Wasco County and EFU Minimum Parcel Size

Wasco County’s agricultural land regulations have existed since the inception of its planning program in the 1950s. In the A-1 zone in 1956, there were nineteen permitted uses. Many of the permitted uses are similar to those still allowed outright or through permits in the agricultural zones today.

By 1963, the Oregon legislature codified the Exclusive Farm Use (EFU) zone and allowed uses (ORS 215). Coupled with the farm tax deferral program, started in 1961, the vision to conserve farmland for agricultural use was clearly established.

Wasco County adopted two additional agricultural zones, A-2 and A-3, as well as two forest zones, F-1 and F-2 in 1970. These new zones established conditional uses, in addition to permitted uses, for resource zones to mitigate conflict between uses.

Senate Bill 100, adopted in 1973, created the statewide land use planning program and its “priority consideration” over resource zones, including agricultural lands. This bill “reasserted state level authority over land use policy and zoning” and established the Land Conservation and Development Commission and the Statewide Planning Goals that directed further iterations of Wasco County’s land use plans.

In 1983, the Comprehensive Plan identified 20 acre and 80 acre EFU zones. In 1996, Wasco County adopted new EFU provisions in response to 1993 HB 3661, which included rezoning all EFU lands to 160 acres.

In 1998, Wasco County was awarded a Go Below to zone orchard lands at a 40 acre minimum parcel size in keeping with their high value crops and ability to produce high returns on smaller parcels of land. This was also consistent with historic agricultural practice in the orchard areas.

Significant work was done in the 1990s and 2000s by a special advisory group called the Agricultural Resource Group (ARG). This group set many of the setbacks, allowances, and additional restrictions above and beyond state law present in the Land Use and Development Ordinance (LUDO) up until Wasco County 2040. Reasons for the change from 80 acres to 160 minimums were laid out by the ARG as follows:

- “The parceling of productive agricultural land into lots can lead to a pattern of parcels that are...too small for productive agricultural operations.” This in turn, they identified, would create management problems for adjacent farm operations.
- “Existing agricultural zoning (A-1-80) does not adequately illustrate the range and diversity of parcel sizes needed to address the three diverse commercial agricultural sectors (perennials, field crops and livestock) in Wasco County.”
- “Wasco County is beginning to see increasing pressure to convert agricultural lands to other uses.”
- “Continuing population growth in some areas of Wasco County has led to more complaints from nearby residents about agricultural conditions or activities such as dust and odors, machinery on roads, aerial spraying and chemical weed suppression.”
- “Nuisance complaints and conflicts with neighbors can potentially create economic hardship for agricultural producers.”

According to group meeting documents, in addition to the listed reasons, the 160 acre was preferable because state law requires 160 acres to establish a house in conjunction with farm use (660-033-0135).

State Perspective

The following is excerpted from Agricultural and Forestland (State of Oregon, September 2012).

Oregon protects agricultural lands (Goal 3) and forest lands (Goal 4) through the statewide comprehensive planning program that requires local governments to inventory and designate these lands in the comprehensive plan, zone the land for EFU or forest use, and adopt policies to preserve these lands. Farm and forest lands are further protected through limitations on the uses allowed on lands designated for farm or forest use, restrictions on land divisions and special assessment tax incentives.

Lands that meet the definition of agricultural lands must be protected in EFU zones unless the land is within an UGB...or the local government has taken an exception to Goal 3.
Land Divisions in Farm and Forest Zones

Oregon land use law sets minimum lot sizes and standard for all land divisions in farm and forest zones. In EFU zones, the minimum size for land divisions on rangeland is 160 acres, while the minimum for other farmland is 80 acres. If a county can justify a lower minimum lot size that can continue to protect the existing commercial farming within the county, a “go below” minimum may be approved by the Land Conservation and Development Commission. Several counties have such “go below” minimums.

The continued parcelization of farmland into smaller and smaller parcels is another one of the most difficult policy issues Oregon faces in agricultural land protection, requiring effective policy to establish land division and minimum lot size standards. Oregon’s policy framework has always operated under the intent of protecting agricultural land in large blocks. Goal 3 originally carried no statewide minimum for lot sizes, due to the varied acreage needs between small intensive farm operations and large dryland ranches. Instead, Goal 3 stated that land divisions and minimum lot sizes be ‘appropriate for the continuation of the existing commercial agricultural enterprise’ of the area. Due to this vague language, parcelization into smaller and smaller “farm” plots continued to be approved until a major review of the land statutes in 1993, when the legislature established a statewide minimum lots sizes of 160 acres for rangeland and 80 acres for farm partitions. LCDC approves smaller parcels when counties are able to demonstrate that the plot promotes ‘commercial scale’ farm operation.

Summary

Wasco County currently has two minimum parcel sizes for Exclusive Farm Use Zones, 40 and 160 acres. The 40 acre zone was a result of the “Go Below” exception process. The 160 acre zone was a result of changes to state law, including 1993’s HB 3661, and work by a special advisory group in the 1990s and 2000s that wanted to make it clear 160 acres is required for a farm dwelling.

The Wasco County Land Use and Development Ordinance currently has an option for land division in the 160 acre EFU zone at 80 acres, provided it meets certain criteria (Chapter 3, Section 3.217).

There is also a provision for smaller divisions in conjunction with a non-farm dwelling application for eligible properties (Chapter 3, Section 3.217 and 3.219).