

LANE COUNTY LAND USE TASK FORCE REPORT

1/26/10 GOAL ONE PROPOSAL TO ELIMINATE "NON-RESOURCE" PLAN AMENDMENT/ZONE CHANGES

Goal of Proposal: To eliminate non-resource plan amendment/zone changes

Consensus on Goal? No. See discussion for positions of each member

Consensus on Proposal? Not attempted

Original Proposal: Changes to Lane Code & RCP to eliminate non-resource plan/amendment zone changes

Consensus Alternate Proposal: None

Potential Measure 49 claims? See 6/7/10 opinion by Stephen Vorhes

Measure 56 notice required? See 6/7/10 opinion by Stephen Vorhes

Discussion:

This issue was considered at the May 3 and May 10 meetings. The author of this proposal is Jim Just of Goal One Coalition, a LCLUTF member. The proposal's goal is to eliminate future non-resource plan amendment/zone changes throughout Lane County. As with the previously considered D & C proposal, some of the discussion regarding support or opposition of the proposal extended to larger policy and societal concerns. This report addresses only those issues specific to the non-resource process. The chair will make a separate report to the Board regarding the discussions on more general policy and societal concerns, which are still ongoing.

The non-resource plan amendment/rezoning process has been rarely used in Lane County, with five applications approved over the last ten years, totaling 179 acres, as shown by the attached compilation by county staff. To obtain approval, among other requirements, applicants must show that the subject property does not meet the definitions of "agricultural land" or "forest land" as found in statewide planning Goal 3 and Goal 4:

Goal 3: Agricultural Lands Definition (OAR 660-015-0000(3))

Agricultural land in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use

patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event.

Goal 4: Forest Lands Definition (OAR 660-015-0000(4))

Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

The author of the proposal believes that non-resource plan amendment/zone changes are too easy to obtain, allowing lands that should properly be retained as resource lands to be re-designated. He believes that essentially, all an applicant needs to do is find an agricultural economist willing to say that the land cannot be farmed profitably, and a forest consultant to say that the land cannot support commercial timber production. He said that although the definition of resource land includes all lands necessary to enable farm or forest practices on surrounding lands, or maintain soil, air, water and fish and wildlife resources, in actual practice these factors have not been enough to prevent a plan amendment/zone change to non-resource. The author of the proposal cited an example from Josephine County in which a non-resource designation was approved despite the proximity of a class 1 stream that contained endangered salmonids. He said that the Department of Land Conservation and Development was considering enhancing the forest land criteria to provide more weight to these factors in future plan amendment/zone change decisions.

Regarding the five applications that have been approved over the past ten years, the author of the proposal stated that Goal One Coalition had fought every one. In response, another member said that nearly all five applications had been thoroughly vetted and nearly all of them had been appealed to the Land Use Board of Appeals. However, there was no evidence presented to the LCLUTF regarding the merits of these five applications, nor did the group discuss any of the applications. It appears to the chair that it would be difficult for the Board to verify the author's contention that these five applications were wrongly decided.

Staff members were asked if any applications had been denied, since no denials were shown on the attached compilation. Staff responded that generally, people do not make a resource land plan amendment/zone change application when staff recommends against it. Task force members were told that staff members discourage such applications on an almost daily basis.

Despite the dearth of recent non-resource plan amendment/zone changes in Lane County, the author of the proposal believes that the potential for future

improper non-resource plan amendment/zone changes is high. He cited the widespread use (and in his opinion, abuse) of this process in some other counties as evidence of what might occur here in the future. Supporters of the proposal believe that all land is important and should be retained in resource land designation because the effects of non-resource rezonings are cumulative.

However, the fact that only five applications have been submitted and only five applications have been approved in ten years, affecting only 179 acres out of Lane County's 2,835,000 acres of resource land, alongside the absence of proof that individual cases have been decided wrongly, was cited by the majority as evidence that Lane County is processing these proposals carefully and that no abuses of the process are occurring.

A majority also believes that the non-resource option should be retained to provide a mechanism to allow farm- or forest-zoned parcels to be redesignated and rezoned for rural residential use when it is shown that they are, in fact, non-resource lands.

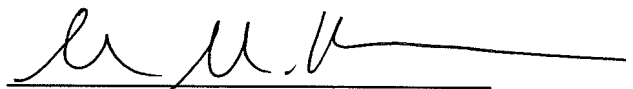
The task force members indicated their level of consensus¹ as follows:

- Mr. Just: 1
- Mr. Emmons: 2
- Ms. Driscoll: 3
- Ms. Nelson: 4
- Mr. Kloos: 5
- Mr. Evans, Mr. Belknap, Mr. Reeder, Mr. Sisson, Mr. Lanfear: 6

Submitted this 22nd day of June 2010, by:



Mia Nelson, Chair



Micheal M. Reeder, Vice Chair

Attachment: Non-resource decision summary prepared by Lane County staff

¹ Consensus Ratings:

- 1 Whole-heartedly agree
- 2 It's a good idea and the person could support the idea of bringing resources toward the motion
- 3 The person was supportive but not likely to want to put resources towards the motion
- 4 The person has reservations but would stand aside
- 5 The person had serious concerns, but could live with the motion
- 6 The person could not participate in the decision and would actively work to block it.



Background Info...cont.

BCC Decision on Non-Resource Plan Amendment/Zone Changes 2000 - 2009

File No.	Acres		From	BCC Decision	Decision Date
PA 01-5881	24		F-2	Approved	06/05/2002
PA 01-5875	30		E-30	Approved	06/23/2004
PA 04-5738	71		F-2	Approved	09/13/2005
PA 03-6037	1	(portion of larger parcel)	F-2	Approved	01/25/2006
PA 05-6249	52		F-2	Approved	12/06/2006

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