



Oregon

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October 24, 2012

TO: Land Conservation and Development Commission

FROM: Jim Rue, Director
Josh LeBombard, Southern Oregon Regional Representative

SUBJECT: **Agenda Item 9, November 15, 2012, LCDC Meeting**



REGIONAL PROBLEM SOLVING GREATER BEAR CREEK VALLEY REGIONAL PLAN

I. AGENDA ITEM SUMMARY

A. Type of Action and Commission Role

The matter before the Land Conservation and Development Commission (LCDC or “the commission”) includes amendments to the comprehensive plans and land use ordinances for Jackson County and the cities of Ashland, Central Point, Eagle Point, Medford, Phoenix, and Talent to designate urban reserves in the Greater Bear Creek Valley using the Regional Problem Solving (RPS) process authorized by ORS 197.652-197.658 (2007 edition).

Amendments adopted under the RPS statute are reviewed by the commission “in the manner set forth in ORS 197.628 to 197.650 for periodic review or set forth in ORS 197.251 for acknowledgment.” The region has requested, and DLCD has agreed, for commission review the submittal in the manner of periodic review.

Following Jackson County’s adoption, the county, on behalf of the region, requested that the commission *informally* review the Regional Plan before the participating cities adopted the necessary conforming amendments to incorporate the Regional Plan into their comprehensive plans and implementing ordinances. The commission did so in March, 2012.

The purpose of that meeting was to provide specific feedback to the jurisdictions to establish a higher level of certainty for the remainder of the participants before they began their land use hearing processes. At that meeting it was noted that formal commission review of the Regional Plan would occur when the Regional Plan was adopted by all of the participants in the process.

Subsequent to that meeting all of the participating jurisdictions adopted the necessary conforming amendments to incorporate the Regional Plan into their comprehensive plans and implementing ordinances.

Therefore, the participating jurisdictions have completed all of the prerequisites necessary in order to submit the Regional Plan for approval, which is the purpose of this meeting.

B. Staff Contact Information

If you have questions about this agenda item, please contact Josh LeBombard, DLCD Regional Representative, at (541) 414-7932, or josh.lebombard@state.or.us.

II. SUMMARY OF RECOMMENDED ACTION

The department carefully reviewed the objections from each of the parties who filed in response to the submittal. The department recommends that the participating jurisdictions considered on the whole what they were required to consider, and have adequately explained their decisions. Their decisions are based on substantial evidence in the record as a whole and the agreement reached by the participants in the Regional Plan, the implementing plan amendments, and land use regulations conform, on the whole, with the purposes of the statewide planning goals.

As a result, and for the reasons set out in detail below, the department recommends that the commission approve the Regional Plan.

III. BACKGROUND

A. Recent History

For the commission meeting in March 2012, the department prepared a detailed staff report (included as Attachment D), which analyzed pertinent parts of the Regional Plan, including those parts the department received no comments on. This included the RPS process and compliance with the RPS statute, the urban reserve process and compliance with the Urban Reserve Rule, and plan and code provisions to implement urban reserves policy.

In the staff report the department recommended that the Regional Plan contains all of the elements required by the RPS statute including:

- Regional goals for resolution of each identified regional problem,
- Optional techniques to achieve the goals,
- Measurable indicators of performance toward achievement of the goals,
- A system of incentives and disincentives to encourage successful implementation of the techniques,
- A system for monitoring progress toward achievement of the goals, and
- A process for correction of the techniques if monitoring indicates that the techniques are not achieving the goals.

The department also recommended that the commission find that the RPS statute allows the region flexibility in its process for designating urban reserves, and that the outcomes conform, on the whole, with the purposes of the statewide planning goals. Lastly, the department recommended the commission find that the reserves decision includes both mandatory and optional measures to “ensure that development and land divisions in exception areas and non-resource lands will not hinder the efficient transition to urban land uses and the orderly and efficient provision of urban services.”

In the staff report, the department carefully reviewed the comments from each of the 20 parties who filed in response to the Jackson County submittal. There were several areas where the parties made persuasive arguments, and in such cases the department offered recommendations to amend the submittal. Two additional comments were received by the department after the comment period expired. Those comments were handed out and were addressed at the meeting.

The comments were grouped into three main categories:

1. Location of urban reserve land and farmland protection;
2. Amount of urban reserve land and density;
3. The Collaborative Regional Problem Solving process.

In the staff report, the department provided some suggestions for revisions to the Regional Plan to address what the department considered to be valid concerns. After deliberation on this item, the commission provided positive support overall for the Regional Plan while providing eight specific recommendations for revision. The recommendations are as follows:

1. Eliminate urban reserve PH-2 as an urban reserve.
2. Amend Chapter 5, Section 2.20 of the Regional Plan as follows:

~~Prior to approval of any Urban Growth Boundary Amendment~~ Within six months of acknowledgement of the Greater Bear Creek Valley Regional Plan, Jackson County shall appoint an Agricultural Task Force made up of persons with expertise in appropriate fields, including but not limited to farmers, ranchers, foresters and soils scientists, representatives of the State Department of Agriculture, the State Forestry Department, the State Department of Land Conservation and Development, Jackson County, and a RPS participating city.

The Agricultural Task Force shall develop a program to assess the impacts on the agricultural economy of Jackson County arising from the loss of agricultural land and/or the ability to irrigate agricultural land, which may result from Urban Growth Boundary Amendments. The Agricultural Task Force shall also identify, develop, and recommend potential mitigation measures to offset those impacts. Appropriate mitigation measures shall be applied to Urban Growth Boundary Amendment proposals.

3. Amend Chapter 5, Section 2.5 of the Regional Plan to increase the committed residential density for the city of Medford from 6.5 to 6.6 gross dwelling units per acre for the time period of 2010 to 2035 and from 7.5 to 7.6 gross dwelling units per acre for the time period of 2036 to 2060.

NOTE: The commission requested that the city strive to increase density to the extent possible.

4. Amend Chapter 5, Section 2.9.8 as follows:

PH-5. Development of the portion of PH-5 designated as employment land is restricted to industrial zoning. Prior to the expansion of the Phoenix Urban Growth Boundary into PH-5, the city shall adopt standards to create visual distinction between the city of Phoenix and the city of Medford.

5. Amend Chapter 5, Section 2.9 to add a subsection with language as follows:

PH-1, PH-1a, PH-3, PH-5, PH-10. Prior to the expansion of the city of Phoenix Urban Growth Boundary into any Urban Reserve Area to accommodate employment land need, the region shall agree on a mechanism (such as a Regional Economic Opportunities Analysis) to assist the city of Phoenix in justifying the regional need for urban reserve PH-5.

6. Amend Chapter 5, Section 2 of the Regional Plan to add a subsection with language as follows:

For the purposes of UGB amendments, the amount and type of park land included shall be consistent with the requirements of OAR 660-024-0040 or the park land need shown in the acknowledged plans.

7. Amend Chapter 5, Section 2 of the Regional Plan to add a subsection with language as follows:

Future urban growth boundary amendments will be required to utilize the definition of buildable land as those lands with a slope of less than 25 percent, or as consistent with OAR 660-008-0005(2) and other local and state requirements.

8. The agricultural buffering standards found in Volume 2, Appendix III of the Regional Plan may be reevaluated to determine whether there are conflicts with state law. If conflicts with state law are present, the agricultural buffering standards may be amended so long as the amendments do not reduce the effectiveness of the buffers.

Following the March commission meeting, Jackson County reopened its public hearing process and amended the Regional Plan to adopt all eight recommendations with only one minor modification, which is discussed in Section IV of this report. Consistent with

Jackson County, the cities then adopted the amended recommendations during their proceedings.

Only two objections were filed in regard to this submittal. Both objections are addressed in Section V of this report.

B. The Record for this Proceeding

This staff report, including responses to objections.

1. **Entire Record.** Includes the Jackson County and participating cities public hearing processes and all three volumes of the Regional Plan. (Attachment A, provided on CD). This information can also be found at <http://www.co.jackson.or.us/Page.asp?NavID=3897>
2. **Regional Plan Atlas (Volume III of the Regional Plan).** This atlas is also in the complete record, but is provided as a separate attachment for ease of locating relevant maps. (Attachment B, provided on CD).
3. **Objections.** The department received objections from Katy Mallams and Thomas Lowell The letters of objections are included as Attachment C (provided on CD).
4. **Department Staff Report to Commission (March 2012).** The staff report is included as Attachment D (provided on CD).

IV. DEPARTMENT ANALYSIS

The staff report prepared for the March 2012 commission meeting contains the department's general review and analysis of Jackson County's urban reserves submittal.

Since the county adopted the entire Regional Plan and the participating jurisdictions adopted only the portions of the Regional Plan pertinent to each city, no further analysis is needed at this time besides discussing the one minor modification made to the recommendations provided by the commission in March 2012.

Regarding recommendation 2, as outlined in Section III.A of this report, the following underlined language was added and adopted by Jackson County in addition to the changes recommended by the commission.

Within six months of acknowledgement of the Greater Bear Creek Valley Regional Plan, Jackson County shall appoint an Agricultural Task Force made up of persons with expertise in appropriate fields, including but not limited to farmers, ranchers, foresters and soils scientists, representatives of the State Department of Agriculture, the State Forestry Department, the State Department of Land Conservation and Development, Jackson County, and a RPS participating city.

The Agricultural Task Force shall develop a program to assess the impacts on the agricultural economy of Jackson County arising from the loss of agricultural land and/or the ability to irrigate agricultural land, which may result from Urban Growth Boundary Amendments. The Agricultural Task Force shall also identify, develop, and recommend potential mitigation measures, including financial strategies, to offset those impacts. Appropriate mitigation measures shall be applied to Urban Growth Boundary Amendment proposals.

This additional language simply recognizes a measure that could potentially be used to mitigate for any impacts identified by the Agricultural Task Force. The department recommends that the commission find this amendment to be consistent with the direction provided in March 2012.

V. RESPONSE TO OBJECTIONS

The department's analysis of the two objections to the Regional Plan submittal, with recommendations to the commission, follows.

A. Central Point Urban Reserve Areas

Katy Mallams objected to the distribution of population in the Regional Plan, the amount of high-value farmland proposed by the city of Central Point as urban reserves, the Gibbon Acres area, and Urban Reserve Area CP-6A. Ms. Mallams' objection was similar to the comments submitted for the commission meeting in March 2012. The department responded to those comments in the staff report found in Attachment D.

The comments maintain that the county has approved too much high-value farmland to the west and north of Central Point, specifically in CP-6A and CP-6B, in part because of its choice to develop in a city-centric pattern and its willingness to accept a high level of population. Additionally, the comments indicate that before Central Point adds any high-value farmland to its urban reserves that the city should take in Gibbon Acres, a quasi-urban neighborhood east of the city.

To decrease the need for urban reserve land Ms. Mallams recommends that Central Point allocate a share of population to other cities in the region and assume the "highest possible density" when calculating needed land.

Department Recommendation. The department recommends that the commission deny the objection regarding the amount of high-value farmland in urban reserves around Central Point, the location of the urban reserves, and the need for the city to add Gibbon Acres.

Ms. Mallams offer no specifics in regards to how the Regional Plan violated any statute or rule governing the RPS process or the urban reserve selection process. Therefore, her concerns that the city of Central Point has included too much high-value farmland is not supported by facts.

Regarding the concern expressed about the rural subdivision known as Gibbon Acres, the Regional Plan contains a provision that requires the city of Central Point to adopt an agreement (Area of Mutual Planning Concern) for the management of Gibbons/Forest Acres Unincorporated Containment Boundary prior to the expansion of the city's UGB into any of its urban reserves. The department believes that this is sufficient at this time and that a full incorporation of Gibbon Acres is not appropriate because of 1) the physical separation between the city and Gibbon Acres and 2) the possibility of the White City Unincorporated Area becoming incorporated within the 50 year planning horizon of the Regional Plan, which may include incorporation of the Gibbon Acres area.

B. Talent Urban Reserve Areas

Thomas Lowell objected to the city of Talent urban reserve selection process, specifically regarding the city's failure to include his and abutting property in Urban Reserve Area TA-2. Mr. Lowell based his objection on many items ranging from the violation of various statewide planning goals to insufficient documentation of compliance with existing plans. Mr. Lowell's primary objection was based on transportation concerns; specifically, the need for infrastructure improvements along Rapp Road and the ability to supply access to land to the south.

Department Recommendation. The department recommends that the commission deny the objection regarding the need to add land to Urban Reserve Area TA-2.

Transportation Planning and Infrastructure

Mr. Lowell's objection specifies that a lack of a sidewalk/bike path on Rapp Road constitutes a safety hazard and the Regional Plan does not solve this problem. Mr. Lowell further explains that by including additional land to Urban Reserve Area TA-2, it would ensure that this safety hazard would be fixed by requiring a sidewalk/bike path at the time of development of this land. Additionally, Mr. Lowell contends that the Regional Plan lacks sufficient documentation regarding the access Urban Reserve Area TA-2 provides to the Railroad District land to the south.

Concerning the public safety hazard mentioned by Mr. Lowell, specific infrastructure improvement analysis is typically not completed and not required for this type of long-range planning. While general infrastructure requirements were considered during this process, the concerns raised by Mr. Lowell are more suited for future considerations such as an urban growth boundary amendment, annexation, or facilities planning, when more detail is required and appropriate regarding such improvements.

The primary purpose of this regional planning process was to address the three problem statements identified in the Regional Plan. This was primarily done through determining where the participating cities will grow for the next 50 years. As described in the staff report included as Attachment D, 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. In that staff report the department recommended that the commission find

that the process employed conforms, on the whole, with the purposes of the statewide planning goals.

When considering substantial public testimony on Urban Reserve Area TA-2, the city of Talent and Jackson County both decided to reduce the size of the area proposed for Urban Reserve Area TA-2 down to the minimum size necessary to accommodate likely future transportation needs in the area; primarily to allow for a connection to the land situated to the south. The justification for reducing the size of TA-2 from the originally proposed 74 acres to 6 acres was principally based on reducing the amount of farmland proposed as urban reserve for the city. This is consistent with Goal 2 of the Regional Plan: “conserve resource and open space lands for their important economic, cultural, and livability benefits.” The 6-acre size of TA-2 was determined by city of Talent, which evaluated the existing Railroad District Master Plan and consulted with the Rail Division of the Oregon Department of Transportation to generally allow for enough distance between a potential future intersection on Rapp Road and the existing railroad tracks. If it becomes evident later that Mr. Lowell’s property is needed to ensure that a safe distance is obtained and/or is a preferred option for connectivity to the southerly land, the Regional Plan allows for such amendments.

Amount of Urban Reserve Area land, Density, and Land Priority

Mr. Lowell claims that the reduction of TA-2 from the original 74 acres to the proposed 6 acres results in a shortage of land available to the city of Talent to develop residentially over the next 50 years. He then suggests that this would trigger a need for the city to develop at very high densities. He cites a Rogue Valley Council of Governments’ memorandum to justify his suggestion.

Many assumptions are used to calculate how much land a city will need to accommodate residential demand for a long range plan such as this. A few of the major factors are population growth, people per household, and density. All of these factors will no doubt change over the course of the 50-year timeframe of this Regional Plan. Recognizing that some of the assumptions in this plan will likely not come to fruition exactly, the Regional Plan allows for the city of Talent to amend the plan to add a justifiable amount of residential land at a later date. Through the Regional Plan the city of Talent is only required to develop at the densities outlined in Chapter 5 of the plan. If higher densities are achieved, then the city will not require more land. If only the committed densities are achieved, then the city may need to exercise the amendment process to add more land.

Mr. Lowell also argues that his property “was incorrectly prioritized to be low on the list for urbanization and was characterized as agricultural land.” The department partially disagrees with this assertion. Mr. Lowell’s property is currently zoned Exclusive Farm Use, which is a resource zone designation. Resource land is required by the urban reserves rule (OAR chapter 660, division 21) to be the lowest priority for selecting an urban reserve; therefore in this regard the department disagrees with Mr. Lowell and finds the land was correctly prioritized. However, the urban reserve selection process for the Regional Plan included a group of agricultural experts known as the Resource Lands Review Committee (RLRC). This group provided expert recommendations concerning the quality and viability of agricultural lands considered in urban reserve proposals,

which aided in the selection process. This group identified lands they considered to be crucial to the commercial agricultural land base of Jackson County. This group reviewed urban reserve proposals generally and as such declared the entirety of the original 74-acre TA-2 to be part of the commercial agricultural land base. In this regard, the department believes that, based upon the development, use, and size of Mr. Lowell's property, Mr. Lowell may have been able to make a case that his property should not have been considered as part of that land base. The department finds that Mr. Lowell did not refute the RLRC designation at any time during the local regional planning process. Regardless, because of the resource zoning, his property would still have been considered the lowest priority of land to be added to an urban reserve even without the RLRC's designation.

Insufficient Public Notice

Mr. Lowell provides no specific information as to why he believes that he did not receive proper notice in regards to the actions taken during the public hearing process for the Regional Plan; therefore, no response is necessary at this time.

Factual Errors in Regional Plan

While some of Mr. Lowell's objections regarding minor errors in the Regional Plan relating to Urban Reserve TA-2 appear to be correct, none of those errors are substantive enough to warrant a remand to the city and county to correct. The description of Urban Reserve Area TA-2 found in the Regional Plan was created when the urban reserve was the original 74 acres. The description was not amended appropriately when it was reduced to its current 6 acres. The errors do not substantially affect the Regional Plan.

VI. DEPARTMENT RECOMMENDATION

A. Recommendation

The department recommends that the commission find that the Regional Plan, designating urban reserves in the Greater Bear Creek Valley under ORS 197.652 to 197.658 complies with OAR chapter 660, division 21, the statewide planning goals, and other applicable rules of the commission.

B. Motion

Recommended Motion: I move that the commission accept the department's recommendation, deny the valid objections, and approve the Greater Bear Creek Valley Regional Plan and accompanying plan amendments submitted by Jackson County and the cities of Ashland, Central Point, Eagle Point, Medford, Phoenix, and Talent.

Alternative Motion: I move that the commission remand the Greater Bear Creek Valley Regional Plan and accompanying plan amendments submitted by Jackson County and the cities of Ashland, Central Point, Eagle Point, Medford, Phoenix, and Talent to Jackson County for them to [action], based on [reason].

ATTACHMENTS

- A. Entire Record (provided on CD). This information can also be found at <http://www.co.jackson.or.us/Page.asp?NavID=3897>
- B. Regional Plan Atlas (Volume III of the Regional Plan) (provided on CD)
- C. Objection letters (provided on CD)
- D. Department's March 2012 staff report to LCDC (provided on CD)