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BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

DEPARTMENT OF LAND CONSERVATION )  
AND DEVELOPMENT, )  
Petitioner, )  
vs. )  
COLUMBIA COUNTY, )  
Respondent. )

LUBA No. 87-109  
FINAL OPINION  
AND ORDER

Appeal from Columbia County.

Gabriella I. Lang, Salem, filed the petition for review.

No appearance by Columbia County.

SHERTON, Referee; BAGG, Chief Referee; HOLSTUN, Referee;  
participated in the decision.

REVERSED 03/15/88

You are entitled to judicial review of this Order.  
Judicial review is governed by the provisions of ORS 197.850.

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1 Opinion by Sherton.

2 NATURE OF THE DECISION

3 Petitioner Department of Land Conservation and Development  
4 (DLCD) appeals Columbia County Final Order No. 110-87. This  
5 order approves a comprehensive plan map amendment and zone  
6 change from Forest Agriculture-19 (FA19) to Rural Residential-5  
7 (RR5) for 74.10 acres.

8 FACTS

9 The subject 74.10 acres are in one ownership and are part  
10 of a several hundred acre strawberry farm. The subject  
11 property is comprised of U.S. Soil Conservation Service (SCS)  
12 Class III and IV soils, and is rated cubic foot site class II  
13 for timber production. The subject property is surrounded by  
14 resource land zoned FA19. The property is located two miles  
15 west of the city of St. Helens and can be served by a domestic  
16 water association. The property owner requested the plan  
17 amendment and zone change in order to be able to sell the  
18 property for residential development.

19 FIRST AND SECOND ASSIGNMENTS OF ERROR

20 "The County's findings are inadequate to demonstrate  
21 compliance with any of [the] exceptions standards of  
22 ORS 197.732 and OAR 660-04-020 to OAR 660-04-028, and  
the findings do not support the decision allowing the  
zone change."

23 "The record contains no substantial evidence to  
24 support such findings as are required for an order to  
25 amend a comprehensive plan and zone designation on the  
basis of a goal exception."

26 Petitioner argues that because the subject property is

1 "agricultural land" as defined by Statewide Planning Goal 3  
2 (Agricultural Lands) and "forest land" as defined by Statewide  
3 Planning Goal 4 (Forest Lands), the approved plan map amendment  
4 and zone change required adoption of an exception to Goals 3  
5 and 4 in accordance with the standards of Goal 2, Part II,  
6 ORS 197.732 and OAR 660-04-020 to 660-04-028. Petitioner  
7 argues that adoption of the plan amendment and zone change  
8 violates Goals 2, 3 and 4.

9 Petitioner further argues that the county's findings do not  
10 state facts or a rationale explaining why a goal exception is  
11 justified. According to petitioner, the county's findings  
12 state that the subject property is neither physically developed  
13 nor irrevocably committed to nonresource use, as defined in  
14 ORS 197.732(1)(a) and (b) and OAR 660-04-025 and 660-04-028,  
15 and therefore cannot qualify for a "developed" or "committed"  
16 exception.

17 Furthermore, petitioner claims the county's findings do not  
18 demonstrate the criteria for a "reasons" exception provided in  
19 OAR 660-04-020 and 660-04-022 are satisfied. According to  
20 petitioner, the county found (1) rural residential use in  
21 general could be accommodated on the land in the county already  
22 zoned RR and on land inside the St. Helens UGB; and (2) a  
23 "reasons" exception therefore could be justified only if there  
24 were a demonstrated need for a specific type or density of  
25 housing that could only be accommodated at the proposed site.  
26 Petitioner asserts, however, that the county in fact did not

1 find there is such a need.

2 Petitioner finally argues that the evidence in the record  
3 supports only the conclusion that no exceptions standards are  
4 met, and that the property was correctly zoned AF19.

5 Respondent Columbia County did not appear in the proceeding  
6 before this Board.

7 The county's findings state that the subject property  
8 contains SCS Class III and IV soils and is rated cubic foot  
9 site class II for timber production, and therefore a plan  
10 amendment and zone change to rural residential requires an  
11 exception to Statewide Planning Goals 3 and 4. Record 9.

12 However, the county's order makes no mention of adopting an  
13 exception to Goals 3 and 4. The caption of the order  
14 identifies it as being in the matter of "a Comprehensive Map  
15 Amendment and Zone Change from Forest Agriculture-19 to Rural  
16 Residential-5." The text of the order states only that the  
17 "Comprehensive Plan Amendment and Zone Change request," as  
18 described, is approved. Record 7. The attached description of  
19 the applicant's major plan amendment and zone change request  
20 makes no mention of an exception to Goals 3 and 4. Record 8.  
21 Thus, the county's order does not purport to adopt an exception  
22 to Goals 3 and 4.

23 Furthermore, the county's findings and conclusions do not  
24 purport to demonstrate that applicable criteria for a goal  
25 exception have been met. There are three types of goal  
26 exceptions (generally referred to as "developed," "committed"

1 and "reasons" exceptions) recognized in the statute, goals and  
2 LCDC administrative rules. ORS 197.732(1), Goal 2 - Part II,  
3 OAR 660-04-020, 660-04-022, 660-04-025 and 660-04-028. The  
4 county's findings specifically recognize that the subject  
5 property does not meet applicable standards for a "developed"  
6 or "committed" exception:

7 " \* \* \* The lands in question do not have development  
8 adequate to justify that they are physically developed  
9 to uses other than those permitted in the Forest  
10 Agriculture 19 zone. \* \* \* " Record 10.

11 "DLCD has already advised the County that the  
12 properties cannot be considered physically developed  
13 or irrevocably committed to other uses. Therefore, it  
14 is concluded the proposal can only be approved as a  
15 'reasons' exception to Goals 3 and 4. \* \* \* "  
16 Record 11.

17 As expressed in the above quote, the county concluded that  
18 the only type of Goal 3 and 4 exception which could possibly be  
19 justified for the subject property was a "reasons" exception.  
20 The findings state a "reasons" exception "requires a showing  
21 why this seventy-five acres is necessary for rural residential  
22 uses and why other areas now zoned Rural Residential cannot  
23 reasonably accommodate the County's rural residential needs."  
24 Record 11. The findings also state that there are  
25 approximately 22,000 acres of land zoned RR in the county, an  
26 amount more than adequate to accommodate the county's projected  
27 population growth. id. The findings further state there is  
28 considerable room for residential growth within the urban  
29 growth boundary of the City of St. Helens. id.

30 The county's conclusion with regard to justification for a

1 "reasons" exception is as follows:

2 "The only way the proposed Zone Change can be  
3 justified for rural residential development is to show  
4 that the proposed use has special features or needs  
5 that necessitate its location at the proposed  
6 exception site. There must be a showing that there is  
7 a need for a type or density of housing that can only  
8 be accommodated at the proposed site. For this reason  
9 it is necessary to show a market demand for a housing  
10 need that can only be met at the proposed location.

11 "The only [basis for] approval is to show there are  
12 'reasons' to use the resource land for non-resource  
13 uses. The best way this can be accomplished is to  
14 show a need for a type, or density, of housing that  
15 requires this location." Record 11-12.

16 However, there are no findings in the county's decision  
17 which purport to show a need for a particular type of housing  
18 which requires a location on the subject property. Thus, the  
19 county has failed to demonstrate reasons justifying why the  
20 applicable goals should not be applied, one of the requirements  
21 for a "reasons" exception. ORS 197.732(1)(c)(A); OAR  
22 660-04-020(2)(a).

23 In fact, the only requirement for a "reasons" exception  
24 which is addressed in the county's findings is that "areas  
25 which do not require a new exception cannot reasonably  
26 accommodate the use." ORS 197.732(1)(c)(B);  
27 OAR 660-04-020(2)(b). However, the county in effect finds that  
28 this standard is not met, stating that the 22,000 acres of land  
29 already zoned RR is more than adequate to accommodate the  
30 county's projected population growth. Record 11.

31 In summary, the county's findings (1) recognize that the  
32 subject plan amendment and zone change require an exception to

1 Goals 3 and 4; (2) state that the requirements for a  
2 "developed" or "committed" goal exception, and one requirement  
3 for a "reasons" goal exception, are not met by the appealed  
4 decision; and (3) fail to address the other requirements for a  
5 "reasons" goal exception. The findings therefore are not  
6 adequate to support the challenged decision. The first  
7 assignment of error is sustained.

8 Because the county's findings are inadequate, no purpose  
9 would be served by discussing the additional allegation that  
10 the findings are not supported by substantial evidence. DLCD  
11 v. Columbia County, \_\_\_ Or LUBA \_\_\_ (LUBA No. 86-085; February  
12 25, 1987); McNulty v. City of Lake Oswego, 14 Or LUBA 366, 373  
13 (1986).

14 Sustaining petitioner's first assignment of error regarding  
15 the adequacy of the county's findings to demonstrate compliance  
16 with goal exception standards would require us to remand the  
17 county's decision. However, the county's decision purports to  
18 designate and zone agricultural and forest land for  
19 non-agricultural and non-forest use without adopting an  
20 exception to Goals 3 and 4 and, therefore, is prohibited as a  
21 matter of law. This requires reversal of the county's  
22 decision. OAR 661-10-070(1)(b)(A)(iii).

23 The county's decision is reversed.

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