



1 Opinion by Holstun.

2 **NATURE OF THE DECISION**

3 Petitioners challenge a county decision adopting text  
4 and map amendments to the Union County Comprehensive Plan  
5 (plan) and Zoning Partition and Subdivision Ordinance (ZPSO)  
6 and to the City of Island City Land Use Plan and Zoning  
7 Ordinance.<sup>1</sup>

8 **MOTION TO INTERVENE**

9 The City of Island City moves to intervene on the side  
10 of respondent in this consolidated proceeding. There is no  
11 opposition to the motion, and it is allowed.

12 **FACTS**

13 Under a cooperative agreement, the City of Island City  
14 (hereafter the city) and Union County share land use  
15 planning responsibility for the area located within the  
16 city's acknowledged urban growth boundary (UGB), but outside  
17 the city's corporate limits. Local proceedings leading to  
18 the challenged decision were conducted by both the city and  
19 the county. On May 11, 1992, the city adopted an ordinance  
20 amending the UGB to include the subject 120 acres. The May  
21 11, 1992 city ordinance also amended the city zoning  
22 ordinance to create a new A-1 Exclusive Farm Use zone.

23 The city's May 11, 1992 ordinance also changed the

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<sup>1</sup>The county ordinance challenged in this proceeding states that the City of Island City's comprehensive plan and zoning ordinance are part of the county plan and ZPSO.

1 comprehensive plan map designation for the subject 120 acres  
2 from "Urban/Reserve" to "Residential." The city zoning map  
3 designation for the property was changed to place 60 acres  
4 in the city's R-1 Residential zone and the remaining 60  
5 acres in the new A-1 Exclusive Farm Use zone. Finally, the  
6 city's ordinance amended the city's comprehensive plan to  
7 provide that areas within the UGB zoned A-1 are held for  
8 future residential use when adjacent property is built or  
9 committed to urban development.

10 The county ordinance challenged in this proceeding  
11 adopts the same changes as the city's May 11, 1992 ordinance  
12 and also adopts the same findings that were adopted by the  
13 city in support of its May 11, 1992 ordinance.

14 **FIRST ASSIGNMENT OF ERROR**

15 Goal 14 (Urbanization) requires that a local government  
16 consider seven factors when it establishes or changes a UGB.

17 "[UGBs] shall be established to identify and  
18 separate urbanizable land from rural land.  
19 Establishment and change of [UGBs] shall be based  
20 upon consideration of the following factors:

21 "(1) Demonstrated need to accommodate long-range  
22 urban population growth requirements  
23 consistent with LCDC goals;

24 "(2) Need for housing, employment opportunities,  
25 and livability;

26 "(3) Orderly and economic provision for public  
27 facilities and services;

28 "(4) Maximum efficiency of land uses within and on  
29 the fringe of the existing urban area;

1           "(5) Environmental, energy, economic and social  
2           consequences;

3           "(6) Retention of agricultural land as defined,  
4           with Class I being the highest priority for  
5           retention and Class VI the lowest priority;  
6           and

7           "(7) Compatibility of the proposed urban uses with  
8           nearby agricultural activities.

9           "The results of the above considerations shall be  
10          included in the comprehensive plan. \* \* \*"

11         Under this assignment of error, petitioners challenge the  
12         county's consideration of the above quoted factors.<sup>2</sup>

13           **A.     Goal 14 Factors 1 and 2**

14           Goal 14 factors 1 and 2 are referred to as the "need"  
15         factors.    See BenjFran Development v. Metro Service Dist.,  
16         17 Or LUBA 30, 37 (1988), aff'd 95 Or App 22 (1989). Under  
17         Goal 14, the need factors are applied by local governments  
18         when a UGB is initially established to assure that the UGB  
19         includes sufficient urbanizable land to provide "housing,  
20         employment opportunities, and livability" for the expected  
21         "long range population, \* \* \* consistent with LCDC goals."<sup>3</sup>  
22         Once the UGB is initially established, subsequent amendments

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<sup>2</sup>Petitioner City of LaGrande assigns four separate assignments of error in which it contends the county failed to demonstrate compliance with Goal 14 factors 1 through 4. Petitioner Tipperman alleges the county failed to demonstrate compliance with Goal 14 factors 1 through 7 under his first assignment of error. In this opinion, we address both petitioners' arguments concerning the Goal 14 factors in our discussion of the first assignment of error.

<sup>3</sup>A UGB is "established" when it is acknowledged pursuant to ORS 197.251. Roth v. LCDC, 57 Or App 611, 617, 646 P2d 85 (1982).

1 of the UGB may be shown to be needed under factors 1 and 2  
2 as follows:

3       "\* \* \* by (1) increasing projected populations,  
4       (2) amending the \* \* \* assumptions \* \* \* applied  
5       to those population figures in originally  
6       justifying the UGB, or (3) doing both." BenjFran  
7       Development, supra, 17 Or LUBA at 42.

8       The city's 1984 comprehensive plan includes population  
9       projections and assumptions that were used to justify the  
10      amount of urbanizable land included within the UGB as  
11      sufficient to meet residential development needs until the  
12      year 2004. Petitioners contend the county's decision does  
13      not amend the comprehensive plan to revise the 1984  
14      population projections or revise the assumptions that were  
15      used in the 1984 plan to determine the amount of urbanizable  
16      land needed for residential and other urban uses.  
17      Petitioners further contend the city has grown at a rate  
18      less than anticipated in the 1984 plan and that the UGB  
19      amendment is therefore not needed.

20      The findings adopted to demonstrate the challenged UGB  
21      amendment is justified under Goal 14 factors 1 and 2, rely  
22      in large part on events that have occurred since the plan  
23      was originally adopted and acknowledged and on anticipated  
24      residential demand that may be generated by recent  
25      commercial development. The analysis supporting the need  
26      for the challenged UGB amendment, as stated in these  
27      findings, is adopted as part of the comprehensive plan as

1 Goal 14, quoted in part supra, requires.<sup>4</sup> We note, however,  
2 the assumptions and analysis that were adopted in support of  
3 the initial UGB remain a part of the plan and, as discussed  
4 below, are somewhat at odds with the factual determinations  
5 and legal rationale expressed in the challenged decision to  
6 support the expanded UGB.

7 **1. Population Projections**

8 The city's 1984 comprehensive plan established a UGB  
9 that included more urbanizable land than would be required  
10 to accommodate the anticipated year 2000 population,  
11 assuming a continuation of the city's historical population  
12 growth. The plan includes a table showing that a  
13 continuation of the city's historical growth rate would  
14 result in a population of 1,364 in the year 2000. However,  
15 the plan includes pro-growth policies and projects the city  
16 will grow at approximately twice its historical rate,  
17 achieving a population of 3,127 in the year 2000.<sup>5</sup>

18 The challenged decision explains that since 1984, the  
19 city has not grown at the rate projected in the 1984 plan.  
20 However, the findings explain that residential growth is  
21 expected to accelerate due to current commercial development

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<sup>4</sup>Section 7 of the challenged decision specifically states the findings supporting the challenged decision are adopted as part of the plan. Record 9.

<sup>5</sup>According to intervenor-respondent, the record shows the city had a population of 475 in 1975 and currently has a population of 750.

1 within the city's UGB. Record 43.

2 We agree with petitioners that, as far as the record  
3 shows, the city's population is growing at a slower rate  
4 than expected in 1984, when the UGB was established.  
5 Therefore, looking at expected population alone, the UGB  
6 amendment is not justified. Although the findings refer to  
7 recent commercial development and speculate that the rate of  
8 population growth may increase in the future as a result of  
9 that development, there is not substantial evidence in the  
10 record that the 1984 plan population projection is too low.  
11 However, even if there were such evidence in the record, the  
12 challenged decision does not amend the plan to revise the  
13 prior population projections, as must be done if the county  
14 is relying on changes in the projected urban population to  
15 justify the UGB amendment.<sup>6</sup>

16 **2. Assumptions Applied to Population**  
17 **Projections**

18 The challenged decision does not explicitly modify the  
19 assumptions the city applied in 1984 to justify the amount  
20 of land originally included within the UGB. Neither does  
21 the decision amend the plan to project urban and urbanizable  
22 land needs for an updated 20 year planning period, or to

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<sup>6</sup>In fact, the decision apparently takes the position that the population originally estimated for the year 2000 should now be considered the population expected for the year 2012. The decision then applies certain provisions included in the 1984 plan with regard to when the UGB should be amended to include additional urbanizable land. Those provisions are discussed infra.

1 justify the expanded UGB on the basis that the additional  
2 120 acres are needed to accommodate the growth expected  
3 during an updated 20 year planning period.<sup>7</sup> Rather, the  
4 decision that there is a need to add the disputed property  
5 to the UGB appears to be based on provisions included in the  
6 1984 plan which provide for expansion of the UGB to include  
7 the subject property, when certain circumstances are found  
8 to exist.

9 According to the challenged decision, the city's plan  
10 identifies 240 acres of land within the UGB as vacant and  
11 available for residential development. The 1984 plan also  
12 includes two policies under plan Goal 10 (Housing), which  
13 provide as follows:

14 "3. The City will give the [subject property]  
15 primary consideration for residential  
16 expansion when a need can be demonstrated  
17 beyond the existing UGB.

18 "4. The City will consider a need for expansion  
19 of the UGB when one-half of the currently  
20 identified vacant and available residentially  
21 zoned land within the UGB is developed."  
22 (Emphasis added.)

23 The challenged decision cites the above plan policies in  
24 support of its conclusion that the subject 120 acres are  
25 needed for urban residential development. That conclusion

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<sup>7</sup>Portions of the decision do discuss urbanizable land needs assuming the 20 year population projection included in the 1984 plan will be achieved in the year 2012, rather than the year 2000. However, we do not read the challenged decision to modify either the population projections included in the 1984 plan or to project urban land needs for an updated 20 year planning period.

1 is based on findings that approximately 137 acres of the  
2 original 240 acres of available vacant residentially  
3 developable land within the UGB are now "built or  
4 committed." Record 42.

5 In considering the county's determination that 137  
6 acres are built or committed, we note that plan Goal 10,  
7 policy 4 uses the term "developed" rather than the term  
8 "built or committed." Assuming these terms express  
9 essentially the same concept, the decision indicates  
10 approximately 74 of the 137 acres the county finds to be  
11 "built or committed" are vacant and undeveloped; they are  
12 neither "built or committed" nor "developed" in a literal  
13 sense. However, the city rezoned the 74 acres in a 1990  
14 land use decision so that the permissible residential  
15 density on those acres was reduced from six units per acre  
16 to one unit per acre. Therefore, while the property was  
17 zoned in a way that would have allowed development at a  
18 density of six residential units per acre when the UGB was  
19 established in 1984, the city's subsequent action  
20 significantly reduced the residential developmental  
21 capability of the property. On this basis, the city  
22 concluded the 74 acres should be viewed as "built or  
23 committed" and, therefore, "developed" within the meaning of  
24 plan Goal 10, policies 3 and 4.<sup>8</sup>

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<sup>8</sup>Petitioners argue the one acre lots permitted under the existing zoning of the 74 acres are rural rather than urban in nature and for that reason

1 Plan Goal 10, policies 3 and 4 do not purport to be  
2 sufficient, by themselves, to establish a need for the  
3 proposed UGB expansion under Goal 14 factors 1 and 2 or to  
4 eliminate the requirement that those factors be considered.<sup>9</sup>  
5 To the extent the county relies on compliance with those  
6 plan policies for that purpose, the reliance is improper.  
7 Plan Goal 10, policies 3 and 4 (1) establish a precondition  
8 that must be satisfied before the city will consider whether  
9 there is a need to amend the UGB to add more urbanizable  
10 land for residential purposes, and (2) designate the subject  
11 property as the preferred area for addition of such  
12 urbanizable land to the UGB, if it is shown to be needed.  
13 Simply stated, these plan policies must be considered in  
14 amending the UGB to include more land for urban use; but  
15 they are not a substitute for the required demonstration of  
16 need for such land under Goal 14 factors 1 and 2. That  
17 demonstration must be made, and in this case we agree with  
18 petitioners that respondent failed to do so. The findings  
19 simply do not explain why, in view of anticipated population  
20 growth and the amount of land planned for residential  
21 purposes to accommodate that growth, the UGB should be

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violate Goal 14. See, 1000 Friends of Oregon v. LCDC (Curry County), 301 Or 447, 504-06, 724 P2d 268 (1986). As intervenor correctly notes, the time to make this argument would have been in an appeal of the 1990 decision rezoning the 74 acres for less intensive residential use. We do not consider the argument further.

<sup>9</sup>Compare the UGB amendment provisions at issue in League of Women Voters v. Metro Service Dist., 17 Or LUBA 949, aff'd 99 Or App 333 (1989), rev den 310 Or 70 (1990).

1 expanded. At best, the county has demonstrated that the UGB  
2 includes 137 vacant acres of land planned for residential  
3 purposes, of which 74 acres have been planned for less  
4 intense development than was anticipated in 1984. This  
5 demonstration is not sufficient to demonstrate a need for  
6 more urbanizable land under Goal 14 factors 1 and 2.

7 This subassignment of error is sustained.

8 **B. Goal 14 Factor 3**

9 Goal 14 factor 3 requires that expansion of the UGB be  
10 based on consideration of "[o]rderly and economic provision  
11 of public facilities and services[.]" Petitioners contend  
12 the decision fails to demonstrate that the city's water and  
13 sewerage systems are adequate to provide orderly and  
14 economic provision of those services to the subject  
15 property.

16 Respondents argue the challenged decision explains that  
17 water and sewerage service can be extended to the subject  
18 property. Moreover, respondents point out the decision  
19 discusses current plans for expansion of both water and  
20 sewerage collection systems and system capacity.  
21 Respondents further contend the water and sewerage  
22 facilities necessary to provide adequate service to the  
23 property need not be in place at this time. According to  
24 respondents, what is required is that there be adequate  
25 plans in place to demonstrate that water and sewerage  
26 service can be provided in the future in an orderly manner.

1           We agree with respondents' explanation of what Goal 14  
2 factor 3 requires, but we do not agree that the challenged  
3 decision demonstrates water and sewerage service can be  
4 provided to the subject property in an orderly manner.  
5 Petitioners argue, and respondents do not dispute, that  
6 current plans for water and sewerage service within the UGB  
7 are predicated on estimated 20 year populations of 1,085 (in  
8 the case of water service) and approximately 1700 (in the  
9 case of sewerage service).       Petition for Review 18.  
10 Petitioners contend the city and county cannot use 20 year  
11 population projections of over 3000 people for purposes of  
12 establishing a need for the UGB expansion, and then use a  
13 significantly lower 20 year population figure in  
14 demonstrating that the required water and sewerage capacity  
15 will be available to serve the property.

16           We agree with petitioners.       Although there does not  
17 appear to be any serious dispute that the subject property  
18 can be connected to the city's water and sewerage systems,  
19 the decision does not establish that the city's water and  
20 sewer system capacity is projected to be adequate to serve  
21 the estimated 20 year population the decision relies on to  
22 establish a need for the UGB expansion.       Absent such a  
23 showing, we agree the county has failed to demonstrate the  
24 UGB amendment is justified based on consideration of Goal 14  
25 factor 3.       See Friends of Benton County, v. Benton County, 4  
26 Or LUBA 112, 123 (1981); McGee v. City of Cave Junction, 3

1 Or LUBA 131, 137 (1981). The county must also assure that  
2 providing water and sewerage service to the subject property  
3 will not leave the city unable to provide water and sewerage  
4 service to land already included within the UGB. 1000  
5 Friends of Oregon v. Metro Service Dist., 18 Or LUBA 311,  
6 325 (1989).

7 This subassignment of error is sustained.

8 **C. Goal 14 Factor 4**

9 The findings that the decision is consistent with the  
10 Goal 14 factor 4 consideration that the UGB amendment  
11 maximize "efficiency of land uses within and on the fringe  
12 of the existing urban areas" are predicated on findings that  
13 public facilities and services can be extended to the  
14 subject property. We have already concluded the challenged  
15 decision does not establish that such is the case.

16 Petitioners also argue the challenged decision makes no  
17 attempt to address their contention that amending the UGB to  
18 include the subject 120 acres violates Goal 14 factor 4 in  
19 view of the city's prior action, noted above, to plan and  
20 zone 74 acres located inside the UGB for much lower  
21 development densities. We address this argument under  
22 petitioner Tipperman's second assignment of error, infra.

23 This subassignment of error is sustained.

24 **D. Goal 14 Factor 5**

25 Goal 14 factor 5 requires consideration of  
26 "[e]nvironmental, energy, economic and social

1 consequences[.]" The decision is supported by findings  
2 addressing the Goal 14 factor 5 considerations. Record 44-  
3 45, 51. While those findings are brief and somewhat  
4 conclusory, petitioner Tipperman's challenge to those  
5 findings is similarly brief and, in large part, simply  
6 expresses disagreement with the county's planning  
7 philosophy. Without a more developed argument from  
8 petitioner, we cannot agree the findings concerning Goal 14  
9 factor 5 provide a basis for reversal or remand.

10 This subassignment of error is denied.

11 **E. Goal 14 Factor 6**

12 Goal 14 factor 6 requires that the county consider  
13 "[r]etention of agricultural land \* \* \* with Class I being  
14 the highest priority for retention and Class VI the lowest  
15 priority[.]" The findings explain that land east of the  
16 city is in large blocks while the subject property is in  
17 multiple ownerships and bordered on three sides by the UGB.  
18 Respondents also point out the comprehensive plan identifies  
19 the subject property as the preferred site for expansion of  
20 the UGB.

21 Petitioner Tipperman does not challenge the adequacy of  
22 the findings addressing this factor, but rather argues the  
23 record shows the subject property has relatively high  
24 quality Class II soils and that the decision fails to  
25 compare the benefits of residential development of the land  
26 with the consequences of losing its agricultural potential.

1           The challenged decision recognizes that the subject  
2 property has high quality agricultural soils, but concludes  
3 that other areas suitable for inclusion in the UGB also  
4 include such soils and have the added feature of being in  
5 larger blocks. Without some challenge to this rationale  
6 that including the subject property is preferable under Goal  
7 14 factor 6, as compared to including other agricultural  
8 lands, we have no basis for faulting the challenged  
9 findings.

10           This subassignment of error is denied.

11           **F. Goal 14 Factor 7**

12           The challenged decision is supported by the following  
13 finding addressing the Goal 14 factor 7 requirement that  
14 consideration be given to "[c]ompatibility of the proposed  
15 use with nearby agricultural activities":

16           "The expansion area is bordered on the south by  
17 Buchanan Lane which has a 60 foot right-of-way  
18 width and an asphalt surface. [Property south] of  
19 Buchanan Lane is in a County A-1 EFU Zone and in  
20 cultivated agricultural use. The county road  
21 creates an effective physical barrier between the  
22 future residential area and continued agricultural  
23 uses."<sup>10</sup> Record 45.

24           Other than to compare the county's reliance on the  
25 right of way to France's reliance on the Maginot Line to  
26 protect its eastern border in World War II, petitioner  
27 offers no reason to fault the adequacy of the above finding.

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<sup>10</sup>The findings also explain the subject property is bordered on three sides by the existing UGB.

1 However, petitioner does challenge the evidentiary support  
2 for the above quoted finding, arguing there is no evidence  
3 of the type of agriculture being carried out south of  
4 Buchanan Lane or whether the practices associated with such  
5 agriculture are such that they will conflict with the urban  
6 development made possible by the challenged decision.

7 Although respondents cite some evidence in the record  
8 of agricultural practices on the subject property, they do  
9 not cite any evidence of the agricultural practices south of  
10 Buchanan Lane sufficient to explain whether the 60 foot  
11 right of way will be adequate to provide a buffer between  
12 agricultural and urban uses.

13 This subassignment of error is sustained.

14 The first assignment of error is sustained, in part.

15 **SECOND ASSIGNMENT OF ERROR (TIPPERMAN)**

16 **A. Alternative Sites**

17 Goal 14 includes a requirement that in approving an  
18 amendment to an acknowledged UGB, a local government must  
19 follow the procedures and requirements for a statewide  
20 planning goal exception. Those procedures and requirements  
21 are set out at ORS 197.732, Goal 2, Part II, and OAR 660-04-  
22 000 through 660-04-035. Among the requirements for a  
23 statewide planning goal exception of the type adopted here,  
24 is the requirement that the county consider whether "[a]reas  
25 which do not require a new exception cannot reasonably  
26 accommodate the use[.]" ORS 197.732(1)(c)(B); Goal 2, Part

1 II(c)(2); OAR 660-04-020(2)(b).

2 **1. Areas Outside the City of Island City UGB**  
3 **and Areas Inside the City of LaGrande UGB**

4 Petitioner argues the county should have considered  
5 other areas presently outside the City of Island City UGB,  
6 as well as areas within the City of LaGrande UGB, as  
7 alternatives to amending the City of Island City UGB to  
8 include the subject property.

9 We reject petitioner's suggestion that the county was  
10 obligated to consider areas outside the City of Island  
11 City's UGB as alternatives to amending the city's UGB to  
12 include the subject property. As far as we can tell, areas  
13 potentially developable for urban residential use outside  
14 the City of Island City UGB would require a new goal  
15 exception. The above quoted statutory, goal and rule  
16 provisions require consideration of areas that do not  
17 require a new goal exception.<sup>11</sup>

18 In addition, we do not believe the county was required  
19 to consider land within the neighboring City of LaGrande UGB  
20 as an alternative to the proposed UGB amendment. As we  
21 pointed out in BenjFran Development v. Metro Service Dist.,  
22 supra, 17 Or LUBA at 48, a consideration of alternative

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<sup>11</sup>Areas that require a new goal exception (such as other areas outside the City of Island City UGB) must be considered under ORS 197.732(1)(c)(C), Goal 2, Part II(c)(3) and OAR 660-04-020(2)(c). Petitioner Tipperman does not argue the challenged decision violates these statutory, goal or rule provisions.

1 sites is largely "meaningless unless a need has already been  
2 shown under [Goal 14 factors 1 and 2]." However, assuming a  
3 demonstration of need for additional urbanizable land in the  
4 City of Island City UGB can be made under Goal 14 factors 1  
5 and 2, we do not believe ORS 197.732(1)(c)(B), Goal 2, Part  
6 II(c)(2) or OAR 660-04-020(2)(b) require that sites within  
7 the City of LaGrande UGB be considered as alternatives for  
8 satisfying that need.

9 This subassignment of error is denied.

## 10 **2. Areas Within the City of Island City UGB**

11 Petitioner also argues that the county must, under  
12 ORS 197.732(1)(c)(B), Goal 2, Part II(c)(2) and  
13 OAR 660-04-020(2)(b), consider satisfying any identified  
14 need for residentially developable land by putting lands  
15 already included within the City of Island City UGB to such  
16 use.

17 In BenjFran Development v. Metro Service Dist., supra,  
18 we concluded that there are circumstances where a local  
19 government must consider the potential of using lands  
20 already located within its UGB to satisfy an identified need  
21 for urbanizable land. In BenjFran Development, we accepted  
22 the local government's argument that a decision approving  
23 expansion of the UGB to include more land for a large  
24 proposed industrial use was required to address the  
25 potential of consolidating existing industrially planned  
26 parcels within the UGB, even though such parcels by

1 themselves might be smaller than needed for the particular  
2 proposed industrial use.<sup>12</sup> In addition, we concluded that  
3 under the circumstances presented in that case, the local  
4 government was required to consider the possibility of  
5 redesignating lands already within the UGB, but planned for  
6 other than industrial uses.

7 As we noted earlier in this opinion, 74 acres of the  
8 area originally included within the City of Island City UGB  
9 in 1984 subsequently was replanned for much lower density  
10 residential development. Because the county did not address  
11 the issue, we cannot tell whether restoring the higher  
12 density residential planning designations for that property  
13 is a reasonable alternative. Neither can we tell whether  
14 designating other lands already within the UGB for urban  
15 residential development is an acceptable alternative to  
16 expanding the UGB. The county's failure to consider these  
17 alternatives requires remand.<sup>13</sup>

18 This subassignment of error is sustained.

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<sup>12</sup>The industrial use at issue in BenjFran Development required 500 acres.

<sup>13</sup>We do not mean to suggest that the county must do a site-by-site analysis of the entire area currently within the UGB. However, because it is clear that there have been changes in the planning designations originally applied to the urban and urbanizable area in 1984, at least some discussion of changing the present designations for the area to meet the need, as an alternative to including more land for residential purposes, is required under ORS 197.732(1)(c)(B), Goal 2, Part II(c)(2) and OAR 660-04-020(2)(b).

1           **B.    Plan Housing Policies**

2           Petitioner argues the City of Island City's  
3 comprehensive plan includes a goal that the city "will  
4 provide for a range of housing prices and a variety of  
5 housing types \* \* \*." Petitioner argues the city only has  
6 two residential zones, one providing for one acre lots and  
7 one providing for 7,200 square foot lots. Petitioner  
8 contends the city has no zones allowing for higher density  
9 multiple family dwellings. According to petitioner, this  
10 lack of higher density residential zoning districts allowing  
11 a broader variety of housing types violates the city's plan.

12           The city's comprehensive plan and land use regulations  
13 have been acknowledged by the Land Conservation and  
14 Development Commission. To the extent the city's land use  
15 regulations are inadequate to implement the comprehensive  
16 plan, that question should have been resolved at the time of  
17 acknowledgment, although it is possible that the question  
18 could be revisited at the time of periodic review. Urquhart  
19 v. City of Eugene, 80 Or App 176, 721 P2d 870 (1986). In  
20 any event, the question is not one the county was required  
21 to address in this decision amending the urban growth  
22 boundary.<sup>14</sup>

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<sup>14</sup>Petitioner may be suggesting that creating a new higher density zoning designation or a zoning designation that would allow additional housing types should be part of the alternative analysis required by ORS 197.732(1)(c)(B), Goal 2, Part II(c)(2) and OAR 660-04-020(2)(b). If so, the suggestion is not developed and we do not consider it for that reason.

1           This subassignment of error is denied.

2           The second assignment of error is sustained in part.

3   **THIRD ASSIGNMENT OF ERROR (TIPPERMAN)**

4           Under this assignment of error, petitioner challenges  
5 the county's declaration that an emergency existed at the  
6 time the challenged ordinance was adopted. By virtue of  
7 that declaration of emergency, the ordinance became  
8 effective immediately, rather than having its effective date  
9 delayed.

10          At most, the alleged error accelerated the effective  
11 date of the challenged ordinance. However, the date when  
12 the challenged ordinance would have become effective, even  
13 without an emergency clause, has long since passed.  
14 Therefore, the alleged error is harmless and provides no  
15 basis for reversal or remand.

16          The third assignment of error is denied.

17          The county's decision is remanded.