

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 DELORIS DRAGANOWSKI and RICK)
5 DRAGANOWSKI,)
6)
7 Petitioners,)
8)
9 vs.)
10)
11 CURRY COUNTY,)
12)
13 Respondent,)
14)
15 and)
16)
17 W.W. CHAMBERS and MARJORIE)
18 CHAMBERS,)
19)
20 Intervenors-Respondent.)

LUBA No. 93-162
FINAL OPINION
AND ORDER

21
22
23 Appeal from Curry County.

24
25 Deloris Draganowski and Rick Draganowski, Gold Beach,
26 filed the petition for review and argued on their own
27 behalf.

28
29 No appearance by respondent.

30
31 David B. Smith, Tigard, filed the response brief and
32 argued on behalf of intervenors-respondent. With him on the
33 brief was Dorothy S. Cofield.

34
35 HOLSTUN, Referee; KELLINGTON, Chief Referee; SHERTON,
36 Referee, participated in the decision.

37
38 AFFIRMED 01/11/94

39
40 You are entitled to judicial review of this Order.
41 Judicial review is governed by the provisions of ORS
42 197.850.

1 Opinion by Holstun.

2 **NATURE OF THE DECISION**

3 Petitioners appeal a county decision approving a
4 division of an approximately 360 acre parcel in the
5 Forestry-Grazing (FG) zone. The challenged decision
6 approves division of the 360 acres into a 25 acre
7 nonresource parcel and a 335 acre resource parcel. The
8 challenged decision also approves a nonforest dwelling for
9 the 25 acre parcel and a forest management dwelling for the
10 335 acre parcel.

11 **MOTION TO INTERVENE**

12 W.W. Chambers and Marjorie Chambers, the applicants
13 below, move to intervene on the side of respondent. There
14 is no opposition to the motion, and it is allowed.

15 **FIRST AND SECOND ASSIGNMENTS OF ERROR**

16 Petitioners allege the challenged decision violates
17 Curry County Zoning Ordinance (CCZO) 3.056 (C) and
18 3.054(16). CCZO 3.056 (C) establishes standards governing
19 creation of new nonresource parcels in the FG zone, and CCZO
20 3.054(16) establishes standards governing approval of
21 nonresource dwellings in the FG zone.

22 Petitioners include no argument under either of these
23 assignments of error. They simply quote the cited CCZO
24 provisions and allege they are violated. The summary of
25 argument and conclusion sections of the petition for review
26 assert the county's findings are inconsistent and not

1 supported by substantial evidence. However, those
2 assertions are not developed, and petitioners make no
3 attempt to identify which findings they believe are
4 inconsistent or lack evidentiary support.

5 Because petitioners fail to support their assignments
6 of error with argument, they are rejected. Simmons v.
7 Marion County, 22 Or LUBA 759, 764 (1992); Bjerk v.
8 Deschutes County, 17 Or LUBA 187, 194 (1988); Deschutes
9 Development v. Deschutes County, 5 Or LUBA 218, 220 (1982).

10 **THIRD ASSIGNMENT OF ERROR**

11 Curry County Comprehensive Plan (CCCP) Section 4.6 sets
12 out "General Plan Policies for Forest Land." Policy 1
13 provides as follows:

14 "Forest zones will be applied to all identified
15 forest lands which are not committed to
16 nonresource use in order to maintain such lands in
17 forest uses as required by LCDC Goal 4."

18 Petitioners argue the challenged decision "violates the
19 letter and spirit of CCCP Sec. 4.6 Policy 1." Petition for
20 Review 6. Petitioners' argument appears to be as follows.
21 First, the subject property is forest land and is subject to
22 Statewide Planning Goal 4 (Forest Lands). Second, Goal 4
23 and the above plan policy require retention of forest land
24 for forest uses. Finally, the challenged decision allows a
25 nonforest land division and use.

26 To the extent petitioners allege the challenged
27 decision violates Goal 4, the argument is rejected. The

1 county's comprehensive plan and land use regulations are
2 acknowledged, and the statewide planning goals do not apply
3 directly to the challenged land division and dwelling
4 approval decisions. See Byrd v. Stringer, 295 Or 311, 666
5 P2d 1332 (1983).

6 Following acknowledgment, ORS 197.175(2)(d) requires
7 that a county make its land use decisions in compliance with
8 its acknowledged comprehensive plan and land use
9 regulations. We are required to reverse or remand a land
10 use decision, where a county fails to demonstrate that the
11 land use decision complies "with applicable provisions of
12 the [acknowledged] comprehensive plan and land use
13 regulations." (Emphasis added.) ORS 197.835(6). As we have
14 explained on numerous occasions, the statutory requirement
15 that a county make its land use decisions in compliance with
16 its acknowledged comprehensive plan and land use regulations
17 only requires that the county demonstrate its land use
18 decisions are consistent with applicable plan and land use
19 regulation provisions. In Goodrich v. Jackson County, 22 Or
20 LUBA 434, 437 (1991), we explained as follows:

21 "Even where plan provisions are intended to
22 operate as approval criteria for some types of
23 land use decisions, they may not be intended as
24 approval for all types of land use decisions. For
25 example, plan goals or policies may impose
26 standards governing adoption or amendment of land
27 use regulations or zoning maps, but not apply as
28 standards governing individual permit decisions."
29 (Emphases in original; citations omitted.)

1 The challenged decision explains that plan policy 1
2 governs how the county inventories, plans and zones its
3 forest land. As interpreted by the county in its decision,
4 plan policy 1 does not govern decisions which do not
5 identify, plan or zone forest land. This interpretation is
6 consistent with the words of the policy and its apparent
7 purpose. The county's interpretation of policy 1 is clearly
8 within its interpretive discretion. Clark v. Jackson
9 County, 313 Or 508, 836 P2d 710 (1992); Friends of the
10 Metolius v. Jefferson County, 123 Or App 256, 259-61, ____
11 P2d ____ (1993).

12 The third assignment of error is denied.

13 The county's decision is affirmed.