

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. Findings and argument that forest uses are “impractical” on the subject property due to existing development and due to fire buffers that would be required along some of the property’s borders and around some of the existing development do not demonstrate that the property is “physically developed to the extent that it is no longer available” for forest uses, as required by ORS 197.732(2)(a) and OAR 660-004-0025(1) for a physically developed exception to Goal 4, and such a conclusion is not supported by substantial evidence where at least 87 percent of the property’s area is available for forestry and where the applicant does not attempt to quantify the amount of buffer that would be required to conduct forest uses or the amount by which that buffer would decrease the property available for forest uses. *Dooley v. Wasco County*, 81 Or LUBA 44 (2020).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. The county did not err in concluding that the “unique resource” at issue, a deepwater river port whose upland portions are located within the existing exception area, is still “located on agricultural or forest land” for purposes of OAR 660-004-0022(3)(a). Although “Agricultural Land” for purposes of Goal 3 and its implementing administrative rule does not include land areas subject to exceptions to Goal 3, it does not necessarily follow that agricultural land, as that term is used in OAR 660-004-0022 or other parts of the Goal 2 exception rule is subject to the same restriction. At least for the limited purpose of evaluating the need for and compliance with exception standards to allow new or changed uses contrary to the resource goals, land within an exception area potentially remains “agricultural land” subject to Goal 3, and where the original exception did not take an exception to Goal 4 the site potentially remains “forest land.” *Columbia Riverkeeper v. Columbia County*, 78 Or LUBA 547 (2018).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. An LCDC acknowledgement order that includes findings that characterize an industrial zone that the county applied to land subject to an exception to Goal 4 as “rural zoning,” supports a conclusion that as a matter of law LCDC did not acknowledge the zone to comply with Goal 14. Rather, the uses authorized by the zone were intended to be limited to uses that are appropriate outside an urban growth boundary. *Hood River Valley Residents v. Hood River County*, 75 Or LUBA 452 (2017).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. Where a county adopts both irrevocably committed and physically developed exceptions to the statewide planning goals, but the only issues raised below were directed at the physically developed exceptions, ORS 197.763(1) precludes the petitioner from challenging the irrevocably committed exceptions for the first time at LUBA. *Landwatch Lane County v. Lane County*, 56 Or LUBA 408 (2008).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. Under OAR 660-004-0025(2), the “uses allowed by the applicable goal” that cannot be used to justify a physically developed exception are not limited to the uses set forth in OAR 660-004-0028(3)(b) and (c), which apply to irrevocably committed exceptions. *Cotter v. Clackamas County*, 53 Or LUBA 25 (2006).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. Under OAR 660-004-0025(2), the phrase “uses allowed by the applicable goal” does not exclude uses conditionally allowed in forest zones under OAR 660-006-0025 merely because such uses are

subject to review to analyze impacts to adjacent forest lands. *Cotter v. Clackamas County*, 53 Or LUBA 25 (2006).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. A local government decision approving a physically developed exception under OAR 660-04-025 to Goals 3 and 4 will be remanded where the findings do not establish that the property is physically developed with non-resource uses. *DLCD v. Columbia County*, 32 Or LUBA 221 (1996).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. The county's denial of a developed exception will be upheld when the county finds that the physical characteristics of the property do not render it irrevocably committed to nonresource uses; there is continuing resource use of properties to the north, east and west; and the existence of public facilities and services installed to serve the residence on the site do not irrevocably commit the remainder of the site to nonresource uses. *Sandgren v. Clackamas County*, 29 Or LUBA 454 (1995).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. Even if petitioners' evidence supports a conclusion that a resource parcel is not adequate for commercial timber production, that conclusion does not justify an exception to Goals 3 and 4 since it does not establish that all uses allowed by the applicable goals are impracticable. *Sandgren v. Clackamas County*, 29 Or LUBA 454 (1995).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. The standards for approving a physically developed exception to Statewide Planning Goals 3 and 4 are demanding. The county must find that the property has been physically developed to such an extent that all Goal 3 or 4 resource uses are precluded. Uses established in accordance with the goals cannot be used to justify such an exception. *Sandgren v. Clackamas County*, 29 Or LUBA 454 (1995).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. The bias under Goals 3 and 4 in favor of commercial agricultural and forest enterprises does not mean a local government may assume that noncommercial farm and forest uses are not "uses allowed by the applicable goal" for which a proposed exception area's suitability must be considered in granting an exception. *1000 Friends of Oregon v. Yamhill County*, 27 Or LUBA 508 (1994).

6.3.2 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Developed. A local government may not assume that the entire parcel or ownership occupied by an existing dwelling or road is physically developed so that it is not available for uses allowed under the goals. *1000 Friends of Oregon v. Yamhill County*, 27 Or LUBA 508 (1994).