

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** In determining whether a property is generally unsuitable for the production of farm crops and livestock or merchantable tree species, a county’s conclusion that any historic agricultural use on the property before that time does not provide a substantial hurdle is supported by substantial evidence where the county chooses to rely on an expert’s opinion that proposed nonfarm parcels have not been used for agricultural operation in the past 20 years. *Peterson v. Crook County*, 52 Or LUBA 160 (2006).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** Where the record reflects that 10 acres of irrigation rights were removed from two 20-acre parcels because (1) irrigating with that water was extremely inefficient, (2) the nonfarm parcels consist of 85 percent bare ground, and (3) moving the irrigation rights back would provide no benefit, county’s findings that returning irrigation rights to the property would not render the nonfarm parcels generally suitable for the production of farm crops or livestock is supported by substantial evidence. *Peterson v. Crook County*, 52 Or LUBA 160 (2006).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** Where the record reflects that at least 75 percent of the parcels proposed for nonfarm dwellings are incapable of supporting grazing, the county is not required to specifically consider whether neighboring ranchers could use the proposed nonfarm parcels in conjunction with other ranch land. *Peterson v. Crook County*, 52 Or LUBA 160 (2006).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** A 160-acre parcel that was partitioned from and ceased concurrent farm operations with the parent parcel three years prior to being sold for non-farm purposes is not part of a “farm unit” with the parent parcel, and hence “agricultural land” under OAR 660-033-0020(1)(b), where different farming regimes operated on each parcel, there is a subsequent history of independent farm operations, and the county determined in allowing the partition that the 160-acre parcel either was the appropriate size for an agricultural operation or that it met the statutory minimum size for an agricultural operation. *Wetherell v. Douglas County*, 50 Or LUBA 167 (2005).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** A finding that land is not subject to Goal 3 is inadequate, where it does not address the definition of “agricultural land” at OAR 660-033-0020(1) or explain why land with Class III agricultural soils is not “agricultural land” under that definition. *Oregon Shores Cons. Coalition v. Coos County*, 50 Or LUBA 444 (2005).

**7.2.1 Goal 3 - Agricultural Lands/ Goal 3 Rule - Agricultural Land Definition - Generally.** Lands that are planned and zoned for resource use under Goals 3 and 4 may be redesignated for nonresource use by applying an acknowledged comprehensive plan policy that establishes standards for such redesignations. Where such a specific policy and local standards have been acknowledged, they apply in place of more general

statewide planning goals standards that would otherwise apply to such a redesignation. *Sommer v. Josephine County*, 49 Or LUBA 134 (2005).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** Property that is: (1) comprised of land in Natural Resources Conservation Service (NRCS) soils classes other than I-IV; (2) is farmed and intermingled with adjacent lands in capability classes I-IV; (3) contains a barn and farmhouse; and (4) satisfies the farm unit test, is agricultural land, and may not be redesignated as nonresource land. *Emmons v. Lane County*, 48 Or LUBA 457 (2005).

**7.2.1 Goal 3 - Agricultural Lands/ Goal 3 Rule - Agricultural Land Definition - Generally.** Where the question of whether a property qualifies as agricultural land, so that it cannot be considered for a comprehensive plan Rural Use map designation, is governed by the same legal standard that governed a prior local government finding in an earlier decision on the same application that the subject property does not qualify as agricultural land subject to Goal 3, the same issue is presented. If that issue was conclusively resolved in the earlier decision, a different resolution of that issue in the later decision is barred by the *Beck v. City of Tillamook* waiver principle. *Rutigliano v. Jackson County*, 47 Or LUBA 470 (2004).

**7.2.1 Goal 3 - Agricultural Lands/ Goal 3 Rule - Agricultural Land Definition - Generally.** An ambiguous county code provision that allows lands that were incorrectly identified as agricultural or forest land under Goals 3 and 4 to be rezoned for rural residential use is correctly interpreted to require that an applicant show that a particular property is neither agricultural land nor forest land because land will frequently qualify as both agricultural and forest land and the Land Conservation and Development Commission's rules allow such lands to be zoned for either for exclusive farm use or for forest use. *Rutigliano v. Jackson County*, 47 Or LUBA 470 (2004).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** Where county comprehensive plan standards for identifying agricultural land implement the Goal 3 definition of agricultural land, and an evidentiary challenge to a finding under the comprehensive plan standards that certain land is agricultural land is inseparable from the question of whether that land is agricultural land under Goal 3, LUBA lacks jurisdiction to address the challenge under the county's comprehensive plan standards. *Manning v. Marion County*, 45 Or LUBA 1 (2003).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** Any lands designated as "marginal lands" pursuant to ORS 197.247 retain that status, notwithstanding repeal of that statute. Where the local government is considering lands for inclusion in urban reserves that might include marginal lands, it must correctly identify those lands and assign them second priority status pursuant to OAR 660-021-0030(3)(b). Failure to do so is inconsistent with the urban reserve rule because it treats second priority marginal lands as fourth priority resource lands. *D.S. Parklane Development, Inc. v. Metro*, 35 Or LUBA 516 (1999).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** A local government may include third priority "secondary lands" within urban reserves under OAR 660-021-0030(3)(c) only if such lands have been designated as secondary lands pursuant to a statutory or rule-based definition. *D.S. Parklane Development, Inc. v. Metro*, 35 Or LUBA 516 (1999).

**7.2.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Agricultural Land Definition – Generally.** In determining whether a parcel is agricultural land under Goal 3, a local government must: (1) evaluate the soils and suitability of the entire subject property under applicant's ownership, and (2) determine whether the entire subject property is necessary to permit farm practices on nearby lands under OAR 660-33-020(1)(a)(C). *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

**7.2.1 Goal 3 - Agricultural Lands/ Goal 3 Rule - Agricultural Land Definition - Generally.** County findings do not justify a conclusion that the subject property is part of a "farm unit" within the definition of agricultural land set forth in OAR 660-33-020(1)(b) where the findings do not address whether the subject property is intermingled with lands in capability classes I-IV, and do not explain the relationship between the subject property and the remainder of the parcel. *Brown v. Coos County*, 31 Or LUBA 142 (1996).

**7.2.1 Goal 3 - Agricultural Lands/ Goal 3 Rule - Agricultural Land Definition - Generally.** Where a local government properly determines certain land is not farm or forestland subject to Statewide Planning Goals 3 and 4, an exception to Goals 3 and 4 is *not* required to support comprehensive plan and zone map amendments designating such property for residential use. *Bates v. Josephine County*, 28 Or LUBA 21 (1994).