
Staff Report for Hearings Officer Review

Evidence and Supporting Documents for Notice of Violation

Code Case #: CCPR2-2024-0006

Subject Property: Address: 31535 SE Dodge Park Blvd Gresham OR 97080
Map Tax Lot: 1S4E20AC -00700
Alt Account: R994201160

Zoning: Multiple Use Agriculture (MUA-20)

Owner/Respondent: Juan A. Cervantes 31535 SE Dodge Park Blvd Gresham, OR 97080

1.0 STAFF SUMMARY

Code Case CCPR2-2024-0006 concerns a Notice of Violation (NOV) issued to Juan A Cervantes on July 25, 2025 for alleged violations of Multnomah County Code (MCC).

The NOV alleges a violation of *MCC 39.4305*, relating to permissible uses within the Multiple Use Agriculture (MUA-20) base zone, and resulting from findings of non-permitted commercial activity and non-permitted placement of two permanent canopy structures on the subject property located within that zone.

This staff report is forwarded to the Hearings Officer for review and determination. Pursuant to *MCC 39.1550*, the Director is seeking a determinization on a preliminary procedural matter related to the eligibility of Respondent's appeal. The Director also seeks affirmation of the NOV, imposition of Civil Fines; and an Order for Respondent to cease the non-permitted commercial use, to take corrective action related to non-permitted development on the subject property, and to provide reimbursement of County's reasonable administrative costs and costs for its enforcement actions, including appeals.

2.0 PRELIMINARY PROCEDURAL MATTER

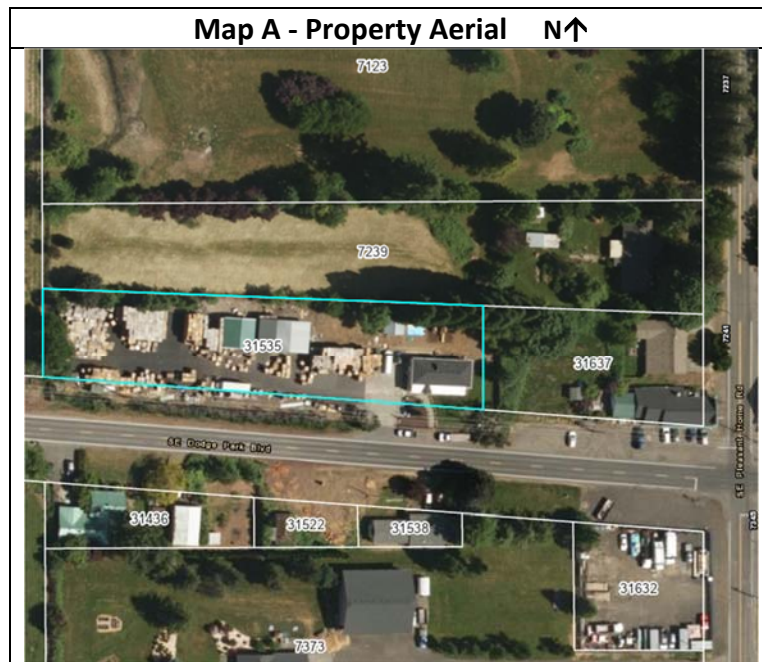
2.1 Under *MCC 39.1530(C)*, an appeal of a NOV may be made by submitting a written request for an appeal hearing together with the appeal fee indicated in the NOV within 14 days of the date of service of the NOV. Under *MCC 39.1530(D)*, a NOV may be served by certified mail, return receipt requested through the United States Postal Service (USPS).

- 2.2 Under *Enforcement Code Rule (ECR) 4.5*, the Hearings Officer shall dismiss an appeal filed without the appeal fee, unless the appeal fee is subsequently filed within the time allowed under former *MCC 37.0940(C)*, renumbered as *MCC 39.1530(C)*.
- 2.3 Under *ECR 1.7*, when computing any period of time, except for the date that civil fines are assessed, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday or legal holiday. Civil fines are assessed on the date a NOV is served or on the date ordered by a hearings officer or the court, whichever is applicable.
- 2.4 On July 25, 2025, the County sent a NOV to Respondent via certified mail; The certified mail return receipt shows a date of service of July 28, 2025 (Ex. C.3).
- 2.5 On August 12, 2025, Heidi Konopnicki, Code Compliance Specialist (CCS), contacted Respondent via phone per his request. During that phone conversation, the CCS informed Respondent that August 12, 2025 was the final day of the appeal period, and that Respondent must have filed an appeal with Multnomah County and paid the appeal fee prior to the end of that day, if his intent was to appeal the NOV.
- 2.6 On August 12, 2025 by approximately 4:30pm, Multnomah County had received both a completed appeal form and the required appeal fee payment from Respondent (Ex. D.1).
- 2.7 During preparation of this Staff Report, the CCS determined that she had erred in her calculation of the appeal period. USPS Tracking Records show that the NOV was served to Respondent on July 28, 2025. Therefore, the 14-day appeal period was in effect from July 29, 2025 through August 11, 2025; the latter day not being a Saturday or legal holiday.
- 2.8 Because the appeal form and fee were received outside of the 14-day appeal period, *ECR 4.5* contemplates dismissal of the appeal. The effect of dismissal of the appeal would be that the Hearings Officer could undertake review of this matter without a hearing pursuant to *MCC 39.1545*. However, due to the CCS's miscommunication to Respondent regarding the last day of the appeal period, the Director does not object to the appeal proceeding.
- 2.9 Because the Director does not object to the appeal proceeding, and because the ECR contemplates that it is the Hearings Officer, rather than the Director, who determines whether to dismiss an appeal, the Director has scheduled a public hearing with the Hearings Officer.

3.0 STAFF FINDINGS

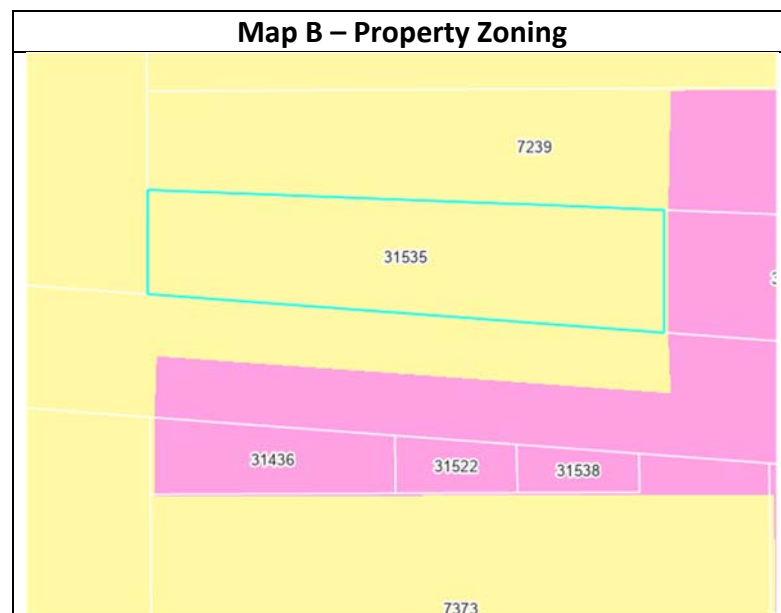
3.1 Property Description

The 0.88-acre subject property at 31535 SE Dodge Park Blvd Gresham, OR is located in unincorporated Multnomah County immediately north of SE Dodge Park Blvd and approximately 230 feet west of SE Pleasant Home Rd.



3.2 Property Zoning

The subject property is zoned Multiple Use Agriculture (MUA)-20 and does not contain any mapped environmental overlays. The MUA-20 zone is shown as a yellow overlay in the property zoning map.



3.3 Property Ownership

Juan A Cervantes is listed in the Multnomah County tax assessment records as the owner of the subject property from May 5, 2020 to current (Ex. B.2). In addition to being the property owner, Juan A Cervantes is the Respondent in this matter as the person alleged to have committed the violations or to be responsible for the violations set forth in the NOV.

3.4 Findings of Fact

3.4.1 On August 19, 2024, Multnomah County received confidential community-generated complaint CCINT-2024-0055 alleging use of the subject property for the *“storage, building and refurbishing of 100's of wood pallets stacked on-site. Operations include multiple workers operating saws and nail guns re-building the pallets. Work often goes on seven days a week but with a heavy emphasis on weekends. Trucks bring in used pallets and refurbished pallets are loaded and trucked off site. The operator regularly burns large piles of wood debris in an open fire, and regardless of whether there is a burn ban in effect. The pallets are visible from Dodge Park Blvd, but the refurbishing operation is screened by the pallets and not visible from the street.”* The complaint included a photo of a large fire burning on the what appears to be the subject property (Ex. A.1). The complainant also submitted additional video evidence on August 22, 2024, showing an individual utilizing a table saw or similar to dismantle a wooden pallet (Ex. A.2).

3.4.2 On October 07, 2024, Multnomah County Code Compliance Staff conducted a document investigation related to the complaint; the findings of the investigation were recorded in a Document Investigation Report on the same date (Ex. B.8). The document investigation consisted of a review of available aerial imagery between 2019 and 2024, which revealed pallet storage on the subject property beginning in 2021, as well as the development of several accessory between the years of 2021 and 2022 within the vicinity of the pallet storage area (Ex. B.1.a). A review of Multnomah County case and permit records for the subject property did not reveal any prior approval for the reported commercial use or the observed development of accessory structures (Ex. B.3). The document investigation also included a search of the Oregon Business Registry database maintained by the Oregon Secretary of State. The search found an active registration for JRK Transportation with a principal place of business registered to the subject address, and a described business activity of cargo deliveries (Ex. B.4).

3.4.3 On October 16, 2024, Multnomah County Code Compliance Staff conducted a site inspection from the public right of way. The report and photos from the inspection indicate that the inspector observed a high volume of wooden pallets on the property as well as a commercial box truck with the business name JRK Transportation printed on the door of the vehicle. The inspector did not observe any individuals actively working on the property at the time of the inspection. However, an individual identifying himself as the property owner, approached the

inspector to inquire about the inspector's presence. The inspector informed the individual that Multnomah County Land Use Planning was investigating a complaint alleging non-permitted commercial activity at the property, and that the County would send a follow-up letter with more information (Ex. B.9).

3.4.4 On November 08, 2024, Multnomah County concluded their investigation, having found sufficient evidence of non-permitted commercial use of the property involving storage and refurbishing of pallets and associated non-permitted development of two permanent canopy-like accessory structures utilized for storage of pallets and machinery related to the commercial use (Ex. C.1).

3.4.5 On November 15, 2024, Multnomah County mailed the Respondent a Request for Voluntary Compliance (RVC) letter via USPS first class mail. The letter was not returned to the sender by USPS, indicating that it was delivered to the addressee. The RVC letter informed the Respondent that the investigation had found evidence of a non-permitted commercial use of the property as well as non-permitted development of accessory structures, and outlined the required corrective action to resolve the alleged violations (Ex. C.3).

3.4.6 The respondent did not contact Multnomah County after the RVC was mailed to him, and failed to meet the following deadlines for corrective action outlined in the RVC:

- **December 15, 2024** – Deadline to schedule virtual appointment with Planner on Duty
- **January 15, 2025** – Deadline to schedule pre-filing meeting with Planning staff, if required
- **May 15, 2025** – Deadline to submit application or have ceased non-permitted use and removed non-permitted development from property.

3.4.7 On May 13, 2025, Multnomah County Code Compliance Staff conducted a follow-up site inspection from the public right of way to confirm whether the non-permitted use had ceased and the non-permitted development had been removed from the property. The report and photos from the inspection indicate that the inspector observed a high volume of wooden pallets to still be stored on the property, and the previously identified accessory structures to still be in place. The inspector did not observe any individuals actively working on the property at the time of the inspection. (Ex. B.10).

3.4.8 On June 17, 2025, Multnomah County received an email from Captain Robert Mottice of Gresham Fire, advising the County of a recent response to illegal burning activity at the subject property on that date.

3.4.9 On July 09, 2025, Multnomah County Code Compliance Staff conducted a follow-up site inspection from the public right of way to confirm whether the non-permitted use had ceased and the non-permitted

development had been removed from the property. The report and photos from the inspection indicate that the inspector observed a high volume of wooden pallets to still be stored on the property. The inspector noted that he could hear power tools in use on the property, but did not have a clear vantage of the interior of the property due to tree coverage and could not see the tools being utilized. (Ex. B.11).

3.4.10 On July 18, 2025 Multnomah County received an email from Ash Foster at Gresham Fire, advising that they had received multiple complaints regarding excessive pallet storage on the property and regular burning of scraps and other unauthorized material. Ash Foster indicated that several warnings had been issued to the property owner by Gresham Fire.

3.4.11 On July 25, 2025, the County sent a NOV to Respondent via certified mail; the certified mail return receipt for that notice shows a date of service of July 28, 2025 (Ex. C.3).

3.4.12 On August 12, 2025, the Respondent emailed a signed and dated Appeal of Notice of Violation to Multnomah County and paid the \$250 appeal fee by credit card (Ex. D.1).

3.4.13 On August 19, 2025, the confidential complainant submitted additional video evidence in support of the County's finding that the non-permitted commercial use had not ceased. The video recorded on August 16, 2025 shows an individual utilizing a table saw or similar to dismantle a wooden pallet.

3.4.14 On September 9, 2025, Multnomah County mailed a Notice of Public Hearing to the respondent/appellant via certified mail (Ex C.4) and also mailed the notice via first class mail to neighboring properties within 750 feet of the subject property and the individuals from Gresham Fire who had previously contacted Multnomah County about the subject property (Ex. C.5). The notice advised that a virtual public hearing would be held on Friday, September 26, 2025, and individuals could provide written comment and/or register in advance to attend the hearing with an option to provide oral testimony.

3.5 Summary of Alleged Violations

As explained in the findings below, Respondent committed the following violation acts resulting in a violation of **MCC 39.4305**:

3.5.1 Respondent established and continues to operate a pallet refurbishing business occupying a majority of the area of the subject property. The subject property contains a single-family dwelling and has previously contained at least one registered agricultural building. The use of the property in a commercial capacity represents a change in use from the previously established residential and agricultural uses of the property; thereby, requiring land use review and approval per MCC 39.4305.

Multnomah County has no record of review and approval for this change in use.

- 3.5.2** Respondent erected or allowed to be erected two permanent canopy-type structures measuring approximately 30 x 30 feet and 50 x 30 feet on the subject property between the years of 2021 and 2022. Per MCC 39.4305, the construction of any structure within the MUA-20 base zone requires land use review and approval. Multnomah County has no record of review and approval for these structures.

3.6 Relevant Multnomah County Code (MCC) Provisions

- 3.6.1.** *MCC 39.4305 USES* provides that “No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4310 through 39.4320 when found to comply with MCC 39.4325 through 39.4345 provided such uses occur on a Lot of Record.”
- 3.6.2** *MCC 39.4310* lists the Type 1 allowed uses within the MUA-20 base zone, which generally consist of residential, farm and forest uses, and Type A Home Occupation, among others. A Type A Home Occupation is an allowed use within the MUA-20 zone. Per *MCC 39.8800*, “Type A home occupation is a lawful commercial activity that is conducted within a dwelling unit by a business operator...” Because the pallet business is currently occupying the majority of the property and is occurring outside of the dwelling, it does not appear to meet the criteria for Type A Home Occupation under the current business model. In addition, the 30’ x 30’ and 30’ x 50’ canopy structures that were erected on the property appear to be utilized for storage related to the commercial use. The structures were constructed without County review and approval. In order to gain approval for the structures, the respondent would have to show evidence of an approved or allowed use of the structures and obtain all necessary building permits following land use approval.
- 3.6.3** *MCC 39.4315* lists the Type 2 review uses within the MUA-20 base zone, which include wholesale or retail sale of local farm or forest products and Type B Home occupation, which includes commercial activity occurring within a dwelling or accessory structure, per *MCC 39.8850*, but does not include commercial use of the property outside of those structures. For this reason, it does not appear that the current commercial use of the property would qualify for a Type B home occupation.
- 3.6.4** *MCC 39.4320* lists the Type 3 conditional uses within the MUA-20 base zone. Although this section expands on the commercial and home occupation uses that may be approved within the zone, commercial processing is limited to forest products primarily grown in the region. It’s unclear whether the lumber utilized in the pallet construction is sourced regionally.

3.6.5 Because it is likely that the current commercial use of the property may not be approvable in the MUA-20 base zone, or may only be approved following an intensive Type 3 Conditional Use Review, the RVC letter and the subsequent NOV instructed the respondent to cease the commercial use until such a time that land use approval is granted for the commercial use.

3.6.6 The respondent failed to cease the commercial use of the property by May 15, 2025, as required in the RVC. Therefore, a NOV was issued on July 25, 2025 and a recommendation of civil penalty was made to the Hearings Officer.

4.0. CALCULATION OF CIVIL PENALTY

On July 25, 2025, the Code Compliance office calculated and included with the Notice of Violation a recommended continuing civil fine of \$660.00 per day for violation of MCC 39.4305 (Uses), beginning on the date of the Notice of Violation, and continuing until the violations are corrected, except that the civil fine shall not accrue from the time that an application seeking to resolve the below violation is received by the Land Use Planning office and until a written determination is made on that application or the application is withdrawn by the applicant.

Upon further consideration, the Code Compliance office offers the Hearings Officer a revised and updated recommendation that the Civil Penalty begin on the date of the Hearings Officer Order of Civil Penalty.

5.0 STAFF RECOMMENDATION FOR HEARINGS OFFICER DECISION

The Director respectfully recommends and requests an Order of the Hearings Officer pursuant to *MCC 39.1545*:

5.1 Affirming the determination of violations in the Notice of Violation; and

5.2 Imposing a continuing civil fine of \$660.00 per day for the violation of *MCC 39.4305* pursuant to *MCC 39.1560* and *MCC 39.1545*, plus interest in accordance with law, beginning on the date of the Hearings Officer Final Order and continuing until the violation is corrected, except that the civil fine shall not accrue from the time that an application seeking to resolve the below violation is received by the Land Use Planning office and until a written determination is made on that application or the application is withdrawn by the applicant.; and

5.3 Ordering the Respondent to take the corrective actions set forth in Section (3) Compliance Actions of the NOV, dated July 25, 2025.

6.0 EXHIBITS

All exhibits are available for digital review by contacting LUP-comments@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
'A'	#	Complaint	Date
A.1	2	Confidential Complaint with Photo Evidence	08.19.2024
A.2	N/A	Complaint Evidence – Video undated	08.22.2024
A.3	N/A	Complaint Evidence – Video recorded 08.16.2025	08.19.2025
'B'	#	Staff Investigation	Date
B.1	2	CCINT-2025-0044 Complaint Intake Form	08.19.2024
B.1.a	1	Aerial Images	2019-2024
B.2	2	Multnomah County Property Tax Record	Undated
B.3	1	Property Case and Permit History Report	08.19.2024
B.4	3	Oregon Business Registration – JRK Transportation	11.01.2024
B.5	9	Multnomah County Code Part 4.B.1 MUA-20 Base Zone	2023
B.6	6	Multnomah County Code Part 1.C Violations Enforcement and Fines	2023
B.7	18	Multnomah County Enforcement Code Administrative Rules	2011
B.8	1	Document Investigation Report	10.07.2024
B.9	4	Site Inspection Report with Photos	10.16.2024
B.10	4	Site Inspection Report with Photos	05.13.2025
B.11	4	Site Inspection Report with Photos	07.09.2025
'C'	#	Administration & Procedures	Date
C.1	1	Director Determination on Investigation	11.08.2024
C.2	8	Request for Voluntary Compliance w/ Proof of Mailing	11.15.2024
C.3	9	Notice of Violation w/ Proof of Mailing	07.25.2025
C.4	4	Notice of Public Hearing - to Appellant w/ Proof of Mailing	09.10.2025
C.5	5	Notice of Public Hearing – to Public w/ Proof of Mailing	09.10.2025
'D'	#	Respondent	Date Received / Submitted
D.1	2	Appeal of Notice of Violation	08.12.2025
'E'	#	Other Correspondence	Date Received / Submitted
E.1	2	Email from Gresham Fire	06.17.2025
E.2	1	Email from Gresham Fire	07.18.2025