

Background Report

February 18, 2015

To: Project Management Team

Cc: Community Advisory Committee

From: Matt Hastie

Re: Comprehensive Plan Policy Issues List - Farm, Forest, Rural Economy & Land Use

OVERVIEW

This report presents a list of policy issues that have been identified for further discussion by the Community Advisory Committee (CAC) and subcommittees. The issues are related to policies addressing exclusive farm and forest land, rural economy, and other land uses. Issues are described briefly in this report in order to identify them for the CAC and allow committee members to begin reviewing and prioritizing them for future discussions, particularly in the subcommittees.

The basis for identifying these issues included:

- Has been identified as an issue of concern by community members.
- Represents a frequent or long-standing area of concern for County staff and/or decision makers.
- Involves a policy area or regulatory requirement where the County has discretion and wants to explore multiple options.
- Has been identified as a policy gap during an initial review of the existing Comprehensive Framework Plan and Rural Area Plans.

ISSUE DESCRIPTIONS

FARM, FOREST AND RURAL ECONOMY

Agri-tourism and mass gatherings. State law allows counties to adopt provisions for agri-tourism and other commercial events or activities that are related to and supportive of agriculture in the Exclusive Farm Use zone. Different state rules allow for quarterly events under the mass gatherings and other gatherings provisions in statute (mass and other gatherings are allowed subject to prescribed conditions and are not required to be associated with farming or any other use of the land). Some activities such as hay rides or corn mazes are permitted as promotional activities at farm stands but are limited so that fees collected from these activities amount to no more than 25% of the total annual farm stand sales. Wineries also may qualify for

certain events and commercial activities subject to prescribed conditions. Currently, Multnomah County has not adopted the optional agri-tourism provisions but does allow the other events and activities as prescribed in state law. Counties have a certain amount of discretion to craft specific requirements related to these uses, including the extent to which they are allowed and the applicable review process.

Questions: Should the County continue to be more restrictive than the state allows, allow for the maximum permissible level of these activities prescribed in state law, or be more restrictive than both the state and current County requirements? Should agri-tourism be allowed in only certain areas of the County? What is an appropriate review level and what criteria should be considered in crafting applicable requirements?

Farm stands and other similar uses directly linked to farming operations. State law permits counties to allow for farm stands as outright permitted or review uses along with related promotional activities such as hay rides, corn mazes or other promotional activities. The state also allows counties to regulate the size and impacts of promotional activities at farm stands. The County currently allows farm stands that include promotional activities as a Review Use in the EFU zone.

Questions: Should current requirements be changed to reflect a more refined list of promotional activities? Should the County develop additional review requirements for managing the size and impacts of promotional activities at farm stands? If so, what factors or criteria should be considered in crafting applicable requirements?

Home Occupations. State law allows for certain types of “home occupations” (businesses occurring within a residence) in farm and forest zones as conditional uses. Counties can choose whether or not to allow these uses in these areas and may decide how to regulate their impacts on surrounding uses. In addition, some commercial activities can be permitted outright within a residence if they operate in a manner that is indistinguishable from the residential use of a dwelling. Currently, Multnomah County allows home occupations in farm and forest zones; the level of review depends on the scale of the home occupation (Type A, B or C). Existing County policies and ordinances either meet, or are more restrictive than, state mandates; therefore, there is some flexibility available where County standards now exceed state mandates.

Questions: Should the County support allowing home occupations in farm and forest zones beyond the extent prescribed by state law? If so, what types of impacts should be regulated?

Farm and Forest Dwellings. State law allows a new dwelling to be established on forest zoned land through three possible methods (large acreage, template, or heritage tract). New dwellings on farm zoned land are permitted in conjunction with an established farm operation subject to gross farm income and/or demonstrated need for an additional farm dwelling. Generally speaking, the County’s policies and implementing ordinances are consistent with state laws. However, County rules for siting a template dwelling and prohibiting siting a dwelling in big-game winter habitat are slightly more restrictive than the state. As such, the County may have

some flexibility to review and possibly adjust county implementation of those rules and still be consistent with state law.

Questions: Should the County adjust policies and implementing ordinances to allow the maximum amount of dwellings consistent with state law?

LAND USE

Accessory Dwelling Units or second dwellings. State requirements are very prescriptive regarding the types and number of dwellings allowed in farm and forest zones, including accessory dwelling units (ADUs). Counties have limited discretion in this matter from a policy perspective beyond being more prescriptive than the state. Currently, Multnomah County allows ADUs as temporary health hardship dwellings in farm and forest zones and accessory farm dwellings and farm help dwellings for a relative of the farm operator in farm zones. Support for ADUs is not established in any plan policies.

Questions: Should the County allow ADUs in farm and forest lands as prescribed by state law? If so, should the County be more restrictive than what state law allows? Outside of the farm and forest zones, should the County allow ADUs? If so, what would be an appropriate review process for ADUs and how should they be regulated in terms of size, design, location and other possible restrictions?

Parcel Aggregation. The County currently has policies and zoning standards that require aggregation or grouping of contiguous lots (i.e. lots directly adjacent to each other) under the same ownership within the EFU and CFU zones. This policy impacts the number of dwellings that a property owner may build because state law generally only allows one dwelling unit per legal lot of record. The aggregation requirement is unique to Multnomah County and as such, the County has flexibility to remove aggregation requirements and still be consistent with state law.

Questions: Should the county adjust policies and standards to remove the aggregation requirement thereby allowing additional dwellings if the land meets lot of record requirements, or should the county maintain the current aggregation requirement?

Permitting Processes. A number of comments from open house participants expressed frustrations with the current permitting process and called for changes in the process to provide some additional flexibility and clarity. Among the ideas that have been offered for streamlining the land use permitting process are these:

- Give the Planning Director more discretion to interpret and administer the code
- Provide a simple track for applications that meet all the code provisions
- Development proposals that can't meet all the standards should be referred to a hearings board or planning commission to determine whether the intent of the standards are met
- Appeals should go to a citizen board or county commissioners rather than an attorney hearings officer.

Other possible issues. Possible additional issues identified by staff that may rise to the level of a policy issue could include:

Restrictions on commercial and industrial uses in rural centers. New industrial or commercial businesses in rural centers, such as Orient, Springdale and Burlington, are only allowed if the use is primarily supporting the needs of residents and tourists of the immediate rural area. This limitation has prevented some businesses from locating in a rural center because their service area is broader than residents and tourists of the immediate rural vicinity.

Question: Should the limitation be relaxed to open up rural centers to a wider range of businesses than currently allowed?

Rural design review standards. Planning staff note that proponents of commercial type uses frequently question the necessity of existing design standards, such as parking and landscaping.

Question: Should design review standards, particularly those related to parking and landscaping for rural commercial businesses, be similar to what is required in urban settings, or something less?

Non-conforming uses. Planning staff note that these standards are relatively discretionary and should be clarified and possibly tightened up.

Question: Should there be relatively more or less flexibility to alter or expand existing non-conforming uses?

The CAC should review this list of issues and identify those issues most important to them or their constituents. This information will help the project team, CAC and subcommittees prioritize their time and energy as they review and discuss each issue and associated potential amendments to County policies.