BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

FRIENDS OF YAMHILL COUNTY,
TIVIS E. DAVIS and DEAN KLAUS,
Petitioners,

vs.

YAMHILL COUNTY,
Respondent,

and

DUANE SHARER and DIANE SHARER,
Intervenors-Respondent.

LUBA No. 2004-014

FINAL OPINION
AND ORDER

Appeal from Yamhill County.

Charles Swindells, Portland, filed the petition for review and argued on behalf of petitioners.

No appearance by Yamhill County.

David Doyle, Dallas, filed the response brief and argued on behalf of intervenors-respondent. With him on the brief was Doyle Law Firm, PC.

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

REMANDED 06/28/2004

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 a comprehensive plan amendment from Very Low Density Residential to Industrial, and a corresponding zoning amendment from Very Low Density Residential (VLDR) 2.5 to Light Industrial (LI), for a 3.85-acre parcel.

FACTS

The subject property is located immediately adjacent to the City of McMinnville urban growth boundary (UGB), approximately halfway between the city of McMinnville and the City of Lafayette. The property is within an area that was subject to a committed exception to Statewide Planning Goal 3 (Agricultural Lands), adopted in 1980, to allow rural residential uses. The exception area is not within an "unincorporated community" as that term is defined by OAR 660-022-0010(10).

The subject property is currently developed with a single-family residence and several buildings associated with a storage business. The county initially approved the storage business in 1994 as a home occupation, to allow storage of recreational vehicles in an accessory building to the residence. Intervenors-respondent (intervenors) expanded the home occupation storage business after 1994, and the current storage business occupies three buildings totaling 21,298 square feet, including a mini-storage unit. The square footage devoted to the current business exceeds the 10 percent maximum parcel coverage standards applicable in the VLDR 2.5 zone, but the county has declined to enforce those standards against the facility. In 1998, the county planning commission denied intervenors' application to modify the home occupation approval to allow up to 46,000 square feet of additional storage and denied their request for a variance from the maximum parcel coverage requirements.

Intervenors then applied to the county for comprehensive plan and zoning map amendments, in order to facilitate expansion of the storage business. A storage business

is allowed in the LI zone as a use that is similar to permitted uses in the LI zone, subject to site design review. Intervenors did not submit a site design review application, but their plan and zoning amendment application included a site plan and other information proposing two additional 8,064-square foot buildings, expanding the structural area devoted to the storage business to a total of 37,426 square feet.[1]

The county planning commission held a hearing on the application, and forwarded it to the county board of commissioners without a recommendation. After conducting a hearing, the commissioners voted 2-1 to approve the plan and zoning amendments, subject to a limited use overlay zone that limits uses on the subject property to "mini-storage and the storage of personal property and vehicles." The overlay zone further requires that "[a]ny expansion of the use must be shown to be consistent with [Statewide Planning] Goal 14 or have an exception taken to Goal 14."[2] Record 11. This appeal followed.

FIRST ASSIGNMENT OF ERROR

Petitioners argue that the county's decision fails to determine whether the plan and zoning amendments are consistent with Goal 14. Instead, petitioners contend, the county impermissibly deferred that determination to a subsequent site design review proceeding that is inadequate to ensure compliance with Goal 14. Petitioners further

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[1] The site plan also depicts several areas noted as "proposed outside storage." Record 204. These outside storage areas are apparently not included in the estimated total square footage.

[2] The county's decision states, in relevant part:

> "The request by [intervenors] for a plan amendment and zone change from VLDR 2.5 Very Low Density Residential to LI Light Industrial on Tax lot 4411-905 is hereby approved, subject to a limited use overlay zone with the following restrictions:
>
> "1. Uses shall be limited to mini-storage and the storage of personal property and vehicles, including boats and recreational vehicles.
>
> "2. Any expansion of the use must be shown to be consistent with Goal 14 or have an exception taken to Goal 14." Record 11.

argue that the limited use overlay zone applied by the county's decision is insufficient to ensure compliance with Goal 14.

According to petitioners, the expanded storage facility that the challenged plan and zoning amendments makes possible implicates Goal 14 because (1) it is located on the edge of the City of McMinnville UGB, between the cities of McMinnville and Lafayette, (2) almost all of the facility's current customers reside within nearby cities, with 83 percent residing within either the City of McMinnville or the City of Lafayette, and (3) the proposed facility exceeds the size that the Department of Land Conservation and Development (DLCD) views as appropriate for rural commercial or industrial uses outside rural unincorporated communities.

Because the proposed expanded facility implicates Goal 14, petitioners argue, the county must address that goal and either find that locating the facility on rural land outside a UGB is consistent with the goal or justify an exception to the goal. Instead, petitioners argue, the county's decision first declares that the county need not consider compliance with Goal 14 at all, apparently because the subject property is within a committed exception area that was adopted prior to the current administrative rules governing committed exception areas.[3] According to petitioners, the county is simply

[3] The county's decision states, in relevant part:

> "In the past Yamhill County has made the following argument regarding 'committed' exceptions:
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> > "Oregon Administrative Rule (OAR) 660-04 contains requirements for taking goal exceptions. This area was approved for a 'committed' exception in 1980, based on the number of small contiguous parcels and the existing rural residential development pattern. The area was zoned AF-10 allowing for rural residential development. The Board of Commissioners has previously found that a new exception is not required because a 'committed exception' to Goals 3 and 4, adopted prior to 1986, did not limit the future use of the exception area. This is because the 'committed exception' was taken before the effective date of the rule (3/20/86). Therefore, no additional goal exception is required.
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> "DLDC has previously argued that even if a committed exception is taken that additional exceptions are still necessary to approve a plan amendment/zone change. DLCD has submitted a letter stating that an exception to Goal 14 is necessary or the use would need

wrong if it believes that property within the 1980 exception area can be rezoned to allow urban uses without considering Goal 14.

We agree with petitioners that the county errs to the extent it believes that it can rezone land within the 1980 Goal 3 committed exception area without considering the question of whether uses allowed by such rezoning complies with Goal 14. Although the county's decision does not explain its reasoning on this point, the county apparently relies on OAR 660-004-0018, which in relevant part requires that plan and zone designations for land within committed exception areas (1) limit uses to the existing uses in the exception area and (2) ensure that uses within the area remain "rural."[4] Those

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to be limited to less than that which is allowed in an unincorporated community. Land within an unincorporated commu nity is limited to buildings less than 40,000 square feet in area in order to be considered an appropriate use for the community. There is no guidance given as to what limit of square footage would prevent rural property from being viewed as an urban scale of use. If the applicant later requests to expand the use beyond what is allowed in an unincorporated community, then a Goal 14 exception would be appropriate at that time." Record 9

"Since this area was a committed exception, no other exception is needed. In addition, since this request did not include site design review for expansion, no Goal 14 exception is needed. If the applicant requests to expand the use beyond what is allowed in an unincorporated community, then a Goal 14 exception would be appropriate at that time." Record 11.

[4] OAR 660-004-0018 currently provides, in relevant part:

"(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

"(2) For 'physically developed' and 'irrevocably committed' exceptions to goals, plan and zone designations shall authorize a single numeric minimum lot size and shall limit uses, density, and public facilities and services to those:

"(a) Which are the same as the existing land uses on the exception site;

"(b) Which meet the following requirements:

requirements were added to the rule in 1986. The county apparently believes that the current rule requirements do not govern the zoning of the 1980 committed exception area that includes the subject property. However, even if that were true, a matter we do not decide, the county's decision does not explain why an exception to Goal 3 that allows uses inconsistent with *that* goal also allows uses that may be inconsistent with *other* statewide planning goals for which no exception was taken. Simply because OAR 660-004-0018(1) has clarified since 1986 that an exception to one goal does not relieve a local government from other goal requirements does not mean that the converse was true prior to adoption of the rule. We agree with petitioners that, given the location, nature and size of the proposed expanded facility, rezoning the subject property to allow that expanded facility requires consideration under Goal 14, and that the county erred to the extent it concluded otherwise.

That error, however, does not provide a basis for reversal or remand unless the county's alternative disposition, to defer consideration of Goal 14 to a subsequent site design review proceeding, is also erroneous. We turn then to petitioners' challenges to that deferral.

Petitioners argue that the limited use overlay zone, and its condition requiring consideration of Goal 14 in approving "[a]ny expansion" of the existing facility, are insufficient to ensure compliance with Goal 14. According to petitioners, the site design

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> "(A) The rural uses, density, and public facilities and services will maintain the land as 'Rural Land' as defined by the goals and are consistent with all other applicable Goal requirements; and
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> "(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and
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> "(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses; or
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> "(c) The uses, density, and public facilities and services are consistent with OAR 660-022-0030, 'Planning and Zoning of Unincorporated Communities,' if applicable."

review criteria at Yamhill County Zoning Ordinance (YCZO) 1101 do not provide for consideration of Goal 14. In any case, petitioners argue, even if Goal 14 is considered during the site design review process, the notice and local appeal requirements applicable to site design review decisions are insufficient to ensure the participation of parties other than the applicant and nearby property owners. We understand petitioners to argue that the site design review process would not necessarily provide notice to interested parties who participated in the present plan and zoning amendment and who presented testimony with respect to Goal 14, such as petitioners or DLCD.

Finally, petitioners contend that the limited use overlay zone is insufficient to ensure compliance with Goal 14, because that zone can be amended or removed entirely without regard to the statewide planning goals. For these reasons, petitioners argue that the county must consider Goal 14 in the present decision and either find that the proposed uses allowed by the LI zone and limited use overlay zone are consistent with Goal 14 or take an exception to that goal.

Intervenors' respond that the county need not consider Goal 14 at all under any site design review proceeding to approve the proposed facility, as long as the facility does not exceed the 40,000-square foot maximum size permitted under OAR 660-022-0030(11) for industrial uses in rural unincorporated communities. According to intervenors, the county's decision determined that no exception to Goal 14 is necessary if the proposed expansion does not exceed 40,000-square feet in size. Record 11 (quoted at n 2). We understand intervenors to argue that any error in deferring Goal 14 to the site design review proceeding is harmless, because intervenors did not propose and do not intend to propose a facility larger than 40,000 square feet.

The portion of the decision intervenors cite to does suggest that the county views the maximum size for industrial uses in unincorporated communities to be the relevant threshold for determining whether an exception to Goal 14 is necessary for the proposed facility. If that is indeed the county's view, it is in error. As DLCD explained in a letter

to the county, Goal 14 requires that rural industrial uses in areas outside of rural unincorporated communities be less intensive than uses allowed in such communities. Record 139. In other words, DLCD apparently views Goal 14 to require that industrial uses in rural areas outside rural unincorporated communities be smaller than the 40,000 square foot maximum allowed in rural unincorporated communities under OAR 660-022-0030. The same DLCD letter expressed the opinion that the proposed mini-storage facility is "urban in intensity and nature," and argued that the only "realistic alternative" was to justify an exception to Goal 14. Record 139-40.

However, the county's view on this point appears to be advisory, because the actual terms of the limited use overlay district is that "[a]ny expansion" of the existing facility "must be shown to be consistent with Goal 14 or have an exception taken to Goal 14." Record 11. In other words, the county's decision explicitly defers consideration of Goal 14 to a site design review proceeding on the proposed expansion, and requires that the applicant show that "[a]ny expansion" of whatever size either is consistent with Goal 14 or that an exception to Goal 14 is justified. We do not read the county's decision, as intervenors apparently do, to determine that the proposed 37,426-square foot expanded storage facility is consistent with Goal 14.

Intervenors do not respond directly to petitioners' arguments that the county impermissibly deferred consideration of Goal 14 to site design review. We turn first to petitioners' argument that the limited use overlay zone is insufficient to ensure compliance with Goal 14, because that zone can be amended or removed entirely without regard to the statewide planning goals. The county's decision applies a limited use overlay zone that effectively prohibits all uses allowed in the LI zone other than a storage facility. The overlay zone also requires that "[a]ny expansion" of the existing storage facility "must be shown to be consistent with Goal 14 or have an exception taken to Goal 14." As far as we can tell, any decision amending or removing that overlay zone would be a post-acknowledgment plan amendment subject to the requirements of ORS 197.610

to 197.615, and also subject to compliance with applicable statewide planning goals.[5] Thus, contrary to petitioners' argument, it does not appear to be the case that the county may subsequently amend or remove the overlay zone without complying with ORS 197.610 to 197.615 and without addressing whether such an amendment would be consistent with applicable statewide planning goals.

It is a more difficult question whether and under what circumstances the county can defer a goal compliance issue from a post-acknowledgment plan amendment proceeding to a subsequent decision-making process, in particular a site plan review proceeding that does not involve a post-acknowledgment plan amendment subject to ORS 197.610 to 197.615. As a general principle, goal compliance issues raised by a plan amendment must be addressed and resolved at the time the plan amendment is adopted. *1000 Friends of Oregon v. Washington County,* 17 Or LUBA 671, 683 (1989).[6] We are not cited to any cases that approve deferral of a goal compliance issue that is properly raised by a plan amendment to a subsequent land use review, much less to a permit

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[5] ORS 197.610(1) provides, in relevant part:

> "A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation shall be forwarded to the Director of the Department of Land Conservation and Development at least 45 days before the first evidentiary hearing on adoption. The proposal forwarded shall contain the text and any supplemental information that the local government believes is necessary to inform the director as to the effect of the proposal. The notice shall include the date set for the first evidentiary hearing. The director shall notify persons who have requested notice that the proposal is pending."

[6] As we noted in *1000 Friends of Oregon v. Washington County*, it is not always clear whether a proposed plan amendment implicates a particular statewide planning goal. The obligation to adopt findings demonstrating goal compliance, we held, depends on (1) the subject matter of the plan amendment and (2) the nature or legal effect of the plan amendment. *Id.* at 683-84. As we explain elsewhere in this opinion, however, there is no reasonable dispute in the present case that, given the location and nature of the expanded storage facility proposed for the subject property, the plan and zoning amendments adopted in the county's decision to facilitate that expansion implicate Goal 14 and require findings of compliance with the goal or an exception to the goal. The pertinent question here is whether the county may defer such findings from the present post-acknowledgment plan amendment proceeding to a subsequent site plan review decision.

review proceeding that is not a post-acknowledgment plan amendment subject to the notice and other requirements of ORS 197.610 to 197.615.[7]

Here, the county's decision appears to take the position that it cannot meaningfully address Goal 14 until a specific site plan application for the proposed facility is submitted. However, the county does not explain why that is the case.[8] Intervenors' plan amendment and rezoning application proposed a particular industrial use, expansion of the existing storage business, and the county's decision limits future industrial uses on the property to that proposed use. Moreover, the application included a site plan that proposed a facility 37,426 square feet in size, and a considerable amount of information regarding the current operation and proposed future operation of the facility. The county and the parties below approached the question of Goal 14 compliance primarily as a matter of the total *size* of the structures associated with the expanded facility. That approach may not be the only, or even the best, way of evaluating whether industrial uses allowed by the proposed plan and zone amendments are consistent with Goal 14. However, even if the Goal 14 analysis is focused on the total size of the proposed use, it is difficult to imagine what further information is necessary for the county to make an informed judgment as to whether the uses allowed by the challenged amendments are consistent with Goal 14. To the extent there is any uncertainty about the size or other pertinent characteristics of the proposed facility, we see no reason why the

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[7] Petitioners appear to be correct that a site design review application is processed under YCZO 1101 as an administrative decision by the planning director, without necessarily providing a hearing or notice to DLCD or persons other than adjoining landowners. The record of the site design review proceeding will presumably include materials related to the site design review application, but would not necessarily include the testimony of petitioners and DLCD with respect to Goal 14 compliance that were submitted in the present proceeding.

[8] We note that the kind of information required for site design review approval under the standards at YCZO 1101 tend to involve matters such as elevations, setbacks, circulation patterns, landscaping, location of utilities and access to public roads. It is not clear to us why that kind of information is essential, or even particularly relevant, to determining whether the proposed facility is consistent with Goal 14.

county could not impose appropriate conditions to ensure that the expanded facility is consistent with Goal 14.[9]

We do not intend to foreclose the possibility that deferral of goal compliance issues to a subsequent decision may be permissible where a post-acknowledgment plan amendment application does not include sufficient information regarding proposed or contemplated uses to allow the local government to determine and ensure that uses allowed by the amendments are consistent with applicable goals, or to limit allowed uses to those consistent with applicable goals. We need not and do not here attempt to describe under what circumstances such a deferral might be permissible, because in the present case a specific use was proposed and the record appears to include more than sufficient information to allow the county to determine whether that use is consistent with Goal 14, to impose any limitations necessary to ensure consistency with Goal 14, or to attempt to justify an exception to the goal. We hold that, at least where the record includes sufficient information regarding proposed or contemplated uses to determine whether a post-acknowledgment plan amendment is consistent with applicable goals, the local government must address and resolve whether the amendment is consistent with those goals at the time the plan amendment is adopted. Because the county did not do so, we agree with petitioners that the county erred in deferring the issue of Goal 14 compliance.

The first assignment of error is sustained, in part.

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[9] For example, if the county believes that a storage facility on the subject property less than a certain size or with certain characteristics complies with Goal 14, it presumably can impose limitations, as part of the limited use overlay zone, to ensure that any expansion of the existing storage facility is consistent with Goal 14.

SECOND ASSIGNMENT OF ERROR

Petitioners challenge the county's finding that there is a need for additional industrially-zoned land to satisfy demand for mini-storage facilities, for purposes of YCZO 1208.02(B) and (D).[10]

The county's findings of an "existing, demonstrable need" under YCZO 1208.02(B) and (D) are based on a survey supplied by intervenors that examined rural lands within the county that are currently zoned LI, and found that none of them could meet the market demand for mini-storage in the area of the county where the subject property is located.[11]

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[10] YCZO 1208.02 provides:

> "(A) The proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.
>
> "(B) There is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.
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> "(C) The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.
>
> "(D) Other lands in the county already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.
>
> "(E) The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable."

[11] The county's findings addressing YCZO 1208.02(B) and (D) state:

> "4. Regarding the need for the proposed use, criterion (B), the applicant's representative * * * testified he logged phone calls received from April 10, 2003 to July 30, 2003. The calls illustrate the types of requests the applicant receives and this illustrates there is a need for this type of storage facility in this area. As for the availability and suitability of other LI zoned lands, this will be discussed in Finding B.6.
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> "* * * * *

Petitioners contend that intervenors' study of "market demand" showed that almost all of the storage facility's current customers reside within nearby cities, with 83 percent residing within the Cities of McMinnville and Lafayette. However, petitioners argue, intervenors' study of land supply examined only rural lands zoned LI, and did not examine any lands zoned LI, or similar zones that allow storage facilities, within the UGBs of nearby cities.[12] According to petitioners, the City of McMinnville's UGB includes more than 600 acres of vacant land with commercial and industrial designations that could accommodate the proposed mini-storage facility. Petitioners argue that there is nothing in the county's plan or zoning code that limits the inquiry under YCZO 1208.02(B) and (D) to rural lands outside UGBs, especially when the market demand to be satisfied stems from urban residents who live inside UGBs. On the contrary, petitioners point out, Yamhill County Revised Goals and Policies (YCRGP) Policy I.H.1.b provides that "[t]o the greatest extent possible, industrial areas will be located within [UGBs]."[13] Petitioners contend that the county's findings with respect to

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> "6. Regarding criteria (D), the applicant submitted an analysis of other lands that are plan designated and zoned LI Light Industrial. The applicant evaluated Light Industrial properties within the county. The applicant focused on those that have less than $5,000 assessed value of improvements. The study then looked at each of those sites within the County to determine which ones might be suitable for development of a storage facility. Those findings are found on pages 6-9 of the application. [The county] believes the survey was a reasonable approach and the findings on the specific sites were adequate to eliminate them from consideration." Record 8.

[12] The LI zone is apparently intended to be applied within UGBs or areas adjacent to urban development, as YCZO 702.01 indicates:

> "The purpose of the LI District is to provide for light and general industrial uses with similar service needs within urban growth boundaries and in other locations which are or will be compatible with adjacent urban development. Such areas shall maintain high performance standards for light and general industrial uses and shall coordinate site and building design through application of the site design review process."

[13] YCRGP Policy I.H.1.b states in full:

> "To the greatest extent possible, industrial areas will be located within urban growth boundaries. Those industrial areas located outside urban growth boundaries will be compatible with the industrial development goal and will be located where they can be

YCZO 1208.02(B) and (D) and YCRGP Policy I.H.1.b are inadequate and not supported by substantial evidence.

Intervenors' response to the merits of petitioners' argument is quite brief:

> "To the extent that Yamhill County determined that there was no other available [LI]-zoned property better suited for the proposed use, and that the application was consistent with the purpose of the Comprehensive Plan, zoning code and all applicable Plan policies, that decision is entitled to deference under ORS 197.829." Response Brief 4.

ORS 197.829(1) requires LUBA to defer to local government interpretations of local plan and code provisions that are consistent with the express language, purpose and underlying policy of those provisions.[14] Intervenors may be arguing that the county's

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adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines."

The county's findings addressing YCRGP Policy I.H.1.b state, in full:

> "Notice of this request was sent to the City of McMinnville. The City staff had the opportunity to voice objection if rezoning this area will conflict with their goal and the county's goal of keeping industrial areas within the UGB but voiced no opposition. This industrial use does not need the extension of utility lines in order to serve the use." Record 7.

[14] ORS 197.829 provides, in relevant part:

> "(1) [LUBA] shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:
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> "(a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
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> "(b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
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> "(c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
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> * * * * *
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> "(2) If a local government fails to interpret a provision of its comprehensive plan or land use regulations, or if such interpretation is inadequate for review, the board may make its own determination of whether the local government decision is correct."

findings include an explicit or implicit interpretation of YCZO 1208.02(B) and (D) and YCRGP Policy I.H.1.b to which LUBA must defer, but if so intervenors have not identified what that interpretation is. If there is an explanation for why the county can limit its analysis to rural lands, notwithstanding the YCRGP Policy I.H.1.b requirement to locate industrial uses within UGBs "to the greatest extent possible," notwithstanding that the LI zone is intended to be applied within UGBs and areas adjacent to urban development, notwithstanding the apparent abundance of vacant lands zoned for the proposed use within the adjacent City of McMinnville UGB, and notwithstanding that a considerable majority of the "market demand" for the storage facility comes from residents of that city, that explanation is not apparent to us in the county's findings.[15] Given the complexity of those questions, we do not see that it is appropriate for the Board to interpret the pertinent code and plan provisions in the first instance, under ORS 197.829(2).

The second assignment of error is sustained.

THIRD ASSIGNMENT OF ERROR

Petitioners contend that rezoning the subject property to allow expansion of a home occupation is inconsistent with YCZO 1004.01(F), which governs home occupation approvals, and which requires in relevant part that "a home occupation [shall not] be used as justification for a zone change."

According to petitioners, the YCZO 1004.01(F) prohibition on using a home occupation to justify a zone change is relevant under YCZO 1208.02(C), which requires a finding that "the proposed change is appropriate" considering "the surrounding land uses," "the density and pattern of development in the area," and "any changes which may

[15] We do not mean to foreclose the possibility that there might be an explanation or interpretation of YCZO 1208.02(B) and (D) and YCRGP Policy I.H.1.b that would permit the county to consider only lands outside UGBs and that would be sustainable under ORS 197.829(1), only that the county's findings do not provide such an explanation or interpretation.

have occurred in the vicinity to support the proposed amendment * * *." *See* n 10. Petitioners argue that the only change in the vicinity identified in the record is the development of the storage facility on the subject property. According to petitioners, the county's findings addressing YCZO 1208.02(C) are insufficient to establish that "the proposed change is appropriate considering the surrounding land uses" or "the density and pattern of development in the area."[16] That being the case, petitioners argue, the county must have *implicitly* relied upon "changes which may have occurred in the vicinity." In other words, petitioners contend, the county relied exclusively on the home occupation to justify the zone change under YCZO 1208.02(C), a consideration that YCZO 1004.01(F) expressly prohibits.

Intervenors respond, and we agree, that the findings addressing YCZO 1208.02(C) do not rely, even implicitly, on the "change" represented by the home occupation. Thus, even if YCZO 1004.01(F) prohibits the county from considering the existence of the home occupation as the sole basis for rezoning under YCZO 1208.02(C), the county did not do so. To the extent petitioners challenge the adequacy of the findings to explain why "the proposed change is appropriate considering the surrounding land uses" or "the density and pattern of development in the area," petitioners have not demonstrated that those findings are inadequate.

The third assignment of error is denied.

The county's decision is remanded.

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[16] The county's findings addressing YCZO 1208.02(C) state, in full:

> "5. Regarding criterion (C), the surrounding land uses are a combination of small scale farm uses and rural residences. With regard to utility needs, the proposed use would not have any significant needs to expand the utility services. The existing facility, as proposed, would not require any additional utilities and services than already exist in the area or that could be provided by a private well and septic system." Record 8.