



NOTICE OF HEARING

December 8, 2021

Del & Rebecca Latham
10155 S Macksburg Rd
Canby, OR 97013

RE:: County of Clackamas v. Del & Rebecca Latham

File: V0025318

Hearing Date: January 25, 2022

Time: This item will not begin before 11:30 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 Exhibits which have been submitted by the County

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 Andrea Hall, Code Compliance Specialist for Clackamas County at (503) 742-4467, should you have any questions about the violation(s) in the **Complaint**. Do not call the Compliance Hearings Officer.

Enclosures

CC: Carl Cox -Compliance Hearings Officer

STATEMENT OF RIGHTS

1. **Prior to the Hearing.** You have the right to make the following requests:
 - (A) You can request the opportunity to review public records and to talk to County staff about the violations or request a subpoena for that purpose if the County does not allow you to do so.
 - (B) You can request that the Hearings Officer postpone the hearing for good cause by writing the Hearings Officer at least 7 calendar days prior to the scheduled hearing date.
 - (C) You can request that the Hearings Officer decide the matter based exclusively on written materials from the parties or conduct the hearing by phone.
2. **Procedure.** The hearing will be governed by general rules of procedure designed to allow you to hear and confront the evidence against you, and for you to present evidence favorable to you. You are not required to present any evidence, the burden is on the County to establish by a preponderance of the evidence that a violation exists, or existed. Either party may, at their own expense, obtain an attorney to represent them at the hearing. If you wish to be represented by an attorney they need only notify the County and the Hearings Officer in writing of their intent to appear on your behalf. The County will present evidence first, and then you may question that evidence. You may then present your own evidence, if you wish, and the County may question your evidence. Testimony by witnesses is evidence. The Hearings Officer may inquire into any facts that are relevant to the hearing and may question the parties or witnesses about the case. Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.
3. **Record of Proceedings.** An audio record will be made of the proceedings when a hearing is conducted. The audio record is available through the Clackamas County Code Enforcement Section and is available to you upon request.
4. **Hearings Officer.** The Hearings Officer is an independent contractor paid by the County to conduct hearings and render decisions. He/she is not a County employee. His/her function is to preside over the hearing, make a record of proceedings, consider admissible evidence, and interpret and apply the law. After the hearing is closed the Hearings Officer will enter written findings of fact, conclusions of law, and any Order deemed proper. If a violation is proven, then the Order may include civil penalties, fines, administrative fees, or may require the respondent to take certain actions, or refrain from certain actions. An Order issued by the Hearings Officer may be a Final Order or Continuing Order. The Hearings Officers 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, Respondent or the County requests a recess or postponement, or additional time to present crucial evidence, the Hearings Officer may allow a continuance of the hearing for good cause. The Respondent may also request that the proceeding be continued after the end of the hearing if the Respondent determines that additional evidence should be brought to the attention of the Hearings Officer.
6. **Right to Appeal.** The Final Order of the Hearings Officer shall set forth the right of the respondent to appeal any adverse Order. Appeal may be taken pursuant to Section 2.07.130 of the Clackamas County Hearings Officer Code, and Oregon Revised Statute 34.010-34.100. If appeal is taken, appellant is responsible for all costs of appeal including preparation of transcript.



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Clackamas County is abiding by social distancing requirements during the coronavirus pandemic, so your hearing will be conducted virtually using the Zoom platform.

You must have access to the internet or to a telephone line to use the Zoom platform. We have sent you the Zoom invite to lathamdel@gmail.com. Please contact Andrea Hall if you are unable to find the email.

If you would like to present evidence at the Hearing please email or mail your evidence to Andrealhal@clackamas.us or 150 Beavercreek Rd, Oregon City, Oregon 97045, no later than 4 work days prior to the hearing. Staff will number your evidence for the hearing and provide the numbered documents to the Hearings Officer and send them back to you for reference.

If you are unable to participate in a hearing through the Zoom platform please contact Andrea Hall at 503-742-4467 **within 3 calendar days of receipt of the notice of hearing packet.**

If you do not know how to use Zoom, please Google "how to use Zoom" and there are many interactive guides on the internet.

If you experience difficulties connecting to the Zoom hearing before your scheduled start time, please call 503-348-4692 for assistance.

**Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that a \$75.00 monthly Administrative Compliance Fee will be assessed if a violation has been determined and has not been abated. When a property owner works cooperatively with the County to resolve a confirmed code violation, the County may waive all or part of that fee.*

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, email JKauppi@clackamas.us or call (503) 742-4452.

¡LE DAMOS LA BIENVENIDA! Spanish

El Departamento de Transporte y Desarrollo está comprometido con la no discriminación. Para obtener más información, visite: www.clackamas.us/transportation/nondiscrimination, envíe un correo electrónico a JKauppi@clackamas.us o llame al 503-742-4452.

ДОБРО ПОЖАЛОВАТЬ! Russian

Департамент транспорта и развития инфраструктуры стремится к соблюдению политики недопущения дискриминации. Для получения дополнительной информации посетите веб-сайт: www.clackamas.us/transportation/nondiscrimination, отправьте письмо на адрес эл. почты JKauppi@clackamas.us или позвоните по телефону 503-742-4452.

欢迎! Chinese (Mandarin)

交通和发展部致力于实现非歧视。如需了解更多信息，请访问 www.clackamas.us/transportation/nondiscrimination，发送电子邮件至 JKauppi@clackamas.us 或致电 503-742-4452。

CHÀO MỪNG! Vietnamese

Bộ Vận Tải và Phát Triển cam kết thực thi chính sách không phân biệt đối xử. Để biết thêm thông tin, vui lòng truy cập trang mạng:

www.clackamas.us/transportation/nondiscrimination, gửi email đến JKauppi@clackamas.us hoặc gọi điện thoại theo số 503-742-4452.

환영합니다. Korean

운송개발부는 차별 금지를 위해 모든 노력을 기울이고 있습니다. 자세한 내용은 홈페이지 www.clackamas.us/transportation/nondiscrimination을 참조하거나 이메일 JKauppi@clackamas.us, 또는 전화 503-742-4452번으로 연락 주십시오.

BEFORE THE COMPLIANCE HEARINGS OFFICER
for the
CLACKAMAS COUNTY BOARD OF COMMISSIONERS

COUNTY OF CLACKAMAS,

Petitioner,

v.

DEL LATHAM

and

REBECCA LATHAM,

Respondents.

File No: V0025318

COMPLAINT AND REQUEST FOR HEARING

I, Andrea Hall, Senior Code Enforcement Specialist for Clackamas County, allege the following:

1.

Respondents Del & Rebecca Latham's mailing address is: 10155 S Macksburg Rd.,
Canby, OR 97013.

2.

The address or location of the violation(s) of law alleged in this Complaint is:
10155 S Macksburg Rd., Canby, OR 97013, also known as T4S, R1, Section 23 , Tax Lot 702, and is
located in Clackamas County, Oregon.

On or about the 19th day of November, 2019 the Respondents violated the following laws,
in the following ways:

- a. Chapter 9.02.040 of the Clackamas County Code as it pertains to the Application and
Enforcement of the Clackamas County Building Code. This violation is a Priority 1
violation pursuant to the Clackamas County Violation Priorities.

On or about the 21st day of May, 2021 the Respondents violated the following laws, in the following ways:

- b. Chapter 9.02.040 of the Clackamas County Code as it pertains to the Application and Enforcement of the Clackamas County Building Code. This violation is a Priority 1 violation pursuant to the Clackamas County Violation Priorities.

4.

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

5.

Notice of the violation was given to Respondents in the following manner: Citation and Complaint numbers 1800253 and 1800253-2. A copy of the notice document is attached to this Complaint as Exhibits D and H, and incorporated by this reference.

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 Commissioners. Said range for the Priority 1 violation being \$750.00 to \$1000.00 per occurrence as provided by Appendix B to the Clackamas County Code;

3. Pursuant to Clackamas County Code Section 2.07.090, ordering Respondent to pay an administrative compliance fee as provided by Appendix A to the Clackamas County Code; and
4. Ordering any other relief deemed reasonably necessary to correct the violations.

DATED THIS 3rd day of December, 2021.



Andrea Hall
Senior Code Enforcement Specialist
FOR CLACKAMAS COUNTY

COUNTY OF CLACKAMAS,

Petitioner,

v.

DEL LATHAM,

REBECCA LATHAM,

Respondents.

File No.: V0025318

STATEMENT OF PROOF

History of Events and Exhibits:

May 22, 2018
Exhibit A

In response to a complaint, the County sent the Respondents an alleged letter regarding the allegation that an accessory building was converted to habitable space without permits or inspections.

September 24, 2018

The County met with the Respondent Del Latham at the County office, he indicated that he had purchased the property as it is except for improvements he made to the accessory building. These changes include new flooring, creating a kitchenette and new windows. He said that he uses it as a man-cave and his daughter uses it as a daycare for her daughter and two other children. He indicated that he had created a sleeping room for the kids.

October 1, 2018
Exhibit B

A violation notice was mailed to the Respondents with a deadline of October 19, 2018 to convert the building back to an agricultural use or October 31, 2018 to permit the building as an accessory building with habitable space.

March 11, 2019
Exhibit C

A second violation was mailed to the Respondents with a deadline of March 29, 2019 to convert the building back to an agricultural use or to submit permits to convert the building to an accessory building with habitable space.

November 19, 2010
Exhibit D

Citation number 1800253 was issued to the Respondents in the amount of \$100.00 for the Building Code Violation. The citation was sent first class mail and certified mail, the certified mail was signed for and the copy sent first class was not returned to the County. This citation remains unpaid.

December 17, 2021

Del Latham came into the County and spoke with former Code Enforcement Specialist Michael Barnes. Del indicated that the accessory building is an accessory dwelling and should be non-conforming.

December 27, 2019 Exhibit E	Del Latham dropped off a letter to the County from attorney Wendie Kellington. It was Ms. Kellington's position that the current Exclusive Farm Use zoning did not apply to the subject property when the accessory building was constructed, therefore, the second dwelling was lawful.
January 8, 2020 Exhibit F	The County forwarded information from Planning to Ms. Kellington in support of the County's position that there is no non-conforming second dwelling on the property.
September 1, 2020 Exhibit G	Email from Ms. Kellington indicating she no longer represents the Respondents.
May 24, 2021 Exhibit H	Citation number 1800253-2 was issued to the Respondents in the amount of \$500.00 for the Building Code Violation. The citation was sent first class mail and certified mail and was not returned to the County. This citation remains unpaid.
June 9, 2021	Del came into the County office to talk with the Building Department. He has decided to permit the building as an accessory building with habitable space as opposed to an agricultural building.
November 26, 2021	A review of County records revealed that no permits had been submitted to the County to convert the agricultural building to an accessory building.
December 3, 2021	This matter was referred to the Code Enforcement Hearings Officer.

If the Hearings Officer affirms the County's position that a violation of the Clackamas County Building Code exists on the subject property, the County would request a Continuing Order be issued requiring the Respondents to submit all required building permit applications, technically complete plans and appropriate fees to the Clackamas County Building Codes Division within 30 days of the date of the Order. The County would also request that the Respondents schedule all inspections so that final inspections may be obtained not later than 45 days of the date of the permits being issued.

The County will submit a timely Post Hearing Status Report. The report will be sent to the Compliance Hearings Officer and to the Respondents. The report may include the following recommendations:

- Payment of citation number 1800253 for \$100.00 and citation number 1800253-2 for \$500.00.
- The imposition of civil penalties of up to \$1000.00 for the priority 1 violation for the date cited on November 19, 2019

and May 21, 2021.

- The administrative compliance fee to be imposed from October 2018, until the violation is abated. As of the date of this report the total is \$2850.00.
 - The total of fines, fees and penalties would be \$5450.00.
-
- If the Compliance Hearings Officer imposes penalties, fines and fees. The County would also ask that reimbursement be ordered for any expense the County incurs in collection of these monies.
 - 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.



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

May 22, 2018

Del and Rebecca Latham
10155 S. Macksburg Road
Canby, OR 97013

**Subject: Alleged Violations of the Zoning and Development Ordinance,
Title 12, Section 401 and the Building Code, Chapter 9.02.040
of the Clackamas County Code**

Site Address: 10155 S. Macksburg Rd., Canby, OR 97013
Legal Description: T4S, R1E, Section 23, Tax Lot 00702

It has come to the attention of Clackamas County Code Enforcement that an accessory structure may have been converted to habitable space without the benefits of permits and there may be multiple dwellings on the above referenced property without land use approval.

This may constitute a violation of the Zoning and Development Ordinance, Title 12 and the Building Code, Chapter 9.02 of the Clackamas County Code.

Please contact Andrea Hall, Code Enforcement Coordinator, within ten (10) days of the date of this letter in order to discuss this matter.

E-mail address is Andreahal@clackamas.us

Telephone number is 503-742-4467

**Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that a \$75.00 monthly Administrative Compliance Fee will be assessed if a violation has been determined and has not been abated. When a property owner works cooperatively with the County to resolve a confirmed code violation, the County may waive all or part of that fee.*



October 1, 2018

Del & Rebecca Latham
10155 S Macksburg Rd.
Canby, OR 97013

Subject: Violation of the Clackamas County Code

Site Address: 10155 S Macksburg Rd., Canby, OR 97013
Legal Description: T4S, R1E, Section 23, Tax Lot 702

As you know, it has come to the attention of the Clackamas County Code Enforcement Section that an accessory building, originally permitted as an agricultural building B0239678, on the above referenced property is being used as habitable space without the benefit of permits or inspections. This constitutes a violation of Chapter 9.02.040 of the Clackamas County Code as it pertains to the Application and Enforcement of the Clackamas County Building Code.

In order to abate the violations, please either return the use of the building back to its original use as an agricultural building no later than **October 19, 2018**. There is an electrical permit for a service and circuits, E0074589, that may be for this building, this can be confirmed by checking the inside of the electrical panel, but there is no evidence of a plumbing permit for the bathroom. If the permit is not for the accessory building you will need to obtain a permit for the electrical as well as the plumbing no later than **October 19, 2018** with an approved final inspection within 30 days of the date the permit was issued.

Or please submit the building permit applications to permit the structure as habitable space, including plumbing and electrical (if applicable), technically complete plans and appropriate fees **not later than October 31, 2018**. Please be aware, an evaluation by an architect or engineer may be required. The permit must be picked up within ten days of being notified. Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of the permit being issued.

If you have any questions concerning these permit requirements, please contact the Building Codes Division at 503-742-4240. Or, you may stop by our offices at 150 Beavercreek Rd., Oregon City, OR 97045, Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m. and Fridays 8:00 a.m. and 3 p.m.

Please feel free to contact me if you have any questions. My direct telephone number is 503-742-4467 or email andreahal@clackamas.us.

Thank you for your prompt attention to this matter.

A handwritten signature in black ink, appearing to read 'Andrea Hall', with a stylized flourish at the end.

Andrea Hall
Clackamas County
Code Enforcement Coordinator

Required Notice of Fines and Penalties

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

The Clackamas County Code provides for fine amounts of up to \$500 and additional civil penalties of up to \$3,500 for each day the County verifies the noncompliance. Fine amounts and civil penalties may be assessed for each cited violation and may be assessed separately against each named party. In addition, the Code Enforcement Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.

Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that when a property owner works cooperatively with the County to resolve a confirmed code enforcement violation, the County may in its discretion waive all or part of the \$75 per month administrative fee.

Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.

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.

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



March 11, 2019

Del & Rebecca Latham
10155 S Macksburg Rd.
Canby, OR 97013

Subject: Violation of the Clackamas County Code

Site Address: 10155 S Macksburg Rd., Canby, OR 97013
Legal Description: T4S, R1E, Section 23, Tax Lot 702

As you know, it has come to the attention of the Clackamas County Code Enforcement Section that an accessory building, originally permitted as an agricultural building on the above referenced property is being used as habitable space without the benefit of permits or inspections. This constitutes a violation of Chapter 9.02.040 of the Clackamas County Code as it pertains to the Application and Enforcement of the Clackamas County Building Code.

In order to abate the violations, please return the use of the building back to its original use as an agricultural building no later than **March 29, 2019**. There is an electrical permit for a service and circuits, E0074589 that may be for this building, this can be confirmed by checking the inside of the electrical panel, but there is no evidence of a plumbing permit for the bathroom. If the permit is not for the accessory building you will need to obtain a permit for the electrical as well as the plumbing no later than **March 29, 2019** with an approved final inspection within 30 days of the date the permit was issued.

Or, please submit the building permit applications to permit the structure as habitable space, including plumbing and electrical (if applicable), technically complete plans and appropriate fees **not later than March 29, 2019**. Please be aware, an evaluation by an architect or engineer may be required. The permit must be picked up within ten days of being notified. Please schedule all inspections so that final inspections may be obtained not later than 45 days of the date of the permit being issued.

If you have any questions concerning these permit requirements, please contact the Building Codes Division at 503-742-4240. Or, you may stop by our offices at 150 Beavercreek Rd., Oregon City, OR 97045, Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m. and Fridays 8:00 a.m. and 3 p.m.

Please feel free to contact me if you have any questions. My direct telephone number is 503-742-4467 or email andreahal@clackamas.us.

Thank you for your prompt attention to this matter.

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Andrea Hall
Clackamas County
Code Enforcement Coordinator

Required Notice of Fines and Penalties

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The Clackamas County Code provides for fine amounts of up to \$500 and additional civil penalties of up to \$3,500 for each day the County verifies the noncompliance. Fine amounts and civil penalties may be assessed for each cited violation and may be assessed separately against each named party. In addition, the Code Enforcement Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.

Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that when a property owner works cooperatively with the County to resolve a confirmed code enforcement violation, the County may in its discretion waive all or part of the \$75 per month administrative fee.

Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.

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.

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



Citation No. 1800253

Case No. V0025318

ADMINISTRATIVE CITATION

Date Issued: November 19, 2019

Name and Address of Person(s) Cited:

Name: Del Latham
Name: Rebecca Latham
Mailing Address: 10155 S Macksburg Rd.
City, State, Zip: Canby, OR 97013

Date Violation(s) Confirmed: On the 19th day of November, 2019, 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): 10155 S Macksburg Rd., Canby, OR 97013

Legal Description: T4S, R12E Section 23, Tax Lot(s) 702

Law(s) Violated:

☒ Chapter 9.02 of CCC Application and Enforcement of the Clackamas County Building Code, Section 9.02.040, (B)(C)(D)(E)

Description of the violation(s):

- 1) Persons cited failed to obtain permits and final inspections for the conversion of an accessory building to habitable space.

Maximum Civil Penalty \$1000.00

Fine \$100.00

You may avoid paying the civil penalty by abating the violation(s) and paying a total fine of \$100.00. If you have questions regarding how to abate the violation(s) contact Clackamas County Code Enforcement at the number listed below. Please be advised a \$75 monthly administrative fee is being assessed.

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

Citation issued by: Andrea Hall
Telephone No.: 503-742-4467

Date: November 19, 2019
Department Initiating Enforcement Action: Code Enforcement

PLEASE READ CAREFULLY!

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

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

Options:

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

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

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

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

STATEMENT OF UNDERSTANDING

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

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

Signature: _____ Date: _____

Address: _____

City, State, Zip

Contact Number: _____ Email: _____

7018 3090 0000 5249 5825

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Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$ _____
☐ Return Receipt (electronic) \$ _____
☐ Certified Mail Restricted Delivery \$ _____
☐ Adult Signature Required \$ _____
☐ Adult Signature Restricted Delivery \$ _____

Postage

Total Postage and Fees

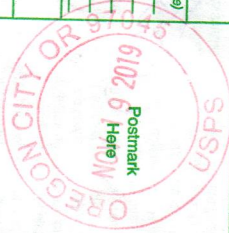
Sent To

Street and Apt. #

City, State, ZIP+4

Del & Rebecca Latham
10155 S Macksburg Rd.
Canby, OR 97013

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label), for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.
 - A unique identifier for your mailpiece.
 - Electronic verification of delivery or attempted delivery.
 - A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.
- Important Reminders:**
- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service™, or Priority Mail® service.
 - Certified Mail service is not available for international mail.
 - Insurance coverage is not available for purchases with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
 - For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
 - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece.

IMPORTANT: Save this receipt for your records.

PS Form 3800, April 2015 (Reverse) PSN 7530-02-000-9047

DATE FOR THE
THIS DAY

9590 9402 4515 8278 0940 45

**United States
Postal Service**

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4® in this box.

**Clackamas County
Code Enforcement Division
150 Beavercreek Rd
Oregon City, OR 97045**

813 sec 00N 144

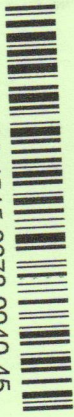
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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Del & Rebecca Latham
10155 S Macksburg Rd.
Canby, OR 97013



9590 9402 4515 8278 0940 45

2. Article Number (Transfer from service label)

7016 3090 0000 5249 5825

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name) **NOB 97013**

C. Date of Delivery

NOV 22 2019

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)
- ☒ **USPS** Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



Wendie L. Kellington
P.O. Box 159
Lake Oswego OR 97034

Phone (503) 636-0069
Mobile (503) 804-0535
Email: wk@klgpc.com

December 27, 2019

Andrea Hall
Clackamas County Code Enforcement
150 Beavercreek Road
Oregon City, OR 97045

Re: Del and Rebecca Latham, Case No V0025318 // Citation No. 1800253

Dear Ms. Hall:

This firm represents the Latham's in connection with the above referenced matters regarding real property they own at 10155 S. Macksburg Rd., Canby, composed of less than an acre - .95 acres. Please include this letter in the record of the above referenced matters. I understand that Mr. Latham has made a precautionary request for a hearing on the citation that you issued to him. Our hope is that the citation can be withdrawn. We believe that the citation is in error. However, if you decided to proceed, please provide me with notice of that decision so that we can coordinate schedules for a hearing.

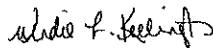
Attached are exhibits gathered from county records as well as from neighbors. County records are incomplete as you know due to the flood of 1996 wiping out county archives. Nonetheless, from the attached it appears that the subject property was not subject to any zoning rules at the time the subject accessory dwelling building was constructed. The accessory dwelling had a building permit. There is also a statement you provided Mr. Latham from the prior owner about that prior owners' intention to build an agricultural building. So far as I can tell, the building permit for the accessory dwelling is separate from the statement about the prior owner's intention to also build an agricultural building. Obviously, if the accessory dwelling were intended to be an agricultural building, no building permit was necessary or would have been secured. The fact that the two are separate is the only logical conclusion.

I understand that you indicated to Mr. Latham your understanding that the property was zoned EFU-20 when it was constructed. I believe that assumption is mistaken. While the county had adopted the EFU-20 zone in 1977, it had not been applied to the subject property when the disputed accessory dwelling was established. Zoning was applied to the subject property by the county at some later point. So far as I can tell with the documentation available, as a matter of land use, the Latham's accessory dwelling was lawful when it was established. It also became lawful under recent state legislation that required the county to allow accessory dwellings. In all, from the time that it was constructed to the present, the disputed accessory dwelling has at all times been habitable space -- it had plumbing to include a bathroom as well electricity. See attached statement from Mr. Kraxburger.

The zoning rules have changed over time and under today's zoning that has been applied to the subject property, it appears the "accessory" dwelling which is the subject of the citation, may now be a lawful nonconforming use that is allowed to continue. ORS 215.130(5). If so, then its existence, nature, extent and continuity is measured from 20 years back from the date that a person makes a nonconforming use determination application – which if measured from today would be – December 1999. Certainly, from December 1999 until today, there can be no dispute that it has existed as, and has had as its nature, a continuous use as a habitable space.

Please let me know if you would like to discuss this further. We would like to you're your thoughts. Thank you.

Very truly yours,



Wendie L. Kellington

WLK/wlk
Enclosures

To Clackamas County and to whom it may concern,

I was the property owner directly to the east of Mr. and Mrs. Latham's property (10227 S Macksburg Rd.) from 1976 through 2005. Prior to 1976, my parents resided directly across the road from that address (10286 Macksburg Rd.), and I still maintain ownership of that property. I have firsthand knowledge of the building in question. That building has had power, plumbing, and central heat since it was built in the mid-1970's.

Best regards,

A handwritten signature in cursive script that reads "Lynn Kraxberger".

Lynn Kraxberger

(503) 936 3794

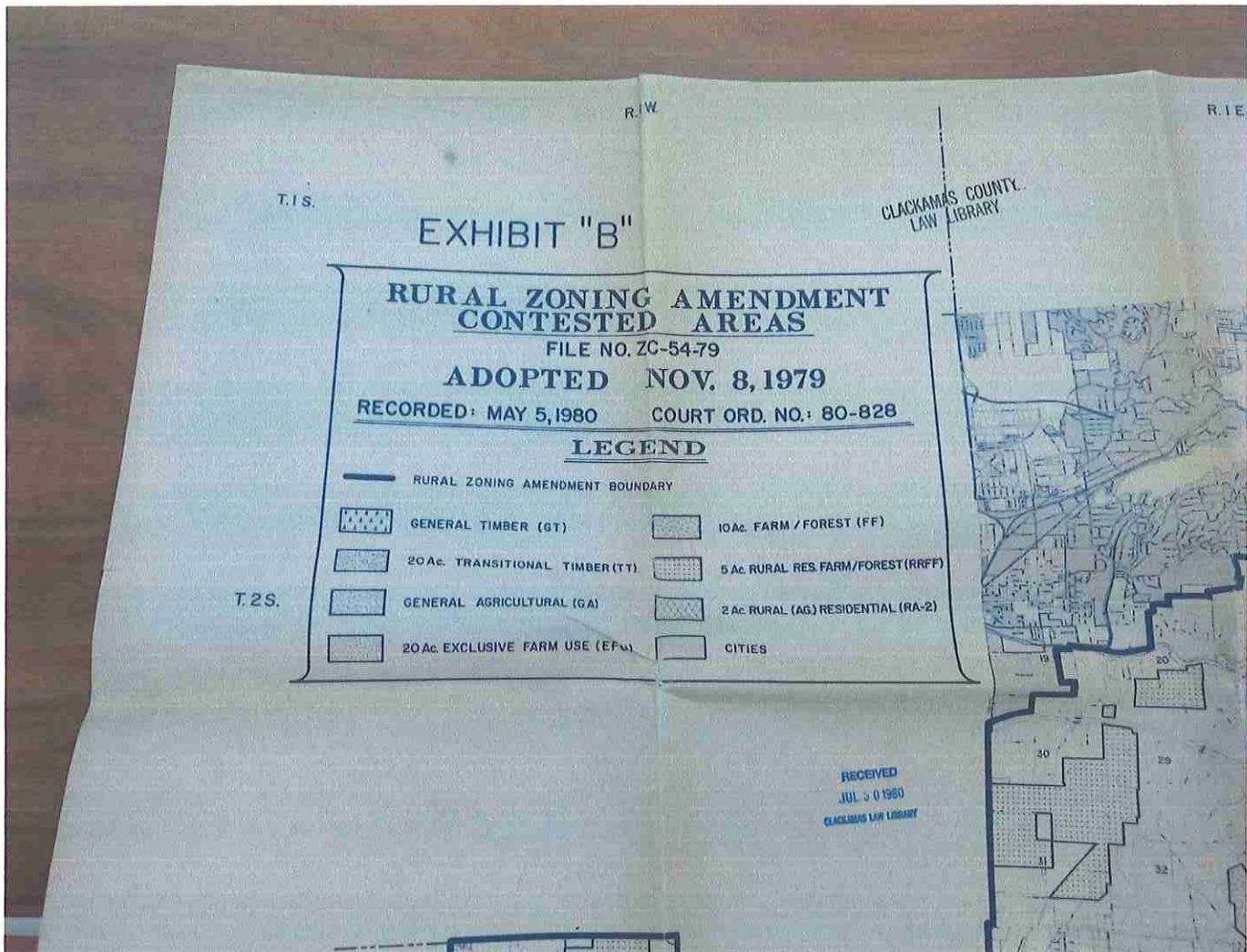
to whom it may concern:

i have been a homeowner at 10148 S.
macksburg rd in clackamas county since
june of 1995.

it has come to our attention that our
neighbors the lathams of 10155 S.
macksburg rd are having issues with
clackamas county as to when plumbing
and electric were installed, i cannot
give an exact date, but there has been
electricity, plumbing and heat in that
building since at least 1995. i have
personally been inside numerous times
and can attest to this. if you have any
questions, please don't hesitate to ask

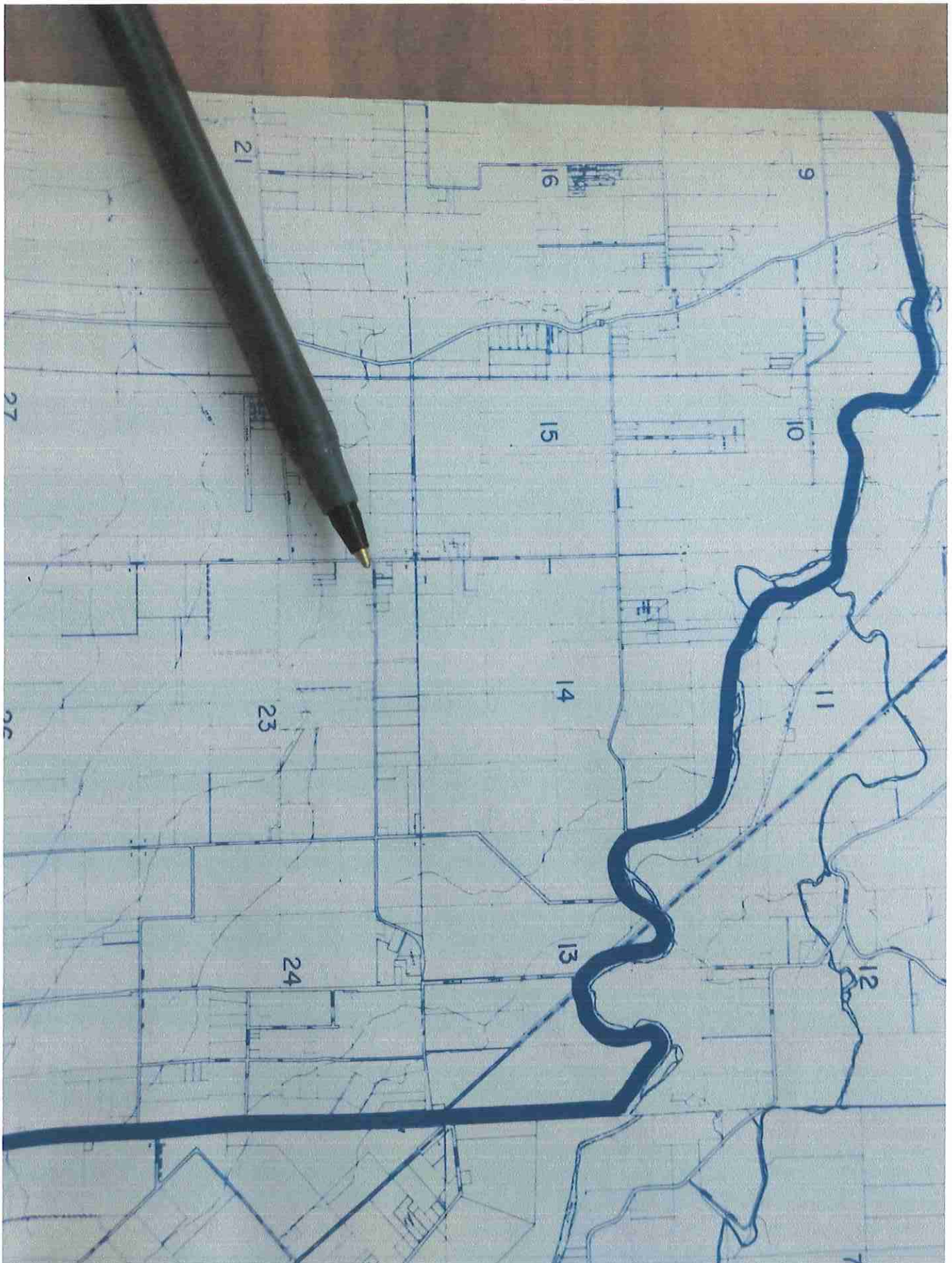
sincerely,
dawn l. chnstensen

971.645.1934
dchris4677@gmail.com





12/27/2019, 2:13 PM



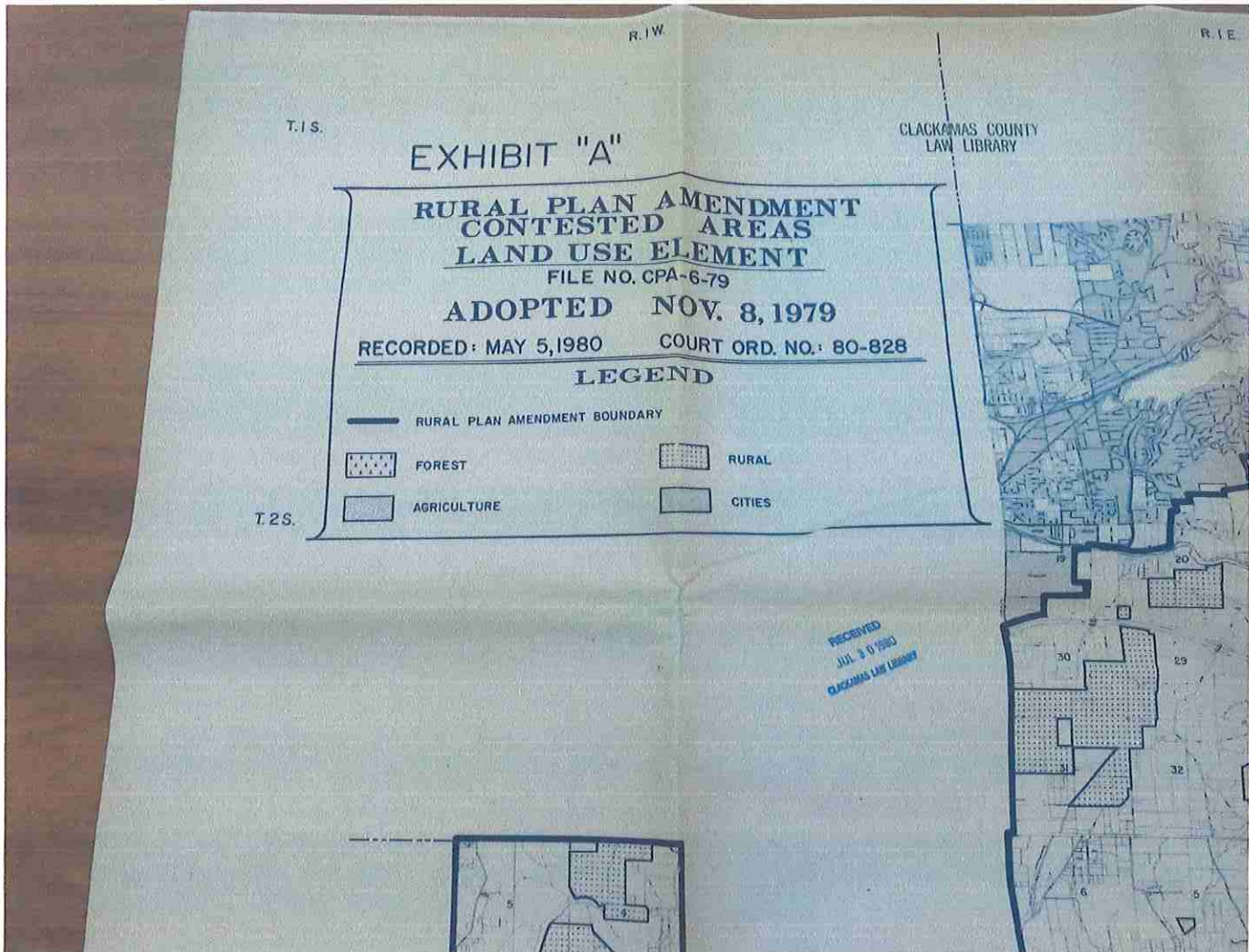
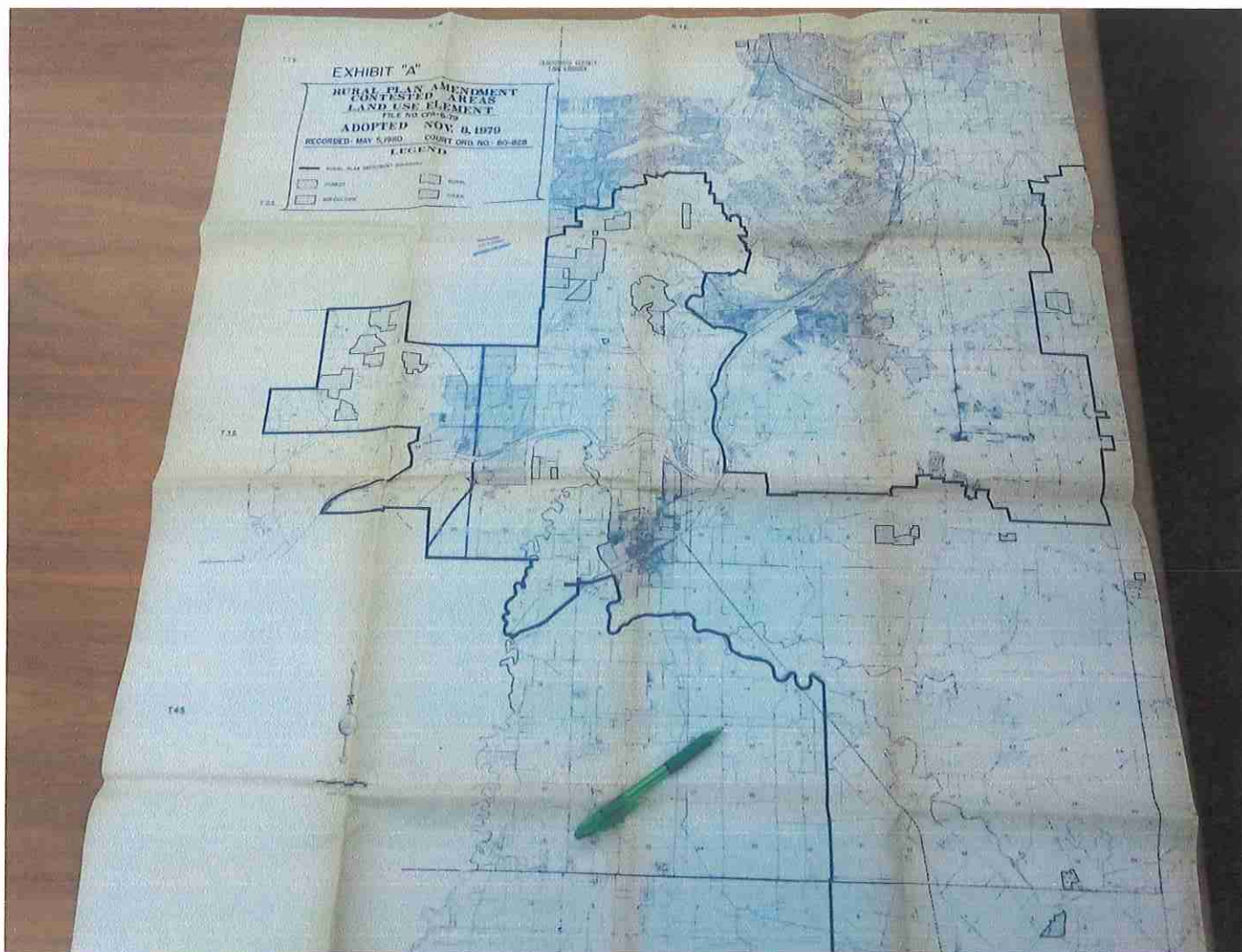
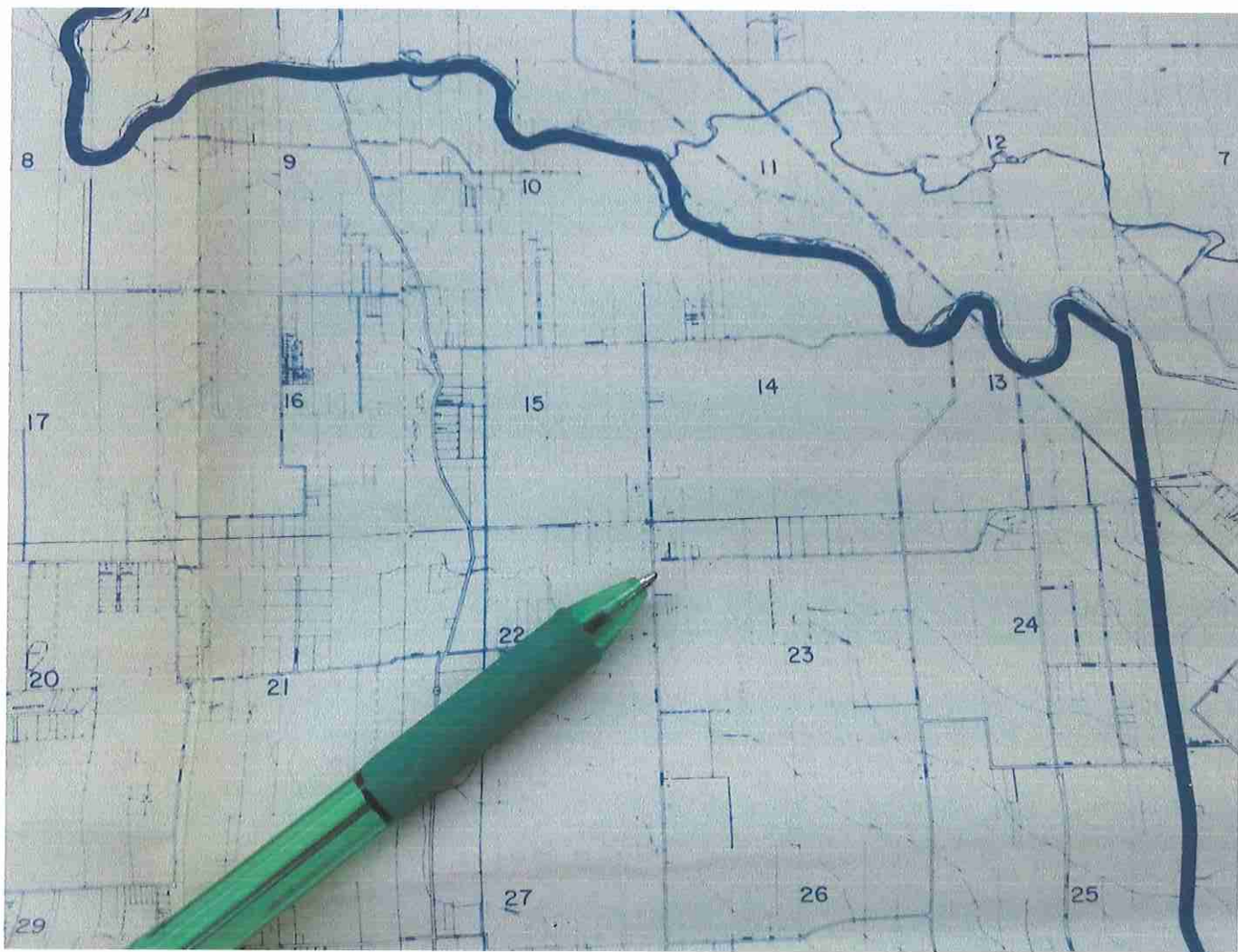


Exhibit A

tip of pen indicates subject property





From: [Hall, Andrea](#)
To: "Wendie Kellington"
Cc: "Del Latham (lathamdel@gmail.com)"
Subject: FW: Response to property information request - Del and Rebecca Latham
Date: Wednesday, January 8, 2020 1:01:00 PM
Attachments: [20200108121504.pdf](#)

Hi Wendie,

I am forwarding you additional information from Rick as well as an attachment.

Please let me know if you have any questions and I will do my best to answer them.

Thank you,

Andrea

From: McIntire, Rick
Sent: Wednesday, January 8, 2020 12:17 PM
To: Hall, Andrea <AndreaHal@clackamas.us>
Subject: RE: Response to property information request - Del and Rebecca Latham

Andrea

See attached maps. The first shows zoning in that area south of Canby and west of Molalla prior to 9/24/76. I have identified the location of the subject property. It was unzoned at that time.

The second shows the "South of Canby Zoning" area adopted by BCC and recorded on 9/24/76. The area subject to Board Order No. 76-1319 is outlined in orange highlighter. I have also identified the location of the subject property. That entire area was zoned EFU-20 on that date. There is no question that the property was zoned EFU-20 on that date.

Rick McIntire
Sr. Planner
Planning and Zoning Division
150 Beavercreek Rd.
Oregon City, OR 97045
503-742-4516 (direct)
503-742-4550 (fax)
rickmci@clackamas.us

DTD HOURS:

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- 2nd and 3rd floor permit lobbies open Mon-Thur from 8a-4p; Fri 8a-3p
- Our website address is www.clackamas.us/planning and our general email is zoninginfo@clackamas.us.
-

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-

From: Hall, Andrea
Sent: Tuesday, January 07, 2020 9:11 AM
To: McIntire, Rick <rickmci@clackamas.us>
Subject: FW: Response to property information request - Del and Rebecca Latham

Hi Rick,

FYI – this is regarding a history request you did for me at 10155 S Macksburg Rd.

Thank you,
Andrea

From: Hall, Andrea
Sent: Tuesday, January 7, 2020 9:10 AM
To: 'Wendie Kellington' <wk@klgpc.com>
Cc: Del Latham (lathamdel@gmail.com) <lathamdel@gmail.com>
Subject: RE: Response to property information request - Del and Rebecca Latham

Thanks Wendie.

From: Wendie Kellington [<mailto:wk@klgpc.com>]
Sent: Tuesday, January 7, 2020 8:59 AM
To: Hall, Andrea <Andreahal@clackamas.us>
Cc: Del Latham (lathamdel@gmail.com) <lathamdel@gmail.com>
Subject: RE: Response to property information request - Del and Rebecca Latham

Hi Andrea,

Thank you. Dell is going to go to the county to meet with Rick about his determination that the property was zoned EFU-20 on 9/24/76. So far as we can tell from independent research, that is mistaken. Dell intends to find out what documents Rick relied upon for that position. We will let you know what he finds out. Best, Wendie

From: Hall, Andrea <Andreahal@clackamas.us>
Sent: Monday, January 6, 2020 8:40 AM
To: Wendie Kellington <wk@klgpc.com>
Subject: FW: Response to property information request - Del and Rebecca Latham

Hi Wendie,

This is the response I got from Planning regarding the zoning of your client's property.

Thank you,

Andrea Hall
Clackamas County
Code Enforcement Coordinator

From: McIntire, Rick
Sent: Thursday, January 2, 2020 10:37 AM
To: Hall, Andrea <Andreahal@clackamas.us>
Subject: Response to property information request

Andrea

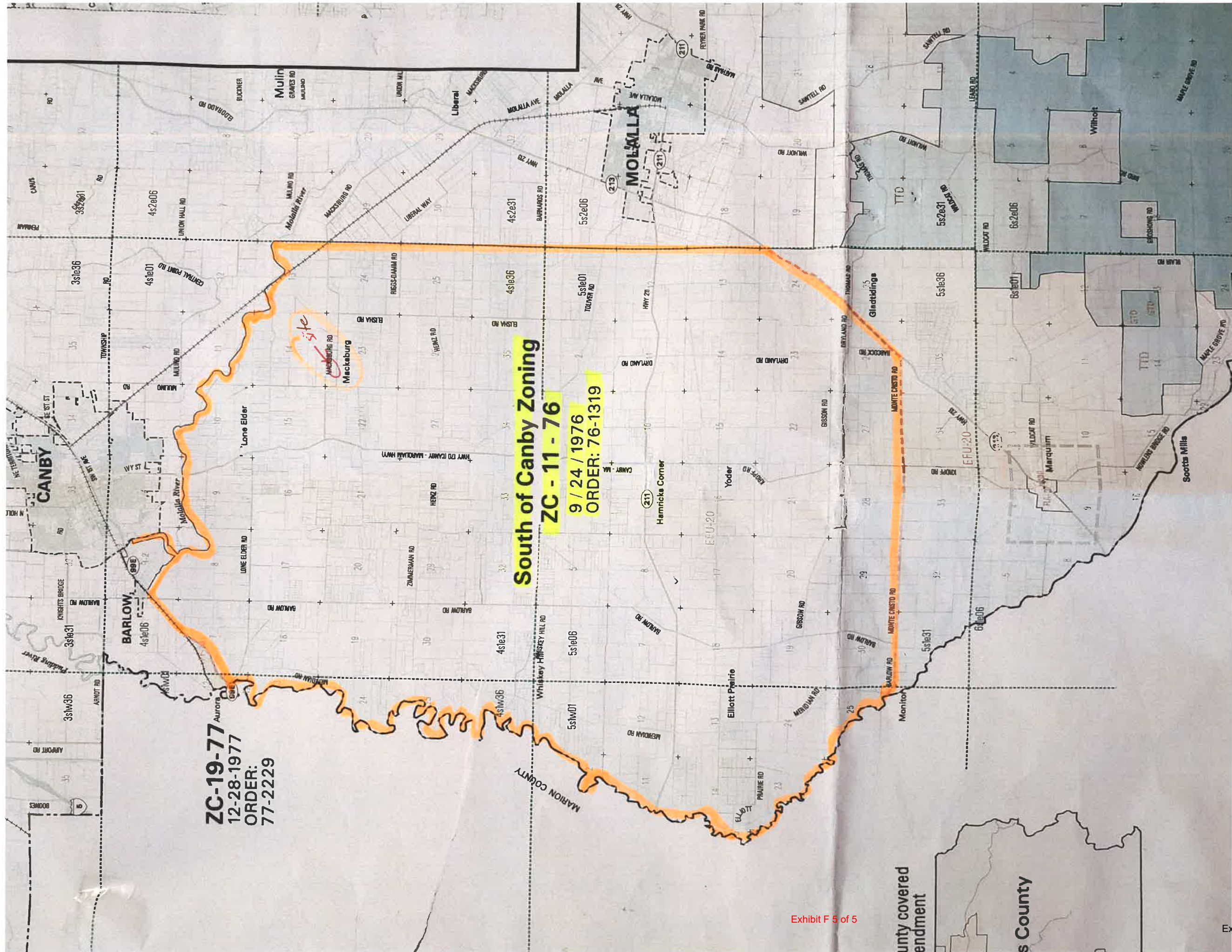
See attached.

Rick McIntire
Sr. Planner
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-

[Spam Email](#)
[Phishing Email](#)



From: [Wendie Kellington](#)
To: [Hall, Andrea](#)
Cc: [Del Latham \(lathamdel@gmail.com\)](mailto:Del.Latham.lathamdel@gmail.com)
Subject: RE: Response to property information request - Del and Rebecca Latham
Date: Tuesday, September 1, 2020 12:23:54 PM
Attachments: [image001.jpg](#)

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

Hi Andrea,

Thank you for checking in. No, I do not represent Del Latham any longer. He is copied here.
Best to you, Wendie



Wendie L. Kellington | Attorney at Law.

525 3rd Street, STE 209
P.O. Box 159
Lake Oswego Or
97034
(503) 636-0069 office
(503) 636-0102 fax
wk@klgpc.com
www.wkellington.com

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From: Hall, Andrea <Andreahal@clackamas.us>
Sent: Tuesday, September 1, 2020 12:21 PM
To: Wendie Kellington <wk@klgpc.com>
Subject: FW: Response to property information request - Del and Rebecca Latham

Hi Wendie,

I'm just checking in to see if you are still representing Mr. and Mrs. Latham with regard to the code violations on their property at 10155 S Macksburg Rd. in Canby.

Hope you and your family are well!

Thank you,

Andrea Hall
Clackamas County
Code Enforcement

From: Hall, Andrea
Sent: Tuesday, January 7, 2020 9:10 AM
To: 'Wendie Kellington' <wk@klgpc.com>
Cc: Del Latham (lathamdel@gmail.com) <lathamdel@gmail.com>
Subject: RE: Response to property information request - Del and Rebecca Latham

Thanks Wendie.

From: Wendie Kellington [<mailto:wk@klgpc.com>]
Sent: Tuesday, January 7, 2020 8:59 AM
To: Hall, Andrea <Andreahal@clackamas.us>
Cc: Del Latham (lathamdel@gmail.com) <lathamdel@gmail.com>
Subject: RE: Response to property information request - Del and Rebecca Latham

Hi Andrea,

Thank you. Dell is going to go to the county to meet with Rick about his determination that the property was zoned EFU-20 on 9/24/76. So far as we can tell from independent research, that is mistaken. Dell intends to find out what documents Rick relied upon for that position. We will let you know what he finds out. Best, Wendie

From: Hall, Andrea <Andreahal@clackamas.us>
Sent: Monday, January 6, 2020 8:40 AM
To: Wendie Kellington <wk@klgpc.com>
Subject: FW: Response to property information request - Del and Rebecca Latham

Hi Wendie,

This is the response I got from Planning regarding the zoning of your client's property.

Thank you,

Andrea Hall
Clackamas County
Code Enforcement Coordinator

From: McIntire, Rick
Sent: Thursday, January 2, 2020 10:37 AM
To: Hall, Andrea <Andreahal@clackamas.us>
Subject: Response to property information request

Andrea

See attached.

Rick McIntire
Sr. Planner
Planning and Zoning Division
150 Beavercreek Rd.
Oregon City, OR 97045
503-742-4516 (direct)
503-742-4550 (fax)
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-

[Spam Email](#)
[Phishing Email](#)



Citation No. 1800253-2

Case No. V0025318

ADMINISTRATIVE CITATION

Date Issued: May 24, 2021

Name and Address of Person(s) Cited:

Name: Del Latham
Name: Rebecca Latham
Mailing Address: 10155 S Macksburg Rd.
City, State, Zip: Canby, OR 97013

Date Violation(s) Confirmed: On the 19th day of November, 2019 and continues to exist on the 21st day of May 2021, 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): 10155 S Macksburg Rd., Canby, OR 97013

Legal Description: T4S, R1E Section 23, Tax Lot(s) 702

Law(s) Violated:

☒ Chapter 9.02 of CCC Application and Enforcement of the Clackamas County Building Code, Section 9.02.040, (B)(C)(D)(E)

Description of the violation(s):

- 1) Persons cited failed to obtain permits and final inspection for the conversion of an accessory building to habitable space.

Maximum Civil Penalty \$1000.00

Fine \$500.00

You may avoid paying the civil penalty by abating the violation(s) and paying a total fine of \$500.00. If you have questions regarding how to abate the violation(s) contact Clackamas County Code Enforcement at the number listed below. Please be advised a \$75 monthly administrative fee is being assessed.

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

Citation issued by: Andrea Hall
Telephone No.: 503-742-4467

Date: May 24, 2021
Department Initiating Enforcement Action: Code Enforcement

PLEASE READ CAREFULLY!

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

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

Options:

1. Abate the violation and pay the fine. Sign the statement of Understanding below and deliver or mail this form, together with a check or money order payable to Clackamas County in the amount of the fine to:
 Clackamas County Code Enforcement Section
 150 Beavercreek 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 No. and Case No.; and
- c. The description of the relief you are requesting

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

STATEMENT OF UNDERSTANDING

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

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

Signature: _____ Date: _____

Address: _____
City, State, Zip

Contact Number: _____ Email: _____