

LAND USE  
BOARD OF APPEALS

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

Aug 16 2:23 PM '82

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3 MARTIN SLOAN HALL and )  
CHARLES R. LEWIS, )  
4 )  
Petitioners, )  
5 )  
vs. )  
6 )  
THE BOARD OF COMMISSIONERS )  
7 OF DOUGLAS COUNTY, OREGON, )  
CLIFFORD KENNERLY, DOUGLAS )  
8 PLANNING ADVISORY COMMITTEE, )  
DONALD & SANDRA STANDLEY, )  
9 JAMES R. & FRANCES A. RANEY, )  
PHILLIPPE GIRRDET, WESLEY )  
10 SMITH, GLEN & VALORIE PEDERSON, )  
and DUANE & LUELLA BENNETT, )  
11 )  
Respondents. )

LUBA No. 82-036

FINAL OPINION  
AND ORDER

12  
13 Appeal from Douglas County..

14 Martin Sloan Hall and Charles R. Lewis, Roseburg, filed the  
15 Petition for Review and argued the cause on their own behalf.

16 There was no appearance by Douglas County.

17 Frances A. Raney, Tenmile, filed the brief and argued the .  
18 cause on her own behalf.

19 COX, Referee; REYNOLDS, Chief Referee; BAGG, Referee;  
20 participated in this decision.

21 Affirmed.

8/16/82

22 You are entitled to judicial review of this Order.  
23 Judicial review is governed by the provisions of Oregon Laws  
24 1979, ch 772, sec 6(a).  
25  
26

1 COX, Referee.

2 NATURE OF PROCEEDING

3 Petitioners seek review of the March 24, 1982 Douglas  
4 County decision denying their request for a major land  
5 partition. The requested partition would have allowed the  
6 creation of three parcels, together with a roadway easement, in  
7 an area zoned rural residential five acre (RR-5). The property  
8 is located in the Tenmile area of Douglas County.

9 ALLEGATIONS OF ERROR

10 Petitioners set forth five separate assignments of error,  
11 four of which allege, in various manners, that the county's  
12 findings are inadequate. In addition, petitioners claim that  
13 Douglas County's findings and conclusions are unsupported by  
14 substantial evidence in the record.

15 FACTS

16 The pertinent facts indicate that this problem began on  
17 August 26, 1982 when the Douglas County Board of Commissioners  
18 granted to petitioners herein a requested rezoning of the  
19 subject property. By the August 26, 1981 action the zone  
20 designation on petitioners' property was changed from  
21 farm-forest (FF) to RR-5, the designation which existed on the  
22 date of the contested partitioning decision. That rezoning was  
23 granted subject to the following conditions:

- 24 "1. An approved subsurface sewage site on each lot or  
25 parcel.  
26 "2. A proven potable source of water for each lot or  
parcel.

1 "3. A submission of a redevelopment plan  
2 demonstrating the location of the proposed  
3 homesite and their [sic] relationship to the  
4 ultimate development plan considering the plan  
5 designation of RR-2 Acres.

6 "4. Adequate provision for access in event of future  
7 redivision."

8 Upon receiving the RR-5 zone, the petitioners requested the  
9 subject major land partition. This partitioning request was  
10 heard initially by the Douglas County Planning Commission on  
11 December 17, 1981. The planning commission's decision to  
12 approve the request was signed on January 21, 1982. That  
13 decision was appealed by respondents Raney, et al, to the  
14 Douglas County Board of Commissioners. On March 24, 1982,  
15 after hearing the matter, the board of commissioners denied the  
16 requested partition. The basis for the denial was two-fold.  
17 First, the applicants had "not met the conditions of the  
18 development imposed by the Board in granting the zone change  
19 from FF Farm Forest to RR-5 Rural Residential Five Acres  
20 affective August 26, 1981." The conditions referred to in the  
21 county's order were the ones that are quoted above.<sup>1</sup> Second,  
22 the county board stated:

23 "Further, in spite of the fact that the planning  
24 commission decision was signed after the area was  
25 redesignated for rural residential use, legitimacy of  
26 the decision is clouded by the fact that the findings  
27 are based on the hearings record of December 17, 1981,  
28 when the rural residential zoning of the property had  
29 been invalidated by LUBA. Statewide planning goals  
30 would have had to have been addressed to support the  
31 requested partitioning." (Emphasis added).

1           The reference to a LUBA decision apparently reflects this  
2 Board's September 30, 1981 decision in 1000 Friends of Oregon v  
3 Douglas County, 4 Or LUBA 24 (1981). The subject property is  
4 located in an area which this Board found to have been  
5 improperly designated rural residential by Douglas County in  
6 its comprehensive plan.

7 DECISION

8           We affirm the county's decision. Petitioners first claim  
9 that the county's findings are inadequate because they fail to  
10 properly explain the basis for the county's decision. We  
11 disagree. The county found that "statewide planning goals  
12 would have had to have been addressed to support the requested  
13 partitioning." The record does not indicate the goals were  
14 addressed by the applicant at any stage in the proceeding.  
15 Because the goals were not addressed, the county properly  
16 denied the partitioning request. Alexanderson v. Polk County,  
17 289 Or 427, 616 P2d 459 (1980). Thus, we conclude the March  
18 24, 1982 order denying petitioners' request is sufficient. It  
19 explains the criteria and standards relevant to the decision,  
20 conveys the pertinent facts and legal standards and relates  
21 those to each other. See ORS 215.416.

22           Petitioners next argue that the county is incorrect because  
23 the statewide planning goals had been addressed at the August  
24 26, 1981 rezoning proceeding. Neither the record of the August  
25 26, 1981 hearing nor the decision and findings in support  
26 thereof, were included in this record, however. As a result we

1 have nothing to review to test petitioners' argument that the  
2 statewide planning goals had been addressed. It is the  
3 responsibility of persons who assert an issue to ensure that  
4 the portion of the record supporting their contention is in the  
5 record before this Board. The fact that the record does not  
6 contain any reference to application of the statewide goals, as  
7 required by Oregon Revised Statutes Chapter 197, is substantial  
8 support for the finding that goal compliance had not been  
9 addressed.

10 Affirmed.

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FOOTNOTES

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<sup>1</sup>  
Petitioners allege the county was incorrect in its conclusion that the conditions had not been met. We find it unnecessary to address that allegation in light of our holding.