BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

PHILIP R. DOUGHERTY, TED CORBETT and HAROLD S. HIRSCH, Petitioners, vs. TILLAMOOK COUNTY and CHARLES CAUDILL, Respondents.	LUBA No. 84-040 FINAL OPINION AND ORDER

Appeal from Tillamook County.

Barton C. Bobbitt, Portland, filed the Petition for Review and argued the cause on behalf of Petitioners.

Lynn Rosik, Tillamook, filed a response brief and argued the cause on behalf of Respondent County.

No appearance by Respondent Charles Caudill.

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

AFFIRMED 07/26/84

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

Opinion by Kressel.

NATURE OF THE DECISION

Petitioners appeal allowance of a conditional use permit for a campground and related accessory structures.

FACTS

The permit authorizes construction of a campground for tent and recreational vehicle campers on a 23 acre parcel. The land is on the west side of Highway 101, just south of the unincorporated community of Neskowin. The proposal includes 110 campsites, a manager's residence, a store and laundry, a shower and restroom facility, and a barbecue and recreation building.

The property consists primarily of Class II soils. It is zoned SFW-20 (Small Farm Woodlot, 20 acre minimum lot size), an exclusive farm use designation. Neskowin Creek runs through the eastern portion of the property.

Property to the south is also zoned SFW-20. Lands east of the site are zoned for forest use. Lands to the northeast are zoned for neighborhood commercial use. To the north the land is zoned for low density residential use. The county's plan and implementing ordinances have been acknowledged by LCDC.

Approximately one half mile west of the property is the residentially developed "South Beach" area. As initially proposed, access to the campground was along an easement on South Beach Road, a private road north of the site serving the South Beach area. However, in response to neighborhood

objections, the applicants purchased three acres on the southern end of the site in order to obtain direct access from Highway 101.

The property does not have direct beach access. This fact caused neighboring landowners to complain that South Beach Road or adjacent private lands would be used by campground visitors as a route to the beach. In response, the county required operators of the facility to construct a fence along the north property line and to advise campground visitors to stay off private lands. Public beach access is available less than one mile from the site.

The permit application was filed in September, 1983 and was designated CU-83-34. Planning Commission approval was granted on September 22, 1983. The decision was appealed to the county commission, which upheld the planning commission's action on November 23, 1983. However, during preparation of the final order it was discovered the property was within the boundaries of the Shorelands Overlay Zone, a restrictive zone established pursuant to Statewide Goal 17 (Coastal Shorelands). As a result, the proposal could not be given final approval without further review.

The record is unclear on the events following discovery of the need for further review of CU-83-34. On December 21, 1983, the county commission decided to reopen the proceeding at a hearing scheduled for February 8, 1984. However, prior to the governing body's February hearing, the application in CU-83-34

was evidently withdrawn. A new application (CU-84-1) for the same use was filed on February 3, 1984.

A hearing on the new application was held by the planning commission on February 9, 1984. At that hearing, the planning commission was advised that planning staff had conducted a countywide review of the Shorelands Overlay Zone boundary. The reviewers concluded that all but 2 1/2 acres of the property in question should be removed from the zone. After the hearing, the planning commission unanimously approved CU-84-1 on condition, among others, that the boundary of the Shorelands Overlay Zone be amended in accordance with the staff proposal before issuance of the permit.

On appeal to the county commission by petitioners, the planning commission's approval of the proposal was again upheld. The final order was entered on April 11, 1984. The order indicates that on March 14, 1984, an ordinance revising the boundary of the Shorelands Overlay Zone as recommended by planning staff had been adopted. The order also indicates the revised boundary had been acknowledged by LCDC on March 16, 1984.

OBJECTION TO THE RECORD

Petitioners include an objection to the record in the Petition for Review. They contend it was improper for the county to include material constituting the record of the previous application, CU-83-34, in the record of CU-84-1.

Whatever the merits of the objection, we must deny it for

failure to conform to our rules of procedure. OAR 661-10-025(3)(b) requires an objection to the record to be filed within 10 days following service of the record on the person filing the objection. The objection in this instance was filed considerably after the deadline. Consequently, we will not consider it.

ASSIGNMENTS OF ERROR 1-4

These assignments of error allege procedural irregularities in the approval of the permit and the related amendment of the Shorelands Overlay Zone boundary. As explained below, we deny the allegations concerning the permit, either because we find no procedural error or because petitioners have failed to demonstrate they were prejudiced by the claimed irregularities. We deny the procedural challenge to the Shorelands Overlay Zone boundary amendment on jurisdictional grounds.

Petitioners first contend the application in CU-84-1 did not contain all the information required by the Tillamook County Land Use Ordinance. Specifically, they complain the application violated Section 6.020(1) because it did not describe the amount of property affected or the intended use.[1] The gist of petitioners' argument is that the blanks on the application form in CU-84-1 deprived them of notice of the nature and scope of the proposal.

We agree the form was not filled out completely. However, we cannot conclude this technical omission kept petitioners in

the dark about important matters. On the contrary, the record is clear that the details of the application, and the virtually indentical application in CU-83-34, were available and were publically discussed at numerous hearings before the planning commission and board of county commissioners. Petitioners, who appealed the planning commission's decision in CU-84-1 to the governing body, had ample notice of the nature and scope of the decision they were challenging. Moreover, they never objected on notice grounds during the county's hearings and have not claimed they were actually prejudiced by the procedure that was followed. Under the circumstances, we find no basis for overturning or remanding the decision. ORS 197.835(8)(a)(B); see also, Families for Responsible Government v. Marion County, 6 Or LUBA 254, 277 (1982); Pierron v. City of Eugene, 8 Or LUBA 113, 117 (1983).

In petitioners' second procedural claim, they argue applicants improperly changed the proposal in CU-83-34 during the permit hearing process. The changes, which were announced at the appeal hearing conducted by the governing body on November 2, 1983, involved the addition of three acres on the southern portion of the site, the relocation of highway access and the alteration of the layout of campsites. Petitioners say these changes required the filing of a new application pursuant to Section 6.030(2)(a) of the county land use ordinance.[2] A new application, in their view, would "...give proper notice to all persons as to the complete plans of the applicants."

Petition at 9 (citation omitted).

We reject this claim for a number of reasons. First, petitioners have cited no authority prohibiting the type of changes in question during the hearing process.[3] Significant alterations in the nature or scope of a conditional use permit request might require the filing of a new application in some circumstances, but this certainly is not such a case. The changes at issue here were incidental in nature. They did not alter the proposal as described in the application in any material way.[4]

Second, under the circumstances, petitioners cannot complain they were deprived of notice of the changes or an opportunity to comment on them before a final decision was made. As noted earlier, the hearing at which the changes were announced was not the final step in this prolonged permit proceeding. Indeed, the filing of CU-84-1 in January, 1984 gave permit opponents many additional opportunities to study the proposal and offer comment. Clearly, petitioners were not prejudiced by the procedure.[5]

In summary, we find no basis for petitioners' insistence the permit application in CU-83-34 had to be rewritten to reflect the changes announced on November 2, 1983.

The next two assignments of error concern the relationship between the challenged decision and the amendment of the Shorelands Overlay Zone boundary to exclude most of the property in question. First, petitioners allege error in the

approval by the planning commission of CU-84-1 before the boundary was amended. They allege this procedure violated Section 6.030(3) of the land use ordinance. Second, they object to the county's use of legislative rather than quasi-judicial procedures in the adoption of the boundary amendment.

We reject both claims for the reasons set forth below.

Petitioners' objection to the amendment of the Shorelands Overlay Zone boundary after the planning commission's decision in CU-84-1 cannot be sustained for two reasons. First, the final decision in this appeal was made by the Board of County Commissioners of Tillamook County, not the planning commission. The board's final order was entered one month after the boundary was amended. Under these circumstances the timing of the planning commission's action in CU-84-1 is of no consequence.

Second, we note petitioners are in error when they claim Section 6.030(3) of the land use ordinance was violated by the planning commission's action. That section reads as follows:

> "(3) Where the granting of a conditional use is contingent upon an amendment to this ordinance and an application for such amendment has been recommended for approval by the Planning Commission, the conditional use may be authorized contingent upon the necessary final action of the Board of County Commissioners in respect to the required ordinance amendment and further action on the conditional use shall not be necessary."

Petitioners' assertion is factually incorrect. The record reveals compliance with Section 6.030(3). Condition 13 of the

planning commission's decision expressly provided "approval of this request is contingent upon the board of county commissioner's approval of the proposed removal of all but approximately 2 1/2 acres of property from the Shorelands Overlay Zone." Record at 112.

Petitioners' challenge to the procedures employed by the county in amending the Shorelands Overlay Zone boundary must also be rejected. At issue in the present appeal is the final decision in CU-84-1. The county's separate decision to amend the overlay zone boundary was not appealed to this Board and is not now subject to review. ORS 197.830(7).

The first four assignments of error are denied.

FIFTH ASSIGNMENT OF ERROR

Petitioners next contend the approved facility is not permitted in the SFW-20 Zone. In support of this position they present three arguments: (1) assuming the use is classifiable as a campground, the ordinance should be read to permit publicly owned campgrounds only; this privately owned facility is prohibited; (2) allowance of a 110 unit campground on this site contravenes the purposes of the SFW-20 Zone and (3) the approved use actually is a "recreational vehicle park" under the land use ordinance and is not permitted in the SFW-20 Zone. We take up each argument below.

1. Public vs. Private Campground

Section 3.006(4) of the land use ordinance permits the following conditional uses, among others, in the SFW-20 Zone:

"(e) Community centers owned and operated by a governmental agency or a nonprofit organization;

"(f) Parks, playgrounds, hunting and fishing preserves and campgrounds and accessory facilities."

Petitioners urge us to read subsection (f) to permit campgrounds operated by governmental agencies or nonprofit organizations only. Although the ordinance does not make this distinction, petitioners contend their interpretation is justified by a reading of the ordinance in conjunction with the state law on which it is based, i.e., the statutes pertaining to exclusive farm use (EFU) zoning.

We agree state law may be relevant to the interpretation question. However, we do not read that law to support petitioners' position. Two statutes have been enacted listing campgrounds as conditionally permissible uses in EFU Zones. ORS 215.213(2)(e), which applies only to counties adopting marginal agricultural lands designations (see ORS 215.288(2)) reads as follows:

"(2) The following uses may be established in any area zoned for exclusive farm use if the use meets reasonable standards adopted by the governing body:

"(e) Community centers owned and operated by a governmental agency or a nonprofit community organization, hunting and fishing preserves, parks, playgrounds and campgrounds."

On the other hand, ORS 215.283(2)(c) and (d), which the legislature has made optional for counties not designating marginal agricultural lands, divides these uses into two parts. The statutes provide:

"(2) Subject to ORS 215.288, the following nonfarm uses may be established, subject to the approval of the governing body or its designate in any area zoned for exclusive farm use:

"(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds.

"(d) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization."

Petitioners' argument seems to be that, because ORS 215.283(2)(c) expressly allows "private parks, playgrounds, hunting and fishing preserves and campgrounds" (emphasis added), while ORS 215.213(2)(e) and the county ordinance do not refer specifically to private facilities, the local ordinance must be read to permit only campgrounds owned and operated by a governmental agency or a nonprofit community organization.

We reject this strained reading of the law. First, we read both statutes to permit private campgrounds in exclusive farm use zones. It is true ORS 215.213(2)(e) does not specifically use the word "private campground" but that fact does not alter the provision's broad scope. We find no basis in the text of the statute or in the public policy for protection of farm land to support petitioners' approach.

Second, we note the county is not obligated to refer to ORS 215.213(2)(e) as the controlling statutory law on this subject. We are advised the county has not designated marginal lands pursuant to ORS 215.247. By virtue of ORS 215.288(1), therefore, the county may apply either ORS 215.213(2)(e) or ORS 215.283(2)(c) in implementing exclusive farm use zoning.

Accordingly, petitioners' reliance on ORS 215.213(2)(e) as the sole basis for interpretation of the local ordinance is misplaced.

2. Consistency With Ordinance Purpose

Petitioners also argue the ordinance should not be interpreted to authorize the proposed facility because installation of 110 campsites on a 23 acre site would contravene the purpose of the SFW-20 Zone. That purpose is to protect and promote farm and forest uses. Section 3.006(1), Tillamook County Land Use Ordinance. Petitioners describe the campground as "...a greater density use than contemplated under the statutes for farm land." Petition at 15.

This argument must also be rejected. Neither the county ordinance nor the statutes on which it is based limit campgrounds to facilities of a certain size or density. The details concerning a specific campground proposal may well be relevant to whether the criteria for permit approval are satisfied. However, such details do not determine the threshold definitional question of whether the use is a potentially approvable "campground" or is some other, prohibited, use.

The question raised by petitioners is determined, in our view, by the relationship of the proposal to the definitions in the county's land use ordinance. The definition of "campground" reads as follows:

"Campground: A plot of ground upon which four or more

> campsites are established for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes. Such a facility may include a residential structure for the operator. Accessory uses that may be permitted include showers, laundry, a grocery, and recreation facilities that are designed for the primary purpose of serving the occupants of the campground." Section 1030, Tillamook County Land Use Ordinance.

Because petitioners' next argument specifically concerns this definition, we proceed no further with their claim the purpose clause of the ordinance should be interpreted to bar the facility.

3. Campground vs. Recreation Vehicle Park

Petitioners maintain the use in question is outside the quoted definition of "campground." They direct our attention instead to the following definition of "recreation vehicle park" in the ordinance:

> "Recreation Vehicle Park: A place where four or more recreation vehicles are located on a lot, tract or parcel of land for the purpose of either temporary or permanent habitation regardless of whether a charge is made for such accommodation. If a charge is made for accommodation, a license shall be obtained from the State of Oregon. In the case of a mix of mobile home and recreation vehicle(s) it shall be defined as a recreation vehicle park." Section 1.030, Tillamook County Land Use Ordinance.

In support of their claim the use should be classified as a recreation vehicle park instead of a campground, petitioners rely on the following facts: (1) the proposal will accommodate at least 75 recreation vehicles and is described by the applicants as a "recreational vehicle campground" and (2) the approved permit allows visitors to remain at the site up to

four months in a calendar year.

As we read the land use ordinance, accommodation of recreation vehicles does not automatically disqualify the proposed use from status as a campground. The ordinance defines "campground" as land occupied by "camping units." In turn, "camping unit" is defined as "any tent or recreational vehicle located in a campground as temporary living quarters for recreation, education or vacation purposes. Section 1.030, Tillamook County Land Use Ordinance (emphasis added).

The critical distinction between a campground and a recreation vehicle park, for purposes of this appeal, is whether occupancy of the facility is on a temporary or permanent basis. Recreational vehicles may be located in a "recreation vehicle park" for either "temporary or permanent habitation." In campgrounds, however, such vehicles may only serve as "temporary living quarters for recreation, education or vacation purposes." Section 1.030, Tillamook County Land Use Ordinance (emphasis added).

The county sought to assure the use would fall within the campground classification by limiting occupancy of any camping unit to four months within any 12 month period. See Condition No. 2, Final Order, Record at 29. Petitioners do not challenge the county's authority to impose a condition of permit approval as a means of classifying the use. Rather, they insist the four month limitation cannot be equated with temporary use. The petition states:

"The approved conditional use provides the parties may stay up to four months in any one calendar year. This clearly reflects a recreation vehicle park, not a tent campground." Petition at 16.

We disagree. The generally-worded ordinance limitation at issue ("temporary living quarters") leaves room for interpretation. We uphold reasonable interpretors by local decisionmakers in cases of this sort. Alluis v. Marion County, 98, 103 (1982); affirmed, 64 Or App 478, 668 P2d 1242 (1983); Miller v. City Council of Grants Pass, 39 Or App 589, 592 P2d 1088 (1979). This case warrants application of the principle recognized in the cited decisions. Websters dictionary defines "temporary" as "Lasting for a time only; existing or continuing for a limited time; not permanent; ephemeral, transitory." Websters New International Dictionary, Second Edition (1950). Petitioners offer no reason why the county's interpretation of the term is unreasonable. We hold that the use is question, as limited by the condition on maximum length of occupancy, qualifies as a campground under the county's land use ordinance.

ASSIGNMENT OF ERROR 6

Petitioners next object to the county's failure to evaluate the proposal under the general approval criteria for conditional use permits in Section 6.040 of the land use ordinance. The county determined the criteria in Section 3.006(5) governed the application, and that the general criteria in Section 6.040 were inapplicable, pursuant to a zoning provision authorizing that approach where the use would

not have a "significant impact on nonresurce-related (sic) development in the immediate area." Section 3.006(4), Tillamook County Land Use Ordinance.

Petitioners' challenge to the county's determination under Section 3.006(4) consists of two arguments: (1) certain evidence in the record demonstrates the use will have significant impact on non-resource development and (2) the findings do not reflect consideration of certain types of impacts the use will allegedly have on nearby development. We reject both arguments.

As a general rule, the mere existence of evidence which supports a position ultimately rejected by decisionmakers is not grounds for reversal or remand of a land use decision. As stated in Homebuilders of Metropolitan Portland v. Metropolitan Service District, 54 Or App 60, 63, 633 P2d 320 (1981):

> "Where there is conflicting evidence based upon differing data, but any of the data is such that a reasonable person might accept it, a conclusion based upon a choice of any of that data is, by definition, supported by substantial evidence."

Petitioners do not raise specific challenges to the findings actually made by the county[6] under Section 3.006(4) or claim there is no evidentiary support for those findings. Accordingly, we proceed no further with respect to their first argument.

Apart from their complaint the county did not give enough weight to evidence of negative impact under Section 3.006(4), petitioners also fault the county for not "investigating" the

impact of the approved campground on the following:

"(1) Parking at the wayside in Neskowin;

"(2) Highway congestion;

"(3) Problems with people walking along Highway 101 to the wayside;

"(4) Other non-resource-related developments such as groceries, laundromats or other facilities in the Neskowin Area; and

"(5) Other beach access." Petition at 18.

We read this aspect of the Petition to claim the county failed to make certain required findings in conjunction with its conclusion the use would not have "significant impact on non-resource-related development in the immediate area." Record at 24. However, petitioners do not explain why the "significant impact" standard requires findings on the points they raise. Nor is it obvious to us that such findings had to be made.

As is customary in zoning practice, the standard in issue (significant impact on non-resource-related development in the immediate area) is worded in highly general terms. As a result, the number of theoretically relevant facts or circumstances in a given case is considerable, if not infinite. We believe it is unreasonable and unfair to insist local decisionmakers attempt to "cover the waterfront"[7] in making findings under such standards. As the Court of Appeals stated in an analogous case:

"Reduced to essentials, petitioners' second and third contentions presuppose that an ultimate fact cannot be

proved or found absent evidence bearing on each and every subissue which might be relevant to the fact. We reject that presupposition." (Emphasis in original). Menges v. Board of County Commissioners of Jackson County, 44 Or App 603, 607, (1980), modified, 45 Or App 797, 609 P2d 847 (1980); affirmed, 29 Or 251, 621 P2d 562 (1980).[8]

We believe a reasonableness test should guide our review of challenges to the scope of findings under generally-worded standards. The test is similar to the test for substantial evidence in land use and related contested cases. Christian Retreat Center v. Board of Commissioners of Washington County, 28 Or App 673, 560 P2d 1100 (1977); Braidwood v. City of Portland, 24 Or App 477, 546 P2d 777 (1976). That is, we believe findings are adequate in scope if they address facts and circumstances a reasonable person would take into account in concluding a generally-worded standard is satisfied. See Vincent v. Benton County, 5 Or LUBA 266, 274 (1982).[9]

Importantly, under this approach, the burden is on the challenger of the adopted findings to demonstrate why a reasonable person could not reach the applicable conclusion of law without considering the cited fact or circumstance. Petitioners have not carried this burden. The county's findings concerning the standard in question are extensive, focusing principally on the impact of the proposed use on neighboring residential uses. Record at 24-27. Petitioners have not demonstrated why the county could not reach the conclusion it reached under Section 3.006(4) without findings covering the listed points.[10]

Based on the foregoing, we deny the sixth assignment of error.

SEVENTH ASSIGNMENT OF ERROR

Petitioners' final claim is that the challenged decision fails to satisfy some of the approval criteria in Section 3.006(5) of the county's land use ordinance. We consider each claim of error below.

1. Consistency With Farm Use (Section 3.006(5)(a)

Section 3.006(5)(a) of the land use ordinance sets forth the following criterion:

> "(a) The use is consistent with forest and farm uses and with the intent and purposes set forth in the Oregon Forest Practices Act."

The county's findings in connection with Section 3.006(5)(a) stress the following points: (1) The exclusive farm use statutes, on which the SFW-20 Zone is based, authorize approval of campgrounds on agricultural land; the county has implemented the statutes by subjecting this facility to conditional use review, (2) the land is well situated to serve as a buffer between resource and non-resource uses, and (3) farming in the nearby area is limited to "production of a few beef"; thus, "important agricultural lands" will not be affected. Record at 15-17.

Petitioners advance a threefold challenge to the county's findings. First, they reiterate the contention the facility is a "recreational vehicle park," a use not permitted in the SFW-20 Zone. We have previously rejected this contention and

find no reason to discuss it further. See pages 14-15, supra.

The second argument is that the county should have denied the permit under this criterion because of evidence the land in question is suitable for agricultural use. However, we do not read the cited criterion to prohibit a campground on agricultural land. To the contrary, the SFW-20 Zone expressly authorizes approval of such a use, as do parallel provisions in state law pertaining to exclusive farm use zoning. See ORS 215.213(2)(e) and 215.283(2)(c). Because petitioners' construction of Section 3.006(5)(a) would render the provision allowing campgrounds in the SFW-20 a nullity, we decline to accept that construction. See J.R. Golf Services v. Linn County, 62 Or App 360, 363, 661 P2d 91 (1983).

Petitioners' third argument under Section 3.006(5)(a) is that the decision contravenes the purpose of the SFW-20 Zone (to protect and promote farm use). See Section 3.006(1), Tillamook County Land Use Ordinance. However, this argument shares the flaw of the preceding argument. We have already noted the use in question is expressly authorized in the SFW-20 Zone as a conditional use. This authorization reflects a legislative determination that the purpose of the zone can be carried out by approval of a campground, notwithstanding the fact that land suitable for farm use is involved. The purpose clause of the zone therefore cannot be relied on as a bar to the decision challenged here. See J.R. Golf Services v. Linn County, supra.

2. Interference With Farm Uses on Adjacent or Nearby Lands (Section 3.006(5)(b)

Section 3.006(5)(b) of the land use ordinance sets forth the following approval criterion:

> "(b) The use will not interfere with accepted forest management practices or farm use on adjacent or nearby lands devoted to forest or farm use."

The county based its determination this criterion was satisfied on findings that (1) nearby commercial forest lands are separated from the site by Highway 101 and a stream, (2) farming within five miles of the land in question is limited to the production of a few beef and (3) a representative of the Soil and Water Conservation District Board stated the proposed use would have "no adverse affect on important agricultural lands in Tillamook County." Findings 11 and 13. Record at 10-11; Record at 18.

Petitioners do not explain why the findings are deficient. Nor do they present any other statutory basis for remand or reversal of the decision under Section 3.006(5)(b). Instead, they simply assert "the property is adjacent to SFW-20 property and its commercialization shall certainly have an effect thereon." Petition at 21.

We must reject this challenge. Petitioners seem to invite us to conduct a general review of the record in order to reach a conclusion under Section 3.006(5)(b) that differs from the county's conclusion. This we will not do. One who challenges a land use decision is obligated to do more than simply assert

the decisionmakers reached the wrong conclusion. Specific grounds of error must be set forth and explained. ORS 197.835; Deschutes Development Co. v. Deschutes County, 5 Or LUBA 218, 220 (1982).

Apart from petitioners' failure to set forth a legal theory in support of this assignment of error, we note they also misconstrue the focus of Section 3.006(5)(b). As the county points out, the provision directs attention to the impact of the proposal on adjacent farm uses. In contrast, petitioners allude only to the SFW-20 zoning of adjacent farm property. Thus, their assertion the approved campground "will certainly have an effect" on lands zoned SFW-20, is both overly vague and off the mark.

3. Alteration of the Stability of the Land Use Pattern (Section 3.006(5)(c)

Section 3.006(5)(c) sets forth the following approval criterion:

"(c) The use will not materially alter the stability of the overall land use pattern of the area."

Petitioners' first attack under this provision is similar to their attack under Section 3.006(5)(b). They assert the county incorrectly concluded the criterion was satisfied, but they do not challenge the adequacy of the findings or the evidence relied on to support them. Instead, petitioners contend (1) the campground is inconsistent with the pattern of tourist-oriented recreation in the area because it is not a "fine service resort or indoor entertainment center" of the

type the comprehensive plan encourages and (2) the failure of the proposal to afford direct beach access will "certainly affect the stability of the overall land use pattern, including highway congestion and use." Petition at 22.

We do not sustain these challenges. The plan's general encouragement of recreation opportunities in Tillamook County has, at most, an indirect connection to the criterion in question. The criterion directs attention to the impact of the proposal on the stability of the overall land use pattern in the area, not to the relationship of the proposal to planning goals. Petitioners have not sufficiently explained why the plan policy is relevant under the provision in question.

Even if the plan has some relevance under Section 3.006(5)(c), the county reminds us petitioners have cited only general findings in the plan, while the final order discusses plan policy. See Record at 26. We agree the plan policy concerning recreational opportunities, to the extent it is relevant at all to the issue here, leaves ample room for approval of the use in question.[11]

Finally, with respect to beach access, petitioners again fail to present a basis on which this Board can grant relief. Their unexplained assertion that failure to provide direct beach access from the site will "certainly affect the stability of the overall land use pattern," Petition at 22, merely expresses disagreement with the weight given the facts by the governing body. In essence, we are invited by petitioners to

give greater weight than did the county to petitioners' fears of trespass and related problems.[12] As noted earlier, however, our statutory review function is not so extensive. Although we may be sympathetic to petitioners' concerns, this is not a basis for reversing or remanding the governing body's decision under ORS 197.835.

Based on the foregoing, we deny the seventh assignment of error.[13]

The decision in CU-84-1 is affirmed.

FOOTNOTES

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[1] Section 6.020(1) reads:

"(1) A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the Planning Department, using forms prescribed pursuant to this section. The Planning Department may require other drawings or information necessary for a complete understanding of the proposed use and its relationship to surrounding properties. An application will not be considered complete for purposes of any time limitations until all requested information is received by the Planning Department. An application will not be accepted until all fees are paid according to the provisions of Section 10.050."

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[2] Section 6.030(2)(a)(b) and (c) states:

"(2) A conditional use may be enlarged or altered pursuant to the following:

"(a) Major alterations of a conditional use, including changes, alterations or deletion of any conditions imposed shall be processed as a new conditional use application, in accordance with the procedure set forth in Section 6.020;

"(b) Minor alterations of a conditional use may be approved by the Planning Director in accordance with the procedures used for authorizing a building permit if requested prior to the issuance of building permits for the conditional use. Minor alterations are those changes which may affect the siting and dimensions of structural and other improvements relating to the conditional use, and may include small changes in the use itself. Any change which would affect the basic type, character, arrangement or intent of the conditional use originally approved shall be considered a

major alteration; and

"(c) Enlargement or alteration of one or two family dwelling, mobile home or recreational vehicle authorized or existing as a conditional use under this ordinance shall not require further authorization if all setbacks, standards and criteria of the zone in which the use is located are met."

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3 Section 6.030(2) is not directly applicable to this circumstance. It governs alterations of conditional uses for which permits have already been granted. The present case involves modification of a permit proposal during the review process.

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4 We note the proposal in CU-83-84 specifically indicated the possibility of alternative site access on the southern end of the property. Record at 353. Also, the application and public notices of hearings concerning it described the property as "approximately" 20 acres. Accordingly, the changes objected to by petitioners might well have been expected from the outset by those interested in the proposal.

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5 Indeed, petitioners have not alleged they were prejudiced by the alleged procedural irregularity or that they objected to it at the county hearing. These circumstances alone warrant rejection of their claim. Pierron v. City of Eugene, 8 Or LUBA 113, 117 (1983).

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6 Petitioners contend, without citations to the record or further explanation, that the county's decision under Section 3.006(4) "...is directly contrary to:

"(1) Testimony and written correspondence in the file;

"(2) Topography map which shows that there is no wooded ridge between the proposed recreational vehicle park and residences to the north; and

"(3) Testimony, oral and written, as to problems with trespassers across private lands."
Petition at 18.

Arguably, the second contention can be read to challenge a specific finding by the county under Section 3.006(4). That finding indicates the nearby South Beach residential area is visually separated from the site by a wooded ridge. Finding No. 19, Record at 12. The finding is clearly a component of the county's conclusion the proposed use will not have significant impact on non-resource uses in the immediate area. Record at 24-27.

Petitioners assert the record includes a topographical map showing there is no wooded ridge separating the proposed use from the South Beach area. However, petitioners do not provide us with a specific reference to the map on which they rely. We find two topographical maps in the record, neither of which provides sufficient detail to enable us to determine the accuracy of petitioners' contention. On the other hand, there is substantial evidence in the record in support of the county's finding. Record at 102. Under the circumstances, we reject petitioners' challenge.

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[7] We intend no pun by use of this phrase in a case involving a coastal county.

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[8] In affirming the Court of Appeals in Menges, we note the Supreme Court did not rely on the point quoted in our opinion. Instead, the high court found it significant that petitioners first raised the need for findings on appeal to the Court of Appeals. This was held to be too late. 290 Or at 263. We continue to believe the point made by the lower appellate court has validity.

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[9] Vincent involved a permit approval standard requiring "compatibility" with surrounding uses. We held that if compatibility was to be measured in objective terms, the decisionmakers would be obligated to determine whether "a reasonable person would conclude a proposed use is compatible with surrounding land uses." 5 Or LUBA at 265. Implicit in that statement was the principle we recognize here, i.e., the findings are adequate if they discuss facts and circumstances a reasonable person would consider in reaching the necessary conclusion.

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[10] As a general rule, we believe it is incumbent on the

challengers in such circumstances to show the allegedly critical issue was raised at the local level and that substantial evidence supports the challenger's position. City of Wood Village v. Portland Metropolitan Boundary Commission, 48 Or App 79, 87, 616 P2d 528 (1980). Neither requirement has been met in this case.

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11 Goal 8 of the comprehensive plan is entitled "Recreational Needs Policies." The policies are as follows:

"Recreational Development in General

"(1) A modest amount of public outdoor recreational development shall be encouraged in Tillamook County.

"(2) Community service agencies shall make every effort to plan well in advance for the seasonal impacts of a growing population of recreationists.

"(3) Imaginative efforts shall be directed towards the development of a more diversified tourist industry.

"(a) Efforts shall be made to attract additional resort development of the type which encourages greater spending by visitors.

"(b) Tourist serving facilities allowing year-round use shall be developed and advertised.

"(4) Further land acquisitions in the County by public agencies, for the purpose of park development shall be generally discouraged.

"(5) The County shall discourage the conversion of prime agricultural land into developed recreation areas.

"(6) Community action programs, in cooperation with the school systems, shall be established to deal with the need for youth recreation centers. Similar programs shall be established for the provision or improvement of indoor recreation facilities for general public use.

"(7) The county shall consider establishing an

with various agencies and organizations in an effort to secure better recreation programs for county residents during months of increment weather.

"(8) Tillamook County shall establish priorities for future improvement or development of County-operated recreation facilities.

"(9) Equitable in-lieu-of tax payments shall be sought by the County where appropriate in any further land acquisitions proposed by other public agencies.

"(10) Careful coordination of recreation development plans between local, state, federal, and private agencies shall be encouraged."

Petitioners also take issue with the county's finding there are no "other public full service campgrounds in the Neskowin area." Record at 27. Petitioners claim the record indicates the existence of full service campgrounds south of Neskowin, in nearby Lincoln County. Petition at 22. Assuming, arguendo, the dispute over this application of the plan policy is relevant under Section 3.006(5)(a), we agree with the county the plan only generally concerns the need for recreational uses in Tillamook County. We do not read Goal 8 of the plan to establish a permit approval criterion which bars approval of new recreational facilities if similar facilities exist in nearby jurisdictions. The text of the policy simply does not support such a reading.

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[12] The county made findings with respect to the threats presented to adjacent private lands by the unavailability of direct beach access from the campground, although the findings were not made in connection with Section 3.006(5)(c). Record at 24-25. The findings expressly give approval to the methods by which applicants plan to discourage trespass. They also "reject the suggestion, absent any evidence other than speculation, that campground users are not law-abiding citizens." Record at 25. Petitioners have presented no reason why these findings are inadequate.

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[13] Petitioners conclude the seventh assignment of error with a list of six "issues or concerns" they claim the county failed to adequately address. Petition at 22-23. However, because petitioners do not explain why these issues or concerns had to

be addressed under the ordinance, or why the county's findings in relation to them are inadequate, we are not in a position to respond.