



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/01/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: Washington County Plan Amendment
DLCD File Number 011-12

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: Friday, October 12, 2012

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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Anne Elvers, Washington County
Jon Jinings, DLCD Community Services Specialist
Anne Debbaut, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

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DEPT OF

SEP 24 2012

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Washington County**

Local file number: **Ordinance No. 755**

Date of Adoption: **9/18/2012**

Date Mailed: **9/21/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 7/6/2012

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".

Ordinance No. 755 amended the county's standards for the replacement of nonconforming uses. The county allows replacement of single family dwellings in many urban and rural land use districts when the structure is destroyed by fire, other casualty, or natural disaster. The ordinance added the Neighborhood Commercial (NC) District to the list of land use districts where single family residences can be replaced.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **0**

Specify Density: Previous: **n/a**

New: **n/a**

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...

35-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

DLCD file No. 011-12 (19413) [17186]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Washington County

Local Contact: **Anne Elvers, Associate Planner**

Phone: **(503) 846-3583** Extension:

Address: **155 N. First Avenue, Suite 350**

Fax Number: **503-846-4412**

City: **Hillsboro**

Zip: **97123-**

E-mail Address:

anne_elvers@co.washington.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – First Reading and First Public Hearing
Land Use & Transportation; County Counsel (All CPOs)

Agenda Title: **PROPOSED ORDINANCE NO. 755 - AN ORDINANCE
AMENDING THE COMMUNITY DEVELOPMENT CODE
RELATING TO STANDARDS FOR THE REPLACEMENT OF
CERTAIN NONCONFORMING USES**

Presented by: Andrew Singelakis, Director of Land Use & Transportation
Alan Rapplelea, County Counsel

SUMMARY:

Ordinance No. 755 proposes to amend Community Development Code (CDC) Section 440 *Nonconforming Uses and Structures*. Currently, Section 440 allows the replacement of nonconforming single family dwellings in specific urban and rural land use districts when the structure is destroyed by fire, natural disaster or other casualty. Current standards would not allow replacement of a nonconforming single family dwelling in the Neighborhood Commercial District if the damage exceeds seventy (70) percent of the value of the structure. Ordinance No. 755, if adopted, adds the Neighborhood Commercial District to the list of land use districts where single family residences can be replaced regardless of the extent of damage or destruction. Ordinance No. 755 is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2012-land-use-ordinances.cfm>

On August 15, 2012, the Planning Commission (PC) conducted a public hearing for this ordinance and unanimously recommended that the Board adopt Ordinance No. 755 as filed.

The staff report will be provided to the Board prior to the hearing and it will also be available at the Clerk's desk prior to the hearing.

Consistent with Board policy, testimony about the ordinance is limited to three minutes for individuals and twelve minutes for a representative of a group.

DEPARTMENT'S REQUESTED ACTION:

Read Ordinance No. 755 by title only and conduct the first public hearing. At the conclusion of the hearing, adopt Ordinance No. 755.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

Agenda Item No.	<u>4.e.</u>
Date:	09/18/12

ADOPTED

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 755

An Ordinance Amending the
Community Development Code Element
of the Comprehensive Framework Plan
Relating to Nonconforming Use
Standards

The Board of County Commissioners of Washington County, Oregon ("Board") ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, with portions subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 725, 730, 732, 735, 739, and 742-745.

B. Subsequent planning efforts of Washington County indicate there is a need to amend the county's nonconforming use standards in order to allow for the replacement of a nonconforming single family dwelling in the Neighborhood Commercial (NC) district in the event of damages caused by fire or other casualty or natural disaster. The Board takes note that such changes are for the health, welfare, and benefit of the residents of Washington County, Oregon.

1 C. Under the provisions of Washington County Charter Chapter X, the Department of
2 Land Use and Transportation has carried out its responsibilities, including preparation of notices,
3 and the County Planning Commission has conducted one or more public hearings on the proposed
4 amendments and has submitted its recommendations to the Board. The Board finds that this
5 Ordinance is based on those recommendations and any modifications made by the Board are a
6 result of the public hearings process;

7 D. The Board finds and takes public notice that it is in receipt of all matters and
8 information necessary to consider this Ordinance in an adequate manner, and finds that this
9 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan adoption
10 as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington County
11 Charter, the Washington County Community Development Code, and the Washington County
12 Comprehensive Plan.

13 SECTION 2

14 Exhibit 1 (1 page), attached hereto and incorporated herein by reference, is hereby adopted
15 as amendments to Community Development Code Section 440-5 Restoration or Replacement of a
16 Nonconforming Use or Structure Made Necessary by Fire, Other Casualty or Natural Disaster.

17 SECTION 3

18 All other Comprehensive Plan provisions that have been adopted by prior ordinance, which
19 are not expressly amended or repealed herein, shall remain in full force and effect.

20 SECTION 4

21 All applications received prior to the effective date shall be processed in accordance with
22 ORS 215.427.

1 SECTION 5

2 If any portion of this Ordinance, including the exhibit, shall for any reason be held invalid or
3 unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and
4 shall remain in full force and effect.

5 SECTION 6

6 The Office of County Counsel and Department of Land Use and Transportation are
7 authorized to prepare planning documents to reflect the changes adopted under Section 2 of this
8 Ordinance, including deleting and adding textual material and maps, renumbering pages or sections,
9 and making any technical changes not affecting the substance of these amendments as necessary to
10 conform to the Washington County Comprehensive Plan format.

11 SECTION 7

12 This Ordinance shall take effect thirty (30) days after adoption.

13 ENACTED this 18 day of September, 2012, being the 1st reading and
14 1st public hearing before the Board of County Commissioners of Washington County, Oregon.

15 BOARD OF COUNTY COMMISSIONERS
16 FOR WASHINGTON COUNTY, OREGON

17 **ADOPTED**

Andy Oard
CHAIRMAN
Barbara Hejtmanek
RECORDING SECRETARY

19 READING

20 First September 18, 2012
21 Second _____
22 Third _____
Fourth _____
Fifth _____

PUBLIC HEARING

First September 18, 2012
Second _____
Third _____
Fourth _____
Fifth _____
Nay: _____
Date: 9-18-12

VOTE: Aye: Duyck, Rogers, Terry,
Recording Secretary: Barbara Hejtmanek

Schouten,
Malinowski

Community Development Code Section 440-5 Restoration or Replacement of a Nonconforming Use or Structure Made Necessary by Fire, Other Casualty or Natural Disaster is amended to reflect the following:

440-5.2 Restoration or Replacement Permitted Through a Type II Procedure

- A. A nonconforming single dwelling unit may be replaced or restored in the following districts regardless of the extent of damage or destruction: R-5, R-6, R-9, R-15, R-24, R-25+, NC, FD-10, FD-20, EFU, EFC, AF-20, AF-10, AF-5, RR-5, TO:R9-12, TO:R12-18, TO:R-18-24, TO:R24-40, TO:R40-80 and TO:R80-120 Districts.
- B. A nonconforming manufactured dwelling used as a dwelling unit in an urban district permitting detached dwellings may be replaced or restored regardless of the extent of damage or destruction provided there is compliance with the standards set forth in Sections 430-75.1 (Manufactured Dwellings) and 430-72 (Infill).
- C. A structure or use that is nonconforming as a result of the dimensional standards of the district or the standards of Article IV, may be repaired or replaced if damaged or destroyed, provided that the repair or replacement conforms as much as practicable to those standards.
- D. If a nonconforming use or structure, except as permitted by Section 440-5.1, or Section 440-5.2 A., B. or C. is damaged or destroyed by fire or other casualty or natural disaster to an extent not exceeding seventy (70) percent in value based on an insurance appraisal, the use may be replaced or restored. The Review Authority shall make findings that the restoration or replacement will have no greater adverse impact on the neighborhood than the use and improvements had before the damage or destruction occurred.
- E. If a nonconforming use or structure, except as permitted by Section 440-5.1, or Section 440-5.2 A., B., or C. is damaged or destroyed by fire or other casualty or natural disaster to an extent exceeding seventy (70) percent in value based upon an insurance appraisal, the nonconforming use or structure shall not be replaced or restored.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Land Use & Transportation (All CPOs)

Agenda Title: ADOPT FINDINGS FOR ORDINANCE NO. 755

Presented by: Andrew Singelakis, Director of Land Use & Transportation

SUMMARY:

Ordinance No. 755 amends Community Development Code (CDC) Section 440 *Nonconforming Uses and Structures*. The CDC does not allow replacement of a nonconforming single family dwelling in the Neighborhood Commercial District if the damage exceeds seventy (70) percent of the value of the structure. Ordinance No. 755 adds the Neighborhood Commercial District to the list of land use districts where single family residences can be replaced regardless of the extent of damage or destruction.

As required by ORS 197.615, post acknowledgment comprehensive plan amendments (e.g., amendments made to the County's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals) must be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan. Additionally, as required by Title 8 of Metro's Urban Growth Management Functional Plan, any amendment to a comprehensive plan or implementing ordinance shall be consistent with the requirements of the Functional Plan.

Attached is the Resolution and Order to adopt the findings for Ordinance No. 755. The findings will be provided to the Board prior to the hearing and will also be available at the Clerk's desk.

Attachment: Resolution and Order

DEPARTMENT'S REQUESTED ACTION:

Adopt the findings for Ordinance No. 755 and authorize the Chair to sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 12-77

Agenda Item No.	<u>5.d.</u>
Date:	09/18/12

1 IN THE BOARD OF COUNTY COMMISSIONERS

2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of Adopting) RESOLUTION AND ORDER
4 Legislative Findings in Support)
of Ordinance No. 755) No. 12-77

5 This matter having come before the Washington County Board of Commissioners at its
6 meeting of September 18, 2012; and

7 It appearing to the Board that the findings contained in Exhibit "A" summarize relevant facts
8 and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised
9 Statutes and Administrative Rules, Washington County's Comprehensive Plan, and titles of Metro's
10 Urban Growth Management Functional Plan relating to Ordinance No. 755; and

11 It appearing to the Board that the findings attached as Exhibit "A" constitute appropriate
12 legislative findings with respect to the adopted ordinance; and

13 It appearing to the Board that the Planning Commission, at the conclusion of its public hearing
14 on August 15, 2012, made a recommendation to the Board, which is in the record and has been
15 reviewed by the Board; and

16 It appearing to the Board that, in the course of its deliberations, the Board has considered the
17 record which consists of all notices, testimony, staff reports, and correspondence from interested
18 parties, together with a record of the Planning Commission's proceedings, and other items submitted
19 to the Planning Commission and Board regarding this ordinance; it is therefore,

20 RESOLVED AND ORDERED that the attached findings in Exhibit "A" in support of Ordinance
21 No. 755 are hereby adopted.

22 DATED this 18th day of September, 2012.

23 BOARD OF COUNTY COMMISSIONERS
24 FOR WASHINGTON COUNTY, OREGON

	AYE	NAY	ABSENT
24 DUYCK	✓	—	—
SCHOUTEN	✓	—	—
25 MALINOWSKI	✓	—	—
ROGERS	✓	—	—
26 TERRY	✓	—	—

25 *Andy Ouzel*
Chairman

26 *Barbara Hejtmanek*
Recording Secretary

27 *Jaylyn Palmer*
Assistant County Counsel
28 For Washington County, Oregon

EXHIBIT A

FINDINGS FOR ORDINANCE NO. 755 AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE RELATING TO STANDARDS FOR THE REPLACEMENT OF CERTAIN NONCONFORMING USES

September 18, 2012

General Findings

Ordinance No. 755 amends the Community Development Code (CDC) relating to standards for nonconforming uses. The amendment added the Neighborhood Commercial District (NC) to the list of land use districts in CDC Section 440-5.2 A. that permit the restoration or replacement of a nonconforming single family dwelling regardless of the extent of damage or destruction.

Because the ordinance would make changes that do not affect compliance with Oregon's Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The Board of County Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Wetlands), 18 (Beaches and Dunes) and 19 (Ocean Resources) and related Oregon Administrative Rules (OAR) are not addressed because these resources are not located within Washington County.

In 1996, Metro adopted the Urban Growth Management Functional Plan (UGMFP). The UGMFP contains requirements that local cities and counties have agreed to adopt in order to implement the region's strategy for addressing growth. The Board finds that the UGMFP applies to amendment covered by these findings only to the extent noted in specific responses to individual applicable UGMFP policies, and that the amendment complies with the policies.

Goal Findings

The purpose of the findings in this document is to demonstrate that Ordinance No. 755 is consistent with Statewide Planning Goals, Oregon Revised Statutes (ORS) and OAR requirements, Metro's UGMFP, and the Washington County Comprehensive Plan.

Goal 1 - Citizen Involvement

Washington County has an acknowledged citizen involvement program that provides opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the County Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has utilized these requirements for the adoption of Ordinance No. 755.

Goal 2 - Land Use Planning

Statewide Planning Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Comprehensive Plan, which includes the Community Development Code. Washington County utilized this process to adopt Ordinance No. 755. Notice was coordinated with all affected governmental entities. Comments in support of Ordinance No. 755 were received and entered into the record.

Goal 10 – Housing

Policies 21, 22, 23 and 24 of the Comprehensive Framework Plan for the Urban Area and Policies 19 and 25 of the Rural/Natural Resource Plan address the provision of housing in the urban and rural areas of the county. The CDC contributes to the provision of adequate housing by establishing standards that facilitate development in an orderly and efficient fashion. Ordinance No. 755 allows replacement of a nonconforming single family dwelling on properties designated as NC which would promote the rehabilitation and continued use of single family dwellings and the maintenance of the county's existing housing stock.

Amendments made by Ordinance No. 755 support the county's Comprehensive Plan policies that encourage rehabilitation of dwellings and the preservation of existing housing stock. The amendments are therefore consistent with the county's acknowledged policies and standards for regulating housing in the urban and rural area as required by Goal 10.

Findings of Compliance with Metro's UGMFP for Ordinance No. 755

Title 1: Housing Capacity

The Regional Framework Plan calls for a compact urban form and a "fair share" approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

Ordinance No. 755 allows nonconforming single family dwellings on NC-designated properties to be restored or replaced should they be destroyed by fire or other casualty. Without this provision, the dwellings would not be able to be restored or replaced if they incur damage that is greater than seventy percent (70%) of its appraised value. Ordinance No. 755 therefore allows for the maintenance of existing housing stock. Ordinance No. 755 did not amend any Plan policies or development standards related to Title 1 housing targets. Therefore the changes adopted by Ordinance No. 755 are consistent with Title 1 of the UGMFP.

Title 8 - Compliance Procedures

Title 8 sets forth Metro's procedures for determining compliance with the Urban Growth Management Functional Plan. Included in this title are steps local jurisdictions must take to ensure that Metro has the opportunity to review amendments to Comprehensive Plans.

Title 8 requires jurisdictions to submit notice to Metro at least 45 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan. Staff sent Metro a copy of Proposed Ordinance No. 755 on July 6, 2012, forty days prior to the first evidentiary hearing. Metro informed staff that the Ordinance No. 755 amendment was not directly applicable to any of the UGMFP titles and therefore the oversight had no impact on compliance. Metro has no comment on the Proposed Ordinance No. 755.

The findings in this document demonstrate that the amendments made by this ordinance are in substantial compliance with the UGMFP.

601005

WASHINGTON COUNTY
LONG RANGE PLANNING
55 N. 1st AVE, 350-14
HILLSBORO, OR 97124



DEPT OF

LAND CONSERVATION
AND DEVELOPMENT

Attention: Plan Amendment Specialist
DLCD
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540