



1 BAGG, Board Member.

2 NATURE OF THE DECISION

3 Petitioner Prentice appeals an order of the Clackamas  
4 County Board of Commissioners imposing a rural plan map  
5 designation and "rural residential farm/forest 5" (RRFF-5)  
6 zoning on certain property in Clackamas County.<sup>1</sup> The  
7 property is commonly known as the Halvorson-Smeed property or,  
8 simply, the Halvorson property.<sup>2</sup> Petitioners ask for  
9 reversal of the decision.

10 STANDING

11 Petitioner Prentice states he owns approximately 29 acres  
12 bordered on three sides by the subject property. Petitioner  
13 claims to be within sight and sound of this property, and he  
14 alleges the zoning designation "will bring twice as many houses  
15 to the Halvorson property as respondent's plan allows" and  
16 petitioner will suffer "twice the impact -- visual,  
17 interference by neighbors with his horses and agricultural  
18 use -- he would otherwise feel if the plan were followed."  
19 Petition for Review at 1. Petitioner adds he was entitled to  
20 notice of "the contested action."

21 The Board understands Respondent Halvorson to challenge  
22 petitioner's statement that he lives within sight and sound of  
23 the Halvorson property. Respondent Halvorson explains that  
24 while petitioner's property borders, in one place, on property  
25 zoned RRFF-5, the property is nonetheless buffered from site  
26 and sound by vegetation. See Brief of Respondent Halvorson at

1 3. In other words, while petitioner may live within sight and  
2 sound of at least a portion of the Halvorson property zoned  
3 RRRFF-5, the uses that may exist on that portion are screened  
4 from petitioner's hearing and view.

5 Respondent Halvorson does not challenge the claim of  
6 "interference by neighbors with his horses and agricultural  
7 use" or the claim that petitioner was entitled to notice of the  
8 decision under review. See 1979 Or Laws, ch 772, sec 4 (3) (b),  
9 as amended.

10 In Casey v Dayton, 5 Or LUBA 96 (1982), the Board stated,  
11 as a general rule, that persons living within sight and sound  
12 of property subject to a land use decision have standing to  
13 appeal that decision. The Board made this holding on the  
14 assumption that a person in such close proximity would not need  
15 to explain or allege the particulars of his claim of adverse  
16 effect or aggrievement, but that such an adverse impact could  
17 be taken for granted until challenged. See Duddles v City of  
18 West Linn, 21 Or App 310, 535 P2d 583, rev den (1975). In this  
19 case, the respondent has asserted that there can be no adverse  
20 effects because petitioner's ability to hear and see the  
21 property is interrupted by natural barriers.

22 The Board concludes petitioner has standing in this  
23 proceeding. Respondent Halvorson has not challenged Petitioner  
24 Prentice's claim that he is impacted by the decision in that he  
25 will suffer "interference by neighbors with his horses and  
26 agricultural use." Petition for Review at 1. There is no

1 assertion that this allegation of "interference" (which the  
2 Board believes may be taken as an adverse impact or effect) is  
3 untrue or so remote or speculative as to be unworthy of  
4 consideration. The Board concludes, therefore, that Petitioner  
5 Prentice has standing to bring this appeal.

6 FACTS

7 On July 26, 1982, Clackamas County enacted "Rural Plan  
8 Amendment IV" (RUPA IV) by Order No. 82-1460. The order  
9 applied comprehensive plan and zoning map designations to  
10 certain tracts in Clackamas County. Among the approximate 3200  
11 acres affected is an area known as Area 2. Area 2 is the  
12 property subject to this review proceeding. The property lies  
13 northwest of the City of Wilsonville. RUPA IV is the last in a  
14 series of decisions that applied plan designations and fixed  
15 the plan and zoning designations for large portions of the  
16 county.

17 ASSIGNMENT OF ERROR

18 Petitioner makes a single assignment of error in which he  
19 states

20 "A. Respondent Failed to Enter Findings of Fact or  
21 Conclusions of Law to Demonstrate Compliance of  
Zoning on the Subject Properties with Plan  
22 Policies

23 "B. Evidence in the Record Shows Five-Acre Zoning on  
the Subject Properties Violates the Comprehensive  
24 Plan"

25 Petitioner's complaint is that the comprehensive plan  
26 contains policies which control the choice of zoning, whether

1 it be two acre, five acre or ten acre minimum lot sizes in land  
2 designated under the plan as "rural," and these policies were  
3 not followed. The relevant policies are as follows:

4 "13.1 A two-acre zone shall be applied when:

- 5 a. Parcels are generally five acres or smaller.
- 6 b. The area is significantly affected by  
7 development.
- 8 c. There are no natural hazards and the  
9 topography and soil conditions are well  
10 suited for the location of homes.
- 11 d. A public or private community water system  
12 is available.
- 13 e. Areas are in proximity or adjacent to a  
14 Rural Center or incorporated city.

15 "13.2 A five-acre zone shall be applied when:

- 16 a. Parcels are generally five acres.
- 17 b. The area is affected by development.
- 18 c. There are no serious natural hazards and  
19 the topography and soils are suitable for  
20 development.
- 21 d. Areas are easily accessible to a Rural  
22 Center or incorporated city.

23 "13.3 A ten-acre zone shall be applied when:

- 24 a. Parcels are generally ten acres.
- 25 b. The area is developed with a mixture of  
26 uses not consistent with extensive  
commercial agriculture or forestry uses.
- 27 c. Access to a Rural Center or an incorporated  
28 city is generally poor." Clackamas County  
29 Comprehensive Plan, p. 80.

30 Petitioner states the findings in the order do not show

1 that respondent applied these policies when it zoned portions  
2 of the Halverson-Smeed property RRF-5. In addition,  
3 petitioner complains little evidence exists in the record to  
4 guide the county in the choice of zoning; and the little  
5 evidence that does exist "indicates that the county violated  
6 its plan by choosing five-acre rather than ten-acre zoning for  
7 the two tracts." Petition for Review at 6. In particular,  
8 petitioner cites assessor's maps showing "Area 2" including the  
9 Halvorson-Smeed parcels to contain parcels of approximately 20  
10 acres. These averages are larger than those called for in the  
11 plan for designating property as ten or five acres. Also,  
12 petitioner cites a letter in the record (Exhibit 33, letter of  
13 March 1, 1982 from Peter McDonald) stating access to the  
14 property is not good because "further development would  
15 necessitate considerable expenditure for roads over difficult  
16 topography." There is no detailed description of the  
17 topography in the letter.

18 Respondent Halvorson argues no findings are necessary.  
19 Respondent characterizes the decision as "legislative" and  
20 reminds the Board of its holding in Gruber v Lincoln County, 2  
21 Or LUBA 180 (1981), wherein the Board stated that specific  
22 findings in a legislative decision were not necessary "when the  
23 record shows facts and policies which, when read together, show  
24 a factual base for particular land use designations." Id., 2  
25 Or LUBA at 187.

26 Respondent goes on, however, to state that there are

1 findings showing compliance with relevant criteria in the Rural  
2 Plan Amendment IV (RUPA IV) document. Respondent points to  
3 findings showing evidence of "encroaching single family  
4 residents [sic] all around the RRRFF-5 designated land in  
5 Pleasant Hill." Brief of Respondent Halvorson at 5.  
6 Respondent adds the entirety of the Pleasant Hill area has a  
7 65.5% predominance of developed residences on five acres or  
8 less. Respondent claims this parcelization and the fact that  
9 considerable development of single family residences has  
10 occurred in the larger Pleasant Hill area on parcels of five  
11 acres or less shows the county was correct when it applied the  
12 RRRFF-5 zone.

### 13 Requirement of Findings

14 Before considering whether the county has complied with the  
15 provisions of its comprehensive plan controlling choice of lot  
16 size, the Board must consider the petitioner's argument that  
17 there are no findings showing compliance with the comprehensive  
18 plan. In this case, the vehicle for the rezoning was county  
19 Order No. 82-1460 dated July 26, 1982. In the order, the  
20 county board makes the following statement:

21 "THIS BOARD FINDS that it is necessary and proper to  
22 amend the Comprehensive Plan map as shown on Exhibit  
23 A, designating approximately 400 acres as Agriculture,  
24 300 acres as Forest, 3151 acres as Rural, and 2.3  
25 acres as Rural Commercial, and zoning these areas as  
26 also shown on Exhibit A, for the reasons stated in  
Exhibit B, 'RUPA IV Exception Report' attached hereto  
and incorporated herein, which constitutes this  
Board's findings and exceptions to LCDC goals 3 and  
4." Record, Exhibit 33.

1 The order goes on to describe the record.

2 "The record of this proceeding consists of the records  
3 in the RUPA I Contested Areas plan amendment (BCC  
4 Order 80-828), the RUPA II plan amendment (BCC Order  
5 80-1205), the RUPA III plan amendment (BCC Order  
6 80-1295), the Contested Areas Review Evaluation and  
7 Exceptions Report plan amendment (BCC Order 81-1446),  
8 the preliminary approval of the Antioch Downs  
9 subdivision, and the proceedings on the RUPA III  
10 contest areas (File No. 1454-80-CPZ), the record  
11 submitted to the Land Use Board of Appeals in 1,000  
12 Friends vs Clackamas County (LUBA No. 81-031), the  
13 record in previous proceedings on the Carmel Estates  
14 zone change, and the exhibits, testimony and  
15 correspondence submitted in this proceeding." Order  
16 No. 82-1460 as reproduced in RUPA IV, Exhibit 33, p. 2.

17 The Board concludes the county did make findings to support  
18 this decision when it incorporated the RUPA IV document into  
19 its order. Also, the record contains other findings on this  
20 property. These other findings were made in support of earlier  
21 attempts to designate this and other properties in the county.  
22 They were not incorporated into this decision, however. The  
23 county only claims them as part of the "record."

24 Petitioner's argument includes a claim that there must be  
25 specific findings whenever a local government seeks to impose  
26 specific comprehensive plan requirements. In petitioner's  
view, it is not permissible for the county to rely on findings  
made for a goal exception in order to show compliance with  
specific comprehensive plan and zoning criteria.

Where the review is of a quasi-judicial decision, the  
petitioner is correct. However, where the action is described  
as legislative, the inquiry is not just to the findings, but

1 also to the record. In review of a legislative decision, the  
2 Board looks to the record as a whole to see if the record  
3 reveals facts, which when read with plan policies, show the  
4 county to have a factual base for its land use designations.  
5 Gruber 2 Or LUBA at 187. There may be cases where the policies  
6 are stated in such a way as to demand findings, but the Board  
7 does not see these policies to be stated in such terms. Id.

8 The Board treats this decision as legislative for several  
9 reasons. The rezoning covers a large block of land--some 3200  
10 acres, and the parcels are owned by various persons and  
11 corporations. In addition, there is nothing in the record to  
12 suggest this plan change and rezoning was initiated at the  
13 request of any particular landowner or group of landowners.  
14 These amendments are the last in a series and appear to be part  
15 of a generalized county initiated endeavor to choose  
16 comprehensive plan and zoning designations for rural areas in  
17 Clackamas County. The county applied rural, forest,  
18 agriculture and other broad plan designations to property in  
19 the county and then implemented those broad categories with  
20 specific zone designations. The Board agrees the decision  
21 includes application of the policies in the form of zoning  
22 designations, but the Board declines to find this fact alone is  
23 sufficient to require the county to follow quasi-judicial  
24 procedures and issue a detailed set of findings and an order  
25 for each ownership. To do as petitioner asks would be to say  
26 that whenever specific plan policies are applied, the decision

1 must be treated as quasi-judicial. The Board does not believe  
2 this factor to be the only factor. See Strawberry Hill  
3 Fourwheelers v Benton County Board of Commissioners, 287 Or  
4 591, 601 P2d 769 (1979); Neuberger v City of Portland, 288 Or  
5 155, 603 P2d 771 (1980). Each decision must be considered on  
6 its own, and the weight of this proceeding was on the  
7 legislative side of the scale.

8 Because the Board concludes the decision on review is  
9 legislative in nature, the Board will consider the whole of  
10 this record. The review will determine whether or not the  
11 facts in the record and the comprehensive plan policies  
12 together show the county's action complies with plan criteria.<sup>3</sup>  
13 Interpretation of County Plan

14 Critical to the Board's understanding of this case is a  
15 definition of what is meant by "area" in §13 of the  
16 comprehensive plan. Petitioner would have the Board consider  
17 the subject property as the "area," and respondent would have  
18 the Board consider the area to include the "Pleasant Hill  
19 Planning Area" of some 4100 plus acres. In order to sustain  
20 the respondent's view of its own ordinance, the Board must find  
21 the county's interpretation reasonable. Miller v Grants Pass,  
22 39 Or App 589, 592 P2d 1088 (1979).

23 Under Comprehensive Plan §13.2(a), one of the criteria  
24 which must be met is that "parcels are generally 5 acres."  
25 This cryptic provision does not say parcels in the area are  
26 generally five acres. Alone, the provision is meaningless.

1 The Board looks next to §13.2(b) wherein the word "area"  
2 appears. Section 13.2(b) requires that "the area is affected  
3 by development." There is nothing to guide the reader as to  
4 whether the reference means development near the area affects  
5 the area or whether it means the subject site itself is  
6 developed and, therefore, affected. Section 13.2(c) gives no  
7 further indication of what area the county means but the  
8 provision does seem to be limited to the subject property  
9 because it provides there must be no natural hazards and the  
10 property must otherwise be suitable for development. It would  
11 be pointless for the county to include a criterion that  
12 topography be suitable for development on property not subject  
13 to rezoning. The last criteria in §13.2 is found in  
14 subparagraph (d). Again the word area is mentioned. The  
15 criteria requires that "areas" be easily accessible to a rural  
16 center or an incorporated city.

17 With nothing more to help than these provisions, the Board  
18 believes it a reasonable interpretation of comprehensive plan  
19 §13.2 to say that parcels in some unspecified other location,  
20 probably nearby the subject property, must be of five acres and  
21 the parcelization must be accompanied by development. Also,  
22 there must be no serious natural hazards on the subject  
23 property, and it must be otherwise suitable for development and  
24 be accessible to a rural center or incorporated city. To say  
25 that subparagraph (a), supra, requires a finding that  
26 parcelization on the subject land must be generally of five

1 acres is to say that a comprehensive plan criteria only apply  
2 to conform zoning to existing land use patterns. While just as  
3 reasonable as the county's interpretation, this reading was not  
4 chosen by the county as witnessed by its application of RRF-5  
5 to portions of the subject property. Also, the findings in  
6 RUPA IV speak at times of a large planning area and how this  
7 area has been subject to small parcelization. The references  
8 to this larger "Pleasant Hill Planning Area" would probably not  
9 occur had the county thought to limit the area of review to  
10 only the property subject to rezoning. The Board concludes,  
11 therefore, that the county's interpretation of the plan policy  
12 is reasonable and that "area" is meant to include a larger  
13 portion of land than that subject to rezoning. The Board must  
14 now determine what that larger portion is.

15 The RUPA IV document refers to the subject parcel as "Area  
16 2." Area 2 is part of the Pleasant Hill Planning Area  
17 mentioned above. This reference appears in the RUPA IV  
18 document and elsewhere in the record. The Pleasant Hill  
19 Planning Area is shown on a map on page 23 of the RUPA IV  
20 document and is also shown on Exhibits 7, 8, 10 and 28.<sup>4</sup> In  
21 its discussion of this larger Pleasant Hill Planning Area, the  
22 county notes the extensive parcelization which has occurred  
23 over the years and the numerous dwelling units constructed from  
24 1972 through 1982, the year of this land use decision.<sup>5</sup> The  
25 county's findings say the growth in the area has been by rural  
26 residential lot, and 70% of the dwellings existing within the

1 area are on five acres or less. The county states the  
2 predominate use in the general area is for rural residential  
3 homesites, and the county adds there is extensive small lot  
4 residential development in all directions. This finding agrees  
5 with Exhibit 28 which shows the Pleasant Hill Planning Area to  
6 include considerable small parcels with single family  
7 dwellings. Respondent Halvorson has calculated the Pleasant  
8 Hill area includes some 65% of the ownerships on five acres or  
9 less.

10 The county cites the effect of this development on Area 2's  
11 suitability for farm use. The county says

12 [f]actors such as vandalism of farm equipment,  
13 harrassment of livestock, pilferage of crops or  
14 complaints about herbicides and pesticides are  
15 problems that severely impede the agricultural use of  
16 the land." Exhibit 33, RUPA IV, Area 2, p. 7-8.

17 The county also advises that parcelization in the area  
18 occurring over the last ten years has encroached upon "the  
19 land" (the Board assumes the county means Area 2) from all  
20 sides. Id. at 8.

21 Further, the county says

22 "[b]ecause of adjacent residences and roads that  
23 virtually surround the property, the risk of fire  
24 danger makes it impossible for this land to be used  
25 for forestry purposes." Id.

26 The Board concludes these findings show Area 2 to be  
"affected" by development. That is, the property is no longer  
suitable for use as a resource land because it has been

1 impacted by the parcelization and building which has occurred  
2 all around it.

3 It would appear, then, that the finding in RUPA IV support  
4 the conclusion that parcels are generally (65%) five acres, and  
5 the area is affected by development. The Board believes,  
6 therefore, that the county has met the first two of the  
7 four-part criteria for designation of five acre zoning under  
8 §13.2 of its comprehensive plan.<sup>6</sup>

9 The third of the four criteria requires that no serious  
10 natural hazards exist and that the "topography and soils are  
11 suitable for development." The findings only indirectly  
12 address this criterion. There is no mention of any serious  
13 natural hazards, but there is mention of topography. The  
14 county finds the physical characteristics of Area 2 include  
15 soil which is a thin, dry red clay with a low moisture  
16 capability, numerous rock outcroppings, and the county finds  
17 there are steep slopes and a consequent susceptibility to  
18 erosion. RUPA IV, Area 2, p. 9, 18. The county apparently  
19 believed, notwithstanding these physical characteristics, that  
20 at least a portion of Area 2 was suitable for Rural Residential  
21 Five development and therefore not subject to serious natural  
22 hazard.<sup>7</sup> However, the findings in RUPA IV do not say so.  
23 The Board is left to the record to determine whether this  
24 criterion has been met.

25 Petitioner points to a letter by Peter McDonald describing  
26 the terrain as "difficult." Record, Exhibit 37, letter of

1 March 1, 1982. However, there are no reasons or facts given to  
2 support this conclusion. While the Board is not cited to any  
3 other findings or evidence on this matter, the Board has found  
4 some additional discussion in the "Comprehensive Plan  
5 Package."<sup>8</sup> Among other things, this document describes soil  
6 suitability for spetic tank use.

7 "The suitability of the soil for septic tanks systems  
8 is generally 55 percent suitable, 20 percent marginal  
9 and 25 percent unsuitable." Exhibit 1, Comprehensive  
10 Plan Amendment Package, Exhibit D, p. 14.

11 Also, in "Rural Plan Amendment I, Contested Areas," the  
12 county states:

13 "No adverse pollution, erosion, traffic, or other  
14 public service impact will result from designating  
15 this land for rural five acre density in the  
16 Comprehensive Plan." Record, Exhibit 4.<sup>9</sup>

17 Included in the discussion in Exhibit 4 is a statement that  
18 "[t]he principle hazard associated with the soil is erosion."  
19 There is also a statement that the soil presents a hazard to  
20 farm equipment because of basalt rocks. Given the finding  
21 about no adverse affects from designating the property for five  
22 acre use, the Board understands the statement about "hazard" to  
23 be hazard to farming operations, not hazard to development or  
24 life and property.

25 There is also a letter in the record from William H. Dock,  
26 a "soil and land use consultant," that discusses soils.  
Attached to the letter are letters from the Clackamas County  
Department of Public Works which analyze the soils and their

1 suitability for septic tank use. The letter notes some  
2 property is not suitability for septic tank use, but there is  
3 no hint of any natural hazards on the property. See Exhibit 16.

4 The Board concludes the findings in Exhibits 4 and 1, the  
5 statements about septic tank suitability in Exhibit 16 and the  
6 references to topography in Exhibit 33 and elsewhere, are  
7 sufficient to show compliance with this third of the four  
8 criteria.

9 The fifth of the four criteria requires the area be easily  
10 accessible to a rural center or an incorporated city. The  
11 findings in the RUPA IV document do not mention a rural center  
12 or incorporated city, but the findings do speak of roadways  
13 bordering the property. At the hearing before this Board, the  
14 parties agreed the Board could notice that the community of  
15 Sherwood is within a mile and a half of the subject property.  
16 Respondent Halvorson cites the Board to a traffic study,  
17 Exhibit 15, which states, in part,

18 "the existing roads are capable of handling a vehicle  
19 count of 1500 per day. At no time would the capacity  
of any of the existing roads be reached....

20 "In conclusion, after a study of the area roads,  
21 schools, service areas, low density development, et  
22 seq., the developments as planned would have minimal  
traffic impact." Exhibit 15, Analysis of G.K. Attig  
of April 12, 1976.

23 Additionally, in the "Comprehensive Plan Amendment Package"  
24 there is a comment that this property is

25 "one mile south of Sherwood and two miles west of  
26 Wilsonville, [it] has convenient access to jobs and

1 services in the cities." Exhibit 1, Comprehensive  
2 Plan Amendment Package, Exhibit D, page 14.

3 There is a letter to refute this finding save the letter  
4 from Mr. McDonald, Exhibit 16, supra. He states development  
5 here would "necessitate considerable expenditure over difficult  
6 topography." There are no facts in the letter, however, to  
7 support this assertion, and the Board is cited to no other  
8 facts on this issue elsewhere in the record. The Board  
9 concludes this finding, which is supported in the record by the  
10 traffic study, is sufficient to show compliance with the fourth  
11 of the four criteria in comprehensive plan §13.2.

12 The Board concludes the findings developed in the  
13 Comprehensive Plan Amendment Package and the RUPA IV document  
14 together with the record show the county's designation of the  
15 subject property meets the four criteria found in §13.2 of the  
16 comprehensive plan.

17 The decision of Clackamas County is affirmed.  
18  
19  
20  
21  
22  
23  
24  
25  
26

FOOTNOTES

1  
2  
3 1  
4 This appeal also included property owned by Charles Clock.  
5 The proceeding against county designation of the Clock property  
6 was dismissed by an order of the Board issued October 12,  
7 1983. Both petitioners and respondents agreed the case was  
8 moot as to the Clock property. Therefore, there is only one  
9 petitioner in this proceeding.

10 2  
11 The property is, by in large, owned by Mr. Halvorson, the  
12 respondent-participant herein.

13 3  
14 It is clear from a review of the findings that they were  
15 developed to support a grant of exception to Goals 3 and 4 and  
16 not to support zoning the property RRF-5. The criteria in  
17 §13.2 of the comprehensive plan are not mentioned in the RUPA  
18 IV findings document. As discussed herein, there are  
19 insufficient findings on the matter of topography and access to  
20 rural centers or incorporated cities in the RUPA IV findings  
21 document to meet the third and fourth of the four criteria in  
22 Clackamas County Comprehensive Plan §13.2. If the Board were  
23 to consider this decision quasi-judicial, the decision would  
24 have to be remanded. As a legislative decision, however, the  
25 Board may look to the record for support for the decision.  
26 Gruber, supra; Lima v Jackson Co., 3 Or LUBA 78 (1981).

17 4  
18 These exhibits appear to be color photographs of maps. The  
19 exhibits show parcelization and single family dwellings in the  
20 Pleasant Hill area.

21 5  
22 The county then breaks Area 2 down into four subareas. The  
23 "Southeast Quadrant" is divided by this land use decision into  
24 about 50 acres of RRF-5 and the remainder of EFU-20. There is  
25 no discussion of how this subarea is impacted by development or  
26 parcelization.

27 The next subarea is the "Southwest Quadrant." This subarea  
28 is of 73 acres and is designated RRF-5. The findings note  
29 that immediately adjacent to this subarea are five homes built  
30 on small parcels, and immediately to the south is a subdivision

1 with 17 dwellings. RUPA IV, p. 13.

2 The next area, the "Northwest Quadrant" is of 86 acres. It  
3 also is designated RRF-5, and the county includes a finding  
4 that the northern boundary of this subarea is developed by  
5 rural residential lots of two to three acres. The county also  
6 notes a roadway, McConnel Road, forms a boundary between this  
7 quadrant and land zoned for exclusive farm use.

8 The last area is the "Northeast Quadrant" which is bounded  
9 by Baker Road to the east and which includes 76 acres zoned for  
10 exclusive farm use. This zoning is chosen, in part, because  
11 the land is "bounded on three sides by large parcels of land  
12 and is oriented towards them." RUPA IV, Area 2, p. 22.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  

---

6  
It is helpful to contrast these facts in application of  
the criteria for five acre zoning to the criteria for ten acre  
zoning. The ten acre zone is to be applied when

"a. Parcels are generally ten acres.

"b. The area is developed with a mixture of uses not  
consistent with extensive commercial agriculture  
or forestry uses.

"c. Access to a rural center or an incorporated city  
is generally poor."

The findings in the RUPA IV document and the evidence in  
the record does not show the parcels are generally ten acres,  
but shows they are smaller than ten acres. Also, the last of  
the three criteria for ten acre zoning, that access to a rural  
center or a city be poor, does not appear to be the case here  
because of the short distance to the City of Wilsonville and a  
finding claiming good access as noted at page 17. Compare also  
the criteria for two acre zoning.

"13.1 A two-acre zone shall be applied when:

a. Parcels are generally five acres or smaller.

b. The area is significantly affected by  
development.

c. There are no natural hazards and the  
topography and soil conditions are well  
suited for the location of homes.

1 d. A public or private community water system  
is available.

2 e. Areas are in proximity or adjacent to a  
3 Rural Center or incorporated city.

4 \_\_\_\_\_  
7

5 The Board wishes to note that the vagaries in this finding  
6 point up a particular problem when findings developed for one  
7 purpose are made to serve a different purpose. The findings in  
8 the RUPA IV document were made to support a grant of  
9 exception. The exception was to Goal 3, and the county was  
10 attempting to show that the property was no longer suitable or  
11 was never suitable for farm and forest use. In making these  
12 findings, the county tended to rely, at least in part, on  
13 various natural divisions that occurred within this area such  
14 as ravines, streams and roadways. The county also relied on  
15 rock outcroppings which the county understood would make  
16 "mechanized farming hazardous." Record, RUPA IV, p. 9. These  
17 same findings, then, can work against the county when it wants  
18 to show the property is suitable for development. Nonetheless,  
19 the record is extensive and frequently mentions topography and  
20 soils with no mention of hazards to development.

14 \_\_\_\_\_  
8

15 The Board understands this "package" was prepared in 1978  
16 as part of the county's first attempt to take exception to  
17 Goals 3 and 4 for this land.

17 \_\_\_\_\_  
9

18 This finding is part of a discussion of "Pleasant Hill" and  
19 "West Pleasant Hills," properties. The Board understands these  
20 properties to be the property under review here, and therefore  
21 the finding is applicable.