

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending Comprehensive)
Plan Rural Residential Policy 4F to Comply)
With Amended Remand Order No. 001174,) ORDINANCE NO. 00-05
Requiring Adoption of a Goal 14 Exception)
For Up-zoning Rural Lands)

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

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 00-05.

SECTION 2. AUTHORITY.

This ordinance is adopted pursuant to ORS 203.035, 215.050, 215.060, 215.223, 215.283(1)(a), OAR 660-033-0120, and OAR 660-033-0130.

SECTION 3. PURPOSE.

The purpose of this ordinance is to amend the Columbia County Comprehensive Plan, Rural Residential Policy 4F, to comply with Department of Land Conservation and Development Amended Remand Order No. 001174.

The Comprehensive Plan Amendment would require the adoption of a Goal 14 exception in order to Amend the Comprehensive Plan and Map, changing the zoning designation of rural lands from Rural Resource-5 (RR-5) to Rural Resource-2 (RR-2).

SECTION 4. HISTORY

In 1998, Columbia County amended its Comprehensive Plan and Zoning Ordinance to create a RR-2 zoning district by Ordinance No. 98-4, as part of its Periodic Review Program, Work Task II. In 1999, 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 the Department would recommend acknowledgment by the State. In response, the Columbia County Board of Commissioners adopted Ordinance No. 99-5. DLCD has acknowledged Ordinance No. 99-5 as being consistent with the requirements of State Wide Planning Goal 14, with the exception of the policy 4F, controlling zone changes from RR-5 to RR-2, and issued remand

order No. 001174, directing the County to change such policy. In June of 2000, The Land Conservation and Development Commission (LCDC) adopted an amendment to OAR 660, Division 4, effective October 4, 2000, which now requires an exception to Goal 14 for up-zoning of land from RR-5 to RR-2. In response to such amendment, DLCD notified the County of the amendment and issued Amended Remand Order No. 001174, ordering the County to comply with the new OAR Chapter 660, Division 4, by adopting one of two Comprehensive Plan amendment options, by November 15, 2000.

SECTION 5. FINDINGS AND CONCLUSIONS

The Board of County Commissioners adopts the following findings of fact and conclusions of law:

A. As amended by the Land Conservation and Development Commission, OAR 660-004-0040(6) states, "After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14." Such rule requires that up-zoning of designated property from RR-5 to RR-2 is only permitted upon the local government's adoption of an exception to Statewide Goal 14. As directed by DLCD, this rule applies to Columbia County's up-zoning provisions in its Comprehensive Plan, Rural Residential Policy 4F.

B. The DLCD has determined that the County only has two options to comply with the changes OAR 660-004-0040(6). These options are stated in DLCD Amended Remand Order No. 001174, which is attached hereto as Exhibit A, and is incorporated herein by this reference. Therefore, to avoid enforcement action, the County is forced to adopt either Option 1 or Option 2, by November 15, 2000.

C. Option 1, includes a set of threshold criteria that are used in conjunction with taking an exception to Goal 14 to change land zoned as RR-5 to RR-2. This option could be construed as being more restrictive than state law. The threshold criteria essentially restates criteria that must already be addressed in order to take a Goal 14 exception. Amending the Comprehensive Plan to adopt such Option would be redundant and possibly more restrictive than necessary. By adopting Option 1, the County might make it more difficult for applicants to up-zone RR-5 property to RR-2 property. To the contrary, Option 2, requires only that a Goal 14 exception be adopted according to state law before rural residential property may be up-zoned. The Option does not add additional criteria to an applicant's already burdensome task of taking a Goal 14 exception. Therefore, Option 2 is the better Option to adopt.

SECTION 6. AMENDMENT AND AUTHORIZATION.

Columbia County Comprehensive Plan, Rural Residential, Policy 4, is hereby amended as follows (additions are underscored, deletions are struck):

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 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.~~

The conversion complies with the Oregon Administrative Rule requirements for an exception to Goal 14.

SECTION 7. EMERGENCY.

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

DATED this 8th day of November, 2000.

Approved as to Form

By: Sarah Tyson
Office of County Counsel

Recording Secretary

Jan Muenkel

First Reading: 11/8/2000
Second Reading: 11/8/2000
Effective Date: 11/8/2000

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Jack R. Peterson
Chair

By: John M. Stinchard
Commissioner

By: [Signature]
Commissioner

**Department of Land Conservation and Development
Order and Report on Columbia County Periodic Review
Work Task 2 Relating to Goal 14**

DLCD Order No. 001174 Amendment

October 4, 2000

DECISION

The director amends the March 13, 2000 remand order to Columbia County concerning periodic review Task 2, regarding rural residential comprehensive plan Policy 4.

REVIEW CRITERIA

The legal standards that govern department reviews are the Statewide Planning Goals and Oregon Administrative Rules in Chapter 660. The director has found Statewide Planning Goal 14 and the newly adopted OAR 660-004-0040 to be most relevant in this case.

BACKGROUND

The director approved most of Columbia County's Task 2 submittal, but remanded comprehensive plan policy 4.F because the provisions for changing to an RR-2 zone were found to be inconsistent with statewide Goal 14. Subsequently, the Land Conservation and Development Commission adopted an amendment to OAR Chapter 660, Division 4, in June of 2000 (effective October 4, 2000) that supercedes the county's and director's earlier actions.

These amendments directly relate to the issue of changing a rural residential zone density to allow additional development. The new OAR 660-004-0040 says, in part:

(6) After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14.

This rule is effective and directly applies to proposed changes in density in Columbia County. Therefore, the "upzoning" provisions of Policy 4.F, even if revised as directed in the original remand order, are by themselves inadequate to achieve compliance with Goal 14.

AMENDMENTS

DLCD Order No. 001174 is amended as follows. Additions are underscored and deletions are struck. Changes from the original order are indicated by italics.

Remedy: Plan Policy 4 can be made consistent with Goal 14 by amending *it as follows in one of the following ways:*

OPTION 1

4. Establish a Rural Residential Zone 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:

...

- 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 subsections 1, 2, and 3 or 1 and 4 are satisfied:*

1) The conversion complies with the Oregon Administrative Rule requirements for an exception to Goal 14.

~~1) 2)~~ 2) 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 than 4 acres in size; and

~~2) 3)~~ 3) 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) 4)~~ 4) Notwithstanding numbers ~~1 and 2~~ and 3 above, in the case of an area comprised of not more than 10 acres in one or more lots or parcels ~~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~~ than 4 acres in size.

OPTION 2

4. Establish a Rural Residential Zone 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:

...

F. The conversion complies with the Oregon Administrative Rule requirements for an exception to Goal 14.