BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

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| JOHN McGINTY,<br><br>Petitioner,<br><br>vs.<br><br>CURRY COUNTY,<br><br>Respondent,<br><br>and<br><br>CITY OF BROOKINGS,<br><br>Intervenor-Respondent. | LUBA No. 88-085<br><br>FINAL OPINION<br>AND ORDER |

Appeal from City of Brookings.

John McGinty, Brookings, filed the petition for review and argued on his own behalf.

No appearance by respondent Curry County.

John C. Babin, Brookings, filed a response brief and argued on behalf of intervenor-respondent. With him on the brief was Babin and Keusink.

HOLSTUN, Chief Referee; SHERTON, Referee, participated in the decision.

REMANDED 05/26/89

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

Opinion by Holstun.

NATURE OF THE DECISION

Petitioner appeals a county decision approving division of an approximately 1500 acre tract to create a new 116 acre parcel.

MOTION TO INTERVENE

The City of Brookings moves to intervene in this proceeding on the side of respondent. There is no opposition to the motion, and it is allowed.

STANDING

In its brief, intervenor challenges petitioner's standing and requests an evidentiary hearing to contest the facts petitioner alleges to establish standing. Intervenor earlier filed a motion to the same effect and requested depositions. On March 20, 1989, we issued an order denying the motion, and we reject intervenor's challenges in its brief to petitioner's standing and its request for an evidentiary hearing for the reasons stated in our March 20, 1989 order.

FACTS

The 1500 acre tract from which the 116 acre parcel was divided is designated Forestry-Grazing in the Curry County Comprehensive Plan (plan). The property is zoned Forestry-Grazing (F-G) by the Curry County Zoning Ordinance (CCZO). The F-G zoning designation is applied to property with mixed agricultural and forest uses. The new 116 acre parcel includes the portion of the 1500 acre tract historically used

for grazing purposes. The remainder of the 1500 acres is in forest use.

On March 20, 1987, intervenor submitted an application for a division of the 1500 acre tract to create a nonresource parcel. The application stated the requested divison was to allow the property to be deeded to intervenor "for the eventual purpose of developing an 18 hole golf course and ancillary uses thereon." Record 134.

At an April 2, 1987 county planning commission meeting objections were raised concerning the application. On April 17, 1987, intervenor submitted an amended application for a division of land to create a farm parcel.[1] Record 168. In that application, intervenor stated the nature of the proposal was "[t]o authorize division of a farm unit to be deeded to the city of Brookings. Residual ownership of South Coast Lumber Company to be retained in forest management." Id.

The amended application was considered at a May 7, 1987 planning commission hearing, but no final decision was entered by the planning commission. On November 27, 1987, deeds conveying the 116 acres sought to be divided from South Coast Lumber Company to intervenor were recorded. In December, 1987, intervenor commenced condemnation proceedings against petitioner. In a December 18, 1987 letter to John Company Manufacturing, Inc., owned by petitioner, intervenor offered to purchase petitioner's interest in a portion of the property to be included in the 116 acre parcel. In that letter, intervenor

stated:

> "The property is to be used for the construction, development, and use of a municipal golf course located on and adjacent to the described property. The acquisition of the property is necessary for the construction and development of the course and for the proper implementation of land use regulations of the city and state with regard to the golf course property." Record 127.

In a complaint subsequently filed in condemnation proceedings against petitioner and others, intervenor alleged in part:

> "Plaintiff is authorized to construct and maintain parks, golf courses, and related facilities for the recreation of the citizens of the City of Brookings and the construction of a golf course in the area of Jack's Creek, Curry County, Oregon would serve such purpose. * * *
>
> "The acquisition of certain lands for the construction of the Jack's Creek Golf Course is necessary in the interest of the general public." Record 128.

On May 12, 1988, the county planning commission approved the requested farm division. That decision was appealed by petitioner, and on July 11, 1988, the board of commissioners conducted a hearing on the appeal. On July 18, 1988, the board of commissioners denied petitioner's appeal, and that decision became final when the board of commissioners adopted its written decision on September 16, 1988. This appeal followed.

FIRST AND SECOND ASSIGNMENTS OF ERROR

In his first and second assignments of error, petitioner alleges (1) the county's determination that the intervenor intends to use the property for farm purposes is not supported by substantial evidence in the record, and (2) the county erred by applying the land division standards applicable to farm

divisions in the F-G zone, rather than the standards applicable to nonfarm and nonforest divisions.[2]

Curry County Land Division Ordinance (CCLDO) Section 1.0020 provides in part:

> "(1) Comprehensive Plan. All land divisions shall be in conformity with the County Comprehensive Plan.
>
> "(2) County Zoning. All land divisions shall conform to all applicable requirements of the County Zoning Ordinance.
>
> "* * * * *"

The F-G zone provides for "Uses Permitted Outright" and for "Conditional Uses." CCZO Sections 2.0110; 2.0120. "The management of livestock under range or grazing ranch operations, including structures accessory to these uses" is a use permitted outright in the F-G zone. CCZO Section 2.0110(1). "Golf courses" are a conditonal use. CCZO Section 2.0120(9).

The F-G zone also regulates divisions of land in the F-G zone and establishes criteria for such divisions. CCZO Section 2.0140 provides in part:

> "* * * * *
>
> "A determination of the principal resource use of the land shall be done pursuant to Section 4.5.1 of the Curry County Comprehensive Plan.
>
> "A. Requirements for farm parcels:
>
> "(1) Any proposed parcel intended for farm use must be appropriate to the continuation of the existing commercial agricultural enterprises of the particular area; and
>
> "(2) This requirement for being appropriate to

the continuation of existing commercial agricultural enterprise of the area shall be based on an evaluation utilizing the following criteria:

"Commercial farm determination - when determining whether an existing or proposed parcel is a commercial farm enterprise the following factors shall be considered: 1) soil productivity; 2) drainage; 3) terrain; 4) special soil or land conditions; 5) availability of water; 6) type and acreage of crops grown; 7) crop yields; 8) number and type of livestock; 9) processing and marketing practices; 10) the amount of land needed to constitute a commercial farm unit; and 11) is consistent with Oregon Revised Statutes Chapter 215 (Agricultural Lands Use Section).

"The evaluation shall include the subject property and commercial agricultural enterprises located in the same zone * * *; and

"(3) The parcel shall meet the requirements of ORS 215.243; and

"(4) * * * [A] resource managment plan for the proposed commercial farm use shall be provided pursuant to Section 4.5.2 of the Curry County Comprehensive Plan. The Planning Commission shall evaluate the resource management plan to determine if the proposed parcel meets the criteria in (1), (2), and (3) above.

"B. Requirements for forest parcels:

"(1) Any proposed parcel intended for forest use must be shown to be adequate to support the specific type of forest use proposed, or other forest use as defined in the Comprehensive Plan.

"(2) * * * Parcels shall be large enough to ensure the long term management of the parcel for timber production or other forest uses. * * *

"* * * * *

"D. Requirements for nonfarm and nonforest parcels;

"(1) If the proposed parcel is intended for a nonfarm or nonforest use, it shall only be as large as necessary to accommodate the use, and any buffer area needed to ensure compatibility with adjacent farm or forest uses; and shall be situated on generally unsuitable land for farm or forest use considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of parcel;

"* * * * *" (Emphases added.)

Plan Section 4.5.1, referenced in CCZO Section 2.0140, quoted supra, provides guidance in determining whether a farm or forest use is proposed, but provides no assistance in determining whether a nonfarm or nonforest use is proposed. Under the zoning scheme adopted by the county, a threshold determination concerning the nature of the use intended is required. This determination is particularly important in that it determines which of three very different sets of approval criteria apply.[3]

In Waite v. Marion County, ___ Or LUBA ___ (LUBA No. 87-069, December 23, 1987), we discussed the threshold determination that must be made under such standards as follows:

"The county appears to argue that when applicants seek a lot line adjustment in an EFU zone for farm parcels, the question whether the uses they intend are really 'farm uses' need not be answered. That is, if the proposed lot line adjustment can be approved by applying the standards applicable to creation of farm parcels, the application may be approved irrespective of the applicants' subjective intent. The applicants may then put the resulting parcels to any farm use allowed in the EFU zone. If opponents, such as petitioners, believe the use they actually implement is not a use allowed in the EFU zone, they may

challenge that action under ORS 215.185.

"We think the county's argument goes too far. The question whether the proposed use is a farm use is at least relevant to the threshold determination whether it is the standards [applicable to farm or to nonfarm divisions] which apply. * * *" Id., slip op at 11-12.

Although we can certainly appreciate that there may be fact situations where it is difficult to determine what use is "intended" for a proposed parcel, we need only determine in this case whether the county's decision concerning the use intended by intervenor is correct and supported by the record. The county found:

"A. The applicant has submitted findings addressing standards for creation of a farm parcel.

"B. The intent of the Curry County Zoning Ordinance is for the applicant to make a determination regarding what the intended use of the parcel is to be and then make application under the appropriate provisions for division of the land (i.e., farm, forest or nonresource parcel use).

"C. In this case the applicant has submitted findings stating the intended use of the proposed parcel is a farm parcel so that the Board of Commissioners can make a proper determination under the appropriate standards of the ordinance.

"D. Since the intended use of the proposed parcel is for farm use, staff has identified the following regarding the findings provided by the applicant and the requirements set forth in the Zoning Ordinance Standards:

"* * * * *" Record 9-10.

In adopting the above-quoted findings, the county purports to rely on intervenor's farm management plan dated May 3, 1988. The farm management plan states in part:

"The City of Brookings intends to continue the

existing historical use of the subject property in the same manner as has South Coast Lumber Company for an extended period of time. The city will continue to research, investigate and consider public uses for the property, including permission to construct and operate a public golf course in the future. Current plans anticipate no immediate change of use.

"The farm is managed and secured by a resident caretaker. The situation will continue by lease as has been the practice for many years. Farm activity will be limited to grazing of cattle, boarding of horses and selective thinning of hardwood forests to provide improved management." Record 80.

Intervenor argues this farm management plan expresses an intent on the part of the intervenor to continue grazing uses on the property for "an extended period of time."[4] On the other hand, petitioner cites evidence in the record, some of which is discussed in the statement of facts, supra, which petitioner claims is sufficient to demonstrate that the above-quoted county findings are not supported by substantial evidence in the whole record. Younger v. City of Portland, 305 Or 346, 752 P2d 262 (1988).

On March 28, 1988, intervenor wrote to the county and explained:

"* * * As you are aware, the County Planning Commission at its May 7, 1987, meeting, was not able to render a decision and continued the above referenced request for an unspecified time period. This was done primarily from the confusion that arose from the dual staff report comparing the first request filed for a division of resource land for non-resource use against the amended application filed seeking approval for a division of resource land for resource use (segregating the existing farm land area from the forest land area ownership of South Coast Lumber Company). The Commission felt that, with additional findings, the City would have sufficient justification to revert back to the original application for

division of resource land for non-resource use (golf course) provided a conditional use permit application accompanied the reactivation of the original land division request.

"The problem that surfaced thereafter had to do with the language of the County zoning ordinance pertaining to the criteria that must be met in order for a division of resource land for non-resource use in the Forestry-Grazing (F-G) zone to be authorized. It states that a finding must be made that the non-farm and/or non-forest parcels '. . . shall be situated on generally unsuitable land for farm or forest use . . .' (emphasis added). Obviously, the City is not in any position to suggest that the 117 acre farm upon which it intends to develop a golf course, is unsuitable farm land, nor did the State Legislature that allowed golf courses on Exclusive Farm Use lands as conditional uses intend that such a finding has to be made. The very fact that it's farm land makes it ideally suited for a golf course and a course could not be realistically laid out on "unsuitable" lands.

"Due to this problem in the County's zoning ordinance, the City administrative staff and DLCD staff urged the County staff to initiate an amendment to rectify this inconsistency of the County's zoning regulations against the State statutes. The City felt that to proceed under the present language would be indefensible, that such a finding would be unjustifiable and unfounded, and that a successful appeal could probably be taken to LUBA.

"* * * * *

"* * * the City of Brookings and South Coast Lumber Company respectfully request that the Curry County Planning Commission reconsider at its earliest possible meeting date, the request for division of resource land for resource use (segregate the farm land area from the forest land). It is the City's position that more than adequate evidence has been submitted into the record to substantiate such division in that the existing farm activity will continue as it has been historically conducted on the premises unless it is felt by County planning staff that additional findings and/or information is needed.

"Following the division, the City will then forthwith apply for rezoning from Forestry-Grazing to Exclusive Farm for the subject parcel divided from the parent

and concurrently file a request for a conditional use permit to allow for a golf course to be developed on the subject property." (Emphasis added.) Record 85-87.

Petitioner also identifies other evidence in the record which he contends is contrary to the county's findings. Specifically, petitioner points to an undated newspaper article that followed the planning commission's May 12, 1988 decision approving the requested division, which states:

> "The city of Brookings will ask private contractors for proposals to develop and run a golf course on its Jack Creek property, * * *.
>
> "The Curry County Planning Commission gave the city permission May 12 to divide Forestry Grazing land in the area for farm use. The city now plans to request a zone change and a conditional use permit to develop the land, according to City Manager Roy Rainey.
>
> "The city council informally directed Rainey to advertise for proposals during a work session Thursday, May 26. Rainey said he expected to begin receiving proposals by July or August.
>
> "The city likely will ask a privated [sic] developer to build and operate a public golf course that it would lease for 20 to 25 years, Rainey said. The lease would require that the golf course be maintained to specific standards and that it be left in good condition at the end of the lease, he said.
>
> "* * * * *
>
> "In the meantime, the city will request hearings before the county planning commission before the end of the summer, Rainey said. The city wants to change the zoning to Exclusive Farm Use (EFU), which would allow a golf course as a conditional use. A conditional use permit would be required before construction could begin.
>
> "Obtaining permits could be complicated by an appeal of the county planning commission action filed Friday, May 27. John McGinty of Harbor filed the appeal. The city recently condemned a small parcel owned by

McGinty which adjoined the 116 acres the city wants to develop for the golf course.

"* * * * *

"County commissioners, who will hear the appeal, have not yet set a date for the hearing." Record 98.

Intervenor does not dispute the accuracy of the above-quoted letter and article. Instead, intervenor argues the county cannot force it to apply for a conditional use permit for a golf course if it does not want to. Intervenor's Brief 5. While intervenor is correct, we believe this argument misses the point. The county cannot ignore the evidence in the record in this proceeding that the intervenor intends to use the subject property for a golf course. The evidence is clear, and undisputed, that intervenor intends to use the property for a golf course, not farm use. Because it is clear that intervenor intends to use the property for a golf course, it may not avoid the standards in the CCZO for divisions of land creating nonfarm and nonforest parcels by now saying it will not convert the property to a golf course for some unspecified period and will continue to farm the property in the interim. If the intervenor and the county believe the CCZO standards that must be met to approve the requested land division for a golf course cannot be met, the appropriate course is to rezone the property, amend the CCZO, or both.

We agree with petitioner that the county's finding that the intended use of the property is for farm use is not supported by substantial evidence in the record. ORS 197.835(8)(a)(C).

That finding is the sole basis for the county's erroneous conclusion that the applicable approval standards for the proposed division are contained in CCZO Section 2.0140(A), rather than CCZO Section 2.0140(D). The county, therefore, "improperly construed the applicable law." ORS 197.835(8)(a)(D).[5]

Finally, petitioner also assigns as error the board of commissioners' acceptance of a partial transcript of a planning commission hearing conerning the subject land divison.

During the board of commissioners' hearing on July 11, 1988, the board of commissioners rejected intervenor's offer of a partial transcript of the planning commission hearing that led to the planning commission's May 12, 1988 decision approving the land division. The board of commissioners refused to accept the partial transcript because the board of commissioners' hearing was a de novo hearing, and apparently it is the board of commissioners' general practice in such hearings not to allow submittal of transcripts of the planning commission's hearing. However, at a later point in the board of commissioners' hearing, intervenor offered the partial transcript as rebuttal to evidence submitted by petitioner, and it was accepted.

Intervenor argues that the procedures adopted by the board of commissioners for board hearings on land use matters expressly provide that the board of commissioners may allow rebuttal evidence:

"Rebuttal Evidence. Allow the proponent to offer rebuttal evidence and testimony, and the opponents to respond to such additional statements. The scope and extent of rebuttal shall be determined by the presiding officer." Record 175.

Petitioner does not argue that he was not allowed to respond to the rebuttal evidence submitted by intervenor. Petitioner argues he was not allowed to cross-examine the planning commission member whose statements were included in the partial transcript. However, petitioner neither cites any requirement under the board of county commissioners' procedures that opponents be afforded a right of cross-examination in these circumstances, nor establishes why he was thereby prejudiced in exercising his right to respond to rebuttal. See Consolidated Rock Products, Inc. v. Clackamas County, ___ Or LUBA ___ (LUBA No. 88-090, April 10, 1989) slip op 7-9; Mason v. Linn County, 13 Or LUBA 1, aff'd in part, rev'd in part on other grounds, sub nom Mason v. Mountain River Estates, 73 Or App 334, 698 P2d 529, rev den 299 Or 314 (1985).

We find no error in the board of commissioners' acceptance of the partial transcript.

The first and second assignments of error are sustained in part. This requires that the county's decision be remanded.

THIRD ASSIGNMENT OF ERROR

Petitioner alleges the county's decision violates ORS 215.243(1)-(3) and CCZO Section 2.0140(A). We address petitioner's allegations separately below.[6]

/////

A. ORS 215.243

Under CCZO Section 2.0140.(A)(3), quoted supra, the county was required to find the land division "meets the requirement of ORS 215.243." ORS 215.243 provides in part:

"The Legislative Assembly finds and declares that:

"(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

"(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

"(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in cost of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

"* * * * *"

Petitioner argues the record lacks substantial evidence to support a county decision that the subject land division will maintain agricultural land in large blocks or prevent expansion of urban development into rural areas, as required by ORS 215.243. According to petitioner, the evidence in the record indicates that the subject parcel was created to allow the intervenor almost immediately to convert the property from agricultural use to a golf course, and thus the proposal is

inconsistent with ORS 215.243.

Intervenor responds that the farm management plan shows ORS 215.243 is satisfied. The cited sections of the farm management plan rely entirely on the assumption, stated in the farm management plan, that intervenor intends to continue the historical farm use of the property "for an extended period of time." Record 11. Because we conclude under the first and second assignments of error that the evidence in the record does not support a finding of such an intent, we agree with petitioner that the county failed to demonstrate that the proposal is consistent with ORS 215.243.

This subassignment of error is sustained.

B. CCZO Section 2.0140(A)

As far as we can tell, petitioner contends the farm managment plan and supplemental findings (Record 11-15), adopted as part of the county's findings, fail to address or comply with the requirements of CCZO Section 2.0140(A)(1)-(4)[7] and plan Section 4.5.2. A resource managment plan pursuant to plan Section 4.5.2 is required by CCZO Section 2.0140(A)(4). Plan Section 4.5.2 specifies information that must be included in the resource management plan.

The findings petitioner attacks address a number of the factors that are listed in CCZO 2.0140(A)(2), and the farm management plan appears to include the information specified in plan Section 4.5.2. We are unable to discern from petitioner's argument the basis for his contention that the findings fail to

demonstrate compliance with the standards in CCZO Section 2.0140(A). Dougherty v. Tillamook County, 12 Or LUBA 20, 33 (1984).[8]

This subassignment of error is denied.

The third assignment of error is sustained in part.

FOURTH ASSIGNMENT OF ERROR

Petitioner contends the county's decision violates two provisions of Ordinance 78-13, an ordinance which establishes procedures for board of county commissioners hearings on land use matters. The relevant ordinance provisions are as follows:

"Section 4. Burden of Proof.

"* * * * *

"B. The following criteria and factors are deemed relevant and material and shall be considered by the board in reaching its decision on a proposal:

"1. Conformance with the comprehensive plan and where appropriate, county zoning ordinance;

"2. The public need for the proposal;

"3. How the public need will be best served by changing the permissible use of the property concerned as compared with other available property;

"* * * * *" Record 172.

Petitioner contends that its arguments under the first and second assignments of error demonstrated the subject division does not comply with the plan or CCZO and, therefore, violates Section 4(B)(1). Section 4(B)(1) appears to impose a requirement that the board of commissioners' land use decisions comply with the CCZO. Because we determine, earlier in this

opinion, that sections of the CCZO were violated by the decision, we sustain this portion of the fourth assignment of error.

Petitioner also disputes that there is a public need for the subject division, as required by Section 4(B)(2). Intervenor contends that Section 4(B)(2) must be read together with section 4(B)(3). Intervenor argues that because there is no proposal to change the use of the property the public need-related criteria of Section 4(B)(2) and (3) are both inapplicable. As we have explained, the record shows the intervenor does intend to change the use of the property. The county findings addressing Section 4(B)(2) and (3) are all based on a conclusion that the existing agricultural use will continue. That assumption is erroneous. Accordingly, this portion of the fourth assignment of error is sustained as well.

The fourth assignment of error is sustained.

The county's decision is remanded.

FOOTNOTES

[1] Whether intervenor "intends" to create a farm parcel or a nonresource parcel is a critical issue in this appeal because different standards apply for approval of farm divisions and nonresource use divisions. The relevant statutory, plan and CCZO standards are discussed infra.

[2] The legal theories asserted in petitioner's first two assignments of error are not clearly stated. However, petitioner clearly alleges that the county should have applied, but did not apply, "nonfarm and nonforest" division standards in reaching its decision on intervenor's application. Unlike intervenor, we interpret this allegation to allege an erroneous construction of applicable law rather than a failure to follow applicable procedures. See ORS 197.825(8)(a)(B) and (D). Petitioner's second assignment of error, although it includes allegations of procedural error, is actually a substantial evidence challenge, with one exception noted infra.

[3] The criteria in CCZO 2.0140(A) and (B) generally assure the division will result in a parcel of sufficient size to continue commercial agricultural enterprise in the area or to allow efficient forest management. CCZO 2.0140(D) requires that the parcel be no larger than necessary to accommodate a nonfarm or nonforest use and to buffer impacts of the use on adjacent farm or agricultural uses. It also requires the parcel "be situated on generally unsuitable land for farm or forest use."

[4] We note the farm management plan can also be read simply to recognize that South Coast Lumber Company had done so for an "extended period of time."

[5] Under the first and second assignments of error, petitioner also alleges violations of plan Section 3.8.3 and CCLDO Section 1.0020(1) and (2) and ORS 215.243. None of these allegations are explained in the argument under the first two assignments of error and we, therefore, reject those allegations. Deschutes Development Corporation v. Deschutes County, 5 Or LUBA 218, 220 (1982).

[6] As was the case under the first and second assignments of error, petitioner references other statutory, statewide planning goal and plan provisions he alleges are violated by the decision, without explaining how those provisions apply to the decision or how the decision violates those provisions. We, therefore, reject petitioner's allegations of error concerning violations of goal and plan provisions. In the case of petitioner's allegation that ORS 215.263(2)(a) is violated, intervenor argues the statutory standard does not apply to the subject division because the F-G zone is not an EFU zone. However, the standard in ORS 215.263(2)(a) is repeated in substance in CCZO Section 2.0140(A). Petitioner's allegations concerning violation of CCZO Section 2.0140(A) are addressed in section B of this assignment.

[7] Relevant portions of CCZO Section 2.0140(A)(1)-(4) are quoted supra under our discussion of the first and second assignments of error.

[8] Petitioner also attacks other specific findings in the county's decision. Petitioner alleges the findings are improper because they "are merely recitations of statements made by the applicant." Petition for Review 13. Petitioner cites Norvell v. Portland Area LGBC, 43 Or App 849, 604 P2d 896 (1979) as authority for his position that a statement made by the applicant and repeated as a "finding" is merely a "recitation of evidence" and therefore unsatisfactory as a finding of fact.

Petitioner misinterprets the Court of Appeals' admonition in Norvell, supra, which only states that recitations of evidence are not acceptable as findings of fact. See also, Hill v. Union County Court, 42 Or App 883, 601 P2d 905 (1979); Graham v. OLCC, 20 Or App 97, 530 P2d 858 (1975); Hershberger v. Clackamas County, 15 Or LUBA 401, 403 (1987). Although simply reciting the existence of evidence in the record will not suffice to provide required findings of fact, there is nothing improper about local governments accepting proposed findings of fact or statements of fact and adopting those proposed findings of fact or statements of fact as their own. This is common practice in land use proceedings, and nothing in Norvell precludes such a practice. We note that although at least one other finding the county adopted, found at Record 5-6, is a recitation of evidence, that finding is not challenged by petitioner. The findings petitioner does challenge are properly stated as findings of fact.

Finally, petitioner also claims a number of individual findings adopted by the county are vague or conclusionary. However, petitioner makes no attempt to explain why the challenged findings are critical to the county's decision. See Bonner v. City of Portland, 11 Or LUBA 40, 52 (1984). The challenged findings relate to "considerations" required under CCZO 2.0140(A)(2) and it is not obvious to us that the findings are critical in the sense an erroneous or unsupported finding concerning a single "consideration" would provide a basis for reversal or remand.