

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. Remand is necessary where petitioners argue that a boundary line adjustment application is governed by a county ordinance addressing the “Sale or Transfer of Land to an Adjacent Owner * * *,” under the section on nonconforming uses that apply to “Designated Resource Areas,” where the subject parcels are designated for agricultural and forest uses and are zoned exclusive farm use – grazing (FG) and where respondents filed no response brief. Because there is no local interpretation of the applicability of the ordinance, LUBA will remand the decision for the county to interpret the ordinance in the first instance. *Friends of Douglas County v. Douglas County*, 78 Or LUBA 11 (2018).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. Where the county found a boundary line adjustment application is in compliance with a county ordinance that requires that the “resulting parcel sizes do not change the existing land use” because before and after the boundary line adjustment there was one parcel conforming and one parcel non-conforming in size, LUBA will remand the decision. On remand, the county shall consider petitioners’ argument and adopt any necessary findings regarding petitioners’ argument that the ordinance could be interpreted to require the county to consider whether the “existing land use pattern” is changed when the subject parcel—that was previously deemed “generally unsuitable” for farm use due to its size and soil composition—qualifies for a nonfarm dwelling as a result of the boundary line adjustment because the parcel was expanded to include agricultural soils in a manner that possibly renders the resulting parcel suitable for farm use. *Friends of Douglas County v. Douglas County*, 78 Or LUBA 11 (2018).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. Although the county’s approval of the boundary line adjustment for the siting of a nonfarm dwelling could effectively undercut the factual predicate for compliance with a statutory-based standard pursuant to ORS 215.263(4) designed to minimize loss of productive resource lands in exclusive farm use zones to non-resource uses, where petitioner has not cited anything in the county ordinance that constitutes an approval standard for a post-partition boundary line adjustment, even if the adjustment undercuts a factual predicate for the partition approval, this argument provides no basis for reversal or remand. *Friends of Douglas County v. Douglas County*, 78 Or LUBA 11 (2018).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. Approving a boundary line adjustment to a parcel under applicable standards does not “collaterally attack” a previous land partition decision that originally created the subject parcel under different standards, even assuming the adjusted parcel after the boundary line adjustment would not comply with the partition standards that were applied earlier when the parcel was created. *Friends of Douglas County v. Douglas County*, 78 Or LUBA 11 (2018).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. A division of land that creates an EFU-zoned parcel that is smaller than the 80-acre minimum set forth in ORS 215.780(1) violates that statute, and the land division is prohibited as a matter of law. *Jouvenat v. Douglas County*, 58 Or LUBA 378 (2009).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. A county errs when it defines “the area” to be inventoried under Goal 3 as the entire county but fails to inventory the existing

commercial agricultural enterprise in the county, and determine the minimum parcel size necessary to continue that enterprise. *Friends of Linn County v. Linn County*, 54 Or LUBA 191 (2007).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. Notwithstanding a local zoning ordinance provision that would allow a property line adjustment between an existing 115-acre parcel and an existing 40-acre parcel to reduce the 40-acre parcel to a 27-acre parcel and increase the 115-acre parcel to a 128-acre parcel, where those parcels are located in an exclusive farm use zone that is subject to an 80-acre minimum parcel size under ORS 215.780(1)(a), the reduction in size of the already substandard 40-acre parcel violates ORS 215.780(1)(a). *Phillips v. Polk County*, 53 Or LUBA 194 (2007).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. A code standard prohibiting a property line adjustment on agricultural land where the adjustment is used to qualify a lot or parcel for the siting of a dwelling does not preclude an adjustment that would effectively separate a split-zoned parcel to allow residential development on the non-agriculturally zoned portion of the parcel, where the adjustment will not qualify the agricultural portion of the parcel for a dwelling. *Bollam v. Clackamas County*, 52 Or LUBA 738 (2006).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. A new nonfarm parcel is not subject to minimum parcel size under ORS 215.780 where the new nonfarm parcel is created from a parent parcel under ORS 215.263(4) and 215.283(3). *Dorvinen v. Crook County*, 33 Or LUBA 711 (1997).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. Taken together, ORS 215.263(2) and legislative history indicate that the legislature intended ORS 215.284(3) to at least mean that where a remaining parcel suitable for farm use is created from a partition under ORS 215.284(3), the remaining farm parcel must meet the minimum parcel size. *Dorvinen v. Crook County*, 33 Or LUBA 711 (1997).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. Consistent with the statutory scheme and policy of ORS 215.243, ORS 215.284(3) requires that a partition must leave a remainder parcel that meets the minimum parcel size, whether or not the remainder parcel is suitable for farm use. *Dorvinen v. Crook County*, 33 Or LUBA 711 (1997).

7.4 Goal 3 – Agricultural Lands/ Goal 3 Rule – Land Divisions. To the extent a “woodlot parcel” is something other than a farm parcel, the creation of a “woodlot parcel” in an exclusive farm use zone is not authorized by ORS 215.263, Goal 3 or the Goal 3 rule. *1000 Friends of Oregon v. Marion County*, 27 Or LUBA 303 (1994).