



1 Opinion by Holstun.

2 **NATURE OF THE DECISION**

3 The challenged county decision changes the  
4 comprehensive plan map designation for a 25 acre property  
5 from Agriculture to Rural Residential and changes the zoning  
6 map designation from Exclusive Farm Use (EFU) and EFU-10 to  
7 Qualified Rural Residential-5.

8 **MOTIONS TO INTERVENE**

9 Melvin Boak and Charles Markham move to intervene on  
10 the side of respondent in this matter. Petitioner does not  
11 object to Melvin Boak's intervention. However, petitioner  
12 argues that Charles Markham does not have standing to  
13 intervene, because he appeared on behalf of Melvin Boak  
14 during the hearings below, not on his own behalf.  
15 Petitioner contends movant Markham's appearance on behalf of  
16 another does not constitute the appearance required to  
17 intervene personally in this appeal.

18 Movant may intervene in this appeal if he "appeared  
19 before the local government \* \* \*." ORS 197.830(6)(b)(B);  
20 OAR 661-10-050(1). The record is somewhat unclear whether  
21 Charles Markham appeared below solely on behalf of Melvin  
22 Boak or whether he also appeared on his own behalf.  
23 Petitioner cites a number of places in the record suggesting  
24 the former. However, the county provided notice of the  
25 challenged decision directly to movant Markham without  
26 indicating whether the notice was being provided to him as a

1 party to the local proceedings or as agent for Melvin Boak,  
2 who was also provided notice of the challenged decision.  
3 Record 33. There is sufficient ambiguity regarding the  
4 nature of movant Markham's appearance that we conclude  
5 movant Markham's appearance included an appearance on his  
6 own behalf and, therefore, movant Markham may intervene in  
7 this proceeding.<sup>1</sup>

8 The motions to intervene are allowed.

9 **FACTS**

10 The subject 25 acres are the northern part of an 111  
11 acre parcel owed by intervenor Boak and his brother. The  
12 parcel is adjoined by Bandon State Park on the west, and by  
13 Bradley Lake on the east. China Creek drains Bradley Lake  
14 and crosses the subject 25 acres.

15 **MOTION TO STRIKE**

16 Petitioner moves to strike a number of documents  
17 attached to intervenors-respondent's brief. Petitioner  
18 argues the documents are not included in the local  
19 government record and, therefore, may not be considered by  
20 this Board in reaching its decision in this matter.<sup>2</sup>

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<sup>1</sup>The practical significance of our ruling that movant Markham has standing to intervene is limited, since intervenors Boak and Markham filed a joint intervenors-respondent's brief and, therefore, make the same legal arguments. See Goose Hollow Foothills League v. City of Portland, 117 Or App 211, 214, 843 P2d 992 (1992).

<sup>2</sup>Some of the disputed documents were created after the date of the decision challenged in this appeal. Petitioner contends those documents could not be part of the local government record in this matter and the remaining documents, while in existence at the time of the decision, were

1 Pursuant to ORS 197.830(13)(a), our review is limited  
2 to the local government record.<sup>3</sup> Horizon Construction, Inc.  
3 v. City of Newberg, 25 Or LUBA 656, 661 (1993). The letter  
4 identified in objection 7 of the motion appears at Record  
5 188. The aerial photo challenged in objection 3 is an  
6 original used to make a photo copy which appears with a hand  
7 drawn notation at Record 23. We will consider the original  
8 as an aid in reviewing the copy included in the record. The  
9 letter identified in objection 10 appears at Record 41. The  
10 motion to strike the documents identified in objections 3, 7  
11 and 10 is denied.

12 Intervenors agree that the documents described in  
13 objections 1, 6 and 9 may be stricken. The motion to strike  
14 those documents is allowed.

15 In response to the remaining objections, intervenors do  
16 not contend the documents are included in the local  
17 government record. Rather, intervenors argue the documents  
18 are relevant to our review and for that reason the motion to  
19 strike the documents should be denied.

20 ORS 197.830(13)(a) does not allow this Board to expand  
21 its review beyond the evidentiary record submitted by the

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not placed before the local government decision maker in this matter and are not included in the record that was submitted to the Board by the county.

<sup>3</sup>ORS 197.830(13)(b) provides that this Board may conduct an evidentiary hearing in the circumstances set forth in the statute. Intervenors-respondent do not move for an evidentiary hearing or contend that the disputed documents could be considered by this Board under ORS 197.830(13)(b).

1 local government simply because the evidence is relevant.  
2 As we explained in State of Oregon v. City of Forest Grove,  
3 8 Or LUBA 430 (1983), it is the parties' obligation to  
4 assure that evidence they believe the decision maker should  
5 consider is actually placed before the decision maker prior  
6 to the close of the final evidentiary hearing. Where that  
7 is not done, even though the evidence may be relevant, such  
8 evidence is not properly included in the record and may not  
9 be considered by this Board.

10 Because the documents identified in objections 2, 4, 5  
11 and 8 were not actually placed before the decision maker and  
12 are not included in the local government record, they are  
13 not subject to review by this Board. The documents  
14 identified in objections 2, 4, 5 and 8 are stricken.<sup>4</sup>

15 **FIRST ASSIGNMENT OF ERROR**

16 **A. Inadequate Findings**

17 Petitioner contends the findings adopted by the county  
18 in support of the challenged decision fail to demonstrate  
19 compliance with Goal 18 (Beaches and Dunes). Goal 18  
20 imposes the following requirements:

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<sup>4</sup>It is possible that some of the documents challenged under these objections are subject to official notice by this Board. However, intervenors do not request that we can or should take official notice of those documents. Moreover, in view of our disposition of petitioner's assignments of error below, taking official notice of some or all of the documents disputed in these objections would not affect our decision in this matter.

1 "To conserve, protect, where appropriate develop,  
2 and where appropriate restore the resources and  
3 benefits of coastal beach and dune areas; and

4 "To reduce the hazard to human life and property  
5 from natural or man-induced actions associated  
6 with these areas."

7 Goal 18 includes seven implementation measures.

8 Implementation Measure 1 provides as follows:

9 "Local governments and state and federal agencies  
10 shall base decisions on plans, ordinances and land  
11 use actions in beach and dune areas, other than  
12 older stabilized dunes, on specific findings that  
13 shall include at least:

14 "a. The type of use proposed and the adverse  
15 effects it might have on the site and  
16 adjacent areas;

17 "b. Temporary and permanent stabilization  
18 programs and the planned maintenance of new  
19 and existing vegetation;

20 "c. Methods for protecting the surrounding area  
21 from any adverse effects of the development;  
22 and

23 "d. Hazards to life, public and private property,  
24 and the natural environment which may be  
25 caused by the proposed use."

26 The county adopted the following findings to address

27 Goal 18:

28 "10. Maps adopted by the Coos County Comprehensive  
29 Plan indicate that the majority of the  
30 subject property lies within a Goal 18,  
31 Beaches and Dunes, 'limited suitability'  
32 area.

33 "A report on sand dune stabilization by  
34 Wilbur Ternyik, included in the record at  
35 Exhibit G, discusses possible hazards,  
36 special conditions and management

1 recommendations for residential development  
2 of the subject property. The County finds,  
3 and accepts as fact the information presented  
4 by Mr. Ternyik, Wetland Beach and Dunes  
5 Consultant.

6 "Mr. Ternyik stated the following in his  
7 final conclusion:

8 "The identified hazards on the  
9 property can easily be handled by  
10 the management recommendations in  
11 this report. I would recommend that  
12 they be made a mandatory requirement  
13 of any future preliminary or final  
14 approval of a proposed subdivision.

15 "11. Exhibit F of the record is a geologic hazard  
16 report \* \* \* for the subject property  
17 prepared by Charles Lane, Engineer for Braun  
18 Intertec Northwest, Inc. The County accepts  
19 as findings of fact the conclusions and  
20 recommendations of Mr. Lane." Record 19.

21 Petitioner argues the above findings are inadequate to  
22 demonstrate compliance with Goal 18. Petitioner contends  
23 Goal 18 actually contains two parts. The first part  
24 requires that the county determine whether development of  
25 the subject property, which the county concedes is subject  
26 to Goal 18, is appropriate at all, in view of the goal's  
27 mandate "[t]o conserve [and] protect" such areas. The  
28 second part requires that hazards associated with  
29 development of dunes and beaches be addressed and resolved.  
30 We understand petitioner to argue that even where  
31 development may be possible, in the sense that hazards  
32 associated with such development can be minimized, such

1 development may be inconsistent with Goal 18's mandate to  
2 conserve and protect beaches and dunes.

3 Petitioner concedes the county adopted findings  
4 addressing the hazard reduction aspects of the goal and does  
5 not dispute there is considerable evidence in the record  
6 concerning whether the property can be developed  
7 consistently with this aspect of the goal. However,  
8 petitioner contends the above findings totally ignore the  
9 first part of the inquiry under Goal 18, i.e. whether  
10 development is appropriate at all in view of the  
11 conservation and protection aspects of the goal.

12 Petitioner also argues that while the county adopted  
13 findings in other parts of the challenged decision which  
14 identify or describe surrounding land uses, the county's  
15 findings make no attempt to address the impacts development  
16 of the subject property may have on "adjacent" and  
17 "surrounding" areas, as required by Implementation  
18 Requirement 1, quoted supra.

19 We agree with petitioner. Goal 18 requires findings  
20 explaining why development of the subject property is  
21 consistent with the goal's requirement that dunes and  
22 beaches be protected and conserved from development.  
23 Implementation Requirement 1 explicitly requires the  
24 findings that petitioner correctly points out are missing in  
25 the challenged decision. However, intervenors contend a  
26 remand is not required, because there is evidence in the

1 record which "clearly supports" the challenged decision.  
2 ORS 197.835(9)(b).<sup>5</sup> Intervenors misunderstand the nature  
3 and scope of the exception provided by ORS 197.835(9)(b).

4 **B. Evidence Clearly Supporting the Decision**

5 Amendments to acknowledged comprehensive plans and land  
6 use regulations must be consistent with applicable statewide  
7 planning goal requirements. ORS 197.175(2)(a); 197.225;  
8 197.610(2), 197.835(4); 1000 Friends of Oregon v. Jackson  
9 County, 79 Or App 93, 97, 718 P2d 753, rev den 301 Or 445  
10 (1986); Ludwick v. Yamhill County, 72 Or App 224, 231, 696  
11 P2d 536 (1985). A local government is required to adopt  
12 findings of fact and a statement of reasons adequate to show  
13 that a quasi-judicial comprehensive plan or zoning map  
14 amendment complies with applicable statewide planning goals  
15 and other applicable standards. Sunnyside Neighborhood v.  
16 Clackamas Co. Comm., 280 Or 3, 20-21, 569 P2d 1063 (1977);  
17 Green v. Hayward, 275 Or 693, 706-08, 552 P2d 815 (1976).  
18 Where the required findings are missing or defective, this  
19 Board generally remands the decision to the local government

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<sup>5</sup>ORS 197.835(9)(b) provides as follows:

"Whenever the findings [supporting a land use decision] are defective because of failure to recite adequate facts or legal conclusions or failure to adequately identify the standards or their relation to the facts, but the parties identify relevant evidence in the record which clearly supports the decision or a part of the decision, [LUBA] shall affirm the decision or the part of the decision supported by the record and remand the remainder to the local government, with direction indicating appropriate remedial action."

1 so that the local government may attempt to supply missing  
2 findings or correct inadequate findings. ORS 197.835(9)(b)  
3 represents an exception to this general rule, and allows  
4 this Board to overlook the absence or inadequacy of  
5 findings. However ORS 197.835(9)(b) authorizes this Board  
6 to affirm a decision, despite inadequate or missing  
7 findings, only where "the parties identify relevant evidence  
8 in the record which clearly supports the decision or a part  
9 of the decision." (Emphasis added.) As relevant to this  
10 appeal, the exception provided by ORS 197.835(9)(b) is  
11 limited in two ways.

12 First, where adequate findings have been adopted and  
13 LUBA is simply reviewing those findings for evidentiary  
14 support, LUBA must affirm the decision where it is supported  
15 by substantial evidence. ORS 197.835(7)(a)(C). Substantial  
16 evidence need only be the kind of evidence upon which a  
17 reasonable person could rely to reach a decision. See  
18 Douglas v. Multnomah County, 18 Or LUBA 607, 617 (1990) (and  
19 cases cited therein). Because reasonable persons may  
20 disagree about the conclusions to be drawn from conflicting  
21 evidence, substantial evidence review is correspondingly  
22 deferential. Id. However, the evidentiary standard imposed  
23 by the ORS 197.835(9)(b) requirement for "evidence \* \* \*  
24 which clearly supports," is considerably higher than the  
25 standard imposed by the ORS 197.835(7)(a)(C) requirement for  
26 "substantial evidence. See Friedman v. Yamhill County, 23

1 Or LUBA 306, 311 (1992). Where the relevant evidence in the  
2 record is conflicting, or provides a reasonable basis for  
3 different conclusions, such evidence does not "clearly  
4 support" the challenged decision. Forster v. Polk County,  
5 22 Or LUBA 380, 384 (1991); see Cummins v. Washington  
6 County, 22 Or LUBA 129, 133 (1991), aff'd 110 Or App 468  
7 (1992).

8 A second limitation on our ability to affirm a land use  
9 decision, despite the lack of findings or the lack of  
10 adequate findings, concerns the particular standards at  
11 issue. Where those standards are subjective, requiring the  
12 exercise of considerable judgment by the local government,  
13 it is less likely that evidence will "clearly support" a  
14 decision that the standards are met under ORS 197.835(9)(b).  
15 See Bright v. City of Yachats, 16 Or LUBA 161, 171 (1987).

16 Turning to the present case, both of the above  
17 limitations apply. First, the Goal 18 requirement to  
18 "conserve [and] protect" beaches and dunes is a subjective  
19 standard, in view of the goal's conflicting provisions  
20 allowing appropriate development. This calls for a  
21 balancing that the county, rather than this Board, must  
22 perform in the first instance. Second, although intervenors  
23 cite a great deal of evidence in the record, much of that  
24 evidence is either irrelevant or only marginally relevant to  
25 the legal requirements that petitioner contends the county  
26 failed to address in its findings.

1           The first assignment of error is sustained.

2   **THIRD THROUGH SIXTH ASSIGNMENTS OF ERROR**

3           Under these assignments of error, petitioner argues the  
4 challenged decision is not supported by findings addressing  
5 relevant requirements of Statewide Planning Goals 6 (Air,  
6 Water and Land Resources Quality), 7 (Areas Subject to  
7 Natural Disasters and Hazards), 11 (Public Facilities and  
8 Services), and 12 (Transportation).

9           Each of these assignments of error concern somewhat  
10 subjective goal requirements.<sup>6</sup> Although intervenors cite an  
11 extensive amount of material in the record that bears  
12 directly or indirectly on the cited goal requirements, the  
13 cited evidence is not sufficient to constitute evidence  
14 clearly supporting a decision that the challenged plan and  
15 zoning map amendments comply with the cited goal standards.  
16 This is particularly the case regarding the evidence  
17 concerning the ability to provide acceptable subsurface  
18 sewage disposal for the residential uses made possible by  
19 the plan and zoning map amendments, in view of the severe  
20 limitations the soils on the property have for individual  
21 subsurface sewage disposal systems.

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<sup>6</sup>For example, petitioner's Goal 12 challenge under the third assignment of error is based on requirements in the Department of Land Conservation and Development's Goal 12 administrative rule that apply where a plan amendment "significantly affects a transportation facility \* \* \*." OAR 660-12-060(1).

1 We express no view concerning whether the current  
2 evidentiary record would be sufficient to constitute  
3 substantial evidence in support of adequately developed  
4 findings addressing the cited goal requirements. However,  
5 the evidentiary record is not sufficient, in the absence of  
6 such findings, to clearly support a decision that those goal  
7 requirements are satisfied.

8 The third, fourth, fifth, and sixth assignments of  
9 error are sustained.

10 **SEVENTH ASSIGNMENT OF ERROR**

11 Petitioner contends the subject property includes  
12 several resources subject to protection under Statewide  
13 Planning Goal 5 (Open Spaces, Scenic and Historic Areas, and  
14 Natural Resources).<sup>7</sup> Petitioner contends the county erred  
15 by failing to consider and assess the significance of these  
16 resources under Goal 5 and the Goal 5 administrative rule  
17 (OAR 660, Division 16), and adopt measures to protect these  
18 resources, if appropriate. The manner in which the Goal 5  
19 process works is set out in some length in our decision in  
20 DLCD v. Yamhill County, 17 Or LUBA 1273, 1279-80, aff'd 99  
21 Or App 441 (1989), and is not repeated here.

22 Petitioner does not contend the subject property is  
23 included on any inventory of Goal 5 resources in the

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<sup>7</sup>Among the Goal 5 resources petitioner contends are located on the site are habitat of the silvery phacelia (*Phacelia argenta*), open space, fish and wildlife habitat and water areas.

1 acknowledged comprehensive plan. Rather, petitioner argues  
2 the county may not ignore its obligation to utilize the  
3 information existing at the time the challenged plan  
4 amendment is adopted to reconsider whether the site should  
5 be added to one or more of its Goal 5 inventories.  
6 Petitioner contends that to conclude that the county may  
7 simply rely on its acknowledged Goal 5 inventory, and ignore  
8 petitioner's arguments that those inventories are  
9 inaccurate, renders the ORS 197.175(2)(a) requirement that  
10 the statewide planning goals be addressed when amending an  
11 acknowledged comprehensive plan a nullity.

12 Petitioner's argument overstates the effect of allowing  
13 a local government to rely on its acknowledged Goal 5  
14 inventories when amending its comprehensive plan. Allowing  
15 reliance on acknowledged Goal 5 inventories does not nullify  
16 the statutory requirement that the goals (including Goal 5)  
17 be applied when amending the comprehensive plan. Any  
18 amendment affecting a site that is inventoried as a Goal 5  
19 resource site would have to address Goal 5. For example, if  
20 the site in question was included in an inventory of fish or  
21 wildlife habitat areas or scientifically significant natural  
22 areas, and the existing EFU and EFU-10 zoning was adopted as  
23 the county's program to protect those resources, the county  
24 clearly would be required to address petitioner's arguments  
25 that the new plan and zoning map designations will not  
26 adequately protect those resources.

1 More importantly, the argument petitioner advances here  
2 is essentially the same argument that was considered and  
3 rejected by the court of appeals in Urquhart v. Lane Council  
4 of Governments, 80 Or App 176, 721 P2d 870 (1986). In this  
5 Board's decision in Urquhart v. LCOG and City of Eugene, 14  
6 Or LUBA 335, 345, rev'd 80 Or App 176 (1986), we concluded  
7 in reviewing a comprehensive plan amendment that a county's  
8 acknowledged Goal 5 inventories should not be viewed "as  
9 static lists immune from review and update \* \* \*." We also  
10 concluded that alleged Goal 5 resources must be considered  
11 in amending an acknowledged comprehensive plan "even though  
12 these sites were not identified in the [acknowledged  
13 comprehensive plan] inventory of Goal 5 resource sites."  
14 Id.

15 In reversing our decision, the court of appeals  
16 acknowledged that there are potential problems with  
17 accepting the local government's position in that case that  
18 the acknowledged Goal 5 inventories should be given the  
19 effect of essentially insulating plan amendments concerning  
20 areas not on the inventories from Goal 5 review after  
21 acknowledgment:

22 "There is merit to both LUBA's and [the local  
23 government's] positions, and there are  
24 corresponding problems with both positions.  
25 Carried to its extreme, LUBA's position would  
26 require a planning jurisdiction to undertake an  
27 extensive, if not comprehensive, goal  
28 rejustification of an acknowledged plan in  
29 conjunction with every plan amendment. On the  
30 other hand, if the inclusion of the affected area

1 on the inventory cannot be reconsidered in  
2 connection with this plan amendment, the effect of  
3 the amendment could well be to make the non-  
4 resource use of the area an accomplished fact  
5 before the decisions whether to inventory it and  
6 whether to preserve it as a resource site could be  
7 made through the periodic review process."  
8 Urquhart, supra, 80 Or App at 180.

9 The court went on to acknowledge its decision in 1000  
10 Friends of Oregon v. Jackson County, 79 Or App 93, 718 P2d  
11 753 (1986), where the court concluded that LUBA, in  
12 reviewing an amendment to an acknowledged comprehensive  
13 plan, may review unamended plan provisions to determine  
14 whether the amendment affects the continuing consistency of  
15 the unamended portion with the goals. However, the court  
16 distinguished the situation presented in Urquhart from its  
17 decision in 1000 Friends of Oregon v. Jackson County, supra,  
18 as follows:

19 " \* \* \* Here, the affected area was excluded from  
20 the inventory before the amendment was enacted,  
21 and the amendment does not affect the inventory.  
22 Indeed, the converse seems to be true, i.e., the  
23 absence of the area from the inventory is what  
24 makes it possible for the new designation to be  
25 attached to the area without a Goal 5 resolution  
26 of the conflict between the area's open space use  
27 and the University/Research use called for by the  
28 amendment. See OAR 660-16-000(5)(a). LUBA's  
29 opinion posits that the existing designation on  
30 what is referred to as the 'diagram,' the actual  
31 use of the area and certain other existing factors  
32 militate in favor of the inclusion of the area on  
33 the inventory; however, none of those factors is a  
34 consequence of the amendment. Those factors may  
35 demonstrate that, for reasons unrelated to the  
36 amendment, circumstances have changed since the  
37 acknowledgment. If so, ORS 197.640 to 197.647  
38 make LCDC's periodic review the only method for

1           correcting goal non-compliance that results from  
2           changes after acknowledgment, when the  
3           noncompliance is not the product of an amendment  
4           to an acknowledged plan or land use regulation."  
5           (Footnotes omitted.) Urquhart, 80 Or App at 181.

6           As far as we can tell, there is no significant factual  
7           difference in this case that would require a different  
8           result from that in Urquhart. Petitioner did suggest at  
9           oral argument that because the property was in an EFU zone,  
10          and the changed plan and zoning map designations will now  
11          permit low density residential development, Goal 5 must be  
12          addressed. We fail to see how the nature of the change in  
13          the plan map designation or zoning designation, in and of  
14          itself, is important. The critical factor, as discussed  
15          above, is whether the acknowledged plan and zoning map  
16          designations were placed on the site as part of a decision  
17          made prior to acknowledgment to (1) include the site on one  
18          or more Goal 5 resource inventories, and (2) apply those map  
19          designations as part of the program required to protect that  
20          resource site. If the existing plan and zoning map  
21          designations are part of such an inventory and resource  
22          protection program, clearly Goal 5 would have to be  
23          addressed in amending those designations. However where, as  
24          here, the subject property was excluded from the county's  
25          Goal 5 inventories, the fact that a subsequent  
26          postacknowledgment plan and zoning map amendment may allow  
27          more intensive uses has no direct bearing on the earlier

1 decision not to include the property on the county's Goal 5  
2 inventories.

3 To the extent petitioner argues we should assume the  
4 prior EFU and EFU-10 zoning is the reason the subject  
5 property was not included in the Goal 5 inventories in the  
6 first place, we disagree. The decision concerning whether  
7 to include a particular site on a Goal 5 inventory is  
8 independent of the particular planning and zoning map  
9 designations applied to the site. Under OAR 660-16-005 and  
10 660-16-010, it is the decision to include a site on one or  
11 more Goal 5 inventories that triggers the process of  
12 analyzing conflicting uses and determining the appropriate  
13 planning and zoning designations.

14 The seventh assignment of error is denied.

15 **SECOND ASSIGNMENT OF ERROR**

16 Petitioner argues the county improperly failed to adopt  
17 findings addressing Goal 17 (Coastal Shorelands).  
18 Petitioner cites a map included in the comprehensive plan  
19 which shows the entire subject property as falling within  
20 the county's Coastal Shoreland Boundary.

21 Intervenors point to a map included at Record 21 and  
22 argue that it shows the entire subject property is not  
23 located within the Coastal Shoreland Boundary. Rather, that  
24 map shows a large dotted line set back 50 feet from Bradley  
25 Lake. Intervenors argue only the portion of the subject

1 property adjoining and within 50 feet of Bradley Lake is  
2 within the Coastal Shoreland Boundary.

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

16 The second assignment of error is sustained.

17 **EIGHTH ASSIGNMENT OF ERROR**

18 Petitioner contends the county's findings are  
19 inadequate to demonstrate compliance with, or the  
20 inapplicability of, Goal 4 (Forest Lands). As relevant,  
21 Goal 4 defines forest land as follows:

22 " \* \* \* Where a \* \* \* plan amendment involving  
23 forest lands is proposed, forest land shall  
24 include lands which are suitable for commercial  
25 forest uses including adjacent or nearby lands  
26 which are necessary to permit forest operations or  
27 practices and other forested lands that maintain  
28 soil, air, water and fish and wildlife resources."

1           The county adopted the following finding addressing  
2 Goal 4:

3           "The Oregon Department of Forestry provided  
4 'Forest Site Information' in a letter dated  
5 November 30, 1992. This letter is a correction of  
6 a previous letter dated 11/3/92. The DOF letter  
7 reports on the entire [111] acre parcel. Our  
8 Forest Site Index is 80' in 100 years (Site VI)[.]  
9 Cubic foot growth estimates for the site are 63  
10 cubic feet per year per acre. IT SHOULD BE NOTED;  
11 Though both the subject 25 acres +/- tract and the  
12 balance of tax lot 400 have poor soils, the  
13 balance of tax lot 400 has better soils than our  
14 subject tract. The possibility that anyone could  
15 or would consider this land as forest land is  
16 preposterous and we should not be required to  
17 address the forest issue further." (Record  
18 citations omitted.) Record 28.

19           Petitioner contends that although it may be  
20 preposterous to consider land with a cubic foot site index  
21 of 63 as "prime" forest land, the definition of forest land  
22 in Goal 4 requires conservation of land under Goal 4 "for  
23 reasons other than timber production."

24           We agree with petitioner that the cited findings are  
25 inadequate to demonstrate that Goal 4 does not apply. The  
26 evidence cited by intervenors is not sufficient to clearly  
27 support a decision that the subject property does not come  
28 within the definition of forest land subject to protection  
29 under Goal 4.

30           In addition, intervenors argue the fact that the  
31 county's acknowledged comprehensive plan designated the  
32 subject property for agricultural use and placed the subject  
33 property in EFU zones "conclusively establishes that Goal 4

1 does not apply." Intervenor-Respondent's Brief 12.  
2 Intervenor are incorrect. Westfair Associates Partnership  
3 v. Lane County, 25 Or LUBA 729, 737 (1993) (designation of  
4 land as agricultural land does not, of itself, mean the land  
5 is not also suited to protection as forest land).

6 The eighth assignment of error is sustained.

7 **NINTH ASSIGNMENT OF ERROR**

8 Petitioner alleges the challenged decision violates  
9 Goal 2. Petitioner cites testimony presented by the Oregon  
10 Parks and Recreation Department expressing concerns about  
11 wind erosion of unstable sands and potential impacts of  
12 development on the silvery phacelia. Petitioner recognizes  
13 that Goal 2 (Land Use Planning) does not require that the  
14 county accede to every concern that may be expressed by the  
15 Oregon Department of Parks and Recreation. ODOT v.  
16 Clackamas County, 23 Or LUBA 370, 378 (1992); Rajneesh v.  
17 Wasco County, 13 Or LUBA 202, 210 (1985). However,  
18 petitioner argues the "coordination" requirement of Goal 2  
19 does require that the county at least adopt findings  
20 responding to such legitimate concerns.

21 We agree with petitioner that the county was obligated  
22 under the coordination requirement of Goal 2 at least to  
23 respond in its findings to agency's concerns. The county's  
24 failure to do so violates Goal 2.

25 The ninth assignment of error is sustained.

1 **TENTH ASSIGNMENT OF ERROR**

2 The county's land use decisions must comply with its  
3 acknowledged comprehensive plan. ORS 197.175(2)(d);  
4 197.835(5). Petitioner sets out a number of comprehensive  
5 plan provisions on page 31 of the petition for review.  
6 Petitioner contends the challenged decision must be remanded  
7 because the county failed to adopt findings addressing these  
8 plan provisions.

9 Intervenors argue petitioner does not raise his  
10 arguments under this assignment of error with sufficient  
11 specificity. See Freels v. Wallowa county, 17 Or LUBA 137,  
12 140-41 (1988); Deschutes Development Co. v. Deschutes  
13 County, 5 Or LUBA 218, 219-20 (1982). However, this is not  
14 a case where we must speculate about what petitioner's legal  
15 theory is. Petitioner contends a number of relevant  
16 comprehensive plan provisions apply to the disputed decision  
17 but were not applied by the county despite statutory  
18 requirements that they do so. Some of the cited plan  
19 provisions appear to be applicable and are somewhat  
20 subjective. For the reasons explained under our discussion  
21 of the first and third through sixth assignments of error,  
22 the challenged decision must be remanded so that the county  
23 can adopt the required findings concerning these  
24 comprehensive plan provisions. Moreover, the cited plan  
25 provisions likely will require interpretation. Because they  
26 are local standards rather than state law requirements, LUBA

1 may not supply any required interpretations of these plan  
2 provisions in the first instance. Gage v. City of Portland,  
3 123 Or App 269, \_\_\_ P2d \_\_\_ (1993); Weeks v. City of  
4 Tillamook, 117 Or App 449, 453, 844 P2d 914 (1992).

5 The tenth assignment of error is sustained.

6 The county's decision is remanded.