

LAND USE
BOARD OF APPEALS

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

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PHYLLIS E. THEDE,)
HAROLD S. BOYD, and)
DOUGLAS E. BENNETT,)
Petitioners,)
v.)
POLK COUNTY,)
COY DeLARMAR, and)
TOM DENMAN,)

LUBA No. 80-067

FINAL OPINION
AND ORDER
(ORDER OF DISMISSAL)

Appeal from Polk County.

Phyllis E. Thede, Harold S. Boyd and Douglas E. Bennett, Salem, filed the brief on their own behalf. Richard C. Stein, Salem, argued the cause for Petitioners.

J. Michael Alexander, Salem, filed the brief and argued the cause for Respondents DeLarmar and Denman. With him on the brief were Brown, Burt, Swanson and Lathen, P.C.

REYNOLDS, Chief Referee; COX, Referee; BAGG, Referee; participated in the opinion.

DISMISSED

10/03/80

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

1 REYNOLDS, Chief Referee

2 STATEMENT OF THE CASE

3 Petitioners appeal Polk County's grant of a partition of a
4 35 acre parcel into two 17 1/2 acre parcels. The planning
5 director in a written order recommended denial of the requested
6 partition on the basis that the request did not meet the
7 criteria contained in Polk County's zoning ordinance for
8 divisions of land within an EFU zone. The applicant appealed
9 this decision to the Polk County Board of Commissioners. The
10 Polk County Board of Commissioners conducted a hearing on the
11 appeal, viewed the property, and then, during a "closed"
12 hearing,¹ voted to grant the requested partition. The
13 written order approving the partition was prepared by Polk
14 County's legal counsel and presented to the chairperson for his
15 signature. The letter order was signed by the board
16 chairperson on June 6, 1980. The letter order was never
17 presented to the full board of commissioners for its approval.

18 The letter order recites that in order to grant a division
19 of land within an EFU zone permission is first required under
20 section 136.030 of the Polk County zoning ordinance. The
21 letter order then states:

22 "Under Subsection (b) of Section 136.030, five
23 points must be considered. Each of these points was
24 discussed in your memorandum in support of application
25 for partitioning and in the staff report issued by the
26 County's Department of County Development. The points
were also discussed in letters and oral testimony
submitted for our hearing on the matter by both
proponents and opponents of the special exception. We
have read all the material presented to us, listened

1 carefully to the testimony and visited the site of the
2 special exception to observe the facts submitted about
3 it. We, therefore, state that we have considered each
4 of the five points in Section 136.030(f).

5 "Subsection (c) of Section 136.030 requires that
6 at least one of six conditions be found to exist in
7 order for a special exception to be granted. We find
8 that one of the conditions does exist: The land to be
9 divided is generally unsuitable for the production of
10 farm crops and livestock as conducted in that area
11 considering the terrain, adverse soil and land
12 conditions, drainage and flooding, vegetation and size
13 of tract.

14 "This finding is based on these facts appearing
15 from the record:

16 "1. The parcel is steep, rough, broken terrain,
17 unsuited to cultivation by machinery and hence
18 generally unsuitable for production for row crops or
19 field crops. The rough terrain also restricts the
20 potential of the land for irrigation thereby reducing
21 its capacity to grow pasture for livestock as well as
22 its capacity for orchard or vine crops.

23 "2. Intermixture of non-agricultural soils with
24 agricultural soils prevents economical use of the
25 whole parcel for livestock or for vine or orchard
26 crops.

"3. The presence of undesirable oak and brush
vegetation restricts the use of the parcel for crops
of any kind or for livestock. Expense of clearing the
vegetation would make subsequent agricultural use
unprofitable.

"4. Although either sheep or cattle could be
raised on the property, neither could be raised at a
worthwhile profit, especially if land costs are
attributed to the cost of any livestock enterprise.

"We conclude, again, that Special Exception 80-10
is approved."

ASSIGNMENTS OF ERROR

Petitioners challenge the letter order of the county on
numerous grounds. From a procedural standpoint, petitioners

1 contend that the letter order is not a "final order" within the
2 meaning of Oregon Laws 1979 ch 772 because the letter order was
3 never adopted or ratified by the board of commissioners.
4 Petitioners also argue in this assignment that the decision of
5 the board was really made at the board's public hearing prior
6 to any written order having been prepared. Second, petitioners
7 contend that the county violated Goal 3 in that the county gave
8 no consideration to protection of agricultural land for
9 possible forestry uses and the county misconstrued the goal to
10 protect only agricultural land that could be farmed at a
11 "worthwhile profit." Third, petitioners argue that the county
12 erred by not treating the fact that the property was in "farm
13 deferral" as conclusive on the issue of whether it could be
14 profitably farmed. In addition, petitioners claim the county
15 erred in considering land costs with no relationship to
16 agricultural use of the property as bearing on the question of
17 whether the land could be profitably farmed. Fourth,
18 petitioners contend that the county's letter order does not
19 meet the requirements of its comprehensive plan and
20 implementing zoning ordinance. Fifth, petitioners assert that
21 the findings, even if adequate, are not supported by any
22 substantial evidence in the record.

23 FACTS

24 The property in question consists of 35 acres of class II
25 through IV soil with some class VI soil intermixed. It is
26 presently zoned EFU (Exclusive Farm Use). A drainage swale

1 bisects the property into two roughly equal parts. It is in
2 the area of the drainage swale, where slopes in excess of 30%
3 exist, that the class VI soil is found. Oak trees and brush
4 make up the remainder of the property. The north and south
5 portions of the property contain fairly level, cleared fields.

6 The property has been used for agricultural purposes,
7 essentially as pasture, and has been and still appears to be in
8 "farm deferral" for tax purposes. An extension agent testified
9 on behalf of the applicants that a cattle operation would gross
10 \$6,163.50 and return a net profit to the owners of \$138.50
11 after subtracting both cash and non-cash expenses. The
12 extension agent also testified that a sheep operation would
13 gross \$3,882.00 and result in a net loss of \$48.00 a year after
14 deducting all cash and non-cash expenses.²

15 The property is located in an area of active agricultural
16 production, including dairies, sheep, cattle, orchards, grass
17 seeds, grains, hay, alfalfa and vineyards. While respondent
18 characterized the surrounding area as comprised of "family
19 residences conducting small farming operation, but not in a
20 commercial sense," there is a 67 acre hog raising enterprise
21 adjacent to the south, a 68 acre vineyard to the north, a 43
22 acre cherry and sheep operation and a 43 acre hay, sheep and
23 grain operation adjacent to or nearby the property. All of the
24 land surrounding the property is zoned EFU.

25 At the county's hearing, Mr. Felts, the owner of the 67
26 acre vineyard, testified as to the feasibility of a vineyard

1 operation on the applicant's property:

2 "There are four started vineyards in the
3 immediate area and believe me with the type of high
4 crop production that you could get I value crops and
5 vineyards. We know that the land in this area is
6 capable of this. I challenge the people that said you
7 cannot productively farm that ground as a vineyard.
8 This was not brought up as a vineyard property but as
9 an agricultural property. I am not talking about
grain or anything like that. I am talking about
vineyards. Wine grape vineyards. Those are slopes.
They would have to be cleared and I think that this
type of land has a real value as agricultural land --
not as 17 acres but as 35 or bigger. I think that
this is an important factor that we might be
overlooking."

10 The day following the public hearing the board viewed the
11 property. The results of this view were stated at the board's
12 regularly scheduled, "closed" meeting one week later.
13 Commissioner Magill stated, concerning the possible use of the
14 property for a vineyard, as follows:

15 "One piece of testimony was offered by two or
16 three people probably about the use of vineyards.
17 That land can be cleared, etc and can be put into
18 vineyards. Any man in his right mind that attempts
19 that land will never have enough money when he is done
20 to put into the vineyards."

21 Commissioner Hardy followed Commissioner Magill's statement
22 with the following:

23 "This obviously was made this shape strictly
24 because of the terrain up there. Totally agree with
25 Commissioner Magill that this ground is absolutely not
26 farm ground and don't think that it was the intent of
Goal 3 to force people to tear the trees out and put
in vineyards because it is feasible. Haven't had a
chance to read that Court of Appeals case that implied
that was the intent of Goal 3 but sure hope that
really isn't what it says because certainly disagree
with that. The intent of Goal 3 is to preserve
agricultural land for present and future needs and it
doesn't say anything about having to reclaim the land

1 in order to be able to afford to keep it."

2 The board then voted to approve the partitioning.

3 Following the vote, the board engaged in some further
4 discussion concerning its view of the property and the question
5 of whether the land could be cleared for vineyards. Two of the
6 commissioners stated that they had recalled some testimony of
7 the owner having to do with the difficulty involved in clearing
8 that portion of the land presently covered with brush and trees
9 in order to plant crops such as grapes. The commissioners
10 therefore felt that their view of the property was only an aid
11 in understanding the owner's testimony and was not evidence in
12 and of itself.

13 OPINION ON THE MERITS

14 Petitioners complain that the county's letter order is not
15 a final order because the order was not adopted, approved or
16 ratified by the board. We agree with petitioners that a letter
17 order containing findings of fact which has not been reviewed
18 by the governing body and adopted by the governing body as its
19 order is not a final order within the meaning of Oregon Laws
20 1979, ch 772, section 3, subsection (1).

21 The only action taken by the board of commissioners as a
22 body was the decision made on May 28, 1980, in which the board
23 voted to approve the partitioning request. No formal findings
24 were adopted at that time; rather, the county's legal counsel
25 was directed to prepare written findings. This action was at
26 best a preliminary, tentative decision made by the board "so

1 that final and formal work could proceed" on the order granting
2 the partition. See Heilman v. City of Roseburg, 39 Or App 71,
3 591 P2d 390 (1979). To construe the board's action otherwise,
4 i.e. as a final decision, would violate ORS 215.416 which
5 requires written findings be made contemporaneous with or prior
6 to the final decision. Cf Heilman v. City of Roseburg, supra.

7 The result in this case, then, is a tentative decision made
8 by the board of commissioners, followed by the preparation of a
9 letter order purporting to contain findings and a final
10 decision signed only by the board chairperson but not approved
11 by the full board. In other words, the written findings
12 contained in the letter order were never formally adopted by
13 the board but were only approved by the board chairperson.

14 While a governing body may expressly or impliedly delegate
15 the performance of certain tasks to one of its members, the
16 approval of written findings in support of a land use decision
17 and the entry of a final order granting that approval are not
18 among the tasks which the board may lawfully delegate.

19 The general rule is that neither legislative nor judicial
20 functions of a governing body may be delegated in the absence
21 of express authorization from the legislature. See McQuillan,
22 Municipal Corporations, 3rd Ed. sec 10.40. The decision to
23 approve a partitioning of a 35 acre parcel clearly falls within
24 the judicial range of decisions which may not be delegated
25 absent statutory authorization.

26 Oregon has expressly authorized cities and counties to

1 delegate to hearings officers or planning commissions the
2 authority to initially make quasi-judicial land use decisions.
3 ORS 227.160-.180; ORS 215.402-.422. However, the legislature
4 has also prescribed the right to appeal such a decision to the
5 governing body. ORS 227.180; 215.422. No power is expressly
6 conferred upon the governing body to delegate its review
7 responsibility. We conclude, therefore, that the making of a
8 final decision or determination with respect to a small tract
9 partitioning (including the adoption of written findings) by a
10 governing body under either ORS 215.422 or 227.180 may not be
11 delegated by the governing body to one or more of its members.

12 In so concluding we do not mean to suggest that a governing
13 body may not delegate to its chairperson the authority to sign
14 a final order for all members of the governing body. Thus, it
15 would be conceivable that a governing body, working from a
16 draft set of findings, could modify the findings to its liking,
17 vote upon the findings, and then direct that the findings as
18 adopted and agreed upon be placed in final form for signature
19 of the governing body chairperson. This is far different,
20 however, from what occurred in this case.

21 We conclude, therefore, that the letter order of June 6,
22 1980, which is the subject of this appeal, is not a final
23 decision or determination of a governing body and, hence, not a
24 land use decision within the meaning of Oregon Laws 1979, ch
25 772. As such, we lack jurisdiction to consider petitioners'
26 appeal.

1 However, during oral argument the parties advised the Board
2 that should this case be dismissed for lack of a final decision
3 it is highly likely the letter order would be adopted by the
4 full board of commissioners and the case would be back before
5 us on appeal. Because of this fact and the fact that the
6 issues raised in this appeal have been briefed and orally
7 argued by all parties, the Board will briefly state its view as
8 to the merits of some of the more important issues raised by
9 petitioners.

10 Concerning petitioners' second assignment of error, Goal 3
11 does not specifically require preservation of agricultural land
12 for possible forestry uses. Goal 3 does, however, in
13 conjunction with Goal 4, require that land which is capable of
14 both agricultural and forestry uses be preserved and protected
15 for such uses. When land appears to have forestry as well as
16 agricultural potential, Goals 3 and 4 must both be addressed.
17 See 1000 Friends v. Douglas County, ___ Or LUBA ___, (LUBA No.
18 79-006, 1980); LCDC Policy Paper, "Agricultural/Forestry Goal
19 Interrelationship," February 7, 1979.

20 Petitioners' third assignment of error is that the county
21 erred in relying upon its finding that the property could not
22 be farmed at a "worthwhile" profit in support of its conclusion
23 that the property was not suitable for agricultural
24 production. Prior to acknowledgement of a county's
25 comprehensive plan and implementing ordinances land which is
26 agricultural land within the meaning of Goal 3 may only be

1 divided if (1) the division is appropriate for continuation of
2 the existing commercial agricultural enterprise in the area;
3 (2) the property is, despite its soil classification, generally
4 unsuitable for the production of farm crops and livestock and
5 the division meets the additional requirements of ORS
6 215.213(3); or (3) a valid exception to Goal 3 is taken. Cf
7 Jurgenson v. Union County Court, 42 Or App 505, 600 P2d 1241
8 (1979).

9 The county's order in this case is based upon the
10 conclusion that the property is generally unsuitable for the
11 production of farm crops and livestock.³ This conclusion is
12 based upon the county's determination that the property could
13 not be farmed at a worthwhile profit. The county, apparently,
14 did not believe that the net profit analysis performed by the
15 county extension agent reflected a sufficient profit to justify
16 concluding that the property was suitable for farm use.

17 In our view, to the extent the county's decision was based
18 upon its finding that this 35 acre parcel was unprofitable, we
19 agree with petitioners that the county erred. The evidence in
20 the record indicates that the parcel by itself is capable of
21 making a profit in money as that term was defined in 1000
22 Friends v. Benton County, 320 App 413, 575 P2d 651 (1978):

23 "The legislative history of ORS 215.203 indicates
24 that the use of the term "profit" in that statute does
25 not mean profit in the ordinary sense, but rather
26 refers to gross income inasmuch as this was the test
under the former \$500 standard and is the present
statutory standard for unzoned farm land. Since the
legislature did not specify a gross dollar amount

1 required for lands to qualify for exclusive farm use
2 zones under ORS 215.213, it intended that this be a
3 matter of discretion for the counties. LCDC may as
4 part of its goals impose limits on that discretion.***"

5 The evidence submitted by the applicants indicates a
6 possible gross income from this 35 acre parcel of \$6,163 from
7 raising cattle or \$3,882 from raising sheep. This clearly
8 would qualify the property as in "farm use" within the meaning
9 of ORS 215.203 and, hence, establishes that the property is
10 generally suitable for the production of farm crops or
11 livestock within the meaning of ORS 215.213(d).

12 In addition to the above, the county failed to address,
13 based upon evidence in the record, the question of the
14 suitability of this property as a vineyard. One witness, a
15 grape grower on an adjacent 68 acres, opined, in effect, that
16 the 35 acre parcel was suitable to grow grapes. While he also
17 indicated that it would be necessary to clear that portion of
18 the 35 acres covered by brush and trees, no evidence was
19 introduced into the record that it would not be feasible to do
20 so. Rather, the commissioners adopted this position after a
21 "view" of the property. The "view" was conducted after the
22 hearing for the purpose of receiving evidence had been closed.
23 Information obtained solely as a result of a view of the
24 property after the evidentiary hearing has been closed and with
25 no opportunity afforded the parties to rebut the information
26 cannot be used to support a finding of fact. See Anderson,
American Law of Zoning, sec 20.38. Thus, the finding in the

1 letter order that:

2 "The presence of undesirable oak and brush
3 vegetation restricts the use of the parcel for crops
4 of any kind or for livestock. Expense of clearing the
5 vegetation would make subsequent agricultural use
6 unprofitable."

7 is not supported by any evidence in the record. This finding
8 cannot be used as a basis for concluding that the land is not
9 suitable to grow grapes.

10 Two other findings in the letter order similarly cannot be
11 used to support the county's conclusion as to the property's
12 suitability as a vineyard. The order states that

13 "The rough terrain also restricts the potential
14 of the land for irrigation, thereby reducing its
15 capacity to grow pasture for livestock as well as its
16 capacity for orchard or vine crops."

17 No testimony was offered to support the finding that rough
18 terrain restricts irrigation potential, nor that success of
19 vineyards depends upon irrigation.

20 A second finding in the order provides:

21 "Intermixture of non-agricultural soils with
22 agricultural soils prevents economical use of the
23 whole parcel for livestock or for vine or orchard
24 crops."

25 While there is evidence in the record that in some parts of
26 the parcel, primarily the swale area, soils classed other than
I-IV do exist, no evidence suggests that these soils are not
suitable to grow grapes and no evidence supports the conclusion
that such soils would "prevent economical use of the whole
parcel for...vine...crops."

The final issue that we wish to address concerns

1 petitioners' contention that the letter order fails to comply
2 with Polk County's comprehensive plan requirements pertaining
3 to divisions of land within "agricultural areas."⁴

4 Polk County's ordinance (sec 136.030) concerning land
5 divisions is in two parts. The first part, sec 136.030(b),
6 requires that five enumerated factors be "considered" by the
7 planning director or planning commission in determining whether
8 to allow a land division.⁵ Section 136.030(c) then provides
9 that a decision to grant a division can be made only if one or
10 more of six stated "conditions are found to exist."⁶ In its
11 letter order, the county stated that it had considered the five
12 factors in sec 136.030(b), but did not set forth findings on
13 each of the factors. The county did attempt to set forth
14 findings on one of the six factors in sec 136.030(c) for which
15 the ordinance clearly requires findings. That factor, as has
16 previously been discussed, involved the suitability of the
17 property for producing farm crops or livestock. The
18 respondents-applicants argue that the county satisfied the
19 ordinance requirements even though findings were not made
20 demonstrating consistency with the five factors in sec
21 136.030(b). They argue, in effect, that to "consider" means
22 only to "think about" under the county's ordinance and does not
23 require findings showing that the proposed decision will be
24 consistent with those factors.

25 The responsibility for interpretation of local ordinances
26 or regulations rests initially with the enacting governing

1 body. See Bienz v. City of Dayton, 29 Or App 761, 566 P2d 904
2 (1977). However, in this instance interpretation of the word
3 "consider" in the ordinance is controlled by policy 1.5 of the
4 county's comprehensive plan which requires findings to be made
5 on most of the factors set forth in sec 136.030(b) for land
6 divisions within agricultural areas. Policy 1.5 of the plan
7 provides that the county "will permit only those [divisions of
8 land] which meet the following criteria..." In sec 1.5(b) is
9 the following:

10 "The proposed division complies with all
11 applicable requirements of the zoning and partitioning
12 ordinances, and it is consistent with all of the
13 following criteria:" (emphasis added)

14 Thereafter are listed three criteria with which the division
15 must be determined to be consistent, and a fourth requirement
16 subdivided into six parts, only one of which must be found to
17 exist.⁷ The first two criteria are virtually identical to
18 the first two factors listed in sec 136.030(b) of the
19 ordinance. The third criterion in sec 1.5(b) of the plan is
20 substantially similar to the fifth factor in sec 136.030(b) of
21 the ordinance. Thus, it can be seen that in order for the
22 ordinance to satisfactorily implement the plan policy for land
23 divisions in agricultural areas, something more than mere
24 "consideration" of the factors in the ordinance as urged by
25 respondents-applicants is required. Because the comprehensive
26 plan requires that land divisions comply with the enumerated
criteria, the county must make findings which show that the

1 criteria will be met. If the county is going to rely upon its
2 implementing ordinance (sec 136.030) as satisfying the criteria
3 in the comprehensive plan (policy 1.5) the county must construe
4 "consider" as used in Ordinance sec 136.030 to mean "consistent
5 with" and findings must be made which reflect the results of
6 that consideration. The county did not, as has been stated,
7 set out in its letter order the results of its consideration of
8 the five factors in ordinance sec 136.030(b) and, thus, did not
9 satisfy the requirement of its comprehensive plan.⁸

10 Dismissed.

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FOOTNOTES

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By a "closed" hearing we mean only that meaning was closed to the introduction of new testimony, not that it was conducted out of public view.

2
The extension agent's report indicated that expenses of a cash and non-cash nature would amount to \$3,834.00. It appears, therefore, that his conclusion that a net loss would result is in error and that, in fact, a net profit of \$48.00 would result from a sheep operation. No evidence was received as to the profit potential of any possible use of the property other than livestock, nor was there any evidence concerning the suitability of the subject property for farm use if sold or leased.

3
This finding was made not in the context of ORS 215.213(3) but in the context of Polk County's ordinance sec 136.030(c). The distinction is of no moment, however, because the requirement in ORS 215.213(3) that the property be generally unsuited for the production of farm crops and livestock is identical to sec 136.030(c)(6), upon which the county based its decision.

4
It is not disputed that the parcel in question is within an "agricultural area" in the county's plan.

5
Section 136.030(b) provides as follows:

"The Planning Commission or the Director shall consider;

"(1) If the residential use permitted will seriously interfere with the usual and normal farm practices on adjacent agricultural lands (such as hazardous pesticide and herbicide applications, noise, dust, smoke and offensive odors).

"(2) If the residential use will materially alter the stability of the overall land use pattern of the area.

1 "(3) If the land is generally suitable for the
2 production of farm crops and livestock, as conducted in
3 that area, considering the terrain, adverse soil and land
4 conditions, drainage, and flooding, vegetation, location
5 and size of tract.

6 "(4) If the new lot or the non-agricultural use of it
7 will adversely affect fish and wildlife resources and
8 habitat areas, natural areas, and scenic areas.

9 "(5) If the proposed division will result in parcels
10 with areas similar to the areas of commercial agricultural
11 enterprises which may predominate in the area and which are
12 adequate to sustain such forms of agriculture."

13

14 Section 136.030(c) provides as follows:

15 "An affirmative decision may be granted only if one or
16 more of the following conditions are found to exist:

17 "(1) The division is for the purpose of expansion or
18 consolidation of adjoining farming activities.

19 "(2) The division is for the purpose of disposing of
20 a second dwelling which has existed on the property.

21 "(3) The division clearly follows a physical feature
22 which would hinder normal and necessary farming activities.

23 "(4) The division is required to obtain construction
24 financing for housing to be occupied by those engaged in
25 the farming operation.

26 "(5) The division is for the purpose of establishing
27 a labor intensive agricultural activity meeting the
28 definition of farm use as contained in ORS 215.203.

29 "(6) The land to be divided is generally unsuitable
30 for the production of farm crops and livestock as conducted
31 in that area considering the terrain, adverse soil and land
32 conditions, drainage and flooding, vegetation, and size of
33 tract."

34

35 The criteria are as follows:

36 "(1) Any residential use which might occur on a
37 proposed parcel will not seriously interfere with usual
38 farm practices on adjacent agricultural lands;

1 "(2) The creation of smaller parcels and the
2 subsequent development of any residential use upon them
3 will not materially alter the stability of the area's land
4 use pattern;

5 "(3) The proposed division or use of the proposed
6 parcels will not eliminate or substantially reduce the
7 potential for agricultural land to be used for farming; and

8 "(4) One or more of the following conditions exist:

9 "(a) The parcel to be created will be sold to an
10 adjoining farm operator,

11 "(b) The proposed division will create a
12 separate parcel for a second dwelling which exists on
13 the property,

14 "(c) The proposed parcels are sufficiently large
15 that each will constitute a viable farm unit
16 comparable to other farms managed by full time farm
17 operators in the same area,

18 "(d) The division clearly follows a physical
19 feature which would hinder normal and necessary
20 farming activities,

21 "(e) The division is required to obtain
22 financing for construction of housing to be occupied
23 by persons necessary for and engaged in the operation
24 of the farm,

25 "(f) The division is necessary in order to
26 establish a labor-intensive agricultural activity
27 meeting the definition of farm use in ORS 215.203(2),

28 "(g) The division is necessary in order to
29 secure a real estate loan under the Farm Storage
30 Facility Loan Program administered by the United
31 States Dept. of Agricultural Stabilization and
32 Conservation Service."

33 8

34 We do not mean here to suggest that if all five factors in
35 sec 136.030(b) are addressed with findings that all criteria in
36 the comprehensive plan pertaining to land divisions will be
37 satisfied. There may well be additional criteria in the plan
38 which must be addressed independently of sec 136.030(b).
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