BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

DONALD L. HANNA and NANCY KNOCHE,
Petitioners,

vs.

CROOK COUNTY,
Respondent,

and

EUGENE GRAMZOW,
Intervenor-Respondent.

LUBA No. 2002-178

FINAL OPINION
AND ORDER

Appeal from Crook County.

Garry Abbott Parks, Lake Oswego, filed the petition for review and argued on behalf of petitioners.

Jeff M. Wilson, Prineville, filed a response brief and argued on behalf of respondent.

Ross Day, Tigard, filed a response brief on behalf of intervenor-respondent.

BASSHAM, Board Chair; BRIGGS, Board Member; HOLSTUN, Board Member, participated in the decision.

REMANDED 04/17/2003

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

Opinion by Bassham.

NATURE OF THE DECISION

Petitioners appeal a county decision approving (1) a partition of a 320-acre farm parcel into three parcels and (2) conditional use permits for two nonfarm dwellings on two of those parcels.

FACTS

The subject property is a 320.84-acre parcel zoned Exclusive Farm Use (EFU-3). The parcel has 65.3 acres of water rights. The irrigated portion of the property is used for growing hay, and the remainder for grazing. All lands within one mile of the property are also zoned EFU-3, which has a 160-acre minimum parcel size. The majority of the surrounding parcels range in size from 80 to 1,500 acres. Thirteen parcels within one mile are sub-minimum in size, ranging from five to 60 acres. Of those thirteen parcels, nine are not under farm tax deferral, and five are developed with non-farm dwellings.

Intervenor-respondent (intervenor) filed an application with the county seeking to partition the subject parcel into three new parcels: a 299.34-acre farm parcel, and two nonfarm parcels measuring 10.5 and 11.00 acres in size. A nonfarm dwelling is proposed for each new nonfarm parcel. The proposed nonfarm parcels are on a portion of the parent parcel that has no water rights and that is composed entirely of Class VI soils. The proposed nonfarm parcels are adjacent to an irrigated hay field.

The county planning commission denied intervenor's application, on the grounds that the proposed nonfarm dwellings would interfere with accepted farming practices, that the proposed dwellings and partitions would materially alter the stability of the land use pattern in the area, and that the land on which the nonfarm dwellings were to be sited are not generally unsuitable for the production of livestock.

Intervenor appealed the planning commission decision to the county court, which reversed the planning commission decision with respect to the issues of interference with

accepted farming practices and material alteration of the stability of the land use pattern. The county court remanded the decision to the planning commission, with instructions to reopen the record and allow additional testimony with respect to the suitability of the land for grazing.

Intervenor submitted additional evidence indicating that only 24 percent of the proposed nonfarm parcels currently supports perennial grass species, with the remainder of the parcels consisting of bare ground, rock, cheat grass and desert moss. The planning commission again denied the application, after concluding that, despite poor forage on the proposed nonfarm parcels, the parcels are nonetheless a necessary part of the existing cow/calf operation on the subject property. Intervenor again appealed the planning commission decision to the county court. The county court reversed the planning commission decision, concluding in relevant part that, based on the poor forage on the proposed nonfarm parcels, the parcels are not suitable for grazing. This appeal followed.

FIRST ASSIGNMENT OF ERROR

ORS 215.284(7) allows a dwelling not in conjunction with farm use in eastern Oregon, on a parcel created pursuant to ORS 215.263(5).[1] As amended in 2001 by HB 3326, ORS 215.263(5) sets forth two means of partitioning land in eastern Oregon to create parcels

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[1] ORS 215.284(7) provides:

> "In counties in eastern Oregon * * * a single-family residential dwelling not provided in conjunction with farm use may be established, subject to the approval of the county governing body or its designee, in any area zoned for exclusive farm use upon a finding that:
>
> "(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
>
> "(b) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under ORS 215.263(5);
>
> "(c) The dwelling will not materially alter the stability of the overall land use pattern of the area[.]"

smaller than the minimum parcel size, in order to site nonfarm dwellings. The first method, under ORS 215.263(5)(a), applies where the parent parcel is greater than the minimum parcel size.[2] The second method, under ORS 215.263(5)(b), applies where the parent parcel is equal to or smaller than the minimum parcel size, but equal to or larger than 40 acres.[3] As

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[2] ORS 215.263(5)(a) provides that, in eastern Oregon, the governing body of a county:

> "May approve a division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling not provided in conjunction with farm use if:
>
> "(A) The nonfarm dwellings have been approved under ORS 215.284(7);
>
> "(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
>
> "(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size established under ORS 215.780;
>
> "(D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under ORS 215.780; and
>
> "(E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land."

[3] ORS 215.263(5)(b) provides in relevant part that, in eastern Oregon, the governing body of a county:

> "May approve a division of land in an exclusive farm use zone to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use if:
>
> "(A) The nonfarm dwellings have been approved under ORS 215.284(7);
>
> "(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
>
> "(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;
>
> "(D) The parcels for the nonfarm dwellings are:
>
> "* * * * *

relevant here, ORS 215.263(5)(b) differs from 215.263(5)(a) in allowing creation of new parcels for nonfarm dwellings where, among other things, the parcels are not "capable of producing adequate herbaceous forage for grazing livestock[.]"

Subsequent to passage of HB 3326, the county adopted code amendments to Crook County Zoning Ordinance (CCZO) 3.030, which governs land zoned EFU-3. Those CCZO amendments were adopted to implement the standards at ORS 215.263(5)(a) and (b). CCZO 3.030(8) implements ORS 215.284(7) and 215.263(5) in requiring a finding, among other things, that the dwelling will be situated upon a lot or parcel, or portion of a lot or parcel, that is "generally unsuitable" for the production of farm crops and livestock. CCZO 3.030(9) appears to implement ORS 215.263(5)(a), in providing standards for partition of a parent parcel that exceeds the EFU-3 minimum parcel size. CCZO 3.030(12) appears to implement ORS 215.263(5)(b) in providing standards for partition of a parent parcel that is at or below the EFU-3 minimum parcel size.[4]

> "(ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level;
>
> "(E) The parcels for the nonfarm dwellings do not have established water rights for irrigation; and
>
> "(F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land."

[4] CCZO 3.030(12) provides in relevant part:

> "**Special Non Farm Parcel Criteria**. Standards for land divisions for parcels equal to or below minimum parcel size as established by ORS 215.780:

In the challenged decision, the county court applied the "herbaceous forage" test at CCZO 3.030(12) and ORS 215.263(5)(b)(D)(ii), in the course of determining whether the parcels for the nonfarm dwellings are "generally unsuitable" for the production of livestock, for purposes of CCZO 3.030(8)(C)(1) and ORS 215.263(5)(a)(E).[5] Petitioners argue that the county erred in doing so. According to petitioners, it is clear that the proposed partition and dwellings are governed by CCZO 3.030(8) and ORS 215.263(5)(a) and that the "herbaceous forage" test at CCZO 3.030(12) and ORS 215.263(5)(b)(D)(ii) is inapplicable. Petitioners argue that the county's findings are fundamentally flawed by application of this erroneous

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> "A. A parcel may be divided into two non-farm parcels each to contain one dwelling not in conjunction with farm use upon a finding that:
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> "* * * * *
>
> "3. The original parcel size is larger than 40 acres;
>
> "* * * * *
>
> "5. There are not any established water right[s] for irrigation; [and]
>
> "6. Composed of 90 percent Class VII and VIII soils; [or]
>
> "7. Composed of 90 percent Class VI through VIII soils and complying with B below.
>
> "B. Parcels identified in (A)(7) must demonstrate that the sites are not capable of producing adequate herbaceous forage for grazing livestock. These findings shall include the following:
>
> "* * * * *
>
> "5. AUM [animal unit months] * * * determined by onsite study by [a] qualified independent party * * *. The study shall use accepted practices in the identification of herbaceous forage, using best management practices[,] in determining the parcel's capability for herbaceous forage production. The study shall include the total [weight] for current year, dry matter herbaceous forage on site.
>
> "6. Each site shall have no more than 13,000 [pounds] current year, dry matter herbaceous forage on site." (Emphasis omitted.)

[5] There appears to be no dispute that the proposed nonfarm parcels are not suitable for production of farm crops. The only question is whether they are suitable for production of livestock.

standard, and that neither the evidence nor the findings adequately establish compliance with the CCZO 3.030(8)(C)(1) and ORS 215.263)(5)(a)(E) "generally unsuitable" standard.

The county's findings explain why it chose to consider the "herbaceous forage" test at CCZO 3.030(12) and ORS 215.263(5)(b).[6] Based in large part on that test, the county

[6] The county's findings state, in relevant part:

> "In [implementing HB 3326,] the Court intended to [adopt] a change in how previous policy related to non-farm partitionings was to be applied. The Court attempted in adopting its legislation * * * to replace subjective criteria with objective standards. Recognizing that soil classification alone is not always a standard of review sufficient to determine productivity of land, the Court created the 'herbaceous forage test' to be conducted by a qualified third-party expert, whenever a non-farm parcel of substandard dimensions is proposed and the soil is of marginal quality.
>
> "The pending appeal was precisely the type of application the Court had in mind in adopting this test. * * *
>
> "* * * * *
>
> "To satisfy the requirements of HB 3326 and its companion statutes and ordinance, [an] applicant must explain why the size, shape, and soils lead to the conclusion that the parcel is unsuitable for agriculture. * * *
>
> "Despite the Court's instructions on remand, the Planning Commission [erred] * * * by paying much attention to current and former land use patterns of the property in question. The question of whether cattle are or ever were grazed on the land in question is not relevant to the 'suitability' of land for such purposes. Cattle and other livestock can be grazed for some period of time on almost all land in the county. The question under consideration here is 'how many for how long?'
>
> "Applicant submitted relevant scientific and objective testimony in support of applicant's contention that the land in question is unsuitable, as defined by forage capacity and soil classification, for livestock production. * * *
>
> "All parties agree that the soils in question are 90% or more Class VI. Both HB 3326 and the county ordinance provide that the herbaceous forage test applies *only* when this situation presents itself. If the soils are 90% or more Class VII or VIII or less than 90% Class VI, other considerations may assume greater weight in reviewing a request for partitioning. However, in this instance, soil type and forage production capacity are clearly intended to be the *primary* considerations which must be reviewed prerequisite to undertaking other questions about an application such as this. * * *" Record 9-11 (underline and italics in original).
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> "In the judgment of the County Court, the applicant submitted substantial evidence regarding the capacity of the land in question to demonstrate its unsuitability for crop and livestock production.

concluded that the proposed nonfarm parcels are "generally unsuitable" for livestock production.

The county and intervenor-respondent (together, respondents) concede that the "herbaceous forage" standard at CCZO 3.030(12) and ORS 215.263(5)(b) is not applicable to the proposed partition. However, respondents argue that the county's consideration of the capability of the subject parcels to produce adequate forage is appropriate under the "generally unsuitable" test at CCZO 3.030(8)(C)(1) and ORS 215.263(5)(a)(E), which requires consideration of, among other things, "adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract." We understand respondents to argue that any error in applying the "herbaceous forage" standard is, at most, harmless error, because that standard simply provides an objective, specific measure of forage production, and forage production is among the considerations that relate to suitability under CCZO 3.030(8)(C) and ORS 215.263(5)(a)(E).

We agree with respondents that the county may consider the capacity of the subject property to produce forage, as part of its evaluation of suitability for livestock production

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> "According to the forage survey * * *, the subject parcel[s are] in poor ecological condition and the total vegetation production would only be capable of supporting one cow for 19 days. Perennial grass species made up only 24% of the total ground cover with the remaining 76% consisting of bare ground, rock, litter, cheat grass and desert moss. It is also relevant to note that the proposed non-farm parcels make up only 15% of the total site.
>
> "* * * * *
>
> "In the present case, applicant has submitted substantial evidence that due to adverse soil conditions, the lack of vegetation, the lack of irrigation, and the location and size of tract the property is unsuitable for agricultural use. * * *.
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> "* * * * *
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> "The Court finds that taken as a whole, the Planning Commission's decision was not based on substantial evidence in the Record and is legally and factually flawed because it is inconsistent with the legislative intent of the County Ordinance, with Court of Appeals and LUBA's guidance regarding creation of non-farm parcels * * * and with relevant facts regarding forage capacity and soil type to which the Ordinance directs its [attention]." Record 12-13.

under CCZO 3.030(8)(C) and ORS 215.263(5)(a)(E). Among the required considerations under those provisions is the extent to which "vegetation" contributes to the suitability of the subject property to produce livestock. The reference to "vegetation" would certainly seem to encompass capacity to produce forage. However, for the following reasons we cannot agree that the county's application and consideration of the "herbaceous forage" test at CCZO 3.030(12) and ORS 215.263(5)(b) in the present case was harmless error.

We first note that both ORS 215.263(5)(a) and (b) require, in identical terms, evaluation of whether the proposed nonfarm parcels are "generally unsuitable" for production of farm crops or livestock. *See* ns 2 and 3.[7] In relevant part, ORS 215.263(5)(b) differs from (a) in imposing an *additional* requirement that the applicant establish that the proposed nonfarm parcels are either (1) composed of at least 90 percent Class VII or VIII soils, or (2) composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The relationship between the "generally unsuitable" test at ORS 215.263(5)(b)(F) and the soil and forage capacity standard at ORS 215.263(5)(b)(D)(ii) is not entirely clear to us. However, the fact that the legislature chose to require compliance with both standards indicates that compliance with one standard does not necessarily establish compliance with the other. As the statute is written, it is at least theoretically possible that a particular property may be incapable of producing adequate "herbaceous forage," and yet be generally suitable for production of livestock, or capable of producing adequate "herbaceous forage," and yet be generally unsuitable for production of

[7] We also note that OAR 660-033-0130(4)(c)(B)(ii) elaborates on the statutory "generally unsuitable" test, as applicable to eastern Oregon, providing in relevant part:

> "A lot or parcel is not 'generally unsuitable' simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not 'generally unsuitable.' A lot or parcel is presumed to be suitable if, * * * in [e]astern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use[.]"

livestock. If that is not what the legislature intended, the statute must be amended to state the legislature's actual intent.

Turning to the present case, it is apparent that the county found consideration of subject parcels' capacity for producing "herbaceous forage" to be the decisive factor in concluding that the parcels were "generally unsuitable" for producing livestock. *See* n 6 ("soil type and forage production capacity are clearly intended to be *primary* considerations which must be reviewed prerequisite to undertaking other questions about an application such as this." (Emphasis in original)). So predominant is that factor that the county's findings make only conclusory references to the considerations required by ORS 215.763(5)(a)(E), specifically the "terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract."

Even more to the point, the county's findings do not appear to consider at all whether the subject parcels "can reasonably be put to farm or forest use in conjunction with other land." Petitioners point to evidence that the proposed nonfarm parcels have historically been part of one of the largest ranches in the area, and argue that there is no reason why the parcels cannot reasonably be used as part of the current livestock operation on the parent parcel or other adjoining livestock operations, for grazing, shade, watering and other purposes. Relatedly, petitioners argue that the county erred in rejecting consideration of whether "cattle are or ever were grazed on the land in question" as "not relevant to the 'suitability' of land for such purposes." Record 11; *see* n 6. We agree with petitioners that whether cattle have or are currently being grazed on the subject parcels is a relevant factor under the "generally unsuitable" test that must be considered, and that the county erred in rejecting that factor as "not relevant." We further agree that county erred in assigning apparently dispositive weight to the soil and forage production capability of the subject parcels, to the exclusion of the other considerations required by ORS 215.263(5)(a)(E). In

particular, the county erred in failing to consider whether the subject parcels can reasonably be used in conjunction with other land.

The foregoing errors appear to arise directly from the county's erroneous application of and preponderant focus on the "herbaceous forage" test at CCZO 3.030(12) and ORS 215.263(5)(b)(D)(ii). Accordingly, we cannot say that the county's misconstruction of law was harmless, and remand is therefore necessary for the county to evaluate the evidence under the correct standard.[8]

The first assignment of error is sustained.

SECOND ASSIGNMENT OF ERROR

ORS 215.284(7)(c), OAR 660-033-0130(4)(c)(C), and CCZO 3.030(8)(B) each require the county to determine whether the proposed nonfarm dwellings will "materially alter the stability of the overall land use pattern of the area." As we explained in *Elliott v. Jackson County*, ___ Or LUBA ___ (LUBA No. 2002-085, January 6, 2003), OAR 660-033-0130(4)(c)(C) requires compliance with the standards of OAR 660-033-0130(4)(a)(D), which set out detailed procedures and standards for applying the stability test.[9] As we stated in that case:

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[8] We are not unsympathetic with the county's apparent desire to replace the somewhat subjective "generally unsuitable" test with a more objective standard. For the most recent of many LUBA opinions struggling to interpret and apply the suitability standard, see *King v. Washington County*, 42 Or LUBA 400 (2002). However, for what are no doubt good reasons, the legislature continues to require that nonfarm dwellings comply with the suitability standard. Neither we nor the county are at liberty to reduce that multi-faceted, subjective standard into a one-faceted, objective standard.

[9] Among other requirements, OAR 660-033-0130(4)(a)(D) requires the county to identify a study area of at least 2000 acres, and explain why that study area is representative of the land use pattern and adequate to conduct the cumulative impacts analysis. OAR 660-033-0130(4)(a)(D)(i). Further, the county must identify the broad types of farm uses in the area, the number, location, and type of existing dwellings, and the development trends since 1993. Then, the county must determine the potential number of nonfarm or lot-of-record dwellings that could be approved in the study area, on existing parcels or newly created nonfarm parcels, and describe the land use pattern that could result from approval of possible nonfarm dwellings. OAR 660-033-0130(4)(a)(D)(ii). Finally, the county must determine whether the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for existing farms to continue operation "due to diminished opportunities to expand, purchase, or lease farmland," or "diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area." OAR 660-033-0130(4)(a)(D)(iii).

> "[U]nder OAR 660-033-0130(4)(a)(D) [the county] must consider the cumulative impact of (1) existing nonfarm dwellings, (2) the proposed nonfarm dwelling, (3) potential new nonfarm dwellings that could be approved on existing lots in the study area, and (4) potential new nonfarm dwellings that could be approved on new nonfarm parcels in the study area. In effect, the OAR 660-033-0130(4)(a)(D) analysis requires the county to identify the total potential build-out of nonfarm dwellings in the study area, the full development scenario, to determine whether the full development pattern of land use would violate the ultimate stability standard in any of the ways described in OAR 660-033-0130(4)(a)(D)(iii)." *Id.* slip op 7-8 (footnote omitted).

Petitioners argue that the county's decision failed to conduct the cumulative impact analysis required by OAR 660-033-0130(4)(a)(D). Indeed, petitioners argue that the county's decision recognizes that there may be cumulative impacts, but chooses to ignore those impacts and instead consider only the incremental impact of the proposed nonfarm dwellings.[10]

Respondents argue that the findings quoted at n 10 are sufficient to address the requirements of the rule and establish compliance with the stability standard. However, those findings are manifestly inadequate to address the detailed requirements of the rule, or establish compliance with the stability standard. More importantly, as petitioners note, the findings are inconsistent with the rule in failing to consider the cumulative impact of

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[10] The county's findings addressing the stability standard state, in full:

> "The Crook County Planning Commission erred in finding that the proposed use will significantly alter the overall land use pattern, resulting in large-scale residential development in the area and elimination of agricultural operations. As indicated above, a total of nine non-farm parcels are located within one mile of the subject property. Non-farm residences are located on five of those parcels. A 433-acre vacant non-farm parcel adjoins the property to the east. The current land use pattern indicates several nearby parcels less than 80 acres in size including six parcels between 5 and 10 acres. Under [HB] 3326, those parcels greater than 40 acres but less than 80 acres (without irrigation) cannot apply for partitioning.
>
> "The Court is not persuaded that two additional non-farm parcels in this area significantly alter the overall land use pattern. While it is possible that approval of additional non-farm parcels may have a cumulative impact, the record fails to establish why an increase from nine to eleven parcels does so." Record 139.

existing, proposed, and potential new non-farm dwellings.[11] Remand is necessary to adopt more adequate findings addressing the stability standard.

The second assignment of error is sustained.

THIRD ASSIGNMENT OF ERROR

ORS 215.284(7)(a) and CCZO 3.030(8)(A) require a finding that the proposed nonfarm dwellings "will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use." *See* n 1.

The planning commission initially denied the proposed partition and dwellings, based on a finding that the close proximity of the proposed dwellings to irrigated lands would likely interfere with agricultural use of those lands "due to conflicts with pesticide use and aerial spraying." Record 234. The county court reversed that decision, concluding in relevant part:

> "* * * The Planning Commission found that non-farm dwellings would interfere with agricultural use of the land due to conflicts with pesticide use and aerial spraying. The Court finds that there is no evidence in the record to establish a negative impact. [Intervenor] testified that the issue of aerial spraying would not be a factor as the crop produced on this and surrounding parcels is grass hay. The testimony was that grass hay operations in the Powell Butte area are not sprayed [with] pesticides. There is no record that any of the preceding owners of this parcel utilized aerial spraying. Additionally, an adjacent farm operator who leases a portion of the property has stated this would not interfere with his operation." Record 138.

Petitioners contend that the foregoing finding is inadequate to demonstrate compliance with the significant change/significant increase standard. According to

[11] The findings quoted at n 10 contain the statement that under HB 3326 (*i.e.*, ORS 215.263(5)), "parcels greater than 40 acres but less than 80 acres (without irrigation) cannot apply for partitioning." Record 139. As we read ORS 215.263(5)(b) and CCZO 3.030(12), parcels greater than 40 acres in size but equal to or less than the maximum parcel size may indeed be partitioned into two new parcels, each to contain a nonfarm dwelling, if all the applicable standards are met. Although petitioners do not specifically assign error to this statement, it appears to fall within petitioners' general argument that the county failed to include potential new nonfarm parcels and dwellings in its cumulative impacts analysis. Accordingly, in conducting its cumulative impact analysis on remand, the county must consider any potential nonfarm parcels and dwellings that might be approved under ORS 215.263(5)(b) and CCZO 3.030(12).

petitioners, that standard requires that the county discuss the existing and potential accepted farming practices on adjacent lands, and explain why approval of this nonfarm dwelling will not interfere with those identified practices. *Sweeten v. Clackamas County*, 17 Or LUBA 1234, 1247-48 (1989).

Respondents argue that the quoted finding adequately identifies the only existing or potential farming practice on adjacent lands that might be affected by the proposed dwellings, and adequately explains why the only identified impact to that practice (conflicts with pesticide use or aerial spraying) are not an issue. We agree. While the county's analysis is cursory, petitioners do not identify any particular farming practices or conflicts omitted by the county's analysis, and do not challenge the county's conclusion that there are no conflicts with pesticide use or aerial spraying.

The third assignment of error is denied.

The county's decision is remanded.