

1 Opinion by Livingston.

2 **NATURE OF THE DECISION**

3 Petitioner appeals a decision of the county board of
4 commissioners (county board) approving the partition of a
5 9.72-acre parcel into three parcels of 1.22, 1.22 and 7.28
6 acres.

7 **MOTION TO INTERVENE**

8 Bruce and Rebecca Friedrichsen move to intervene on the
9 side of the respondent in this proceeding. There is no
10 opposition to the motion, and it is allowed.

11 **FACTS**

12 The subject property is located within the county's
13 Suburban Residential zone, inside the urban growth boundary
14 of the city of Monmouth. It is designated Urban Reserve in
15 the county comprehensive plan.

16 After the county hearings officer concluded that the
17 reports of several experts did not support a conclusion that
18 new wells, properly cased and spaced, would pose a problem
19 for existing water users, petitioner appealed to the county
20 board of commissioners, which affirmed the hearings
21 officer's decision. This appeal followed.

22 **ASSIGNMENT OF ERROR**

23 Petitioner assigns error to the failure of the county
24 board, in affirming the county hearings officer's decision,
25 to "establish the availability of adequate groundwater to
26 sustain further development without adversely affecting the

1 welfare of current residen[ts]." Petition for Review 3-4.
2 Petitioner challenges the evidentiary basis for the county's
3 conclusion that the proposed partition will not adversely
4 affect the availability of adequate groundwater.

5 This Board can grant relief only if petitioner
6 demonstrates that an applicable legal standard is violated
7 by the challenged decision. Schellenberg v. Polk County, 22
8 Or LUBA 673, 679 (1992); Lane School District 71 v. Lane
9 County, 15 Or LUBA 150, 153 (1986). Petitioner has not
10 identified an applicable legal standard in the petition for
11 review, and the challenged decision itself specifies no
12 standard.

13 At oral argument, the county counsel suggested the
14 county's finding that the proposed partition will not
15 adversely affect the availability of adequate groundwater
16 was made pursuant to a general standard in the county
17 comprehensive plan permitting consideration of public health
18 and safety. Assuming that to be the case, we still must
19 affirm because, based on the whole record, a reasonable
20 person could reach the county's conclusion that the proposed
21 partition will not adversely affect the availability of
22 adequate groundwater. Although the evidence in the local
23 record is conflicting, see Record 28-36, 154-56;
24 Supplemental Record 37-42, 43-51, we must defer to the
25 county's choice between the evidence. Mazeski v. Wasco
26 County, 28 Or LUBA 178, 184 (1994), aff'd 133 Or App 258,

1 890 P2d 455 (1995).

2 The county's decision is affirmed.