violation pursuant to the Clackamas county Violation Priorities.

Title 12 of the Clackamas County Zoning and Development Ordinance (ZDO) Code Section 12.401.04 for operating a commercial business on Exclusive Farm Use zoned property without first obtaining land use approval. The property is zoned Exclusive Farm Use (EFU). 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: Violation notice dated August 19, 2020 and Citation and Complaint #1800027-1 on November 18, 2020 and Citation and Complaint #1800027-2 on April 7, 2021. A copy of the notice documents are attached to this Complaint as Exhibits E and G and H, and incorporated by this reference.

6.

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

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

2. Pursuant to Clackamas County Code Section 2.07.090, imposing a civil penalty against Respondents for each violation, within the range established by the Board of County Commissions. Said range for a Priority 1 for a Building Code violation being \$750.00 to \$1,000.00 per occurrence and said range for a Priority 2 Zoning Code 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; and

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.

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

DATED THIS 30<sup>th</sup> day of July, 2024

A handwritten signature in cursive script that reads "Shane Potter". The signature is written in black ink and is positioned above a horizontal line.

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Shane Potter  
Code Enforcement Specialist  
FOR CLACKAMAS COUNTY



COUNTY OF CLACKAMAS,

Petitioner,

File No.: V0002718

v.

CHRIS D & TAMMIE E CORY, CHRIS D  
CORY TRUSTEE, & TAMMIE E CORY  
TRUSTEE,

Respondents.

STATEMENT OF PROOF

History of Events and Exhibits:

January 12, 2018 & February 11, 2018 Exhibit A	Clackamas County received complaints of operating Green Seasons Landscaping and Chris Cory Excavating without land use approval
February 13, 2018 Exhibit B	Letter of allegation was mailed first class mail. The letter requested contact within 10 days. The mail was not returned.
February 13, 2018	Code Enforcement Specialist (CES) Shane Potter spoke by phone with Jerry Jones Jr. who stated he is representing the Respondents to address this matter. Mr. Jones stated he will work with Planning and Zoning to obtain approval for the landscape company.
June 4, 2018	CES Potter received an email from Mr. Jones stating he is meeting with the property owner and will get an application in within the next few days.
October 16, 2018	The Respondent held a pre-application meeting with the Planning and Zoning Division.
August 1, 2019 Exhibit C	CES Michael Barnes performed a site visit and noted a business named Green Seasons is operating at this address. CES Barnes noted there was a commercial van with Green Seasons advertising on it along with a phone number. CES Barnes also spoke with a couple of individuals on site who confirmed this was the location for Green Seasons Landscaping.

May 27, 2020 Exhibit D	CES Potter performed a site visit and noticed a large fenced off area of this property that contains numerous trailers and equipment. There are several vehicles with the Green Seasons Landscaping logos on them. There is a large shop area with a second story that appears to be used as an office. There is an air conditioning unit sticking out of the window.
August 19, 2020 Exhibit E	Facts of the alleged violation were reviewed, the violation verified and Notice of the Violation mailed containing a statement of the facts that support the finding a violation exists on the property. The Notice of Violation was mailed first class mail. The mail was not returned.
November 6, 2020 Exhibit F	CES Potter performed a site visit and the business remains on site. The building also remains in the same condition.
November 18, 2022 Exhibit G	Citation #1800027-1 issued for a Priority 1 violation of the Building Code and Priority 2 violation of the Zoning Ordinance. The Citation was mailed first class mail. The mail was not returned. The Citation has not been paid.
December 8, 2020	Mr. Jones called and stated he thought this issue had been resolved. CES Potter returned the call and left a message explaining they went through a pre-application process but have not submitted the documentation or application for an official land use review.
April 7, 2021 Exhibit H	Citation #1800027-2 issued for a Priority 2 Zoning Code Ordinance violation and a Priority 1 Building Code violation. The Citation was mailed first class mail. The mail was not returned. The citation has not been paid.
November 12, 2021	The Respondent Tammy Cory called and said she was confused why this is still going on they thought this had been addressed. I explained there has been no official land use application made.
September 27, 2022	A land use application was submitted to the Planning and Zoning Division file Z0478-22.
January 18, 2023	Review by CES Potter showed the land use application Z0478-22 had been withdrawn.
March 2023	The Respondent's new representative Bob Price began submission of an application for land use review.

October 3, 2023 Exhibit I	Land Use File Z0116-23 was denied by the Planning and Zoning Division. Planning's decision was appealed.
November 2, 2023	Research shows the applicant pulled the appeal of file Z0116-23 therefore the denial by the County stands.
June 20, 2024 Exhibit J	CES Potter performed a site visit and the commercial activities continue to exist on site.
July 30, 2024	Clackamas County referred this matter to the Code Hearings Officer.

If the Hearings Officer affirms the County's position that a violation of operating a business without land use approval and occupying an agriculturally exempt building for commercial purposes without building permits exists on the subject property, the County would request a Final Order be issued.

The County will submit a Post Hearing Status Report. The report will be sent to the Compliance Hearings Officer and to the Respondent. The report includes the following recommendations:

- Payment of Citations #1800027-1 for \$175.00 and payment of Citation #1800027-2 for \$900.00 for a total of \$1,075.00.
- Imposition of Civil penalties of up to \$1,000.00 for each citation for a total of up to \$2,000.00.
- The administrative compliance fee to be imposed from August 2020 for a total of \$3,525.00. Clackamas County is asking for a reduction of 24 months for a total of \$1725.00.
- If the violations are not abated the County may request authorization for further enforcement action including to proceed to Circuit Court.
- The County requests the Hearings Officer to permanently enjoin the Respondents from violating these laws in the future.
- The County would also ask that reimbursement be ordered for any expense the County incurs in collection of these monies.





100

Zimmerman Rd

S Zimmerman Rd

SZ

Distributor: Airbus D5 © 2024 TomTom, © 2023 Eagleview

702

**EXHIBIT A PAGE 1 OF 3**

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Property Account Summary  Barcode

<b>Account Number</b>	01017321	<b>Property Address</b>	7925 S ZIMMERMAN RD , CANBY, OR 97013			
<b>General Information</b>						
Alternate Property #	41E29 00100					
Property Description	Section 29 Township 4S Range 1E TAX LOT 00100					
Property Category	Land &/or Buildings					
Status	Active, Host Other Property, Locally Assessed, Use Assessed					
Tax Code Area	086-017					
Remarks						
<b>Tax Rate</b>						
<b>Description</b>	<b>Rate</b>					
Total Rate	14.4323					
<b>Property Characteristics</b>						
Property Tax Deferral	Potential Additional Tax Liability					
Neighborhood	13164: South Canby rural all other					
Land Class Category	551: EFU farmland improved					
Building Class Category	14: Single family res, class 4					
Year Built	1977					
Acreage	21.98					
Change property ratio	5XX					
<b>Related Properties</b>						
P2255051 is Located On this property						
P2167905 is Located On this property						
<b>Parties</b>						
<b>Role</b>	<b>Percent</b>	<b>Name</b>	<b>Address</b>			
Taxpayer	100	CORY CHRIS D TRUSTEE	7925 S ZIMMERMAN RD, CANBY, OR 97013			
Owner	100	CORY CHRIS D TRUSTEE	7925 S ZIMMERMAN RD, CANBY, OR 97013			
Owner	100	CORY TAMMIE E TRUSTEE	7925 S ZIMMERMAN RD, CANBY, OR 97013			
<b>Property Values</b>						
<b>Value Type</b>	<b>Tax Year 2023</b>	<b>Tax Year 2022</b>	<b>Tax Year 2021</b>	<b>Tax Year 2020</b>	<b>Tax Year 2019</b>	
AVR Total	\$403,190	\$391,457	\$380,065	\$369,004	\$358,263	

GRANTOR: Chris D. Cory and Tammie E. Cory

GRANTEE: Chris D. Cory and Tammie E. Cory, Trustees

UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING:

Chris D. Cory and Tammie E. Cory, Trustees  
Chris D. Cory and Tammie E. Cory Revocable Living Trust  
U/D/T May 14, 2020  
7925 S. Zimmerman Rd.  
Canby, OR 97013

AFTER RECORDING, RETURN TO:

Loren P. Bell, P.C.  
358 NW 1<sup>st</sup> Ave.  
Canby, OR 97013

BARGAIN AND SALE DEED

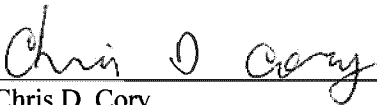
Chris D. Cory and Tammie E. Cory, as a married couple, as joint tenants with right of survivorship, Grantors, conveys to Chris D. Cory and Tammie E. Cory, Trustees or their successor Trustee(s), in the Chris D. Cory and Tammie E. Cory Revocable Living Trust U/D/T May 14, 2020 and any amendments thereto, Grantee, all right, title and interest in the following described real property located in Clackamas County, State of Oregon:

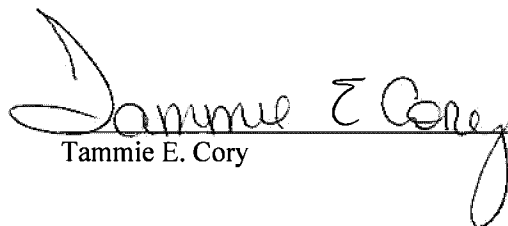
See Deed Reference No.: 2021-002786.  
(Map No.: 41E29 00100, Assessors Account No.: 01017321).

**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 2009. 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.**

The true and actual consideration for this conveyance consists of or includes other property or value given as provided for estate planning consideration.

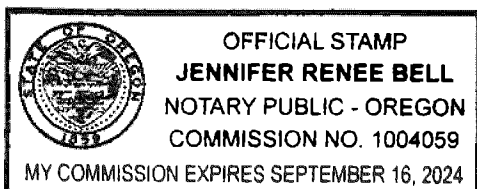
Dated this 20<sup>th</sup> day of August, 2021.

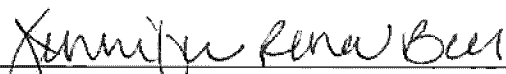
  
Chris D. Cory

  
Tammie E. Cory

STATE OF OREGON )  
) ss.  
COUNTY OF Clackamas )

The foregoing instrument was acknowledged before me on August 20, 2021, by Chris D. Cory and Tammie E. Cory.



  
Notary Public for Oregon  
My Commission expires: SEPT. 16, 2024





February 13, 2018

Chris and Tammie Cory  
7925 S. Zimmerman Road  
Canby, OR 97013

**Subject: Alleged Violations of the Zoning and Development Ordinance,  
Title 12, Section 401 of the Clackamas County Code**

Site Address: 7925 S. Zimmerman Rd., Canby, OR 97013  
Legal Description: T4S, R1E, Section 29, Tax Lot 00100

It has come to the attention of Clackamas County Code Enforcement that commercial businesses may be operating from the above referenced property without land use approval.

This may constitute a violation of the Zoning and Development Ordinance, Title 12, Section 401 of the Clackamas County Code.

Please contact Shane Potter, Code Enforcement Specialist, within ten (10) days of the date of this letter in order to discuss this matter.

E-mail address is [Spotter@clackamas.us](mailto:Spotter@clackamas.us)

Telephone number is 503-742-4465

*\*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 in its discretion may waive all or part of the \$75 per month administrative fee.*















































August 19, 2020

Chris D & Tammie E Cory Trustee  
7925 S Zimmerman Rd.  
Canby, OR 97013

**SUBJECT VIOLATION(S) OF:**

1. CLACKAMAS COUNTY ZONING AND DEVELOPMENT CODE ORDINANCE TITLE 12.401.04 – USES PERMITTED
2. CLACKAMAS COUNTY BUILDING CODE AND ENFORCEMENT OF COUNTY BUILDING CODE ORDINANCE TITLE 9.02.040

**SITE ADDRESS:** 7925 S Zimmerman Rd., Canby, OR 97013

**LEGAL DESCRIPTION:** T4S, R1E, SECTION29, TAX LOT 00100

**ZONING:** EFU (Exclusive Farm Use)

**THIS LETTER SERVES AS NOTICE OF A VIOLATION OF THE CLACKAMAS COUNTY ORDINANCES. THE VIOLATIONS INCLUDE:**

1. Use of an agricultural building for commercial purposes, and
2. Operating a business without land use approval, and
3. Building without permits

On January 12, 2018 Clackamas County Code received a complaint regarding a business operating at this site without land use approval. After a notice around mid-March of 2018 a representative for the property met with Clackamas County Planning and began a pre-application process but never finished it. A recent site inspection confirms the business is still operating including the use of an agriculturally exempt building for commercial purposes.

The following section provides details of the violation. This section also provides options on how to address the violation. Department contact information can be found towards the end of this letter under "CONTACT INFORMATION". You may contact that department to discuss the options outlined or ask questions for other possible solutions, if they may exist. This letter may not address all violations that exist on the site and instead is intended to address those violations identified during the review and/or inspections that have occurred.

**UNPERMITTED CONSTRUCTION**

The agriculturally exempt building is being used for commercial purposes and appears to also be used as an office. This building was permitted as an agriculturally exempt building and cannot be used as an office or for commercial purposes. Changing the use of an agricultural building is a violation of Clackamas County Code Title 9.02.040 since the initial construction of this building was exempt from the structural building code due to be an agricultural building. To abate these violations you must complete one of the following **no later than September 19, 2020:**

1. ORS 215.760 does not allow the changing of an agricultural exempt building from agricultural to another use in a farm and forest zone. A commercial use with an office is not listed as an agricultural use as defined in ORS 455.315. Therefore you are required to return the structure back to an agricultural use and obtain a site inspection to confirm the violation has been abated.
  - a. If you wish to maintain the electrical and plumbing in the building that may not have been permitted you must obtain plumbing and electrical permits:
    - 1) The permit must be picked up within ten (10) days of being notified that the permit is ready.
    - 2) Schedule all inspections so that final inspections may be obtained no later than 45 days from the date of the permit being issued.
  - b. If you wish to remove the plumbing and electrical work you must properly remove the electrical and cap the plumbing and obtain permits consistent with 2.a.1) & 2) above.
2. If you wish, you may explore possible allowed uses for the structure other than the original agricultural exemption with Clackamas County Planning. If Clackamas County Planning and Zoning approves such a use you will still need to obtain all required building, plumbing, mechanical, electrical and septic permits consistent with 1 above.

### **OPERATING A BUSINESS WITHOUT LAND USE APPROVAL**

There is at least one business (landscaping) operating at this site and there were signs of a construction company also operating at this site. There is no land use approval(s) for this business(es) to operate at this site. Ordinance Title 12.401.04. In order to abate the violation(s), you must complete the following **no later than September 19, 2020:**

1. Cease all uses with regards to the commercial activities taking place on the site, and obtain a site inspection to confirm the violation has been abated, or;
2. Obtain land use approval from Clackamas County Planning for the commercial uses.
3. Regardless of the approval the agriculturally exempt building may not be used as a commercial building without Clackamas County Planning approving such other uses.

### **CONTACT INFORMATION**

**Code Enforcement Specialist – Shane Potter** – If you have any other questions please feel free to contact me at 503-742-4465 or email at [spotter@clackamas.us](mailto:spotter@clackamas.us)

**Building Department (Permits)** – If you have questions regarding the permit process and other permitting questions please call the Building Department (Permitting) at 503-742-4240 or email at [bldservice@clackamas.us](mailto:bldservice@clackamas.us)

**Planning Department** – If you have questions regarding the planning approval process or other planning related questions please call the Planning Department at 503-742-4500 or email at [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us)

To help keep the public and staff safe during the COVID-19 pandemic, we are offering comprehensive services by phone, email and online.

***In order to provide the highest level of customer service, please bring a copy of this correspondence when visiting the County. You can also review the entire code by going to:***

<https://www.clackamas.us/code>

## **ITEMS INCLUDED IN THIS PACKET**

- Violation Letter
- Required Notice of Fines and Penalties
- ORS 215.760 – Agricultural buildings or land zoned for forest use or mixed farm and forest use



Shane Potter  
Code Enforcement Specialist  
Clackamas County Code Enforcement

## **REQUIRED NOTICE OF FINES AND PENALTIES**

It is important that you contact the Code Enforcement Section to resolve the violations described in the enclosed letter. Failure to resolve those violations may result in one or more of the following: (1) a citation and fine, (2) assessment of a \$75 per month administrative compliance fee, and (3) referral of this matter to the County Code Enforcement Hearings Officer.

Clackamas County Code provides for fine amounts of up to \$500 and additional civil penalties 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 Code Enforcement Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.

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.

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 Road.

Also, be advised that non-compliance with a Hearing 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.

Finally, recurrence of abated violations may result in the issuance of a citation without prior notice.

**ORS 215.760**

Agricultural buildings on land zoned for forest use or mixed farm and forest use

- (1) An agricultural building, as defined in ORS 455.315 (Exemption of agricultural buildings, agricultural grading and equine facilities), customarily provided in conjunction with farm use or forest use is an authorized use on land zoned for forest use or for mixed farm and forest use.
- (2) A person may not convert an agricultural building authorized by this section to another use.























Citation No. 1800027 – 1

Case No. V0002718

# ADMINISTRATIVE CITATION

Date Issued: November 18, 2020

**Name and Address of Person(s) Cited:**

Name: Chris D & Tammie E Cory  
Mailing Address: 7925 S Zimmerman Rd.  
City, State, Zip: Canby, OR 97013

Date Violation(s) Confirmed: On the 27<sup>th</sup> day of March, 2018, the person(s) cited committed or allowed to be committed, the violations(s) of law described below, at the following address:

Address of Violation(s): 7925 S Zimmerman Rd., Canby, OR 97013

Legal Description: T4S, R1E Section 29, Tax Lot(s) 00100

**Law(s) Violated:**

- Chapter 9.02 of CCC Application and Enforcement of the Clackamas County Building Code, Section 9.02.040, (A, B, C, D, & K)
- Title 12 and 13 of CCC Zoning and Development Ordinance, Section 12.401.04

**Description of the violation(s):**

- 1) Operating a commercial business without land use approval

Maximum Civil Penalty \$3,500.00                      Fine \$100.00

- 2) Use of an agriculturally exempt building for commercial purposes including but not limited to building, electrical, mechanical, and plumbing work

Maximum Civil Penalty \$1,000.00                      Fine \$100.00

You may avoid paying the civil penalty by abating the violation(s) and paying a total fine of \$200.00. If you have questions regarding how to abate the violation(s) contact Clackamas County Code Enforcement at the number listed below. Please be advised a \$75 monthly administrative fee is being assessed.

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

Citation issued by: Shane Potter  
Telephone No.: 503-742-4465

Date: November 18, 2020  
Department Initiating Enforcement Action: Code Enforcement

# PLEASE READ CAREFULLY!

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

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

## Options:

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

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

- a. Your name and address
- b. A copy of the citation
- c. The description of the relief you are requesting

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

## STATEMENT OF UNDERSTANDING

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

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip

Contact Number: \_\_\_\_\_ Email: \_\_\_\_\_



Citation No. 1800027 - 2

Case No. V0002718

# ADMINISTRATIVE CITATION

Date Issued: April 7, 2021

**Name and Address of Person(s) Cited:**

Name: Chris D & Tammie E Cory  
Mailing Address: 7925 S Zimmerman Rd.  
City, State, Zip: Canby, OR 97013

Date Violation(s) Confirmed: On the 27<sup>th</sup> day of March, 2018 and continues to exist on the 6<sup>th</sup> day of April 2021, the person(s) cited committed or allowed to be committed, the violation(s) of law described below, at the following address:

Address of Violation(s): 7925 S Zimmerman Rd., Canby, OR 97013

Legal Description: T4S, R1E Section 29, Tax Lot(s) 00100

**Law(s) Violated**

- Chapter 9.02 of CCC Application and Enforcement of the Clackamas County Building Code, Section 9.02.040, (A, B, C & D)
- Title 12 and 13 of CCC Zoning and Development Ordinance, Section 12.401.04

**Description of the violation(s):**

- 1) Operating a commercial business(es) without land use approval

Maximum Civil Penalty \$3,500.00                      Fine \$500.00

- 2) Use of an agriculturally exempt building for commercial purposes including but not limited to building, electrical, mechanical, and plumbing work

Maximum Civil Penalty \$1,000.00                      Fine \$500.00

You may avoid paying the civil penalty by abating the violation(s) and paying a total fine of \$1,200.00. If you have questions regarding how to abate the violation(s) contact Clackamas County Code Enforcement at the number listed below. Please be advised a \$75 monthly administrative fee is being assessed.

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

Citation issued by: Shane Potter  
Telephone No.: 503-742-4465

Date: April 7, 2021  
Department Initiating Enforcement Action: Code Enforcement



# PLEASE READ CAREFULLY!

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

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

## Options:

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

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

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

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

## STATEMENT OF UNDERSTANDING

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

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip

Contact Number: \_\_\_\_\_ Email: \_\_\_\_\_



**NOTICE OF DECISION ON A TYPE II LAND USE PERMIT**

**Decision:** Denied

**Permit Type:** Landscape Contracting Business in EFU

**File No.** Z0116-23

**Proposal:** The applicant requests approval of two landscape contracting businesses in conjunction with the growing and marketing of nursery stock on the property. The businesses already exist and operate on this property.

**Decision Date:** ~~September 25, 2023~~ October 3, 2023

**Deadline for Filing Appeal:** ~~October 9, 2023~~, October 16, 2023 at 4:00 pm.

Unless appealed, this decision is effective on ~~October 9, 2023~~ October 16, 2023 at 4:00 pm.

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

**Assessor's Map & Tax Lot(s):** T4S R1E Section 29 Tax Lot 00100

**Site Address:** 7925 S Zimmerman Rd., Canby, OR 97013

**Applicant:** Tammie and Chris Cory

**Owner of Property:** Tammie and Chris Cory

**Zoning:** Exclusive Farm Use (EFU)

**Community Planning Organization (CPO) for Area:**  
South Canby (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](http://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) 202, 401 and 1307.

**PUBLIC AND AGENCY COMMENTS:**

Notice was sent to applicable agencies and owners of property within 750 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. A letter in support was signed by a few nearby property owners stating that the applicants were good, respectful neighbors. Comments were received from the Clackamas County Development Engineering Division and are included within this decision.

**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](mailto: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







## FINDINGS

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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:** The applicant requests approval of two landscape contracting businesses in conjunction with the growing and marketing of nursery stock on the property. These Landscape Contracting Businesses are: "Chris Cory Excavating LLC" and "Green Seasons Turf and Trees". A landscape contracting business, as defined in Oregon Revised Statutes (ORS) 671.520, may be allowed in the EFU zoning district if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

The application was submitted in response to an open Code Violation case, file V0002718. The applicant states that Chris Cory started as an excavation business, but is now a landscape contracting business.

The applicant states that "out building #4" is where Green Seasons Turf and Trees operates. A 310-foot by 376-foot area, approximately 2.68 acres of the site, is used exclusively for landscaping operations: *"...everything within the 2.68 acre operating area is devoted to landscaping operations. All vehicles parked on the site are actively used by either Chris Cory Excavating" or "Green Seasons Landscaping"*. The cypress trees identified as the nursery stock is located on the northern border of this 2.68 acre area. "Out building #1", as identified on the site plan and located on the northwest corner of the property, is a building for personal use and is not related to any landscape contracting business (business activities, vehicles, storage, etc.).

Green Seasons uses some materials that Chris Cory has grown and brought in from various projects for its own project materials. The applicant states that both businesses prepare project sites, plant landscaping vegetation from either the Cory property and/or from outside the property. Chris Cory Excavating LLC "focusses on removal of rock, dirt, and vegetative materials from various project sites, and contouring those sites for future more detailed landscaping, as well as providing landscaping materials grown on the subject site". Green Seasons Landscaping "does finish landscaping work" and is often a partner of Chris Cory Excavating in joint projects because Chris Cory prepares the site for final



landscaping and Green Seasons completes the job using materials the Cory's grow on site.

## **2. ZDO Section 401 Exclusive Farm Use (EFU) District**

A landscape contracting business requires review as a Type II land use application pursuant to Section 1307, Procedures, and shall be subject to the following criteria found in ZDO Section 401.

**401.04:** *Uses Permitted. A landscape contracting business requires the review of a Type II land use application and is subject to ZDO Section 401.05(A)(1) & (D)(2).*

**Finding:** The applicant has submitted the necessary land use application to be reviewed for a landscape contracting business in the EFU district. Findings on how the proposal complies with the relevant criteria are provided throughout this decision. This criterion is met.

**401.05(A)(1):** *Uses may be approved only where such uses:*

- a) *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- b) *Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

**Finding:** The applicant proposes to operate a landscape contracting business in conjunction with the growing of nursery stock on site. The use of accessory buildings for storage of equipment and for office space is consistent with accepted farm practices on surrounding lands devoted to farm use. Chris Cory Excavating LLC business has been operating on the subject property since 2016. The review of this land use application was prompted by a Clackamas County Code Enforcement Violation case, case file V0002718. The applicant states that since the business has begun operating around seven (7) years ago there has been no significant change in farm or forest practices on surrounding lands and no significant increase in the cost of farm or forest practices.

This land use application requires the growing and marketing of nursery stock on the subject property in a way that constitutes farm use, as defined in Oregon Revised Statutes (ORS) 215.203. By virtue of this requirement, if approved the subject property will be engaged in farm uses. Staff finds no evidence that the proposed landscape contracting business will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. This criterion is met.

**401.05(D)(2):** *A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the*

*business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.*

**Finding:** The applicant is requesting the review of a landscape contracting business, as defined in Oregon Revised Statute (ORS) 671.520. According to the applicant, neither Chris Cory Excavating LLC nor Green Seasons Landscaping provide landscape architecture services, as defined in ORS 671.318; therefore, no findings related to this ORS provision are necessary.

ORS 671.520 provides the following definitions:

*“(1) “Landscape construction professional” means an individual who for compensation or with the intent to be compensated performs or supervises activities requiring the art, ability, experience, knowledge, science and skill to: (a) Plan or install lawns, shrubs, vines, trees or nursery stock; (b) Prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed; (c) Install, maintain or repair ornamental water features and landscape drainage systems; (d) Maintain irrigation systems with the use of compressed air and as otherwise provided by the State Landscape Contractors Board by rule; (e) Install or repair landscape irrigation systems as provided by the board by rule; or (f) Plan, install, maintain or repair fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining walls.*

*(2) “Landscape contracting business” means a business that for compensation or with the intent to be compensated arranges, submits a bid, or otherwise offers or contracts, for the performance of activities described in subsection (1) of this section.*

*(3) “Licensee” means a person that is licensed under ORS 671.510 to 671.760 as a landscape construction professional or landscape contracting business.*

*(4) “Nursery stock” means nursery stock: (a) As defined by ORS 571.005 other than stock grown for commercial resale or reforestation; or (b) As defined by the board by rule.*

*(5) “Ornamental water features” means fountains, ponds, waterfalls, man-made streams and other decorative water-related constructions as identified by the board by rule.”*

The following analysis is organized to first determine whether or not both businesses in question are landscape contracting businesses, then staff must determine whether or not each business is being pursued in conjunction with the growing and marketing of nursery stock on the land in a way that constitutes farm use.



### Landscape contracting business findings:

Pursuant to ORS 671.520, a landscape contracting business submits a bid, or otherwise offers or contracts, for the performance of activities described in subsection (1) of ORS 671.520.

#### A) Chris Cory Excavating LLC:

The application materials state that this business Chris Cory started as an excavation business, but is now a landscape contracting business. They prepare project sites, plant landscaping vegetation from either subject property and/or from elsewhere off the subject property. The narrative states that “the business focusses on removal of rock, dirt, and vegetative materials from various project sites, and contouring those sites for future more detailed landscaping, as well as providing landscaping materials grown on the subject site”. The applicant states that this business performs the activities included in ORS 671.520(1) part (a), (b), (c) and (f); however, staff finds that based upon the information provided in the application materials, Chris Cory Excavating LLC performs activity (b), *prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed.*

Based upon the business’ website, Chris Cory Excavating also “specializes in residential construction, for new and or remodeling addition. We have the expertise to install and repair sanitary/ storm sewer lines and raindrains, remove existing structures, clear land for development, or just haul rock and remove dirt if needed”. Their shows their primary service categories include excavation (such as foundation dig outs, structure removal, grading, erosion control, and land clearing), piping (such as drainage systems, sewer line installation and repair, decommissioning septic tanks, and underground utility installation), and trucking and hauling (such as materials import and export, and moving heavy equipment). This aspect of the business was not included in the land use application and is not being considered as part of the landscape contracting business; these activities do not constitute a landscape contracting business.

To be considered a “landscape contracting business” the ZDO does not require that the business conduct all of the activities listed in subsection (1), rather the business must conduct at least one. Therefore, certain aspects of the business activities listed in the land use application materials for Chris Cory Excavating LLC meet the definition of a landscape contracting business. It is noteworthy to reiterate here that not all of the activities Chris Cory Excavating LLC engages in are considered a landscape contracting business.

#### B) Green Seasons Landscaping/Green Seasons Turf and Trees:

The application narrative states that Green Seasons Landscaping “does finish landscaping work” is often a partner of Chris Cory Excavating in joint projects because Chris Cory prepares the site for final landscaping and Green Seasons

completes the job using materials the Cory's grow on site. The applicant does not specify which of the activities included in ORS 671.520(1) are performed by Green Seasons Landscaping, yet based on the project narrative staff can determine that this business provides the services listed in part (a), *Plan or install lawns, shrubs, vines, trees or nursery stock.*

Again, to be considered a "landscape contracting business" the ZDO does not require that the business conduct all of the activities listed in subsection (1), rather the business must conduct at least one. Therefore, the business activities listed in the land use application materials for Green Seasons meet the definition of a landscape contracting business.

Pursued in conjunction with the growing and marketing of nursery stock that constitutes farm use findings:

A) Chris Cory Excavating LLC:

The applicant provided a copy of sales receipts from Merten Farms from January 5, 2023 for 75 Leyland cypress trees and provided photos of the trees planted in a straight line on the subject property. An updated site plan submitted on September 19, 2023 shows that these trees are planted in a row on the northern boundary of the business area (the 2.68 acre area on the southwest corner of the property).

The project narrative states that the landscape materials grown on the subject property are used by both businesses, but does not indicate that Chris Cory Excavating is involved in the growing and marketing of the nursery stock in a way that constitutes farm use. Farm use is defined in ORS 215.203 as "the current employment of land for the primary purpose of obtaining a profit in money." Based upon the information provided in the application materials, the nursery stock is being grown to be used by Chris Cory Excavating and Green Seasons Landscaping on landscaping projects or site preparation projects they are working on rather than for the purpose of earning profit in money from the growing and marketing of the nursery stock.

Pursuant to ORS 571.055, a license from the State Department of Agriculture (ODA) is required to grow, market, and sell nursery stock. A license was obtained by Chris Cory Excavating LLC (number AG-L1084579ND) on May 24, 2023 and expires on June 30, 2024. In an email correspondence with the applicant prior to the submittal of this land use application, the applicant expressed that the ODA advised the land owner that a license is not required since they were not intending on selling nursery stock. However, to comply with the land use application criteria, the applicant must demonstrate that the nursery stock is being grown and marketed for the purposes of obtaining a profit in money. The license alone does not provide evidence that Chris Cory Excavating is growing and marketing nursery stock on the subject property with the intent to earn a profit in money, and no other supplemental evidence was provided



demonstrating how they meet the requirement to grow and market nursery stock.

The cypress trees (what the applicant is calling “nursery stock”) is planted in a single hedge-style row. The application materials have not provided any information about future nursery stock plantings, how the nursery stock will continue to serve the landscape contracting business, or how the nursery stock inventory will expand, be replenished, or grow. There is a lack of information to sufficiently demonstrate that the 75 cypress trees purchased are in fact nursery stock, rather than personal landscaping/plantings that will act as a visual barrier delineating the business area from the rest of the property.

Staff finds that the application materials have not demonstrated that the property owner is growing and marketing the nursery stock in a way that constitutes farm use. This criteria is not met.

B) Green Seasons Landscaping/Green Seasons Turf and Trees:

The applicant states that Green Seasons uses some materials that Chris Cory has grown and brought in from various projects for its own project materials.

ZDO 401.05 requires that a landscape contracting business be “pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.” It would be sufficient for Green Seasons Landscaping to use nursery stock grown by Chris Cory Excavating; however, as described above, this criterion is not met. Additionally, there is no evidence provided in the application materials submitted for review that confirm Green Seasons Landscaping is growing and marketing nursery stock on the subject property, and subsequently no evidence that any nursery stock that is growing would be considered a farm use. Farm use as defined in ORS 215.203 says “the current employment of land for the primary purpose of obtaining a profit in money.”

Pursuant to ORS 571.055, a license from the State Department of Agriculture is required to grow, market, and sell nursery stock. A license was obtained by Green Seasons Turf and Trees (number AG-L1086454ND) on May 22, 2023 and expires on June 30, 2024. The license alone does not provide evidence that Green Seasons Turf and Trees is growing and marketing nursery stock on the subject property with the intent to earn a profit in money, and no other supplemental evidence was provided demonstrating how Green Seasons meets the requirement to grow and market nursery stock. Therefore, staff finds that Green Seasons Landscaping/Green Seasons Turf and Trees does not meet the criteria.

Submitted with the application materials is a land lease contract between Green Season Turf and Trees, Theron Nebeker, and the property owner, Chris and Tammy Cory. The land lease is to allow Green Season Turf and Trees to lease an undefined portion of the property to grow hay. Hay is not considered “nursery stock”, as defined in ORS 571, hay is a forage crop which is specifically

excluded from the definition of nursery stock. The land lease contract for growing hay is not relevant to the land use application in review.

### **3. ZDO Section 1000 Development Standards**

**Section 1002, 1003, and 1004:** *Section 1002 addresses the protection of various natural features including hillsides, the excessive removal of trees prior to development, the protection of trees and wooded areas through development, river and stream corridors, the winter ranges of deer and elk populations, certain open spaces near Mount Hood, significant natural areas, and significant landforms and vegetation. Section 1003 addresses various hazards to safety including flood, soils, fire, and mass movement areas. Section 1004 addresses standards related to historic preservation*

**Finding:** The standard in these sections are not applicable to the subject property.

#### **Section 1007 Roads and Connectivity and Section 1015 Parking:**

The proposed development is subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) Section 1007 pertaining to roads and connectivity, Section 1015 pertaining to parking and loading, and Clackamas County Roadway Standards, Chapter 4 pertaining to storm water management.

S Zimmerman Road and S Oglesby Road are rural local roads. The existing property has two driveway approaches onto S Zimmerman Road that are utilized by the business. The approaches do not meet current standards, as required by Roadway Standards Drawing D500. Due to the nature of the denial of this application compliance with this criteria will not be required.

Applicants are required to provide adequate on-site circulation for all vehicles anticipated to use the parking and maneuvering areas. The proposed parking and maneuvering areas generally appear to provide adequate access; however, the site plan provided did not include dimensions in order for staff to verify this.

Vehicle parking spaces will be required to meet minimum Section 1015 and Roadway Standards Drawings P100/P200 dimensional requirements. The minimum surface for the parking areas may be screened gravel or better, per Roadway Standards Drawing R100. Typically these standards would be met with a condition of approval; however, due to the denial of this application, no such condition will be imposed.















