



1 Opinion by Gustafson.

2 **NATURE OF THE DECISION**

3 Petitioners appeal the county's approval of a  
4 comprehensive plan amendment and zone change redesignating  
5 and rezoning approximately 21 acres of an 111-acre Exclusive  
6 Farm Use (EFU) parcel to Qualified Rural Residential-5 (QRR-  
7 5).

8 **MOTION TO INTERVENE**

9 Charles Markham and Melvin Boak individually move to  
10 intervene on the side of respondent. There is no opposition  
11 to the motions, and they are allowed.

12 **FACTS**

13 Intervenor Melvin Boak (intervenor) requested approval  
14 for a comprehensive plan amendment and an implementing  
15 ordinance to change the designation and zone of the northern  
16 21 acres of a 111-acre parcel from Exclusive Farm Use (EFU)  
17 to Qualified Rural Residential-5. The subject property is  
18 adjoined by Bandon State Park on the west, and by Bradley  
19 Lake on the East. China Creek drains Bradley Lake and  
20 crosses the subject property. The southern portion of the  
21 111-acre parcel contains approximately 20 acres of cranberry  
22 bogs and is in active farm use. The record does not  
23 indicate any uses in the area between the cranberry bogs and  
24 the subject property.

25 The county first considered intervenor's application in  
26 1993, when intervenor requested a comprehensive plan

1 amendment and zone change to Rural Residential-2 for 25  
2 acres of intervenor's 111-acre parcel. At that time, the  
3 county board of commissioners (commissioners) granted a  
4 modification of the applicant's request, amending the  
5 comprehensive plan and zoning designation to QRR-5. The  
6 county's decision was appealed to LUBA. LUBA remanded the  
7 county's approval for failure to demonstrate compliance with  
8 several Statewide Planning Goals and comprehensive plan  
9 provisions. Waugh v. Coos County, 26 Or LUBA 300 (1993)  
10 (Waugh).

11 On remand, intervenor reduced the size of the property  
12 subject to the application from 25 to 21 acres. This appeal  
13 follows the county's adoption of additional findings of  
14 approval for the requested plan amendment and rezoning.

15 **FIRST ASSIGNMENT OF ERROR**

16 Petitioners contend the county's decision violates  
17 several Statewide Planning Goals.

18 **A. Goal 2 (Land Use Planning)**

19 Petitioners contend the decision violates Goal 2's  
20 requirement to coordinate plans with other governmental  
21 units, by failing to adequately address the concerns of the  
22 Oregon Parks and Recreation Department (Parks Department)  
23 regarding the proposed development.

24 The Parks Department submitted a letter to the county  
25 outlining its concerns over the proposed development and  
26 suggesting remedial measures. The Parks Department

1 requested that 400-foot setbacks be required between the  
2 development and Bandon State Park, as well as 400-foot  
3 setbacks from China Creek and Bradley Lake.<sup>1</sup> Despite the  
4 Park Department's letter, the county required only 200-foot  
5 setbacks from the state park and 50-foot setbacks from  
6 Bradley Lake and China Creek.

7         Petitioners contend the county did not address the  
8 Parks Department's concerns and lacks evidentiary support  
9 for its decision. According to petitioners, the decision  
10 does not respond to the legitimate concerns of the Parks  
11 Department, does not balance the needs of governmental units  
12 and citizens and is not "coordination" as contemplated by  
13 Goal 2. Petitioners argue that in order to satisfy the  
14 coordination requirement, "the county should have at least  
15 indicated that it intended to adopt a finding inconsistent  
16 with the Parks Department position and have given the agency  
17 an opportunity to respond." Petition for Review 8.

18         Goal 2 requires, in part, that comprehensive plans be  
19 "coordinated" with the plans of affected governmental units.  
20 ORS 197.015(5) states that a plan is "coordinated" when the  
21 needs of all levels of governments have been considered and  
22 accommodated as much as possible.

23         In Rajneesh v. Wasco County, 13 Or LUBA 202 (1985) we  
24 stated that there are two procedural hallmarks of

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<sup>1</sup>Bradley Lake is not within the state park, but China Creek runs through the park.

1 comprehensive plan coordination:

2 "1. The makers of the plan engaged in an exchange  
3 of information between the planning  
4 jurisdiction and affected governmental units,  
5 or at least invited such an exchange.

6 "2. The jurisdiction used the information to  
7 balance the needs of all governmental units  
8 as well as the needs of citizens in the plan  
9 formulation or revision."

10 As we explained in Waugh, Goal 2 coordination requires that  
11 a local government "adopt findings responding to legitimate  
12 concerns." Waugh at 314. Goal 2 does not require the local  
13 government to accede to every request that may be made by a  
14 state agency.

15 The county's findings explain the concerns of the Parks  
16 Department, as well as other agencies, comment specifically  
17 on Parks Department concerns, and add conditions which the  
18 county determined appropriate and reasonable to address the  
19 concerns raised. The conditions require setbacks of 200  
20 feet from the state park, configuration of the roadway to  
21 provide a fire break, and use of a bridge to minimize impact  
22 on China Creek.

23 Petitioners are correct that the county has not acceded  
24 to all of the Parks Department's requests. The findings do,  
25 however, address Parks Department concerns and establish  
26 compliance with the Goal 2 coordination requirement.

27 This subassignment of error is denied.

28 **B. Goal 4 (Forest Lands)**

29 As we explained in Waugh, Goal 4 requires conservation

1 of forest lands for other purposes in addition to commercial  
2 timber production. Goal 4 also requires protection of other  
3 forested lands that maintain soil, air, water and fish and  
4 wildlife resources. We remanded in order to allow the  
5 county to adopt findings to address these other Goal 4  
6 resources.<sup>2</sup> Petitioners contend that the county's findings  
7 on remand are inadequate to support the conclusion that the  
8 subject property is not "other forested lands" as defined in  
9 Goal 4.<sup>3</sup>

10 The county's findings include two sections addressing  
11 "other forested lands." The first details the effects  
12 commercial forestry would have on the property as compared  
13 to residential uses on the property, and concludes that  
14 residential uses would

15 "preserve the value of the property for protection  
16 of natural vegetation and habitat for maintaining  
17 soil, air, water and fish and wildlife resources  
18 better than would commercial forest practices and  
19 not significantly less than the present state of

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<sup>2</sup>The subject EFU property is not designated for forest use. Nonetheless, because the county has required a comprehensive plan amendment, it must establish that the proposed designation complies with all statewide planning goals.

<sup>3</sup>Goal 4 defines "forest lands" as

"[T]hose lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources."

1 the property." Record 43.<sup>4</sup>

2 The findings to support this conclusion discuss soil  
3 preservation and dune protection but do not mention what  
4 air, water and fish and wildlife resources exist or how they  
5 may be affected by the proposed amendment.

6 The other section of the county's findings addressing  
7 the "other forested lands" provision of Goal 4 states:

8 "The appropriate test for 'other forested lands  
9 that maintain soil, air, water, and fish and  
10 wildlife resources' in the first instance is  
11 whether the subject tract is predominately  
12 forested. Based on the evidence submitted, we  
13 find that the majority of the subject property is  
14 not forested and therefore the subject tract is  
15 not 'other forested lands.'" Record 51.

16 As support for their position the county and  
17 intervenors rely upon Osborne v. Lane County, 5 Or LUBA 172  
18 (1982). At issue in Osborne was the meaning of the term  
19 "forested" in Goal 4.<sup>5</sup> In that case, acknowledging that  
20 "forested" had not been defined, we utilized a dictionary  
21 definition of "forest" to define forest as "[a] tract of  
22 land covered with trees and one usually of considerable  
23 extent." Id. at 186. We determined that the county had

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<sup>4</sup>The county's record includes three volumes, in which the pages are not consecutively numbered. All record references in this opinion are to the first volume of the county's record.

<sup>5</sup>In 1982, when Osborne was considered, the pertinent portion of Goal 4 defined forest land as "other forested lands in urban and agricultural areas which provide urban buffers, windbreaks, wildlife, and fisheries habitat, livestock habitat, scenic corridors and recreational use[.]"

1 adequately demonstrated that the property was not subject to  
2 Goal 4 because the findings demonstrated that the subject  
3 property did not fit the dictionary definition of  
4 "forested." We held that it was reasonable to rely on  
5 aerial photographs that indicated the "far greater area" of  
6 the subject property was not forested. Id.<sup>6</sup>

7 Intervenor now contends that Osborne creates a bright-  
8 line rule which requires an "other forested lands" analysis  
9 only when a majority, i.e. more than 50 percent, of the  
10 subject property is forested. Nowhere in Osborne did this  
11 Board state that an "other forested lands" analysis is  
12 unnecessary where 50 percent or less of the property is  
13 forested. While the amount of forested area is relevant,  
14 the percentage of forested area is only part of the  
15 equation.

16 In this case, the subject property contains Goal 4  
17 resources. The record contains a number of references to  
18 mature timber stands on the subject property that protect  
19 the dune area from wind erosion and Bradley Lake from wave  
20 erosion. The county's findings indicate that there are  
21 soil, air, water, and fish and wildlife resources on the

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<sup>6</sup>The county in Osborne relied on a factual description of the subject property as follows:

"As the colored aerial photograph shows, the bulk of the property does not consist of forested lands. The south slope has a few scattered groves of conifers, but it is primarily a mixture of steep slopes, grassy hillsides, scrub white oak, and scattered maple trees." Id. at 184.

1 subject property. Given these Goal 4 resources, the county  
2 cannot rely solely on a finding that less than a majority of  
3 the site is forested to reach a conclusion that the site is  
4 not "other forested lands" within the meaning of Goal 4.  
5 The county must either explain why the subject property is  
6 not "other forested lands," despite the identified  
7 resources, or explain how the proposed amendment satisfies  
8 Goal 4.

9 The county also made alternative findings regarding the  
10 applicability of Goal 4, stating, in part:

11 "[P]reserving the property for reasons solely of  
12 maintaining soil, air, water, and fish and  
13 wildlife resources would deprive the landowner of  
14 any reasonably profitable or beneficial use of the  
15 land." Record 52.

16 The county's findings suggest that if the subject property  
17 is preserved solely to maintain Goal 4 resources, a  
18 regulatory taking would occur. The record does not contain  
19 any evidence indicating the application of Goal 4 to the  
20 subject property would deprive the owner of all economically  
21 viable use of the property. See, e.g., Lucas v. South  
22 Carolina Coastal Council, 112 S.Ct. 2886 (1992); Fifth  
23 Avenue Corp. v. Washington County, 282 Or 591, 609, 581 P2d  
24 50 (1978). Moreover, a takings claim, if one exists, is not  
25 ripe for our review. See Larson v. Multnomah County, 24 Or  
26 LUBA 629, 663-36 (1993).

1 This subassignment of error is sustained.<sup>7</sup>

2 **C. Goal 17 (Coastal Shorelands)**

3 Petitioners next contend the county's decision  
4 inadequately considers Goal 17.

5 In Waugh, petitioner challenged the county's failure to  
6 address Goal 17. At oral argument in Waugh, petitioner  
7 argued that all of the subject property was located within  
8 the Coastal Shorelands Boundary (boundary). Intervenors  
9 responded that only 50 feet along Bradley Lake was within  
10 the boundary. We concluded that

11 "for purposes of this appeal it does not matter  
12 which map establishes the Coastal Shoreland  
13 Boundary. This case must be remanded in any  
14 event, and the county can explain on remand the  
15 precise location of the Coastal Shorelands  
16 Boundary. Even if intervenors are correct, that  
17 would only mean a small portion of the subject  
18 property is within the designated Coastal  
19 Shorelands, rather than the entire property. The  
20 county still must explain how development of the  
21 subject property is consistent with Goal 17's  
22 requirement '[t]o conserve, protect, where  
23 appropriate develop and where appropriate restore  
24 the resources and benefits of all coastal  
25 shorelands \* \* \*, and any other applicable Goal 17  
26 requirements.'" Waugh at 313.

27 On remand, the county found that a 50-foot strip along  
28 Bradley Lake was subject to Goal 17. The county further  
29 found that because no development would occur within the 50-

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<sup>7</sup>The county's findings also suggest the need for a Goal 4 exception based on the stated need for additional worker housing in Coos County. ORS 197.732 states the proper procedure for taking exceptions to statewide planning goals. The county did not follow those procedures and did not otherwise purport to take a Goal 4 exception.

1 foot strip, Goal 17 was not applicable.

2 Our remand order in Waugh required the county to  
3 identify the areas within the boundary and then explain how  
4 the proposed development will comply with Goal 17. It does  
5 not require that the subject property be viewed as if it  
6 were within the boundary; rather it requires the county  
7 adopt findings which demonstrate that development permitted  
8 in the proposed QRR-5 zone outside the boundary will not  
9 interfere with the mandates of Goal 17.

10 Although the county has determined that the amendment  
11 would not allow development within the boundary, the subject  
12 property contains an area within the boundary. The county  
13 must demonstrate that the level of development permitted in  
14 the proposed QRR-5 zone outside the boundary will not  
15 adversely affect Goal 17 resources within the boundary.

16 This subassignment of error is sustained.

17 **D. Goal 18 (Beaches and Dunes)**

18 In Waugh, we determined the county had not adequately  
19 demonstrated that the proposed amendment satisfied Goal 18,  
20 Implementation Requirement 1. Goal 18 requires the  
21 following:

22 "To conserve, protect, where appropriate develop,  
23 and where appropriate restore the resources and  
24 benefits of coastal beach and dune areas; and

25 "To reduce the hazard to human life and protect  
26 from natural or man-induced actions associated  
27 with these areas.

28 Implementation Requirement 1 of Goal 18 provides as follows:

1 "Local governments and state and federal agencies  
2 shall base decisions on plans, ordinances and land  
3 use actions in beach and dune areas, other than  
4 other stabilized dunes, on specific findings that  
5 shall include at least:

6 "a. The type of use proposed and the adverse  
7 effects it might have on the site and  
8 adjacent areas;

9 "b. Temporary and permanent stabilization  
10 programs and the planned maintenance of new  
11 and existing vegetation;

12 "c. Methods for protecting the surrounding area  
13 from any adverse effects of the development;  
14 and

15 "d. Hazards to life, public and private property,  
16 and the natural environment which may be  
17 caused by the proposed use." (Emphasis  
18 added.)

19 Petitioners argue the county's findings still fail to  
20 address the first part of Goal 18, i.e., how developing this  
21 property is appropriate in view of the conservation and  
22 protection aspects of the goal.

23 The county found, based on the language of  
24 Implementation Requirement 1, that because much of the  
25 subject property is located on older stabilized dunes, the  
26 findings otherwise required by that implementation measure  
27 were not required for the portion on the older stabilized  
28 dunes. Petitioners argue this interpretation is  
29 inconsistent with the text of Goal 18, which identifies  
30 areas to which the goal applies as follows:

31 "Coastal areas subject to this goal shall include  
32 beaches, active dune forms, recently stabilized

1 dune forms, older stabilized dune forms and  
2 interdune forms."

3 According to petitioners, because Goal 18 applies to  
4 older stabilized dunes, Implementation Requirement 1 does  
5 not relieve the county from adopting findings to show how  
6 development of the subject property is appropriate.

7 As intervenor points out, Goal 18 includes several  
8 implementation measures, some of which apply directly to  
9 older stabilized dunes. Implementation Requirement 1,  
10 however, does not. We find no error in the county's  
11 conclusion that Implementation Requirement 1 does not  
12 require findings on older stabilized dunes.

13 In otherwise addressing the requirements of Goal 18,  
14 Implementation Requirement 1, the county found, in part:

15 "We find that the open sand area shown on the  
16 aerial photograph was mistaken for active dune,  
17 but we find this part of the subject property is  
18 younger stabilized dune. The portion of the  
19 subject property on which the residences and  
20 associated facilities for each residence would be  
21 located is on older, stabilized dunes and it is  
22 therefore appropriate for development. \* \* \* The  
23 proposed development is adequately protected from  
24 natural hazards and is designed to minimize  
25 adverse environmental impacts. The property is  
26 not an area of critical environmental concern and  
27 does not possess special scenic, scientific, or  
28 biological importance or contain significant  
29 wildlife habitat. Much of the existing wildlife  
30 habitat is as likely to remain even after  
31 residences are constructed as with other uses.  
32 The probable gorse removal, and planting and  
33 restorative/maintenance revegetation by rural  
34 residents will actually improve habitat compared  
35 to existing trespass, or timber activity." Record  
36 55.

1           As we stated in Waugh, "where adequate findings have  
2 been adopted and LUBA is simply reviewing those findings for  
3 evidentiary support, LUBA must affirm the decision where it  
4 is supported by substantial evidence." Id. at 307.  
5 Substantial evidence need only be the kind of evidence upon  
6 which a reasonable person could rely to reach a decision.  
7 See Douglas v. Multnomah County, 18 Or LUBA 607, 617 (1990).

8           The county's findings reflect that it considered  
9 Implementation Requirement 1, and that it considered  
10 potential impacts on the dunes and determined that  
11 development permitted by the proposed amendment complies  
12 with that measure. The county's findings are sufficient to  
13 satisfy the requirements of Goal 18.

14           Petitioners also assign error to the county's Goal 18  
15 findings on the basis that the access roadway will not be  
16 located on older stabilized dunes. Petitioners assert the  
17 county made no findings on how construction of the road will  
18 be consistent with Goal 18's requirement that dunes and  
19 beaches be protected from development.

20           The county acknowledges that a portion of the access  
21 roadway will be constructed on dunes other than older  
22 stabilized dunes. In addressing the road's impacts, the  
23 county compares the impacts of the road to potential impacts  
24 generated by agricultural or forest uses. The county finds  
25 that both agricultural and forestry uses would require road  
26 building, and that the proposed development would not

1 significantly increase the impacts compared to agricultural  
2 or forestry uses.

3 Goal 18 requires the county to evaluate development  
4 impacts to beach and dune areas. The proposed access road  
5 will cross a dune area. That a road used for forestry or  
6 agricultural purposes would also impact the dune area is not  
7 relevant. The county's findings regarding the impact of the  
8 proposed access road on dune are inadequate to establish  
9 compliance with Goal 18.

10 This subassignment of error is sustained, in part.

11 This assignment of error is sustained, in part.

12 **SECOND ASSIGNMENT OF ERROR**

13 Petitioners contend the county's decision violates two  
14 provisions of the county's comprehensive plan.

15 **A. County Agricultural Lands Goal**

16 Petitioners claim that the county failed to adequately  
17 address the county plan's agricultural lands provisions.

18 We determined in Waugh that the county's findings  
19 regarding compliance with its agricultural lands goal and  
20 implementation policies were inadequate. On remand, the  
21 county offered three bases to demonstrate compliance with  
22 that goal. The county first finds:

23 "We interpret the Coos County Comprehensive Plan  
24 Provisions regarding agricultural lands \* \* \* to  
25 be no more restrictive than State Wide Planning  
26 Goal 3 \* \* \*. Since the State Wide Planning Goal  
27 3 was not remanded by LUBA, under the  
28 circumstances of the appeal, we believe that the  
29 law of the case is that those issues which are

1 relevant to State Wide Planning Goal 3 have been  
2 resolved in favor of the applicant. Accordingly,  
3 we believe and find and conclude that the issues  
4 involved in the Coos County Comprehensive Plan  
5 Agricultural Goals and subsequent implementation  
6 strategies have similarly been resolved in favor  
7 of the applicant." Record 38.

8 The law of the case applies when an issue has been  
9 resolved in an earlier appeal, and precludes reexamination  
10 of an issue previously decided in the same case. Beck v.  
11 Tillamook County, 313 Or 148, 831 P2d 678 (1992). In this  
12 case, Goal 3 has never been at issue. Lack of compliance  
13 with Goal 3 was not assigned as error in Waugh. The county  
14 cannot rely on petitioners' previous failure to assign error  
15 under Goal 3 to conclude that we have made a de facto  
16 determination that the county's findings establish  
17 compliance with its own agricultural lands goal.

18 Alternatively, the county finds that the county's  
19 previous Goal 3 findings were appropriate "and adequate to  
20 satisfy Goal 3 and the agricultural goal and implementation  
21 policies of the Coos County Comprehensive plan." Record 38.  
22 In Waugh we found "a number of relevant comprehensive plan  
23 provisions [are pertinent] to the disputed decision but were  
24 not applied by the county despite statutory requirements  
25 that they do so." Waugh, 26 Or LUBA at 315. The county's  
26 agricultural goal and implementation policies were among  
27 these provisions. We remanded to allow the county to  
28 interpret the comprehensive plan standards and develop the  
29 requisite findings. The county's conclusion that the

1 previous findings are sufficient is not adequate when we  
2 determined in Waugh that they are not.

3 Finally, as an additional basis to support its  
4 compliance with its agricultural lands goal, the county  
5 interprets its agricultural lands goal and implementation  
6 strategies to be no more restrictive than Goal 3. The  
7 county's agricultural lands goal states that implementation  
8 of the plan strategies is based on application of the  
9 statutory provisions governing uses in EFU zones.  
10 Accordingly, the county utilized, in both its original  
11 findings and the findings at issue in the present case, the  
12 definition of "agricultural lands" found in OAR 660-33-020.<sup>8</sup>  
13 The county's findings equate Goal 3 compliance to compliance  
14 with its agricultural lands goal. Thus, under the county's  
15 own interpretation of the requirements of its agricultural  
16 lands goal, we must apply the standards of Goal 3. See  
17 Forster v. Polk County, 115 Or App 475, 478, 839 P2d 241  
18 (1992).

19 Land is considered agricultural land in four  
20 circumstances.

21 "First, land is agricultural land if it has the  
22 requisite soil classification. Second, land is  
23 agricultural land if it is 'intermingled with or  
24 adjacent to' SCS Class I-IV land within a 'farm

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<sup>8</sup>During the pendency of this case, OAR Chapter 660, Division 5 was replaced by OAR Chapter 600, Division 33. At the time of the application, OAR 660-33-020 was numbered OAR 660-05-010. While the numbering has been changed, the substantive provisions relevant to this case have not.

1 unit.' Third, land is agricultural land if it is  
2 suitable for farm use. Fourth, land is  
3 agricultural land if it is necessary to permit  
4 farm practices to be undertaken on adjacent or  
5 nearby lands." Kaye v. Marion County, 23 Or LUBA  
6 452, 459 (1992).

7 Petitioners assert that the county's findings fail to  
8 address whether the subject property is agricultural land  
9 within the meaning of 660-33-020(1)(b). That section  
10 states:

11 "Land in capability classes other than I - IV/I -  
12 VI that is adjacent to or intermingled with lands  
13 in capability classes I - IV/I - VI within a farm  
14 unit, shall be inventoried as agricultural lands  
15 even though this land may not be cropped or  
16 grazed[.]"

17 Based on this rule, petitioners conclude the subject  
18 property is agricultural land, as part of a farm unit. It  
19 is not clear whether petitioners contest the county's  
20 determination that the subject property is not a farm unit  
21 or whether petitioners claim that the county failed to  
22 address the issue.<sup>9</sup>

23 The county's findings state that there "is no evidence  
24 that the property currently functions operationally as part  
25 of the farm unit represented by Tax Lot 400." Record 25.<sup>10</sup>

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<sup>9</sup>Petitioners allege in generic terms that the county "should have addressed its plan provisions relevant to agricultural lands." Petition for Review 19-20.

<sup>10</sup>The county's findings in Waugh are more specific on the issue. Those findings state that "the subject tract is buffered from and is not part of the one and only adjacent farm use. The subject tract has never been nor will be part of the farm unit." Record Vol. I, p. 31.

1           In Kaye, LUBA discussed the "farm unit" provision of  
2 former OAR 660-05-010(1). There, the applicants proposed to  
3 establish a golf course on a 468-acre parcel and rezone 72.5  
4 acres from EFU to Acreage Residential. At issue was whether  
5 the subject 468-acre property was a farm unit. LUBA stated  
6 that if the entire 468-acre parcel was a farm unit, the  
7 72.5-acre portion would have to be considered agricultural  
8 land. Id. at 459. Although there was evidence of  
9 agricultural use on the property, LUBA held that the  
10 evidence was not sufficient to require a determination that  
11 the property was a farm unit. LUBA considered whether there  
12 had historically been any active, ongoing agricultural use  
13 of the property or efforts to manage the property as an  
14 economically viable farming operation.

15           Similar issues were raised in DLCD v. Curry County, 132  
16 Or App 393 (1995) and DLCD v. Coos County, 24 Or LUBA 137,  
17 aff'd 117 Or App 400 (1992). In construing "farm unit" in  
18 DLCD v. Curry County, the court held that the question to be  
19 answered is locational, i.e., "whether land that is not of  
20 agricultural quality is interspersed with land that is."  
21 132 Or App at 398. The court discussed the purposes of OAR  
22 660-33-020(1):

23           "To qualify as 'agricultural land' under [OAR 660-  
24 33-020(1)] subsection (b), both the higher and  
25 lower quality lands must be part of a farm unit.  
26 An objective of subsection (b) appears to be to  
27 prevent piecemeal fragmentation of farm land and  
28 to make all land in the unit part of a contiguous  
29 whole. Thus the rule's purpose is not to measure

1 the quality of particular land in the unit, except  
2 to require that the unit contain some class I-IV  
3 soils. The fact that all of the land comprises a  
4 single operating farm unit makes the quality of  
5 the particular parts of it a marginal factor in  
6 determining whether the unit is 'agricultural,'  
7 and a central consideration is identifying the  
8 rule's objective to be the preservation of the  
9 unit as a whole." Id.

10 In DLCD v. Coos County, the applicants sought to rezone  
11 a 20-acre portion of a 175-acre parcel from EFU to Rural  
12 Residential. Although the entire 175-acre parcel was  
13 managed as a cattle operation, the record indicated that  
14 approximately 20 acres of the 175-acre total were  
15 "relatively useless" and did not play a part in the cattle  
16 operation. That 20-acre portion consisted of sand and  
17 wetland soils, and had never been actively farmed. We held,  
18 in part:

19 "Regardless of whether the subject 20 acres may  
20 have been regarded as 'relatively useless' in the  
21 management plan quoted above, or actively farmed  
22 in the past, it is clear that the 175-acre parcel  
23 was created as a cattle ranching farm unit." Id.  
24 at 143-44.

25 In affirming our decision, the Court of Appeals noted that  
26 our reasoning was consistent with ORS 215.203(2)(b)(E),  
27 which includes under "current employment of land for farm  
28 use":

29 "Wasteland, in an exclusive farm use zone, dry or  
30 covered in water, neither economically tillable  
31 nor grazeable, lying in or adjacent to and in  
32 common ownership with a farm use land and which is  
33 not currently being used for any economic farm  
34 use."

1 Thus, agricultural land in large blocks is subject to  
2 protection irrespective of the quality of smaller blocks of  
3 land interspersed with higher value farmland.

4 The county's findings do not address whether the  
5 subject property is intermingled with lands in capability  
6 classes I-IV. Nor do they explain the relationship between  
7 the subject property and the remainder of intervenor's 111-  
8 acre parcel. The county simply concludes that the subject  
9 is composed of Class VI and Class VII soils, and that this  
10 property "is not necessary to permit farm practices to be  
11 undertaken on adjacent or nearby lands." Record 39. Other  
12 findings state that "[t]here is no evidence that the  
13 property currently functions operationally as a part of the  
14 farm unit represented by Tax Lot 400." Record 25.

15 The county's findings do not justify its conclusion  
16 that the subject property is not part of a farm unit. The  
17 county gives no indication of what it means by farm unit or  
18 how its conclusion was reached. Nor does the county  
19 indicate whether agricultural uses other than cranberry bogs  
20 could be maintained on the property to bring it within a  
21 farm unit.<sup>11</sup> Without these findings, the county's  
22 conclusion that the subject property is not part of a farm  
23 unit is not supported, and the county's findings are not

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<sup>11</sup>The county does indicate that there are no plans to expand the cranberry operation to the subject property, but that fact does not demonstrate that the subject property is not part of a farm unit or that the subject property could never be utilized as part of the farm unit.

1 adequate to establish that the proposed comprehensive plan  
2 amendment satisfies the county's agricultural lands goal.

3 This subassignment of error is sustained.

4 **B. County Forest Lands and Dunal and Coastal**  
5 **Shorelands Goals**

6 In Waugh we determined the county's findings were  
7 inadequate to establish compliance with the county's forest  
8 lands, and dunal and coastal shorelands goals. Petitioners  
9 contend the county's findings continue to be inadequate  
10 because the county relies exclusively on its findings of  
11 compliance with Statewide Planning Goals 4, 17 and 18 to  
12 establish compliance with these goals. Petitioners argue  
13 that because the county has not established the request  
14 complies with Statewide Planning Goals 4, 17 and 18,  
15 findings which rely exclusively on compliance with those  
16 goals to show compliance with provisions of the county's  
17 comprehensive plan are also lacking.

18 The county interprets its forest lands goal and its  
19 dunal and coastal shorelands goals to be no more restrictive  
20 than the provisions of Statewide Planning Goals 4, 17 and  
21 18. The county states that the findings made with regard to  
22 Statewide Planning Goal 4 are adequate to satisfy the  
23 comprehensive plan forest lands goal. With regard to its  
24 dunal and coastal shorelands goals, the county relies upon  
25 its findings of compliance with Statewide Goals 17 and 18.  
26 Because we find the county's findings regarding compliance  
27 with Goals 4, 17 and 18 inadequate, so too must we determine

1 the same findings are inadequate to demonstrate compliance  
2 with the corresponding county plan goals.

3 This subassignment of error is sustained.

4 This assignment of error is sustained.

5 The county's decision is remanded.