



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/18/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Columbia County Plan Amendment
DLCD File Number 001-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, October 29, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Erika Owen, Columbia County
Jon Jinings, DLCD Community Services Specialist
Anne Debbaut, DLCD Regional Representative
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA/l

FORM 2

DLCD NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF
OCT 12 2010
LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: Columbia County Local File No.: TA 10-02
(If no number, use none)

Date of Adoption: October 6, 2010 Date Mailed: October 8, 2010
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: February 17, 2010

- Comprehensive Plan Text Amendment
 - Land Use Regulation Amendment
 - New Land Use Regulation
 - Comprehensive Plan Map Amendment
 - Zoning Map Amendment
 - Other: _____
- (Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

The adopted amendment amends the County's Zoning Ordinance to specify land use restrictions, standards and review processes for dog kennels in Columbia County.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

The proposed amendment recommended prohibiting kennels in the Rural Residential (RR-5) Zone. The adopted amendment allows kennels in the RR-5 Zone as a Home Occupation/Conditional Use subject to specific standards. The proposed amendment recommended prohibiting overnight boarding in the Highway Commercial and General Commercial zones. The adopted amendment allows overnight boarding in said zones. The adopted amendment adds an A and B to Section 503.2 and finally, the adopted amendment adds two additional standards to Section 1802 (standards 8 and 9).

Plan Map Changed from: NA to NA

Zone Map Changed from: NA to NA

Location: County wide Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: 1, 2, 3, 4, 6 and 9

Was an Exception Adopted? Yes: _____ No:

DLCD File No.: 001-10(18/18) [16361]

Did the Department of Land Conservation and Development **receive** a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: No:
If no, do the Statewide Planning Goals apply. Yes: No:
If no, did The Emergency Circumstances Require immediate adoption. Yes: No:
Affected State or Federal Agencies, Local Governments or Special Districts: None

Local Contact: Erika Owen Area Code + Phone Number: 503-397-7216
Address: Courthouse RM 105 City: St. Helens
230 Strand Street
Zip Code+4: 97051 Email Address: erika.owen@co.columbia.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

LWS

RECEIVED
OCT 07 2010
LAND DEVELOPMENT SERVICES

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Adopting Amendments)
to the Columbia County Zoning Ordinance) ORDINANCE No. 2010-3
to Specify Land Use Restrictions, Standards,)
and Review Processes for Dog Kennels)

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2010-3, the Kennel Land Use Amendments.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 201.035, ORS 203.045, and ORS 197.175.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to amend the following Sections of the Columbia County Zoning Ordinance (CCZO) to specify land use restrictions, standards and review processes for kennels in Columbia County: 100, Definitions; 300, Primary Agriculture-38; 400, Forest Agriculture-19; 500, Primary Forest-76; 600, Rural Residential-5 and Rural Residential-2; 800, Highway Commercial, Neighborhood Commercial and General Commercial; 900, Light Industrial and Heavy Industrial. This Ordinance also adds a new article to the CCZO for the same purpose, Article IX and its accompanying Sections 1800, 1801, and 1802.

SECTION 4. HISTORY.

In October 2008, the Board of County Commissioners initiated a process to review current land use regulations for kennels in Columbia County and to develop zoning amendments to address concerns raised by citizens. The Board appointed a Kennel Land Use Task Force to study the impacts of kennels and to recommend changes to the Columbia County Zoning Ordinance. Although the Task Force did not reach a consensus, the Board considered the issues individual task force members identified. The Board then directed Staff to draft amendments to the Zoning Ordinance to identify allowable zones, review processes, and standards that should apply to the siting and operation of kennels.

Staff then drafted proposed amendments and sent copies to all the County Citizen Planning Advisory Commissions, the Task Force, and DLCD for review and comment. The County also mailed a Measure 56 notice to all affected property owners on March 11, 2010. The

Columbia County Planning Commission held a public hearing on the proposed amendments on April 5, 2010.

On May 3, 2010, the Columbia County Planning Commission voted to recommend approval of the Kennel Land Use Amendments (TA 10-02). Thereafter, notice of the public hearing before the Board of County Commissioners was published in The Chronicle on June 25, 2010 and July 2, 2010 and mailed to interested persons on June 9, 2010. The Board of County Commissioners held a public hearing in St. Helens on July 14, 2010. The Board held the record open for written testimony until July 28, 2010 and deliberated on the matter on August 11, 2010.

At a public meeting on August 11, 2010, the Board voted to tentatively approve the proposed amendments.

SECTION 5. FINDINGS AND CONCLUSIONS.

- A. The Board of County Commissioners adopts the findings of facts and conclusions of law in the Staff Report dated July 7, 2010, attached hereto as Attachment A, and incorporated herein by this reference, except for findings specific to kennels in RR-5 zones and overnight boarding of dogs in the Highway Commercial, Neighborhood Commercial and General Commercial zones.

- B. The Board of County Commissioners adopts the following additional findings of fact and conclusions of law:
 - 1. The Board finds that dog kennels with no more than 15 dogs can be appropriate in the RR-5 zone, as determined through a Home Occupation/Conditional Use review process. As an initial matter, limiting kennels in the RR-5 zone to 15 dogs will allow for small-scale kennels that can be compatible with surrounding residential uses while prohibiting intense kennel uses that are more likely to conflict with residential uses. In addition, the minimum lot size in the RR-5 zone is five acres, and therefore, a conforming lot in the RR-5 zone can meet the five-acre special use standard for dog kennels in Section 1802.1. That standard is intended to minimize impacts of a dog kennel by providing sufficient area for the kennel to be placed away from neighboring properties and resource uses. Moreover, because of the five-acre minimum lot size in the RR-5 zone, residences are likely to be separated from each other by such distances that a small-scale kennel of 15 or fewer dogs can be compatible with surrounding properties. Accordingly, dog kennels can be compatible with other uses in the RR-zone, and a Home Occupation/Conditional Use process is appropriate for determining whether a proposed dog kennel should be sited in the RR-5 zone, and

 - 2. The Board finds that the overnight boarding of dogs can be compatible with allowed uses in the Highway Commercial and General Commercial zones, as

determined through the Conditional Use process. The Board understands that the primary concern with overnight boarding is that the noise from barking dogs could adversely impact businesses such as hotels and restaurants. However, overnight boarding of dogs may nevertheless be compatible with many other allowed uses in the Highway Commercial and General Commercial zones, and the Conditional Use review process can prevent a dog kennel with overnight boarding from siting where adverse impacts are likely to occur. Therefore, the Board finds that dog kennels with overnight boarding should be allowable in the Highway Commercial and General Commercial Zones through Conditional Use Permits because such kennels can be compatible with many uses allowed in the Highway Commercial and General Commercial zones, and the Conditional Use review process is the appropriate tool for making that determination.

SECTION 6. AMENDMENT AND AUTHORIZATION.

- A. The Columbia County Zoning Ordinance is amended as shown in Attachment B, which is attached hereto and is incorporated herein by this reference.
- B. Consistent with ORS 215.427(3), applications for kennel land use approvals that are received by the Columbia County Land Development Services Department before the effective date of this ordinance will be subject to the land use regulations in effect at the time the application was submitted.

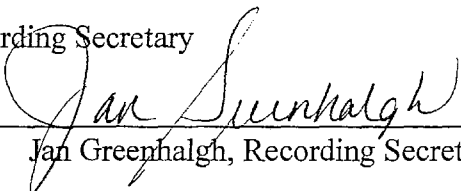
SECTION 9. SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent portion, and such holdings shall not affect the validity of the remaining portion of this ordinance.

DATED this 6th day of October, 2010.

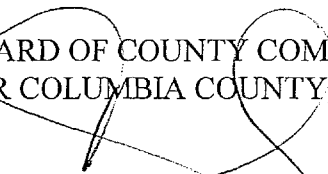
Approved as to Form

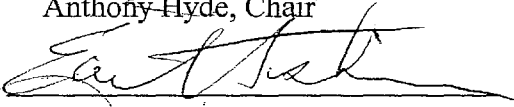
By: 
Office of County Counsel

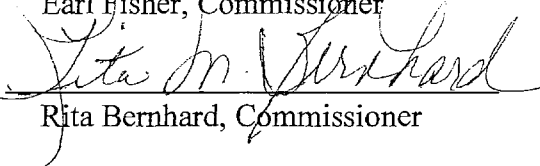
Recording Secretary
By: 
Jan Greenhalgh, Recording Secretary

First Reading: September 22, 2010
Second Reading: October 6, 2010
Effective Date: January 4, 2011

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Anthony Hyde, Chair

By: 
Earl Fisher, Commissioner

By: 
Rita Bernhard, Commissioner

ATTACHMENT A

COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS

Staff Report

July 7, 2010

Zoning Ordinance Text Amendment Dog Kennels, Pertaining to Where, How and By What Standards they are Permitted

FILE NUMBER: TA 10-02

APPLICANT: Columbia County
Land Development Services

HEARING DATE: July 14, 2010

REQUEST: To amend Sections 100, 303, 404, 503, 604, 624, 804, 813, 824, 923, and 933 of the Columbia County Zoning Ordinance and to add a new article, Article IX, Sections 1800, 1801 and 1802, to the Columbia County Zoning Ordinance; Include a definition of kennel, identify the zoning districts in which kennels should be allowed and through which land use process and establish standards specific to the siting of dog kennels

**DISTRICTS TO
BE AMENDED:**

Primary Agriculture (PA-38), Forest-Agriculture (FA-19), Primary Forest (PF-76), Rural Residential-5 (RR-5), Rural Residential-2 (RR-2), Highway Commercial (C-5), Neighborhood Commercial (C-4), General Commercial (C-3), Light Industrial (M-2), and Heavy Industrial (M-1)

APPLICABLE REVIEW CRITERIA:

Notification Requirements

Columbia County Zoning Ordinance
Section 1606 - Legislative Hearing
Section 1611 - Notice of Legislative Hearing

Oregon Revised Statute
ORS 197.610 - DLCDD Review
ORS 215.503 - Measure 56 Notice

Oregon Administrative Rule
OAR 660-018-0020 - Post Acknowledgment Amendments

Review Criteria

Columbia County Zoning Ordinance

Resource Districts

- Section 300 Primary Agriculture - 38
- Section 400 Forest Agriculture - 19
- Section 500 Primary Forest- 76

Rural Development Districts

- Section 600 Rural Residential - 5
- Section 620 Rural Residential - 2

Suburban Districts:

- Section 800 Highway Commercial
 - Section 810 Neighborhood Commercial
 - Section 820 General Commercial
 - Section 920 Light Industrial
 - Section 930 Heavy Industrial
-
- Section 1507 Home Occupations
 - Section 1607 Consistency with the Comprehensive Plan

Columbia County Comprehensive Plan

- Part II Citizen Involvement
- Part III Planning Coordination
- Part IV Forest Lands
- Part V Agriculture
- Part VII Rural Residential
- Part X Economy
- Part XII Industrial Siting
- Part XVIII Air, Land and Water Quality
- Part I Administrative Procedures

Oregon State Statute and Oregon Administrative Rule

- | | |
|---------------------|---|
| OAR 660-015-0000(1) | Goal 1: Citizen Involvement |
| OAR 660-015-0000(2) | Goal 2: Land Use Planning |
| OAR 660-015-0000(3) | Goal 3: Agricultural Lands |
| OAR 660-015-0000(4) | Goal 4: Forest Lands |
| OAR 660-015-0000(6) | Goal 6: Air, Water and Land Resources Quality |
| OAR 660-015-0000(9) | Goal 9: Economic Development |
-
- | | |
|------------------|--|
| ORS 215.283 | Uses Permitted in Exclusive Farm Use Zones |
| ORS 215.296 | Standards for Approval of Uses in Farm Use Zones |
| OAR 660-033-0090 | Uses on High Value and Non High-Value Farmland |
| OAR 660-033-0130 | Minimum Standards Applicable to Conditional Uses |
-
- | | |
|------------------|---------------------------------|
| OAR 660-006-0025 | Uses Authorized in Forest Zones |
| ORS 215.448 | Home Occupations |

Comments Received

Planning Commission Recommendation

BACKGROUND & SUMMARY:

In October of 2008, the Board of County Commissioners initiated a process to review current land use regulations regarding kennels in Columbia County and develop zoning amendments to address concerns raised by citizens pertaining to where kennels are allowed throughout the County. Currently, Columbia County's Zoning Ordinance does not specifically address where, how and by what standards kennels are allowed. Any operation meeting the definition of a kennel (as described below), however, must satisfy two regulatory requirements to lawfully operate in Columbia County; 1) all kennels must apply for and obtain a Kennel License through Columbia County Animal Control, and 2) all kennels must apply for and receive land use approval through Columbia County Land Development Services. Currently, a Home Occupation Conditional Use permit is the only mechanism afforded by the Zoning Ordinance for the allowance of kennels. In accordance with Section 1507 of the County's Zoning Ordinance, Home Occupations may be allowed in any zone that allows for residential uses if findings support all applicable home occupation criteria (see Finding). Permitting kennels through Home Occupations encourages the siting of kennels in residential areas, which has proven to be a source of controversy over the past several years.

To study the issues surrounding kennels, the Board solicited interested persons to serve on a Kennel Land Use Task Force. The Kennel Land Use Task Force was directed by the Board to make a recommendation for specific written changes to the Columbia County Zoning Ordinance addressing the zones in which kennels should be allowed, the land use process by which kennels should be reviewed and standards that should apply to the siting and operation of kennels. The Task Force had broad based ideologic differences, with member opinions reflecting two distinct groups: those affiliated with kennels and those not affiliated with kennels. For this reason, the group was unable to reach a consensus on specific written changes to the Zoning Ordinance. Issues raised and individual member recommendations, however, were considered and included in the drafting of the proposed amendments.

Currently, Columbia County's Zoning Ordinance defines a kennel as "Any lot or parcel or premises on which 4 or more dogs or cats of more than 6 months of age are kept commercially for board, propagation, or sale." The County's Kennel Ordinance, however, as implemented by the Animal Control Division, defines a kennel as follows:

A. As applied in this Ordinance, "Kennel" means:

- (1) Any property that houses ten (10) or more dogs over six (6) months of age.
- (2) Any "Animal Pound" or "Animal Shelter" as defined by OAR 603-015-0025(1).
- (3) Any "Boarding Kennel" as defined by OAR 603-015-0025(2).
- (4) Any "Commercial Kennel" as defined by OAR 603-015-0025(3).
- (5) Any "Grooming Parlor" as defined by OAR 603-015-0025(5).
- (6) Any "Pet Shop" or "Animal Dealer" as defined by OAR 603-015-0025(7) that handles dogs.

Therefore, amendments proposed as part of this application recommend a revision to the Zoning Ordinance definition (Section 100.48) to be consistent with the definition of a kennel as defined by the County's Kennel Ordinance (above).

Amendments further address the specific zones in which kennels should be permitted and through which land use review process. This information is summarized in the table as follows:

Zoning District		Current Code	Recommendation
Resource Zones			
Primary Agriculture - 38	PA-38	CUP, except on high value farmland	CUP, except on high value farmland
Forest Agriculture - 19	FA-19	Home Occupation/CUP	CUP or Home Occupation subject to Predominant Use of Property [OAR 660-006-0050(2)]
Primary Forest - 76	PF-76	Home Occupation/CUP	Home Occupation/CUP
Rural Development Zones			
Rural Residential - 5	RR-5	Home Occupation/CUP	Not Allowed
Rural Residential - 2	RR-2	Home Occupation/CUP	Not Allowed
Rural Community	RC	Home Occupation/CUP	Not Allowed
Existing Commercial	EC	Home Occupation/CUP	Not Allowed
Resource Industrial Planned Development	RIPD	Not Allowed	Not Allowed
Suburban Zones			
Single-Family Residential	R-10	Home Occupation/CUP	Not Allowed
Single-Family/Duplex Residential	R-7	Home Occupation/CUP	Not Allowed
Multiple-Family Residential	MFR	Home Occupation/CUP	Not Allowed
Mobile Home Residential	MHR	Home Occupation/CUP	Not Allowed
Highway Commercial	C-5	Not Allowed	CUP, except no overnight boarding
Neighborhood Commercial	C-4	Not Allowed	CUP, except no overnight boarding
General Commercial	C-3	Not Allowed	CUP, except no overnight boarding
Marine Commercial	C-2	Not Allowed	Not Allowed
Industrial Park	M-3	Not Allowed	Not Allowed
Light Industrial	M-2	Not Allowed	CUP
Heavy Industrial	M-1	Not Allowed	CUP
Airport Industrial	AI	Not Allowed	Not Allowed
Community Service - Institutional	CS-I	Not Allowed	Not Allowed
Community Service - Utility	CS-U	Not Allowed	Not Allowed
Community Service - Recreation	CS-R	Not Allowed	Not Allowed
Surface Mining	SM	Not Allowed	Not Allowed

Columbia County's zoning districts are divided into Resource Districts, Rural Development Districts and Suburban Districts. Resource zones typically consist of large parcels of land intended for resource-type (farm and forest) uses. The State of Oregon regulates the types of uses permitted on resource lands. Oregon Administrative Rule allows dog kennels in agricultural zones if not located on high-value farmland and if permitted through a Conditional Use Permit. State law does not specifically address kennels in forest zones, but does allow home occupations in these zones. Therefore, in order to maintain consistency with State regulations, the County's amendments propose allowing kennels in the PA-38 Zone through a Conditional Use Permit and in the PF-76 Zones through a Home Occupation/Conditional Use Permit. Amendments further propose allowing kennels in the forest-agriculture zone subject to either the forest or agriculture standards based on the predominant use of the property as of January 1, 1993 (see Finding 8).

As mentioned previously, allowing kennels as home occupations is controversial due to incompatibilities between the impacts of kennel operations and single-family residential living. As discussed in the findings that follow, allowing kennels in resource zones (as conditional uses and home occupation/conditional uses) is unlikely to compromise the types of uses for which said zones are intended. As compared to the resource zones however, Rural Development Zones and Suburban Zones, and specifically residential zones within said Districts, are characterized by and planned for smaller lot sizes and higher density residential development. Due to incompatibilities between residential and kennel uses, proposed amendments prohibit kennels from being approved as home occupations in residential zoning districts.

Amendments also suggest that all kennels, except boarding kennels, be permitted conditionally in the Highway Commercial, Neighborhood Commercial and General Commercial Zones. Kennels may only be approved through Conditional Use Permits in these zones if dogs are contained within an enclosed building. Finally, as demonstrated in the table on Page 4, kennels should also be conditionally permitted in the Light Industrial and Heavy Industrial Zones.

A new article, Article IX (Special Use Standards) and accompanying sections, Section 1801 (General Provisions) and Section 1802 (Kennels) have been added to the Zoning Ordinance as part of this amendment. Section 1802 addresses standards specific to the siting and maintenance of kennels. These standards address a minimum site area, setbacks, signage, kennel licensing, dog waste, outside hours and fencing. The standards, as proposed by Staff, are as follows:

1802 Kennels

- .1 Minimum Site Area: The minimum site area in PF-76, FA-19 and PA-38 zones shall be five acres.
- .2 Setbacks: The minimum setback for all kennel facilities including exercise and waste disposal areas in PF-76, FA-19 and PA-38 zones shall be 100 feet. In all other zones in which kennels are allowed, the setback shall be as prescribed by zoning district standards of the zone in which it is located.
- .3 Signs: There shall be a maximum sign area of six (6) square feet in PF-76, FA-19 and PA-38 zones. In all other zones in which kennels are allowed, the maximum sign area shall be as prescribed by sign standards contained in Section 1300.
- .4 Kennel License: A Columbia County kennel license shall be obtained.
- .5 Dog Waste: All kennels shall comply with dog waste handling and disposal standards contained in Section 10.D of the Columbia County Kennel Ordinance.
- .6 Outside Hours: All dogs shall be brought into an enclosed building between the hours of 9pm and 6 am.

- .7 Control of Dogs: All dogs shall be confined within an enclosed building or within secure fencing at all times when not under the direct control of a keeper.

The Columbia County Planning Commission added three additional standards to Staff's recommendation for Section 1802 to address "grandfathering" of existing kennels, nuisance regulations pertaining to kennels and impacts to residential and resource properties from kennel uses. The Planning Commission's additions to Section 1802 are as follows:

- .8 Any application for grandfathering a kennel that has been accepted by the Columbia County Planning Department before this text amendment takes effect shall be eligible for approval by the Planning Commission.
- .9 A kennel or dog shall be considered under statute for a public nuisance per ORS 609.095 with remedy determined in the Columbia County ordinance.
- .10 All kennels must be placed in a manner so as to minimize their impact on neighboring properties and resource uses.

Oregon Revised Statute (ORS) 215.050, allows Columbia County to revise the County's Zoning Ordinance in order to implement the adopted County Comprehensive Plan. The primary objectives of the Comprehensive Plan are to 1) "prevent or minimize conflicts between incompatible land use activities," 2) provide a source of information describing the condition and characteristics of the County," 3) "provide an objective basis for public and private land use decisions," and 4) "provide a better understanding of specific actions, programs and regulations which may affect the public." Proposed amendments will support Comprehensive Plan objectives as they establish clear regulations specific to kennels, alleviating issues of incompatibility and confusion for the public.

REVIEW CRITERIA AND FINDINGS:

Beginning with Section 1600 of the Zoning Ordinance:

This request is being processed under Sections 1606 (Legislative Hearing) and 1611 (Notice of Legislative Hearing) of the Columbia County Zoning Ordinance. The pertinent sections of the ordinance are reviewed as follows:

1606 Legislative Hearing: Requests to amend the text of the Zoning Ordinance or to change a large area of the Zoning Map of Columbia County in order to bring it into compliance with the Comprehensive Plan are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures:

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change.

Finding 1: In October of 2008, the Board of County Commissioners initiated a process to review the County's land use regulations regarding kennels and appointed a Kennel Land Use Task Force to develop a recommendation for new and/or revised kennel land use standards. On October 6, 2009, Land Development Services Planning Staff presented recommendations suggested by the Task Force to the Board of County Commissioners. After considering issues addressed by the Task Force and Staff, the Board of County Commissioners directed Staff to prepare amendments to the Zoning Ordinance to address where, how and by what standards kennels should be permitted. The proposed text amendments were initiated by the Board of County Commissioners. This legislative amendment to the text of the Zoning Ordinance is brought forth as a request (and application) of the County. The Planning Commission finds that the criterion is met.

Continuing with Section 1606 of the Zoning Ordinance:

- .2 Notice of a Legislative Hearing shall be published at least twice, 1 week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners.

Finding 2: Public hearing notices were published in local newspapers (*South County Spotlight, Chronicle* and *Daily News*) on March 17, 2010 and March 24, 2010, both of which were more than 10 days prior to the Planning Commission hearing date of April 5, 2010. Notice to and request for Information and Referral was mailed to all members of the County's five CPACs, the Animal Control Officer and County Counsel on March 5, 2010. A Measure 56 Notice was also mailed to all affected properties on March 11, 2010 (See Finding 5). Finally, notice of the Board Hearing date, scheduled for July 14, 2010, was published in the *Chronicle* on June 25, 2010 and July 2, 2010 and mailed to citizens who testified at the April 5, 2010 Planning Commission meeting on June 9, 2010. The Planning Commission finds that the criterion is met.

Continuing with Section 1611 of the Zoning Ordinance:

1611 Notice of Legislative Hearing: The notice of a legislative hearing shall contain the following items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance.

Finding 3: All of the above information was included in the Notice of Public Hearing published twice in the *Daily News, Chronicle* and *Spotlight* newspapers for the Planning Commission meeting on March 17, 2010 and March 24, 2010. Additional Notice was published for the Board of Commissioners' hearing, containing the above language, in the *Chronicle* on June 25, 2010 and July 2, 2010. The Planning Commission finds that the criterion is met.

Continuing with Oregon Revised Statutes (ORS):

ORS 197.610(1) A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new regulation must be forwarded to DLCD at least 45 days before the first evidentiary hearing on adoption and contain the text and any supplemental information that the local government believes is necessary to inform DLCD as to the effect of the proposal as well as the date set for the first evidentiary hearing. When a local government determines that the goals do not apply to a particular proposed amendment or a new regulation, notice under subsection (1) of this section is not required. In addition, a local government may submit an amendment or new regulation with less 45 days' notice if the local government determines that there are emergency circumstances requiring expedited review. In both cases:

(a) The amendment or new regulation shall be submitted after adoption as provided in ORS 197.615 (1) and (2); and

(b) Notwithstanding the requirements of ORS 197.830 (2), the director or any other person may appeal the decision to the board under ORS 197.830 and 197.845.

Finding 4: Land Development Services mailed a 45 day notice to DLCD required per ORS 197.610(1) on February 17, 2010. The Planning Commission therefore finds that the 45 day notice prior to the Planning Commission's initial hearing is met. The County will mail a Notice of Adoption to DLCD if the Board approves the amendment. The Planning Commission finds that the criterion will be met.

Continuing with Oregon Revised Statutes (ORS):

NOTICE TO PROPERTY OWNERS

ORS 215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

(3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the governing body of the county:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

Finding 5: All owners of record of properties that may be affected by the proposed kennel amendments were bulk-mailed notices of said amendments on March 11, 2010 which was 25 days prior to the Planning Commission's April 5, 2010 public hearing on the proposed Zoning Ordinance amendments. For these reasons, the Planning Commission finds the criterion identified in ORS 215.503 (1), (2), (3), (4), (8) and (9) have been satisfied.

Continuing with Oregon Administrative Rules (OAR):

OAR 660-018-0020 - Filing of a Proposed Amendment to or Adoption of a Comprehensive Plan or Land Use Regulation with the Director

(1) A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation must:

(a) Be submitted to the director at least 45 days before the first evidentiary hearing on adoption. The submittal must be received by the department at its Salem office;

(b) Be accompanied by appropriate forms provided by the department;

- (c) Contain two copies of the text and any supplemental information the local government believes is necessary to inform the director as to the effect of the proposal. One of the required copies may be an electronic copy;
 - (d) Indicate the date of the final hearing on adoption. If a final hearing on adoption is continued or delayed, following proper procedures, the local government is not required to submit a new notice under OAR 660-018-0020.
 - (e) In the case of a map change, include a map showing the area to be changed as well as the existing and proposed designations. Wherever possible, this map should be on 8-1/2 by 11-inch paper;
 - (f) Where a goal exception is being proposed, include the proposed language of the exception. The Commission urges the local government to submit information that explains the relationship of the proposal to the acknowledged plan and the goals, where applicable.
- (2) The text submitted to comply with subsection (1) (c) of this rule must include the specific language being proposed as an addition to or deletion from the acknowledged plan or land use regulations. A general description of the proposal or its purpose is not sufficient. In the case of map changes, the text must include a graphic depiction of the change, and not just a legal description, tax account number, address or other similar general description.

Finding 6: This proposed Kennel Text Amendment to the Zoning Ordinance must also follow the Oregon Administrative Rule's Post-Acknowledgment Plan Amendment process of a 45 day notice to the State; this was accomplished and discussed in Finding 4. The County will mail a Notice of Adoption to DLCD if the Board approves the amendment. The Planning Commission finds that the criterion will be met.

Continuing with Section 300 of the Zoning Ordinance:

Section 300 Primary Agriculture - 38

- 301 Purpose: This district is intended to preserve, enhance, and stabilize those prime agricultural lands and farm use areas within the County which are being used, and offer the greatest potential, for food and fiber production.

Agricultural land is comprised of predominantly Class I-IV soils as identified in the Soil Capability Classification System of the 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, and accepted farming practices. Agricultural lands shall also include other classes which are necessary to permit farm practices to be undertaken on adjacent lands.

Finding 7: As discussed in the Background Section previously, the State of Oregon regulates specific uses permitted in agricultural districts. Chapter 660, Division 33, Rule 0120 of Oregon Administrative Rule (OAR) specifically prohibits dog kennels on high value farmland, but allows kennels on non-high value farmland after a review (requiring notice and the opportunity for a hearing) and subject to findings that the use "will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use." Although the purpose of the agricultural district, as defined by Statewide Planning Goal 3 (Agricultural Lands) and Columbia County's Comprehensive Plan and Zoning Ordinance is to preserve prime agricultural lands for farm use, State law recognizes that the allowance of dog kennels on some agriculturally zoned properties may not be detrimental to the intent of the zone. Furthermore, the prohibition of dog kennels on high value farmland directly recognizes the purpose of the Primary Agriculture Zone.

Due to the types of uses permitted on agricultural lands (mostly farm, forest and resource based) and the

minimum lot size requirements of the zone, there is the potential for kennels to be sited in said zone with little to no impact on surrounding properties. Comments from Land Use Kennel Task Force members and from the general public indicate that noise (generated by kenneled dogs) is the source of most incompatibilities between dog kennels and surrounding land uses. Current land use regulations require all newly created lots in the PA-38 Zone to be at least 80 acres in size, and although smaller properties have been grandfathered into the zone, resource lands are typically larger in size than properties within the County's Rural Development or Suburban Development districts. Additionally, standards included in Section 1802 of the proposed text amendments require kennels in the PA-38 Zone to be located on a minimum site area of five acres and to be setback 100 feet from all property lines. Standards also impose a limitation on the hours in which dogs may be outside. Also, the Planning Commission added a provision to Section 1802 (see Attachment - Section 1802.10) which requires all kennels to be sited "in a manner so as to minimize their impact on neighboring properties and resource uses." Finally, the Planning Commission included language to Section 1802 (Section 1802.9) which affords the County regulatory action if a kennel or dog is considered a nuisance as defined by ORS 609.095. ORS 609.095 is included in the "Conclusion" section of this report. The rural nature of the PA-38 zone in conjunction with standards proposed by Section 1802 of the Columbia County Zoning Ordinance (CCZO) reduce the potential for incompatibilities between uses permitted outright in the zone and dog kennels. Therefore, properties zoned for agricultural use, but not composed of prime agricultural soils, may be appropriate for the siting of dog kennels. Based on OAR 660-033-0120, The Planning Commission finds that kennels shall be a conditionally permitted use, except on high value farmland, in the PA-38 Zone. Proposed Zoning Ordinance language is as follows:

Section 300 Primary Agriculture - 38

303 Conditional Uses:

- .2 Kennel, except on high value farmland as defined herein subject to standards contained in Section 1802.*

Continuing with Section 400 of the Zoning Ordinance:

Forest Agriculture - 19

- 401 Purpose: The purpose of this zone is to protect and promote farm and forest uses on lands which have resource value, but which are not suited for either the Farm (PA-38) or Forest (PF-76) zone because of smaller parcel size, conflicting adjacent uses, adverse physical features, or limiting factors.

Finding 8: The Forest Agriculture (FA-19) Zone is regulated by Oregon Administrative Rule. As per OAR 660-006-0050 (Uses Authorized in Agriculture/Forest Zones) (2) "uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in [Forest Zones] OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone..." As discussed in Finding 7 previously, dog kennels may be allowed through a Conditional Use Permit, except on high value farmland in the agricultural (PA-38) zone. As discussed in Finding 9 following, kennels may only be permitted on forest lands if approved through a Home Occupation Conditional Use Permit. Whether a kennel is sited in the FA-19 Zone using standards for agricultural lands (Conditional Use Permit) or standards for forest lands (Home Occupation Permit) is dependant upon the predominant use of the property as of January 1, 1993.

Other uses permitted in the Forest Agriculture Zone are also subject to a predominant use determination and regulated by either OAR Chapter 660, Division 6 (Forest) or 33 (Agriculture). Therefore, as discussed in Findings 7 and 9, uses permitted outright in the FA-19 Zone consist primarily of rural forest, farm and resource based operations. There are minimal incompatibilities between said uses and dog kennels. Although FA-19 zoned properties are typically smaller in size than PF-76 and PA-38 zoned tracts, as

discussed in the purpose section above, the zone is still intended for resource based use. Subject to the PA-38 review criteria or the PF-76 review criteria, FA-19 zoned properties may be appropriate for the siting of dog kennels. In accordance with OAR 660-006-0050(2), Staff finds that kennels shall be conditionally permitted either through a Conditional Use Permit, except on high-value farmland, or a Home Occupation Conditional Use Permit dependant upon the predominant use of the land (as of January 1, 1993) in the FA-19 Zone.

Proposed Zoning Ordinance language is as follows:

Section 400 Forest Agriculture - 19

404 Conditional Uses:

- .2 Kennel, as allowed by Columbia County Zoning Ordinance Section 303.2 (Primary Agriculture) or Section 503.2 (Primary Forest) subject to the predominant use of the property as defined by OAR 660-006-0050(2).*

Continuing with Section 500 of the Zoning Ordinance:

Primary Forest - 76

- 501 **Purpose:** The purpose of this zone is to retain forest land for forest use and to encourage the management of forest land for the growing, harvesting, and processing of forest crops consistent with the Oregon Forest Practices Act. And to provide for other forest uses including watershed protection, soil protection, maintenance of clean air and water, wildlife and fisheries habitat, outdoor recreation activities, open space and scenic preservation, and agricultural activities free from the encroachment of conflicting non-forest uses and influences.

Finding 9: Like the PA-38 and FA-19 Zones, uses allowed in the Primary Forest (PF-76) Zone have been established by the State of Oregon through Oregon Administrative Rule and Oregon Revised Statute. OAR 660-006-0025 identifies uses authorized in forest zones, but does not specifically address dog kennels. OAR 660-006-0025(s) does, however, allow Home Occupations as defined in ORS 215.448 in forest zones. Therefore, proposed amendments recommend allowing kennels in the PF-76 Zone through a Home Occupation/Conditional Use Permit. As discussed in Findings 13 and 16 of this report, Home Occupations shall 1) be operated by a resident or employee of a resident of the property on which the business is located, 2) employ on the site no more than five full-time or part-time persons, 3) be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located, and 4) shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

The Department of Land Conservation and Development (DLCD) had three main concerns pertaining to the allowance of kennels (as home occupations) in the forest zone. Their concerns are outlined in the "Comments" section below and as follows:

We do not believe that kennels are an allowed use in Forest zones because:

- 1) While kennels are identified as an allowed use in some EFU (Exclusive Farm Use) lands, they are not identified as an allowed use on Forest lands;
- 2) Kennels with outdoor runs are typically not operated "substantially in" a building otherwise permitted by an allowed use in the Forest zone (as required for home occupations); and
- 3) Kennel operations could unreasonably interfere with other uses allowed in the zone.

Response to DLCD's Comment #1:

As stated by DLCD in response to proposed amendments, "The department does not believe that kennels should be allowed as a home occupation in the Primary Forest (PF-76) zone. The intent of the Oregon legislature and the Land Conservation and Development Commission is to protect Forest lands for productive forest uses. If those bodies had intended to allow kennels in forest zones, statute and the division 660-006 administrative rule would have listed kennels as an allowed or conditionally allowed use. State statute and administrative rule, however, do not list kennels as an allowed use on Forest lands. Since kennels are not allowed in Forest zones, we do not believe it is permissible to allow them under another conditionally allowed use, in this case a home occupation."

Although dog kennels are not specifically addressed by State law as a permitted or conditionally permitted use in the forest zones, as per OAR 660-006-0025(s), home occupations are a conditionally permitted use in said zones. Nowhere in Statute or Administrative Rule does the State identify specific uses that are permitted or prohibited as home occupations in the forest zones. Typically, uses proposed as home occupations are not listed as permitted or conditionally permitted uses; otherwise said uses would be processed as such (and not as Home Occupations). As long as findings can be made that a proposed use is consistent with ORS 215.448 (see first paragraph of Finding 9), said use should be allowed as a Home Occupation. The Home Occupation review criteria and process ensures that kennels will only be allowed in the forest zones in a manner that will not undermine the intent of Goal 4 (Forest Lands), to conserve forest lands for forest use, or unreasonably interfere with other uses permitted in the zone.

Dog kennels sited as home occupations shall only be permitted as accessory to existing residential uses. Most dwellings in the forest zones are clustered near roads and located in areas already committed to noncommercial forest development. To ensure that dwellings in the forest zones remain clustered relatively near one another, OAR 660-006-0027(1) requires properties proposed for dwellings to pass a template test. For most properties in Columbia County, the template test requires that all or part of at least 11 other lots or parcels, three of which contain dwellings, that existed on January 1, 1993, be located within a 160-acre square or rectangle of the subject tract measured from the center of said tract. In addition to the template test, dwellings shall only be permitted in the forest zones, if findings are made that the dwelling may be sited so as not to adversely affect surrounding forest and farm uses. By allowing kennels as accessory to dwellings through a Home Occupation Conditional Use Permit, it is assured that the subject property is already committed to a non-resource (residential) use, in an area already developed for residential purposes and not commercially viable for forest management practices. Commercially viable resource lands are not impacted through the allowance of kennels accessory to dwellings (as home occupations).

As proposed, amendments only recommend (conditionally) allowing kennels on resource zoned lands (PA-38, FA-19 and PF-76), some commercial zoned lands (C-5, C-4 and C-3) and some industrial zoned lands (M-2 and M-1). Kennels are prohibited in the residential zones and in all other zones not specifically addressed. Additionally, amendments limit kennels solely to inside use in the commercial districts. Therefore, (as proposed) the only zones eligible to accommodate kennels requiring outdoor activities, such as boarding or training facilities, are the resource and industrial zones.

In Columbia County, forest lands cover 84% of the county's land area, leaving just 16% of the remaining land dedicated to all other zones. By prohibiting kennels on forest lands, the feasibility of siting or operating a kennel in Columbia County is reduced to an impractical level. Furthermore, it does not meet the intent of the County's Comprehensive Plan or Statewide Planning Goals to create a scenario where kennels have the potential to overwhelm much of the County's agricultural and/or industrial zoned lands. By allowing kennels in the forest zones, the potential for kennels to unreasonably occupy lands intended for agricultural and industrial use is reduced. Furthermore, as discussed throughout this Finding, if consistent with ORS 215.448 and reviewed through a Type 2 Home Occupation process (public hearing by the Planning Commission), kennels will not be detrimental to residential or resource uses operating in

the forest zones.

Finally, as discussed in the Economy sections of this report, kennels provide a service to Columbia County residents and a livelihood to those in the kennel business. Through proposed amendments, it is the County's intent to locate kennels on the lands that are most appropriate while not creating such prohibitive regulations that kennels may no longer feasibly operate in the County.

Response to DLCD's Comment # 2:

As stated by DLCD in response to proposed amendments, "Home occupations in resource zones must be operated 'substantially in' buildings otherwise allowed by the zone. The language proposed by the county calls for dogs to 'brought indoors' between 9pm and 6am - 9 hours, meaning that dogs may be permitted substantially outside the building for 15 hours per day. State statutes should not be interpreted to require that kenneled dogs be kept inside more than they are outside to meet the 'substantially in' buildings requirement."

As discussed in the "Background" section of this report, allowing kennels as Home Occupations in most zones, specifically residential zones, may not be appropriate due to the impacts (noise, odor, traffic flow, etc...) that kennel operations could have on residential living. Whether or not a kennel use will "unreasonably interfere with other uses permitted in the zone in which the property is located" depends on the specific characteristics of a site and the density of the area. The provisions of ORS 215.448, pertaining to home occupations, were established to protect permitted uses in the underlying zone from being impacted by said occupations. Therefore, the standard requiring a home occupation to be operated "substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located" is subjective to the proposed use and its potential impacts on surrounding properties. Uses permitted outright in the forest zones consist mostly of forest, farm and resource based operations. These uses are typically located on relatively large tracts of land and require machinery that generates noise, frequent truck traffic, etc... It is unlikely that the siting of a dog kennel on a five acre or larger property, setback 100 feet from all property lines and securely fenced, with required indoor hours (as outlined by proposed Section 1802), would be detrimental to forest, farm or resource based uses.

Furthermore, although provisions could be included in the amendments to limit the amount of time that dogs are allowed to spend outside (e.g., 13 hours inside and 11 hours outside), the declaration of a strict time frame for outside versus inside time is not a reasonable method for enforcing the Home Occupation's "substantially in" criteria. The "substantially in a building" criteria is subjective. Specific site characteristics, specific kennel operations, surrounding uses and the potential for impacts to surrounding uses (from a kennel) should be considered when making a determination as to whether the "substantially in" criteria is satisfied. Many kennel operations include a large indoor component. It is unreasonable to assume that under no circumstance could a kennel meet the "substantially in" criteria. By allowing kennels as Home Occupations in the forest zones, proposals' consistency with ORS 215.448 can be reviewed on case-by-case basis and decisions for approval or denial made appropriately.

Response to DLCD's Comment # 3:

DLCD states that "kennel operations could unreasonably interfere with other uses allowed in the zone."

As discussed in the response to Comment # 1 previously, the proposed amendments allow kennels in forest zones in a manner that ensures kennels will not unreasonably interfere with other uses allowed in the zone. The allowance of kennels in the PF-76 Zone as Home Occupations is contingent upon the presence of a dwelling. Dwellings in this zone are limited to sites that are generally unsuitable for forest uses and that will not significantly impact forest uses on adjacent and nearby forest lands. Therefore, by allowing kennels as Home Occupations, kennels are restricted to properties already committed to residential development and approved as such because they were clustered (as per template test requirements)

relatively near other dwellings, not located on property commercially viable for forest management purposes and/or in an area where development would not significantly impact surrounding forest operations. For example, in accordance with OAR 660-006-0035(1), new dwellings in Forest Zones shall be sited on a parcel so that “(a) they have the least impact on nearby adjoining forest or agricultural lands; (b) the siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized; (c) the amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and (d) the risks associated with wildfire are minimized.” In order to further ensure that kennel facilities are sited in a manner (like dwellings) to minimize impacts to resource uses on forest lands, the Planning Commission added language to proposed Section 1802. Specifically, the Planning Commission added, “All kennels must be placed in a manner so as to minimize their impact on neighboring properties and resource uses.” This language is included as Section 1802.10 (see attached amendments). Furthermore, as discussed in the response to Comment # 2, uses permitted outright in the PF-76 Zone consist primarily of forest, farm and resource based operations. Based on the nature of said operations (outside with the potential for noise generation, etc...), it is unlikely that a kennel would unreasonably interfere with uses allowed in the zone.

Next, although most dwellings in the PF-76 zone are located on smaller than 80 acre tracts (as required by the forest zone’s minimum lot size), properties containing dwellings are still typically larger in size than Rural Development and Suburban Districts and are typically less densely populated than areas intended for residential development. Therefore, it is not anticipated that kennels will significantly impact other residential uses existing in the forest zones. Furthermore, to provide remedy from potential impacts to residential and resource uses, the Planning Commission included language in Section 1802 (See Attachment - Section 1802.9) which affords the County regulatory action if a kennel or dog is considered a nuisance as defined by ORS 609.095. ORS 609.095 is included in the “Conclusion” section of this report and identifies a dog as a nuisance (in part) if it damages or destroys property of persons other than the keeper of the dog, scatters garbage on premises other than premises from which the keeper of the dog may lawfully exclude others, trespasses on private property of persons other than the keeper of the dog, and disturbs any person by frequent or prolonged noise. Based on the characteristics of the zone and the standards set forth by proposed Section 1802 (addressing lot size, setbacks, outside hours, etc... for kennels), a kennel approved in conjunction with a residence as a Home Occupation in the PF-76 Zone, should not adversely affect other properties in the zone containing resource related or residential uses.

Finally, to further protect forest lands from being permanently converted to kennel uses, the Planning Commission concluded that kennels, approved as Conditional Use/Home Occupations, should not run with the land, but shall be specific to the applicant for whom the Home Occupation Permit is granted. As intended by the Planning Commission, an approved home occupation permit for a kennel shall be specific to the approved property and applicant and shall not be transferable by the applicant to other properties or to other property owners of the subject property upon sale. The only zones proposed to allow kennels as Home Occupations are the Primary Forest (PF-76) Zone and in some cases (based on the predominant use criteria as described in Finding 8) the Forest Agriculture (FA-19) Zone. Therefore, the Planning Commission added language to Section 503.2 to address the transferability of dog kennels in these zones. The prohibition of transfer is specifically proposed in Section 503.2(a) and is included below.

For the reasons outlined in this finding, the Planning Commission finds that kennels shall be conditionally permitted in accordance with OAR 660-006-0025(s) through a Home Occupation/ Conditional Use Permit in the Primary Forest Zone. Proposed Zoning Ordinance language is as follows:

Section 500:

503 Conditional Uses:

- .2 Kennel as a home occupation carried on by the resident as an accessory use within dwellings or other buildings allowed in*

conjunction with farm or forest use subject to standards contained in Section 1802 and Section 1507.

- a. *A kennel granted as a home occupation under this ordinance is granted to the person or persons named on the application. The home occupation cannot be transferred upon death, sold, additional names added, incorporated or status changed to a non-profit. If the property changes ownership the new owner has the option to submit an application for a home occupation permit under Columbia County permit process.*

Continuing with Section 600 and 620 of the Zoning Ordinance:

Section 600 Rural Residential - 5

- 601 Purpose: This district is designed for rural areas where parcels at the time of initial zoning designation are committed to non-resource uses consistent with County acknowledged exception areas. Uses in this zoning district are anticipated to be predominantly residential with a rural level of public services; i.e., domestic water from private wells, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and road access consistent with the Transportation Plan and County Road Standards. Other uses shall be those customary to such areas, including farm and forest uses, churches and home occupations of a rural character.

Section 620 Rural Residential - 2

- 621 Purpose: This district is designed for rural areas where lot sizes at the time of initial zoning are predominantly two acres or less. The intent is to recognize existing areas, not to create substantially new two acre parcel areas. Uses in this zoning district will be predominantly residential with a rural level of public services; i.e., domestic water from water districts, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and rural road standards per County plans and regulations. Other uses will be those customary to such areas, including farm and forest uses, churches and home occupations of a rural character.

Finding 10: The Rural Residential Districts (RR-5 and RR-2) were established in Columbia County to recognize rural areas, that at the time of zoning, were committed to non-resource uses. Said areas were and are anticipated to be predominantly residential. The RR-5 Zone has a minimum lot size requirement of five acres and consists primarily of lots five acres in size and smaller. The RR-2 Zone has a minimum lot size requirement of two acres and consists mostly of lots two acres in size and smaller. Uses permitted outright in the RR-5 and RR-2 Zones include single-family detached dwellings, farm uses as defined in ORS 215.203(2), the propagation and harvesting of forest products and structures accessory to permitted uses.

Note: Dog kennels do not meet the definition of farm use as defined by ORS 215.203(2). Dog Kennels are addressed specifically and separate from farm use (as a non-farm use) in Chapter 660, Division 033, Rule 120, Table 1. A "Farm Use," as defined by ORS 215.203(2) is:

215.203 Zoning ordinances establishing exclusive farm use zones; definitions.

(2)(a) As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation,

maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

Currently, as discussed in the "Background" section of this report, dog kennels are permitted in the Rural Residential zones through Home Occupation/ Conditional Use Permits. Home Occupations are listed as conditional uses in both the RR-2 and RR-5 zones. As discussed in Finding 9, in accordance with ORS 215.448 and Section 1507 of the Columbia County Zoning Ordinance, Home Occupations shall 1) be operated by a resident or employee of a resident of the property on which the business is located, 2) employ on the site no more than five full-time or part-time persons, 3) be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located, and 4) shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

The Rural Residential Zones consist of significantly smaller lot sizes than the resource zones and are intended primarily for residential use. Siting kennel facilities amidst a concentration of single-family dwellings or in an area planned for such development (as are the RR-5 and RR-2 zones) frequently conflicts with item 4 of the Home Occupation criteria outlined in ORS 215.448. Based on relatively high density residential development, kennels have the potential (through noise, odor, etc...) to unreasonably interfere with residential uses permitted outright in the RR-5 and RR-2 Zones. As kennels are not recognized by the State as a farm use and due to the potential for incompatibilities between kennels and dwellings, the RR-5 and RR-2 zones are inappropriate for the siting of kennels. Kennels are not compatible with the purpose of small-acre residential districts. The Planning Commission finds that kennels shall be prohibited in the RR-5 and RR-2 Zones.

Continuing with Section 800, 810 and 820 of the Zoning Ordinance:

Section 800 Highway Commercial

801 Purpose: The purpose of this district is to provide for the orderly development of retail and personal service establishments along major arterials and thoroughfares in suburban areas. In general, such districts shall be planned to maintain high standards of traffic safety for the continued protection and welfare of the general public. Highway Commercial Districts shall be permitted for such properties abutting only those sections of major arterials or thoroughfares which have an existing dedicated right-of-way of not less than 60 feet.

Section 810 Neighborhood Commercial

811 Purpose: The commercial uses permitted in this District are intended to serve those residential uses within the suburban areas.

Section 820 General Commercial

821 Purpose: The General Commercial District is intended to provide for the broad range of commercial operations and services required for the proper and convenient functioning of Commercial Centers serving broad suburban areas. Uses permitted are intended to include all retail and service operations that may be appropriately located within a shopping district and that are normally required to sustain a community.

Finding 11: The Highway Commercial (C-5), Neighborhood Commercial (C-4) and General Commercial (C-3) Zones are Suburban Districts found throughout the County within the cities' Urban Growth Boundaries. As described above, the purposes of these districts are to provide for a variety of commercial operations and services to support surrounding residential communities. Lot sizes in the commercial zones

vary in size, but do not typically consist of large acreages. The Highway Commercial Zone allows lots to be as small as 7,500 square feet in size. The Neighborhood Commercial and General Commercial Zones, have no set minimum lot size, but have a maximum lot or parcel size of 40,000 square feet. Therefore, all newly created lots in the C-4 and C-3 zones shall be less than one acre. Several types of kennels, including but not limited to grooming parlors and pet shops, offer commercial products and services appropriate for the Highway, Neighborhood and General Commercial Zones. However, other kennel operations are not appropriate for the commercial districts. For example, outdoor and/or land intensive kennel facilities are not feasible in these zones due to small lot sizes as previously discussed. Additionally, in order to prevent dogs from being outside, reduce impacts to permitted uses, such as hotels and restaurants, and alleviate the need for a residential (care provider) dwelling in the commercial zones, kennels providing overnight boarding should not be allowed. The Planning Commission finds that kennels shall be conditionally permitted in the Highway Commercial, Neighborhood Commercial and General Commercial Zones if approved through a Conditional Use Permit. Proposed Zoning Ordinance language for each zone is as follows:

Section 800 (Highway Commercial), 810 (Neighborhood Commercial) and 820 (General Commercial)

804, 813, 824

Conditional Uses:

Kennel provided there is no overnight boarding, the dogs are kept in an enclosed building and the use complies with standards contained in Section 1802.

Continuing with Section 920 and 930 of the Zoning Ordinance:

Section 920 Light Industrial

921 Purpose: The Light Industrial District is intended to provide for those manufacturing, warehousing, and sales operations which basically do not create objectionable amounts of noise, odor, dust, glare vibration or truck or rail traffic.

Section 930 Heavy Industrial

931 Purpose: The Heavy Industrial District is intended to provide for those industrial operations which generate noise, odor, dust, glare, vibration, or truck and rail traffic in such amounts as to be objectionable to adjacent land uses.

Finding 12: Both the Light Industrial (M-2) and Heavy Industrial (M-1) Zones are intended to accommodate uses that may be land extensive or incompatible with urban populations. Kennels typically require areas for dogs to be housed and/or exercised outside and have the potential to generate noise and/or odor. As discussed in Findings 10 and 11 previously, such characteristics may be objectionable to certain commercial and residential uses. As the M-2 and M-1 Zones were established to support uses which are incompatible with most other zones, said zones appear to be an appropriate location for the siting of kennels. The Planning Commission finds that kennels shall be conditionally permitted in the Light Industrial and Heavy Industrial Zones if approved through a Conditional Use Permit. Proposed Zoning Ordinance language for each zone is as follows:

Section 920 (Light Industrial) and 930 (Heavy Industrial)

923 and 933 Conditional Uses:

- .1 Kennels subject to standards contained in Section 1802.*

Continuing with Section 1507 of the Zoning Ordinance:

Section 1507 Home Occupations

Land Development Services or the County Planning Commission (or the County) may allow the establishment of a Type 1 or Type 2 home occupation in any zone that allows residential uses. The following provisions shall apply:

- .1 Type 1: A Type 1 home occupation is reviewed administratively by Land Development Services and presents no indication of a business to the neighboring property owners. In addition to the general criteria in Subsection 1507.3, the following criteria shall apply to a Type 1 home occupation:
- A. It shall be operated by a resident of the property on which the business is located.
 - B. No non-residents shall be employed on the property.
 - C. The business generates not more than 20 customer vehicle trips to the property per week.
 - D. Signs are not permitted.
- .2 Type 2: A Type 2 home occupation is reviewed as a Conditional Use by the Planning Commission and may be visible to the neighborhood in which it is located. In addition to the general criteria in Subsection 1507.3, the following criteria shall apply to a Type 2 home occupation:
- A. It shall be operated by a resident or employee of a resident of the property on which the business is located.
 - B. It shall employ on the site no more than five full-time or part-time persons.
 - C. Signs are permitted as per Section 1300 of the CCZO.
- .3 The following criteria shall apply to all home occupations:
- A. A home occupation shall be operated substantially in:
 - 1. The dwelling; or a
 - 2. Other buildings normally associated with uses permitted in the zone in which the property is located.
 - B. A home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

Finding 13: Columbia County's Zoning Ordinance is silent on how, where and by what standards kennels may be sited. Currently, the only land use mechanism afforded by the Zoning Ordinance for the allowance of kennels is a Home Occupation Conditional Use Permit. However, home occupation permits are subjective and provide no guidelines or assurances to property owners as to which properties may be appropriate for a kennel or by what standards said kennels shall be sited.

In most zones, and specifically residential zones, kennel facilities and operations often do not meet the criteria of Section 1507.3 (CCZO). Section 1507.3(B) specifically requires that home occupations not unreasonably interfere with other uses permitted in the zone in which the property is located. As explained in Findings 8 and 9 of this report, kennels may be more appropriately permitted as home occupations in the FA-19 and PF-76 Zones, due to relatively large lot sizes, sparse residential development and permitted

uses of the zone focused on forest, farm and resource based activities, than residential zones. The impacts to said uses are minimal in comparison to the impacts that kennels may have on areas intended for residential use. Moreover, as discussed in Finding 9, the Planning Commission recommends adding language to proposed Section 1802 that requires kennels to be sited in a manner that “minimizes their impact on neighboring properties and resource uses.” The rural development districts and suburban development districts are zoned to accommodate smaller lot sizes and higher density development. As discussed in Finding 10, for example, the RR-5 and RR-2 zones were established primarily for single-family residential use. Dog kennels sited in these areas have historically had greater conflicts with and are more likely to detrimentally impact surrounding properties than in the resource areas.

Therefore, the Planning Commission recommends prohibiting kennels as home occupations in all zones, except the Forest Agriculture (FA-19) and Primary Forest (PF-76) Zones. In the FA-19 and PF-76 Zones, kennels shall be reviewed as Home Occupations. As described by the home occupation standards outlined in Section 1507.1 and 1507.2 of the Columbia County Zoning Ordinance, Type 1 Home Occupations present no indication of a business to neighboring properties. Type 2 Home Occupations, however, are visible to the neighborhood. Based on the outdoor activities associated with most kennels, most kennels in these zones will be subject to a Type 2 review by the Planning Commission. In addition to meeting the Home Occupation criteria of Section 1507 CCZO, kennels shall also be subject to Section 1503 (Conditional Uses) of the Columbia County Zoning Ordinance and newly proposed Section 1802 (Kennels) CCZO.

Continuing with Section 1607 of the Zoning Ordinance:

1607 Consistency with the Comprehensive Plan: All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611.

Finding 14: The Planning Commission held a public hearing on April 5, 2010 where they listened to the Staff Report and heard testimony from interested parties. They closed the public hearing and continued the case to the May 3, 2010 Planning Commission meeting for deliberation and a recommendation. The Planning Commission does not make a final decision on this matter, but rather makes a recommendation to the Board of Commissioners for the final decision. See Pages 16 - 21 for discussion of consistency with the Comprehensive Plan and Statewide Planning Goals. TA 10-02 is scheduled to be heard by the Board of County Commissioners at a public hearing on July 14, 2010. This criterion will be satisfied when the Board holds a hearing and can determine that the proposed amendment is consistent with the Comprehensive Plan and all applicable State criteria.

THE FOLLOWING POLICIES OF THE COUNTY’S COMPREHENSIVE PLAN APPLY TO THIS PROPOSAL (THOSE NOT LISTED ARE NOT APPLICABLE):

The Columbia County Comprehensive Plan has twenty-one (21) Parts, each with a set of general Goals and related Policies that are, in turn, implemented by the Zoning Ordinance, which identifies how land can be used and developed in the County’s unincorporated areas. The Parts of the Comprehensive Plan applicable to the proposed text amendment are: Part I (Administrative Procedures), Part II (Citizen Involvement), Part III (Planning Coordination), Part IV (Forest Lands), Part V (Agriculture), Part VII (Rural Residential), Part X (Economy), and Part XII (Industrial Siting). Parts of the Comprehensive Plan not addressed in this report are not applicable to the request.

Beginning with Part I - Administrative Procedures for revising and amending the Comprehensive Plan:

Part I (Administrative Procedures): Provides a framework by which the Comprehensive Plan and its implementing ordinances (such as the Zoning Ordinance) may be reviewed, revised and amended. Policy 5.A allows amendments to be initiated by the Board of Commissioners, the Planning Commission, the Planning Director, or the owners of an affected property. Policy 5.C requires amendments to follow a process for adoption: CPAC review, Planning Commission public hearing and recommendation, and Board hearing and adoption of revisions or amendments. Policy 5.D addresses legislative amendments and requires notice of the public hearing and that a copy of the proposed amendments be mailed to all Citizen Planning Advisory Committees and interested parties ten days prior to the first public hearing.

As discussed in Finding 1 of this report, the Board of County Commissioners directed Staff to prepare amendments to the Zoning Ordinance addressing land use requirements for the siting of dog kennels. The amendment process was originally initiated by the Board in October of 2008. Proposed amendments are legislative amendments and have been noticed in accordance with this plan and applicable Oregon Revised Statutes (ORS 215.060 and ORS 197.610). Notification of proposed amendments were sent to the Department of Land Conservation and Development (DLCD), all County CPACs, affected property owners and other interested parties for their review. In accordance with ORS 197.610, which requires notice of proposed amendments to be mailed to DLCD 45 days prior to the first evidentiary hearing, a copy of the proposed amendments was mailed to DLCD on February 17, 2010. On March 5, 2010, notification of the amendments was mailed to all County CPAC members and other interested agencies. Measure 56 notices were mailed to all affected properties on March 11, 2010 (see Finding 5). Public notices of the meetings (twice at least 10 days prior to the initial public hearing) were published accordingly.

The first public hearing by the Planning Commission was held on April 5, 2010. The Planning Commission listened to the Staff Report and public testimony and continued TA 10-02 to their May 3, 2010 Planning Commission meeting. At the May 3rd meeting, the Planning Commission forwarded a recommendation on to the Board of County Commissioners. The Board will hold a public hearing to consider the Planning Commission's recommendation and public testimony on July 14, 2010 prior to making a decision on the adoption of proposed amendments. Notice of the Board's hearing was published in the *Chronicle* on June 25, 2010 and July 2, 2010 and notice of the hearing sent to individual citizens who testified at the April 5, 2010 Planning Commission meeting on June 9, 2010.

Finally, Policy 8 requires all land use approvals to be consistent with the Comprehensive Plan. The proposed amendments' consistency with the Comprehensive Plan are discussed as follows:

Continuing with Part II of the Comprehensive Plan - Citizen Involvement:

Part II (Citizen Involvement): requires opportunity for citizens to be involved in all phases of the planning process. Generally, Part II is satisfied when a local government follows the public involvement procedures set out in State statutes and in its acknowledged Comprehensive Plan and land use regulations, which has been completed for this application. This is explained further under Part 1 and Part III of the Comprehensive Plan discussions.

Continuing with Part III of the Comprehensive Plan - Planning Coordination:

Part III (Planning Coordination): requires coordination with affected governments and agencies. In accordance with Section 1603 of Columbia County's Zoning Ordinance, ORS 215.060 and ORS 197.610, the County provided notice of the hearing with the opportunity for comments to DLCD, all County CPAC members, affected property owners, and the County's Animal Control Officer. Any and all comments, received as of the date of this report, are discussed under COMMENTS RECEIVED below.

Additionally, Zoning Ordinance Text Amendments are subject to the Legislative public hearing process

and are heard by the Planning Commission (for a recommendation) and by the Board of County Commissioners (for a decision). These hearings are advertised and open to the public and provide additional opportunity for public comment. The Planning Commission held a hearing on April 5, 2010 and continued the hearing for deliberation to the May 3, 2010 Planning Commission meeting. The Board of County Commissioners will hold a hearing on July 14, 2010. All of these requirements have been satisfied through the public notice process.

Continuing with Part IV of the Comprehensive Plan - Forest lands:

Part IV (Forest Lands): The goal of the Forest Lands section of the Comprehensive Plan is to conserve forest lands for forest uses. Policy 7 of this part allows dwellings on forest lands, but limits dwellings to sites that are generally unsuitable for forest uses and that will not significantly impact forest uses on adjacent and nearby forest lands. Dwellings may only be permitted on forest lands if approved through a Conditional Use Permit. The subject text amendments propose allowing kennels on forest lands as home occupations. Therefore, in order to site and operate a kennel in the PF-76 or FA-19 Zones, the kennel would be accessory to an already established residence. As discussed in Finding 13, dog kennels may only be allowed on forest lands if approved as a Home Occupation through a Conditional Use Permit. As part of this process, findings shall be made that the kennel will not unreasonably interfere with other uses permitted in the zone in which the property is located. Moreover, as discussed in Finding 9 of this report, kennels will be required to be sited in a manner that minimizes impacts on surrounding residential and resource uses. Therefore, although the allowance of dog kennels on forest lands does not directly support the Forest Lands goal, a process (Conditional Use Permit) has been established to ensure that, if sited in a forest zone, kennels will not be detrimental to said goal. By allowing kennels on forest lands that have already been impacted by the siting of a dwelling and determined unsuitable for forest use, said proposal (to allow kennels as a Home Occupation Conditional Use) is consistent with Part IV of the Comprehensive Plan.

Continuing with Part V of the Comprehensive Plan - Agriculture:

Part V (Agriculture): The goal of the Agriculture section of the Comprehensive Plan is to preserve agricultural land for agricultural uses. Policy 17, however, allows non-farm uses on agricultural lands in accordance with ORS 215.283. ORS 215.283(2)(n) specifically allows kennels on non-high value farmland subject to ORS 215.296. ORS 215.296 allows non-farm uses as long as said uses do not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Policies 11 and 15 of Part V of the Comprehensive Plan support said statute. Further protection is afforded to agricultural lands through Policy 16, which requires that an applicant for non-farm use record a waiver of the right to remonstrate against accepted farm or forest practices including spraying. The subject text amendments propose allowing kennels on agricultural lands through a Conditional Use Permit in accordance with State law as discussed in Findings 7 and 15. State law prohibits kennels on high-value farmland, in essence, preserving the most valuable farmland for farm use and supporting the goal of the Agriculture part of the Comprehensive Plan. Proposed amendments prohibit kennels on high-value farmland and are, therefore, in compliance with State law. The Conditional Use process further ensures that the provisions of ORS 215.296 will be or can be met before a kennel may be sited in an agricultural zone. These provisions require findings that the kennel will not be detrimental to other farm uses in the area which also indirectly supports the Agriculture Goal. Additionally, the Planning Commission added language to the proposed amendments to require kennels to be sited in a manner so as to minimize impacts on neighboring properties and resource uses. Allowing kennels on agricultural lands as described in this paragraph is consistent with Part V of the Comprehensive Plan.

Continuing with Part VII of the Comprehensive Plan - Rural Residential:

Part VII (Rural Residential): consists of lands that were “Built and Committed” to non-resource uses at the time of the Comprehensive Plan’s initial adoption in 1984. The density of these areas varies with averages of one unit per five acres or less being common. Over 23,000 acres of land in Columbia County are designated Rural Residential and are characterized by two distinct development patterns: five acre densities and two acre densities. The County’s Zoning Ordinance recognizes these patterns through the RR-5 and RR-2 zoning designations as discussed in Finding 10. It is the goal of the Rural Residential section of the Comprehensive Plan to provide for the continuation and needed expansion of Rural Residential uses on those resource lands where a valid exception can be, or has been shown to be, justified. Policy 5 of this part of the Plan specifically encourages the in-filling of existing built and committed lands for new residential development. Proposed text amendments suggest prohibiting kennels in the Rural Residential areas due to incompatibilities between residential and kennel uses. Rural Residential lands were designated as such because they were already committed to a certain level of residential development. By disallowing kennels in these areas, existing residential development is protected from potential nuisances generated by kennels, such as noise, and rural residential lands are preserved for future residential development (infill). The prohibition of kennel facilities in Rural Residential areas is consistent with Part VII of the Comprehensive Plan.

Continuing with Part X of the Comprehensive Plan - Economy:

Part X (Economy): generally regards economic strength and diversity in the County through the creation of a stable and diversified economy and the creation of new and continuous employment opportunities. Policy 9 further encourages the establishment and operations of service sectors to insure greater revenue spending locally. In a rural county, such as Columbia County, kennels play a valuable role in generating income for residents - kennel owners and employees and for providing dog related services to residents of the Columbia County community. Kennel services include, but are not limited to, boarding, grooming and animal sales (see kennel definition as proposed). Said services provided locally will provide jobs to County residents and encourages residents to spend money within their community. If sited appropriately, as discussed throughout this report, the allowance of kennels is an asset for economic development. The proposed text amendments are consistent with Part X of the Comprehensive Plan.

Continuing with Part XII of the Comprehensive Plan - Industrial Siting:

Part XII (Industrial Siting): The first Goal of the Industrial Development section of the Comprehensive Plan is to strengthen and diversify the economy of Columbia County and insure stable economic growth. Policies 1 and 2 encourage the creation of new and continuous employment opportunities and encourage a stable and diversified economy. Policy 11 directs industries that are either land extensive, resource related, marine related, and/or incompatible with urban populations to those sites which are appropriate to the use and currently zoned for that use. As discussed under the Economy section of the Comprehensive Plan, kennels may create new employment opportunities and do contribute to a diversified economy if sited appropriately. Policy 11 specifically suggests industrial lands for uses that may be incompatible with urban populations. Large concentrations of dogs (kenneled) have the potential to generate objectionable amounts of noise and possibly odor. Findings throughout this Staff Report have concluded that kennels are not compatible with residential uses and only certain types of kennels are compatible with commercial uses. Therefore, in accordance with Policy 11 (of this section), kennels are appropriate for the Industrial districts. Proposed text amendments recommend allowing dog kennels on industrial lands (Light Industrial and Heavy Industrial Zones) if approved through a Conditional Use Permit. This conditional allowance is consistent with Part XII of the Comprehensive Plan.

Continuing with Part XVIII of the Comprehensive Plan - Air, Land and Water Quality:

Part XVIII (Air, Land and Water Quality): Applicable provisions of this part of the Comprehensive Plan pertain to noise, sewage disposal, solid waste removal and surface water treatment. Goals of this section aim to “control and limit the adverse impacts of noise” and “maintain and improve land resources and the quality of the air and water of the County.” Most issues related to sewage disposal, solid waste removal and protection of surface water sources (as a result of dog waste) as they pertain to kennels are handled by the County’s Animal Control Division through the County’s Kennel Ordinance. The Kennel Ordinance administers regulations for the disposal of animal waste and establishes standards for kennel facilities. Kennels shall be licensed by the Animal Control Division and in turn must remain in compliance with the County’s Kennel Ordinance. Compliance with the Kennel Ordinance provides assurances that waste is being disposed of appropriately and, therefore, land and water quality being protected.

In regard to noise, the Noise Goal of the Comprehensive Plan is to “control and limit the adverse impacts of noise.” Policy 4 further states that “provisions will be included in the Zoning Ordinance to prohibit encroachment of noise pollution sources into noise sensitive areas and to prohibit the encroachment of noise sensitive uses into recognized noise pollution areas.” As discussed in Finding 10 previously, this proposal prohibits the siting of dog kennels in residential districts. Dog kennels have the potential to generate large amounts of noise from barking dogs, which may be considered a source of noise pollution. Residential zones are intended for residential use and as such are categorized as noise sensitive. By disallowing kennels in the residential zones, the Zoning Ordinance directly supports Policy 4 by prohibiting the encroachment of a noise pollution source into noise sensitive areas. Where kennels are allowed, noise is addressed by requiring all dogs to be kept within an enclosed building between the hours of 9:00 p.m. and 6:00 a.m. Enforcement of the County’s Kennel Ordinance in conjunction with the land use siting prohibitions discussed in this paragraph make the proposed text amendments consistent with Part XVIII of the Comprehensive Plan.

Continuing with Columbia County Zoning Ordinance Section 1502.1.B.2:

THE FOLLOWING OREGON STATEWIDE PLANNING GOALS (ORS 197) APPLY TO THIS PROPOSAL (THOSE NOT LISTED ARE NOT APPLICABLE):

Note: Columbia County’s Comprehensive Plan contains provisions consistent with and in support of Oregon Statewide Planning Goals. Therefore, the proposed amendments’ consistency with the Statewide Planning Goals are addressed in the discussions of the proposal’s consistency with the Comprehensive Plan. Most findings in this section will reference previously discussed sections of this Staff Report.

Goal 1 (Citizen Involvement): Goal 1 requires opportunity for citizens to be involved in all phases of the planning process. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in State statute and in its acknowledged Comprehensive Plan and land use regulations.

For Legislative Zoning Ordinance Text Amendments, the County’s land use regulations, ORS 215.060 and ORS 197.610 require notice to the public and to the Department of Land Conservation and Development (DLCD) and public hearings before the County Planning Commission and Board of Commissioners. By complying with these regulations and statutes, the County complies with Goal 1.

The County provided (45 day) notice of the proposal to DLCD, which was mailed on February 17, 2010. Agency referrals were sent to all County CPACs, the Animal Control Officer and County Counsel on March 5, 2010 and a Measure 56 Notice was mailed to all property owners that may be affected by the proposal on March 11, 2010. Any and all comments are under COMMENTS RECEIVED below. In addition, two notices of the Planning Commission Hearing, held on April 5, 2010, were posted in the *Chronicle*, *South County Spotlight* and the *Daily News*, and two notices of the Board of County

Commissioners' Hearing, scheduled for July 14, 2010, were posted in the *Chronicle*. Additionally, notice of the Board Hearing was mailed on June 9, 2010 to all those who testified at the Planning Commission hearing on April 5th. Finally, DRAFT amendments were posted on the County's website for public information and review. The requirements of Goal 1 have been satisfied.

Goal 2 (Land Use Planning), Part I: Goal 2, Part 1 requires that decisions and actions related to land use be consistent with acknowledged Comprehensive plans of affected cities and counties and based on adequate factual information. Factual information supporting this application is addressed throughout the staff report through an analysis of both County and State laws and the proposal's consistency with these laws. The text amendment's consistency with the Columbia County Comprehensive Plan is specifically addressed above.

Goal 2, Part I further requires coordination with affected governments and agencies. As stated under Goal 1 above, affected agencies have been notified of the request. The requirements of Goal 2, Part I have been satisfied.

Goal 3 (Agricultural Lands): The intent of Goal 3 is to preserve and maintain agricultural lands. Goal 3 specifically grants Counties the authority to "authorize farm uses and those nonfarm uses defined by commission rule that will not have significant adverse effects on accepted farm or forest practices." ORS 215.283(2)(n) conditionally allows dog kennels in Exclusive Farm Use (EFU) zones, the County's PA-38 Zone, if not located on high-value farm soils and if found not to significantly impact forest or farm uses as described in ORS 215.296 (a) and (b). Proposed amendments recommend allowing dog kennels in the PA-38 Zone only on non high-value farmland if approved through a Conditional Use Permit. Consistent with ORS 215.296, Conditional Use Permit approval is contingent upon findings that a kennel will not "force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use." The County's Planning Commission has also included language in the amendments to require kennels to be sited in a manner that minimizes impacts on neighboring properties and resource uses. The Department of Land Conservation and Development was notified of this amendment and had no objection to the County's recommendation to allow kennels in the PA-38 Zone, on non-high value farmland through a Conditional Use Permit. The requirements of Goal 3 have been satisfied.

Goal 4 (Forest Lands): The intent of Goal 4 is "to conserve forest lands by maintaining the forest land base and protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture." In addition to the outright allowance of forest operations on forest lands, Goal 4 identifies dwellings as a use which may be authorized on forest lands subject to standards set forth in this goal and Oregon Administrative Rule. Accessory to dwellings, OAR 660-006-0025(s) allows Home Occupations on forest lands in accordance with ORS 215.448. As kennels are not specifically addressed by Oregon Administrative Rule on forest lands, proposed amendments recommend allowing kennels in the PF-76 Zone (forest zone) accessory to single-family dwellings through Home Occupation Conditional Use Permits.

The Department of Land Conservation and Development commented that kennels should not be allowed as home occupations in the Primary Forest (PF-76) zone because the "intent of the Oregon legislature and the Land Conservation and Development Commission is to protect Forest lands for productive forest uses." However, by allowing kennels as Home Occupations, kennels are restricted to properties already committed to residential development and approved as such because they were clustered (as per template test requirements) relatively near other dwellings, not located on property commercially viable for forest management purposes and/or in an area where development would not significantly impact surrounding forest operations. Furthermore, the Planning Commission has included language in the amendments to

prohibit the transferability of kennel operations from one property owner to another upon the sale of land, and language to require kennels to “be placed in a manner so as to minimize their impact on neighboring properties and resource uses.” For these reasons, the conditional allowance of dog kennels on lands committed to residential development in the forest zones will not compromise the intent of Goal 4. The requirements of Goal 4 have been satisfied.

Goal 6 (Air, Water and Land Resources Quality): Goal 6 prohibits waste and process discharges (defined as solid waste, thermal, noise, atmospheric or water pollutants, contaminants, or products therefrom), created by existing and future development, from violating state or federal environmental quality statutes, rules and/or standards. As discussed in the analysis of the proposal’s compliance with Part XVIII (Air, Land and Water Quality) of the Columbia County Comprehensive Plan (above), all existing kennels and any new kennels shall be required to be licensed and remain in compliance with the County’s Animal Control Ordinance. Issues related to sewage disposal, solid waste removal and surface water treatment resulting from kennels are handled through the Animal Control Ordinance and its enforcement by the County’s Animal Control Officer. Furthermore, if kennels are permitted in the Commercial or Industrial Zones, a Site Design Review shall be required and may address some of these issues. Noise is addressed through the prohibition of kennels in noise sensitive areas, such as residential areas. Noise is further addressed by standards proposed in Section 1802 of the Zoning Ordinance, which require all dogs to be kept within an enclosed building between the hours of 9:00 p.m. and 6:00 a.m. The requirements of Goal 6 have been satisfied.

Goal 9 (Economic Development): The intent of Statewide Planning Goal 9 is “to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.” The goal further requires Comprehensive plans and policies to contribute to a stable and healthy economy. Through the appropriate siting criteria (as proposed by the subject amendments), dog kennels may successfully operate in Columbia County and in turn provide economic opportunities for County residents and contribute to the vitality and diversity of the local economy. There are a variety of kennel operations, including, but not limited to boarding facilities, grooming parlors, pet shops and animal shelters, that provide services to the residents of Columbia County. Said services also provide employment opportunities for residents of the County. Increased employment locally, increases spending locally and further contributes to economic development of the area. The allowance of kennels on resource, commercial and industrial lands supports small business development and contributes to the overall health of the economy. The requirements of Goal 9 have been satisfied.

Continuing with Oregon Revised Statutes and Oregon Administrative Rule (Agricultural Zones):

ORS 215.283

Agricultural Zones

215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules. (1) The following uses may be established in any area zoned for exclusive farm use:

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(n) Dog kennels.

ORS 215.296

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards. (1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

660-033-0090

Uses on High-Value and Non High-Value Farmland

(1) Uses on land identified as high-value farmland and uses on land not identified as high-value farmland shall be limited to those specified in OAR 660-033-0120. Except as provided for in section (2) of this rule, counties shall apply zones that qualify as exclusive farm use zones under ORS chapter 215 to "agricultural land" as identified under OAR 660-033-0030 which includes land identified as high-value farmland and land not identified as high-value farmland.

660-033-0120

Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) A -- Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(2) R -- Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(3) * -- Use not permitted.

(4) # -- Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

<u>HV</u> <u>Farm</u>	<u>All</u> <u>Other</u>	<u>USES</u>
		Commercial
*18	R5	Dog kennels.

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or

forest use.

(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

Finding 15: Oregon Revised Statute and Oregon Administrative Rule allow dog kennels on non-high value farmland in Agricultural Zones if the kennel use “will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use” and “will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.” Text Amendments proposed to Columbia County’s Zoning Ordinance recommend that kennels be conditionally allowed on non-high value farmland if approved through a Conditional Use Permit in the PA-38 Zone and in the FA-19 Zone (if determined agricultural land through the predominant use test as described in Finding 8). See Finding 7 for a more detailed discussion of the specific amendments pertaining to agricultural lands. The Planning Commission finds that the proposed text amendment is consistent with ORS 215.283, ORS 215.296, OAR 660-033-0090, OAR 660-033-0120 and OAR 660-033-0130.

Continuing with Oregon Revised Statutes and Oregon Administrative Rule (Forest Zones and Home Occupations):

Forest Zones

660-006-0025

Uses Authorized in Forest Zones

(s) Home occupations as defined in ORS 215.448;

ORS 215.448

215.448 Home occupations; parking; where allowed; conditions. (1) The governing body of a county or its designate may allow, subject to the approval of the governing body or its designate, the establishment of a home occupation and the parking of vehicles in any zone. However, in an exclusive farm use zone, forest zone or a mixed farm and forest zone that allows residential uses, the following standards apply to the home occupation:

(a) It shall be operated by a resident or employee of a resident of the property on which the business is located;

(b) It shall employ on the site no more than five full-time or part-time persons;

(c) It shall be operated substantially in:

(A) The dwelling; or

(B) Other buildings normally associated with uses permitted in the zone in which the property is located; and

(d) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

(2) The governing body of the county or its designate may establish additional reasonable conditions of approval for the establishment of a home occupation under subsection (1) of this section.

(3) Nothing in this section authorizes the governing body or its designate to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.

(4) The existence of home occupations shall not be used as justification for a zone change.

Finding 16: As discussed in Finding 9 of this report, State law does not specifically address dog kennels in the Forest Zones. OAR 660-006-0025 does, however, allow Home Occupations in said zones. Text amendments proposed to Columbia County's Zoning Ordinance recommend allowing dog kennels in the PF-76 Zone and FA-19 Zone (if determined forest land through the predominant use test as described in Finding 8) if approved through a Home Occupation/Conditional Use Permit. Home Occupations may only be approved if consistent with ORS 215.448. The Department of Land Conservation and Development (DLCD) submitted comments in opposition to the allowance of dog kennels as home occupations in the forest zones. Their reasoning in favor of the prohibition of kennels as home occupations and the County's response to their comments is addressed in Finding 9 of this report. For the reasons discussed in Finding 9, The Planning Commission finds that the proposed text amendment is consistent with OAR 660-006-0025.

COMMENTS:

The following comments have been received as of July 7, 2010:

Clatskanie-Quincy CPAC: No Comment

St. Helens - Columbia City CPAC: If non-compliance with codes, licenses should not be renewed subject to a designated number of infractions, possibly on an annual basis.

Upper Nehalem CPAC: With the introduction of city and county land use laws throughout our state pertaining to "Dog Kennels," "puppy mills," and "Dog training" businesses we have seen an influx of such activity into our county. This inundation can be at times adverse to other existing uses and may not be compatible. Our local community is an example of this and has been adversely effected. The Upper Nehalem CPAC has met on this text amendment and would like to request that you additionally make the following amendments.

1. Noise limitations and fines schedule for "disturbing the peace" for incessant barking outside of the (9 pm-6am) curfew.
2. The resident of the property must be the "Home Occupation Applicant" and permanently reside at that location. Under the current rules, Corporations and non-profits from other parts of the state or even other states can buy a home and locate a "Dog Kennel" in our county. This "remote management" is an abuse of the intended use of our Home Occupation regulations.
3. Establish a biannual review process of the Home Occupation at the planning commission level.

Mist-Birkenfeld CPAC: No Comment

Scappoose- Spitzenberg CPAC: No Comment

Department of Land Conservation and Development:

Kennels in Exclusive Farm Use Zones

Kennels are currently allowed under Oregon Revised Statute (ORS) Chapter 215 as a conditionally allowed use in Exclusive Farm Use (EFU) zones, such as Columbia County's Primary Agriculture-38 (PA-38) zone. As the county's proposal acknowledges, however, kennels are not permitted on agricultural land designated as high-value farm soils. Kennels could also be allowed as a conditional use in mixed farm and forest zones such as the county's Forest Agriculture-19 (FA-19) zone on farm soils not designated as high-value. Since kennels are a conditionally allowed use in EFU and mixed Farm and

Forest zones, we believe they should not be otherwise regulated as home occupations, which are also listed separately in statute as a conditionally allowed use in EFU zones.

Home occupations in resource zones must be operated “substantially in” buildings otherwise allowed by the zone. The language proposed by the county calls for dogs in kennels to be “*brought indoors*” between 9pm and 6am - 9 hours, meaning that dogs may be permitted *substantially outside the building* for 15 hours per day. State statutes should be interpreted to require that kenneled dogs be kept inside more than they are outside to meet the “substantially in” buildings requirement. We note that the “substantially in” standard is part of the county’s CUP standards for home occupations, but it is not clear that the “substantially in” standard would apply to kennels.

Kennels in Forest Zones

We do not believe that kennels are an allowed use in Forest zones because:

- 1) While kennels are identified as an allowed use in some EFU lands, they are not identified in rule as an allowed use on Forest lands;
- 2) Kennels with outdoor runs are typically not operated “substantially in” a building otherwise permitted by an allowed use in the Forest zone (as required for home occupations); and
- 3) Kennel operations could unreasonably interfere with other uses allowed in the zone.

Home Occupations

The department does not believe that kennels should be allowed as a home occupation in the Primary Forest (PF-76) zone. The intent of the Oregon legislature and the Land Conservation and Development Commission is to protect Forest lands for productive forest uses. If those bodies had intended to allow kennels in forest zones, statute and the division 6 administrative rule would have listed kennels as an allowed or conditionally allowed use. State statute and administrative rule, however, do not list kennels as an allowed use on Forest lands. Since kennels are not an allowed use in Forest zones, we do not believe it is permissible to allow them under another conditionally allowed use, in this case, a home occupation.

Columbia County Animal Control Officer: I would like to make the recommendation for the new LDS kennel land use that we add some type of grandfathering. In some way allow kennels that currently are licensed under the County kennel ordinance and have more than 10 dogs to continue to operate a kennel as long as the kennel continues to meet the requirements of the kennel permit. Upon sale or transfer of ownership, the kennel would have to comply with new LDS regulations. The number of kennels who meet this requirement would be a small number of persons and it may save you and the Board a lot of issues with these people. Many have been here for years without issues.

Columbia County Resident (Debbie Benz; 55580 Shamrock Way; Scappoose, OR 97056): We support the proposed zone changes regarding the allowance of dog kennels in Columbia County. We participated on the task force and tried to have a long term vision of what was good for the county as it continues to grow/expand. We are in particular support of not allowing kennels in RR-5 and RR-2 as we feel they would substantially interfere with their primary use.

Columbia County Resident (Erica Hall; 52563 North Road; Scappoose, OR 97056): See attached letter dated June 28, 2010

As of the date of this report, Land Development Services has yet to receive any additional comments concerning the proposed Zoning Ordinance Text Amendments.

CONCLUSION AND RECOMMENDATION:

Text Amendment (TA) 10-02 was originally heard by the Planning Commission on April 5, 2010. The Commission listened to the Staff Report and to testimony from Columbia County residents. A considerable amount of public testimony addressed two main issues: (1) Staff's recommendation to prohibit dog kennels in the Rural Residential (RR-2 and RR-5) Zones and (2) Whether Conditional Use Permits for dog kennels should run with the land or with the applicant/property owner. Following testimony, the Planning Commission closed the public hearing and continued TA 10-02 to the May 3, 2010 Planning Commission meeting for deliberation. Minutes from the April 5th Planning Commission meeting are attached for review.

Issues discussed by Planning Commission members at their May 3rd meeting included grandfathering of existing kennels, ownership requirements of kennels, nuisance regulations, limitations on the size of kennels and siting standards. Discussions of these items are summarized as follows:

(1) Commissioners were concerned that some kennel owners may not have land use approval prior to the adoption of new kennel land use amendments. It was recommended that all Conditional Use Home Occupation Permits, for existing dog kennels, be eligible for grandfathering (approval) by the Planning Commission as long as an application has been submitted to Land Development Services prior to the adoption of any new land use regulations. This recommendation only requires that an application be submitted for review, as opposed to approved, prior to adoption of kennel regulations. The Commission added language to Section 1802 of the proposed amendments to address grandfathering. Staff recommends that this language added by the Planning Commission reflect that applications be "accepted and deemed complete" to be eligible for approval by the Planning Commission.

(2) Where kennels are conditionally permitted in conjunction with a residence, Commissioners discussed requiring kennel owners to also be the property and home owner as opposed to a resident (renter). This language, however, was not included in the Planning Commission's final recommendation.

(3) Commissioners wanted to address issues raised by the public regarding the transferability of kennel approval upon the sale of property. Language was added to Section 500 (Primary Forest -76), specifically 503.2, to prohibit the transferability of kennels operated as home occupations. This language addresses the issue of whether a kennel facility should run with the land on which the kennel is located or with the property owner/applicant of the home occupation business. Note: As proposed, kennels approved through Home Occupation Conditional Use Permits will not run with the land or be transferable to another property by the same applicant. However, kennels approved through Conditional Use Permits (as in the agricultural, commercial and industrial districts) may run with the land, subject to conditions of approval.

(4) Commissioners expressed concerns about the County's nuisance laws and recommended that the State definition of "Dog as a public nuisance," as outlined in ORS 609.095 be included in the County's Zoning Ordinance. ORS 609.095 states:

609.095 Dog as public nuisance; public nuisance prohibited; complaint.

(1) A dog is a public nuisance if it:

- (a) Chases persons or vehicles on premises other than premises from which the keeper of the dog may lawfully exclude others;
- (b) Damages or destroys property of persons other than the keeper of the dog;
- (c) Scatters garbage on premises other than premises from which the keeper of the dog may lawfully exclude others;
- (d) Trespasses on private property of persons other than the keeper of the dog;
- (e) Disturbs any person by frequent or prolonged noises;
- (f) Is a female in heat and running at large; or
- (g) Is a potentially dangerous dog, but is not a dangerous dog as defined in ORS 609.098.

- (2) The keeper of a dog in a county, precinct or city that is subject to ORS 609.030 and 609.035 to 609.110 maintains a public nuisance if the dog commits an act described under subsection (1) of this section. Maintaining a dog that is a public nuisance is a violation.
- (3) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under ORS 609.990 or if a keeper fails to provide acceptable proof of compliance to the court on or before the 10th day after issuance of the order imposing the restrictions. If the court finds the proof submitted by the keeper unacceptable, the court shall send notice of that finding to the keeper no later than five days after the proof is received.
- (4) Any person who has cause to believe a keeper is maintaining a dog that is a public nuisance may complain, either orally or in writing, to the county, precinct or city. The receipt of any complaint is sufficient cause for the county, precinct or city to investigate the matter and determine whether the keeper of the dog is in violation of subsection (2) or (3) of this section.

The Commission added language to Section 1802 of the proposed amendments to address nuisance regulations.

(5) Finally, consideration was given to limiting the number of dogs allowed on a property, limiting the size of kennels in resource zones and requiring kennel facilities to be placed within 100 feet of the applicant's residence in the PF-76 zone. Language to impose a limitation on the number of dogs allowed on a property was not included in the amendments. The Commission did add language to Section 1802 to address how kennels should be sited in the Pf-76 zone. This language was added by the Commissioners to recognize DLCDC's concerns pertaining to the allowance of dog kennels on forest lands.

Planning Commission Recommendation:

Based upon the facts, findings and comments herein, the Planning Commission recommends **APPROVAL** of TA 10-02, the legislative amendment to the text of the Columbia County Zoning Ordinance to clarify how, where and according to what standards dog kennels are to be sited throughout the County, with modifications to Section 503.2 and Section 1802.

Amendments are included as an attachment to this report. Planning Commission additions are highlighted and underlined for clarity.

Attachments:

Kennel Zoning Ordinance Amendments
Planning Commission Meeting Minutes - April 5, 2010
Planning Commission Meeting Minutes - May 3, 2010
Letter from Erica Hall dated June 28, 2010

ATTACHMENT B

COLUMBIA COUNTY Amendments to the Zoning Ordinance

ADDITIONS ARE **IN BOLD**
DELETIONS ARE STRICKEN

Section 100 GENERAL DEFINITIONS

.40 High Value Farmland: Lands as defined in Oregon Administrative Rules 660-033-0020 (8) (a-f).

(Renumber Subsections .40 thru .48)

.49 Kennel: Any lot or parcel or premises on which ~~4 or more dogs or cats of more than 6 months of age are kept commercially for board, propagation, or sale.~~

As applied in this Ordinance, “Kennel” means:

- i. **Any property that houses ten (10) or more dogs over six (6) months of age.**
- ii. **Any “Animal Pound” or “Animal Shelter” as defined by OAR 603-015-0025(1).**
- iii. **Any “Boarding Kennel” as defined by OAR 603-015-0025(2).**
- iv. **Any “Commercial Kennel” as defined by OAR 603-015-025(3).**
- v. **Any “Grooming Parlor” as defined by OAR 603-015-0025(5).**
- vi. **Any “Pet Shop” or “Animal Dealer” as defined by OAR 603-015-0025(7) that handles dogs.**

(Renumber Subsections . 49 thru .112)

Section 300 PRIMARY AGRICULTURE - 38

PA-38

303 Conditional Uses:

.2 Kennel, except on high value farmland as defined herein subject to standards contained in Section 1802.

(Renumber Subsections .2 thru .15)

Section 400 FOREST AGRICULTURE - 19

FA-19

404 Conditional Uses: In an FA-19 zone, the following uses and their accessory uses are permitted subject to the provisions of Sections 405 and 406. A conditional use shall be reviewed according to the procedures provided by Section 1503.

- .2 Kennel, as allowed by Columbia County Zoning Ordinance Section 303.2 (Primary Agriculture) or Section 503.2 (Primary Forest) subject to the predominant use of the property as defined by OAR 660-006-0050(2).**

(Renumber Subsections .2 thru .15)

Section 500 PRIMARY FOREST - 76

PF-76

503 Conditional Uses: In the PF Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Section 504 and 505. A conditional use shall be reviewed according to the procedures provided in Section 1503.

- .2 Kennel as a home occupation carried on by the resident as an accessory use within dwellings or other buildings allowed in conjunction with farm or forest use subject to standards contained in Section 1507 and Section 1802.**
 - A. Consistent with all home occupations, land use approval for a kennel granted as a home occupation shall be granted only to the person or persons named on the application and shall not be transferable to or include any other person or organization, unless approved through a new home occupation permit; and**
 - B. A home occupation permit for a kennel shall be granted only to an individual resident or residents of the dwelling and shall not be granted to an organization, such as but not limited to a business or non-profit corporation.**

(Renumber Subsections .2 thru .12)

Section 600 RURAL RESIDENTIAL - 5

RR-5

603 Conditional Uses:

- .5 Kennel as a home occupation with a maximum of 15 dogs subject to standards contained in Section 1507 and Section 1802.**
 - A. Consistent with all home occupations, land use approval for a kennel granted as a home occupation shall be granted only to the person or persons named on the application and shall not be transferable to or include any other person or organization, unless approved through a new home occupation permit; and**

- B. A home occupation permit for a kennel shall be granted only to an individual resident or residents of the dwelling and shall not be granted to an organization, such as but not limited to a business or non-profit corporation.

(Renumber Sections 603 thru 607)

Section 620 RURAL RESIDENTIAL - 2

RR-2

624 Prohibited Uses: The following uses are not allowed in the RR-2 zoning district:

.1 Kennel

(Renumber Sections 624 thru 626)

Section 800 HIGHWAY COMMERCIAL

C - 5

804 Conditional Uses:

.2 Kennels, provided the use complies with standards contained in Section 1802.

Section 810 NEIGHBORHOOD COMMERCIAL

C - 4

813 Conditional Uses:

.3 Kennels, provided there is no overnight boarding, the dogs are kept in an enclosed building, and the use complies with standards contained in Section 1802.

Section 820 GENERAL COMMERCIAL

C - 3

824 Conditional Uses:

.2 Kennels, provided the use complies with standards contained in Section 1802.

(Renumber Section 824)

Section 920 LIGHT INDUSTRIAL

M - 2

923 Conditional Uses:

.1 Kennels, subject to standards contained in Section 1802.

(Renumber Section 923)

Section 930 HEAVY INDUSTRIAL

M - 1

933 Conditional Uses:

- .1 Kennels, subject to standards contained in Section 1802.**

(Renumber Section 933)

[New Article]

ARTICLE IX SPECIAL USE STANDARDS

Section 1800 SPECIAL USE STANDARDS

1801 GENERAL PROVISIONS

Special uses are those included in Section 1800. Due to their public convenience and necessity and their effect upon the surrounding area, these uses are subject to conditions and standards that differ from those required of other uses. Special uses shall be subject to the provisions of the section that regulates the specific use and the provisions of the zoning district in which the special use will be located. Special uses are permitted only when specified as a primary, accessory, or conditional use in the subject zoning district. Where a dimensional or development standard for a special use differs from that of the subject zoning district, the standard for the special use shall apply.

1802 KENNELS

- .1 Minimum Site Area: The minimum site area in RR-5, PF-76, FA-19 and PA-38 zones shall be five acres.**
- .2 Setbacks: The minimum setback for all kennel facilities including exercise and waste disposal areas in RR-5, PF-76, FA-19 and PA-38 zones shall be 100 feet. In all other zones in which kennels are allowed, the setback shall be as prescribed by zoning district standards of the zone in which it is located.**
- .3 Signs: There shall be a maximum sign area of six(6) square feet in RR-5, PF-76, FA-19 and PA-38 zones. In all other zones in which kennels are allowed, the maximum sign area shall be as prescribed by sign standards contained in Section 1300.**
- .4 Kennel Licence: A Columbia County kennel licence shall be obtained.**
- .5 Dog Waste: All kennels shall comply with dog waste handling and**

disposal standards contained in Section 10 D. of the Columbia County Kennel Ordinance.

- .6 **Outside Hours**: All dogs shall be brought into an enclosed building between the hours of 9pm and 6am.
- .7 **Control of Dogs**: All dogs shall be confined within an enclosed building or within secure fencing at all times when not under the direct control of a keeper.
- .8 A kennel and/or keeper of a dog shall be subject to ORS 609.095. A violation of ORS 609.095 shall be a basis for denial or revocation of a kennel land use approval.
- .9 All kennels must be sited to minimize impacts on neighboring properties and resource uses.

LAND DEVELOPMENT SERVICES
COLUMBIA COUNTY COURTHOUSE
230 STRAND ST.
ST. HELENS, OR 97051



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