

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Columbia County)
Comprehensive Plan, Regarding Conversion of) Ordinance No. 99-5
Rural Residential land from RR-5 to RR-2)

The Board of County Commissioners ordains as follows:

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 99-5.

SECTION 2. AUTHORITY.

This ordinance is adopted pursuant to the authority of ORS 203.035 and ORS 197.160.

SECTION 3. PURPOSE.

The purpose of these amendments is to clarify under what conditions land can be rezoned from existing RR-5 to the new RR-2 zoning district.

SECTION 4. FINDINGS.

1. The Board of County Commissioners finds that on November 4, 1998 the county adopted Ordinance No. 98-4 which, in part, amends the Comprehensive Plan Rural Residential Section and the Zoning Ordinance creating an RR-2 residential zoning district. Those amendments were part of the County's Periodic Review Program, Work Task II. As per ORS 197.644(2), the State Land Conservation and Development Commission has exclusive jurisdiction for review and acknowledgment of the completed work task.
2. The Department of Land Conservation and Development (DLCD) submitted a letter, dated March 16, 1999, to Columbia County discussing deficiencies in the amended comprehensive plan provisions that the county needed to address before that Department could recommend acknowledgment by the state. DLCD was concerned that language limiting future rezoning to RR-2 be included in the RR-2 criteria in the Comprehensive Plan, so that the Plan and implementing zoning district regulations are consistent. In addition, DLCD would like to see language in the Plan RR-2 policies addressing a general method for determining existing areas which "are predominately comprised of parcels that are 2 acres or less in size" in evaluating any future requests for RR-2 zoning.

3. The Board of County Commissioners find that it is in the best interest of the county to adopt amendments attached as "Attachment A" for the purpose of completing Task II of the Periodic Review Work Program and to clarify the county's intent for the use of the RR-2 zone for the benefit of county citizens, planning staff and decision makers.
4. The Board of Commissioners reviewed the following Comprehensive Plan policies to ensure that the proposed amendments conform to the acknowledged Plan provisions:
 - a. Administrative Procedures Goal 2: "to provide review and revision procedures which include provisions for participation by citizens and affected interest groups." In particular, Comprehensive Plan Administrative Procedures policies 2, 3, 4, 5, 7 and 8 which call for the updating and amending of existing codes and ordinances as needed to implement the plan.
 - b. Urbanization Policies 1, 5, 6, 8 and 20. These policies are implemented through the Rural Residential zoning district, and through the provisions of the Subdivision and Partitioning Ordinance.
 - c. Public Facilities Policies 1, 2, 3, 4, 5, and 9 which require that adequate types and levels of public facilities are required in advance or concurrent with development.
5. The Board of County Commissioners makes the following findings of fact:
 - a. These amendments were subject to the Board of Commissioners public Work Sessions of March 23, 1999, June 7, 1999 and June 22, 1999. A formal hearing on the proposed amendments was advertised for August 11, 1999; however, because of a lack of a quorum, all parties were re-notified and notices re-published for a public hearing to consider the proposed amendments on August 18, 1999. The Board of Commissioners reviewed the draft proposal and took testimony at the public hearing on August 18, 1999, and continued the hearing to September 24, 1999, for staff to work with DLCDD and County Counsel to devise more flexibility for those RR-5 pockets within the RR-2 areas, especially for individual parcels. The Board of Commissioners, after considering all parties comments on the changed draft proposal, deliberated and reached a tentative decision to approve these proposed amendments on September 24, 1999. These amendments were not reviewed by the Planning Commission after their recommendation of adoption of the Ordinance 98-4 amendments, creating an RR-2 zoning district, signed by Chairman VanNatta on May 12, 1998, because the issue of clarifying the Comprehensive Plan arose during the Board of Commissioners review of

the amendments, and because these amendments do not require new policy related to the RR-2 zone as stated in Ordinance 98-4, but adds detail as to how the County will apply the stated policy in any future requests for rezoning to RR-2. Notice of the proposed amendments have been advertised in the St. Helens' *Chronicle*, the Vernonia *Independent*, the Clatskanie *Chief*, the Columbia County *Review*, and the *South County Spotlight*. The notice of the hearings followed the process described in Section 1611 of the Zoning Ordinance. Opportunity was given for comment and input by the public during all hearings before the Board of Commissioners. This satisfies the requirements of the Comprehensive Plan Administrative Policy and implementing procedures in the Zoning Ordinance.

- b. The Board of County Commissioners finds that the proposed amendments are in compliance with Oregon Statewide Planning Goals. The Board placed particular focus on the following goals: Goal 2 Land Use Planning, Goal 11 Public Facilities and Services and Goal 14 Urbanization. Conversions to RR-2 zoning will only be allowed where adequate public services are existing and other planning criteria are met to accommodate the density, and existing 2 acre density patterns already exist. No substantially new areas of 2 acre development will be allowed. Because of these factors, premature extensions of urban services will be avoided and these amendments will also satisfy the County's Urbanization and Public Facilities policies.

SECTION 5. AMENDMENT AND ADOPTION.

1. The Board of County Commissioners adopts the findings, conclusions and recommendations in the Staff Reports attached hereto as Exhibit "1" ; including a June 18, 1999 Memo to the Board from Chief Planner, a Supplemental Staff Report dated June 21, 1999 and a Board Communication for the Meeting Date of September 22, 1999 with attached Supplemental Staff Report dated September 16, 1999. The Board approves adding a purpose statement to the RR-2 Section of the Comprehensive Plan, refining and clarifying what constitutes a proposed area for rezoning to RR-2 as "predominately 2 acres or less in size" , and adds criteria for maintaining consistency with the rural character of the area for proposals to be zoned RR-2.
2. The Board hereby adopts the amendments as shown in Attachment "A."

SECTION 6. SEVERABILITY.

The provisions of this ordinance are severable. If any provision of this ordinance is determined to be invalid by a court of competent jurisdiction, the provision shall be considered a separate, distinct and independent provision and the decision shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this 10th day of November, 1999.

Approved as to form:

By: *Wm. N. ...*
Office of County Counsel

Attest:
By: *Jan Suerhalgh*
Recording Secretary

First Reading: August 18, 1999
Second Reading: September 24, 1999
Effective Date: February 8, 2000
S:\BOARD\09-24-99\ORD99-5.WPD

**BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON**

By: *[Signature]*
Chair

By: Not Present
Commissioner

By: *[Signature]*
Commissioner

COLUMBIA COUNTY
LAND DEVELOPMENT SERVICES
COURTHOUSE
ST. HELENS, OREGON 97051
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Columbia County Board of Commissioners
TA 98-8 - Ordinance No. 99-5
Approved Amendments
Criteria for Zone Changes to RR-2

File Number: TA 98-8, Board Ordinance 99-5

Applicant: Columbia County Land Development Services

Request: Refinements to Ordinance 98-4, Adopting Rural Lands & Creating an RR-2 Zone: In order for the amendments to be in compliance with state law and acknowledged by the Land Conservation and Development Commission (LCDC) Attachment "E", amendments of the Comprehensive Plan, needs to be clarified on explaining the circumstances and process for obtaining a zone change to RR-2.

Amendment #1 Copy the text from the Purpose Section of the Zoning Ordinance into the Comprehensive Plan Amendments. That is: Add the following text at the bottom of Attachment E Page 4:

The proposed Rural Residential - 2 district is designed for rural areas where lot sizes on the effective date of these amendments (insert date) are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre areas.

Amendment #2 Amend Comprehensive Plan Rural Residential Policies, Policy 4F (top of Attachment E Page 6), by adding criteria language:

F. The area is predominately comprised of parcels that are 2 acres or less in size. **Conversions to the RR-2 zoning district may be approved if:**

1) The majority (more than 50%) of the land base in the area subject to the zone change proposal is comprised of lots or parcels that average (4) acres or less in size; and

2) The area under consideration for rezoning is an appropriate area for treatment as a unit in zoning, taking into consideration the area's size, shape, natural and man-made features and existing zoning district and Comprehensive Plan designation boundaries; OR,

3) Notwithstanding numbers 1 and 2 above, in the case of a single parcel of not more than 10 acres or a small area, the area for rezoning is bordered by and surrounded on all sides by residential lots averaging 4 acres or less.

Amendment #3 Amend Planning Criteria - land use: by adding the following wording at the top of Attachment E Page 3, under 2. Existing lot sizes:

2. Existing lot sizes: The 2-acre zone shall be recommended only in areas that currently have predominately 2-acre lot sizes. **For a zone change to RR-2 an applicant must demonstrate that the proposed zone change or comprehensive plan amendment is consistent with and appropriate for the rural character of the area. A rezoning proposal must adequately address the relationship between the proposed density and the existing, authorized land use patterns, zoning, natural features and structures within a relevant rural study area.**

For the purposes of this proposal, parcelization patterns lawfully existing within the study area shall include the relationship of the parcels to the total acreage, the number and size of the parcels, together with the potential for additional parcelization pursuant to existing zoning. In order for parcels to be counted in a parcelization analysis, the parcels must be legal lots or parcels within the meaning of ORS Chapter 92, or, prior to its enactment, previously deeded, legal units of land.

COLUMBIA COUNTY
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June 18, 1999

MEMO

TO: Board of Commissioners

FROM: Glen Higgins
Chief Planner

SUBJECT: Amendments to Ordinance 98-4, Rural Lands & Creating an RR-2 Zone,
In order for the amendments to be in compliance with state law and
Acknowledged by the Land Conservation and Development Commission.
Conversion of RR-5 lands -to- RR-2.

In order to comply with the Department of Land Conservation and Development letter dated March 16, 1999 concerning one deficiency noted in the proposed Plan Amendment (letter is attached), staff suggests processing, reviewing and approving the amendments included in this memorandum. The wording in **bold** is to be added to the existing text of Attachment E (Comprehensive Plan) of Ordinance 98-4.

Concerns raised in the DLCD letter of March 16, 1999 do not require new policy related to the RR-2 zone as stated in Ordinance 98-4, but requires more detail as to how the County will apply the stated policy in any future requests for rezoning to RR-2.

As stated in the adopted amendments to the Columbia County Zoning Ordinance creating the RR-2 zone(Ordinance 98-4; Attachment F; Section 620):

"This district is designed for rural areas where the lot sizes at the time of initial zoning are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre parcel areas" (Underlining for emphasis added).

DLCD is concerned that equally strong language limiting future rezoning to RR-2 be included in RR-2 criteria in the Comprehensive Plan, so that the Plan and implementing zoning district regulations are consistent. In addition, DLCD would like to see language in Plan RR-2 policy addressing a general method for determining existing areas which "are predominately comprised of parcels that are 2 acres or less in size" in evaluating any future requests for RR-2 zoning (Ordinance 98-4; Attachment E; Section 4F).

Option #1 Leave the amendments to stand on their own merit before the Commission’s review. Write a letter to DLCD. expressing this decision.

Staff Comment: Staff does not recommend the “do nothing” option by leaving the amendments to stand on their own merit before the Commission’s review. DLCD. staff has indicated they will recommend to their Commission that clarifications be made to the county plan. A remand for this purpose would be likely.

Option #2 Amend Ordinance 98-4 “Attachment E” with all of the following amendments:

Amendment #1 Copy the text from the Purpose Section of the Zoning Ordinance into the Comprehensive Plan Amendments. That is: Add the following text at the bottom of Attachment E Page 4:

The proposed Rural Residential - 2 district is designed for rural areas where lot sizes at the time of initial zoning are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre areas.

Staff Comment: The Department DLCD. states: “the RR-2 zone’s purpose statement is fairly clear and indicates the county’s intent... As the comprehensive plan and its policies are the basis for a decision to rezone property... The companion comprehensive plan provision ... does not provide adequate guidance.” Staff suggests that one option should be to bring that zoning purpose statement over to the comprehensive plan text.

Amendment #2 Amend Comprehensive Plan Rural Residential Policies, Policy 4F (top of Attachment E Page 6), by adding language of concern provided by the DLCD:

- F. The area is predominately comprised of parcels that are 2 acres or less in size. **For zone changes to RR-2:**
- 1) **To determine the development pattern of an area, the total acreage of the parcels in the study area shall be evaluated rather than only the total number of parcels.**
 - 2) **Conversions to the RR-2 zoning district may be approved if the majority (more than 50%) of the land base in the area subject to the zone change proposal is comprised of lots or parcels less than (4) acres in size.**

3) The area under consideration for rezoning is an appropriate area for treatment as a unit in zoning.

Staff Comment: The DLCD's position is that a method of determining an area's development pattern needs to be incorporated into the process for a zone change. This amendment is a logical methodology to serve the stated purpose of the zone, recognizing existing development patterns. In our March 23, 1999 work session, the Board indicated that elaborate methodologies should be avoided because of confusion and because it would tend to limit the Board's ability to use discretion. This amendment is simple and would require that the average parcel size should be used instead of the median number of particular sized parcels, that at least one-half of the rezoned area is made up of smaller lots, and that the area proposed is not made up of irregular shapes just to meet the standard.

Amendment #3 Amend Planning Criteria - land use: by adding the following wording at the top of Attachment E Page 3, under 2. Existing lot sizes:

2. Existing lot sizes: The 2-acre zone shall be recommended only in areas that currently have predominately 2-acre lot sizes. **For a zone change to RR-2 an applicant must demonstrate that the proposed zone change or comprehensive plan amendment is consistent with and appropriate for the rural character of the area. A rezoning proposal must adequately address the relationship between the proposed density and the existing, authorized land use patterns, zoning, natural features and structures within a relevant rural study area.**

For the purposes of this proposal, parcelization patterns lawfully existing within the study area shall include the relationship of the parcels to the total acreage, the number and size of the parcels, together with the potential for additional parcelization pursuant to existing zoning. In order for parcels to be counted in a parcelization analysis, the parcels must be authorized lots or parcels within the meaning of ORS Chapter 92, or, prior to its enactment, previously deeded, legal units of land.

Staff Comment: This amendment describes what will be required of an applicant to demonstrate how a proposed zone change is consistent with the criteria in the Plan requiring rezoning to RR-2 be limited to areas which are "predominately comprised of parcels that are 2 acres or less in size" and where "a 2 acre minimum parcel size is appropriate to maintain the rural character of the area." (Ordinance 98-4; Attachment E; Section 4E and 4F). This proposed language is proposed for looking at the broader area around the proposed zone change itself.

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**Columbia County Board of Commissioners
TA 98-8 - Supplemental Staff Report**

July 21, 1999

File Number: TA 98-8, Board Ordinance 98-4

Applicant: Columbia County Land Development Services

Request: Refinements to Ordinance 98-4, Adopting Rural Lands & Creating an RR-2 Zone: In order for the amendments to be in compliance with state law and acknowledged by the Land Conservation and Development Commission (LCDC) Attachment "E", amendments of the Comprehensive Plan, needs to be clarified on explaining the circumstances and process for obtaining a zone change to RR-2.

Background:

The Columbia County Board of Commissioners adopted Ordinance No. 98-4 on November 4, 1998 which included amendments to the Comprehensive Plan for Rural Communities and the creation of an RR-2 residential zone. Those amendments were part of the County's Periodic Review Program, Task II. As per ORS 197.644(2), LCDC has exclusive jurisdiction for review and acknowledgment of the completed work task.

In order to comply with the Department of Land Conservation and Development (DLCD) letter dated March 16, 1999 concerning one deficiency noted in the proposed Plan Amendment (letter is attached), staff suggests reviewing and approving the amendments included in this memorandum. County planning staff has worked with DLCD staff in review of and consideration of these amendments. The wording in **bold** is to be added to the existing text of Attachment E (Comprehensive Plan) of Ordinance 98-4.

Concerns raised in the DLCD letter of March 16, 1999 do not require new policy related to the RR-2 zone as stated in Ordinance 98-4, but requires more detail as to how the County will apply the stated policy in any future requests for rezoning to RR-2.

Existing policy, as stated in the adopted amendments to the Columbia County Zoning Ordinance creating the RR-2 zone(Ordinance 98-4; Attachment F; Section 620) is:

“This district (RR-2) is designed for rural areas where the lot sizes at the time of initial zoning are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre parcel areas” (Underlining for emphasis added).

DLCD is concerned that equally strong language limiting future rezoning to RR-2 be included in RR-2 criteria in the Comprehensive Plan, so that the Plan and implementing zoning district regulations are consistent. In addition, DLCD would like to see language in Plan RR-2 policy addressing a general method for determining existing areas which “are predominately comprised of parcels that are 2 acres or less in size” in evaluating any future requests for RR-2 zoning (Ordinance 98-4; Attachment E; Section 4F).

Amendment #1 Copy the text from the Purpose Section of the Zoning Ordinance into the Comprehensive Plan Amendments. That is: Add the following text at the bottom of Attachment E Page 4:

The proposed Rural Residential - 2 district is designed for rural areas where lot sizes at the time of initial zoning are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre areas.

Staff Comment: The Department DLCD. states: “the RR-2 zone’s purpose statement is fairly clear and indicates the county’s intent... As the comprehensive plan and its policies are the basis for a decision to rezone property... The companion comprehensive plan provision ... does not provide adequate guidance.” Staff suggests that we bring that zoning purpose statement over to the comprehensive plan text.

Amendment #2 Amend Comprehensive Plan Rural Residential Policies, Policy 4F (top of Attachment E Page 6), by adding criteria language:

F. The area is predominately comprised of parcels that are 2 acres or less in size. **For zone changes to RR-2:**

1) Conversions to the RR-2 zoning district may be approved if the majority (more than 50%) of the land base in the area subject to the zone change proposal is comprised of lots or parcels (4) acres or less in size.

2) The area under consideration for rezoning is an appropriate area for treatment as a unit in zoning.

Staff Comment: The DLCD's position is that a method of determining an area's development pattern needs to be incorporated into the process for a zone change. This amendment is a logical methodology to serve the stated purpose of the zone, recognizing existing development patterns. In our March 23, 1999 work session, the Board indicated that elaborate methodologies should be avoided. This amendment is simple and would require that the average parcel size should be used instead of the median number of particular sized parcels; that at least one-half of the rezoned area is made up of smaller lots; and, that the area proposed is not made up of irregular shapes just to meet the standard.

Amendment #3 Amend Planning Criteria - land use: by adding the following wording at the top of Attachment E Page 3, under 2. Existing lot sizes:

2. Existing lot sizes: The 2-acre zone shall be recommended only in areas that currently have predominately 2-acre lot sizes. **For a zone change to RR-2 an applicant must demonstrate that the proposed zone change or comprehensive plan amendment is consistent with and appropriate for the rural character of the area. A rezoning proposal must adequately address the relationship between the proposed density and the existing, authorized land use patterns, zoning, natural features and structures within a relevant rural study area.**

For the purposes of this proposal, parcelization patterns lawfully existing within the study area shall include the relationship of the parcels to the total acreage, the number and size of the parcels, together with the potential for additional parcelization pursuant to existing zoning. In order for parcels to be counted in a parcelization analysis, the parcels must be legal lots or parcels within the meaning of ORS Chapter 92, or, prior to its enactment, previously deeded, legal units of land.

Staff Comment: This amendment describes what will be required of an applicant to demonstrate how a proposed zone change is consistent with the criteria in the Plan requiring rezoning to RR-2 be limited to areas which are "predominately comprised of parcels that are 2 acres or less in size" and more specifically "a 2 acre minimum parcel size is appropriate to maintain the rural character of the area." (Ordinance 98-4; Attachment E; Section 4E and 4F). This proposed language is proposed and intended to analyze a broader area around the proposed zone change itself.

BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT

MEETING DATE: - September 22, 1999 Wednesday Regular Session

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Todd Dugdale, Land Development Services Director

**SUBJECT: DELIBERATIONS on AMENDMENTS to the County's
Planned RR-2 Zone To Address the State's Concerns
About Zone Changes to RR-2**

SUMMARY:

The Board held a Hearing on the Amendments on August 18, 1999, which propose certain requirements for a zone change to RR-2. The testimony received, including letters in favor of the amendments addressed the fact that the County needed to proceed diligently with these amendments so that those properties to be included in RR-2 zoning could divide their land. Until these Amendments (Task II of the Work Program) are completed the County does not have any rural residential zones for under 5 acre minimum lot size. Those opposed to the amendments were concerned that their properties were not included in the areas proposed for RR-2 zoning, and that there needs to be a variance process or some method for exception to meet their particular situation. The Board asked staff to look into possibilities to refine wording in the amendments to provide a basis for consideration of properties which may have been inadvertently left out of the original rezoning to RR-2, but which substantially meet the intent of the RR-2 criteria.

ANALYSIS OF "INADVERTENTLY LEFT OUT PARCELS"

The Board requested staff to review and possibly refine wording in these amendments for the purpose of a method of exception, where a person's property was previously allowed by zoning for a 2 acre density, but now the minimum density is 5 acres. Just for some perspective on this issue, the affected area or the total acreage in the county to remain RR-5 (5 acre density) that are located in a community water district is 2,786 acres. This 2,786 acres had the right to divide down to 2 acres, under the old "go below", if it could be shown to be connected to a community water system, although the zoning was and still is RR-5. Perhaps, the old Zoning Ordinance which allowed RR-5 zoned properties to create 2 acre lots if a community water system was available was not good planning for the protection of a rural atmosphere. LCDC recognized this problem, in other counties as well, and amended Goal 11.

The Board must remember when citizens tell us to "fight" LCDC on these density issues, there is

nothing to fight. It is already an adopted State Land Use Planning Goal #11 that states: a county is prohibited from allowing "a higher density for residential development served by a water system than would be authorized without such system".

Without the go-below, if connected to a community water system provision, the County's task has been to identify and define which areas, currently zoned RR-5, are already predominately under the 5 acre density limit of the zone. Then, zone these properties RR-2 to avoid non-conforming use problems. At this point, the County must determine what criteria shall be used to allow future zone changes to RR-2.

Two qualifying factors were brought out through testimony at the August 18, 1999 hearing:

- ▶ The case where the County made a mistake and the property in question really is surrounded on all sides by very small lot sizes. This situation would effectively create a small spot zone of non-conforming lots in opposition to the County's own criteria. Possible wording to address this problem includes:

F. ... Conversions to the RR-2 zoning district may be approved if:

OR. 3) In the case of a single parcel of not more than 10 acres or a small area, the area for rezoning is bordered by and surrounded on all sides by residential lots averaging 4 acres or less.

This added language could allow rezoning of single parcels that are greater than 4 acres, which would not be allowed under criteria 1 of this paragraph. That is why we must use the "or". The staff is not recommending this, but, the Board may want to consider this or something similar.

- ▶ The case where the property owner has made substantial investment in developing the parcel into 2 acre lots, under the old Zoning Ordinance. Staff believes that adding criteria to address this situation is too difficult given all the possibilities. How much investment in infrastructure is substantial? What improvements has the owner made? We must remember LCDC Goal 11 which takes away the County's ability to zone at a higher density because a community water line is present. Do we say that you can count all improvements except the water line extension? What are the infrastructure improvements that have been made on all the other 2,786 acres of RR-5 zoned properties not proposed for RR-2 zoning, which were not made with the intention of developing 2 acre lots? Staff is not comfortable making any suggested changes for the purpose of fixing this type of problem/concern.

ATTACHMENTS:

1. TA 98-8 Supplemental Staff Report (September 16, 1999)
2. March 16, 1999 Letter from Mike Rupp
3. Attachment E: RR-2 Zone Findings and Comprehensive Plan Amendments

REQUESTED ACTION/RECOMMENDATION:

Consider recommended changes developed from the hearing testimony and Board direction; and pass amendments to address State concerns so that Acknowledgment will be forthcoming.

PREPARED BY:

Glen Higgins, Chief Planner

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LAND DEVELOPMENT SERVICES

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Columbia County Board of Commissioners
TA 98-8 - Supplemental Staff Report
Rural Lands and RR-2 Zoning District

September 16, 1999

File Number: TA 98-8, Board Ordinance 98-4

Applicant: Columbia County Land Development Services

Request: Refinements to Ordinance 98-4, Adopting Rural Lands & Creating an RR-2 Zone: In order for the amendments to be in compliance with state law and acknowledged by the Land Conservation and Development Commission (LCDC) Attachment "E", amendments of the Comprehensive Plan, needs to be clarified on explaining the circumstances and process for obtaining a zone change to RR-2.

Background:

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In order to comply with the Department of Land Conservation and Development (DLCD) letter dated March 16, 1999 concerning one deficiency noted in the proposed Plan Amendment (letter is attached), staff suggests reviewing and approving the amendments included in this memorandum. County planning staff has worked with DLCD staff in review of and consideration of these amendments. The wording in **bold** is to be added to the existing text of Attachment E (Comprehensive Plan) of Ordinance 98-4.

Concerns raised in the DLCD letter of March 16, 1999 do not require new policy related to the RR-2 zone as stated in Ordinance 98-4, but requires more detail as to how the County will apply the stated policy in any future requests for rezoning to RR-2.

Existing policy, as stated in the adopted amendments to the Columbia County Zoning Ordinance

creating the RR-2 zone(Ordinance 98-4; Attachment F; Section 620) is:

"This district (RR-2) is designed for rural areas where the lot sizes at the time of initial zoning are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre parcel areas" (Underlining for emphasis added).

DLCD is concerned that equally strong language limiting future rezoning to RR-2 be included in RR-2 criteria in the Comprehensive Plan, so that the Plan and implementing zoning district regulations are consistent. In addition, DLCD would like to see language in Plan RR-2 policy addressing a general method for determining existing areas which "are predominately comprised of parcels that are 2 acres or less in size" in evaluating any future requests for RR-2 zoning (Ordinance 98-4; Attachment E; Section 4F).

*** Changes have been made in Amendments 1 and 2 reflecting testimony and direction of the Board at the August 18, 1999 hearing. These changes are incorporated in the following recommendations:

Amendment #1 Copy the text from the Purpose Section of the Zoning Ordinance into the Comprehensive Plan Amendments. That is: Add the following text at the bottom of Attachment E Page 4:

The proposed Rural Residential - 2 district is designed for rural areas where lot sizes on the effective date of these amendments (insert date) are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre areas.

Staff Comment: DLCD states: "the RR-2 zone's purpose statement is fairly clear and indicates the County's intent... As the Comprehensive Plan and its policies are the basis for a decision to rezone property... The companion comprehensive plan provision ... does not provide adequate guidance." Staff suggests that we bring that zoning purpose statement over to the Comprehensive Plan text.

At the August 18, 1999 hearing concern was expressed about the language in the July 21, 1999 Staff Report which stated "at the time of initial zoning" in the second line above. Staff has changed it to read "on the effective date of these amendments (insert date)".

Amendment #2 Amend Comprehensive Plan Rural Residential Policies, Policy 4F (top of Attachment E Page 6), by adding criteria language:

F. The area is predominately comprised of parcels that are 2 acres or less in size. **Conversions to the RR-2 zoning district may be approved if:**

1) The majority (more than 50%) of the land base in the area subject to the zone change proposal is comprised of lots or parcels that average (4) acres or less in size; and

2) The area under consideration for rezoning is an appropriate area for treatment as a unit in zoning, taking into consideration the area's size, shape, natural and man-made features and existing zoning district and Comprehensive Plan designation boundaries.

Staff Comment: The DLCD's position is that a method of determining an area's development pattern needs to be incorporated into the process for a zone change. This amendment is a logical methodology to serve the stated purpose of the zone, recognizing existing development patterns. In our March 23, 1999 work session, the Board indicated that elaborate methodologies should be avoided. This amendment is simple and would require that the average parcel size should be used instead of the median number of particular sized parcels; that at least one-half of the rezoned area is made up of smaller lots; and, that the area proposed is not made up of irregular shapes just to meet the standard.

At the August 18, 1999 hearing it was noted that the language could be arranged so that it is clear that both criteria shall be met for a zone change, and we needed to clarify that an average of 4 acres was the intent for 50% of the area. The Board also instructed staff to clarify the meaning of "appropriate area for treatment as a zoning unit". These changes are reflected above.

Amendment #3 Amend Planning Criteria - land use: by adding the following wording at the top of Attachment E Page 3, under 2. Existing lot sizes:

2. Existing lot sizes: The 2-acre zone shall be recommended only in areas that currently have predominately 2-acre lot sizes. **For a zone change to RR-2 an applicant must demonstrate that the proposed zone change or comprehensive plan amendment is consistent with and appropriate for the rural character of the area. A rezoning proposal must adequately address the relationship between the proposed density and the existing, authorized land use patterns, zoning, natural features and structures within a relevant rural study area.**

For the purposes of this proposal, parcelization patterns lawfully existing

within the study area shall include the relationship of the parcels to the total acreage, the number and size of the parcels, together with the potential for additional parcelization pursuant to existing zoning. In order for parcels to be counted in a parcelization analysis, the parcels must be legal lots or parcels within the meaning of ORS Chapter 92, or, prior to its enactment, previously deeded, legal units of land.

Staff Comment: This amendment describes what will be required of an applicant to demonstrate how a proposed zone change is consistent with the criteria in the Plan requiring rezoning to RR-2 be limited to areas which are "predominately comprised of parcels that are 2 acres or less in size" and more specifically "a 2 acre minimum parcel size is appropriate to maintain the rural character of the area." (Ordinance 98-4; Attachment E; Section 4E and 4F). This proposed language is proposed and intended to analyze a broader area around the proposed zone change itself.

Amended Attachment E

**RR-2 ZONE
FINDINGS AND COMPREHENSIVE PLAN AMENDMENTS**

COMPREHENSIVE PLAN AMENDMENT:

The following narrative is recommended in the Rural Residential section of the Comprehensive Plan after the text section (p.52):

DENSITIES OF RURAL LANDS -V- URBANIZABLE LANDS

(1000 Friends of Oregon v. LCDC/Curry County)

Urbanizable lands are those lands within a Cities recognized Urban Growth Boundary where public facilities are planned and sewer systems to accommodate urban densities are inevitable in the near future. Those lands outside of a City's Urban Growth Boundary (UGB) are Rural Lands. Rural lands are either resource lands (farming or forestry) or lands for which an exception to a resource goal has been taken. As stated above, part of the initial Comprehensive Plan in 1984, Columbia County took "built and committed" exceptions of Goal 3 and 4 for all lands designated Rural Residential. That is, those lands designated Rural Residential are intended to recognize and allow continuation of existing types of development.

As defined by Statewide Planning Goals: RURAL LANDS are those which are outside the urban growth boundary and are:

- a) Non-urban agriculture, forest or open space or,
- b) Other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

Rural lands in Columbia County do not need an exception to the Urbanization Goal 14. Exceptions taken by Columbia County to Goals 3 and 4, farm and forest, can not generally suffice as exceptions to Goal 14 (Urbanization) because exceptions to Goal 3 and 4 necessitate only a determination that the narrow category of uses, the particular resource uses, are impractical; while exception to Goal 14 necessitates a finding that not merely resource uses, but all other rural uses, are impractical. Columbia County will not take an exception to Goal 14 for any lands designated Rural Residential in the Comprehensive Plan as they are rural in nature not suited for urbanizable or urban use.

The intensity of development in our rural settlement patterns can be characterized by a couple of distinct but separate groupings. For the majority of the County's Rural Residential designation, a 5 acre minimum parcel size is appropriate. This level of density is compatible with nearby resource lands, historical sparse development patterns, small farms or acreage homesites with few public services.

Another rural development pattern in the County consists of areas within water districts where,

historically, a lot size pattern exists at of near 2 acre densities. This second rural development pattern in the exception areas (rural residential) consists of places where historical lot patterns and density of development are somewhat closer together than the wide open 5 acres. Many years ago people who lived in and divided these lands into smaller parcels may have believed that an urban settlement would be forthcoming; or they wanted to sell just home sites with little farm potential; however because of many factors cities thrived elsewhere and they remain rural. These areas have predominate lot size patterns of approximately 2 acres.

This second 2 acre settlement pattern has existed for many years and has become more pronounced in some areas over the last decade when the 2 acre parcel sizes were allowed in the RR-5 zone. This type of settlement pattern is not intended for urban use, is generally quite some distance from urban areas, and has no public sewer available. Instead, these areas are made up of acreage homesite, some small hobby type farms, with limited public services to accommodate their slightly higher density. These predominately 2 acre areas have an appropriate rural intensity of development. They are outside urban growth boundaries, and fulfill a need for some people's open, free and abundant heritage, mixed with old agricultural values and rural life styles.

In 1998, when the new Rural Residential - 2 (RR-2) zone was created, the average lot size of existing parcels in areas to be zoned RR-2 was:

AVERAGE LOT SIZES

	<u>ALL LOTS</u>
Warren Area	2.12 acres
Quincy Area	2.16 acres
McNulty Area	2.06 acres
Laurelwood Area	0.74 acres
Marshland Area	0.37 acres
Columbia City Area	1.84 acres
Fishhawk Lake Area	<u>0.36 acres</u>
Total Lots:	<u>1.86 acres</u>

These averages are from the adopted Residential Zone maps (Option 2). These areas have existing lot patterns of predominately 2 acres or less and has available the other criteria as presented below.

CRITERIA FOR THE PROPOSED RR-2 ZONE:

The following facts and criteria are pertinent to the Columbia County Comprehensive Plan and to the establishment of a new Rural Residential RR-2 Zone with a 2-acre minimum lot size.

Planning Criteria - land use:

1. Current zoning: All lots recommended for RR-2 designation are currently in exception areas in an RR-5 zone, and therefore meet state land use planning regulations for exception areas.
2. Existing lot sizes: The 2-acre zone shall be recommended only in areas that currently have predominantly 2-acre lot sizes. **For a zone change to RR-2 an applicant must demonstrate that the proposed zone change or comprehensive plan amendment is consistent with and appropriate for the rural character of the area. A rezoning proposal must adequately address the relationship between the proposed density and the existing, authorized land use patterns, zoning, natural features and structures within a relevant rural study area.**

For the purposes of the proposal, parcelization patterns lawfully existing within the study area shall include the relationship of the parcels to the total acreage, the number and size of the parcels, together with the potential for additional parcelization pursuant to existing zoning. In order for parcels to be counted in a parcelization analysis, the parcels must be legal lots or parcels within the meaning of ORS Chapter 92, or, prior to its enactment, previously deeded legal units of land.

3. Spot zoning: A preliminary list of draft zone changes based on the above issues was generated and mapped. The mapped areas were checked for spot zoning issues and revised accordingly. Lands recommended for RR-2 are shown on the maps. Lands that met the criteria for RR-2 zoning except for being isolated, non-contiguous areas were not shown and were not recommended.

Planning Criteria - Utilities and Services:

4. Water districts: All lots or parcels proposed for RR-2 zoning will have adequate domestic and fire flow water available from an existing community water district. The County was concerned that projected development in the rural residential areas may occur without an adequate supply of water to accommodate the water need for districts or associations. A 1998 "Warren Bench Groundwater Study" concluded that aquifers serving two of the County's largest water districts are healthy with no draw-down of water levels. The study area covers both Warren and McNulty Water Associations. The report states:

" Based on the data collected, both the upper and the lower consolidated aquifer are maintaining static water levels at or near the recorded record... The consistent water level data also indicates that there is an abundance of water in both aquifers. The recent growth in the study area has not effected the capacity of the aquifers to produce an adequate water supply and the proposed future growth will not cause aquifer decline in the near future. At the present time there

is no reason to amend the zoning in the Warren Bench area or rewrite the Comprehensive Plan."

The "Warren Bench Groundwater Study is available for review at the office of Land Development Service Columbia County Courthouse and the State DLCD.

5. Soils: The soils in all areas proposed for RR-2 have severe limitations for septic tank absorption fields, according to the "Soil Survey of Columbia County, Oregon" (Soil Conservation Service, U.S. Dept. of Agriculture, 1986). However, Columbia County sanitarians, the professionals authorized to decide whether to approve subsurface septic systems, do not oppose the proposed zone changes because each lot must be considered on a case by case basis for development.

Some sites are denied outright because there is no place to adequately accommodate a functioning drain field; some sites are approved for an alternate system; and some areas are able to support densities even greater than one unit per two acres. Based upon this on-going regulation of individual sites for septic system, it seems reasonable to allow development where it is determined to be appropriate.

6. Roads: According to the State Rural Transportation System Plan and Interim Corridor Strategy, June 1997, a level of service (LOS) analysis revealed that traffic operations on major roadways in Columbia County are projected to be generally acceptable in the future, although somewhat more congested than under present conditions. LOS is measured on a scale of LOS A (no traffic delays) to LOS F (considerable delay).

Apiary Road and most of Scappoose-Vernonia Road (county arterials) are expected to operate at acceptable levels of service during the day. Scappoose-Vernonia Road between Scappoose and Cater road is expected to operate at LOS E during afternoon peak hours.

All county collector roads are projected to operate at LOS C or better, except Wikstrom Road which will experience LOS E during afternoon peak hours.

State Highways 47 and 202 will operate at LOS C throughout the day. U.S. Highway 30 will experience LOS E and F in some sections between Columbia City and Rainier and between Rainier and Clatskanie. The remainder of U.S. 30 is expected to operate at LOS C and D throughout the day. The rural sections of Highway 30 south of Deer Island have been identified as needing a reduction in the number of access points to allow the highway to function better.

The proposed RR-2 zoning appears to not exacerbate any of the identified problem areas in the transportation plan, as the RR-2 development would not be in those areas.

7. Fire flows: Discussions with water district staff and local fire departments indicate that provisions have been made for adequate fire flows in most areas. The McNulty Water Association has directly addressed this need by installing water lines and hydrants, as has Quincy/Marshland. Other areas such as Lindberg and Birkenfeld/Mist have enough resources available and sufficiently limited response needs that their service can be said to be adequate without water lines and hydrants..

The only area that presently has a significant lack of fire flow is the Warren

Water District. This area has seen substantial growth and it can be assumed, due to its proximity to Highway 30 and the "spillover" from the Portland metro area, that more will take place in the next 20 years. District policy is to allow fire hydrants only for private use which, according to local fire officials, does not provide adequate water for fire fighting purposes district-wide. However, the Fire Defense Board has identified certain equivalents for fire flow or where flow requirements can be reduced, such as installed sprinkler systems and central alarm systems.

Based on the preceding facts and criteria, the proposed RR-2 zoning (see attached list titled "Final RR-2 Zoning - October 1, 1998") would recognize present residential density, not encourage development beyond that which would occur under existing regulations, assure adequate public services by controlling where and to what scale development will occur, be rural in nature, and be consistent with state laws.

The Rural Residential - 2 district is designed for rural areas where lot sizes on the effective date of these amendments (insert date) are predominately two acres or less. The intent is to recognize existing areas, not to create substantially new two acre areas.

Planning Criteria - Comprehensive Plan Compliance

See the new RR-2 zone and the updated RR-5 zone, which implement the following Comprehensive Plan amendments. Changes to the RR-5 zone are to assure consistency between the two rural residential zones.

COMPREHENSIVE PLAN POLICY AMENDMENTS:

The following changes are recommended in the RURAL RESIDENTIAL section of the Columbia County Comprehensive Plan (p. 53):

"POLICIES: It shall be a policy of the County to:

1. Designate as Rural Residential in the Plan those lands for which a valid exception has been, or can be shown to be, justified, and implement this plan designation through the use of ~~a single Rural Residential (RR-5) zones.~~
3. Establish a ~~five (5) acre lot size in the Rural Residential Zone~~ **with a 5-acre minimum lot or parcel size** where such lands:
 - A. Must rely on a private water system to serve the property.
 - B. Must rely on a private sewage disposal system to serve the property.
 - C. Have access onto a public or private right-of-way **meeting applicable County**

Road Standards.

- D. ~~Are not~~ **May or may not be** within a rural fire protection district.
4. Establish a ~~two (2) acre lot size in the Rural Residential Zone where such lands~~ **with a 2-acre minimum lot or parcel size, where such lands will not create "spot zoning" (a relatively small area with different zoning than its surroundings) and, as determined by the County:**
- A. **are within an existing public or community water district providing adequate domestic and fire flow water** ~~are served by a public or community water system.~~
 - B. **have soils capable of accommodating a subsurface septic system** ~~are served by an individual, or community, sewage system.~~
 - C. **have access onto a public or private right-of-way meeting applicable County Road Standards.**
 - D. ~~are within and are able to~~ **can** be served by a rural fire protection district.
 - E. **a 2-acre minimum parcel size is appropriate to maintain the rural character of the area.**
 - F. **The area is predominantly comprised of parcels that are 2 acres or less in size. Conversions to the RR-2 zoning district may be approved if:**
 - 1) **The majority (more than 50%) of the land base area subject to the zone change proposal is comprised of lots or parcels that average (4) acres or less; and**
 - 2) **The area under consideration for rezoning is an appropriate area for treatment as a unit in zoning, taking into consideration the area's size, shape, natural and man-made features and existing zoning district and Comprehensive Plan designation boundaries; OR,**
 - 3) **Notwithstanding numbers 1 and 2 above, in the case of a single parcel of not more than 10 acres or a small area, the area for rezoning is bordered by and surrounded on all sides by residential lots averaging 4 acres or less.**
8. ~~Permit the clustering of dwellings in a Rural Residential area through the use of the~~
~~Planned Unit Development District.~~

8. **Evaluate capacities of community water sources providing water to residential areas on a periodic basis to determine source stability in comparison to anticipated growth.**