

Hannah Elliott



From: Lisa Binning <lisa.binning@gmail.com>
Sent: Wednesday, May 22, 2024 2:07 PM
To: Plan
Subject: CUP 217-24-000020 PLNG - Dollar General

CROOK COUNTY

MAY 22 2024

PLANNING DEPT

Good morning:

I know this is a lot and by the nature of your roles are probably familiar with the sources that I'm citing. I know you need to read through all the exhibits and apologize in advance for its length. I do appreciate your thoroughness of addressing all testimonies - pro/con.

Some detail is directly related to the CUP from our own State/County information. Some of these resources are from reviewing farm/forest land, but I'm drawing from the information that falls outside of that and labeled "non-resource".

Source: https://www.oregon.gov/lcd/Commission/Documents/2019-05_Item_6_Attch_A_Report.pdf

Rural Resource Lands Research Report- Attachment A - 2019

Efforts to address the rural resource lands issue should be integrated with other resource lands protection strategies by creating standards which will serve to guide counties in identifying and zoning rural lands which do not meet the definition of agricultural or forest resource lands and do not warrant protection under other Statewide Planning Goals.

"Consider development of a "nonresource/other resource lands" policy that is integrated with resource lands protection strategies, including consideration of carrying capacity, environmental and habitat protection, infrastructure requirements and availability, and other factors. There are currently no standards to guide counties in identifying and zoning lands which do not meet the definition of agricultural or forest resource lands. To date, several stakeholder conversations have helped further define the issue. State agencies, in particular, are identifying issues of mutual interest."

Goal 13: Energy Conservation: Goal 13 encourages communities to look within existing urban neighborhoods for areas of potential redevelopment before looking to expand, to "recycle and re-use vacant land." Energy Use Statewide Planning Goal 13 (Energy Conservation) is primarily concerned with conserving energy through proper land use planning. Goal 13 guidelines discuss promoting energy efficient development, reuse of vacant land, minimizing use of nonrenewable energy sources, and increasing density along high capacity transportation corridors. Rural resource designations may conflict with Goal 13 when located in isolated rural areas. Isolated development may require an increase in vehicle miles traveled, inefficient extensions of energy facilities, and overall lacks the energy efficient compact design allowed in UGBs. Consideration of energy impacts is necessary when designating rural resource areas to ensure these impacts are minimized.

Impacts to State or Local Transportation Facilities Rural resource designations have potential to increase traffic on state and local roads and may even utilize private roads for access. Evaluating potential impacts to transportation systems is vitally important for public safety and is a consideration in determining the fiscal impacts of development which are associated with needed transportation facilities. Counties have adopted road standards which may dictate when a traffic impact study is required and requirements for road improvements. Counties have also adopted fire safety design

standards for roads to ensure that adequate access is provided for firefighting equipment, although these standards may not apply outside of forest and mixed farm-forest zones. The application of county road and fire standards, in conjunction with consideration with the fiscal impact of rural resource land development, would help ensure that development on rural resource lands benefits counties and future landowners. Impacts to Other Public Facilities Rural resource designations also have the potential to increase other public facilities costs on a myriad of public services, such as fire protection, primary and secondary schools, public water service (in areas within special districts providing water service), storm runoff, and waste disposal. It is unclear how a local government would include such considerations in its analysis of carrying capacity issues.

Carrying Capacity Evaluation: A carrying capacity evaluation requires analysis of multiple factors to determine whether potential rural resource land should continue to be protected as resource land in order to meet other Statewide Planning Goals or whether potential rural resource lands are suitable for development and in what form and density. Unless the process in ORS 215.788-794 is utilized, counties are not required to conduct a formal carrying capacity evaluation when designating rural resource lands although they do have to demonstrate compliance with the other Statewide Planning Goals. The rural resource lands approval option in ORS 215.788-794 does require a formal carrying capacity analysis and is the basis for evaluation of potential rural resource lands under this section. DLCD has reviewed available data that can be used to evaluate the effect of development on: • Fish, wildlife habitat, and other ecologically significant lands; • Water quality or the availability of water supply; and • Natural hazards including wildfire, flooding, and landslides. In addition, ORS 215.791 requires consideration of: • Ensuring that development will be rural and not urban in character; • Impacts to farm and forest uses or practices; • Impacts to development in urban areas; • Energy use; • State or local transportation facilities; and • The cost of public facilities or services and the fiscal health of a local government.

Goal 5 is a broad statewide planning goal that covers more than a dozen resources. The resources range from wildlife habitat, to historic places, and gravel mines. To protect and plan for them, local governments are asked to create a number of inventories. Refer to attached Goal 5 Attachment.

ORS 215.791

Review of nonresource lands for ecological significance

- inventory and protection of ecologically significant nonresource lands
- criteria

(1) If a county amends its comprehensive plan or a land use regulation mapping zoning designations under [ORS 215.788 \(Legislative review of lands zoned for farm and forest use\)](#) to [215.794 \(Review of county rezoning designations\)](#), the county shall review lands that are planned or rezoned as nonresource lands to determine whether the lands contain ecologically significant natural areas or

resources. The county shall consider appropriate goals and the "Oregon Conservation Strategy" prepared in September of 2006 by the State Department of Fish and Wildlife.

(2) The county shall maintain an inventory in the comprehensive plan of nonresource lands that contain ecologically significant natural areas or resources and establish a program to protect the areas or resources from the adverse effects of new uses allowed by the planning or zoning changes. The county may use nonregulatory programs to protect the resources including, but not limited to, programs for the transfer of severable development interests to other lands that do not contain ecologically significant resources.

(3) If a county amends its comprehensive plan or a land use regulation mapping zoning designations under [ORS 215.788 \(Legislative review of lands zoned for farm and forest use\)](#) to [215.794 \(Review of county rezoning designations\)](#), the county shall review lands that are planned or rezoned as nonresource lands to determine that the uses allowed by the planning or zoning changes are consistent with the carrying capacity of the lands. The county shall ensure that:

(a) The amount, type, location and pattern of development on lands redesignated as nonresource lands:

(A) Will be rural in character and will not significantly interfere with orderly and efficient development of urban areas in the vicinity;

(B) Will not significantly conflict with existing or reasonably foreseeable farm or forest uses or with accepted farm or forest practices; **and**

(C) Will not lead to significant adverse effects including, but not limited to, adverse effects on:

(i) Water quality or the availability or cost of water supply;

(ii) Energy use;

(iii) State or local transportation facilities;

(iv) Fish or wildlife habitat or other ecologically significant lands;

(v) The risk of wildland fire or the cost of fire suppression;

(vi) The cost of public facilities or services; **or**

(vii) The fiscal health of a local government.

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=175234>

Land Conservation and Development Department

Chapter 660

Division 9
ECONOMIC DEVELOPMENT

660-009-0025
Designation of Lands for Industrial and Other Emplo

(a) Identify serviceable industrial and other employment sites. The affected city or county in consultation with the local service provider, if applicable, must make decisions about whether a site is serviceable. Cities and counties are encouraged to develop specific criteria for deciding whether or not a site is serviceable. Cities and counties are strongly encouraged to also consider whether or not extension of facilities is reasonably likely to occur considering the size and type of uses likely to occur and the cost or distance of facility extension;

(6) Compatibility. Cities and counties are strongly encouraged to manage encroachment and intrusion of uses incompatible with industrial and other employment uses. Strategies for managing encroachment and intrusion of incompatible uses include, but are not limited to, transition areas around uses having negative impacts on surrounding areas, design criteria, district designation, and limiting non-essential uses within districts.

Land Conservation and Development Department

Chapter 660

Division 16
REQUIREMENTS AND APPLICATION PROCEDURES FOR COMPLYING WITH
STATEWIDE GOAL 5

660-016-0005
Identify Conflicting Uses

(1) It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences:

(2) Preserve the Resource Site: If there are no conflicting uses for an identified resource site, the jurisdiction must adopt policies and ordinance provisions, as appropriate, which ensure preservation of the resource site.

(3) Determine the Economic, Social, Environmental, and Energy Consequences: If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites.

Land Conservation and Development Department

Chapter 660

Division 14

APPLICATION OF THE STATEWIDE PLANNING GOALS TO NEWLY INCORPORATED CITIES, ANNEXATION, AND URBAN DEVELOPMENT ON RURAL LANDS

660-014-0040

Establishment of New Urban Development on Undeveloped Rural Lands

(1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Land Conservation and Development Department

Chapter 660

Division 4

INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

660-004-0000

660-004-0010

Application of the Goal 2 Exception Process to Certain Goals

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas that do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

660-004-0020

Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

(c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the

same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

(4) For the expansion of an unincorporated community described under OAR 660-022-0010, including an urban unincorporated community pursuant to OAR 660-022-0040(2), the reasons exception requirements necessary to address standards 2 through 4 of Goal 2, Part II(c), as described in of subsections (2)(b), (c) and (d) of this rule, are modified to also include the following:

(a) Prioritize land for expansion: First priority goes to exceptions lands in proximity to an unincorporated community boundary. Second priority goes to land designated as marginal land. Third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority is given to land of lower capability site class for agricultural land, or lower cubic foot site class for forest land; and

(b) Land of lower priority described in subsection (a) of this section may be included if land of higher priority is inadequate to accommodate the use for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land;

(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land uses with the unincorporated community requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

660-004-0040

Application of Goal 14 to Rural Residential Areas

(1) The purpose of this rule is to specify how Goal 14 "Urbanization" applies to rural lands in acknowledged exception areas planned for residential uses.

(f) "Rural residential areas" means lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Goal 3 "Agricultural Lands", Goal 4 "Forest Lands", or both has been taken.

(g) "Rural residential zone currently in effect" means a zone applied to a rural residential area that was in effect on October 4, 2000, and acknowledged to comply with the statewide planning goals.

(5) The rural residential areas described in subsection (2)(f) of this rule are "rural lands". Division and development of such lands are subject to Goal 14, which prohibits urban use of rural lands.

Land Conservation and Development Department

Chapter 660

Division 22 UNINCORPORATED COMMUNITIES

660-022-0000

Purpose

(1) The purpose of this division is to establish a statewide policy for the planning and zoning of unincorporated communities that recognizes the importance of communities in rural Oregon. It is intended to expedite the planning process for counties by reducing their need to take exceptions to statewide planning goals when planning and zoning unincorporated communities.

(2) This division interprets Goals 11 and 14 concerning urban and rural development outside urban growth boundaries and applies only to unincorporated communities defined in OAR 660-022-0010.

(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development: (A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; **and** (B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

(10) For purposes of subsection (b) of section (4) of this rule, a small-scale, low impact commercial use is one which takes place in an urban unincorporated community in a building or building not exceeding 8,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 4, 000 square feet of floor space.

I'm not sure if we are considered strictly "rural" or if "Unincorporated Communities" applies as well. If so, Dollar General proposes the square footage of the building at 12,687.

Again - thank you,

Lisa

One attachment • Scanned by Gmail



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