

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

DEC 8 4 19 PM '86

FRED LEONARD, JIM EVERS
SHELDON STRAND, MIKE BOONE
and BEVERLY LOUSIGNONT,

Petitioners,

vs.

UNION COUNTY,

Respondent.

LUBA No. 86-062

FINAL OPINION
AND ORDER

Appeal from Union County.

Corinne C. Sherton, Salem, filed the petition for review and argued on behalf of petitioners. With her on the brief were Mitchell, Lang, and Smith.

D. Dale Mammen, La Grande, filed a response brief and argued on behalf of Respondent Union County.

BAGG, Referee; DuBAY, Chief Referee; KRESSEL, Referee, participated in the decision.

REMANDED

12/08/86

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

1 Opinion by Bagg.

2 NATURE OF THE DECISION

3 Petitioners appeal Union County Ordinance 1986-6. The
4 ordinance amends the Union County land use planning and zoning
5 ordinance maps by changing certain parcels from Rural
6 Residential/Farm Residential (R-3) to Industrial Surface Mining
7 (SM) and further changing Industrial/SM plan designations to Rural
8 Residential (R-3 or R-2).¹

9 PROCEDURAL HISTORY

10 On May 12, 1986, the Union County Planning Commission
11 considered amendments to the county plan and zoning ordinance.
12 The proposed changes included addition of a new designation,
13 surface mining reserve, which was applied to a 29 acre site.
14 Other plan and zone changes for specific properties were also
15 considered. The planning commission met again on June 9 and
16 June 23, to consider the proposed changes. At the last meeting,
17 the planning commission recommended to the county court that the
18 proposed changes be adopted.

19 The county court considered the matter on July 2, 1986, and on
20 July 16, 1986, the county court adopted Ordinance 1986-6
21 implementing the changes.

22 FIRST ASSIGNMENT OF ERROR

23 "The County misconstrued the applicable law, made a
24 decision not supported by substantial evidence in the
25 whole record and failed to comply with ORS 197.732,
26 Statewide Planning Goals 2 and 3 and OAR 660-04-018 by
designating/zoning approximately 120 acres of
agricultural land Industrial/SM without adopting a new

1 or modified Goal Exception."

2 Petitioners point out that the land subject to the change is
3 defined as rural agricultural land by Statewide Planning Goal
4 3.² Petitioners correctly note that such land may not be
5 designated for industrial uses unless the county adopts an
6 exception to Goal 3. ORS 215.243 - 215.253, ORS 197.732 and Goal
7 2. An exception based on an "irrevocably committed" or
8 "physically developed" lands was taken sometime in the past. We
9 are cited to nothing in the record explaining when the exception
10 was taken or showing what uses existed on the property when the
11 exception was taken.

12 Petitioners also cite OAR 660-04-018(2), which controls the
13 allowable uses on land subject to "physically developed" or
14 "irrevocably committed" types of exceptions. Petitioners argue
15 that even if the subject property is physically developed or
16 irrevocably committed to nonresource use, the rule limits new uses
17 to:

18 "(a) Uses which are the same as the existing types of
19 land uses on the exception site; or

20 "(b) Rural uses which meet the following requirements:

21 "(A) The rural uses are consistent with all
22 applicable goal requirements; and

23 "(B) The rural uses will not commit adjacent or
24 nearby resource land to nonresource use as
25 defined in OAR 660-04-028; and

26 "(C) The rural uses are compatible with adjacent
or nearby resource uses. OAR 660-04-018(2)(b)."

Petitioners argue that the uses allowed in the SM zone are not

1 rural uses. The SM zone allows mineral extraction, processing,
2 refining, manufacture and sale, and petitioners say these uses are
3 not consistent with rural activity. Petitioners advise the
4 purpose of the SM zone is to provide areas for uses which "may
5 have adverse noise, vibration, odor, smoke or traffic congestion
6 characteristics or are dependent upon resources not found within
7 the urban areas."

8 The county responded to the compatibility criterion in
9 Subsection (C) of the above-quoted rule by finding that adjacent
10 parcels are in rural use, that the rezoned property is not
11 adjacent to commercial agricultural lands in EFU zones and that
12 the proposed use would not have a substantial impact on adjacent
13 resource uses. Petitioners argue these findings fail to address
14 the standard. Petitioners conclude that OAR 660-04-018(2)(b)(C)
15 requires the county to identify and describe existing resource
16 uses adjacent to or near the site,³ identify the impacts
17 resulting from the most intensive uses allowed by the new
18 designation, and explain how the impact from the new designation
19 would be compatible with existing resource uses.

20 Respondent replies that the "Grand Ronde River Management
21 Plan" appended to respondent's brief addresses issues of location,
22 quality and quantity of the aggregate resource, alternate sites
23 for needed aggregate resources and the consequences for utilizing
24 each alternative site. For reasons discussed infra at 9-11, we
25 find the Grand Ronde River Management Plan is not available to
26 support the county's decision in this issue. Further, even if we

1 were to conclude differently, the county's findings are, as
2 petitioners allege, not sufficient.⁴

3 Petitioners are correct that the county failed to limit uses
4 in the exception area to rural uses which meet the requirements in
5 OAR 660-04-018(2)(b)(A)-(C). A Goal 3 exception on grounds that
6 resource property is physically developed or irrevocably committed
7 to nonresource use does not permit, under this rule, placement of
8 uses different from those existing at the time the exception was
9 taken unless the new uses are rural uses meeting the requirements
10 of OAR 660-04-018(2)(b)(A-C).⁵

11 In addition, as petitioners allege, the findings do not
12 identify existing resource uses adjacent and near the site and
13 identify impacts resulting from the most intensive uses allowed by
14 the new designation. The county's finding is, then, not complete,
15 and the conclusion that the proposed land uses will be compatible
16 with existing resource uses adjacent to the site is similarly not
17 complete. Last, no findings explain how the impact from the new
18 land use designations will be compatible with existing resource
19 uses adjacent to and near the site.

20 The first assignment of error is sustained. Failure to
21 address OAR 660-04-018 and to make findings of fact to support a
22 conclusion of compliance with the rule requires a remand.⁶

23 SECOND ASSIGNMENT OF ERROR

24 "The County misconstrued the applicable law and failed
25 to comply with Goals 2 and 3 and OAR 660-05-005 and
26 660-05-010 in designating/zoning 30 acres of land at
Site D for Industrial/SM use without adopting an
exception to Goal 3."

1 OAR 660-05-005(1) and Statewide Planning Goal 3 defines
2 agricultural land as:

3 "(a) Lands classified by the U.S. Soil Conservation
4 Service (SCS) as predominantly Class I-IV soils in
5 Western Oregon and Class IV-VI soils in Eastern Oregon;

6 "(b) Other lands in different soil classes which are
7 suitable for farm use as defined in ORS 215.203(2)(a),
8 taking into consideration soil fertility; suitability
9 for grazing; climatic conditions; existing and future
10 availability of water for farm irrigation purposes;
11 existing land use patterns; technological and energy
12 inputs required; and accepted farming practices; and

13 "(c) Land which is necessary to permit farm practices
14 to be undertaken on adjacent or nearby agricultural
15 lands." See also footnote 2, supra.

16 Petitioners assert the county must either take an exception to
17 Goal 3 or show that property included within the rezoning is not
18 agricultural land. In order to show the latter, the county must
19 adopt findings, supported by substantial evidence, which establish
20 the site fails to meet each of the three parts of the rule as
21 quoted above. Petitioners claim the county has not done so.
22 Petitioners point to Union County Plan "Atlas"⁷ which shows the
23 area known as Site D in the county's rezoning ordinance to be
24 predominately SCS Class IV land.

25 The county addresses the agricultural lands issue by stating:

26 "5. The 30 acres one-half mile east of Island City,
Oregon Highway 82 Bridge is a former excavation
site with the majority of the topsoil removed
from the entire area. Past mining has lowered
the land surface about 10 feet, leaving a
hummocky gravel surface.

"8. Adjacent property is in cultivated agriculture
use. Adjacent property on both sides of the
river is in wheat production.

1 "15. The proposed 30 acres is (sic: not) agricultural
2 as defined by OAR 660-05-005(1) because all of
3 the topsoil was removed during previous
4 excavation of the site. The land surface of the
site is about 10-feet below adjacent agricultural
land. The topsoil was not stored."

5 Petitioners note the findings make no mention of the SCS soil
6 classification on Site "D," do not discuss whether the land is
7 otherwise suitable for farm use, and do not explain how or if the
8 rezoning will not prevent or interfere with farm practices on
9 adjacent or nearby land. The finding, then, fails to meet the
10 appropriate standard.

11 Respondent recognizes that it did not specifically address the
12 agricultural capability of the property, but the county "fails to
13 understand how it could reasonably be considered anything else"
14 because all of the top soil has been removed. See Respondent's
15 Brief at 9.

16 Even if we were to agree that a finding that the top soil has
17 been removed down to a "hummocky gravel surface" is sufficient to
18 show that the land is no longer Class I - VI soils, the county
19 still fails to meet the applicable criteria by failing to address
20 the "other lands" criteria found in OAR 660-05-015(b)(c) and
21 Statewide Planning Goal 3. Because the county has failed to carry
22 its burden in this regard relative to Site D, the second
23 assignment of error must be sustained.

24 THIRD ASSIGNMENT OF ERROR

25 "The County misconstrued the applicable law, made a
26 decision not supported by substantial evidence in the
whole record and failed to comply with Statewide

1 Planning Goal 5, OAR 660-16-000 through 660-16-010,
2 Plan Policy V.B.9. and Zoning Ordinance Section 18.12
3 by designating/zoning aggregate Sites A and D
4 Industrial/Surface Mining and by amending Zoning
5 Ordinance Section 15.05.02 to remove the 5-acre
6 limitation on the size of open surface mining pits
7 without completing the required review process."

8 Statewide Planning Goal 5 requires the county to inventory
9 the location, quality and quantity of each resource, including
10 aggregate mineral resources; identify uses which, if allowed,
11 might negatively impact the identified Goal 5 resource (in this
12 case minerals and aggregate) and determine the "ESEE
13 consequences" of the conflicting uses.⁸ The county must then
14 develop programs to achieve the goal. OAR 660-16-010 provides,
15 in part,

16 "Assuming there is adequate information on the
17 location, quality, and quantity of the resource site
18 as well as on the nature of the conflicting use and
19 ESEE consequences, a jurisdiction is expected to
20 'resolve' conflicts with specific sites in any of the
21 following three ways * * *

22 "(1) Protect the resource site * * *

23 "(2) Allow conflicting uses fully * * *

24 "(3) Limit conflicting uses * * *."

25 Petitioners argue the county has failed in each of these
26 required tasks. The county has not added two of the rezoned
27 sites (Sites A and D) to its plan inventory, has not identified
28 conflicting uses, and has failed to consider how development of
29 the aggregate site would conflict with nearby residential
30 uses. Petitioners conclude the county failed to achieve the
31 goal because the county has not adequately protected the Grand

1 Ronde River and its fish habitat.

2 Respondent argues that the county performed each of the
3 tasks identified by petitioners. The county cites to an
4 appendix to its brief in support of this argument. The
5 appendix is the Grand Ronde River Corridor Management Plan.
6 According to respondent, this plan, while inadvertently omitted
7 from the county's record forwarded to us for review, is
8 nonetheless part of the record, was before the county court
9 when it made its decision, and forms a satisfactory basis for
10 the county's decision.

11 Petitioners object to our consideration of the Grand Ronde
12 River Management Plan. Petitioners state they are not prepared
13 to agree that the Grand Ronde River Corridor Management Plan
14 was part of the county record, and they further object that it
15 is too late in the course of this review proceeding for us to
16 consider the management plan and additional documents appended
17 to respondent's brief.

18 ORS 197.830(11) limits our review to the "record" developed
19 before the local government, with certain exceptions not
20 relevant here. Our review would be incomplete if we are
21 unable, for one reason or another, to review a complete
22 record. However, time is of the essence in our review
23 proceedings. ORS 197.805. Restructuring the time limits in a
24 case to accommodate late additions to the record can protract
25 reviews. Were we to accept the documents as requested by
26 respondent, we would be required to provide petitioners with

1 the opportunity to file a new petition for review. See OAR
2 661-10-030.

3 In this case, this dilemma is resolved because we reject
4 the document relied upon by respondent for other reasons.
5 First, the county's order does not clearly adopt the Grand
6 Ronde River Corridor Management Plan as a source of additional
7 findings to support the county's decision. The county's order
8 does adopt a document entitled "Grand Ronde River Corridor
9 Study." This "study," however, was not included in the record
10 submitted to us. The confusion between the Grand Ronde River
11 Corridor Management Plan and the Grand Ronde River Corridor
12 Study is compounded by the record. The staff report of May 12,
13 1986, makes reference to the Grand Ronde River Corridor Study
14 as a document submitted as part of the LCDC Acknowledgement
15 Review process (emphasis added). The document was submitted in
16 June 1985. The Grand Ronde River Corridor Management Plan
17 appended to respondent's brief states it is a "draft" and bears
18 the date of October 10, 1985. The Union County Planning
19 Commission minutes of June 23, 1986 refer to the Grand Ronde
20 River Corridor Management Plan draft of October 10, 1985, but
21 not to the study. We are cited to nothing in the minutes of
22 the county court's proceedings resolving the question of
23 whether the "Study" or the "Plan" or both were either formally
24 adopted as part of the county's order or included in the
25 county's record as a source of substantial evidence.

26 In addition, respondents' citation to findings in the Grand

1 Ronde River Corridor Management Plan gives no citation to
2 portions of this text. The respondent's brief simply cites us
3 to "almost 100 pages of text." Respondent's Brief at 13. As
4 we have said previously, we will not dig to find evidence to
5 support respondents' position. Turner v. Washington Co., 8 Or
6 LUBA 234; aff'd 70 Or App 575, 689 P2d 1318 (1984). We
7 decline, therefore, to search the materials appended to in the
8 respondent's brief to find support for the decision on review.
9 As this matter is being remanded, the county court can clarify
10 its reliance on these documents.

11 The findings addressing the ESEE issue are as follows:

12 "ULTIMATE FINDINGS

13 "16. The Grand Ronde River Corridor Study produced a
14 recommendation which proposed an expansion of the
15 SMZ to meet future public needs for aggregate
16 material in Union County. This recommendation
constitutes a change in community attitude and
attempts to provide for those anticipated needs.

17 "17 Alternative sites for the proposed uses were
18 considered which are comparable with excavation
19 sites; however, due to proximity to processing
20 facilities, quality of material available and the
ability to mitigate conflicts with existing and
anticipated adjacent land uses the proposed sites
were selected.

21 "18. The proposed use would not have a substantial
22 impact upon adjacent resource uses; therefore,
23 not requiring a new or modified exception because
24 land proposed for a SMZ is bordered by a
residential or urban zone on all sides. This
land remains committed to non-agricultural
activities because of the confining nature of
adjacent land use activities."

25 The above quoted findings do not provide the ESEE analysis
26 required by Goal 5 and the rule. We therefore will sustain

1 petitioners' third assignment of error. On remand, the county
2 may clarify its reliance on the Grand Ronde River Corridor
3 Management Plan or the Grand Ronde River Corridor Study.

4 This assignment of error is sustained.

5 FOURTH ASSIGNMENT OF ERROR

6 "The County misconstrued the applicable law, made a
7 decision not supported by substantial evidence in the
8 whole record and failed to comply with Plan Policies
9 II.B.2. and 3 and Zoning Ordinance Section 23.05.02
and 3 in changing the plan and zone map designations
of Sites A and D to Industrial and SM."

10 Petitioners' first argue that the Union County Zoning
11 Ordinance, Section 23.05.3.B requires consideration of
12 alternative sites, comparing the alternatives with the chosen
13 site and explaining why the chosen site was preferable. Plan
14 Policy II.B.3. provides:

15 "That in considering plan revisions, alternative sites
16 for the proposed uses will be considered, and it will
17 be determined that the area proposed to be changed
compares favorably with other areas which might be
available for the uses proposed.

18 "Alternative sites for the proposed uses will be
19 considered which are comparable with the other areas
which might be available for the uses proposed."

20 The county's findings on this issue are as follows:

21 "Site A:

22 "17. Alternative sites for the proposed uses were
23 considered which are comparable with the proposed
24 excavation sites; however, due to proximity to
25 processing facilities, quality of material
available and the ability to mitigate conflicts
with existing and anticipated adjacent land uses
the proposed sites were selected.

26 "Site D:

1 "14. Alternative sites for the proposed uses were
2 considered which are not comparable with the
3 other areas and which might be available for the
4 uses proposed because the cost of hauling
aggregate or processed materials from the Union
area was not competitive with more local resource
sites."

5 Petitioners argue the findings are conclusional, fail to
6 identify alternative sites, describe and compare the quality of
7 aggregate, describe anticipated conflicts and explain why the
8 chosen site was preferred. Petitioners also argue the findings
9 are not supported by substantial evidence in the record.

10 Respondent argues the supporting evidence for Findings No.
11 14 and 17 are in the Grand Ronde River Corridor Management Plan
12 and other documents appended to respondent's brief but not
13 included in the original record.

14 As stated under Assignment of Error No. 3, because we are
15 cited to no specific source of substantial evidence within the
16 Grand Ronde River Corridor Management Plan lending support to
17 the findings, we must agree with petitioners that the findings
18 lack evidentiary support.

19 Petitioners next note that Policy II.B.2 of the county's
20 plan requires

21 "That as a condition of making plan changes, it will
22 be determined that...a public need supports the
change, or that the original plan was incorrect."

23 Also, Zoning Ordinance, Section 23.05.3.A requires that

24 "Community attitudes and/or physical, social,
25 economic, or environmental changes have occurred in
the area or related areas since plan adoption and that
26 a public need supports the change, or that the
original plan was incorrect."

1
2 Petitioners contend these provisions require the county to
3 adopt findings showing public need for the amendment, and the
4 county has not done so. The relevant findings are as follows:

5 "Site A"

6 "6. 'Revised Land Use Proposal Submitted For:
7 Collmans's Ready Mix, Island City, Oregon,'
8 February 27, 1986, page 2, identifies a need for
9 90,000 cubic yards of aggregate per year based on
10 average sales over the last 14 years. This
11 document also identifies, on page 8, that
12 1.351,683 cubic yards would meet an average
13 annual use of 90,000 cubic yards over a 15-year
14 project life.

15 "16. The Grand Ronde River Corridor Study produced a
16 recommendation which proposed an expansion of the
17 SMZ to meet future needs for aggregate material
18 in Union County. This recommendation constitutes
19 a change in community attitude and attempts to
20 provide for those anticipated needs.

21 "Site D:

22 "9. 'Aggregate Needs Analysis for Schubert & Son
23 Ready Mix, Union, Oregon,' February 7, 1986, page
24 2 states: 'It seems reasonable to project an
25 average sales level of from 15,000 to 30,000
26 cubic yards per yards from now to the year 2000
27 from the proposed pit near Island City.

28 "13. Community attitudes and/or physical, social,
29 economic, or environmental changes have occurred
30 in the area or related areas since plan adoption
31 and a public need does support the change,
32 because the proposed operator would be moving an
33 existing operation 12 miles closer to the major
34 center for aggregate demand."

35 We agree with petitioner that the county plan requires
36 consideration of public need. The need identified in the
37 findings, for the most part, is not public need. The need
38 identified in the Findings 6, 9 and 13 is tied to sales

1 figures. There is no explanation of how sales figures over a
2 period of time are related to construction activity or other
3 indicia of a public need supporting a change in designation.
4 Market demand alone is not a public need. Still v. Marion
5 County, 42 Or App 115, 600 P2d 433 (1979). See also Ruth v.
6 City of Stayton, 7 Or LUBA 228, 229 (1983) and DLCD v. Clatsop
7 County, ___ Or LUBA ___ (LUBA No. 85-094, March 20, 1986).

8 Finding 16, however, mentions "future needs for aggregate
9 material in Union County." Arguably, the "future needs"
10 reference is to a need for aggregate supplies and not simply
11 market demand. However, we are cited to nothing in the record
12 to further explain what the county intended by its reference to
13 "future needs" or any facts supporting the statement of such
14 need. Also, it is not clear from these findings that this need
15 remains unmet by existing aggregate sources.

16 On remand, the county should identify the public need,
17 justifying the decision.

18 Lastly, Finding 13, purporting to address Ordinance Section
19 23.05.3.A is stated in conclusional terms. It does not
20 articulate what changes have occurred except to say that the
21 operator "would be moving an existing operation 12 miles closer
22 to the major center for aggregate demand." The county does not
23 explain how this fact shows a change in community attitudes or
24 physical, social, economic and environmental changes. This
25 requires a remand.

26 The fourth assignment of error is sustained.⁹

1 FIFTH ASSIGNMENT OF ERROR

2 "The County misconstrued the applicable law and failed
3 to comply with Plan Policies VIII.B.1 and 2 in
4 designating/zoning 37.76 acres in Site C
5 Recreation/P-1 without demonstrating that such use
6 will be compatible with surrounding development."

7 Plan Policy VIII.B.1 and 2 provide:

8 "That park and recreation improvements will be
9 provided in all areas where demand exists, sites can
10 be obtained, financing is feasible, and improvements
11 can be made compatible with surrounding development.

12 "That private enterprise will be given priority for
13 developing recreational resources providing resource
14 protection can be assured and proposed uses are
15 compatible with surrounding development."

16 Petitioners' attack the portion of the county's decision
17 designating certain property for recreational use. The
18 property, designated "Site C," is changed in Ordinance 1986-6
19 from Industrial Surface Mining (I/CM) to Recreation/P-1.
20 Petitioners expressed concern about the effect of the proposed
21 recreational site on nearby properties. Specifically,
22 petitioners testified that potential conflicts existed between
23 the proposed recreational use and nearby residences because of
24 traffic, noise, trespass and garbage dumping. See Letter of
25 Lewis A. Lyman, Record at 25H, 25 and minutes of the planning
26 commission special session of May 12, 1986, Record at 45C. The
27 county's failure to address these concerns is error, according
28 to petitioners. See Hillcrest Vineyards v. Board of
29 Commissioners of Douglas Co., 45 Or App 285, 608 P2d 201
30 (1980).

31 We note, in this regard, that the citations to testimony

1 staff report and in findings 10 and 14. Findings 10 and 14
2 state:

3 "Adjacent land use practices on the north are
4 primarily farm residential in nature - 4 to 20 acres
5 size parcels in limited agricultural use with
single-family dwellings."

6 "When the County received acknowledgement from LCDC in
7 November 1985, the 85 acres currently in a Rural
8 Residential plan/R-3 Farm Residential Zone and R-2
9 Residential Zone were accepted as 'built and committed
10 exception areas' for rural residential use. The
11 proposed change in use is not adjacent to commercial
12 agricultural lands designated in an exclusive farm use
13 (EFU) zone. The proposed change in uses would allow
14 for an expansion of an existing operation to meet
15 future aggregate needs within the La Grande and Island
16 City area."

17 The county apparently read "surrounding" as used in Plan
18 Policy VIII.B.2 to mean "adjacent." If we accept this reading
19 of the plan, we are still faced with the county's failure to
20 address surrounding (and adjacent) rural uses, not just
21 "adjacent...commercial agricultural lands designated in an
22 Exclusive Farm Use (EFU) zone." We conclude, therefore, that
23 the county's findings are not responsive to the criteria in
24 Policy VIII.B.1 and 2.

25 The decision of the Union County Board is remanded.
26

1 about the adverse impacts on the proposed recreational site are
2 citations to evidence presented to the Union County Planning
3 Commission. Petitioners do not provide us with citations to
4 complaints given directly to the county court, and we therefore
5 do not agree that the county court was required to address
6 these concerns.

7 We caution, however, that our holding relies on the fact
8 petitioners had a de novo hearing before the county court.
9 Where the record only is on review by the governing body,
10 petitioners' concerns raised below would be before the
11 governing body for response. Petitioners' second complaint is
12 more to the point. Petitioners complain that the findings
13 supporting the change to recreational use fail to consider
14 compatibility with "surrounding" development. According to
15 petitioner, the findings only address adjacent resource uses
16 and not adjacent and nearby rural uses. As we understand the
17 argument, petitioners believe the requirement in Policy
18 VIII.B.1 and 2 oblige the county to address adjacent and nearby
19 development as part of its consideration of "surrounding
20 development."

21 Respondent points out that the proposed use of Site C is
22 not different than the present use for limited public access
23 fishing ponds. Respondent states that neighboring uses are
24 benefitted by the new designation in that future use of Site C
25 for surface mining is more unlikely. Respondent also claims
26 compatibility was discussed in the following portion of the

1 FOOTNOTES

2
3 1

4 There is some confusion as to the size of the parcels that
5 have changed by Ordinance 1986-6. We understand the total
6 property on the north side of the Grande Ronde River to consist
7 of 46.6 acres, and on the south side of the river, 86.03
8 acres. This total acreage includes certain property within the
9 jurisdiction of the Island City city limits. The county's
10 jurisdiction, and this land use decision, effects 117.46
11 acres. See Respondent's Brief, p. 2.

12
13 2

14 Goal 3 defines agricultural land as follows:

15 "Agricultural land - in Western Oregon is land
16 predominantly Class I, II, III and IV soils and in
17 Eastern Oregon is land of predominantly Class I, II,
18 III, IV, V, and VII soils as identified in the Soil
19 Capability Classification System of the United States
20 Soil Conservation Service, and other lands which are
21 suitable for farm use taking into consideration soil
22 fertility, suitability for grazing, climatic
23 conditions, existing and future availability of water
24 for farm irrigation purposes, existing land use
25 patterns, technological and energy inputs required, or
26 accepted farming practices. Lands in other classes
which are necessary to permit farming practices to be
undertaken on adjacent or nearby lands, shall be
included as agricultural in any event.

18
19 3

20 The county's planning and zoning map shows land designated
21 for exclusive farm uses are in close proximity to the subject
22 property.

21
22 4

23 See our discussion about the Grand Ronde River Management
24 Plan and its inclusion in the "record" of this proceeding infra
25 at 9-11.

24
25 5

26 The county makes an argument that the county's acknowledged
comprehensive plan includes policies identifying the uses
contemplated for this property. The difficulty with

