

HOOD RIVER COUNTY

EXCEPTIONS DOCUMENT

1984

(Amended 12/17/84)

COUNTY EXCEPTIONS DOCUMENT

The Hood River County Comprehensive Land Use Plan is the basic instrument used for County land use planning. It is law and is utilized to control and direct the use and development of land use activities on private lands within the County. A comprehensive plan means a generalized coordinated land use map and policy statement of the County. Such a plan is an expression of public policy in the form of a policy document, generalized plan map, zoning map, implementing ordinances and supportive background reports.

Overall, Hood River County's Comprehensive Plan consists of the following elements:

- a. County Goal, Policy, Strategy, and Land Use Designation Document: (In short, County Policy Document.) This is a statement of public policy; as such it is one of the major documents to be used for land-use decisions.
- b. Comprehensive Plan Map: Implement the County Policy Document through general delineations of land-use designations on a plan map. The plan map graphically shows where land use activities (e.g., residential, commercial, industrial, agricultural, forestry, etc.) will occur within the planning period (year 2000).
- c. Zoning Map, and Zoning and Subdivision Ordinances: The zoning maps and ordinances implement in detail, the comprehensive plan map. The zoning is more graphically specific in determining land use activities and the zoning and subdivision ordinances provide standards and criteria that control development of land use activities.
- d. Background Reports: These reports contain inventories, detailed information, analysis, etc., concerning each Statewide Goal. This information provides the basis in development of the Policy Document, the plan and zoning delineations and justification for the zoning and subdivision ordinance text.
- e. Exceptions Document: Presents background data analyzing and justifying why specific areas are either built out and committed to residential, commercial and industrial use or why there is a need to accommodate additional development (residential, commercial or industrial) in specific areas.
- f. Transportation System Plan (TSP): Implements the County's TSP, the City of Hood River's TSP; and the City of Cascade Locks' TSP to comply with state-wide Planning Goal #12, OAR 660-012 and Periodic Review, OAR 660-025. The Plan was adopted as HRC Ordinance #249 on July 21, 2003.

This document is the County Exceptions Document. Copies of the other above Comprehensive Plan elements are available at the Hood River County Planning Department, Hood River County Courthouse, Hood River, Oregon, 97031.

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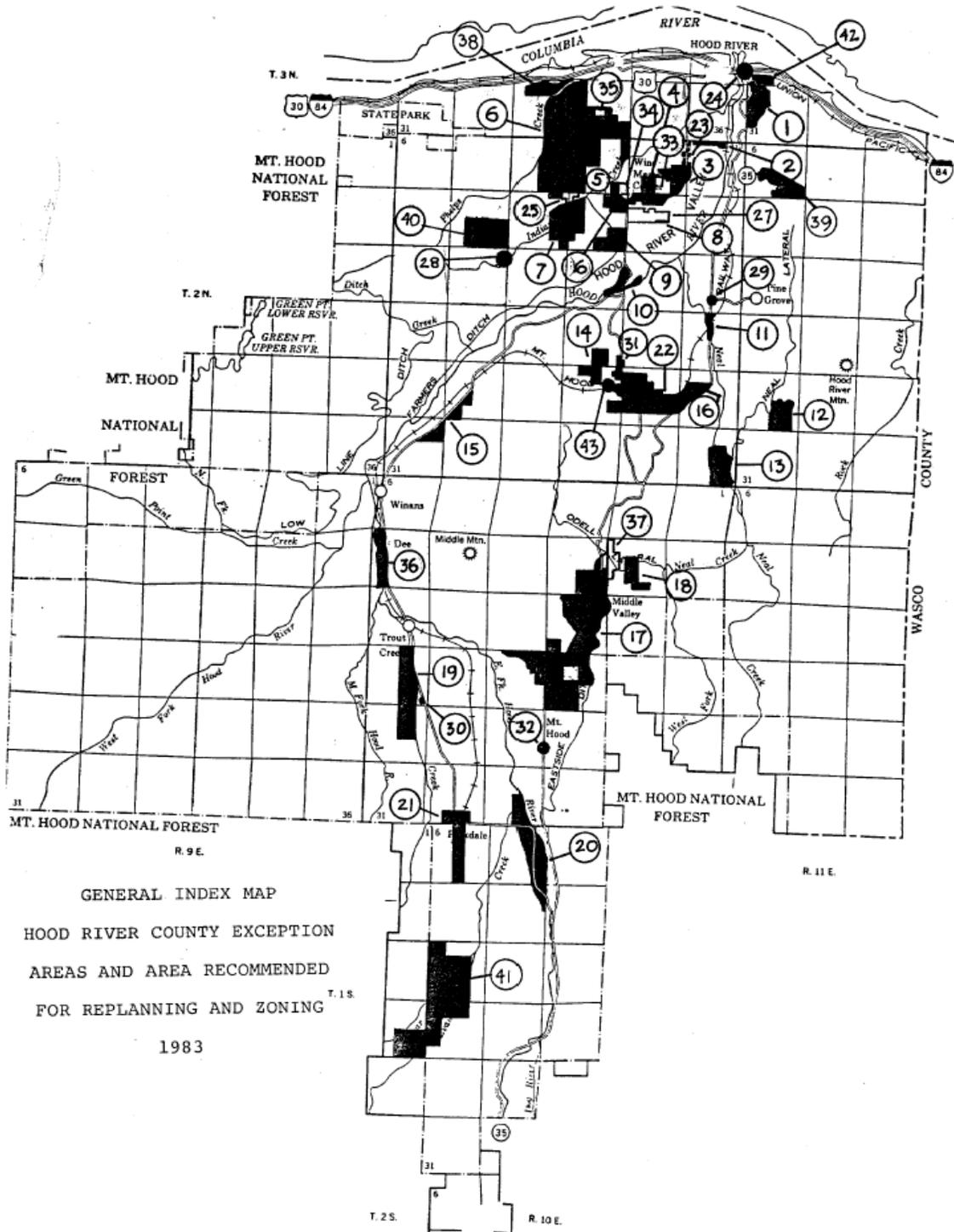
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GENERAL INDEX MAP
 HOOD RIVER COUNTY EXCEPTION
 AREAS AND AREA RECOMMENDED
 FOR REPLANNING AND ZONING

1983

GOAL 2: INTRODUCTION: EXCEPTIONS SUMMARY

- A. Overview: Hood River County is taking exception to approximately 5,154 acres. These lands are built out and committed or an Exception was justified. TABLE 1 below shows the acreage figures for each Plan designation.

TABLE 1

EXCEPTION AREAS-DESIGNATED ACRES: HOOD RIVER COUNTY, 1984

	<u>Plan Designations</u>	<u>Acres</u>
A.	Residential	
	1. Medium Density Residential	269
	2. Rural Residential	4,084
	Subtotal	4,353
B.	Rural Center	32
C.	Commercial	127
D.	Industrial	249
E.	Light Industrial	299
F.	Airport Development	94
	Subtotal	801
	GRAND TOTAL	5,154

Source: Hood River County Planning Department, 1984.

Exception Areas exist throughout the rural portions of Hood River County and depending upon location, *infilling (e.g., additional residential, commercial and industrial development) is allowed in the majority of the Exception Areas. These Exception Areas provide a diversity of living and working environments in the rural portions of Hood River County

- B. Method Used in Evaluating Exception Areas: Areas which had previous exceptions taken were re-evaluated utilizing the factors in Goal 2, Oregon Administrative Rule 660-04-000.

Factors used to determine whether areas were built upon or irrevocably committed to uses other than allowed by resource goals included: (1) land use, site and adjacent lands; (2) parcel sizes; (3) ownership patterns; (4) public services; (5) neighborhood and regional characteristics; (6) natural boundaries; and (7) other relevant factors such as tax deferral status, etc.

Exceptions to Goals 3 and 4 have been taken for other areas and are noted in the Exception Document. Background Data Sheets regarding each exception are intended to supplement the previous exceptions that were submitted to the LCDC in 1980.

* Infilling, can be limited to substantial, depending upon location.

C. Discussion Exception Areas Per Plan/Zoning Designations:

1. Residential: The 4,353 acres designated residential are zoned with minimum lot sizes ranging from 7,500 square feet to 5 acres as shown in TABLE 2 below.

TABLE 2
ACRES IN RESIDENTIAL ZONES

<u>Zone</u>	<u>Acres</u>
RI-7500	256
RI-15000	13
RR-2	138
RR-1	341
RR-22	2 508
RR-5	1 097
TOTAL	4,353 Acres

Source: Hood River County Planning Department, 1984.

The range and lot sizes allows for a variety of housing densities and can accommodate choices of lifestyles for Hood River County residents.

- a. Medium Density Residential: Areas (R1-7500, R1-15000) allow for medium intensity development near transportation arterials and established community centers.
 - b. Rural Residential: Acres (RR-1/2, 1, 2-1/2, 5) will maintain the rural characteristics of the County while providing an opportunity for rural dwellings and activities that are compatible with the surrounding resource uses. The smaller lot sizes are located near established rural centers, industrial areas or communities.
2. Location/Residential Exceptions: Substantial to limited residential development can occur in the following rural portions of the County:
(1) adjacent to the City of Hood River's Urban Growth Boundary, especially to the west and south; (2) Odell; (3) south of Odell along Highway 35 and in the vicinity of Miller Road; (4) vicinity of Eastside and Highline Roads; (5) Dee Highway; (6) Fir Mountain Road; (7) Neal Creek Road-and Booth Hill Road; and (8) Parkdale and area south.

Recognition must also be given to the potential for additional development within rural lands planned and zoned Farm and Forest. Additional growth is also projected for lands within both the City Limits of Hood River and Cascade Locks and also within their Urban Growth Areas.

3. Residential Development Potential: A projection for residential development was based on infilling occurring due to land partitionings of existing parcels. Potential residential development resulting from infilling of existing Exception Areas is approximately 1,175 dwelling units. Initially a high figure of 1,808 dwellings was projected, however it was lowered by approximately 35% due primarily to the following site limitations and characteristics: siting of dwellings actually on the

parcels; unique topographic features; site drainage problems; hazard areas; access and roads; septic drainfields and alternative drainfield systems; etc.

The figure of 1,175 dwelling units is only an indicator.

Residential designations have been limited to existing areas where development has already occurred and areas where Exceptions have been justified. Justification for each of the areas is provided in the Background Data Report in the Exceptions Document. Clustered development within and around areas already committed will limit conflicts with the farming and forestry uses which are prevalent in the County.

4. Rural Centers: Rural Centers provide limited housing, business, cultural and governmental services to the surrounding area.
5. Commercial: In designating lands for commercial uses, many of the existing commercial uses were recognized while providing limited area for new commercial growth in established areas. The Background Report for Goal 9 (Economy of the State) should be referenced for more detailed information relating to the availability and location of commercial land in the County. This report states that vacant commercial lands are generally in small lots and interspersed among committed commercial lands. They are generally along major transportation routes or in rural communities and have rural services either on the property or available to the property. The lands are well suited for either small local businesses or transportation/tourist oriented facilities. Commercial areas are located south of Hood River along Tucker Road; at the junction of Highway 35 and Old Columbia River Drive; and in the communities of Odell, Mt. Hood and Parkdale. A few isolated site specific parcels are designated commercial to recognize existing operations. The four Rural Center areas provide additional limited retail and service oriented businesses which are intended to be small in scale and compatible with the surrounding agricultural or rural residential community.
6. Industrial: Land designated and zoned either for industrial or light industrial use is located in areas surrounded by rural residential land and near commercial areas (i.e., Guignard Industrial Area, Diamond Fruit Site at Windmaster Corner); or at the site of existing industrial operations (i.e., Hanel Mill Site and Dee Hardboard Plant site); or in the communities of Odell and Parkdale. The Background Report for Goal 9 (Economy of the State) should be referred to for more detailed information relating to the availability and location of industrial land in the County. Exceptions for these areas were supported based upon commitment to non-resource uses. Most industrial sites are built on and surrounding land is being reserved for expansion of the on-site industrial use. Approximately 94± acres, however, are available for new industrial uses. Largest available acreages are within

the Hood River Airport (AD Zone), the Odell Area, the Guignard Area and the current site of Hood River Sand & Gravel.

D. Clarification

The Exception Area noted in map #38 (encompassing 114± acres) was justified as being built upon and committed, however in further justifying this area as being utilized for non-resource use, the four factors in Goal 2 were also addressed. For details, see the Background Data discussion, Map #38.

The majority of the land base in Map #20 was justified as being built upon and committed. The remainder was justified through meeting the four factors in Goal 2. Total site acreage was 237.69± acres. Of that, 58 acres were justified as meeting the four factors in Goal 2.

An exception was not taken for Map #39 because Goals 3 and 4 were not applicable due to the predominance of non-farm/ non-forest soils existing on the site, making the site non-resource land. The site amounted to approximately 153± acres.

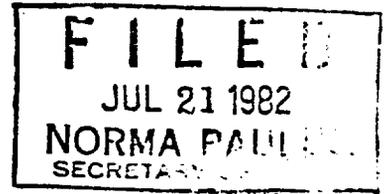
The County Exception for the golf course as presented was unacceptable to the LCDC. However, a process was outlined for supporting limited housing development and expansion of the golf course facility. This process is outlined under Map #40 in this document. Interpretation regarding the golf course is included in the County's Exception Document, because it outlines how an Exception can be justified. The process was also adopted by the Board and the LCDC.

In summary, approximately 172± acres were justified as meeting the four factors in Goal 2; 153 acres were considered non-resource land, consequently the four Goal 2 factors were not applicable and 4,829 acres were justified as being built upon or committed. Stated in percentages, 94% of the exception areas were justified as being built upon and committed; 3±% were justified through meeting the four Goal 2 factors; and 3% were considered non-resource lands.

660-04-000

DIVISION 4

GOAL 2 EXCEPTION PROCESS



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Purpose

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660-04-000(1) The purpose of this rule is to implement Goal 2 "Land Use Planning," Part II, Exceptions. Except for OAR 660-04-010, the rule interprets the Goal 2 exception process as it relates to site specific statewide goals that prescribe or restrict certain uses of resource land. Those statewide goals include:

- (a) Goal 3 "Agricultural Lands;"
- (b) Goal 4 "Forest Lands;"
- (c) Goal 16 "Estuarine Resources;"
- (d) Goal 17 "Coastal Shorelands," and
- (e) Goal 18 "Beaches and Dunes."

(2) The Goal 2 exceptions process is a method for describing how the land use requirements of certain statewide goals have been balanced against local land use requirements as they apply to specific properties or situations. The exception is the documentation of a city or county's conclusion that "it is not possible to apply" a particular goal to certain properties or situations. That conclusion shall be based on a determination of why the use, not otherwise allowed by a goal, should be provided for in a specific area. The conclusion must be supported by compelling reasons and facts. The exceptions process is not to be used to

indicate that a jurisdiction disagrees with a goal.

(3) The intent of the exceptions process is to permit necessary flexibility in the application of the statewide planning goals. The procedural and substantive objectives of the exceptions process are to:

(a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and

(b) Assure that compelling reasons and facts justify an exception to a statewide goal.

(4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for other purposes, as substantial evidence to support its findings of fact.

Definitions

660-04-005 For the purpose of this rule, the definitions in ORS 197.015 and the Statewide Planning Goals shall apply. In addition the following definitions shall apply:

(1) "Resource land" is land subject to the statewide goals listed in OAR 660-04-000 (1) (a) through (e).

(2) "Nonresource land" is land not subject to the statewide goals listed in OAR 660-04-000 (1) (a) through (e).

Application of the Goal 2 Exception Process to Certain Goals

660-04-010 (1) An exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses permitted in an exclusive farm use (EFU) zone under ORS 215.203 through 215.213.

(2) An exception to Goal 4 "Forest Lands" is not required for farm uses allowed under ORS 215.203.

(3) An exception cannot be taken to Goal 7 "Areas Subject to Natural Disasters and Hazards." The purpose of this goal is to prevent danger to life and property and to reduce or avoid the cost of damage caused by natural hazards. For these reasons, development is prohibited in hazardous areas unless "appropriate safeguards" are provided. An exception to this goal would result in proposing development in known hazardous areas without taking appropriate safeguards--an action which would clearly not be in the public interest.

(4) Goal 2 exception procedural requirements apply when a local government cannot provide for needed housing pursuant to ORS 197.303 through 197.307, OAR 660-07-000, and OAR 660-08-000.

(5) An exception is not required for the establishment of an urban growth boundary when resource lands are included within that boundary. The Urbanization Goal requires that the establishment of an urban growth boundary be supported by findings of fact that address the seven factors in Goal 14. These findings of fact are roughly equivalent to those required by the exceptions process. In addition, the goal requires that the results of the above considerations "be included in the comprehensive

plan." The comprehensive plan shall include findings of fact and a clear statement of reasons explaining the boundary location. This statement must be sufficient to demonstrate that the boundary is based upon the seven factors in Goal 14. Adequate findings on these factors, accompanied by an explanation of how they were considered and applied during boundary establishment, provide the same information as required in the exceptions process findings.

(6) When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning", Part II, Exceptions.

(7) An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes," implementation requirement (2). However, a jurisdiction taking an exception to that goal provision section bears a heavy burden of justification. Compelling reasons and facts shall be set forth which demonstrate the following:

(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves, or is of minimal value; and

(b) The use is designed to minimize adverse environmental effects.

(c) The requirements of section (3) of this rule and OAR 660-04-020 shall also be met.

Exception Standard

660-04-015 (1) A local government's decision to take an exception shall meet the Goal 2 standard that "it is not possible to apply the appropriate goal to specific properties or situations." The four factors in Goal 2 and OAR 660-04-020(2) shall be used to demonstrate with compelling reasons and facts that the standard has been met.

(2) The Goal 2 standard and factors may also be satisfied by demonstrating with compelling reasons and facts that the resource land is already built upon or irrevocably committed to other uses not allowed by an applicable goal.

Goal 2 Exception Requirements

660-04-020(1) If a jurisdiction determines there are compelling reasons to use resource lands for uses not allowed by the applicable goal, the justification shall be set forth in the comprehensive plan as an exception. A conclusion that it is not possible to apply the applicable goal to specific properties or situations shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the four factors in Goal 2. In addition, the conclusion shall be supported by a statement of reasons explaining why the facts found compel the conclusion that it is not possible to apply the goal to the particular properties or situations.

(2) The four factors in Goal 2 required to be addressed when taking an exception to a goal are:

(a) "Why these other uses should be provided for:"

(A) The exception shall set forth the facts and assumptions used as the basis for determining that the proposed use should be provided for, including the amount of land for the use being planned and why the use requires a location on resource land.

(B) The compelling reasons cannot be based on market demand for housing, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are compelling reasons for the type and density of housing planned which requires this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary, by determining that the rural location of the proposed residential development is necessary to satisfy the housing generated by existing or planned rural industrial, commercial or other economic activity in the area.

(C) A jurisdiction could justify an exception to allow industrial development on resource land outside an urban growth boundary. Compelling reasons and facts for why the industrial use should be provided for might include:

(i) The use is significantly dependent upon a unique site specific resource located on resource land, such as geothermal well, mineral or aggregate deposit, water reservoir, natural feature, or river or ocean port;

(ii) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas;

(iii) The use would have a significant comparative advantage due to the location (e.g., existing industrial activity, energy facility, or products available from other rural activities), which would benefit the county economy with only minimal loss of productive resource lands.

Compelling reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which compelled the decision.

(D) Any one of the examples of compelling reasons and facts listed in paragraph (2)(a)(C) of this rule may not be adequate in and of itself to compel the conclusion that it is not possible to apply the applicable goal.

(b) "What alternative locations within the area could be used for the proposed uses:"

(A) The exception shall indicate on a map or otherwise describe the location of reasonable alternative areas considered for the use, which would or would not require an exception. The area for which the exception is taken shall be identified.

(B) The alternative sites factor is related to why the resource land location is necessary to satisfy the proposed use. In order to show why the particular site is justified, it is necessary to discuss why other sites reasonably cannot satisfy the proposed use. Under the alternative sites factor the following questions shall be addressed:

(i) Can the proposed use be located on nonresource land that would not require an exception, including increasing density on nonresource land? If not, why not?

(ii) Can the proposed use be located on resource land that is already committed to other uses, not allowed by the applicable goal, including resource land in existing rural centers, or by increasing density on committed lands? If not, why not?

(iii) Can the proposed use be located on other resource lands that would also require an exception, but result in fewer negative consequences and compatibility conflicts with adjacent land uses? If not, why not?

(c) "What are the long-term environmental, economic, social and energy consequences to the locality, the region or the state of not applying the goal or permitting the alternative use." The exception shall describe the characteristics of each alternative area identified in paragraph (2)(b)(A) of this rule, the advantages and disadvantages of using the area for a use not consistent with the goal and the positive and negative impacts of allowing the proposed use. The exception shall include the reasons why the selected area is the best site available for the proposed use, including but not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other impacts might include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts.

(d) "Are the proposed uses compatible with other adjacent uses."

The exception shall describe how the proposed use will not adversely affect adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to minimize its impact on the surrounding natural resources and resource management or production practices; avoid the problems of trespass on resource lands; and avoid nuisance complaints against owners of neighboring resource lands.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

Goal 2 Exception Requirements for Land Built Upon or Irrevocably Committed to Other Uses

660-04-025 (1) A conclusion, supported by compelling reasons and facts, that land has been physically developed or built upon, or that land has been irrevocably committed to uses not allowed by the applicable goal can satisfy the Goal 2 standard that it is not possible to apply the goal. If a conclusion that land is built upon or irrevocably committed is supported, the four factors in Goal 2 and OAR 660-04-020(2) need not be addressed.

(2) Whether land has been physically developed or built upon, or has been irrevocably committed to uses not allowed by an applicable goal, will depend on the situation at the specific site and the areas adjacent to

it. People in the area need to be involved in this determination. The exact nature and extent of the areas found to be physically developed or irrevocably committed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

(3) An assessment of whether land is built upon or irrevocably committed to uses not allowed by the applicable goal shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:

- (a) Adjacent uses;
- (b) Public facilities and services (water and sewer lines, etc.);
- (c) Parcel size and ownership patterns;
- (d) Neighborhood and regional characteristics;
- (e) Natural boundaries; and
- (f) Other relevant factors.

(4) A conclusion that land is built upon or irrevocably committed to uses not allowed by the applicable goal shall be based on one or more of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found compel the conclusion that it is not possible to apply the goal to the particular situation or area.

(5) Consideration of parcel size and ownership patterns shall include how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals

shall not be used to demonstrate commitment of the divided land unless development on the resulting parcels prevents their resource use or the resource use of nearby lands. Farm and nonfarm parcels created pursuant to goal 3 and EFU zoning provisions shall not be used to justify a built or committed exception.

(6) Existing parcel sizes and their ownership shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered only as one farm. The mere fact that small parcels exist does not alone constitute commitment. Whether small parcels in separate ownerships are irrevocably committed will depend upon factors such as whether the parcels are developed or not, whether the parcels stand alone or are clustered in a large group, and the location of the parcels relative to designated resource land.

(7) More detailed findings and reasons are needed to support a conclusion that land is committed compared to the more obvious conclusion that the land is physically developed or built upon.

Notice, Hearing, Adoption of an Exception

660-04-030 (1) Goal 2 requires that the intent to take an exception be communicated widely, and that such communication begin as soon as it becomes apparent that a goal cannot be applied to a particular situation or area. The planning jurisdiction shall involve citizens and affected governmental units in determining:

(a) The compelling reasons and facts for allowing uses that are inconsistent with the goal; and

(b) The physical extent of the area to be excepted.

(2) Adequate notice and time to review and comment on the proposed exception shall be provided pursuant to local government notice and hearing procedures. The DLCD Field Representative shall be notified of the intent to take an exception.

(3) When the comprehensive plan, plan element or amendment reaches the public hearing stage, Goal 2 requires that public notices shall describe each proposed exception. At a minimum notices shall indicate that an exception to a specific goal is being discussed, and summarize the location of the exception and the issues involved. Specific opportunities for comment on the proposed exception shall be provided at the public hearing(s).

(4) A planning exception takes effect when the comprehensive plan or plan amendment is adopted by the city or county governing body. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a petition for review is filed with the Land Use Board of Appeals pursuant to Chapter 772, Oregon Laws 1979, as amended by Chapter 748, Oregon Laws 1981, when a plan amendment is reviewed pursuant to OAR 660-18-000, or when a periodic review is conducted pursuant to ORS 197.640. If the Department or the Commission is notified that inadequately justified exceptions are occurring in a specific jurisdiction, the Commission may request a staff investigation.

Appeal of an Exception

660-04-035(1) Prior to acknowledgment, an exception, or the failure to take a needed exception, may be appealed to the Land Use Board of Appeals, pursuant to Chapter 772, Oregon Laws 1979, as amended by Chapter 748, Oregon Laws 1981, or to the Commission as an objection to the local government's request for acknowledgment, pursuant to ORS 197.251 and OAR 660-03-000.

(2) After acknowledgment, an exception taken as part of a plan amendment, or the failure to take a needed exception when amending a plan, may be appealed to the Commission, pursuant to ORS 197.605 to 197.635 and OAR 660-18-000.

(3) A jurisdiction's decision to apply a specific goal rather than to take an exception to the goal cannot be appealed. Only violations of statewide goals can be appealed.

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