

1 Opinion by Holstun.

2 **NATURE OF THE DECISION**

3 The challenged county decision changes the
4 comprehensive plan map designation for a 25 acre property
5 from Agriculture to Rural Residential and changes the zoning
6 map designation from Exclusive Farm Use (EFU) and EFU-10 to
7 Qualified Rural Residential-5.

8 **MOTIONS TO INTERVENE**

9 Melvin Boak and Charles Markham move to intervene on
10 the side of respondent in this matter. Petitioner does not
11 object to Melvin Boak's intervention. However, petitioner
12 argues that Charles Markham does not have standing to
13 intervene, because he appeared on behalf of Melvin Boak
14 during the hearings below, not on his own behalf.
15 Petitioner contends movant Markham's appearance on behalf of
16 another does not constitute the appearance required to
17 intervene personally in this appeal.

18 Movant may intervene in this appeal if he "appeared
19 before the local government * * *." ORS 197.830(6)(b)(B);
20 OAR 661-10-050(1). The record is somewhat unclear whether
21 Charles Markham appeared below solely on behalf of Melvin
22 Boak or whether he also appeared on his own behalf.
23 Petitioner cites a number of places in the record suggesting
24 the former. However, the county provided notice of the
25 challenged decision directly to movant Markham without
26 indicating whether the notice was being provided to him as a

1 party to the local proceedings or as agent for Melvin Boak,
2 who was also provided notice of the challenged decision.
3 Record 33. There is sufficient ambiguity regarding the
4 nature of movant Markham's appearance that we conclude
5 movant Markham's appearance included an appearance on his
6 own behalf and, therefore, movant Markham may intervene in
7 this proceeding.¹

8 The motions to intervene are allowed.

9 **FACTS**

10 The subject 25 acres are the northern part of an 111
11 acre parcel owed by intervenor Boak and his brother. The
12 parcel is adjoined by Bandon State Park on the west, and by
13 Bradley Lake on the east. China Creek drains Bradley Lake
14 and crosses the subject 25 acres.

15 **MOTION TO STRIKE**

16 Petitioner moves to strike a number of documents
17 attached to intervenors-respondent's brief. Petitioner
18 argues the documents are not included in the local
19 government record and, therefore, may not be considered by
20 this Board in reaching its decision in this matter.²

¹The practical significance of our ruling that movant Markham has standing to intervene is limited, since intervenors Boak and Markham filed a joint intervenors-respondent's brief and, therefore, make the same legal arguments. See Goose Hollow Foothills League v. City of Portland, 117 Or App 211, 214, 843 P2d 992 (1992).

²Some of the disputed documents were created after the date of the decision challenged in this appeal. Petitioner contends those documents could not be part of the local government record in this matter and the remaining documents, while in existence at the time of the decision, were

1 Pursuant to ORS 197.830(13)(a), our review is limited
2 to the local government record.³ Horizon Construction, Inc.
3 v. City of Newberg, 25 Or LUBA 656, 661 (1993). The letter
4 identified in objection 7 of the motion appears at Record
5 188. The aerial photo challenged in objection 3 is an
6 original used to make a photo copy which appears with a hand
7 drawn notation at Record 23. We will consider the original
8 as an aid in reviewing the copy included in the record. The
9 letter identified in objection 10 appears at Record 41. The
10 motion to strike the documents identified in objections 3, 7
11 and 10 is denied.

12 Intervenors agree that the documents described in
13 objections 1, 6 and 9 may be stricken. The motion to strike
14 those documents is allowed.

15 In response to the remaining objections, intervenors do
16 not contend the documents are included in the local
17 government record. Rather, intervenors argue the documents
18 are relevant to our review and for that reason the motion to
19 strike the documents should be denied.

20 ORS 197.830(13)(a) does not allow this Board to expand
21 its review beyond the evidentiary record submitted by the

not placed before the local government decision maker in this matter and
are not included in the record that was submitted to the Board by the
county.

³ORS 197.830(13)(b) provides that this Board may conduct an evidentiary
hearing in the circumstances set forth in the statute. Intervenors-respondent do not move for an evidentiary hearing or contend
that the disputed documents could be considered by this Board under
ORS 197.830(13)(b).

1 local government simply because the evidence is relevant.
2 As we explained in State of Oregon v. City of Forest Grove,
3 8 Or LUBA 430 (1983), it is the parties' obligation to
4 assure that evidence they believe the decision maker should
5 consider is actually placed before the decision maker prior
6 to the close of the final evidentiary hearing. Where that
7 is not done, even though the evidence may be relevant, such
8 evidence is not properly included in the record and may not
9 be considered by this Board.

10 Because the documents identified in objections 2, 4, 5
11 and 8 were not actually placed before the decision maker and
12 are not included in the local government record, they are
13 not subject to review by this Board. The documents
14 identified in objections 2, 4, 5 and 8 are stricken.⁴

15 **FIRST ASSIGNMENT OF ERROR**

16 **A. Inadequate Findings**

17 Petitioner contends the findings adopted by the county
18 in support of the challenged decision fail to demonstrate
19 compliance with Goal 18 (Beaches and Dunes). Goal 18
20 imposes the following requirements:

⁴It is possible that some of the documents challenged under these objections are subject to official notice by this Board. However, intervenors do not request that we can or should take official notice of those documents. Moreover, in view of our disposition of petitioner's assignments of error below, taking official notice of some or all of the documents disputed in these objections would not affect our decision in this matter.

1 "To conserve, protect, where appropriate develop,
2 and where appropriate restore the resources and
3 benefits of coastal beach and dune areas; and

4 "To reduce the hazard to human life and property
5 from natural or man-induced actions associated
6 with these areas."

7 Goal 18 includes seven implementation measures.

8 Implementation Measure 1 provides as follows:

9 "Local governments and state and federal agencies
10 shall base decisions on plans, ordinances and land
11 use actions in beach and dune areas, other than
12 older stabilized dunes, on specific findings that
13 shall include at least:

14 "a. The type of use proposed and the adverse
15 effects it might have on the site and
16 adjacent areas;

17 "b. Temporary and permanent stabilization
18 programs and the planned maintenance of new
19 and existing vegetation;

20 "c. Methods for protecting the surrounding area
21 from any adverse effects of the development;
22 and

23 "d. Hazards to life, public and private property,
24 and the natural environment which may be
25 caused by the proposed use."

26 The county adopted the following findings to address

27 Goal 18:

28 "10. Maps adopted by the Coos County Comprehensive
29 Plan indicate that the majority of the
30 subject property lies within a Goal 18,
31 Beaches and Dunes, 'limited suitability'
32 area.

33 "A report on sand dune stabilization by
34 Wilbur Ternyik, included in the record at
35 Exhibit G, discusses possible hazards,
36 special conditions and management

1 recommendations for residential development
2 of the subject property. The County finds,
3 and accepts as fact the information presented
4 by Mr. Ternyik, Wetland Beach and Dunes
5 Consultant.

6 "Mr. Ternyik stated the following in his
7 final conclusion:

8 "The identified hazards on the
9 property can easily be handled by
10 the management recommendations in
11 this report. I would recommend that
12 they be made a mandatory requirement
13 of any future preliminary or final
14 approval of a proposed subdivision.

15 "11. Exhibit F of the record is a geologic hazard
16 report * * * for the subject property
17 prepared by Charles Lane, Engineer for Braun
18 Intertec Northwest, Inc. The County accepts
19 as findings of fact the conclusions and
20 recommendations of Mr. Lane." Record 19.

21 Petitioner argues the above findings are inadequate to
22 demonstrate compliance with Goal 18. Petitioner contends
23 Goal 18 actually contains two parts. The first part
24 requires that the county determine whether development of
25 the subject property, which the county concedes is subject
26 to Goal 18, is appropriate at all, in view of the goal's
27 mandate "[t]o conserve [and] protect" such areas. The
28 second part requires that hazards associated with
29 development of dunes and beaches be addressed and resolved.
30 We understand petitioner to argue that even where
31 development may be possible, in the sense that hazards
32 associated with such development can be minimized, such

1 development may be inconsistent with Goal 18's mandate to
2 conserve and protect beaches and dunes.

3 Petitioner concedes the county adopted findings
4 addressing the hazard reduction aspects of the goal and does
5 not dispute there is considerable evidence in the record
6 concerning whether the property can be developed
7 consistently with this aspect of the goal. However,
8 petitioner contends the above findings totally ignore the
9 first part of the inquiry under Goal 18, i.e. whether
10 development is appropriate at all in view of the
11 conservation and protection aspects of the goal.

12 Petitioner also argues that while the county adopted
13 findings in other parts of the challenged decision which
14 identify or describe surrounding land uses, the county's
15 findings make no attempt to address the impacts development
16 of the subject property may have on "adjacent" and
17 "surrounding" areas, as required by Implementation
18 Requirement 1, quoted supra.

19 We agree with petitioner. Goal 18 requires findings
20 explaining why development of the subject property is
21 consistent with the goal's requirement that dunes and
22 beaches be protected and conserved from development.
23 Implementation Requirement 1 explicitly requires the
24 findings that petitioner correctly points out are missing in
25 the challenged decision. However, intervenors contend a
26 remand is not required, because there is evidence in the

1 record which "clearly supports" the challenged decision.
2 ORS 197.835(9)(b).⁵ Intervenors misunderstand the nature
3 and scope of the exception provided by ORS 197.835(9)(b).

4 **B. Evidence Clearly Supporting the Decision**

5 Amendments to acknowledged comprehensive plans and land
6 use regulations must be consistent with applicable statewide
7 planning goal requirements. ORS 197.175(2)(a); 197.225;
8 197.610(2), 197.835(4); 1000 Friends of Oregon v. Jackson
9 County, 79 Or App 93, 97, 718 P2d 753, rev den 301 Or 445
10 (1986); Ludwick v. Yamhill County, 72 Or App 224, 231, 696
11 P2d 536 (1985). A local government is required to adopt
12 findings of fact and a statement of reasons adequate to show
13 that a quasi-judicial comprehensive plan or zoning map
14 amendment complies with applicable statewide planning goals
15 and other applicable standards. Sunnyside Neighborhood v.
16 Clackamas Co. Comm., 280 Or 3, 20-21, 569 P2d 1063 (1977);
17 Green v. Hayward, 275 Or 693, 706-08, 552 P2d 815 (1976).
18 Where the required findings are missing or defective, this
19 Board generally remands the decision to the local government

⁵ORS 197.835(9)(b) provides as follows:

"Whenever the findings [supporting a land use decision] are defective because of failure to recite adequate facts or legal conclusions or failure to adequately identify the standards or their relation to the facts, but the parties identify relevant evidence in the record which clearly supports the decision or a part of the decision, [LUBA] shall affirm the decision or the part of the decision supported by the record and remand the remainder to the local government, with direction indicating appropriate remedial action."

1 so that the local government may attempt to supply missing
2 findings or correct inadequate findings. ORS 197.835(9)(b)
3 represents an exception to this general rule, and allows
4 this Board to overlook the absence or inadequacy of
5 findings. However ORS 197.835(9)(b) authorizes this Board
6 to affirm a decision, despite inadequate or missing
7 findings, only where "the parties identify relevant evidence
8 in the record which clearly supports the decision or a part
9 of the decision." (Emphasis added.) As relevant to this
10 appeal, the exception provided by ORS 197.835(9)(b) is
11 limited in two ways.

12 First, where adequate findings have been adopted and
13 LUBA is simply reviewing those findings for evidentiary
14 support, LUBA must affirm the decision where it is supported
15 by substantial evidence. ORS 197.835(7)(a)(C). Substantial
16 evidence need only be the kind of evidence upon which a
17 reasonable person could rely to reach a decision. See
18 Douglas v. Multnomah County, 18 Or LUBA 607, 617 (1990) (and
19 cases cited therein). Because reasonable persons may
20 disagree about the conclusions to be drawn from conflicting
21 evidence, substantial evidence review is correspondingly
22 deferential. Id. However, the evidentiary standard imposed
23 by the ORS 197.835(9)(b) requirement for "evidence * * *
24 which clearly supports," is considerably higher than the
25 standard imposed by the ORS 197.835(7)(a)(C) requirement for
26 "substantial evidence. See Friedman v. Yamhill County, 23

1 Or LUBA 306, 311 (1992). Where the relevant evidence in the
2 record is conflicting, or provides a reasonable basis for
3 different conclusions, such evidence does not "clearly
4 support" the challenged decision. Forster v. Polk County,
5 22 Or LUBA 380, 384 (1991); see Cummins v. Washington
6 County, 22 Or LUBA 129, 133 (1991), aff'd 110 Or App 468
7 (1992).

8 A second limitation on our ability to affirm a land use
9 decision, despite the lack of findings or the lack of
10 adequate findings, concerns the particular standards at
11 issue. Where those standards are subjective, requiring the
12 exercise of considerable judgment by the local government,
13 it is less likely that evidence will "clearly support" a
14 decision that the standards are met under ORS 197.835(9)(b).
15 See Bright v. City of Yachats, 16 Or LUBA 161, 171 (1987).

16 Turning to the present case, both of the above
17 limitations apply. First, the Goal 18 requirement to
18 "conserve [and] protect" beaches and dunes is a subjective
19 standard, in view of the goal's conflicting provisions
20 allowing appropriate development. This calls for a
21 balancing that the county, rather than this Board, must
22 perform in the first instance. Second, although intervenors
23 cite a great deal of evidence in the record, much of that
24 evidence is either irrelevant or only marginally relevant to
25 the legal requirements that petitioner contends the county
26 failed to address in its findings.

1 The first assignment of error is sustained.

2 **THIRD THROUGH SIXTH ASSIGNMENTS OF ERROR**

3 Under these assignments of error, petitioner argues the
4 challenged decision is not supported by findings addressing
5 relevant requirements of Statewide Planning Goals 6 (Air,
6 Water and Land Resources Quality), 7 (Areas Subject to
7 Natural Disasters and Hazards), 11 (Public Facilities and
8 Services), and 12 (Transportation).

9 Each of these assignments of error concern somewhat
10 subjective goal requirements.⁶ Although intervenors cite an
11 extensive amount of material in the record that bears
12 directly or indirectly on the cited goal requirements, the
13 cited evidence is not sufficient to constitute evidence
14 clearly supporting a decision that the challenged plan and
15 zoning map amendments comply with the cited goal standards.
16 This is particularly the case regarding the evidence
17 concerning the ability to provide acceptable subsurface
18 sewage disposal for the residential uses made possible by
19 the plan and zoning map amendments, in view of the severe
20 limitations the soils on the property have for individual
21 subsurface sewage disposal systems.

⁶For example, petitioner's Goal 12 challenge under the third assignment of error is based on requirements in the Department of Land Conservation and Development's Goal 12 administrative rule that apply where a plan amendment "significantly affects a transportation facility * * *." OAR 660-12-060(1).

1 We express no view concerning whether the current
2 evidentiary record would be sufficient to constitute
3 substantial evidence in support of adequately developed
4 findings addressing the cited goal requirements. However,
5 the evidentiary record is not sufficient, in the absence of
6 such findings, to clearly support a decision that those goal
7 requirements are satisfied.

8 The third, fourth, fifth, and sixth assignments of
9 error are sustained.

10 **SEVENTH ASSIGNMENT OF ERROR**

11 Petitioner contends the subject property includes
12 several resources subject to protection under Statewide
13 Planning Goal 5 (Open Spaces, Scenic and Historic Areas, and
14 Natural Resources).⁷ Petitioner contends the county erred
15 by failing to consider and assess the significance of these
16 resources under Goal 5 and the Goal 5 administrative rule
17 (OAR 660, Division 16), and adopt measures to protect these
18 resources, if appropriate. The manner in which the Goal 5
19 process works is set out in some length in our decision in
20 DLCD v. Yamhill County, 17 Or LUBA 1273, 1279-80, aff'd 99
21 Or App 441 (1989), and is not repeated here.

22 Petitioner does not contend the subject property is
23 included on any inventory of Goal 5 resources in the

⁷Among the Goal 5 resources petitioner contends are located on the site are habitat of the silvery phacelia (*Phacelia argenta*), open space, fish and wildlife habitat and water areas.

1 acknowledged comprehensive plan. Rather, petitioner argues
2 the county may not ignore its obligation to utilize the
3 information existing at the time the challenged plan
4 amendment is adopted to reconsider whether the site should
5 be added to one or more of its Goal 5 inventories.
6 Petitioner contends that to conclude that the county may
7 simply rely on its acknowledged Goal 5 inventory, and ignore
8 petitioner's arguments that those inventories are
9 inaccurate, renders the ORS 197.175(2)(a) requirement that
10 the statewide planning goals be addressed when amending an
11 acknowledged comprehensive plan a nullity.

12 Petitioner's argument overstates the effect of allowing
13 a local government to rely on its acknowledged Goal 5
14 inventories when amending its comprehensive plan. Allowing
15 reliance on acknowledged Goal 5 inventories does not nullify
16 the statutory requirement that the goals (including Goal 5)
17 be applied when amending the comprehensive plan. Any
18 amendment affecting a site that is inventoried as a Goal 5
19 resource site would have to address Goal 5. For example, if
20 the site in question was included in an inventory of fish or
21 wildlife habitat areas or scientifically significant natural
22 areas, and the existing EFU and EFU-10 zoning was adopted as
23 the county's program to protect those resources, the county
24 clearly would be required to address petitioner's arguments
25 that the new plan and zoning map designations will not
26 adequately protect those resources.

1 More importantly, the argument petitioner advances here
2 is essentially the same argument that was considered and
3 rejected by the court of appeals in Urquhart v. Lane Council
4 of Governments, 80 Or App 176, 721 P2d 870 (1986). In this
5 Board's decision in Urquhart v. LCOG and City of Eugene, 14
6 Or LUBA 335, 345, rev'd 80 Or App 176 (1986), we concluded
7 in reviewing a comprehensive plan amendment that a county's
8 acknowledged Goal 5 inventories should not be viewed "as
9 static lists immune from review and update * * *." We also
10 concluded that alleged Goal 5 resources must be considered
11 in amending an acknowledged comprehensive plan "even though
12 these sites were not identified in the [acknowledged
13 comprehensive plan] inventory of Goal 5 resource sites."
14 Id.

15 In reversing our decision, the court of appeals
16 acknowledged that there are potential problems with
17 accepting the local government's position in that case that
18 the acknowledged Goal 5 inventories should be given the
19 effect of essentially insulating plan amendments concerning
20 areas not on the inventories from Goal 5 review after
21 acknowledgment:

22 "There is merit to both LUBA's and [the local
23 government's] positions, and there are
24 corresponding problems with both positions.
25 Carried to its extreme, LUBA's position would
26 require a planning jurisdiction to undertake an
27 extensive, if not comprehensive, goal
28 rejustification of an acknowledged plan in
29 conjunction with every plan amendment. On the
30 other hand, if the inclusion of the affected area

1 on the inventory cannot be reconsidered in
2 connection with this plan amendment, the effect of
3 the amendment could well be to make the non-
4 resource use of the area an accomplished fact
5 before the decisions whether to inventory it and
6 whether to preserve it as a resource site could be
7 made through the periodic review process."
8 Urquhart, supra, 80 Or App at 180.

9 The court went on to acknowledge its decision in 1000
10 Friends of Oregon v. Jackson County, 79 Or App 93, 718 P2d
11 753 (1986), where the court concluded that LUBA, in
12 reviewing an amendment to an acknowledged comprehensive
13 plan, may review unamended plan provisions to determine
14 whether the amendment affects the continuing consistency of
15 the unamended portion with the goals. However, the court
16 distinguished the situation presented in Urquhart from its
17 decision in 1000 Friends of Oregon v. Jackson County, supra,
18 as follows:

19 " * * * Here, the affected area was excluded from
20 the inventory before the amendment was enacted,
21 and the amendment does not affect the inventory.
22 Indeed, the converse seems to be true, i.e., the
23 absence of the area from the inventory is what
24 makes it possible for the new designation to be
25 attached to the area without a Goal 5 resolution
26 of the conflict between the area's open space use
27 and the University/Research use called for by the
28 amendment. See OAR 660-16-000(5)(a). LUBA's
29 opinion posits that the existing designation on
30 what is referred to as the 'diagram,' the actual
31 use of the area and certain other existing factors
32 militate in favor of the inclusion of the area on
33 the inventory; however, none of those factors is a
34 consequence of the amendment. Those factors may
35 demonstrate that, for reasons unrelated to the
36 amendment, circumstances have changed since the
37 acknowledgment. If so, ORS 197.640 to 197.647
38 make LCDC's periodic review the only method for

1 correcting goal non-compliance that results from
2 changes after acknowledgment, when the
3 noncompliance is not the product of an amendment
4 to an acknowledged plan or land use regulation."
5 (Footnotes omitted.) Urquhart, 80 Or App at 181.

6 As far as we can tell, there is no significant factual
7 difference in this case that would require a different
8 result from that in Urquhart. Petitioner did suggest at
9 oral argument that because the property was in an EFU zone,
10 and the changed plan and zoning map designations will now
11 permit low density residential development, Goal 5 must be
12 addressed. We fail to see how the nature of the change in
13 the plan map designation or zoning designation, in and of
14 itself, is important. The critical factor, as discussed
15 above, is whether the acknowledged plan and zoning map
16 designations were placed on the site as part of a decision
17 made prior to acknowledgment to (1) include the site on one
18 or more Goal 5 resource inventories, and (2) apply those map
19 designations as part of the program required to protect that
20 resource site. If the existing plan and zoning map
21 designations are part of such an inventory and resource
22 protection program, clearly Goal 5 would have to be
23 addressed in amending those designations. However where, as
24 here, the subject property was excluded from the county's
25 Goal 5 inventories, the fact that a subsequent
26 postacknowledgment plan and zoning map amendment may allow
27 more intensive uses has no direct bearing on the earlier

1 decision not to include the property on the county's Goal 5
2 inventories.

3 To the extent petitioner argues we should assume the
4 prior EFU and EFU-10 zoning is the reason the subject
5 property was not included in the Goal 5 inventories in the
6 first place, we disagree. The decision concerning whether
7 to include a particular site on a Goal 5 inventory is
8 independent of the particular planning and zoning map
9 designations applied to the site. Under OAR 660-16-005 and
10 660-16-010, it is the decision to include a site on one or
11 more Goal 5 inventories that triggers the process of
12 analyzing conflicting uses and determining the appropriate
13 planning and zoning designations.

14 The seventh assignment of error is denied.

15 **SECOND ASSIGNMENT OF ERROR**

16 Petitioner argues the county improperly failed to adopt
17 findings addressing Goal 17 (Coastal Shorelands).
18 Petitioner cites a map included in the comprehensive plan
19 which shows the entire subject property as falling within
20 the county's Coastal Shoreland Boundary.

21 Intervenors point to a map included at Record 21 and
22 argue that it shows the entire subject property is not
23 located within the Coastal Shoreland Boundary. Rather, that
24 map shows a large dotted line set back 50 feet from Bradley
25 Lake. Intervenors argue only the portion of the subject

1 property adjoining and within 50 feet of Bradley Lake is
2 within the Coastal Shoreland Boundary.

3 We conclude that for purposes of this appeal it does
4 not matter which map establishes the Coastal Shoreland
5 Boundary. This case must be remanded in any event, and the
6 county can explain on remand the precise location of the
7 Coastal Shorelands Boundary. Even if intervenors are
8 correct, that would only mean a small portion of the subject
9 property is within the designated Coastal Shorelands, rather
10 than the entire property. The county still must explain how
11 development of the subject property is consistent with Goal
12 17's requirement "[t]o conserve, protect, where appropriate
13 develop and where appropriate restore the resources and
14 benefits of all coastal shorelands * * *," and any other
15 applicable Goal 17 requirements.

16 The second assignment of error is sustained.

17 **EIGHTH ASSIGNMENT OF ERROR**

18 Petitioner contends the county's findings are
19 inadequate to demonstrate compliance with, or the
20 inapplicability of, Goal 4 (Forest Lands). As relevant,
21 Goal 4 defines forest land as follows:

22 " * * * Where a * * * plan amendment involving
23 forest lands is proposed, forest land shall
24 include lands which are suitable for commercial
25 forest uses including adjacent or nearby lands
26 which are necessary to permit forest operations or
27 practices and other forested lands that maintain
28 soil, air, water and fish and wildlife resources."

1 The county adopted the following finding addressing
2 Goal 4:

3 "The Oregon Department of Forestry provided
4 'Forest Site Information' in a letter dated
5 November 30, 1992. This letter is a correction of
6 a previous letter dated 11/3/92. The DOF letter
7 reports on the entire [111] acre parcel. Our
8 Forest Site Index is 80' in 100 years (Site VI)[.]
9 Cubic foot growth estimates for the site are 63
10 cubic feet per year per acre. IT SHOULD BE NOTED;
11 Though both the subject 25 acres +/- tract and the
12 balance of tax lot 400 have poor soils, the
13 balance of tax lot 400 has better soils than our
14 subject tract. The possibility that anyone could
15 or would consider this land as forest land is
16 preposterous and we should not be required to
17 address the forest issue further." (Record
18 citations omitted.) Record 28.

19 Petitioner contends that although it may be
20 preposterous to consider land with a cubic foot site index
21 of 63 as "prime" forest land, the definition of forest land
22 in Goal 4 requires conservation of land under Goal 4 "for
23 reasons other than timber production."

24 We agree with petitioner that the cited findings are
25 inadequate to demonstrate that Goal 4 does not apply. The
26 evidence cited by intervenors is not sufficient to clearly
27 support a decision that the subject property does not come
28 within the definition of forest land subject to protection
29 under Goal 4.

30 In addition, intervenors argue the fact that the
31 county's acknowledged comprehensive plan designated the
32 subject property for agricultural use and placed the subject
33 property in EFU zones "conclusively establishes that Goal 4

1 does not apply." Intervenor-Respondent's Brief 12.
2 Intervenor are incorrect. Westfair Associates Partnership
3 v. Lane County, 25 Or LUBA 729, 737 (1993) (designation of
4 land as agricultural land does not, of itself, mean the land
5 is not also suited to protection as forest land).

6 The eighth assignment of error is sustained.

7 **NINTH ASSIGNMENT OF ERROR**

8 Petitioner alleges the challenged decision violates
9 Goal 2. Petitioner cites testimony presented by the Oregon
10 Parks and Recreation Department expressing concerns about
11 wind erosion of unstable sands and potential impacts of
12 development on the silvery phacelia. Petitioner recognizes
13 that Goal 2 (Land Use Planning) does not require that the
14 county accede to every concern that may be expressed by the
15 Oregon Department of Parks and Recreation. ODOT v.
16 Clackamas County, 23 Or LUBA 370, 378 (1992); Rajneesh v.
17 Wasco County, 13 Or LUBA 202, 210 (1985). However,
18 petitioner argues the "coordination" requirement of Goal 2
19 does require that the county at least adopt findings
20 responding to such legitimate concerns.

21 We agree with petitioner that the county was obligated
22 under the coordination requirement of Goal 2 at least to
23 respond in its findings to agency's concerns. The county's
24 failure to do so violates Goal 2.

25 The ninth assignment of error is sustained.

1 **TENTH ASSIGNMENT OF ERROR**

2 The county's land use decisions must comply with its
3 acknowledged comprehensive plan. ORS 197.175(2)(d);
4 197.835(5). Petitioner sets out a number of comprehensive
5 plan provisions on page 31 of the petition for review.
6 Petitioner contends the challenged decision must be remanded
7 because the county failed to adopt findings addressing these
8 plan provisions.

9 Intervenors argue petitioner does not raise his
10 arguments under this assignment of error with sufficient
11 specificity. See Freels v. Wallowa county, 17 Or LUBA 137,
12 140-41 (1988); Deschutes Development Co. v. Deschutes
13 County, 5 Or LUBA 218, 219-20 (1982). However, this is not
14 a case where we must speculate about what petitioner's legal
15 theory is. Petitioner contends a number of relevant
16 comprehensive plan provisions apply to the disputed decision
17 but were not applied by the county despite statutory
18 requirements that they do so. Some of the cited plan
19 provisions appear to be applicable and are somewhat
20 subjective. For the reasons explained under our discussion
21 of the first and third through sixth assignments of error,
22 the challenged decision must be remanded so that the county
23 can adopt the required findings concerning these
24 comprehensive plan provisions. Moreover, the cited plan
25 provisions likely will require interpretation. Because they
26 are local standards rather than state law requirements, LUBA

1 may not supply any required interpretations of these plan
2 provisions in the first instance. Gage v. City of Portland,
3 123 Or App 269, ___ P2d ___ (1993); Weeks v. City of
4 Tillamook, 117 Or App 449, 453, 844 P2d 914 (1992).

5 The tenth assignment of error is sustained.

6 The county's decision is remanded.