

To request translation or disability-related accommodations, please contact us at DTDcompliance@clackamas.us | 503-742-4400.

Si quiere solicitar servicios de traducción o adaptaciones para la discapacidad, contáctenos en/al DTDcompliance@clackamas.us | 503-742-4400.

Чтобы запросить перевод или приспособления, связанные с инвалидностью, пожалуйста, свяжитесь с нами по:

DTDcompliance@clackamas.us | 503-742-4400.

Щоб попросити переклад або спеціальні послуги для осіб з особливими потребами, зверніться до нас, скориставшись такими контактними даними:

DTDcompliance@clackamas.us | 503-742-4400.

如需翻译服务或残障相关的协助，请与我们联系：

DTDcompliance@clackamas.us | 503-742-4400。

Để yêu cầu dịch vụ dịch thuật hoặc điều chỉnh liên quan đến tình trạng khuyết tật, vui lòng liên hệ với chúng tôi qua DTDcompliance@clackamas.us | 503-742-4400.



Clackamas County
www.clackamas.us



NOTICE OF HEARING

June 15, 2026

Birman Holdings LLC
14722 SE Lea St.
Happy Valley, OR 97086

Kyle Birman – Registered Agent
7205 SE Johnson Creek Blvd.
Portland, OR 97206

RE: County of Clackamas v. Birman Holdings LLC
File: V0049524

Hearing Date: July 28, 2026

Time: This item will not begin before 9:30 AM however it may begin later depending on the length of preceding items.

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

Enclosed you will find the following:

1. Notice of Rights
2. Copy of 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 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 evidence that a violation exists or existed. Either party may, at their own expense, obtain an attorney, to represent that 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 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 a continuing order. The Hearings Officer 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, the 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 proceedings 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 Hearing Officer Code, and Oregon Revised Statute 34.010-34.100. If appeal is taken, the 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 emailed to integrityair01@gmail.com. A copy of the link is provided below. Once you have joined the meeting, you will be prompted to join as panelist. Please click **JOIN AS PANELIST.**

If you would like to present evidence at the Hearing, please email Shane Potter at Spotter@clackamas.us 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 process 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 are unfamiliar with using the Zoom platform, please perform an internet search of "how to use Zoom" and there are many interactive guides available. **When joining the webinar please accept the request to join as a panelist.**

If you experience difficulties connecting to the Zoom hearing **before** your scheduled start time, please call 971-930-6134 for assistance.

Zoom Invite:

Join from PC, Mac, iPad, or Android:

<https://clackamascounty.zoom.us/j/87323168730?pwd=821xcAA2jsbMqoaB3OZTwEQ9cctqST.1>

Passcode: 498532

Phone one-tap:

+12532050468,,87323168730# US +12532158782,,87323168730# US (Tacoma)

Join via audio:

+1 253 205 0468 US

+1 646 876 9923 US (New York)

+1 253 215 8782 US (Tacoma)

+1 646 931 3860 US

+1 346 248 7799 US (Houston)

+1 689 278 1000 US

+1 408 638 0968 US (San Jose)

+1 301 715 8592 US (Washington DC)

+1 669 444 9171 US

+1 305 224 1968 US

+1 669 900 6833 US (San Jose)

+1 309 205 3325 US

+1 719 359 4580 US

+1 312 626 6799 US (Chicago)

+1 386 347 5053 US

+1 360 209 5623 US

+1 507 473 4847 US

+1 564 217 2000 US

Webinar ID: 873 2316 8730

International numbers available: <https://clackamascounty.zoom.us/j/kcPB9uHkhE>

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

¡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

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

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

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

환영합니다. Korean

운송개발부는 차별 금지를 위해 모든 노력을 기울이고 있습니다. 자세한 내용은 홈페이지 www.clackamas.us/transportation/nondiscrimination

BEFORE THE COMPLIANCE HEARINGS OFFICER
FOR THE COUNTY OF CLACKAMAS

CLACKAMAS COUNTY,

Petitioner,

v.

BIRMAN HOLDINGS LLC.,

Respondents.

FILE NO(S): V0049524

COMPLAINT AND REQUEST FOR HEARING

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

1.

Respondents' mailing address is: 14722 SE Lea St., Happy Valley, OR 97086

2.

The Respondent(s) own/owns or occupies the address or location of the violation(s) of law alleged in this complaint 6919 SE Johnson Creek Blvd, Portland, OR 97206, also known as T1S, R2E, Section 29BD, Tax Lot 02000, the property is zoned GI (General Industrial) and is the location of violation(s) asserted by the County.

3.

On or about the 29th day of December, 2024, and on or about the 23rd day of February, 2026, the Respondents violated the following laws, in the following ways:

Title 9 of the Clackamas County Excavation and Grading Code Section 9.03.

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 Sections 12.602.03, 12.703.04, 12.704.03, and 12.706.02. The property is zoned GI (General Industrial) . These violations are a Priority 2 violation pursuant to the Clackamas County Violation Priorities.

4.

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

5.

Notice of the violation was given to Respondents in the following manner:
Violation notice dated December 29, 2024 and Citation and Complaint #2400495 - 1 on March 4, 2026. A copy of the notice documents are attached to this Complaint as Exhibits D and I, 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 an Excavation and Grading Code violation being \$1,000.00 to \$3,500.00 and said range for Priority 2 Zoning Ordinance violations being \$750.00 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 3rd day of June, 2026

A handwritten signature in black ink that reads "Shane Potter". The signature is written in a cursive style with a large, sweeping initial "S".

Shane Potter
Code Enforcement Specialist
FOR CLACKAMAS COUNTY

CLACKAMAS COUNTY,

Petitioner,

v.

BIRMAN HOLDINGS LLC.,

Respondents.

File No.: V0049524

STATEMENT OF PROOF

History of Events and Exhibits:

- Exhibit A Respondents' mailing address is 14722 SE Lea St. Happy Valley, OR 97086. Respondents own and/or reside on property located at 6919 SE Johnson Creek Blvd., Portland, OR 97206, also known as T1S, R2E, Section 29BD, Tax Lot 02000, located within Clackamas County. The parcel is zoned GI (General Industrial). Exhibit A Page 1 is a map showing the location next to the river and within the floodplain/floodway. Page 2 is a December 2020 aerial, page 3 is a January 2022 aerial, page 4 is a November 2023 aerial, page 5 is a January 2025 aerial and page 6 is a December 2025.
- April 1, 2021 Clackamas County received a complaint regarding a disturbance within the Johnson Creek buffer, adding vehicles, gravel and installing a fence.
- December 4, 2024 Exhibit B Clackamas County Code Enforcement Specialist (CES) Kimberly Benthin conducted a site visit and confirmed vehicles parking in the lot, fence installed and gravel laid down and rolled.
- December 6, 2024 Exhibit C New ownership is identified and a new file is opened. The original violation file was violation file V00153211.
- December 9, 2024 Exhibit D Prepared Notice of Violation regarding zoning violations for: commercial activities without land use approval; vegetation removed, structures installed and grading and fill within a Floodplain Management District (FMD) and River and Stream Conservation Area (RSCA). The notice contained detailed descriptions of the violations, required abatement by no later than January 6, 2025, provided detailed instructions for how to do so and provided County contact information. The notice was mailed first class mail, and the mail was not returned.

February 26, 2025	On February 26, 2025, CES Shane Potter received a phone call from owner Kyle Birman stating they recently took over the property and he stated he will be making application to planning next week to address this violation.
March 19, 2025	CES Potter researched Clackamas County land use files and found planning file Z0094-25 for a Floodplain Development permit had been applied for.
March 20, 2025 Exhibit E	CES Benthin conducted site visit and took photos of the site.
August 26, 2025 & August 28, 2025 Exhibit F	Email between Clackamas County Planner Taylor Campi, CES Potter and Respondent Kyle Birman regarding “tolling the clock”.
January 14, 2026 Exhibit G	CES Potter was informed that land use decision Z0049-25 was denied. The decision date of the denial was January 12, 2026, with a deadline for filing an appeal of January 26, 2026.
February 23, 2026 Exhibit H	CES Jennifer Kauppi conducted a site visit and took photos of the parking lot with fencing and solar lighting as well as gravel remaining in place and parking of vehicles.
March 4, 2026 Exhibit I	Citation #2400495 – 1 for \$1,336.00 for a Priority 1 Excavation and Grading Code violation and two Priority 2 Zoning Code violations (operating a business without land use approval and disturbance within protected areas). The Citation was mailed first class mail, the mail was not returned, and citation has not been paid.
March 12, 2026 Exhibit J	Clackamas County received a letter from Respondent Kyle Birman requesting a hearing on this matter.
May 11, 2026	The County, at the request of the Respondent, referred this matter to the Code Enforcement Hearings Officer.

If the Hearings Officer affirms the County's position that a violation of an Excavation and Grading Code and/or Zoning Code violation(s) exists on the subject property, the County requests a Continuing Order be issued requiring the Respondent:

- Within 10 days of the Continuing Order begin consulting with Planning and Zoning regarding the process and requirements that will be needed to abate the violation and complete one of the following:
 - Stop using the property for any commercial activities including any parking activities within 30 days of the Continuing Order.
 - Also, within 30 days of the Continuing Order submit the required mitigation requirements to planning for approval.
 - Once mitigation approval is obtained you must complete the mitigation requirements within 90 days of the mitigation approval by planning.
- Or, within 30 days of the Continuing Order submit an application, or pre-application if required, to Clackamas County Planning and Zoning for approval for the parking, fencing and grading within the Floodplain/Floodway Management District (FMD), Habitat Conservation Area (HCA) and River and Stream Conservation Area (RSCA).
 - Submit missing materials within 30 days of notice/request.
 - Any delays such as "tolling the clock" shall not occur.
 - No further work shall occur on the site including the storage of any additional materials, items, vehicles, etc. until land use approval has been obtained.
- If land use approval is warranted grading permits are required for the material brought on site. Complete all necessary building permits for a change of use by submitting, or having your professional submit, building permit application(s) appropriate fee(s) and all construction documents of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the building code and relevant laws. We encourage you to reach out to discuss the permitting process by calling 503-742-4240 or by email at bldservice@clackamas.us
 - Respond to requests for clarification or additional information from permitting staff within 15 days or receiving such request.
 - The permit(s) must have the fee(s) paid in full within 10 days of being notified by building code in order to prevent delay of the issuance of permits.
 - 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).

Staff may recommend a final order be issued with the following:

- Payment of Citation No. 2400495 – 1 for \$1,336.00 for a Priority 1 Excavation and Grading Code Violation, and two Priority 2 Zoning Ordinance Violations.
- Assessment of a civil penalty of up to \$3,500.00 for a Priority 1 Excavation and Grading Code violation for date cited and civil penalties of up to \$2,500.00 each for the two Zoning Ordinance violations for the date cited for a total civil penalty of up to \$8,500.00.
- Assessment of an administrative compliance fee calculated at the rate of \$100 per month beginning January 2026 through February 2026, for a total administrative compliance fee of \$200.00.
- 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 Hearing's Officer to permanently enjoin the Respondent 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.



SE Johnson Creek Blvd



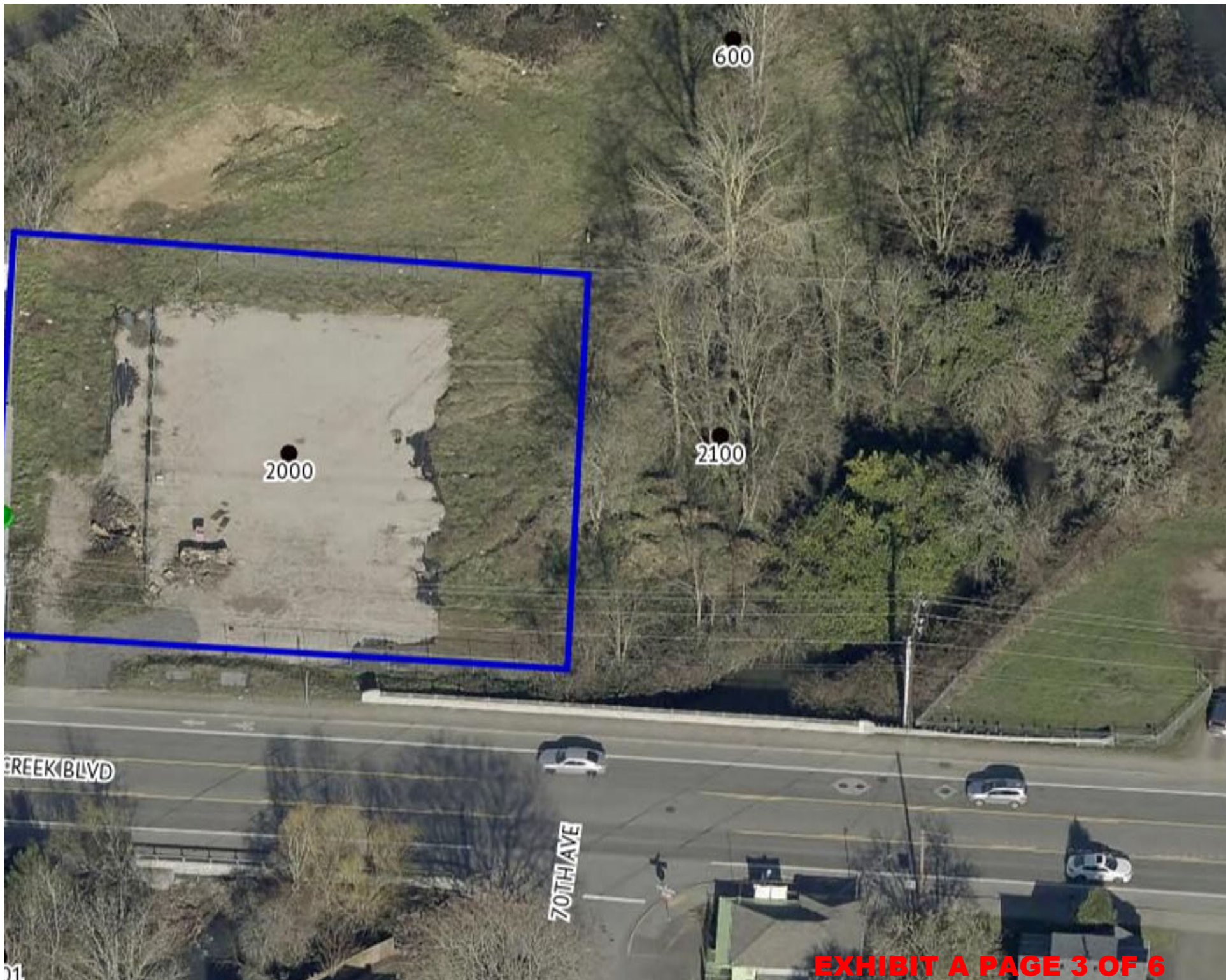
2000

2100

CREEK BLVD

70TH AVE

EXHIBIT A PAGE 2 OF 6



600

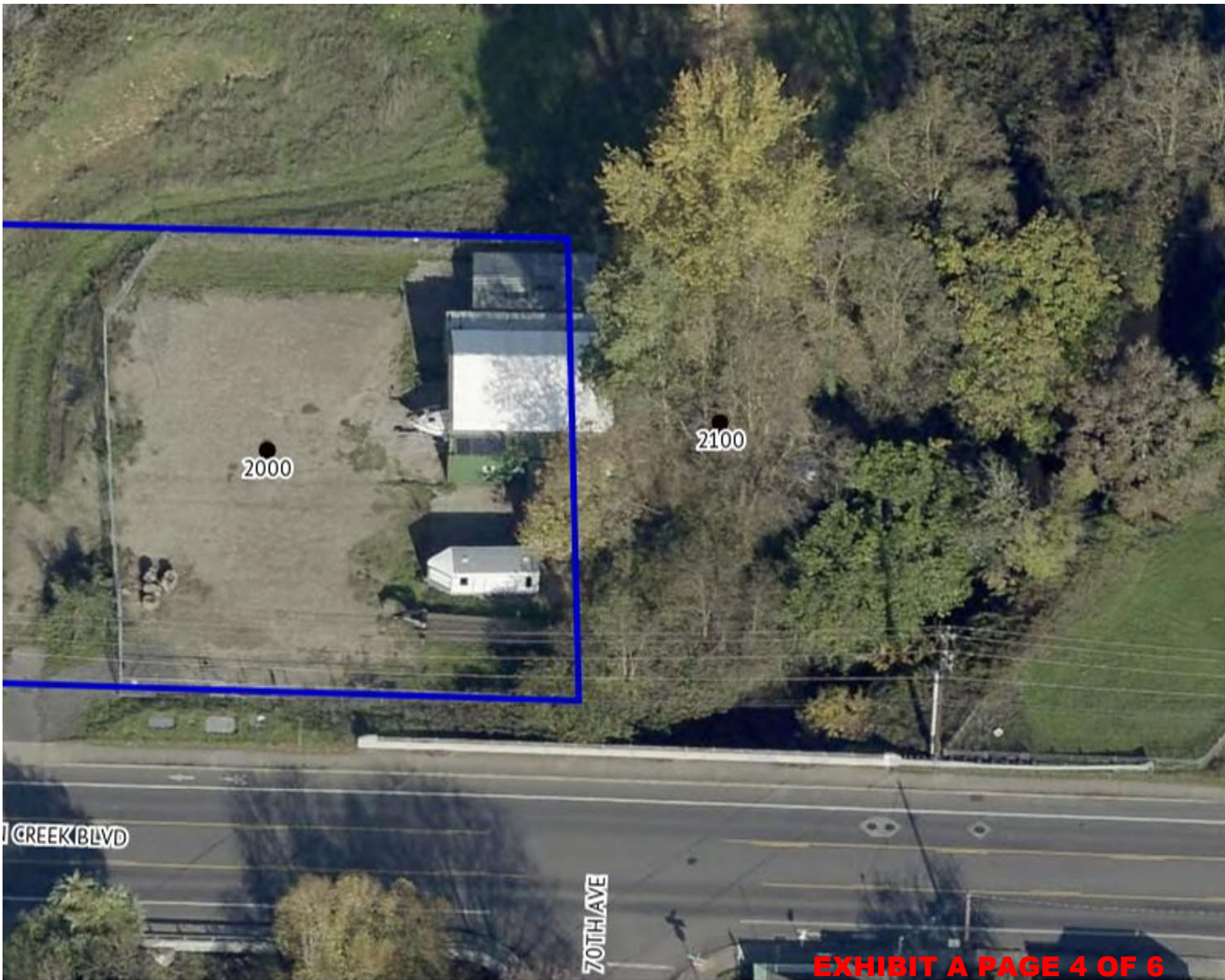
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CREEK BLVD

70TH AVE

EXHIBIT A PAGE 3 OF 6



2000

2100

CREEK BLVD

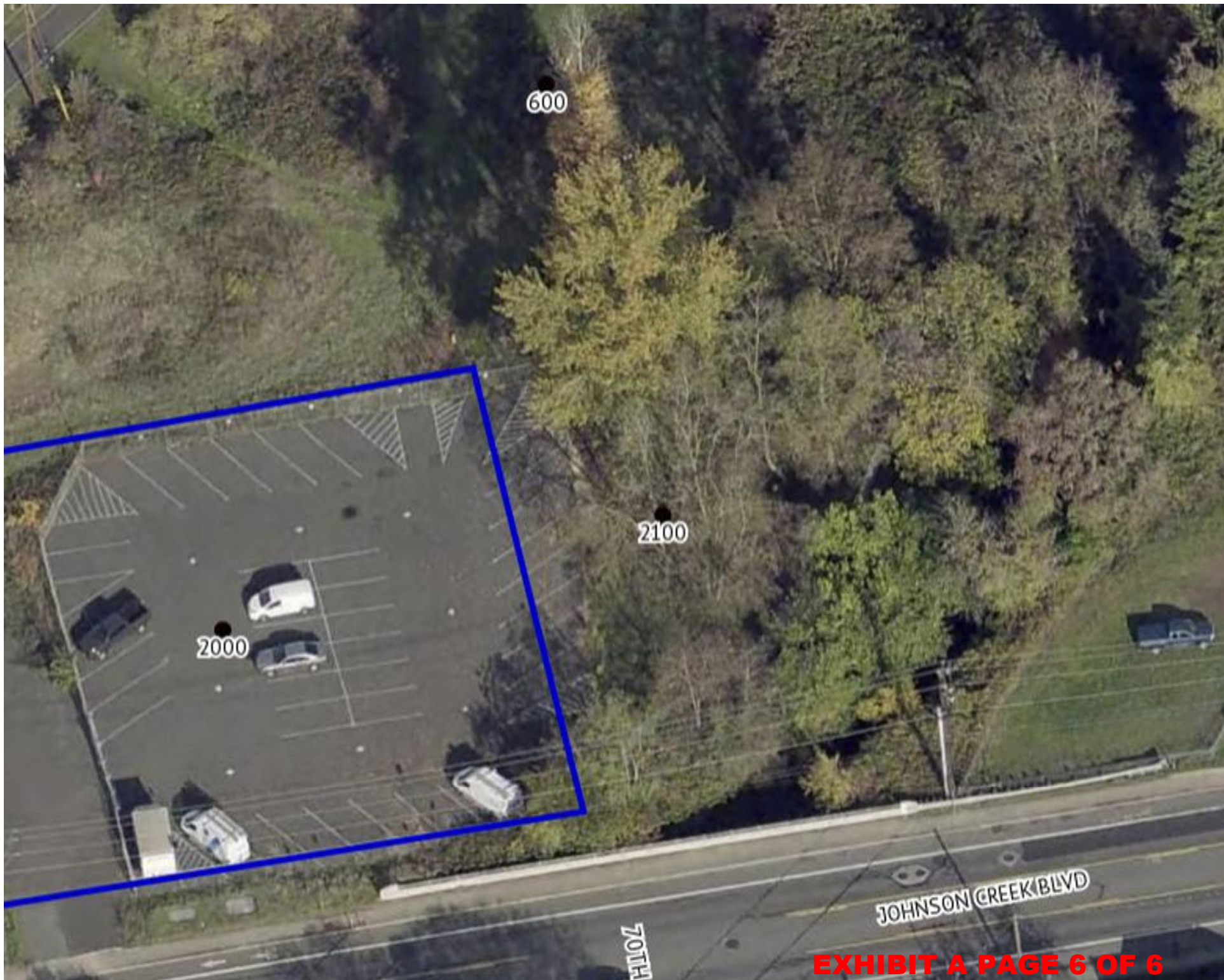
70TH AVE

EXHIBIT A PAGE 4 OF 6



2000

2100











Property Account Summary



Account Number	00058788	Property Address	6919 SE JOHNSON CREEK BLVD , PORTLAND, OR 97206		
General Information					
Alternate Property #	12E29BD02000				
Property Description	348 WILLOW PARK PT LTS 4&5 BLK 1				
Property Category	Land &/or Buildings				
Status	Active, Locally Assessed				
Tax Code Area	012-230				
Remarks					
Tax Rate					
Description	Rate				
Total Rate	18.8529				
Property Characteristics					
Neighborhood	30010: Area 01 industrial				
Land Class Category	300: Industrial land, vacant				
Acreage	0.00				
Change property ratio	CIC				
Related Properties					
No Related Properties Found					
Parties					
Role	Percent	Name	Address		
Taxpayer	100	BIRMAN HOLDINGS LLC	14722 SE LEA ST, HAPPY VALLEY, OR 97086		
Owner	100	BIRMAN HOLDINGS LLC	14722 SE LEA ST, HAPPY VALLEY, OR 97086		
Property Values					
Value Type	Tax Year 1	Tax Year 2	Tax Year 3	Tax Year 4	Tax Year 5
AVR Total	\$94,243	\$91,499	\$88,834	\$86,247	\$83,735
Exempt					
TVR Total	\$94,243	\$91,499	\$88,834	\$86,247	\$83,735
Real Mkt Land	\$177,492	\$177,492	\$179,498	\$160,445	\$151,420
Real Mkt Bldg					
Real Mkt Total	\$177,492	\$177,492	\$179,498	\$160,445	\$151,420
M5 Mkt Land	\$177,492	\$177,492	\$179,498	\$160,445	\$151,420

RECORDING REQUESTED BY:



900 SW 5th Avenue
Portland, OR 97204

Clackamas County Official Records Catherine McMullen, County Clerk	2024-035774
	09/27/2024 08:47:05 AM
D-D \$20.00 \$16.00 \$10.00 \$62.00	Cnt=1 Stn=74 LILLIE \$108.00

GRANTOR'S NAME:

DD Industries LLC, an Oregon limited liability company

GRANTEE'S NAME:

Birman Holdings, LLC, an Oregon limited liability company

AFTER RECORDING RETURN TO:

Birman Holdings, LLC
14722 SE Lea Street
Happy Valley, OR 97086

SEND TAX STATEMENTS TO:

Birman Holdings, LLC
14722 SE Lea Street
Happy Valley, OR 97086

6919 & 7001 SE Johnson Creek Blvd, Portland, OR
97206

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

45142408146-01 COMM
Fidelity National Title of Oregon

DD Industries LLC, an Oregon limited liability company , Grantor, conveys and warrants to **Birman Holdings, LLC, an Oregon limited liability company**, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Clackamas, State of Oregon:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (**\$350,000.00**), a portion of which has been paid to an accommodator pursuant to an IRC Section 1031 Tax Deferred Exchange. (See ORS 93.030).

Subject to:

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

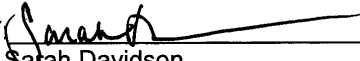
STATUTORY WARRANTY DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: September 26, 2024

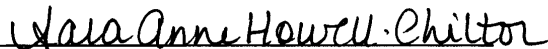
DD Industries LLC, an Oregon limited liability company

BY: 
Benjamin Dick
Manager and Chairman

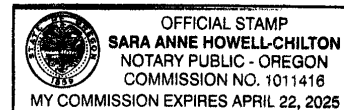
BY: 
Sarah Davidson
Manager and President

State of OREGON
County of Multnomah

This instrument was acknowledged before me on September 25, 2024 by Benjamin Dick as Manager and Chairman of DD Industries LLC, an Oregon limited liability company.

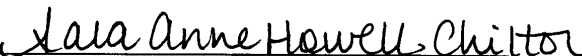

Notary Public - State of Oregon

My Commission Expires: 4.22.2025



State of OREGON
County of Multnomah

This instrument was acknowledged before me on September 26, 2024 by Sarah Davidson as Manager and President of DD Industries LLC, an Oregon limited liability company.


Notary Public - State of Oregon

My Commission Expires: 4.22.2025

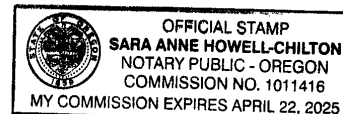


EXHIBIT "A"
Legal Description

PARCEL I:

Lots 4 and 5, Block 1, WILLOW PARK, in the County of Clackamas and State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Clackamas County, a political subdivision of the State of Oregon for Right-of-Way purposes as described in deed recorded April 8, 2014 as Recorder's No. 2014-015760.

PARCEL II:

Lot 6, Block 1, WILLOW PARK, in the County of Clackamas and State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Clackamas County, a political subdivision of the State of Oregon for Right-of-Way purposes as described in deed recorded April 8, 2014 as Recorder's No. 2014-015759.

EXHIBIT "B"

Exceptions

Subject to:

1. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2024-2025.
2. The Land is within Clackamas County Service District No. 1 and is subject to its levies and assessments.
3. Any adverse claim based on the assertion that any portion of the subject land has been removed from or brought within the subject land's boundaries by the process of accretion or reliction or any change in the location of Johnson Creek.

Any adverse claim based on the assertion that any portion of the subject land has been created by artificial means or has accreted to such portions so created, or based on the provisions of ORS 274.905 through 274.940.

Any adverse claim based on the assertion that any portion of the subject land is now or at any time has been below the ordinary high water line of Johnson Creek.

Rights of fishing, navigation, commerce, flood control, propagation of anadromous fish, and recreation, and other rights of the public, Indian tribes or governmental bodies in and to the waters of Johnson Creek.

4. Rights of the public to any portion of the Land lying within the area commonly known as SE Johnson Creek Boulevard.
5. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Southeast Johnson Creek Water Control District
Purpose: Right of way
Recording Date: November 19, 1962
Recording No: Book 613, Page 424
Affects: Reference is hereby made to said document for full particulars

6. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Rigby Investments, a partnership
Purpose: Utilities and access to maintain same
Recording Date: December 7, 2007
Recording No: 2007-102159
Affects: Reference is hereby made to said document for full particulars

OREGON SECRETARY OF STATE
Corporation Division

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uniform commercial code uniform commercial code search documents & data services

Business Name Search

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Business Entity Data

12-06-2024
08:44

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
2209503-98	DLLC	ACT	OREGON	12-29-2023	12-29-2024	YES
Entity Name	BIRMAN HOLDINGS, LLC					
Foreign Name						

Online Renewal:

[Renew Online](#)

[Click here to generate and print an annual report.](#)

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Associated Names

Type	PRINCIPAL PLACE OF BUSINESS					
Addr 1	7205 SE JOHNSON CREEK BLVD					
Addr 2						
CSZ	PORTLAND	OR	97206		Country	UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

Type	REGISTERED AGENT			Start Date	11-01-2024	Resign Date
Name	KYLE		BIRMAN			
Addr 1	7205 SE JOHNSON CREEK BLVD					
Addr 2						
CSZ	PORTLAND	OR	97206		Country	UNITED STATES OF AMERICA

Type	MAILING ADDRESS					
Addr 1	7205 SE JOHNSON CREEK BLVD					
Addr 2						
CSZ	PORTLAND	OR	97206		Country	UNITED STATES OF AMERICA

Type	MEMBER			Resign Date
Name	KYLE		BIRMAN	
Addr 1	7205 SE JOHNSON CREEK BLVD			
Addr 2				

EXHIBIT C PAGE 6 OF 7




CSZ	PORTLAND	OR	97206		Country	UNITED STATES OF AMERICA
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[New Search](#) [Printer Friendly](#) **Name History**

Business Entity Name	Name Type	Name Status	Start Date	End Date
BIRMAN HOLDINGS, LLC	EN	CUR	03-12-2024	
SAPIENT HOLDCO NO 3 LLC	EN	PRE	12-29-2023	03-12-2024

Please [read before ordering Copies](#).

[New Search](#) [Printer Friendly](#) **Summary History**

Image Available	Action	Transaction Date	Effective Date	Status	Name/Agent Change	Dissolved By
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	11-01-2024		FI	Agent	
	ARTICLES OF AMENDMENT	03-12-2024		FI	Name	
	ARTICLES OF ORGANIZATION	12-29-2023		FI	Agent	

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DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

December 9, 2024

Violation No.: V0049524

Birman Holdings LLC.
14722 SE Lea St.
Happy Valley, OR 97086

RE: CLACKAMAS COUNTY NO. V0049524

CLACKAMAS COUNTY CODE SECTIONS VIOLATED:

1. CLACKAMAS COUNTY CODE TITLE 12: ZONING AND DEVELOPMENT ORDINANCE – SECTION 12.602.03: USES PERMITTED
2. CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE TITLE 12 – SECTION 12.703.04 APPLICABILITY – FLOODPLAIN MANAGEMENT DISTRICT (FMD)
3. CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE TITLE 12 – SECTION 704.03: AREA OF APPLICATION – RIVER AND STREAM CONSERVATION AREA (RSCA)
4. CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE TITLE 12 – SECTION 12.706.02: HABITAT CONSERVATION AREA (HCA) – AREA OF APPLICATION
5. CLACKAMAS COUNTY APPLICATION AND ENFORCEMENT OF THE CLACKAMAS COUNTY BUILDING CODE SECTION 9.02.040(J) AND CLACKAMAS COUNTY EXCAVATION AND GRADING CODE SECTION 9.03.030: PERMITS REQUIRED; EXCEPTIONS

ZONING: General Industrial (GI)
SITE ADDRESS: 6919 SE Johnson Creek Blvd., Portland, OR 97206
LEGAL DESCRIPTION T1S, R2E, SECTION 29BD, TAX LOT 02000

Dear Birman Holdings LLC.,

A file has been open regarding work in sensitive areas without land use approval and grading without a permit since 2021 (file V0015321). We have identified the property has been sold and this letter serves as notice of the continued violation. To abate the violation you must complete one of the following **NO LATER THAN: January 6, 2025**

COMMERCIAL ACTIVITIES WITHOUT LAND USE APPROVAL

The property is being used for commercial activities without a review by Planning and Zoning. You need to complete the following by the date listed above:

1. Discontinue the use;
2. Move the use to an approved parcel; or
3. Obtain land use approval. We encourage you to reach out to Planning and Zoning by phone at 503-742-4500 or by email at zoninginfo@clackamas.us to determine whether other options exist.
 - a. If you pause the use and begin the land use process, we will pause the enforcement of this file. If the use continues on the property before you obtain land use approval, we will continue with the enforcement of this file.

- b. If you obtain land use approval, staff will ensure that any conditions of approval relevant to the violation have been implemented before closing this file. A Final inspection may be required to confirm that all conditions of approval have been met.

VEGETATION REMOVED, STRUCTURES INSTALLED AND GRADING AND FILL WORK DONE WITHOUT A REVIEW BY PLANNING AND ZONING

There has been vegetation removed, structures including an open structure and fencing installed and fill brought in and grading work done without a review by Planning and Zoning in sensitive areas near a river and in a mapped floodplain and habitat conservation area. Please complete the following by the date listed earlier in this letter:

1. Vegetation, tree removal, grading, placement of rocks and structures in the Floodplain Management District (FMD), River and Stream Conservation Area (RSCA), and/or Habitat Conservation Area (HCA) constitutes a violation of the Clackamas County Zoning Ordinance. All activities as described here should cease until review by planning and zoning occurs.
 - a. Violations in the floodplain zone require a Floodplain Development Permit (No Rise Permit). Violations in the River and Stream Conservation Area may require Principal River Conservation Area (PRCA) or Stream Conservation Area (SCA) permit(s). In some cases a Mitigation Plan may be allowed to address the violation. Work in the Habitat Conservation Area (HCA) may also require mitigation work and should be reviewed with Planning and Zoning for such work. Please contact the Clackamas County Planning and Zoning Division by calling 503-742-4500 or by email at zoninginfo@clackamas.us.
 1. The application to the Planning and Zoning Division should be submitted by the deadline in this letter. Once submitted the Planning and Zoning Division will review the application for completeness. If the application is deemed incomplete you must provide a completed application to the Planning and Zoning Division within 30 days of notice of incompleteness.
 2. Other voluntary actions on the part of the applicant such as “tolling the clock” or withdrawal of the application will cause the enforcement actions to continue when remaining in violation.
 - b. We encourage you to reach out to the Planning and Zoning Division, at the numbers listed above, to discuss any other possible solutions to resolving this violation that may not be listed in this letter.

GRADING AND FILL WITHOUT A PERMIT

There has been fill brought in and a large amount of grading work throughout the site without the benefit of a grading permit. A recent site visit shows even more grading work occurring on the site. Please complete the steps below by the deadline listed earlier in this letter:

1. No person shall do any excavation, grading or earthwork construction requiring a permit without first having obtained a permit from Clackamas County Building Official or their designee unless it is exempted as spelled out in the code. Performing such work without a permit may constitute a violation of the Clackamas County Building Code and Grading and Excavation Code. Please complete the following below by the deadline listed earlier in this letter:

- a. If you believe the grading meets an exception in the code please feel free to contact the Clackamas County Building Codes Division at 503-742-4240 or by email at bldservice@clackamas.us to discuss with a Permit Specialist. If it is determined an exception exists please provide the name of the person you spoke with and what exception you qualify for; **OR**,
- b. Submit, or have your professional submit, grading permit application(s), appropriate fee(s) and all construction documents of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in details that it will conform to the provisions of the Building Code and relevant laws. We encourage you to reach out to the Build Codes Division to discuss the permitting process by calling 503-742-4240 or by email at bldservice@clackamas.us
 1. Respond to requests for clarification or additional information from permitting staff within 15 days of receiving such request.
 2. Fees must be paid in full within 10 days of being notified by the Building Codes Division.
 3. 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).
- c. We encourage you to reach out to the Building Codes Division to explore other options to compliance or check to see if other options exist that may not be listed in this letter at the contact information listed above.

Permits are accepted online only, for more information on this process please refer to the County's website at <http://www.clackamas.us/building>

If you have questions concerning permit requirements, the online submittal process, or the land use process, please contact the department listed below at the phone number or email listed, or stop by the offices located at 150 Beaver Creek Rd., Oregon City, OR 97045, Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m. The offices are closed on Fridays

ITEMS INCLUDED IN THIS PACKET

Building Codes (Permitting)	503-742-4240	bldservices@clackamas.us
Planning and Zoning	503-742-4500	zoninginfo@clackamas.us
Code Enforcement – Shane Potter	503-742-4465	spotter@clackamas.us

ITEMS INCLUDED IN THIS PACKET

- Violation Letter
- Required Notice of Fines and Penalties



Shane Potter
 Code Enforcement Specialist
 Clackamas County Code Enforcement
 Phone: 503-742-4465
spotter@clackamas.us

Important Notices

1. **Administrative Compliance Fees.** It is important that you contact the Code Enforcement 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 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, 150 Beaver Creek Rd., Oregon City, OR 97045, or to 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 parties to voluntarily come into compliance with the code 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 violation, the County may, in its discretion, waive all or part of the \$75 per month administrative compliance fee.
6. **Non-compliance may result in a lien upon your property:** Fines, penalties, and fees are payable upon the effective date of the final order imposing them. Such fines, penalties, and fees are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other. If fines, penalties, and fee 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.







From: [Kyle Birman](#)
To: [Potter, Shane](#)
Cc: [Campi, Taylor](#)
Subject: Re: Z0094-25 Denial or Toll - V0049524
Date: Thursday, August 28, 2025 7:28:02 AM
Attachments: [image002.png](#)
[image003.jpg](#)

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



I understand your position Shane, and I appreciate you letting me know. I would just ask for some understanding. I tried to do my due diligence prior to purchasing the property and nothing was said to me from the county about any violations. Now I am having to deal with inherited problems and it's just going to take time. I still intend to see this through to completion.

Sincerely

Kyle Birman
503-572-3594 Cell
IntegrityAirLLC.com
CCB #203869



On Tue, Aug 26, 2025 at 2:35 PM Potter, Shane <SPotter@clackamas.us> wrote:

Hi Kyle,

I wanted to make sure to chime in with Code Enforcement review on this situation. While Planning allows for extensions and tolling the clock based on the December 2024 violation letter it states any delays such as tolling the clock may result in further enforcement. I understand the need for you to obtain a permit that will work and it may require additional time. However I should note any further delays in addressing the code violation may result in further enforcement such as a citation being issued and possibly even a hearing being scheduled if the violation continues to remain.

Sincerely,

Shane Potter

Code Enforcement Specialist

Code Enforcement

Department of Transportation and Development

150 Beaver Creek Rd., Oregon City, OR 97045

Primary Phone: 503-742-4465

spotter@clackamas.us

www.clackamas.us

Hours: M-F from 7:30 am until 4:00 pm (Lobby closed to the public on Fridays)



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From: Campi, Taylor <TCampi@clackamas.us>

Sent: Tuesday, August 26, 2025 12:26 PM

To: Kyle Birman <integrityair01@gmail.com>

Subject: Z0094-25 Denial or Toll - V0049524

Hi Kyle,

I am writing to let you know that this land use decision will be issued as a Denial unless you elect to toll the clock (i.e. request another extension) per the attached sheet. I would need to receive the extension request by EOD next Tuesday, as next Wednesday is the day I am scheduled to finalize the decision unless the clock is tolled. More explanation below, in case it is helpful.

Last we spoke, we discussed how the Floodplain Development application under Z0094-25 still needs to demonstrate compliance with the fill-related criteria in [ZDO 703.10\(F\)](#) which would

either require you, in one way or another, to remove the approximate amount of unpermitted material added to the floodplain, whether that means removing the actual material added, or balancing it with an equal amount of removal from other parts of the floodplain (either on your property or another property that gives permission). You requested a 90-day extension to the standard 120-day land use review “clock” which bumped our original decision issuance date from June 9th to September 7th (which is a Sunday, so Monday Sept 8th). In order to schedule the decision for issuance on Sept 8th I need to have it finished by Sept 3rd and I am out of office for the rest of this week. Currently the decision is drafted as a Denial since we don’t have approval findings for those fill-related criteria. Tolling the clock is your choice, but I just want to note: it is probably not advisable to submit updated materials addressing the fill-related criteria without also tolling the clock, because if the updated materials still do not demonstrate compliance, I will have to issue the denial without being able to take the time to notify you that certain criteria remain unmet, and be able to wait for your response to find out whether you’d like to toll the clock to allow time to address the outstanding issues.

As I will be out of the office for the remainder of this week, please copy zoninginfo@clackamas.us if you have any questions, as my colleagues may be able to help.

Thank you,

Taylor Campi, Senior Planner

Planning and Zoning

Clackamas County Department of Transportation and Development

150 Beaver Creek Road, Oregon City, OR 97045

503-742-4512

Work Hours: M-F 8am-4:30pm

www.clackamas.us

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



NOTICE OF DECISION ON A TYPE II LAND USE PERMIT

Decision: Denied

Permit Type: Floodplain Development

File No. Z0049-25

Applicant's Proposal: Retroactive permitting for development of an unpermitted parking lot and fence within the Special Flood Hazard Area; abatement of violations of Section 703 under violation file number V0049524.

Decision Date: January 12, 2026

Deadline for Filing Appeal: January 26, 2026, at 4:00 pm.

Issued By: Taylor Campi, Senior Planner, TCampi@clackamas.us

Applicant: Kyle Birman

Owner of Property: Birman Holdings, LLC

Zoning: GI – General Industrial

Assessor's Map & Tax Lot(s): T1S R2E Section 29BD Tax Lot 2000 & 2100

Site Address: 6919 & 7001 SE Johnson Creek Blvd, Portland OR 97206



Community Planning Organization (CPO) for Area:

SOUTHGATE CPO (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 and Decision: The complete decision, including findings and conditions of approval, and the submitted application are available for review online at <https://aca-prod.accela.com/CLACKAMAS>. 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. A copy of the decision, application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost by contacting the Planner listed above. Copies of all documents may be purchased at a cost established by the County fee schedule.

Appeal Rights: **This decision will not become final or effective until the period for filing an appeal with the County has expired without the filing of an appeal.** Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision pursuant to Subsection 1307.09(C) of the Clackamas County Zoning and Development Ordinance may appeal this decision to the Clackamas County Land Use Hearings Officer by filing a written appeal. An appeal must include a completed Appeal Form available at www.clackamas.us/planning/supplemental.html and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified above.

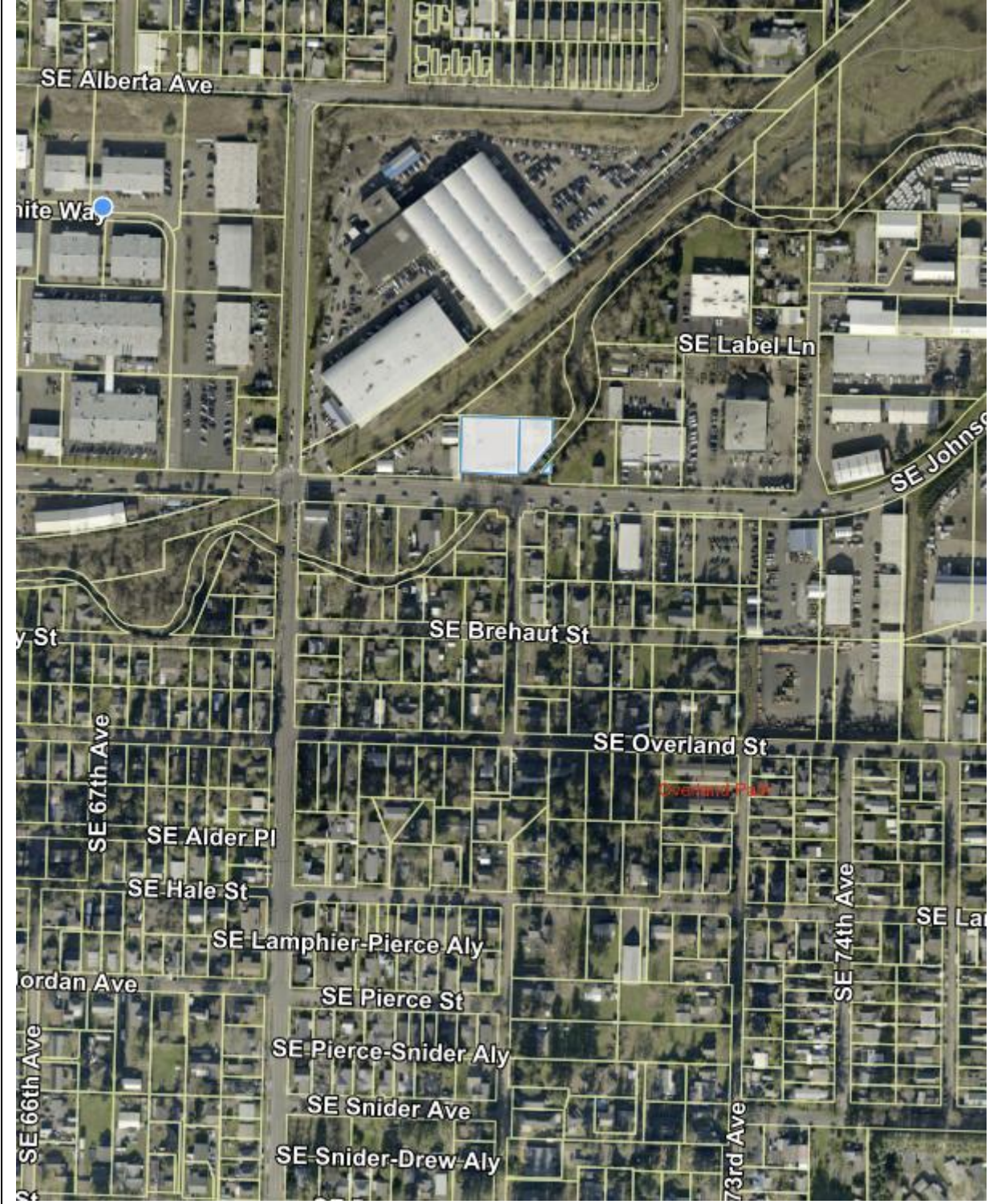
Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

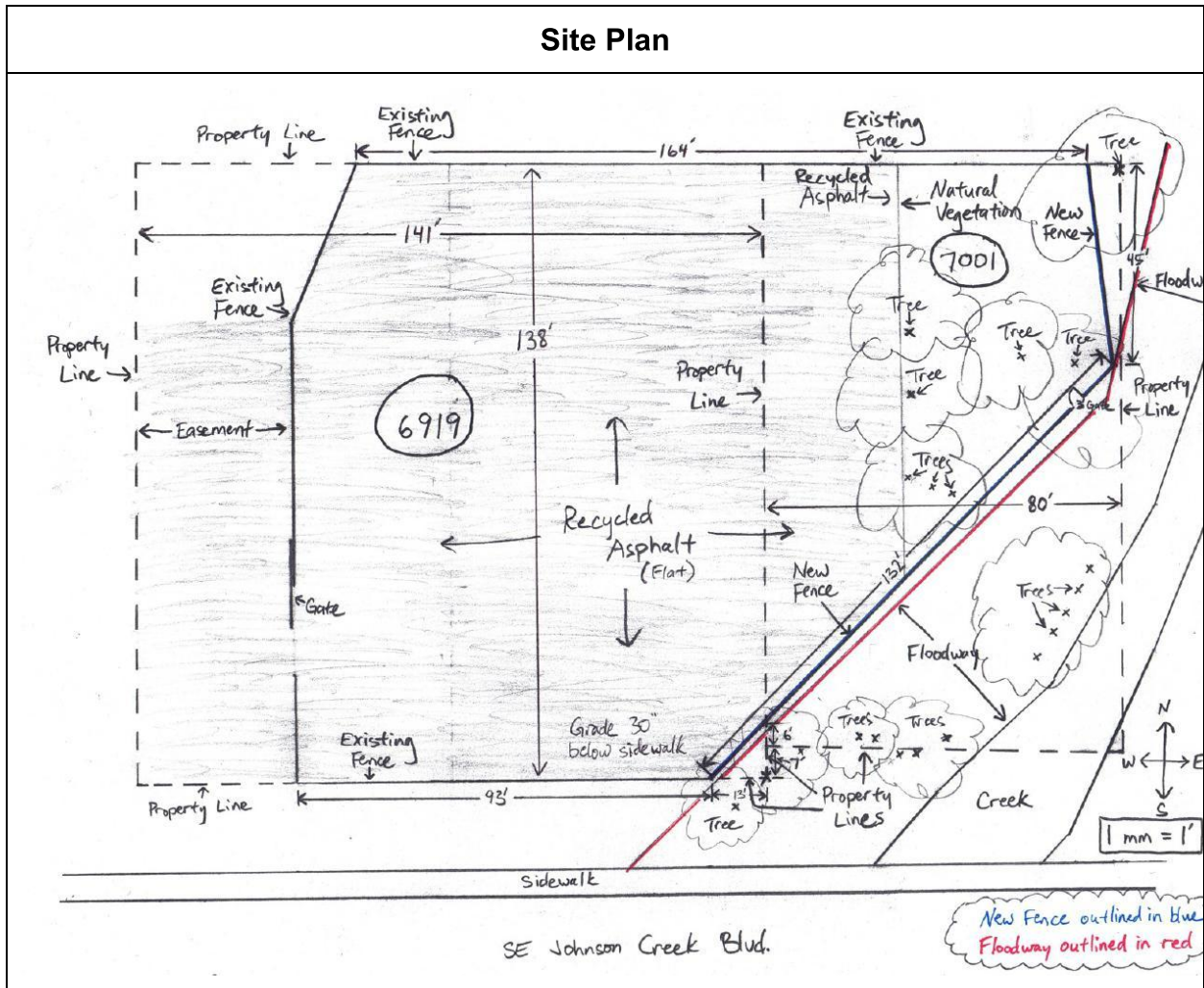
A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

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? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통?





PERMIT EXPIRATION

Pursuant to ZDO Subsection 703.09(F), approval of a Floodplain Development Permit is valid for four years from the date of the final decision. Unless an appeal is filed, the date of the final decision is the “decision date” listed above. **During this 4-year period, the approval shall be implemented as defined in ZDO 703.09, or the approval will become void.**

This is the only notice you will receive of this deadline.

APPLICABLE APPROVAL CRITERIA

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 703, and 1307.

PUBLIC AND AGENCY COMMENTS

Notice was sent to applicable agencies and owners of property within 300 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. Comments from the following were received:

No comments were received.

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.

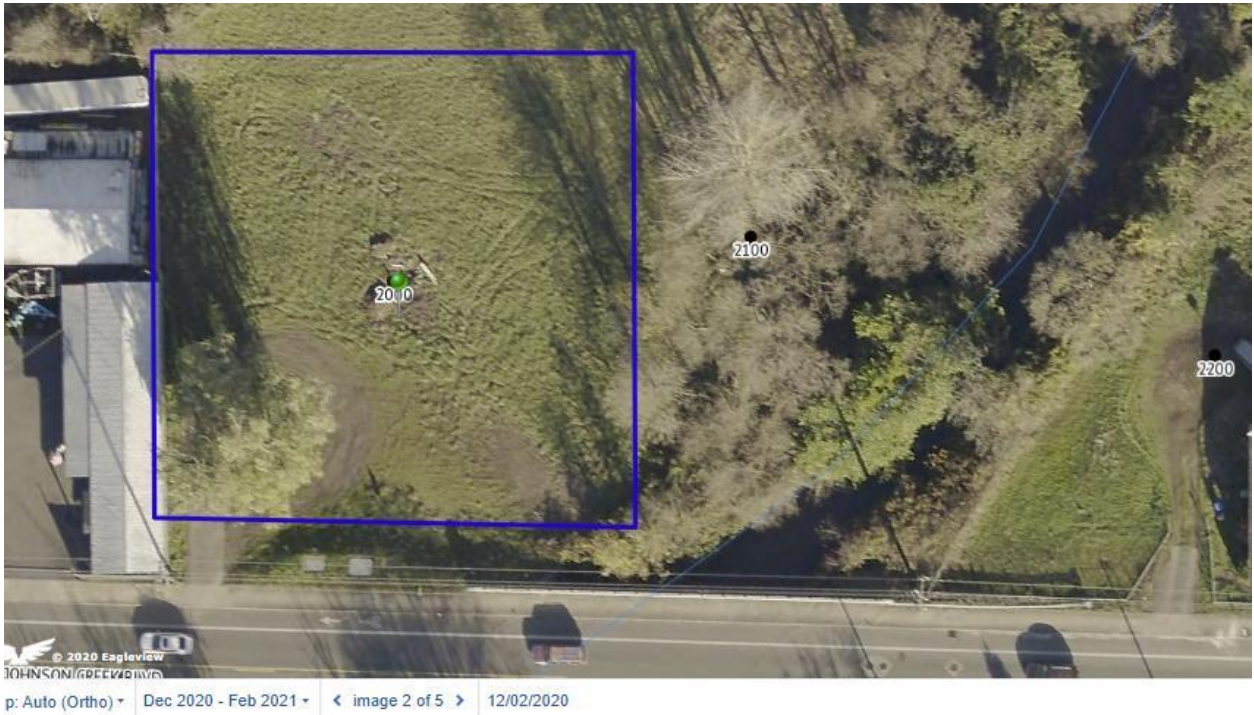
1. Background/Overview of Applicant's Proposal:

The applicant is requesting retroactive Floodplain Development permitting for unpermitted parking lot paving and expansion within the Special Flood Hazard Area (SFHA), the Habitat Conservation Area, and the General Industrial Zone. The applicant is also requesting permitting for the extension of an existing fence. In addition to the requested Floodplain Development Permit, development on this lot requires a Habitat Conservation Area Development permit and Design Review approval.

Two primary grounds for denial of this Floodplain Development Permit are failure to provide fill dimensions or fill-balancing information required for compliance with ZDO 703.10(F) and failure to either demonstrate that development does not encroach into the floodway as aerial imagery appears to show, or demonstrate compliance with floodway development allowances under 703.07. Staff notes that the development does not appear to qualify for the floodway development exceptions under 703.07.

Staff discussed the requested Floodplain Development Permit with the applicant on July 2, 2025 at the Planning counter in the Development Services Building. The applicant asked how to approach documenting the existing unpermitted fill (gravel parking area) that was brought to the site by the previous owner, as this information is needed to demonstrate compliance with ZDO 703.10(F). Staff advised the applicant that their surveyor or engineer could provide a site assessment including drilling several test holes throughout the unpermitted parking surface to approximate the depth of unpermitted fill. This information could then be multiplied by the total square footage of the unpermitted parking area to provide the estimated total volume of unpermitted fill within the SFHA. The applicant did not submit estimated volumes of existing unpermitted gravel or proposed new material (paving), so staff cannot confirm the development's compliance with the fill-related criteria in ZDO 703.10(F).

Aerial imagery from December 2020 shows the site largely undeveloped:



Aerial imagery from January 2022 shows the unpermitted installation of gravel and fencing:



Aerial imagery from November 2025 shows Tax Lot 2000 nearly fully paved with pavement extending east into Tax Lot 2100:



map: Auto (Ortho) ▾ Nov 2025 - Dec 2025 ▾ < image 1 of 3 > 11/12/2025

The majority of the site is within High HCA and a small portion within Moderate HCA:



2. ZDO Section 703, Floodplain Management District (FMD)

703.03 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by the FMD is considered reasonable for regulatory purposes and is based on engineering and scientific study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Section 703 does not imply that areas outside the FMD or land uses permitted within the FMD will be free from flooding or flood damages. Section 703 shall not create liability on the part of the County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on the FMD or any administrative decision lawfully made hereunder.

This warning and disclaimer are provided to the applicant with the issuance of this decision.

703.04 APPLICABILITY

Section 703 applies to the FMD, which is applied to the special flood hazard areas (SFHAs) identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Clackamas County, Oregon & Incorporated Areas," (FIS) dated January 18, 2019, with accompanying Flood Insurance Rate Maps (FIRMs).

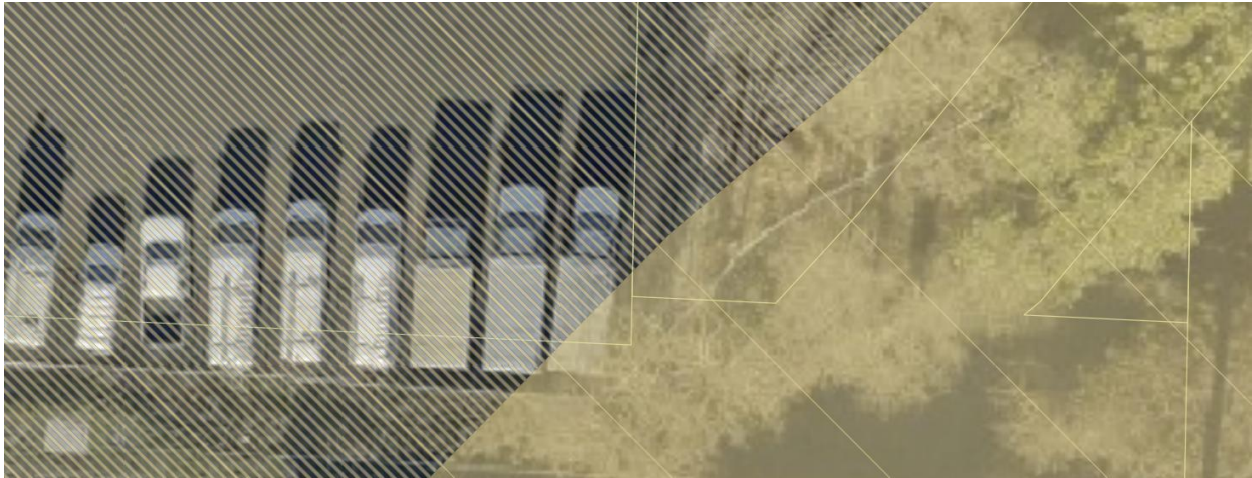
- A. The FIS and FIRMs are hereby adopted by reference and declared to be a part of Section 703 and are on file at the County Department of Transportation and Development.*
- B. The Planning Director shall make interpretations where needed, as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, topography, and/or elevations). In areas where base flood elevation data have been provided, the Planning Director may require the applicant to submit an elevation certificate. To most precisely determine the base flood elevation of the subject area, the elevations provided by the FIS flood profiles in combination with the cross section lines on the FIRM shall supersede the base flood elevation lines and values identified on the FIRM.*

Finding: The subject properties are identified on FIRM number 41005C0029D, effective June 17, 2008, as being located within the Special Flood Hazard Area. No interpretation by the Planning Director is necessary. **Section 703 applies and the proposed development is being reviewed according to the provisions of this Section.**

703.07 DEVELOPMENT IN THE FLOODWAY

Development in the floodway is prohibited, except as provided in Subsection 703.06, or for the following uses. The following uses are allowed only if permitted in the underlying zoning district and require approval of a floodplain development permit:

Finding: The applicant's updated site plan submitted 4/25/2025 shows no development in the floodway being proposed, however aerial imagery indicates that development, including parking lot, storage of vehicles, and fencing, has encroached into the floodway. Development in the floodway is prohibited unless it qualifies for one of the permitted uses under ZDO 703.07 but the submitted application has not demonstrated that this development qualifies under this subsection.



This criterion is not met.

703.08 DUTIES OF THE PLANNING DIRECTOR

The Planning Director is hereby appointed to administer and implement Section 703 by granting or denying development permit applications in accordance with its provisions. The Planning Director may delegate authority to implement these provisions. Duties of the Planning Director under Section 703 include:

- A. *The Planning Director shall review floodplain development permits to determine if the proposed development adversely affects the flood carrying capacity of the special flood hazard area. For purposes of this subsection, "adversely affects" means that the cumulative effect of the proposed development and all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.*

Finding: Delegated planning staff is reviewing the proposed development for conformance with the approval criteria in Section 703. Because the submitted materials do not provide sufficient information for staff to confirm compliance with the provisions of ZDO 703, a determination cannot be made as to whether the proposed development is anticipated to increase the water surface elevation of the base flood more than one foot at any point.

This criterion is not met.

- B. *Within the special flood hazard area, when more detailed base flood elevation or floodway data is available outside of the adopted Flood Insurance Study (FIS) from a federal, state or other authoritative source — such as preliminary or draft information from a new study that will revise the FIS —the Planning Director may*

obtain, review, and reasonably utilize such data as long as it is more restrictive than the currently effective data. When the data pertains to a preliminary or draft FIS in Zone A, the Planning Director is required to reasonably utilize the data, and is allowed discretion in using this data only to the extent that the technical or scientific validity of the data in the draft or preliminary FIS is questioned by a qualified professional.

Finding: No more detailed base flood elevation or floodway data is available outside of the adopted FIS dated June 17, 2008.

This criterion is not applicable.

- C. *When base flood elevation data has not been provided (A zones), the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the standards in Subsections 703.08, 703.10, and 703.11.*

Finding: Base flood elevation data has been provided.

This criterion is not applicable.

- D. *The Planning Director shall, where base flood elevation data is provided through the FIS, Flood Insurance Rate Map, or utilized pursuant to Subsections 703.08(B) or (C), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.*

Finding: Structures are not proposed.

This criterion is not applicable.

- E. *For all new or substantially improved structures, the Planning Director shall review an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate (for Non-Residential Structures) provided by the applicant and shall verify and record the actual elevation (in relation to mean sea level) and maintain the elevation and floodproofing certificates required.*

1. *In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions.*
2. *The determination regarding which certificate is required shall be made based on the nature of the development consistent with National Flood Insurance Program regulations.*

Finding: Structures are not proposed.

This criterion is not applicable.

- F. *The Planning Director shall maintain for public inspection all records pertaining to the provisions of Section 703.*

Finding: All records pertaining to the provisions of Section 703 are on file and publicly available at the offices of the County Planning Division, including those that pertain to this proposal.

This criterion is met.

- G. *The Planning Director shall review all floodplain development permits to determine if the proposed development activity qualifies as a substantial improvement.*

Finding: The proposed installation of chain link fencing and regrading/surfacing of a parking area does not involve existing structures and therefore does not qualify as a substantial improvement.

This determination is hereby made.

- H. *The Planning Director shall provide to building officials the regulatory flood protection elevation applicable to any building requiring a building permit.*

Finding: The regulatory base flood elevation at the subject property is 164.8 feet NAVD 88.

This criterion is met.

- I. *The Planning Director shall notify adjacent communities, the State of Oregon Department of Land Conservation and Development, and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.*

Finding: Watercourse alteration is neither proposed nor authorized.

This criterion is not applicable.

- J. *The Planning Director shall notify the Federal Emergency Management Agency (FEMA) within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified base flood elevations. This notification shall be provided as a Letter of Map Revision (LOMR).*

1. *The project applicant shall be responsible for preparing technical data to support the LOMR application and for payment of all processing and application fees charged by FEMA.*

Finding: No CLOMR or LOMR, or watercourse alteration, or floodplain boundary modification, or BFE modification, exists or is proposed for the subject property.

This criterion is not applicable.

703.09

FLOODPLAIN DEVELOPMENT PERMITS

Except as provided under Subsection 703.06, a floodplain development permit (FDP) shall be obtained for development laterally within the FMD before construction or development begins. The permit shall be for all structures, including manufactured

dwellings, and for all development, including fill and other activities. Work that is necessary to protect existing structures, utility facilities, roadways, driveways, and stream banks in response to emergencies may be undertaken prior to obtaining an FDP, provided that an application is made within 90 days of water receding. The measures used for protection may not be able to be permitted. An FDP requires review as a Type II application pursuant to Section 1307, Procedures.

- A. *Submittal Requirements: In addition to the submittal requirements identified in Subsection 1307.07(C), an application for an FDP shall include:*

Finding: The applicant has submitted sufficient materials to proceed with review of the application.

This criterion is met.

- B. *Factors of Consideration: In reviewing an application for an FDP, the following factors shall be considered:*

1. *The danger to life and property due to increased flood heights or velocities caused by encroachments;*

Finding: Section 703 defines “encroachment” as any development occurring in the floodway. The submitted materials state that floodway development is not proposed however aerial imagery shows encroachment of parking lot, vehicle storage, and fencing within the floodway. Because these encroachments are not demonstrated in the submitted materials to comply with applicable provisions of Section 703, conformance with this criterion cannot be confirmed.

This criterion is not met.

2. *The danger that materials may be swept on to other lands or downstream to the injury of others;*

Finding: The submitted narrative describes how the proposed fence will be anchored in concrete footings to prevent being swept downstream in the event of a flood.

This criterion is met.

3. *The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination, and unsanitary conditions;*

Finding: No water supply or sanitation systems are proposed.

This criterion is not applicable.

4. *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;*

Finding: The proposed chain link fence will be constructed with flood-resistant materials.

This criterion is met.

5. *The importance to the community of the service provided by the proposed facility;*

Finding: A community service is not proposed.

This criterion is met.

6. *The requirements of the facility for a waterfront location;*

Finding: The entire subject site is a waterfront location.

This criterion is met.

7. *The availability of alternative locations not subject to flooding for the proposed use;*

Finding: Alternative locations not subject to flooding are not available at the subject site.

This criterion is met.

8. *The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;*

Finding: The subject parcels are in the GI General Industrial zone and surrounded by commercial and industrial uses. The proposed fence and parking area is compatible with surrounding development in so far as it is a permitted accessory use in the GI General Industrial zone.

This criterion is met.

9. *The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;*

Finding: The proposed parking lot and fence are permitted as accessory uses in the underlying GI zone, which implements the Comprehensive Plan policies related to General Industrial development. Design Review approval is required for development in this zone and the applicant has not submitted the required Design Review land use application. As described in this decision, the proposed development is also not demonstrated to be consistent with the provisions of Section 703 which implements the county's floodplain management program.

This criterion is not met.

10. *The safety of access to property in times of flood for ordinary and emergency vehicles;*

Finding: In times of substantial flooding, the applicant is advised that the property may not be accessible by ordinary or emergency vehicles.

This criterion is met.

11. *Whether the proposed development activity represents a substantial improvement to an existing structure;*

Finding: No existing structures exist.

This criterion is not applicable.

12. *Whether the proposed structure qualifies as a critical facility;*

Finding: The proposed fence and parking area are not critical facilities.

This criterion is not applicable.

13. *The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;*

Finding: According to the Flood Insurance Study, the subject property is located at cross section AC with a BFE of 164.8' NAVD 88, and a velocity of 4.9 feet per second. Information on duration, rate of rise, and sediment transport is not available.

This criterion is met.

C. *Approval Criteria: An FDP shall be subject to the following standards and criteria:*

1. *All necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.*

Finding: If approved upon appeal, the applicant is responsible for obtaining any permits required by the US Army Corps of Engineers, Oregon DEQ, Oregon DSL, Oregon DFW, Clackamas County, or local service district. Permits or verification that no permit is needed from NOAA Fisheries is required for compliance with the NMFS Biological Opinion. A condition of approval would require that County staff be included in or provided with the applicant's submittal to USACE and/or NOAA Fisheries, and final documentation of the determination by USACE or NOAA Fisheries shall be submitted to Planning and Zoning

As conditioned, this criterion would be met.

2. *If the proposed development is in the floodway, the standards of Subsection 703.07 have been met.*

Finding: The submitted application states that no floodway development is proposed and none is authorized. However, aerial imagery shows parking lot, vehicle storage, and fencing encroaching into the floodway and the submitted materials to not demonstrate that this development is either outside of the floodway or compliant with the provisions of 703.07.

This criterion is not met.

3. *If the proposed development includes alteration of a watercourse, maintenance will be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.*

Finding: No watercourse alteration is proposed or authorized.

This criterion is not applicable.

4. *The proposed development will comply with the applicable provisions of Subsections 703.10 and 703.11.*

Finding: This document contains planning staff's evaluation of the proposal's noncompliance with applicable provisions of Subsections 703.10.

This criterion is not met.

- D. Conditions of Approval: The County may attach conditions of approval to an FDP if such conditions are deemed necessary to further the purpose of Section 703. Such conditions may include, but are not limited to:*

Finding: If approved upon appeal, conditions of approval would be warranted to ensure that the requirements of Section 703 are met.

This criterion can be met.

- E. Finalization of an FDP: If a preliminary elevation certificate or floodproofing certificate was required for a structure, a second elevation certificate is required prior to approval of the foundation inspection. In addition, a building permit for that structure shall not receive a final approval or certificate of occupancy until the County approves a final elevation certificate or floodproofing certificate that is based on the as-built/finished construction.*

Finding: No structures are proposed.

This criterion is not applicable.

703.10

GENERAL FMD STANDARDS

Development in the FMD shall comply with the following standards:

- A. Anchoring: All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.*

Finding: The submitted application describes how the proposed fence will be anchored with concrete footings.

This criterion is met.

- B. Construction Materials and Methods, and Utilities:*

Finding: These criteria apply to structures and no structures are proposed.

This criterion is not applicable.

- C. Substantial Improvement and Substantial Damage: A structure for which a substantial improvement or repair of substantial damage is proposed shall be elevated, retrofitted, upgraded, etc., such that the structure and all of its interior and exterior service facilities, systems, equipment, machinery and appliances shall be brought into compliance with the applicable standards of this section.*

Finding: No structures are proposed.

This criterion is not applicable.

- D. Manufactured Dwellings:*

Finding: No manufactured dwellings are proposed.

This criterion is not applicable.

E. Recreational Vehicles: Recreational vehicles shall comply with the requirements of Subsection 703.10(D) for manufactured dwellings or shall be:

Finding: No recreational vehicles are proposed.

This criterion is not applicable.

F. Fill:

1. *Any fill or other materials — except those proposed within the interior of, and inside the walls of, a crawl space, foundation, basement or enclosure floor — shall be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the applicant, showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.*

Finding: The applicant is requesting retroactive permitting for the unpermitted development of a parking lot and fencing within the SFHA. The submitted materials do not include dimensions of the gravel or pavement materials that were placed within the SFHA without permits.

This criterion is not met.

2. *Fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.*

Finding: The submitted materials do not show how the unpermitted fills are protected against erosion.

This criterion is not met.

3. *Structures may be allowed to be constructed on fill and thereby elevated above the BFE, subject to the following standards:*

Finding: No structures are proposed.

This criterion is not met.

4. *All fill placed at or below the BFE shall be balanced with at least an equal amount of material removal either on-site, or from a nearby area at or below the BFE and in the same drainage basin. In addition, the following standards shall apply:*

- a. Excavation below the level of the seasonal groundwater table shall not be used in balancing fill volumes against excavation volumes;*
- b. The mean annual groundwater level shall be determined by soil morphology, or other available data on groundwater conditions;*
- c. Balancing of a fill shall occur at the same time as the fill is placed on the development site;*
- d. The site plan required in Subsection 703.09(A)(1) shall identify the area where material is removed from the floodplain to balance fill volumes, including pertinent elevations and volume of fill removed;*

- e. A professional engineer or licensed architect shall certify that the amount of material removed balances the amount of fill material;
- f. A suitable recorded easement or similar legally binding mechanism, in a form acceptable to County Counsel shall be provided to the Planning Director, indicating that future development of the delineated area where material is removed to balance fill volumes is prohibited, and the delineated area cannot be used in the future as balancing for a fill; and
- g. When the balancing occurs off-site, the application shall also include:
 - i. Authorization from the owner of the property where the balancing will occur; and
 - ii. A legal description of the parcel where the balancing will occur.

Finding: The submitted materials do not provide dimensions or fill-balancing information for the proposed fill (existing unpermitted gravel and paving). Staff discussed the requested Floodplain Development Permit with the applicant on July 2, 2025 at the Planning counter in the Development Services Building. The applicant asked how to approach documenting the existing unpermitted fill (gravel parking area) that was brought to the site by the previous owner, as this information is needed to demonstrate compliance with ZDO 703.10(F). Staff advised the applicant that their surveyor or engineer could provide a site assessment including drilling several test holes throughout the unpermitted parking surface to approximate the depth of unpermitted fill. This information could then be multiplied by the total square footage of the unpermitted parking area to provide the estimated total volume of unpermitted fill within the SFHA. The applicant did not submit estimated volumes of existing unpermitted gravel or proposed new material (paving), so staff cannot confirm the development's compliance with the fill-related criteria in ZDO 703.10(F).

These criteria are not met.

G. Stream Crossings, Including Bridges and Culverts, and Transportation Projects:

Finding: No stream crossings are proposed. **This criterion is not applicable.**

H. Subdivisions:

Finding: No subdivisions are proposed. **This criterion is not applicable.**

I. Toxic or Hazardous Materials:

Finding: No toxic or hazardous materials are proposed. **This criterion is not applicable.**

J. Critical Facilities:

Finding: No critical facilities are proposed. **This criterion is not applicable.**

703.11 SPECIFIC STANDARDS

Finding: The criteria established in Subsection 703.11 apply to structures and no structures are proposed. **These criteria are not applicable.**



02/23/2026 11:38



02/23/2026 11:38



Citation No. 2400495 - 1

Case No. V0049524

ADMINISTRATIVE CITATION

Date Issued: March 4, 2026

Name and Address of Person(s) Cited:

Name: Birman Holdings LLC.
Mailing Address: 14722 SE Lea St.
City, State, Zip: Happy Valley, OR 97086

Date Violation(s) Confirmed: On the 23rd day of February 2026 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): 6919 SE Johnson Creek Blvd., Portland, OR 97206

Legal Description: T1S, R2E Section29BD, Tax Lot 02000

Law(s) Violated:

- Chapter 9.03 of CCC Excavation and Grading, Section 9.03.030
- Title 12 and 13 of CCC Zoning and Development Ordinance, Section 12.602.03
- Title 12 and 13 of CCC Zoning and Development Ordinance, Section 12.703.04
- Title 12 and 13 of CCC Zoning and Development Ordinance, Section 12.704.03
- Title 12 and 13 of CCC Zoning and Development Ordinance, Section 12.706.02

Description of the violation(s):

- 1) Grading and fill brought in to create a parking area in a protected area without obtaining a grading and erosion control permit.

Maximum Civil Penalty \$3,500.00 Fine \$514.00

- 2) Use of the site for commercial purposes (parking lot) without obtaining land use approval.

Maximum Civil Penalty \$2,500.00 Fine \$411.00

- 3) Disturbance of protected areas and development in the FMD (Floodplain Management District), RSCA (River and Stream Conservation Area) and HCA (Habitat Conservation Area).

Maximum Civil Penalty \$2,500.00 Fine \$411.00

V0049524 – 6919 SE Johnson Creek Blvd.

You may avoid paying the civil penalty by abating the violation(s) and paying a total fine of \$1,336.00. 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 \$100.00 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: March 4, 2026
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. If you fail to exercise one of the following options within fifteen calendar days of the citation date, the County may request a Default Order from the Compliance Hearings Officer finding you in violation and assessing fines and monthly administrative fees, or the County may request a hearing before the Compliance 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 including the administrative compliance fees that have accrued. Sign the statement of Understanding below and deliver or mail this form, together with a check or money order payable to Clackamas County in the amount of the fine to:

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

2. Request a hearing in writing. You may request a hearing to contest the violation(s) alleged. A written request for a hearing must be mailed to Clackamas County at the address listed above or sent to codeenforcement@clackamas.us.

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

- a. Your name and address;
- b. A copy of the citation or the Citation number and Case number; 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. Until the violation is abated a monthly administrative compliance fee is being assessed.
4. 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: _____



7205 SE Johnson Creek Boulevard
Portland, Oregon 97206

March 6, 2026

Clackamas County
Code Enforcement Section
150 Beaver Creek Road
Oregon City, OR 97045

Re: Citation #2400495-1; Case #V0049524

To whom it may concern,

This letter serves as my formal request for a hearing regarding the violations listed in the above referenced citation.

Prior to purchasing this property approximately one year ago, I communicated with Clackamas County regarding my intended use of the property. When I met with staff in the zoning department, the address was reviewed and photographs of the site were pulled up and discussed. The property had already been developed as a gravel parking area by the prior owner, with fencing on three sides, and was clearly being used in that manner.

During those discussions, I explained that my intention was simply to improve the gravel surface, add fencing along the remaining side of the property, and continue using the site as a parking area for commercial vehicles. Based on those conversations, my understanding was that permits would be required for the improvements I planned, but I was not informed that remediation of the existing conditions created by the prior owner would be required or that the existing conditions were considered violations.

Based on that understanding, I proceeded with the purchase of the property. However, if I had understood prior to closing on the property that the existing conditions would require this level of remediation, I would have approached the purchase very differently.

After acquiring the property and initiating the permit process, I learned that the existing conditions created by the previous owner would need to be remedied before any improvements could be permitted. These requirements were significantly different from what I had previously understood and involved extensive remediation measures that were not disclosed to me prior to the purchase.

I want to emphasize that I have been proactive in working with the county on this matter. In fact, the issues cited only came to light because I attempted to obtain the proper permits. As a licensed contractor, I have a long and verifiable history of pulling permits and complying with regulatory requirements. My intention has always been to bring this property into compliance in an appropriate and responsible manner.





7205 SE Johnson Creek Boulevard
Portland, Oregon 97206

Through this hearing I respectfully request consideration of the circumstances surrounding the purchase of the property and my efforts to work with the county to address the issue. Specifically, I respectfully request consideration of:

- Recognition that the cited conditions pre-existed my ownership
- Relief from the civil penalties associated with the citation
- The opportunity to work with the county toward a reasonable and achievable path to bring the property into compliance

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kyle Birman', is written over a faint circular stamp or watermark.

Kyle Birman
CEO
Enclosure





Citation No. 2400495 - 1

Case No. V0049524

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