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UMATILLA COUNTY
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THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending)
 Comprehensive Plan and) ORDINANCE NO. 2000-10
 Ordinance No. 83-04, codified)
 in Chapter 152, County Land)
 Development Ordinance, for)
 Non-Resource Lands)

WHEREAS the Board of Commissioners has adopted a Comprehensive Plan for Umatilla County and has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance;

WHEREAS an application was received from Lewis and Clark College requesting Umatilla County to amend the Comprehensive Plan to establish a new Non-Resource Lands designation and to amend the County Land Development Ordinance to establish a new Non-Resource (NR) Zone;

WHEREAS, at its July 27, 2000 meeting, the Umatilla County Planning Commission reviewed the proposed amendments to the plan and to the ordinance and recommended that the Board of Commissioners adopt the amendments;

WHEREAS the Board of Commissions held a public hearing on September 5, 2000, to consider the proposed amendments, and at that hearing closed the portion of the hearing for testimony, and continued deliberations of the ordinance to October 18, 2000, and remanded the matter to the Planning Commission to address a number of specific items;

WHEREAS, at its September 28, 2000 meeting, the Planning Commission discussed clarification of the specific items raised by the Board of Commissioners and made recommendation on the items;

WHEREAS on October 18, 2000, the Board of Commissions held a continuation of the hearing and received the recommendations and voted unanimously to adopt the amendments to the Comprehensive Plan to establish a Non-Resource Lands designation and the amendments to the County Land Development Ordinance to establish a Non-Resource Zone;

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains that the Umatilla County Comprehensive Plan, adopted May 9, 1983, be further amended to include the following, and the County Land Development Ordinance, No. 83-04, passed May 9, 1984, be amended to include the sections listed below:

1) AMEND UMATILLA COUNTY COMPREHENSIVE PLAN

To be added to Plan Elements - Findings, Recommended Policies section of Comprehensive Plan under The Planning Process by insertion as number 9 on Page IV-6:

Finding: Lands that do not meet the Statewide Planning Goal 3 definition of "agricultural land" may be designated as Non-Resource (NR) lands.

Policy: Conversion of resource lands (agricultural) to a non-resource designation shall follow procedures described in the Plan Map Section for Non-Resource lands. Umatilla County will not permit lands designated as Non-Resource to be converted to another designation that would allow a more intense level of use.

Changes to be added at page XVIII-3 (words underlined and italicized are to be added)

LAND USE CLASSIFICATIONS

The following discussion lists and describes the various types of general land use depicted on the County Plan Map. Based upon analysis of land productivity capabilities, the majority of land in Umatilla County outside of Urban Growth Boundaries is suited to either farm or forest uses.

The Land conservation and Development Commission's Statewide Goals #3 (Agricultural Lands) and #4 (Forest Lands) specify that such lands are to be preserved and maintained for farm and forest uses unless an exception is taken as prescribed in Statewide Goal #2 (Land Use Planning). The exceptions process is used to present the reasons for determining that certain resource lands may instead be placed in one of the following two categories: (1) land no longer available for farm or forest use; and (2) farm or forest lands needed for other future uses.

Full findings ordinarily required for an exception are not necessary for land determined to be unavailable for farm or forest use (non-resource). Only justification of what the local area feels is "physically developed" or "irrevocably committed" must be outlined. However, if agricultural or forest lands are determined to be needed for other uses, the following reasons for the action must be set forth in the plan:

1. Why these other uses should be provided for;
2. What alternative locations within the area could be used for the proposed uses; . . .

To be inserted at end of Plan Map section as new designation (XVIII-259B):

NON-RESOURCE LANDS

The land use designation of Non-Resource Lands shall be applied to lands that have been determined to be non-agricultural or non-forest lands. These are lands which do not meet the Statewide Planning Goal 3 definition of "agricultural lands." Authorized lots or parcels (but not portions thereof) within a "planning area" which has been designated by the comprehensive plan map for agricultural or grazing uses may be designated Non-Resource (NR), when compliance with the following criteria has been demonstrated.

A minimum "planning area" of 1000 acres is required for a Non-Resource (NR) designation. The Planning Area can be composed of multiple parcels/lots, however, these parcels/lots are not required to be adjacent or contiguous.

A. The land within each lot or parcel within the area proposed to be designated as non-resource land shall:

1. Have predominant (greater than 50%) soil or soils having a Soil Capability Class other than Class I, II, III, IV, V, or VI in the most recent Soil Survey of Umatilla County published by the Natural Resources Conservation Service (NRCS). Soils having both an irrigated and non-irrigated class rating will be rated based on whether irrigation rights are or are not perfected at the time the application is filed;
2. Have lands unsuitable for farm use as defined in ORS 215.203(2), 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; and accepted farming practices.
3. Not consist of land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands;
4. Not consist of land in capability classes other than I, II, III, IV, V, or VI that is adjacent to or intermingled with lands in capability classes I, II, III, IV, V or VI within a farm tract;
5. Not consist of land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4; and
6. The land is not required to buffer urban growth areas from commercial agricultural operations.

B. Land is necessary to permit farm practices on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby

practice or operation to continue or occur. The following rules shall apply when evaluating this criterion:

1. Land use benefits shall include access, water supplies, wind breaks, impact buffering, the minimization of land use conflicts; and the preservation and protection of soil, air, water, watershed, and vegetation amenities;

2. A land use benefit shall be considered necessary for normal farm practices when loss of the benefit will interfere with accepted farm practices by significantly impeding or significantly increasing the cost of the practices or operations.

3. The application shall include a review and assessment of the relationship between the planning area under consideration and surrounding farm practices, and a description of existing farm practices on adjacent or nearby lands, as well as the general geography and potential land uses on the subject property.

4. In the event a farm operator within the review area contends in the record that the map changes could significantly impede or increase the cost of specific practices or operations, and this contention is based upon records, data and other information in the operator's possession, but unavailable to participants in the hearing from public sources, the review body is authorized to require the operator to submit the supporting records, data and other information into the record for examination by the review body and other participants.

5. A planning area shall not be considered necessary to permit farm practices on adjacent or nearby lands if the necessary benefit can be preserved through the imposition of special restrictions or conditions on the use of the subject property which reasonably assure continuation of the benefit.

6. As a condition of the approval of all plan and map changes from resource to non-resource designations, the property owner shall execute an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Umatilla County:

"The subject property is located in an area which was previously designated by Umatilla County for resource uses. It is County policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. Umatilla County, however, does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law."

2) AMEND UMATILLA COUNTY DEVELOPMENT CODE

§152.040 Establishment Non-Resource Zone - Abbreviated Designation NR

Non-Resource Zone

§152.100 Purpose

The NR (Non-Resource) Zone is designed to allow for the development of residential and recreational uses on land that is not suitable for resource uses while protecting open space and natural resource values. The zone is designed to implement the Non-Resource (NR) land use designation of the Comprehensive Plan.

The purposes of the NR zone are to:

- 1) Allow rural development densities, while preserving large areas of open space by clustering development;
- 2) Avoid the creation of new urban areas; and
- 3) Allow very large lot development which preserves sensitive areas and a sense of open space.

§152.101 Applicability

The Non-Resource Zone applies to lands that are designated Non-Resource (NR) in the Comprehensive Plan.

§152.102 Uses Permitted

A. Uses permitted outright.

In a NR Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027: farm use, as defined in ORS 215.203 and set out in §152.043, except livestock feed yards and sale yards, hog or poultry farms and the raising of fur-bearing animals or hogs, and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

B. Uses permitted with a zoning permit

In a NR Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to §152.025:

- (1) Dwelling, single-family;
- (2) Home occupations as provided in §152.573;
- (3) Non-commercial greenhouse or nursery;
- (4) Public or semi-public use;
- (5) Signs Type 2,3,4,5,6.

§152.103 Conditional Uses Permitted

In a NR Zone, the following uses and their accessory uses are permitted conditionally subject to the requirements of §§152.610 through 152.616 of this chapter:

- A. Day care or nursery;
- B. Community center, park, playground or recreational facility owned and operated by a government agency or non-profit community agency or homeowners' association;
- C. Boarding of horses for profit;
- D. Horse-boarding stable;
- E. Utility facility;
- F. Marina; defined as a facility for storing, servicing, launching, mooring and securing of pleasure boats for owners, crews and guests. Moorage facilities with five (5) or fewer berths are excluded from this category.

§152.104 Limitations on Use

Notwithstanding any other section of this chapter, the following limitations and conditions shall apply in a NR Zone:

- A. The total number of all cows, horses, goats, sheep, or similar sized animals over the age of six months allowed on the envelope (developable) portion of a lot shall be limited to one per 1/2 acre. For the purposes of this section, the two per acre requirement shall be cumulative. In other words, on two acres, only four of the animals listed above could be kept.
- B. The number of chickens, fowl or rabbits or similar sized fowl or fur-bearing animals shall be confined on not more than 25 percent of the total envelope area.
- C. Adequate fences and corrals shall be required to keep animals off adjacent lots and open space areas;
- D. Barns, corrals, pens, sheds, and other structures sheltering animals shall be located a minimum of 50 feet from a side or rear property line, 75 feet from the front property line, and shall be restricted to within the development envelope.
- E. All structures and enclosures designed for animals shall be kept reasonably free and clean of flies and accumulated animal waste materials, and shall be subject to county, state, or federal health regulations as may be established.

§152.105 Development/Dimensional Standards

In a Non-Resource Zone, the following standards shall apply:

A. Minimum Planning Area

A minimum Planning Area of 1,000 acres is required. The Planning Area can be composed of multiple lots. These lots are required to be adjacent or within 1,500 feet of each other, and are required to be under single ownership.

B. Density

The minimum density is one dwelling unit per 20 acres. This density, however, is the total density which is applied to the Non-Resource Planning Area in order to determine the total number of units that can be built. This allows the density allowances for one lot to effectively be transferred to other lots if they are in the same Planning Area. This is intended to allow for the coordination of planning for multiple properties under single ownership for the joint planning of conservation and development.

There are two alternative development options that determine actual allowable lot sizes for the NR zone: "clustered" development with 5- to 20-acre minimum lot sizes and "dispersed envelope" development with 20-acre minimum lot sizes. The Cluster Development and Dispersed Envelope Development Options may be combined in the Non-Resource Zone.

C. Open Space

A minimum of 50 percent of the Planning Area shall be reserved as contiguous common open space or as 80-acre minimum lots, or a combination of the two. Common open space is intended for the common use of the residents of a development with necessary and appropriate restrictions.

D. Minimum Lot Sizes, Clustering and Development Envelopes

The minimum lot size in the Non-Resource Zone is 5 acres. All lots in the Non-Resource Planning Area that are 5 acres up to 20 acres in size are required to be clustered in contiguous blocks of at least 8 lots each. "Development Envelopes" with a 1.5-acre maximum size shall be designated on each lot 5 to 20 acres in size. Development Envelopes with a 4-acre maximum size shall be designated on lots larger than 20 acres. Dwelling units and other improvements are only allowed to be built in the Development Envelope, while the rest of the lot shall be permanently devoted to open space through dedicated easements. The open space conservation easement dedication for land on a lot outside of the development envelope does not imply that the property is available for public use, or for use as a common open space for the other residents of the development. It differs in this respect from the common open space required outside of lots (see (C) above).

E. Setbacks, lot coverage and building heights

- (1) No building shall be located closer than 50 feet from any lot line.
- (2) Lot Coverage - the main building and accessory buildings located on any lot shall not cover more than 30 percent of the designated development envelope.
- (3) Building Height - no building or structure shall be erected or enlarged to exceed three stories or more than 45 feet in height.

F. Stream setback

To permit better light, air, vision, stream or pollution control, protect fish and wildlife area, and to preserve the natural scenic amenities and vistas along the streams, lakes and wetlands, the following setbacks shall apply:

- (1) All sewage disposal installations, such as septic tanks and septic drainfields shall be set back from the mean high-water line or mark along all streams, lakes or wetlands, a minimum of 100 feet measured at right angles to the high-water line or mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the Department of Environmental Quality finds that a closer location will not endanger health, the Planning Director may permit the location of these facilities closer to the stream, lake or wetland, but in no case closer than 50 feet.
- (2) All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams, lakes or wetlands, a minimum of 100 feet measured at right angles to the high-water line or mark.

§152.106 Site Plan Review

The following procedures and content shall be included and followed when a development proposal in the Non-Resource Zone is submitted for consideration by the Planning Commission:

A. Submission of Cluster Development Proposal; Procedures

- (1) Prior to submission of a tentative plan for a development, the applicant shall request the Planning Director to arrange a pre-application conference. The request shall include three copies of a preliminary sketch of the proposal and other general information needed to explain the development. The conference shall be held within 10 working days of the filing of the request and shall provide for an exchange of information regarding procedures, applicable elements of the Comprehensive Plan, zoning and development requirements, and such technical and design assistance

in better land practices and techniques that will aid the applicant in preparing a tentative plan.

(2) Following the pre-application conference, the applicant shall file with the Planning Department a complete application form as provided by the Planning Department and 20 copies of the tentative plan with the required fee;

(3) On receipt of the completed application, the Planning Director shall schedule a public hearing before the County Planning Commission within 45 days of receipt of the application;

(4) The Planning Director shall furnish a copy of the tentative plan to all affected city, county, state and federal agencies and special districts, with a request for their review and written comments;

(5) Failure of an agency or district to provide written comments to the Planning Director concerning a development within 10 working days after furnishing thereof may be deemed a recommendation of approval unless the agency or district has filed a written request for an additional review period. However, the additional review period shall not exceed the date of the Planning Commission hearing.

B. Statement of Intentions for Development; Content

The applicant for a development in the Non-Resource Zone shall supply a statement or statements which describe the applicant's intentions for the development of the property and shall include, but is not limited to:

(1) Type of housing;

(2) A statement of the applicant's intention with regard to the future selling, leasing, and use or maintenance of all, or portions of the development such as common open space, dwelling units and the like;

(3) If common open space is to be deeded to homeowners' association, a declaration of covenant and restrictions that will govern the association shall be submitted;

(4) Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed land division and the name of the engineer(s) or surveyor(s) and the date of the survey, if any;

(5) Proof of record ownership of the tract and the representative's authorization;

(6) Legal description of the tract;

(7) Present and proposed uses of the tract including all areas proposed to be dedicated to the public.

C. Statement Plan Map and Tentative Plan Information

(1) The tentative plan map for a development in the Non-Resource Zone shall contain the following information:

- (a) Date, north point and scale of drawing;
- (b) The scale of the drawing shall be a standard scale.

(2) The following information shall be shown on the tentative plan:

(a) Location and width of any wet area, marshes, springs, ponds, intermittent or perennial streams, rivers, lakes and an indication of the direction of water flow on and abutting the tract;

(b) Location of any natural features such as open meadows, rock outcroppings, wooded areas, and agricultural lands which may affect the proposal;

(c) Location and direction of deer and elk migration routes, if applicable;

(d) Location of known or identified historic buildings, scenic views, archeological sites or natural areas;

(e) Location, name or present width of existing roads;

(f) Location of steep slope areas over 25%;

(g) Location, width and purpose of any easement of record on or serving the tract;

(h) Location and type identification of all utilities on or serving the tract;

(i) Ground elevations as related to a bench mark or other point of reference approved by the County Surveyor, shown by contours at minimum intervals as follows:

(i) Slopes of 0-15%, five foot intervals;

(ii) Slopes of 15-20%, 10 foot intervals

(iii) Slopes of 20% or over, 20 foot intervals;

(j) Scaled location and present use of all existing structures proposed to remain on the property after division;

(k) The location of at least one temporary bench mark within the

land division;

(l) The approximate location of areas subject to periodic flooding;

(m) Prevailing wind direction in the summer and winter;

(n) Enough information on land areas adjacent to the proposed development, including land uses, zoning classifications, densities, circulation systems, public facilities and significant landscape features, to indicate the relationships between the proposed development and the adjacent areas.

(o) Changes to navigable streams, lakes or marshes, if any;

(p) Scaled location of any proposed facilities or buildings located beyond 100 feet of streams, lakes or marshes;

(q) Scaled location of proposed facilities or buildings located within or adjacent to open meadows, known or identified deer or elk migration routes, and identified scenic views, archeological sites or natural areas;

(r) Location, proposed name, right-of-way width and approximate radii of curves of each proposed road and any projected roads that connect with existing or proposed roads on adjacent property;

(s) Location, width and nature of all proposed easements;

(t) The location and nature of other utilities not requiring easements (e.g. street lighting, and the like);

(u) Location and approximate dimensions of all lots or parcels, the minimum lot or parcel size;

(v) Proposed domestic or community water supply system, whichever is applicable;

(w) Proposed method of sewage disposal;

(x) Proposed methods of surface water disposal and any other proposed drainage easements;

(y) Location of areas proposed for landscaping and/or areas to be maintained for buffering or screening;

(z) Proposed methods of fire protection including water sources;

(za) Proposed consideration for solar and wind energy utilization or other energy conservation techniques;

(zb) The proposed treatment of the perimeter of the development including techniques to be used for buffering, screening and fencing;

(zc) The location and size in acres of all areas to be conveyed, dedicated or reserved as common or public open spaces or recreational areas.

D. Criteria for Approval

In granting approval of a tentative plan for a development, the Planning Commission shall make the following general findings:

(1) The development contributes to orderly development and land use patterns in the area, and provides for the preservation of open spaces and natural resources;

(2) The development will be compatible with surrounding uses and will not create an excessive demand on public facilities and services required to serve the development;

(3) In addition to the above listed general findings, the Planning Commission shall determine if the following criteria has been met:

(a) That the lots are congregated in such a way as to have large areas for open space which are to be kept permanently free of buildings and not ever redivided for sale or building development;

(b) The area dedicated for common open space be approved by the Planning Commission prior to adoption of a final map;

(c) Development Envelopes shall be situated on lots to reduce impacts on natural resources, surrounding properties, and visual impacts on neighboring lots.

(4) That the maintenance or permanence of common open space required in the subdistrict be assured through the owner or developer agreeing to one of the following:

(a) Owner/developer agreeing to maintain the permanent open space and any buildings, private roads, structures or improvements which have been placed within the cluster development;

(b) Convey the open space to a homeowner's association, subject to covenants running with the land that restrict the common open space to the uses specified in the final development plan, and which provide for the common open space in a manner which assures its continuing use for its intended purpose.

(5) If the common open space is to be deeded to a homeowner's association, the declaration of covenants and restrictions shall include:

(a) The homeowner's association must be set up before the homes are sold. Prior to such sales, the property owner assumes the responsibility of that share attributable to each unsold home defined in the homeowner's association;

(b) Membership must be mandatory for each home buyer and any successive buyer;

(c) The open space restrictions must be permanent, not just for a period of years;

(d) The association shall be responsible for securing liability insurance, for payment of local taxes, and for the maintenance of recreational and other facilities;

(e) Residence owners shall pay their pro rata share of the cost of insurance, local taxes, and maintenance of the common open space; the assessment levied by the association can become a lien on their property;

(f) The association must be able to adjust the assessment to meet changed needs.

(6) The development plan will provide, to the greatest extent possible, for the preservation of significant landscape features, historic sites and landmarks, as well as for the integration of the proposed development with the environmental characteristics of the site and adjacent areas. The Planning Commission may require that significant landscape features and historical sites be preserved as part of the common or public open space of the project;

(7) The development plan will discourage excessive site clearing of topsoil, trees and natural features before the commencement of construction operation. The Planning Commission may require the applicant to submit a grading plan detailing proposed excavation, earth-moving procedures and other changes to the landscape, in order to ensure preservation of the character of the area to be retained in open space, and to protect fish and wildlife habitat and water quality of streams, lakes, ponds and springs;

(8) The development plan will avoid the siting of residential and non-residential buildings, and roads in areas subject to land slides, areas with average slopes greater than 25% and areas with unstable soil formations. The Planning Commission may require that all floodplains be preserved as permanent common open space,

and may require that other natural hazard areas be included in the common open space of the proposed development and be left unimproved or improved to assure minimization of the hazards;

(9) The development plan will avoid the siting of residential and non-residential buildings and their accessory uses including fencing within or near identified migration routes of deer and elk. The Planning Commission may require a special setback of an appropriate distance from these migration routes upon consultation with the Fish and Wildlife Department;

(10) The development plan will be compatible with the adjacent development or natural resources and shall minimize adverse impacts of the proposed uses and structures by buffering, screening or use of topographic barriers. If topographic or other natural barriers do not provide reasonable privacy for existing uses, highway or natural resources adjacent to the proposed development, the Planning Commission shall require one or more of the following:

(a) A special setback or setbacks of residential and non-residential structures located on the perimeter;

(b) Residential and non-residential structures located on the perimeter of the development be screened by fencing, landscaping or other natural or man-made materials;

(11) The development plan will consolidate utility distribution lines within the road system and bury the cables and distribution points except as follows:

(a) Where topography or other conditions will not permit the burying or consolidation of utility distributions lines within the road system, the location and method of delivery of these utilities shall conform to an alternative arrangement authorized by the Planning Commission;

(b) The Planning Commission, in considering an alternative arrangement of utility design and location, shall insure that said alternative will blend in with the surroundings and will not remove an excessive amount of vegetation.

E. Improvement Agreement; Bond Requirement

In order to insure that a development in the Non-Resource Zone will be developed according to the conditions required by this chapter or the County Planning Commission, a bond or bonds shall be required unless the conditions are met prior to the filing of a final plan map.

F. Phasing Plan

The Planning Commission may allow a development in the NR Zone to be developed in phases provided that the phasing plan is agreed to and made a part of the conditions at the time of approval of the tentative plan.

G. Final Development Map

An applicant for a development in the NR Zone shall file a final map pursuant to §152.669 of this chapter within one year of the date of approval of the tentative map. Failure to file a final map within the one-year time limit following the tentative map approval will require that a new tentative plan be resubmitted to the Planning Commission that would make any revisions considered necessary to meet changed conditions.

H. Conservation Easements for Open Space

The final plan must have provisions that all land located in lots but outside of designated development envelopes is preserved permanently as undeveloped open space via conservation easements. The conservation easement dedication is not for common open space and does not imply that the property is available for public use or for use as common open space for the other residents of the development.

DATED this 18th day of October, 2000.

UMATILLA COUNTY BOARD OF COMMISSIONERS

ABSENT

William S. Hansell, Chairman

Dennis D. Doherty

Dennis D. Doherty, Commissioner

Emile M. Holeman

Emile M. Holeman, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS

Jean Hemphill

Records Officer

