

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Deleting Sections 100.9,)
1613 and 1619 and Amending Sections 923.7,))
1404, 1406.1, 1501.2, 1504.1, 1504.1(C),)
1504.2, 1504.3(C), 1504.3(D), 1504.3(E),)
1505.1, 1506.5, 1601, 1601.2, 1601.3,)
1603, 1610.4, 1620, 1622.2, 1701.1, 1702)
and 1702.1 of the Columbia County Zoning)
Ordinance)
_____)

ORDINANCE NO. 90-3
(Board of Adjustment)

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. AUTHORITY.

This ordinance is adopted pursuant to ORS 203.035, 215.050 and 215.223.

SECTION 2. TITLE.

This ordinance shall be known as Ordinance No. 90-3.

SECTION 3. PURPOSE.

The purpose of this ordinance is to delete Sections 100.9, 1613 and 1619 and amend Sections 923.7, 1404, 1406.1, 1501.2, 1504.1, 1504.1(C), 1504.2, 1504.3(C), 1504.3(D), 1504.3(E), 1505.1, 1506.5, 1601, 1601.2, 1601.3, 1603, 1610.4, 1620, 1622.2, 1701.1, 1702 and 1702.1 of the Columbia County Zoning Ordinance in order to eliminate the role of the Board of Adjustment.

SECTION 4. DELETIONS.

Sections 100.9, 1613 and 1619 of the Columbia County Zoning Ordinance are deleted.

SECTION 5. AMENDMENT.

Sections 923.7, 1404, 1406.1, 1501.2, 1504.1, 1504.1(C), 1504.2, 1504.3(C), 1504.3(D), 1504.3(E), 1505.1, 1506.5, 1601, 1601.2, 1601.3, 1603, 1610.4, 1620, 1622.2, 1701.1, 1702 and 1702.1 of the Columbia County Zoning Ordinance are amended to read as shown in the attached Exhibit "A" which is incorporated herein by this reference.

SECTION 6. EFFECT OF ORDINANCE NO. 90-5.

If Ordinance No. 90-5 is adopted amending the text of Sections 1700, 1701, 1702 and 1703 of the Columbia County Zoning Ordinance, those text amendments shall supersede the amendments to Sections 1701.1, 1702 and 1702.1 listed in Section 5 and Exhibit "A" of this ordinance.

SECTION 7. FINDINGS.

Findings of fact and conclusions of law in support of this amendment are attached hereto, labeled Exhibit "B" and incorporated herein by this reference.

SECTION 8. SEVERABILITY.

If any portion of this ordinance, including Exhibit "A", is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion and such holdings shall not affect the validity of the remaining portion thereof.

SECTION 9. EMERGENCY.

This ordinance being immediately necessary to maintain the public welfare, health and safety, an emergency is declared to exist and this ordinance takes effect immediately upon its adoption.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 14th DAY OF February, 1990.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form
By: [Signature]
Office of County Counsel

By: [Signature]
Chairman

Attest:

[Signature]
Recording Secretary

By: [Signature]
Commissioner

First Reading: 2/14/90
Second Reading: 2/14/90
Effective Date: 2/14/90

By: [Signature]
Commissioner

EXHIBIT "A"
AMENDMENTS

- Section 923.7 Lot Size: There is no minimum lot size in the M-2 zone. The Planning Commission will review each proposal to determine if the lot is adequate to contain the proposed new use. The Planning Commission may seek the advice of the Fire Marshal in making this decision. Existing uses shall continue on their existing lot. Any expansion of any existing use must be approved by the Planning Commission. The Planning Commission may seek the advice of the Fire Marshal prior to making this decision.
- Section 1404 Joint Usage of Facilities: Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Director in the form of deeds, leases, or contracts securing full access to such parking or loading areas for all the parties jointly using them.
- Section 1406.1 Spaces required by this section shall be provided on the site of the primary uses, provided that, when practical difficulties prevent their establishment upon the same site, the Planning Director may permit the facility to be located within three hundred (300) feet therefrom, measured in a straight line (including streets and alleys) from the nearest property line to the nearest parking space; but in any case the location shall meet all the provisions of this Ordinance which apply.
- Section 1501.2 Findings justifying decisions made with regard to a discretionary permit shall be made in writing and shall be provided to the applicant. The Commission may make a tentative decision and instruct the Director to draft findings to support the decision. In such an action, the final decision and the adoption of written findings shall occur at the next regularly scheduled Commission meeting.
- Section 1504.1 Major Variances: The Planning Commission may permit and authorize a variance from the requirements of this Ordinance when unusual circumstances cause an undue hardship in the application of it. The granting of such a variance shall be in the public interest.
- Section 1504.1 C. The Planning Commission may impose whatever reasonable requirements it feels will fulfill the intent of this Ordinance.

Section 1504.2 Variance for Solar Access: The Planning Commission may permit and authorize variances from the requirements of this Ordinance, such as height, setbacks, and lot density, or when such variance is necessary to permit unimpaired access to the sun. A variance shall be granted only when all the conditions of Section 1504.1A are found to exist.

Section 1504.3 C. The Director shall mail notices to all adjoining property owners within 250 feet and to the members of the CPAC of the area. The people receiving written notice have ten (10) working days in which to send comments concerning the proposed variance or to request a hearing before the Planning Commission;

Section 1504.3 D. If the Director finds the proposed variance meets the criteria in Section 1505.1A and none of the notified parties request a hearing before the Planning Commission, the Director may approve the variance and shall send copies of the approval to anyone who responded to the notice. The Director may attach reasonable conditions to the approval of the variance. The Director shall send copies of the findings to all affected parties;

Section 1504.3 E. If a person receiving notice for a variance requests a hearing before the Planning Commission, the Director shall schedule the request at the next regularly scheduled Planning Commission meeting. Notice of this hearing will be provided in accordance with Section 1600.

Section 1505.1 Use Not Allowed in District: The Planning Commission may allow a temporary permit for a period not to exceed one (1) year, for a use not otherwise allowed in the zoning district. The temporary permit may be allowed only after a hearing conducted pursuant to Section 1603 and provided that the applicant provides evidence substantiating the following, unless otherwise provided for in this Ordinance:

Section 1506.5 Rebuilding, Change, Moving, or Use Expansion: A non-conforming building or use may be rebuilt, moved, or changed in use to a use of the same restrictive classification or expanded, subject to the provisions outlined herein, if upon review in accordance with Section 1601 the Director finds all the following to exist:

- Section 1601 Staff Approval: As provided elsewhere in this Ordinance, the Director or his designate may approve requested actions which are in conformance with the provisions of this Ordinance. Minor variances, expansions or changes of non-conforming uses, temporary permits for the establishment of a temporary residence, care of a relative, or emergency shelter may be approved by the Director using the following procedures; the Design Review Board shall use these same procedures.
- Section 1601.2 The Director will mail a notice of the proposed action to all adjacent property owners within 250 feet of the subject property and to the members of the CPAC for the specific area. These people who have been notified by mail will have ten (10) calendar days in which to either submit their comments and objections to the proposed action or request a public hearing on the matter before the Planning Commission or Hearings Officer.
- Section 1601.3 If no public hearing has been requested, the Director will review the application and all submitted comments and objections to the proposal. Based upon the review of the facts in the case and this Ordinance, the Director may approve, deny, or refer the application to the Planning Commission. The Director shall inform the applicant and any affected party who responded as to the nature of his decision. This notice shall be in writing and shall contain the findings of fact which support the Director's decision.
- Section 1603 Quasijudicial Public Hearings: As provided elsewhere in this Ordinance, the Hearings Officer, or the Commission, or the Board of Commissioners may approve certain actions which are in conformance with the provisions of this Ordinance. Zone Changes, Conditional Use Permits, Major Variances, and Temporary Use Permits shall be reviewed by the appropriate body and may be approved using the following procedures:
- Section 1610.4 Interested parties have ten (10) calendar days to request in writing a public hearing before the Planning Commission or the Hearings Officer;
- Section 1620 The Board of Commissioners may replace the Planning Commission with a Hearings Officer by resolution.
- Section 1622.2 Duties: The Design Review Board shall review the site design plans as required by this Ordinance. They shall review all actions referred to them by the Board of Commissioners, the Commission, or the Hearings Officer. These reviews shall be conducted in accordance with the provisions of this Ordinance.

Section 1701.1 General Procedure: A decision by the Director, Commission, or the Design Review Board shall be final at the end of ten (10) calendar days following the decision, unless a notice of appeal is filed with the County Clerk's office. A notice of appeal shall contain:

Section 1702 Appeal of a decision by the Director, or Design Review Board shall be appealed to the Commission. This appeal may concern the denial of an application or any conditions attached to an application or any conditions attached to an application as part of an approval. Any interested or affected party may appeal this decision. A de novo hearing shall be held by the Commission within sixty (60) calendar days of the filing of the appeal.

Section 1702.1 Any member of the Commission who served on the Design Review Board when a decision was made and is subsequently appealed shall refrain from voting on the appeal.

EXHIBIT "B"

COLUMBIA COUNTY PLANNING COMMISSION
Staff Report
January 8, 1990

File Number: TA 4-89

Applicant: Columbia County/Land Development Services
St. Helens, OR 97051

Request: Text Amendment to the Columbia County Zoning Ordinance

I. BACKGROUND

When the Columbia County Zoning Ordinance was adopted, it created a "Board of Adjustment" comprised of three members of the Planning Commission. The Board of Adjustment was allocated review of specific land use requests. This amendment proposes to eliminate the role of the Board of Adjustment, giving the Planning Director and the Planning Commission the authority to act in its place. The purpose of doing this is to eliminate an unnecessary step within the land use planning process.

Sections of the Zoning Ordinance that are proposed to be eliminated are 100.9, 1613, and 1619.

Sections of the Zoning Ordinance proposed to be amended so as to replace the words "Board of Adjustment" with the "Planning Commission" are 923.7, 1504.1, 1504.1(C), 1504.2, 1504.3(C), 1504.3(D), 1504.3(E), 1505.1, 1601.2, 1601.3, 1610.4, and 1620.

Sections of the Zoning Ordinance proposed to be amended so as to replace the words "Board of Adjustment" with "Planning Director" are 1404 and 1406.1. Section 1506.5 is proposed to replace the words "public hearing the Board of Adjustment" with "review in accordance with Section 1601 the Director". In conjunction with this, Section 1601 is proposed to be amended to read ". . . variances, expansions or changes of non-conforming uses, temporary . . .", and 1603 to eliminate the words "Expansions, or Changes of a Non-Conforming Use".

Sections of the Zoning Ordinance proposed to be amended so as to eliminate the words "Board of Adjustment" and any related conjunctions are 1501.2, 1603, 1622.2, 1701.1, 1702, and 1702.1.

II. FINDINGS

A. Section 1606 of the Zoning Ordinance states:

1606 Legislative Hearing: A request to amend the text of the Zoning Ordinance or to change a large area of the Zoning Map of Columbia County in order to bring it into compliance with the Comprehensive Plan are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures:

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change.
- .2 Notice of a Legislative Hearing shall be published at least twice, one (1) week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than ten (10) calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners.

Finding 1. This application is initiated at the request of the Board of Commissioners. Notice requirements shall be complied with. As there is no property involved, there will be no mailing of notice to individual property owners.

B. Section 1608 of the Zoning Ordinance states:

1608 Consistency with the Comprehensive Plan: All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1612.

Finding 2. The proposed amendments are applicable only to the Zoning Ordinance Text, and not to any maps. The proposed amendments are consistent with the applicable Comprehensive Plan Policies 5, 7, and 8 in the "Administrative Procedures" section. The Board of Commissioners shall hold a hearing on this request on February 14, 1990.

III. CONCLUSION AND RECOMMENDATION

Based upon the findings noted above, Staff recommends approval of this request.