BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

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| FRITZ VON LUBKEN, JOANN VON LUBKEN, VON LUBKEN ORCHARDS, INC., and HOOD RIVER VALLEY RESIDENTS COMMITTEE, INC., Petitioners, vs. HOOD RIVER COUNTY, Respondent, and BROOKSIDE, INC., Intervenor-Respondent. | LUBA No. 90-031<br>FINAL OPINION AND ORDER |

Appeal from Hood River County.

Max M. Miller, Jr., Portland, filed the petition for review and argued on behalf of petitioners. With him on the brief was Tonkon, Torp, Galen, Marmaduke & Booth.

Sally A. Tebbet, Hood River, filed a response brief and argued on behalf of respondent.

B. Gil Sharp, Hood River, filed a response brief and argued on behalf of intervenor-respondent. With him on the brief was Sharp & Durr.

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

AFFIRMED 08/22/90

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

Petitioners appeal the county's decision to approve a conditional use permit to construct a 169 acre golf course.

MOTION TO INTERVENE

Brookside Inc., the applicant below, moves to intervene on the side of respondent. There is no opposition to the motion, and it is allowed.

FACTS

This matter is before us for the second time. In Von Lubken v. Hood River County, ___ Or LUBA ___ (LUBA No. 89-023, September 8, 1989) (Von Lubken I), we remanded an earlier decision approving a conditional use permit for the proposed golf course. In that decision we sustained petitioners' contention that the county erred by not demonstrating the proposal complies with a number of comprehensive plan provisions.[1] Id., slip op at 10-12. In addition, although we determined the county had adequately explained why approval of the proposed golf course was in the public interest, we agreed with petitioners that the county failed to demonstrate the identified public interest is best served by approving the proposed action at this time, as required by Hood River County Zoning Ordinance

[1]We left open the possibility that the county might explain why, despite language in the plan strongly suggesting the plan provisions were mandatory approval standards, those provisions were not mandatory approval standards applicable to the disputed conditional use permit.

(HRCZO) 60.10.B. Von Lubken I, slip op at 15-16. We rejected petitioners' remaining assignments of error, including petitioners' challenge to findings adopted by the county concerning whether the proposed golf course would be compatible with adjoining agricultural lands and uses.

On remand, the county adopted findings in which it determined that the plan provisions upon which we remanded the county's first decision are not mandatory approval standards for conditional use permits in the EFU zone. See n 1, supra. However, the county also adopted findings in which it determined that all but one of those plan provisions are satisfied by or inapplicable to the challenged decision, as well as findings that the public interest requirement imposed by HRCZO 60.10.B is met. This appeal followed.

FIRST ASSIGNMENT OF ERROR

> "The county erred in finding that the Goal 3 related policies, strategies, and standards in its plan are not mandatory implementation criteria applicable to land use decisions."

SECOND ASSIGNMENT OF ERROR

> "The county erred in holding that plan standard D.7 rendered the remainder of the policies, strategies, and standards inapplicable to golf courses."

As we explained in our first decision:

> "Golf courses are allowed as conditional uses in the county's EFU zone. Hood River County Zoning Ordinance (HRCZO) 7.40(M). There are no general conditional use standards in the HRCZO applicable

to all conditional uses. Neither are there conditional use standards provided in the EFU zone specifically for golf courses. However, Article 60, the administrative procedures article of the HRCZO, sets out procedures and standards for 'administrative actions.' As defined in the HRCZO, a conditional use permit is an administrative action. The burden of proof for an administrative action is specified in HRCZO 60.10 as follows:

> "'The Burden of Proof is placed on the applicant seeking an action pursuant to the provisions of this ordinance. Unless otherwise provided for in this article such burden shall be to approve [sic]:
>
> "'A. Granting the request is in the public interest; the greater departure from present land use patterns, the greater the burden of the applicant.
>
> "'B. The public interest is best carried out by granting the petition for the proposed action, and that interest is best served by granting the petition at this time.
>
> "'C. The proposed action is in compliance with the Comprehensive Plan.
>
> "'D. The factors set forth in applicable Oregon law were consciously considered. * * *
>
> "'* * * * *'" (Footnotes deleted.) Von Lubken I, slip op at 2-4.

Petitioners identify a number of "Policies," "Strategies," and "Land Use Designations and Standards"[2]

[2]In this opinion we shall use the short hand reference "Standards" when referring to the Plan Goal 3 Land Use Designations and Standards.

under Hood River County Comprehensive Plan (Plan) Goal 3 (Agricultural Lands), which petitioners contend apply to the county's decision by virtue of the HRCZO 60.10(C) requirement that administrative actions comply with the comprehensive plan.[3] Petitioners challenge the county's

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[3]The Plan provisions cited by petitioners included the following:

"'B. POLICIES:

"'1. Agricultural land will be maintained for agricultural uses.

"'* * * * *

"'4. Efforts will be made to curb the decline in cropland acreage.

"'5. Efforts will be made to curb the conversion of agricultural land to other uses.

"'6. Agricultural lands and existing agricultural uses will be protected from incompatible uses.

"'7. Agricultural land and uses will be separated from nonfarm related land uses.

"'C. STRATEGIES:

"'* * * * *

"'2. Conversion of rural agricultural land to land for other uses shall be based on consideration of the following factors.

"'a) Environmental, energy, social and economic consequences.

"'b) Demonstrated need consistent with Land Conservation and Development goals.

"'c) Unavailability of an alternative suitable location for the requested use.

general findings that none of the above quoted plan provisions are mandatory approval criteria applicable to requests for conditional use approval for golf courses in the EFU zone.

A. Potential Applicability of Plan Goal 3 Policies, Strategies and Standards as Approval Standards for Conditional Uses in the EFU Zone

In the decision challenged in this proceeding, the county concluded that the Plan Goal 3 Policies, Strategies and Standards apply to adoption and amendment of implementing land use regulations, not individual conditional use permit decisions.[4] In reaching this overall

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"'d) Compatibility of the proposed use with related agricultural land.

"'e) The retention of Class I, II, III, and IV soils.

"'* * * * *

"'D. LAND USE DESIGNATIONS AND STANDARDS:

"'* * * * *

"'2. Non-farm uses permitted by ORS 215.213(2) and (3) shall be minimized to allow for maximum agricultural productivity.

"'* * * * *

"'9. Development will not occur on lands capable of sustaining accepted farming practices.'" Petition for Review 8-9.

[4]The county specifically mentions only adoption and amendment of the zoning ordinance and zoning map as governed by the Goal 3 Plan provisions, but we understand the county to concede that the Plan provisions cited by petitioners would also apply to adoption and amendment of other portions of the Plan and the Plan map.

conclusion, the county relies upon: (1) the explicit requirement of Standard D(7) that golf courses be allowed as a conditional use in the EFU zone, (2) the legislative history of the Plan provisions, and (3) the definition of "Comprehensive Plan" included in the Plan.

1. Standard D(7)

In Von Lubken I, we rejected respondent's and intervenor's contentions that Standard D(7) has the legal effect of rendering the remaining plan provisions cited by petitioners inapplicable to conditional use permit requests for golf courses in the EFU zone.[5] We adhere to that position. We agree with petitioners' interpretation of Standard D(7) to simply state that the county's EFU zone is to be amended to include golf courses on the list of conditional uses allowable in the EFU zone. Subsequent to the adoption of Standard D(7), the EFU zone was amended to include golf courses as a conditional use. However, Standard D(7) says nothing about the standards to be applied to approve golf courses or other conditional uses in the EFU zone.

2. Legislative History

In our prior decision, we noted that the definitions of

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[5]Standard D(7) provides as follows:

> "The County Zoning Ordinance will be amended to allow golf courses as a conditional use in the Exclusive Farm Use (EFU) Zone."

"Policies," "Strategies" and "Standards" included in the plan contradicted respondent's and intervenor's arguments that these plan provisions are not to be applied as mandatory approval criteria to requests for conditional use approval in the EFU zone. We relied in particular on the following language in the plan:

> "When goals, policies, strategies, and use designations and standards or other County directives are used to implement a specific Statewide Goal requirement, mandatory language ('shall' and 'will') is used. When mandatory statements are used they become legally binding to land use decisions." (Emphasis deleted.) Von Lubken I, slip op at 9.

Respondents correctly note that the above quoted plan language does not say plan provisions with mandatory language are binding on all land use decisions. Respondents rely heavily on the evolution of the county's plan prior to acknowledgment by the Land Conservation and Development Commission (LCDC) under ORS 197.251. Respondents contend that the mandatory language in the Goal 3 Policies, Strategies and Standards, as well as the above quoted plan provision making clear which plan provisions are "legally binding to land use decisions," was adopted in response to concern expressed by the Department of Land Conservation and Development (DLCD) concerning the adequacy of the county's Plan provisions establishing how agricultural lands would be

planned and zoned for exclusive farm use.[6]

We find nothing in the plan amendments adopted by the county to satisfy concerns expressed by the DLCD, or in the comments offered by various parties during those local government and LCDC acknowledgment proceedings, to support respondents' contention that none of the Plan Goal 3 Policies, Strategies or Standards were intended to be applied as approval criteria for conditional uses.

The most that can be said of the proceedings that led to adoption of the disputed plan provisions is that there appears to have been no clear expression of intent during those proceedings that golf courses or other conditional uses in the EFU zone are required by Standard D(9) not to be located "on lands capable of sustaining accepted farming practices." However, the proper application of Standard D(9) is a separate question from whether no Goal 3 Policies, Strategies and Standards are applicable to conditional use approval of golf courses in EFU zones. We specifically address proper application of Standard D(9) below.

Finally, in its decision the county also purports to rely on after-the-fact statements by county commissioners and the planning director concerning what types of land use decisions the Goal 3 Policies, Strategies and Standards were

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[6]DLCD opposed the county's adoption of a country club zone. In opposing the country club zone, DLCD pointed out to the county that by statute golf courses were allowed as conditional uses in EFU zones.

intended to apply to. As petitioners correctly note, post-enactment expressions of legislative intent are not competent legislative history. Defazio v. WPSS, 296 Or 550, 561, 679 P2d 1316 (1984); Fred Meyer v. Bureau of Labor, 39 Or App 253, 262, 592 P2d 564, rev den 287 Or 129 (1979); Murphy v. Neilson, 19 Or App 292, 296, 527 P2d 736 (1974); Barbee v. Josephine County, 16 Or LUBA 695, 699 (1988).

We conclude nothing in the competent legislative history cited by respondents supports their contention that no Goal 3 Policies, Strategies or Standards are applicable as approval standards for conditional uses in the EFU zone.

3. Plan Definition of "Comprehensive Plan"

The Hood River Comprehensive Plan includes the following elements:

> "a. [The County Policy Document]: This is a statement of public policy; as such it is one of the major documents to be used for land-use decisions.
>
> "b. Comprehensive Plan Map: * * *
>
> "c. Zoning Map, and Zoning and Subdivision Ordinances: The zoning maps and ordinances implement in detail the comprehensive plan map. The zoning map is more graphically specific in determining land use activities and the zoning and subdivision ordinances provide standards and criteria that control development of land use activities.
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> "d. Background Reports: * * *
>
> "e. Exceptions Document: * * *." Plan 1.

Intervenor contends that in view of the above quoted

description of the scope of the Plan, the command in HRCZO 60.10(C) that "[t]he proposed action [must be] in compliance with the Comprehensive Plan" does not necessarily mean that the Policies, Strategies and Standards in the County Policy Document are approval standards for conditional uses. Intervenor contends the above quoted plan language makes it clear that approval standards for individual conditional use permits are found in the zoning map and zoning and subdivision ordinances, not in the Policies, Strategies and Standards in the County Policy Document. Specifically, intervenor contends that the reference in HRCZO 60.10(C) to "Comprehensive Plan" encompasses only the zoning map, and zoning and subdivision ordinances, not the County Policy Document.

We reject intervenor's construction of the above quoted plan language. The Plan's description of the function served by the zoning map and zoning and subdivision ordinances does not state that the standards and criteria controlling land development are contained exclusively in those documents. In addition, the County Policy Document is described as "one of the major documents to be used for land-use decisions." Most importantly, HRCZO 60.10(C) states that conditional uses must comply with "the Comprehensive Plan" not with "the zoning map and standards in the zoning and subdivision ordinances." If the latter, more restrictive reference to portions of the Plan is

intended by HRCZO 60.10(C), the code language must be amended to state that intent.[7]

ORS 197.175(2)(d) and 197.835(6) require that county land use decisions be consistent with applicable provisions of the acknowledged comprehensive plan. Although acknowledged plans and land use regulations may make it clear that particular general plan policies apply exclusively to plan or zoning ordinance amendments or other policy making actions and not to individual permit decisions governed by standards in implementing land use regulations, that intent must either be express or discernable from the language and structure of the plan and land use regulations. Bennett v. City of Dallas, ___ Or LUBA ___ (LUBA No. 88-078, February 7, 1989), aff'd 96 Or App 645 (1989); Pardee v. City of Astoria, ___ Or LUBA ___ (LUBA Nos. 88-049/88-050/88-051, December 14, 1988); Miller v. City of Ashland, ___ Or LUBA ___ (LUBA No. 88-038, November 22, 1988); McCoy v. Tillamook County, 14 Or LUBA 108 (1985); Hummel v. City of Brookings, 13 Or LUBA 25 (1985). The language intervenor relies upon is insufficient to establish an

[7]We note that should the county wish to amend the HRCZO to eliminate the possibility that any Goal 3 Policy, Strategy or Standard could ever apply to approval of conditional uses in the EFU zone, it must not only make that intent clear in the Plan, it must also assure that the approval standards provided in HRCZO 60.10 are sufficient to implement the Plan Goal 3 Policies, Strategies and Standards. We are not required in this case to decide the adequacy of the standards in HRCZO 60.10 to implement the Plan Goal 3 Policies, Strategies and Standards; and we express no opinion concerning their adequacy to do so.

intent that none of the Goal 3 Policies, Strategies or Standards could ever apply as approval criteria for golf courses as conditional uses in the EFU zone.

B. The County's Decision Concerning the Goal 3 Policies, Strategies and Standards

Our rejection of respondents' arguments that none of the Goal 3 Policies, Strategies or Standards could apply as approval standards applicable to conditional uses in the EFU zone, does not mean all of the Policies, Strategies, and Standards are mandatory approval standards applicable to decisions concerning conditional uses in the EFU zone generally or golf courses in particular. See Stotter v. City of Eugene, ___ Or LUBA ___ (LUBA No. 89-037, October 10, 1989), slip op 40-43 (plan policies may be standards for land use decisions other than conditional use permit decisions).

In addition to the county findings discussed and rejected above (i.e., that all Plan Goal 3 Policies, Strategies and Standards are generally inapplicable to conditional use permit decisions), the county adopted findings specifically addressing each of the Goal 3 Policies, Strategies and Standards identified by petitioners. Record 13-19. Although it is not entirely clear what the county's ultimate finding is concerning each Goal 3 Policy, Strategy and Standard, petitioners do not challenge any of these findings, other than the findings concerning Standard D(9). Without some argument from

petitioners specifically challenging the adequacy of the county's findings addressing a particular Policy, Strategy or Standard, we are unable to conclude the county erred in finding the challenged action is either consistent with the particular Policy, Strategy, or Standard or that the particular Policy, Strategy or Standard is not an approval criterion applicable to the decision challenged. We turn to petitioners' contention that the county erroneously concluded that Standard D(9) does not require that golf courses in the EFU zone be located on lands incapable "of sustaining accepted farming practices."

In Von Lubken I, slip op at 11 n 7, we explained that

> "* * * under ORS 215.213(3)(b) and 215.283(3)(d) nonfarm dwellings are required to be located on land generally unsuitable for farm use. It is not uncommon for counties to simply apply the standards applicable to nonfarm dwellings to all nonfarm uses allowed in their EFU zone, including the requirement that the nonfarm use be located on land generally unsuitable for farm use, even though the statutes leave the standards to be applied to such nonfarm uses to the county. We may not assume, as respondents suggest, that the county could not have intended such a severe constraint on golf courses in the EFU zone when it adopted Standard D(9)." See also Clark v. Jackson County, ___ Or LUBA ___ (LUBA No. 88-114, March 31, 1989).

Of course, the fact some counties may impose a requirement that nonfarm uses in their EFU zones be located on tracts which are generally unsuitable for farm use does not necessarily mean Hood River County imposed such a requirement when it adopted Standard D(9).

The county concedes that the subject property is capable of sustaining accepted agricultural practices. In concluding Standard D(9) does not apply to the proposed golf course development, the county adopted the following finding:

> "The maintenance of a high quality golf course is a horticultural activity that can only take place on lands capable of sustaining accepted farming practices." Record 18.

The county went on to reason that application of Standard D(9) to golf courses therefore conflicts with the express requirement of Standard D(7) that golf courses be allowed as a conditional use in the EFU zone.

Intervenor cites testimony in the record that supports the finding that a "high quality golf course" may require soils capable of sustaining accepted farming practices. However, we agree with petitioners that the cited evidence does not constitute substantial evidence that it is not possible to establish a "golf course" on lands not capable of sustaining accepted farming practices. The testimony suggests it would be difficult to do so and that the resulting golf course might not be of "high quality," but the cited evidence is not sufficient to support a conclusion that a golf course cannot be constructed on lands not capable of sustaining accepted farming practices. Thus, there is no unresolvable conflict between Standards D(7) and D(9) which might support an exception to the application of

Standard D(9) which is not expressed in that standard.[8]

We disagree with the reasoning that led the county to conclude that Standard D(9) does not require that a golf course allowed in the EFU zone must be located on lands incapable of sustaining accepted agricultural practices. However, interpreting Standard D(9) in context with the remaining Goal 3 Standards, we agree with the county that Standard D(9) is not correctly interpreted in the manner petitioners contend.[9] See McCoy v. Linn County, 90 Or App

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[8]We note that even if the evidence concerning the types of soils necessary to construct a golf course did support a determination that a conflict between Standards D(7) and D(9) exists, the appropriate course for the county in that circumstance might well be amending the Plan to eliminate the conflict, rather than interpreting Standard D(9) not to apply to golf courses. See West Hills & Island Neighbors v. Multnomah County, 68 Or App 782, 683 P2d 1032, rev den 298 Or 150 (1984); Sunburst II Homeowners v. West Linn, ___ Or LUBA ___ (LUBA No. 89-130, January 26, 1990), aff'd 101 Or App 458 (1990); Sunburst II Homeowners v. West Linn, ___ Or LUBA ___ (LUBA No. 88-092, January 26, 1989).

[9]The Plan Goal 3 Standards are as follows:

"1. Accepted farming practices defined by ORS 215.203 (2) are permitted to take place in areas designated "Farm" on the Plan Map and as "Exclusive Farm Use" on the zoning map.

"2. Non-farm uses permitted by ORS 215.213(2) and (3) shall be minimized to allow for maximum agricultural productivity.

"3. Single family dwellings other than those permitted as accessory uses to farm use are allowed provided they meet the prescribed conditions set forth in ORS 215.213(3).

"4. Farm-related uses designed to sort, box and store (i.e., cold storage) agricultural products are permitted.

"5. Forestry and open spaces are compatible with and are permitted in agricultural lands.

271, 275, 752 P2d 323 (1988) (meaning of local land use legislation is a question of law for LUBA, subject to judicial review).

Standards D(1) through (8) identify uses that may be allowed in the county's EFU zone. Although Standard D(2) requires that the nonfarm uses permitted by ORS 215.213(2) and (3) be minimized, it does not require that such uses be limited to lands not capable of sustaining accepted farming practices. Standard D(9) imposes that requirement on "development," but the Plan provides no definition of what is meant by the term "development."

Reading Standard D(9) with Standard D(10) (which refers to "development," "redevelopment," and "developed areas"), we believe it is reasonably clear that those policies are

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"6. One primary residence will be allowed per lot or parcel. The minimum size for new lots or parcels shall be 20 acres.

"7. The County Zoning Ordinance will be amended to allow golf courses as a conditional use in the Exclusive Farm Use (EFU) Zone.

"8. Accepted farming practices except feed lots are permitted to take place in areas designated as "Scenic Protection" on the zoning maps. (Applies to the Columbia Gorge area.)

"9. Development will not occur on lands capable of sustaining accepted farming practices.

"10. Redevelopment and improvement of existing communities and other developed area(s) is favored over development which will utilize existing agricultural lands.

"* * * * *" Plan 9-11

not addressed to the limited farm and nonfarm development explicitly permitted within EFU zones consistent with ORS 215.213 and Standards D(1) through (8). Rather, these policies simply restate in somewhat different language the statutory and Statewide Planning Goal requirements that, absent an exception to Statewide Planning Goal 3 (Agricultural Lands) or inclusion of property in an acknowledged urban growth boundary (UGB), agricultural lands are to be placed in EFU zones and may not be planned and zoned for development beyond that permissible in EFU zones.[10]

In summary, we sustain the first and second assignments of error, because we disagree with the challenged reasoning advanced by the county in support of its conclusion that Standard D(9) does not require golf courses in the EFU zone to be located on lands incapable of sustaining accepted agricultural practices. However, we nevertheless agree with the county's ultimate interpretation of Standard D(9) not to require that conditional uses allowed in the EFU zone be limited to lands incapable of sustaining accepted agricultural practices, although not for the reasons

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[10]As intervenor correctly notes, if Standard D(9) were interpreted as petitioners contend and applied literally, it would preclude development within the UGB on lands capable of sustaining accepted agricultural practices. Although petitioners do not contend that Standard D(9) precludes urban development on lands capable of sustaining accepted agricultural practices if those lands are inside the UGB, nothing in the language of Standard D(9) precludes its application inside the UGB if it is otherwise interpreted as petitioners argue.

advanced by the county. Petitioners do not challenge the findings in which the county specifically addresses the remaining Goal 3 Policies, Strategies and Standards and determines that they are either inapplicable to or consistent with the challenged decision.[11] Therefore, although we sustain the first and second assignments of error, those assignments of error provide no basis for reversal or remand.

THIRD ASSIGNMENT OF ERROR

> "The county erred in finding that the public interest is best carried out by granting the proposed use at this time."

Petitioners argue the county failed to find the public interest is best carried out by approving the request at this time. Petitioners concede that the county adopted findings discussing the alternatives of expanding the existing golf course, developing a course elsewhere at county expense and siting a course within the City of Hood River urban growth boundary (UGB). However, petitioners contend the county should have considered whether the public interest would be better served by siting the proposed golf course "elsewhere in the county where farming practices would not be so adversely impacted." Petition for Review

[11]Petitioners do attempt to challenge the evidentiary support for the county's findings concerning compatibility and buffering of the proposed golf course from adjoining agricultural lands. We address this challenge under the fourth assignment of error.

17.

In Von Lubken I, slip op at 16, we stated:

> "* * * HRCZO 60.10(B) requires that the county both consider the planned facility in context with other possible ways to satisfy the public interest and consider whether the timing of the required approval is appropriate. * * *"

We also determined that the county's findings addressed some, but not all, aspects required by HRCZO 60.10(B), and were inadequate because they lacked the necessary specificity.

On remand, the county adopted additional findings addressing the alternatives of expanding the existing golf course, developing a golf course elsewhere at county expense and siting a golf course within the City of Hood River UGB. Petitioners contend these findings are inadequate to "consider the planned facility in context with other possible ways to satisfy the public interest" only because the findings do not include a detailed analysis of possible alternative sites for a golf course which would have less impact on farming practices. However, we agree with intervenor that the exhaustive alternative sites analysis urged by petitioners is not required by the language of HRCZO 60.10(B).

In Fasano v. Washington Co. Comm., 264 Or 574, 584, 507 P2d 23 (1973), the Oregon Supreme Court identified the following standards for approval of a zoning map amendment:

"In proving that the [zoning] change is in

> conformance with the comprehensive plan in this case, the proof, at a minimum, should show (1) there is a public need for a change of the kind in question, and (2) that need will be best served by changing the classification of the particular piece of property in question as compared with other available property."

Although the decision challenged in this proceeding is not a zoning map amendment, and the above quoted Fasano standards are no longer required in any event, see Neuberger v. City of Portland, 288 Or 155, 170, 603 P2d 771 (1979), rehearing den 288 Or 585 (1980), many jurisdictions retain the above standards, or some form of them, in their plans or land use regulations. Although the language in HRCZO 60.10(A) and (B) is somewhat similar to the above quoted Fasano standards, there are important differences.

The second of the above quoted Fasano standards clearly does impose the kind of alternatives analysis petitioner suggests is required by HRCZO 60.10(B).[12] However, HRCZO 60.10(B) clearly omits any explicit requirement that the proposed property be superior to all other available properties and does not require that the county consider the comparative merits of all other alternative sites with regard to impacts on farming practices, as petitioners suggest.

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[12]The statutory, Goal and rule requirements for certain exceptions to the Statewide Planning Goals similarly impose a requirement that alternative lands or areas be considered. See e.g. ORS 197.732(1)(c); Goal 2 Part II(c)(2); OAR 660-04-020(2)(b).

Because we agree with intervenor that HRCZO 60.10(B) does not require the county to compare the appropriateness of all alternative sites in the county, and petitioners do not otherwise challenge the adequacy of the county's findings to satisfy HRCZO 60.10(B), this assignment of error is denied.

FOURTH ASSIGNMENT OF ERROR

> "There is not substantial evidence in the whole record to support the finding that petitioners' existing agricultural uses will be protected."

In Von Lubken I, we determined that the evidence in the record was sufficient to support the county's findings that the proposed golf course could be adequately buffered from and compatible with adjoining agricultural uses and lands. Petitioners complain they were unable to rebut effectively some of the evidence the county relied upon in support of those findings. On remand, petitioners submitted additional evidence to the county and now contend that evidence sufficiently undermines the evidence the county relies upon that the county's findings are no longer supported by substantial evidence.

On remand from this Board, a local government is entitled to limit its consideration of a request for land use approval to the issues which were the basis for remand.[13] Hearne v. Baker County, 89 Or App 282, 748 P2d

[13]Petitioners did not appeal our decision in Von Lubken I.

1016, rev den 305 Or 576 (1988); Mill Creek Glen Protection Assoc. v. Umatilla Co., 88 Or App 522, 746 P2d 728 (1987). Here the board of county commissioners determined on remand that it did not wish to reconsider its findings on compatibility and buffers which were upheld by this Board in Von Lubken I. The notice that preceded the board of commissioners' hearing on remand advised petitioners that the issues would be limited to those which were the basis for remand and the board of commissioners reiterated this position during the hearing. Petitioners may not challenge in this appeal the adequacy of the evidentiary support for findings which were upheld by this Board in Von Lubken I and not reconsidered by the county.

The fourth assignment of error is denied.

The county's decision is affirmed.