

22. Goal 18 – Beaches and Dunes. Where neither Goal 18 nor relevant statewide planning goal definitions of “Dune” or “Foredune, Active” describe how to determine the location of the landward edge of a foredune or prescribe that a foredune includes only the top or upper portion of the landform, a local code definition of “foredune” that includes the entire “lee or reverse slope” of the foredune is not inconsistent with Goal 18 or the goal definitions. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

22. Goal 18 – Beaches and Dunes. A local government may regulate dunes and foredunes more protectively than the minimum required by Goal 18, as long as the regulation does not conflict with any other Goal, administrative rule or statutory requirement. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

22. Goal 18 – Beaches and Dunes. In some cases boundaries between Goal 18 landforms such as different types of dunes and interdunal areas may be indeterminate or briefly overlap each other. To the extent there is doubt or overlap, it is not inconsistent with Goal 18 to apply to the boundary area the regulations that govern the more heavily regulated or protected landform. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

22. Goal 18 – Beaches and Dunes. A local government is not bound to apply a federal definition of “primary frontal zone” to determine the landward extent of a foredune for purposes of Goal 18, where the federal definition is used to determine the location of the flood hazard velocity zone and has no bearing on the meaning of “foredune” under Goal 18. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

22. Goal 18 – Beaches and Dunes. ORS 197.829(1)(d) authorizes LUBA to reject an interpretation of a comprehensive plan provision or land use regulation that implements a statute, land use goal or rule, if the interpretation is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements. ORS 197.829(1)(d) is not a vehicle to allow LUBA to reverse an interpretation of a code definition that implements and is consistent with Goal 18, based on arguments that if that interpretation is applied in other cases it might impact the adequacy of the city’s Goal 9 and 10 inventories of commercial, industrial and residential lands. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

22. Goal 18 – Beaches and Dunes. A county’s interpretation that a comprehensive plan policy, which implements Statewide Planning Goal 18 (Beaches and Dunes) and provides criteria for a determination whether development is appropriate in a beaches and dunes area, requires the county to address only adverse geologic or geotechnical impacts and not general development issues, is consistent with the text and context of the policy and the goal. *Borton v. Coos County*, 52 Or LUBA 46 (2006).

22. Goal 18 – Beaches and Dunes. A county’s interpretation that a comprehensive plan policy, which implements Statewide Planning Goal 7 (Natural Disasters and Hazards), requires regulation of development in known areas potentially subject to natural disasters and is aimed at reducing risks to life and property that are *caused by natural hazards*, is not applicable in the context of a determination whether development is appropriate in a

beaches and dunes area, pursuant to a comprehensive plan policy that implements Statewide Planning Goal 18 (Beaches and Dunes), which is aimed at reducing impacts that may be *caused by the proposed development*. *Borton v. Coos County*, 52 Or LUBA 46 (2006).

22. Goal 18 - Beaches and Dunes. The Goal 18, Implementation Requirement 5 restriction that “[b]eachfront protective structures may be permitted only where development existed on January 1, 1977” is ambiguous because it could refer to locations where beachfront protective structures may be allowed or it could refer to what development those structures may be constructed to protect. *Regen v. Lincoln County*, 49 Or LUBA 386 (2005).

22. Goal 18 - Beaches and Dunes. The Goal 18, Implementation Requirement 5 restriction that “[b]eachfront protective structures may be permitted only where development existed on January 1, 1977” need not be interpreted to allow construction of a beachfront protective structure anywhere along an eleven-acre parcel simply because one house was located on that eleven-acre parcel on January 1, 1977. *Regen v. Lincoln County*, 49 Or LUBA 386 (2005).

22. Goal 18 – Beaches and Dunes. A party’s contention that an alternative setback must either satisfy Goal 18 or an exception must be taken to that goal is not sufficient to raise an issue regarding whether application of an alternative oceanside setback criterion requires that the city first find the standard oceanside setback is “further from the westerly property line than is required for the protection of the Foredune Management Area.” *Slepack v. City of Manzanita*, 44 Or LUBA 301 (2003).

22. Goal 18 – Beaches and Dunes. The Goal 18 requirement that structural development be prohibited on “beaches, active dunes [and] on other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping” applies only to a proposed development site and not to the entire subject property or the entire dune upon which the proposed development site is located. *Save Oregon’s Cape Kiwanda v. Tillamook County*, 40 Or LUBA 143 (2001).

22. Goal 18 – Beaches and Dunes. Expert testimony that existing riprap will prevent dune retreat if repaired when damaged is substantial evidence supporting the county’s finding under Goal 18 that the dune upon which development is proposed is stabilized and not subject to wave overtopping or ocean undercutting, notwithstanding conflicting expert evidence that the riprap may be insufficient or may fail. *Save Oregon’s Cape Kiwanda v. Tillamook County*, 40 Or LUBA 143 (2001).

22. Goal 18 – Beaches and Dunes. Where the accumulation of sand on petitioner’s beachfront property is caused by time and nature, and not city’s sand removal regulations, denial of petitioner’s permit request to remove the sand does not fall within the “physical invasion” category of takings cases. *Beta Trust v. City of Cannon Beach*, 33 Or LUBA 576 (1997).

22. Goal 18 - Beaches and Dunes. Findings regarding the impact of a proposed access road across a dune area are inadequate to establish compliance with Goal 18 where those findings discuss the comparative impacts that would be generated by agricultural or forest uses, but do not directly evaluate the development impacts of the proposed road. *Brown v. Coos County*, 31 Or LUBA 142 (1996).

22. Goal 18 - Beaches and Dunes. Although some of the Goal 18 implementation measures apply to older stabilized dunes, Implementation Requirement 1 does not require the county to make findings regarding older stabilized dunes. *Brown v. Coos County*, 31 Or LUBA 142 (1996).