



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

10/9/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Columbia City Plan Amendment
DLCD File Number 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, October 22, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: John Rankin, City of Columbia City
Gloria Gardiner, DLCD Urban Planning Specialist
Gary Fish, DLCD Regional Representative

<paa> YA

FORM **2**

DLCD

Notice of Adoption

DEPT OF

OCT 02 2009

LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

**THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

Jurisdiction: *Columbia City, Oregon*

Local file number:

Date of Adoption: *9/18/09 signed 9/29/09*

Date Mailed: *10/1/09*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: *6/23/09*

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Clarify and/or correct local development code, modify process to permit administrative variances and modify certain setbacks.

Does the Adoption differ from proposal? Please select one *Yes. Added language to permit immediate effective date. (Emergency clause)*

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

ORDINANCE NO. 09-654-O

AN ORDINANCE AMENDING ORDINANCE NO. 03-586-O, THE COLUMBIA CITY DEVELOPMENT CODE (CCDC); DECLARING AN EMERGENCY.

The City of Columbia City ordains as follows:

Section 1. Ordinance No. 03-586-O, Chapter 7.25, Section 7.25.030 definition for "Building" shall be amended to read as follows:

"**Building**" means any structure greater than two hundred (200) square feet or ten (10) feet in height, having a roof supported by columns or walls, attached to a permanent foundation, and intended for the shelter, housing, protection or enclosure of any individual, animal, process, equipment, foods or materials of any kind or nature.

Section 2. Ordinance No. 03-586-O, Chapter 7.10, Section 7.10.100, Exceptions for Existing Lots, shall be amended to read as follows:

7.10.100 Exceptions for Existing Lots. All lots hereafter created within Columbia City shall have a minimum width and lot area as required by the zone. It is not the intent of this Ordinance to deprive owners of substandard lots the use of their property. Lots of record lawfully created and recorded with Columbia County prior to May 17, 1978, may be built on according to the following:

- A. The lot has municipal sewer and water service.
- B. All development standards for the zone except minimum width and lot area are satisfied or a variance is approved pursuant to Chapter 7.140.
- C. In residential zones, use shall be limited to a single family detached dwelling unit.

Section 3. Ordinance No. 03-586-O, Chapter 7.135, Section 7.135.010, Continuation of Nonconforming Uses and Structures, shall be amended to read as follows:

7.135.010, Continuation of Nonconforming Uses and Structures. Except as otherwise provided, the use of a building, structure, premises or land lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps may be continued and maintained in reasonable repair, although such use does not conform with the provisions of this Ordinance.

Section 4. Ordinance No. 03-586-O, Chapter 7.10, Section 7.10.110, Subsection C shall be amended to read as follows:

- C. Where two existing lots under a single ownership share a common property line and only one principal building will be constructed on the two lots, any building shall be constructed in accordance with the development standards for the zone, except where the property owner aggregates the lots for tax purposes and records a document with the Columbia County Clerk declaring the lots to be a single lot of record for development purposes.

Section 5. Ordinance No. 03-586-O, Chapter 7.40, Section 7.40.040, Subsection (C) shall be amended to read as follows:

- C. The minimum setback requirements are as follows:
1. The front setback for all structures shall be a minimum of twenty (20) feet, except the front setback adjacent to an eighty (80) foot wide local street, public right of way, shall be a minimum of ten (10) feet.
 2. The side setbacks for all structures shall be a minimum of eight (8) feet.
 3. Any street side setback shall be a minimum of ten (10) feet, except:
 - a. The street side setback adjacent to an eighty (80) foot wide local street, public right of way, shall be a minimum of five (5) feet.
 - b. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.
 4. The rear setback for the primary structure shall be a minimum of eight (8) feet, except:
 - a. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.
 5. The minimum rear setback for an accessory building shall be three (3) feet, except:

- a. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.
6. The setback from the public right-of-way to the point of vehicular access for any garage, carport or other structure used for vehicle storage shall be a minimum of twenty (20) feet, except:
 - a. Adjacent to an alley right of way, where the point of vehicular access shall be no less than three (3) feet from the alley right-of-way;
 - b. Adjacent to an eighty (80) foot wide local street, public right of way, where the point of vehicular access shall be no less than ten (10) feet from the public right of way.
 - c. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.

Section 6. Ordinance No. 03-586-O, Chapter 7.45, Section 7.45.040, Subsection (C) shall be amended to read as follows:

- C. The minimum setback requirements are as follows:
 1. The front setback for all structures shall be a minimum of twenty (20) feet, except the front setback adjacent to an eighty (80) foot wide local street, public right of way, shall be a minimum of ten (10) feet.
 2. The side setbacks for all structures shall be a minimum of eight (8) feet.
 3. Any street side setback shall be a minimum of ten (10) feet, except:
 - a. The street side setback adjacent to an eighty (80) foot wide local street, public right of way, shall be a minimum of five (5) feet.
 - b. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.

4. The rear setback for the primary structure shall be a minimum of eight (8) feet, except:
 - a. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.
5. The minimum rear setback for an accessory building shall be three (3) feet, except:
 - a. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.
6. The setback from the public right-of-way to the point of vehicular access for any garage, carport or other structure used for vehicle storage shall be a minimum of twenty (20) feet, except:
 - a. Adjacent to an alley right of way, where the point of vehicular access shall be no less than three (3) feet from the alley right-of-way;
 - b. Adjacent to an eighty (80) foot wide local street, public right of way, where the point of vehicular access shall be no less than ten (10) feet from the public right of way.
 - c. Where a primary residence existing on or before May 17, 1978 is being attached to a detached garage existing on or before May 17, 1978, no additional setback shall be required.

Section 7. Ordinance No. 03-586-O, Chapter 7.140, Section 7.140.020, Administration and Approval Process, shall be amended to read as follows:

7.140.020 Administration and Approval Process.

- A. **Minor Variance:** A minor variance is any deviation from a minimum development standard by not more than ten (10) percent. The Planning Director may approve, approve with conditions, or deny any application for a minor variance.
- B. **Major Variance:** A major variance is any variance not defined as a minor variance. The planning commission shall approve, approve with conditions, or deny any application for a major variance.
- C. The application for a variance shall be filed and processed in accordance with Chapter 7.162, Quasi Judicial Decision-Making.

- D. No variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located.
- E. In granting a variance, the approval authority may attach conditions that it finds necessary to protect the interests of the surrounding property owners or neighborhood and to otherwise achieve the purposes of this Ordinance.
- F. The approval authority shall apply the standards set forth in Section 7.140.030 when reviewing an application for a variance.

Section 8. Ordinance No. 03-586-O, Chapter 7.140, Section 7.140.030, Criteria for Granting a Variance, shall be amended to read as follows:

7.140.030 Criteria for Granting a Variance. A variance may be granted only when the applicant has shown that all of the following conditions exist:

- A. The proposed variance will not be materially detrimental to the purposes of this Ordinance, be in conflict with the policies of the Comprehensive Plan, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;
- B. A hardship to development exists which is peculiar to the lot size or shape, topography, wetlands, steep slope, existing development or other similar circumstances related to the land or structure involved and is not generally applicable to lands and structures in the same zone.
- C. The use proposed will be the same as permitted under this Ordinance and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- D. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms, or parks will not be adversely affected any more than would occur if the development were located as specified in this Ordinance; and
- E. The variance granted shall be the minimum necessary to alleviate the hardship.
- F. For variances to height requirements, six (6) inches shall be added to the required setbacks for the front, side and rear yards, for every foot of height allowed beyond the established limit.

Section 9. Ordinance No. 03-586-O, Chapter 7.162, Section 7.162.080, Subsection A shall be amended to read as follows:

A. The Planning Director may refer any application for review to the Planning Commission. The Planning Director shall have the authority to approve, deny or approve with conditions the following applications:

1. Telecommunications facilities pursuant to Chapter 7.108;
2. Interpretations subject to Section 7.10.060.
3. Minor variances pursuant to Chapter 7.140.

Section 10. Ordinance No. 03-586-O, Chapter 7.162, Section 7.162.080, Subsection C, Item 5 shall be amended to read as follows:

5. Major variances pursuant to Chapter 7.140;

Section 11. Ordinance No. 03-586-O, Chapter 7.96, Section 7.96.060, Subsection B shall be amended to read as follows:

B. The prescribed heights of required fences or walls shall be measured from the lowest of the adjoining levels of finished grade on the property where the fence is being constructed.

Section 12. Ordinance No. 03-586-O, Chapter 7.104, Section 7.104.020, Subsection B shall be amended to include the following:

5. Day care for three or fewer children not residing in the home.

Section 13. Ordinance No. 03-586-O, Chapter 7.104, Section 7.104.020, Subsection C shall be amended to include the following:

4. Employees, other than family members residing within the dwelling located on the home occupation site. Daycare homes shall be limited to one full time equivalent employee at the home occupation site at any given time. Additional individuals may be employed by or associated with the home occupation so long as they do not report to work or pick up/deliver at the home. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or any other purpose including dispatch to other locations. The home occupation site means the lot on which the home occupation is conducted.

Section 14. Ordinance No. 03-586-O, Chapter 7.10 shall be amended to include the following:

7.10.120 Building Permit and Certificate of Occupancy

- A. A building permit shall not be issued until the Planning Director has issued a development approval in accordance with this Ordinance, or otherwise found that the building permit satisfies the requirements of this Ordinance.
- B. Certificate of Occupancy required. To insure completion of a development or use in the manner approved, a development shall not be occupied and a use shall not begin until the Building Inspector has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable land use and building permits.

Section 15. Ordinance No. 03-586-O, Chapter 7.162, Section 7.162.080, Subsection C, Item 10 shall be amended to read as follows:

- 10. Any other matter not specifically assigned under this Ordinance.

Section 16. Ordinance No. 03-586-O, Chapter 7.162, Section 7.162.100, Subsection A shall be amended to read as follows:

A. Where notice of the Planning Director's decision on an application is required by Section 7.162.080(A), notice shall be given in the following manner:

- 1. Within five days of signing the proposed decision, notice shall be sent by mail to:
 - a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - b. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City which includes provision for such notice; and
 - c. Any person who requests notice in writing.

Section 17. Ordinance No. 03-586-O, Chapter 7.108, Section 7.108.060, shall be amended to read as follows:

7.108.060 Administrative Approval of Certain Uses. The following uses may be approved by the Planning Director after an administrative review pursuant to Chapter 7.162, Quasi Judicial Land Use Decisions:

[Subsections A, B and C remain unchanged]

Section 18. Ordinance No. 03-586-O, Chapter 7.162, Section 7.162.080, Subsection C, Item 7 shall be deleted in its entirety.

Section 19. Ordinance No. 03-586-O, Chapter 7.25, Section 7.25.030 shall be amended to include the following definitions:

"Ministerial" means a routine governmental action or decision that involves little or no discretion. Ministerial decisions do not require public notification or an opportunity for appeal.

"Administrative" means a discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

Section 20. Ordinance No. 03-586-O, Chapter 7.164, Section 7.164.060, Subsection A shall be amended to read as follows:

7.164.060 Approval Authority Responsibilities.

A. The Planning Director may refer any application for review to the Planning Commission. The Planning Director shall have the authority to approve, deny or approve with conditions the following applications.

1. Property line adjustments pursuant to Chapter 7.150. Actions and decisions on property line adjustments shall be regarded as ministerial.
2. Partitions pursuant to Chapter 7.152. Actions and decisions on partitions shall be regarded as administrative, except actions and decisions on partition final plats shall be regarded as ministerial.
3. Accessory Dwelling Units pursuant to Chapter 7.112. Actions and decisions on accessory dwelling units shall be regarded as ministerial.
4. Subdivision Final Plats pursuant to Chapter 7.154. Actions and decisions on subdivision final plats shall be regarded as ministerial.
5. Temporary uses pursuant to Chapter 110. Actions and decisions on temporary uses shall be regarded as ministerial.
6. Extensions of time for applications previously approved under Chapter 7.164. Actions and decisions on extensions of time for applications previously approved under Chapter 7.164 shall be regarded as ministerial.
7. Determination of parking requirements for unlisted uses. Actions and decisions on determination of parking requirements for unlisted uses shall be regarded as administrative.

8. Determination of visual clearance area pursuant to Chapter 7.98. Actions and decisions on determination of visual clearance area shall be regarded as ministerial.
9. Determination of access, egress and circulation plan (not subject to Planning Commission approval) pursuant to public works design standards. Actions and decisions on determination of access, egress and circulation plan (not subject to Planning Commission approval) shall be regarded as ministerial.
10. Signs pursuant to Chapter 7.102. Actions and decisions on signs shall be regarded as ministerial.
11. Type I Home Occupation pursuant to Chapter 7.104. Actions and decisions on Type I Home Occupations shall be regarded as ministerial.

Section 21. Ordinance No. 03-586-O, Chapter 7.164, Section 7.164.070, Subsection A shall be amended to read as follows:

- A. For all decisions identified as ministerial in Section 7.164.060, no notice is required. For all decisions identified as administrative in Section 7.164.060, no written notice is required prior to the decision. Following the decision, written notice of an administrative decision shall be provided to the owners of property adjacent to the entire contiguous site for which the application is made. An administrative decision shall be final 14 days following the date of mailing of the notice of administrative decision if no written comments are received.

Section 22. Ordinance No. 03-586-O, Chapter 7.162, Section 7.162.080, Subsection B shall be amended to read as follows:

- B. The City Engineer shall have the authority to determine an application for development satisfies the requirements of Section 7.106.030, Hill Sides. This determination shall be regarded as ministerial.

Section 23. Ordinance No. 03-586-O, Chapter 7.106, Section 7.106.030, Subsection C shall be amended to read as follows:

- C. The City Engineer shall determine an application for development in a slope hazard area satisfies the requirements of this section based on the following criteria:
 1. The proposed landform alterations shall preserve or enhance slope stability;

2. The proposed landform alteration shall not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;
3. The proposed landform alteration addresses storm water runoff, maintenance of natural drainage ways, and does not increase existing flow intensity;
4. The proposed building site(s) is appropriately sited not requiring mass pad grading or terracing;
5. The proposed structure(s) is designed to ensure structural stability and proper drainage of foundation and crawl space areas;
6. Ground disturbing construction activities shall occur in drier weather no earlier than April 15 and no later than October 1.
7. Where removal of natural vegetation is proposed, the areas not covered by structures or impervious surfaces shall be protected from erosion during the construction process and replanted prior to November 1 to prevent erosion.

Section 24. Ordinance No. 03-586-O, Chapter 7.120, Section 7.120.050, Subsection A shall be amended to read as follows:

- A. On all projects where public improvements are required, the City shall:

[Subsections 1 and 2 remain unchanged]

Section 25. Ordinance No. 03-586-O, Chapter 7.120, Section 7.120.050, Subsection A, Item 1 shall be amended to read as follows:

1. Require a performance guarantee pursuant to Section 7.92.140.

Section 26. Ordinance No. 03-586-O, Chapter 7.154, Section 7.154.100 shall be amended to read as follows:

7.154.100 Bond--Cash Deposit.

- A. As required by Section 7.154.090, the declarant shall file with the agreement an assurance of performance supported by one of the following:

1. A surety bond executed by a surety company authorized to transact

business in the State of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or

2. Cash.
- B. The assurance of performance shall be for a sum equal to one hundred twenty-five (125) percent of the estimated cost of the improvements as determined by the City Engineer as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. The declarant shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. In the event the declarant fails to carry out all provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit.
- E. The declarant shall not cause termination of nor allow expiration of said guarantee without having first secured written authorization from the City.

Section 27. Ordinance No. 03-586-O, Chapter 7.25, Section 7.25.030 definitions shall be amended to include the following definition:

"Developer" means any person, agent firm or corporation constructing any man made change to improved or unimproved real estate including but not limited to buildings or other structures, dredging, filling, grading, paving, or excavations that make a material change to the appearance of a structure or land.

Section 28. Ordinance No. 03-586-O, Chapter 7.92, Section 7.92.140 shall be amended to read as follows:

- A. A performance guarantee shall be provided by the entity constructing street or utility improvements. For purposes of guaranteeing completion of improvements, that entity shall be regarded as the developer.
- B. Prior to beginning any construction, the developer shall assure the completion and maintenance of improvements by securing a bond or by placing cash in escrow, in an amount equal to one hundred twenty five percent (125%) of the City Engineer's estimated cost of said improvements. Further, the developer shall execute an agreement with the City Attorney regarding the repair, at the applicant and developer's expense, of any public facilities damaged during development.

- C. The period within which the required improvements must be completed shall be one (1) year from the date of the approval of the related land use application approved under this Ordinance, except where an extension is granted by the approval authority pursuant to applicable decision making process. If there is no related land use application, the required improvements shall be completed shall be one (1) year from the date of approval of the permit to construct the improvements.
- D. All on-site required improvements, including those involving oversized lines, shall be made by the developer, without reimbursement by the City except where the Council has approved a reimbursement plan.
- E. If the developer fails to complete the required improvements within the time frame in subsection C above, the City may declare the developer to be in default and call on the bond or escrow deposit to complete the improvements to the satisfaction of the City Engineer. If the amount of the bond or escrow deposit exceeds the cost of the completed improvements and the expenses incurred by the City, the City shall release the remainder to the developer. If the cost to make the improvements and the related expenses incurred by the City exceeds the amount of the bond or escrow agreement, the developer shall be liable to the City for the difference, together with any court costs and attorney's fees necessary to collect said costs and expenses from the developer.

Section 29. Ordinance No. 03-586-O, Chapter 7.40, Section 7.40.020 shall be amended to include the following:

- J. Greenhouse having less than 160 square feet and located in the rear or side yard.

Section 30. Ordinance No. 03-586-O, Chapter 7.45, Section 7.45.020 shall be amended to include the following:

- L. Greenhouse having less than 160 square feet and located in the rear or side yard.

Section 31. Ordinance No. 03-586-O, Chapter 7.50, Section 7.50.020 shall be amended to include the following:

- K. Greenhouse having less than 160 square feet and located in the rear or side yard.

Section 32. Ordinance No. 03-586-O, Chapter 7.55, Section 7.55.020 shall be amended to include the following:

- H. Greenhouse having less than 160 square feet and located in the rear or side yard.

Section 33. Ordinance No. 03-586-O, Chapter 7.25, Section 725.030 shall be amended to include the following definition:

"Greenhouse" means an enclosed structure used for the cultivation or protection of plants. Roof and exterior walls of greenhouses shall be predominantly transparent materials.

Section 34. Ordinance No. 03-586-O, Chapter 7.102, Section 7.102.060 shall be amended with the addition of the following:

- O. Signs placed by the City of Columbia City.

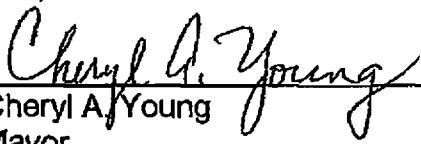
Section 35. Adoption. Based on the findings of the staff report dated September 1, 2009, the testimony at the public hearings on September 8, 2009 and September 17, 2009, and the recommendation of the Columbia City Planning Commission, the above amendments to the Columbia City Development Code are hereby adopted.

Section 36. Emergency Clause: Conditions in the City of Columbia City are such that this is necessary for the immediate preservation of the public health, peace and safety. An emergency is hereby declared to exist by unanimous vote of the Council, and this Ordinance shall be in full force and effect after its passage by the Council and approval by the Mayor.

Adopted by the City Council on this 17th day of September, 2009, by the following vote:

AYES: 5 NAYS: 0 ABSENT: 0 ABSTAIN: 0

Approved by the Mayor this 18th day of September, 2009.


Cheryl A. Young
Mayor

ATTEST:


Leahnette Rivers
City Administrator/Recorder

Effective date: September 18, 2009



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U.S. POSTAGE
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Attn: Plan Amendment Specialist
DLCD
635 Capitol Street NE, #150
Salem, OR 97301