

1.3.1 Administrative Law – Findings Generally – What Constitutes. Where it is possible to read a city council’s findings as incorporating only the conditions of approval proposed in an attached staff report but it is also possible to read the city council’s findings as incorporating the entire staff report as part of the city council’s decision, but it is clear the city intended the latter, LUBA will reject petitioner’s contention that the more limited reading of the city council’s decision is required. *Frewing v. City of Tigard*, 50 Or LUBA 226 (2005).

1.3.1 Administrative Law – Findings Generally – What Constitutes. A local government’s failure to adequately identify documents it intends to incorporate by reference as findings, and its adoption of testimony as findings, are not by themselves a basis for reversal or remand. Instead, the attempted incorporation fails and the city may not rely on such documents or testimony to provide “findings” in support of the decision. If the city has adopted other findings that adequately support the decision, the failed incorporation and improper attempt to adopt testimony as findings are harmless error. *Staus v. City of Corvallis*, 48 Or LUBA 254 (2004).

1.3.1 Administrative Law – Findings Generally – What Constitutes. An attempt to incorporate documents in the record as findings of compliance with the Transportation Planning Rule fails, where the decision purports to incorporate hundreds of pages of minutes and written testimony without adequately identifying those documents, and the incorporation is qualified in a manner that makes it difficult or impossible to understand the facts relied upon and the justification for the decision. *Staus v. City of Corvallis*, 48 Or LUBA 254 (2004).

1.3.1 Administrative Law – Findings Generally – What Constitutes. A decision maker may rely on environmental assessments and technical reports prepared and used by the decision maker in making its decision to demonstrate compliance with findings requirements, notwithstanding that the documents were not formally adopted as findings, where a reasonable person would understand that the decision maker intended to rely on the documents to support its decision. *Witham Parts and Equipment Co. v. ODOT*, 42 Or LUBA 435.

1.3.1 Administrative Law – Findings Generally – What Constitutes. Where petitioner challenges the adequacy of a local government’s findings, and the challenged decision neither contains findings nor incorporates other documents into the decision as findings, LUBA will remand the decision for adoption or incorporation of necessary findings. *Allen v. Grant County*, 39 Or LUBA 232 (2000).

1.3.1 Administrative Law – Findings Generally – What Constitutes. Oral discussion by the local decision makers reflected in the tape of the hearing does not constitute findings demonstrating compliance with applicable land use standards. *Allen v. Grant County*, 39 Or LUBA 232 (2000).

1.3.1 Administrative Law – Findings Generally – What Constitutes. Oral comments by individual city council members are not findings and cannot constitute a reviewable interpretation of local code provisions. *Breen v. City of Salem*, 37 Or LUBA 961 (2000).

1.3.1 Administrative Law – Findings Generally – What Constitutes. A statement adopted by a planning commission but not incorporated into the city council's final decision does not constitute a reviewable finding. *Hood River Valley Res. Comm. v. City of Hood River*, 33 Or LUBA 233 (1997).

1.3.1 Administrative Law - Findings Generally - What Constitutes. Where findings adopted by the initial local decision maker interpreted a local ordinance provision, but those findings were *replaced* by findings adopted by the local governing body which do not include an interpretation of the ordinance provision, LUBA must remand the decision to the local government to interpret the provision in the first instance. *Friends of Bryant Woods Park v. Lake Oswego*, 26 Or LUBA 185 (1993).

1.3.1 Administrative Law - Findings Generally - What Constitutes. The findings supporting a challenged decision may consist of several different documents, so long as the local government adequately identifies and specifically adopts those documents as findings. *Neuharth v. City of Salem*, 25 Or LUBA 267 (1993).