

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION OF THE
STATE OF OREGON**

IN THE MATTER OF THE)	
GREATER BEAR CREEK VALLEY)	PROJECT APPROVAL
REGIONAL PROBLEM SOLVING)	ORDER 13-RPS-001830
PLAN)	

This matter came before the Land Conservation and Development Commission (Commission) on November 15, 2012 on a director’s referral in the manner of periodic review set forth in Oregon Revised Statutes (ORS) 197.628 through 197.650 and Oregon Administrative Rules (OAR) chapter 660, division 25, pursuant to *former* ORS 197.656(3) (2007). The Commission, having fully considered Jackson County’s Regional Problem Solving (RPS) Plan pursuant to *former* ORS 197.652 to 197.658 (2007), comments and objections from interested parties, written reports of the director of the Department of Land Conservation and Development (department), and the oral presentations, enters its:

A. Findings of Fact

1. On March 15, 2012, the Commission received testimony on the Greater Bear Creek Valley Regional Plan (Regional Plan) from Jackson County and interested parties. The Regional Plan had been adopted by Jackson County but was not yet a final decision because the participating cities had not yet co-adopted the plan. The Commission provided responses to the county and parties for consideration during final local consideration.
2. On September 18, 2012, Jackson County submitted the final decisions of the Cities of Ashland, Central Point, Eagle Point, Medford, Phoenix, and Talent and Jackson County on the Greater Bear Creek Valley Regional Plan pursuant to *former* ORS 197.656(3). The submittal consisted of amendments to the comprehensive plans and implementing regulations for the seven jurisdictions to enact a regional plan consisting of (1) urban reserve areas for Central Point, Eagle Point, Medford, Phoenix, and Talent; (2) plan and code provisions to implement urban reserves policy; (3) comprehensive plan and code provisions to effect buffers between urban and adjacent agricultural uses; (4) establishment of an agricultural task force; (5) plan provisions to require conceptual land use and transportation planning prior to Urban

Growth Boundary (UGB) amendments; and (6) plan provisions to develop the region in mixed-use/pedestrian friendly form.

3. The department received two objections to the September 18, 2012 submittal. On November 15, 2012, the Commission conducted a hearing on the submittal and received testimony and argument from representatives of the participating jurisdictions, interested parties and one objector. The director's October 24, 2012 report to the Commission analyzed the objections and recommended that the Commission deny them. The Commission adopts the director's analysis, findings and conclusions regarding the objections with one amendment. The amendment included a condition that Jackson County, during its next Comprehensive Plan housekeeping amendment, correct the scrivener's errors identified by an objector in the description of Urban Reserve Area TA-2 in the Regional Plan. The Commission rejects the objections. The director's October 24, 2012 report is attached and made a part of this order.
4. After collaboration between Jackson County and the cities in the region, the participants who were committed to proceed with the requisite comprehensive plan and ordinance amendments necessary to effectuate the Regional Plan signed the Greater Bear Creek Regional Problem Solving Agreement ("Participant's Agreement"). Consistent with applicable version of ORS 197.656(2)(b), the Participant's Agreement must contain:
 - a. Regional goals for resolution of each identified regional problem;
 - b. Optional techniques to achieve the regional goals;
 - c. Measurable indicators of performance toward achievement of the regional goals;
 - d. A system of incentives and disincentives to encourage successful implementation of the techniques;
 - e. A system for monitoring progress toward achievement of the regional goals; and
 - f. A process for correction of the techniques if monitoring indicates that the techniques are not achieving the regional goals.
5. The three identified regional problems are: (1) lack of a mechanism for coordinated regional growth planning; (2) loss of valuable farm and forest land caused by urban expansion; and (3) loss of community identity and developed goals and policies to address those problems.

The subsequent identified regional goals to address the problems are: (1) manage future regional growth for the greater public good; (2) conserve resource and open space lands for their important economic, cultural, and livability benefits; and (3)

recognize and emphasize the individual identity, unique features, and relative competitive advantages and disadvantages of each community within the region.

The Commission determines that the submittal demonstrates agreement among the participants as to regional goals to resolve the identified regional problems as required by *former* ORS 197.656(2)(b)(A).

6. The Participant's Agreement served as the platform for the formal public hearing process in Jackson County. Through the public hearing process, the participants came to agreement on modifications of many of the Regional Plan components in order to better resolve identified regional problems and better address the regional goals.
7. The optional techniques to achieve the regional goals included in the Regional Plan are:
 - a. Coordinated periodic review every 10 years;
 - b. Progress report on jurisdiction compliance with the Regional Plan every five years;
 - c. Population allocation adjustments as needed;
 - d. Increased collaboration on transportation items with the Rogue Valley Metropolitan Planning Organization; and
 - e. Greater collaboration with the Rogue Valley Council of Governments to meet the commitments made in the Regional Plan.

The Commission determines that the submittal demonstrates agreement among the participants as to optional techniques to achieve the regional goals to resolve the identified regional problems as required by *former* ORS 197.656(2)(b)(B).

8. The measurable performance indicators identified as necessary for the achievement of the Regional Plan, and as appropriate for monitoring compliance with the Regional Plan include, but are not limited to, the following:
 - a. Urban Reserve Management Agreements;
 - b. Commitment to achieve minimum residential densities and to develop in a mixed-use/pedestrian friendly form;
 - c. Preparation of conceptual land use and transportation plans to accompany all future UGB amendments;
 - d. Restrictions on particular Urban Reserve Areas;
 - e. Agricultural buffering standards;
 - f. Establishment of an Agricultural Task Force to assess impacts of UGB amendments on the agricultural economy of Jackson County.

The Commission determines that the submittal demonstrates agreement among the participants as to measurable indicators of performance and for monitoring progress toward achievement of regional goals to resolve the identified regional problems as required by *former* ORS 197.656(2)(b)(C) and (E).

9. The factors, mechanisms, or outcomes identified in the Regional Plan that constitute the most compelling reasons for participants to comply with the Regional Plan over the identified planning horizon are as follows:
 - a. Continued regional cooperation may improve the region's ability to respond to challenges and opportunities more effectively;
 - b. Adherence to the adopted Regional Plan may provide the region with a competitive advantage, increase the attractiveness of the region to long-term investment, and improve southern Oregon's profile in the state.
 - c. Adherence to the adopted Regional Plan may produce significant reductions in transportation infrastructure costs;
 - d. Adherence to the adopted Regional Plan will provide participating jurisdictions with predictable population allocations;
 - e. Adherence to the Regional plan may be a rating factor for MPO Transportation Funding. Transportation projects of jurisdictions not adhering to the adopted Regional Plan may be assigned a lower priority by the MPO when considered for funding.
 - f. Participating jurisdictions not adhering to the adopted Regional Plan will need to provide corrective measures in order to have a UGB amendment approved by the county.

The Commission determines that the submittal demonstrates agreement among the participants as to incentives and disincentives to encourage successful implementation of techniques to achieve the regional goals as required by *former* ORS 197.656(2)(b)(D).

10. The Regional Plan contains a monitoring system to ensure compliance with the Regional Plan and future amendments. The monitoring system includes a Regional Plan Progress Report, to be submitted every five years, that addresses compliance with the performance indicators. The Regional Plan also includes an option for coordinated periodic review every 10 years to provide the opportunity for the region to determine whether amendments to the Regional Plan are necessary.

The Commission determines that the submittal demonstrates agreement among the participants as to a system for monitoring progress toward achievement of regional goals as required by *former* ORS 197.656(2)(b)(E).

11. Corrective measures and plan adjustments were also made part of the Regional Plan. The corrective measures indicate that if a particular city is not satisfying the performance measures of the Regional Plan, the city shall propose corrective measures either as part of a Regional Plan Progress Report or as part of an UGB amendment package. Additional corrective measures address UGB measures into non-urban reserve land and future changes to land designations.

The Commission determines that the submittal demonstrates agreement among the participants as to a process for correction if monitoring indicates that the techniques are not achieving the regional goals as required by *former* ORS 197.656(2)(b)(F).

12. The purposes of the rules pertaining to urban reserve area designation and planning include interpretation and implementation of Goal 14, Urbanization: “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.” In review of the Regional Plan, the Commission considered whether the outcome of the plan, notwithstanding any deviations from specific requirements found in any administrative rules, will satisfy this goal as required by *former* ORS 197.656(2)(c).
13. The requirements regarding the amount of land that may be designated as urban reserves are found in ORS 195.145 and OAR 660-021-0030(1). Urban reserves shall include at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year supply provided within the UGB. The Regional Plan designates land for a period of 30 years beyond the 20-year UGB timeframe.
14. Regarding which lands are to be included in an urban reserve, OAR 660-021-0030(2) provides for the analysis methods and approach to identify suitable lands for consideration as urban reserves, and OAR 660-021-0030(3) establishes priorities for inclusion of identified suitable lands as urban reserves. Jackson County used the flexibility in application of administrative rules provided in ORS 197.656(2) regarding the process by which the urban reserves were selected. Sections 4.3.6.4 and 4.4.4 of Jackson County’s adopting ordinance state that the RPS process for selecting urban reserves differed from the urban reserve selection process prescribed by administrative rule, but that the outcome of the process was consistent, on the whole, with the purposes of the statewide planning goals. Sections 4.5.1 through 4.5.15 of Jackson County’s adopting ordinance outline how the applicable statewide planning goals were met.

Chapter 3 of the Regional Plan explains in detail how this selection process took place and, in section 5, how the region's process compares with the administrative rule selection process. The selection of urban reserves by the participating cities and the county was an iterative process whereby the region, prior to determining the region's land needs, first chose to agree on a planning horizon and then to allocate population. Once population was allocated, the region utilized multiple committees to select the urban reserves rather than employing strict adherence to the criteria in OAR 660-021-0030. The region's land needs were calculated once the candidate urban reserve areas were selected.

The sequencing of these events differed from the sequencing outlined in administrative rule and may have resulted in an outcome that was not identical to those that would have been derived from strict adherence to applicable administrative rules. However, the final selection of urban reserves employed consideration of the Goal 14 location factors as required by OAR 660-021-0030(2).

15. The process employed by the participating jurisdictions in establishing urban reserves though not conforming in all respects with applicable administrative rules, resulted in designation of urban reserves that will provide for an orderly and efficient transition from rural to urban land use, accommodate urban population and urban employment inside urban growth boundaries, ensure efficient use of land, and provide for livable communities.
16. Planning and zoning of the lands within the established urban reserves must be consistent with OAR 660-021-0040. The Regional Plan and implementing codes do not rely on the flexibility provided by ORS 197.656(2), and instead comply with the requirements of the administrative rule. To ensure that development and land divisions will not hinder the efficient transition to urban land uses and the orderly and efficient provision of urban services, the Regional Plan contains land division restrictions requiring clustering of development, minimum parcel sizes, and consistency with any adopted conceptual land use and transportation plans.

B. Conclusion

Based on the director's report and oral presentation, the Commission concludes that the Greater Bear Creek Valley Regional Plan submittal satisfies the requirements of *former* ORS 197.652 to 197.658 and complies with statewide planning goals.

THEREFORE, IT IS ORDERED THAT:

The Commission approves the submittal by Jackson County and the Cities of Ashland, Central Point, Eagle Point, Medford, Phoenix, and Talent as being in compliance with the statewide planning goals.

DATED THIS 7 DAY OF MARCH 2013.

FOR THE COMMISSION:



Jim Rue, Director
Department of Land Conservation
and Development

NOTE: Judicial review of this order may be obtained by filing a petition for review within 21 days from the service of this final order. Judicial review is pursuant to the provisions of ORS 197.650 and ORS 197.651.