BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

PAUL SCOTT,
Petitioner,

vs.

JOSEPHINE COUNTY,
Respondent,

and

MAJESTIC DESTINATIONS, LLC,
Intervenor-Respondent.

LUBA No. 2020-080

FINAL OPINION
AND ORDER

Appeal from Josephine County.

Paul Scott filed the petition for review and argued on behalf of himself.

No appearance by Josephine County.

Ben Freudenberg filed the response brief and argued on behalf of intervenor-respondent.

RUDD, Board Chair; RYAN, Board Member; ZAMUDIO, Board Member, participated in the decision.

REMANDED 03/09/2021

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

Opinion by Rudd.

NATURE OF THE DECISION

Petitioner appeals a county board of commissioners approval of a conditional use permit (CUP) authorizing a 25-space recreational vehicle (RV) park on land zoned exclusive farm use (EFU).

MOTION TO INTERVENE

Majestic Destinations, LLC (intervenor), the applicant below, moves to intervene on the side of the county. The motion is unopposed and is granted.

FACTS

The 19.08-acre subject property is zoned EFU and located adjacent to a property containing a residence, a nine-hole golf course, a putting green, a driving range, and buildings accessory to the golf course use (the golf course property). In 2019, the county approved a property line adjustment (PLA) between the subject property and the golf course property (the 2019 PLA).

On June 26, 2019, intervenor applied for a CUP to develop a 25-space RV park on 2.4 acres of the subject property, with much of the remaining acreage subject to an easement authorizing its use as part of the adjoining golf course. On November 6, 2019, the community development director approved the CUP. On November 25, 2019, petitioner filed their appeal of the community development director's decision to the county board of commissioners. On May 18, 2020, the county board of commissioners held a public hearing on the appeal. On July 15, 2020, the county board of commissioners denied the appeal, approving the CUP.

This appeal followed.

SECOND ASSIGNMENT OF ERROR

Petitioner's second assignment of error is that the county's decision is not supported by substantial evidence, that is, evidence a reasonable person would rely upon to make a decision. *Dodd v. Hood River County*, 317 Or 172, 179, 855 P2d 608 (1993) (citing *Younger v. City of Portland*, 305 Or 346, 351-52, 752 P2d 262 (1988)). We will reverse or remand a local government decision not supported by substantial evidence. ORS 197.835(9)(a)(C). We will also reverse or remand a decision if it is not in compliance with an applicable land use regulation. ORS 197.835(8).

A. First Subassignment of Error

Petitioner argues that the county erred in approving the application because intervenor applied for a "Conditional Use for an RV Park," not a private campground. We agree with intervenor that substantial evidence supports the county's conclusion that intervenor's proposed development is a private campground.

Oregon land use law preserves land for agricultural uses by restricting uses allowed in EFU zones to agricultural uses and certain non-farm uses listed in ORS 215.283. ORS 215.203.[1] ORS 215.283(2)(c) provides that, subject to ORS

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[1] ORS 215.203(1) provides, in part, "Zoning ordinances may be adopted to zone designated areas of land within the county as [EFU] zones. Land within

215.296, counties may allow private campgrounds on land zoned EFU.[2] OAR 660-033-0120 provides a table of uses allowed on agricultural lands "subject to the general provisions, special conditions, additional restrictions and exceptions set forth in [OAR chapter 660, division 33]." As applicable to the CUP here, the OAR 660-033-0120 table provides that private campgrounds are allowed on non-high-value farmland subject to OAR 660-033-0130(2), (5), and (19). New private

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such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284."

[2] ORS 215.283(2) provides:

> "The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned [EFU] subject to ORS 215.296:
>
> "* * * * *
>
> "(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this paragraph, 'yurt' means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance."

campgrounds are not allowed on high-value farmland. *See* ORS 215.283(2)(c); OAR 660-033-0120; OAR 660-033-0130(18)(a); *see also* OAR 660-033-0020(8)(a) (defining "high-value farmland"). Counties may, in some circumstances, prescribe additional limitations and requirements to meet local concerns. OAR 660-033-0120(1), (2).

Josephine County Code (JCC) 19.64.040(T) incorporates these provisions, provides that private campgrounds are conditionally allowed on the county's EFU land, and explains that

> "[a] campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes, and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground[.]" JCC 19.64.040(T)(4).

JCC 19.64.040(T)(6) provides that

> "[c]ampgrounds * * * authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations, and overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period."

"[A] county may regulate or define uses allowed under ORS 215.283(2) as long as it does not define those uses more expansively than permitted under state law." *R/C Pilots Association v. Marion County*, 33 Or LUBA 532, 538 (1997). Here, the county's definition of campground is consistent with state law. OAR 660-033-0130(19)(a) defines a campground as "an area devoted to overnight

temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations." OAR 660-033-0130(19)(b) provides, in part, that private campgrounds

> "must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground and designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period. Campsites may be occupied by a tent, travel trailer, yurt or [RV]. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(d) of this rule."

The requirements set out in OAR 660-033-0130(19) are incorporated into the local code throughout JCC 19.64.040(T).

Substantial evidence, that is, evidence a reasonable person would rely upon to reach a decision, supports the county's conclusion that the proposed use is a private RV campground. Intervenor's proposed RV park "has access to the Applegate Golf Course through the neighboring Tax Lot 102 for recreational use by the occupants." Record 17. The county found that the proposal did not include any intensively developed recreational uses. *Id.* Occupancy will be temporary because the county imposed the following condition of approval:

> "The [RV] campground shall not allow permanent residency of the RV spaces. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period. [JCC 19.64.040(T)(6)]. The owner of the RV campground shall maintain adequate records to show compliance with this requirement." Record 26.

This is evidence upon which a reasonable person would rely to determine that the proposed use is a campground for temporary overnight use adjacent to an accessible recreational area.[3]

This subassignment of error is denied.

B. Second Subassignment of Error

Petitioner argues that the county erred by applying both JCC 19.64.040 and JCC chapter 19.98 to the application and that the "development was approved by the co-mingling of two divergent and incompatible local codes." Petition for Review 26. Petitioner does not argue that intervenor failed to apply any specific criterion. We agree with the intervenor that the county did not misconstrue the law or err in applying multiple parts of its code.

JCC 19.64.040 applies to conditional uses in the EFU zone. The purpose of JCC title 19, division IX (JCC chapter 19.90 to 19.99A), "is to establish supplementary development standards for land uses that present unique or complex land use planning opportunities or constraints." JCC 19.90.010. As explained in JCC 19.90.020,

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[3] Petitioner does not argue that the golf course does not constitute an "outdoor natural amenity" for purposes of OAR 660-033-0130(19)(b).

> "[t]he standards in this division relate to special characteristics of the uses, and unless, otherwise specified, are to be applied in addition to all other applicable standards prescribed in this code. *In the event that the standards contained in this division differ from other applicable standards in this code, the more stringent shall apply*." (Emphasis added.)

As we explained above, substantial evidence supports the county's conclusion that intervenor's proposed project is a private campground. Because private campgrounds are conditional uses in the EFU zone, JCC 19.64.040 applies to intervenor's proposed development. JCC chapter 19.98 applies to "Camping, Campgrounds, RV Parks, Lodges and Retreat Centers" and is therefore also applicable to intervenor's proposed development. If the standards in JCC chapter 19.98 are less stringent than other applicable criteria in the code, the more stringent criteria apply.

This subassignment of error is denied.

The second assignment of error is denied.

FIRST ASSIGNMENT OF ERROR

Petitioner's first assignment of error argues that the county made three mistakes in its interpretation of applicable law. We will reverse or remand a local government decision that improperly construes the law. ORS 197.835(9)(a)(D).

A. First Subassignment of Error

Petitioner's notice of intent to appeal challenges the county's decision approving the CUP. The CUP decision includes the county's finding that the 2019 PLA was final and not subject to challenge in the local appeal of the

community development director's decision. Petitioner's first subassignment of error is that the decision improperly treats the subject property as "a separate and free standing common land unit viable for development" and that the county improperly rejected their challenge to the 2019 PLA during review of the CUP application. Petition for Review 15. The county's decision approving the PLA became final in 2019 and was not timely appealed. Petitioner argues that the window to appeal the 2019 PLA must remain open until the CUP decision is final and unappealable because, according to petitioner, the PLA was motivated by and intended to facilitate the RV park conditional use. We agree with intervenor that petitioner's arguments directed at the 2019 PLA challenge a decision that is final and not subject to challenge in this appeal.

> "Any legal errors in the decision that creates a parcel could be raised in an appeal of the decision to LUBA at the time the decision becomes final. If no such appeal is filed, the decision is not subject to collateral attack in an appeal of a subsequent land use decision." *Oregon Natural Desert Assoc. v. Harney County*, 65 Or LUBA 246, 256 (2012).

See also Just v. Linn County, 59 Or LUBA 233, 236 (2009) (holding that challenges to the correctness or validity of a previous permit decision that was not appealed amount to an impermissible collateral attack on a final land use decision"). Petitioner did not appeal the 2019 PLA decision and may not attack that decision in this appeal.

This subassignment of error is denied.

B. Second Subassignment of Error

As explained above, under state law, new private campgrounds are not allowed on high-value farmland. ORS 215.283(2)(c); OAR 660-033-0120; OAR 660-033-0130(18)(a). JCC 19.64.040(T)(1) implements those state law provisions and provides that new private campgrounds are not authorized on property "which is high-value farmland as defined in JCC 19.11.100." JCC 19.11.100 adopts the definition of "high-value farmland" in OAR 660-033-0020(8)(a) and (b) and provides:

> "'High Value Farmland,' for the purpose of locating a limited lot of record dwelling on farmland and restricting certain uses, means soils that are:
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> "1. Irrigated and classified prime, unique, Class I or Class II; or
>
> "2. Not irrigated and classified prime, unique, Class I or Class II; and
>
> "3. Tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to 1993. 'Specified Perennials' means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards but not including seed crops, hay, pasture, or alfalfa."

The county found:

> "Per the Natural Resources Conservation Services (NRCS) soils survey, less than 30% of soils on the subject [property] are considered high-value farmland (Class II soils). Roughly 10% of the property is considered Class IV soils, which are soils with severe limitations and are not considered high-value farmland. The

> remaining roughly 60% of the subject [property is] considered 'not prime farmland' (Class 7, 8 or water). Therefore, the [county] finds this property is not considered high-value farmland * * *." Record 16 (underscoring in original).

Petitioner's second subassignment of error is that the 2019 PLA was improperly approved because the applicant's intent was not to move the property line but rather to segregate the high-value farmland on the golf course property so that the subject property could qualify for a private campground CUP under JCC 19.64.040(T)(1). An applicant's motivation for obtaining a PLA does not change the fact that the property line is adjusted if the approval is finalized. As we explained in the first subassignment of error, the 2019 PLA decision is final and not subject to appeal. Accordingly, the issue of whether the county properly approved the 2019 PLA is not subject to our review in this appeal and petitioner's argument that the purpose of the 2019 PLA was improper provides no basis for reversal or remand of the CUP decision.

This subassignment of error is denied.

C. Third Subassignment of Error

Petitioner's third subassignment of error is that the subject property is part of a larger "tract" which includes high-value farmland and is therefore ineligible for a private campground under JCC 19.064.040(T)(1), citing OAR 660-033-0130(3)(g).[4] OAR 660-033-0130(3)(g) defines "owner" for purposes of

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[4] OAR 660-033-0130(3)(g) provides:

describing a "tract" under OAR 660-033-0130(3)(a), which prohibits approval of a new dwelling on farm land if, among other things, the "tract" on which the proposed dwelling will be located already includes a dwelling. OAR 660-033-0130(3)(a)(B). The CUP is for a private campground, not a dwelling on farmland. OAR 660-033-0130(3)(a) does not apply to private campgrounds. *See* OAR 660-033-0120 (providing a table that lists the uses allowed on agricultural lands as well as the provisions to which those uses are subject). Accordingly, the definition of "owner" in OAR 660-033-0130(3)(g) is also inapplicable.

We agree with intervenor that the subject property and the golf course property are not part of one tract. The subject property is owned by Majestic Destinations, LLC, and the golf course property is owned by Applegate River Golf Club. Petitioner maintains that Patrick Bernard owns and operates Majestic Destinations, LLC, and that Patrick Bernard's spouse, Leah Bernard, owns and operates Applegate River Golf Club. The subject property and the golf course property are, however, owned by separate legal entities and, therefore, are not under the same ownership and not part of the same tract.

This subassignment of error is denied.

> "For purposes of subsection (3)(a) of this rule, 'owner' includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members[.]"

The first assignment of error is denied.

SIXTH ASSIGNMENT OF ERROR

Petitioner's sixth assignment of error is that the approval authorizes "easements that cannot be made effective." Petition for Review 37. Petitioner explains that intervenor's development plan contemplates (1) a six-acre septic repair area easement over the golf course property for the benefit of the subject property, (2) an easement over the golf course property to provide a driveway serving the subject property, and (3) an 11-acre golf course use easement over the subject property for the benefit of the golf course property. Petitioner argues that these easements are unlawful because the properties are in common ownership, that the proposed easements demonstrate that the properties will operate as a single tract of land, and that, as a result, the RV campground has been approved on a tract containing high-value farmland in violation of JCC 19.64.040(T)(1) and OAR 660-033-0130(19)(b).[5]

It is undisputed that the subject property is owned by Majestic Destinations, LLC, and the golf course property is owned by Applegate River Golf Club. As explained above, petitioner maintains that Patrick Bernard owns and operates Majestic Destinations, LLC, and that Patrick Bernard's spouse,

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[5] We do not understand petitioner to argue that a private campground located on non-high-value farmland may not be connected to infrastructure on adjacent high-value farmland or have access to open areas or other amenities located on adjacent high-value farmland.

Leah Bernard, owns and operates Applegate River Golf Club. Petitioner argues that, pursuant to "OAR 66[0]-033-0130[(3)](g) and JCC 19.64.070[B](4)(a) * * * Husband Respondent/owner, agent of Majestic Destinations, TL 301 and Wife of Respondent and owner agent of Applegate Valley Investments LLC, TL 102 constitute a single owner" of the 58.2-acre combined property and, therefore, effective easements may not be created.[6] Petitioner also cites ORS 105.170(1), which provides that, for purposes of ORS 105.170 to 105.185, "'[e]asement' means a nonpossessory interest *in the land of another* which entitles the holders of an interest in the easement to a private right of way, embodying the right to pass *across another's land*." (Emphasis added.)

ORS 105.170 to 105.185 governs easement owner maintenance obligations for certain easements. ORS 105.185. It is not clear to us that those statutes have any bearing on the land use context generally or this case

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[6] JCC 19.64.070(B)(4) provides:

> "Miscellaneous Requirements. The following additional requirements shall apply to the review and approval of all lot of record dwellings:
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> "a. For purposes of administering the lot of record test, 'owner' includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members[.]"

specifically. Petitioner's argument under ORS 105.170 is not sufficiently developed for our review.

As we explained above, OAR 660-033-0130(3)(g) applies to dwellings and the definition of "owner" contained therein is not applicable to the private campground at issue here. The same is true of the local incorporation of that rule at JCC 19.64.070(B)(4)(a). The subject property is in different ownership and not part of the same "tract" as the golf course property.

The sixth assignment of error is denied.

THIRD ASSIGNMENT OF ERROR.

JCC 19.64.040(T)(7) provides, "Campsites may be occupied by a tent, travel trailer, yurt or [RV]. *Separate sewer, water or electric service hookups shall not be provided to individual camp sites except that electrical service may be provided to yurts*[.]" (Emphasis added.) The same restrictions are found in OAR 660-033-0130(19)(b).[7] Petitioner argues that the county misconstrued the law and made a decision not supported by substantial evidence because intervenor's project includes separate water and electric service hookups in violation of these provisions. We agree.

Intervenor's campground provides separate water and electric service hookups to each campsite. However, the county agreed

[7] OAR 660-033-0130(19)(b) provides, in part, "Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(d) of this rule."

> "with the Director's finding that the intent of this requirement is to prevent an intensive use on land that would otherwise be used for farming. Considering that the majority of the soil is not suitable for farm use, [intervenor] has proposed water and electric hookups to sites. RVs are a less intensive use than yurt structures, which are allowed electrical hookups. Per [intervenor's] narrative, [*Linn County Farm Bureau v. Linn County*, 63 Or LUBA 347 (2011),] affirms that an RV campsite on farm-zoned property may have individual electric and water hookups on the basis that electricity and water systems can easily be converted back into farmland. Therefore, the [county] affirms the Director's decision that the intent of this provision is met and this criterion is satisfied." Record 17-18.

Our decision in *Linn County Farm Bureau* relied on the rules applicable to *public* campgrounds on farmland. We explained:

> "*OAR 660-033-0130(19)(b) prohibits providing '[s]eparate sewer, water or electric service hook-ups' to individual campsites in a private campground.* However, [in *Rural Thurston Inc., v. Lane County*, 55 Or LUBA 382 (2007)] we rejected petitioners' argument that the same specific limitations that apply to private campgrounds also apply to public campgrounds. With respect to public parks, including campgrounds, the [administrative rule implementing Statewide Planning Goal 3 (Agricultural Lands)] simply provides for '[p]ublic parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.' OAR 660-033-[]0130(31). As noted, however, while the park planning rule strongly implies that in the absence of a master park plan an exception to the resource goals may be necessary for some of the uses specified in OAR 660-034-0035 or 660-034-0040, the rule does not indicate which uses require an exception." *Linn County Farm Bureau*, 63 Or LUBA at 350-51 (emphasis added).

Intervenor's project provides separate water and electric service hookups to each RV space. The county may not apply criteria which are less stringent than that set forth in state law restricting the use of EFU land. *Brentmar v. Jackson County,*

321 Or 481, 497, 900 P2d 1030 (1995); *Lane County v. LCDC*, 325 Or 569, 582-583, 942 P2d 278 (1997). Intervenor's proposed use is a private campground and the county may not disregard its own code and the Oregon Administrative Rules and allow private water and electric hookups.

The third assignment of error is sustained.

FOURTH ASSIGNMENT OF ERROR

Statewide Planning Goal 14 (Urbanization) is "[t]o provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities." OAR 660-015-0000(14). Petitioner argues that the density of intervenor's proposed development is inconsistent with Goal 14 and that the county erred in concluding that a Goal 14 exception is not required. We agree with intervenor that the campground is not inconsistent with Goal 14.

Petitioner bases their argument that the campground violates Goal 14 on their assertion that the density of RVs per acre and the corresponding electric and water hookups designed to serve that density of development make the development urban in scale. Petitioner cites *Oregon Shores Conservation Coalition v. Coos County*, 55 Or LUBA 545 (2008) (*OSCC*), for the proposition that an RV park is an urban use when it includes on-site water, electrical, and sewer systems that are designed to support a high intensity, dense collection of residential uses.

As we explained in *OSCC*,

> "Goal 14 prohibits urban uses on rural land without an exception to Goal 14. *1000 Friends of Oregon v. LCDC (Curry County)*, 301 Or 447, 477, 724 P2d 268 (1986). * * * In *Curry County,* the Supreme Court indicated that certain factors could be considered in determining whether a use is urban or rural: (a) the size of the area in relationship to the developed use (density); its proximity to an acknowledged [urban growth boundary] and whether the proposed use is likely to become a magnet attracting people from outside the rural area; and (c) the types and levels of services which must be provided to it." 55 Or LUBA at 549-50.

The facility at issue in *OSCC* was sited on a 42.84-acre property located one mile north of the city of Bandon and included—in addition to a 179-space RV park consisting of "park trailer" RVs, which resemble "small cabins with sloping roofs, windows, decks or porches" mounted on a trailer—a convenience store, a caretaker's residence, a boat launch, fishing piers, a floating dock, a tackle/rental shop and a recreation center. *Id.* at 547-48. Once sited, there would have been no requirement to move the park trailers. That is not the proposal here. As explained above, the rules applicable to private campgrounds do not allow intense recreational support facilities and limit the duration of site occupancy. Intervenor's proposed campground does not have intense recreational support facilities and the duration of occupancy is limited. Also unlike the property in

OSCC, the subject property is more than three miles from an urban growth boundary.[8] Record 17.

Petitioner maintains that the density of intervenor's proposal is appropriately compared to the 2.4 acres that would be developed with the RV campground, a density of over 10 RVs per acre. OAR 660-033-0130(19) does not provide a limitation on the number of permitted campsites per acre and a density of 10 RVs per acre alone is not dispositive of whether a use is better characterized as urban or rural. The *Curry County* factors must be evaluated in their totality and the balance of the *Curry County* factors here tends towards a rural characterization.

The fourth assignment of error is denied.

FIFTH ASSIGNMENT OF ERROR

Statewide Planning Goal 11 (Public Facilities and Services) is "[t]o plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." OAR 660-015-0000(11). OAR 660-011-0060(1)(f) defines "sewer system" as

> "a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit

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[8] The JCC (and Goal 3 rule) provide that, "[e]xcept on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is taken pursuant to OAR chapter 660, division 4;" JCC 19.64.040(T)(3); OAR 660-033-0130(19)(b).

> development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal."

Petitioner argues that intervenor's proposed facility is a "planned unit development" or commercial multi-unit development comparable to a motel and that the county erred in approving "a new urban scale sewer system on rural land zoned EFU." Petition for Review 35. The county found:

> "[Intervenor] has proposed a centralized wastewater dump station with drain field. The [county] finds this is a low intensity use compared to individual sewer hookups for each site. As conditioned below, [intervenor] is required to submit an approval from [the Oregon Department of Environmental Quality] for subsurface septic system, prior to the issuance of a Development Permit." Record 14.

Intervenor's proposed private campground is a conditionally allowed use in the EFU zone. It will not have intensive support facilities. The dumpsite serves one parcel and no permanent units. In that way, the proposed development here is unlike the proposed development in *OSSC*, which we concluded was a "planned unit development" within the meaning of the county's code definition because it included several additional structures and uses such as a convenience store, marina, fishing pier, caretaker's residence, and recreation center, among others. Petitioner does not develop any argument as to why the campground at issue here is a "planned unit development" within the meaning of the Goal 11 rule or the JCC. We will not develop petitioner's argument for them.

The fifth assignment of error is denied.

The county's decision is remanded.