

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings to explain the basis for denial of a permit are inadequate where the findings do not explain which criteria the application fails to meet or otherwise inform the applicant what steps are necessary to obtain approval under the relevant criteria. *Bridge Street Partners v. City of Lafayette*, 56 Or LUBA 387 (2008).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

In addressing a requirement that a proposed use on forestland not interfere with nearby farming practices, a county must address the impacts on an adjacent parcel when the petitioner alleges that there will be adverse impacts on the adjacent parcel. *Tennant v. Polk County*, 56 Or LUBA 455 (2008).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a comprehensive plan categorizes lands within the urban growth boundary according to suitability for development, a county errs by denying a request for rezoning on the basis that the requested rezoning is inconsistent with the comprehensive plan, where the findings identify nothing in the comprehensive plan that supports a conclusion that the property’s low suitability rating precludes the requested rezoning. *Sperber v. Coos County*, 56 Or LUBA 763 (2008).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a rezoning standard requires a finding that the rezoning “will not seriously interfere with permitted uses on other nearby parcels,” a county’s findings that the standard is not met due to “access and fire safety concerns” are inadequate, where those findings address concerns with development on the rezoned property and have no obvious bearing on interference with development on nearby parcels. *Sperber v. Coos County*, 56 Or LUBA 763 (2008).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where the dispute during local proceedings on remand regarding a visual impact approval criterion centered on whether photographic evidence submitted by broadcast tower opponents simulated six-foot diameter microwave antennas or much larger antennas, the hearings officer’s unexplained decision to allow microwave antennas to be sited on the towers without additional review so long as they did not exceed eight feet in diameter requires remand so that the hearings officer can explain her selection of the eight-foot parameter. *Save Our Skyline v. City of Bend*, 55 Or LUBA 12 (2007).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

A hearings officer’s decision to incorporate a “safe harbor” in her approval of broadcast towers that would allow additional microwave antennas to be sited on the towers in the future without additional review against visual impact approval criteria so long as they were not sited higher than 150 feet is erroneous, where the decision included no explanation for why the 150-foot parameter was selected. *Save Our Skyline v. City of Bend*, 55 Or LUBA 12 (2007).

1.4.4 Administrative Law - Adequacy of Findings - Explanation of Rationale. A hearings officer's findings that a proposed cellular tower complies with a siting standard that requires the tower to minimize its effect on scenic values are adequate, where the findings note the developed nature of the butte where the cellular tower would be located and demonstrate that the hearings officer was persuaded that the standard was met by the applicant's proposal to shorten the tower from 100 feet to 70 feet and to offer alternative designs that would make the tower look more like its surroundings. *Skyliner Summit at Broken Top v. City of Bend*, 54 Or LUBA 316 (2007).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city's findings in support of its decision to deny permit approval must adequately interpret and apply the criteria the city relies on to deny the application in a way that is consistent with the language of the criteria and must provide a coherent explanation for why the city believes the proposal does not comply with the criteria. A city decision will be remanded where its findings do not comply with these minimum requirements for adequate findings. *Caster v. City of Silverton*, 54 Or LUBA 441 (2007).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A local government's conclusory finding that a sign plan complies with applicable criteria is not a basis for remand where the signage standards are clear and objective, and petitioners do not identify anything about the sign plan or the applicable standards that require more detailed discussion or findings. *Western Express v. Umatilla County*, 54 Or LUBA 571 (2007).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that simply states that an approval standard is satisfied "as shown in" the application and oral testimony, without any attempt to state the facts relied upon or explain why the facts demonstrate compliance with the standard, is inadequate. *O'Rourke v. Union County*, 54 Or LUBA 614 (2007).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A conclusion that no potential off-street parking site is available within 500 feet of the subject property is not supported by adequate findings or evidence where the decision simply rejects alternative sites for unexplained "topographic" reasons. *Grant v. City of Depoe Bay*, 53 Or LUBA 214 (2007).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Under a variance standard requiring that the "hardship" not be "self-created," a finding that the "applicant's desire to partition his property" created the "hardship" is an insufficient basis to deny the variance request, where the hardship is the lack of alternative access to the proposed parcel and there is no explanation in the findings how petitioner's desire to partition his property created the lack of alternative access to the proposed parcel. *Krishchenko v. City of Canby*, 52 Or LUBA 290 (2006).

1.4.4 Administrative Law - Adequacy of Findings - Explanation of Rationale. A hearings officer's findings are sufficient to explain why a proposed subdivision complies

with criteria that require preserving existing natural drainage channels where those findings explain that drainage within the historic drainage area has largely been diverted and there is no evidence that more than a *de minimis* flow of drainage will cross a shallow swale on the property to be subdivided. *Kyle v. Washington County*, 52 Or LUBA 399 (2006).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that an intervening road will buffer commercial and residential uses, and that rely on site design review standards to minimize adverse impacts of future commercial uses, are sufficient to explain why a zone change from office to commercial uses is consistent with a refinement plan policy that encourages location of office uses as a transition between commercial and residential uses. *Bothman v. City of Eugene*, Or LUBA 701 (2006).

1.4.4 Administrative Law - Adequacy of Findings - Explanation of Rationale.

Where a variance criterion requires the city to find that “public need” outweighs “adverse impacts” of developing wetlands and a party argues there is no market demand for the commercial development that the variance would allow, the city must address in its findings the role, if any, that market demand plays under the variance criterion and explain why the public need, as the city interprets those words, outweighs the identified potential adverse impacts. *Neighbors 4 Responsible Growth v. City of Veneta*, 51 Or LUBA 363 (2006).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where intervenors provide in their response brief an alternative theory for affirming the challenged decision in the event necessary findings are found not to be supported by substantial evidence, and that alternative theory does not appear in the challenged findings, LUBA will decline to affirm on that basis, and will remand to allow the local government to consider that alternative theory in the first instance. *Anderson v. Coos County*, 51 Or LUBA 454 (2006).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

While a code standard that allows a reduced setback for cellular towers based on listed considerations that increase or reduce off-site impacts does not require that the hearings officer assign equal weight to each of the listed considerations, it also does not allow the hearings officer to assign conclusive weight to one consideration while ignoring others. Where some considerations point toward increasing the setback, and others point to reduction, the hearings officer must adopt findings addressing all relevant considerations and explaining what weight is given to each and why weighing of all the circumstances supports the ultimate conclusion. *Tollefson v. Jackson County*, 51 Or LUBA 790 (2006).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

A challenge to the adequacy of findings will be sustained where the decision maker fails to explain why a code provision that prohibits development unless a developer makes transportation improvements necessary to maintain a particular level of service applies

only at the time of a zone change and not to a site plan and architectural review application. *Wal-Mart Stores, Inc. v. City of Medford*, 49 Or LUBA 52 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A conclusory finding that a traffic study is sufficient to determine access requirements is inadequate where the finding fails to set out the applicable criteria or explain what those access requirements are. *Wal-Mart Stores, Inc. v. City of Medford*, 49 Or LUBA 52 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where the decision approves a cul-de-sac that may be longer than 600 feet, depending on how the “block” is measured, remand is necessary to explain how the blocks created by the cul-de-sac comply with a subdivision approval standard prohibiting blocks longer than 600 feet as measured between the centerline of “through cross streets.” *Paterson v. City of Bend*, 49 Or LUBA 160 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where the relevant legal standards mandate a regimented step-by-step analysis, and the findings adopted in support of a decision to deny a permit under those legal standards are brief and do not come close to providing the level of detail that is required to address the legal standards, remand is required. *Hellberg v. Morrow County*, 49 Or LUBA 423 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings that an annexation area is adjacent to a long-developed urban neighborhood with full public services that can be readily extended to the annexed territory area are sufficient to demonstrate compliance with a code criterion requiring that “an adequate level of urban services and infrastructure is available or will be made available in a timely manner.” *Cutsforth v. City of Albany*, 49 Or LUBA 559 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings are inadequate where they simply disagree with a hearings officer’s interpretation of what an approval standard requires, without explaining what the decision maker believes the standard to require or why the evidence satisfies the standard. *Knutson Family LLC v. City of Eugene*, 48 Or LUBA 399 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Evidence that a planning commissioner or member of the board of commissioners may have misunderstood the applicable standard does not provide a basis for reversal or remand where the challenged decision correctly identifies the applicable standards and correctly applies the law. *Potts v. Clackamas County*, 48 Or LUBA 521 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. An approval standard that requires that the local government identify the alternative that “most effectively carries out comprehensive plan goals and policies” necessarily requires balancing when the plan includes many overlapping policies that can work at

cross-purposes. Findings that explain how the city chose to balance those plan goals and policies and which goals and policies the city emphasized are adequate, even if petitioners would have emphasized other goals and policies. *Doob v. City of Grants Pass*, 48 Or LUBA 587 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a development code includes a requirement that its standards for subdivision approval must “provide safe * * * traffic conditions,” findings that explain how an amended development code subdivision approval standard will make the transportation system safer are adequate to demonstrate compliance with that development code requirement notwithstanding that alternative subdivision approval standards might result in safer traffic conditions or achieve those safer traffic conditions more quickly. *Doob v. City of Grants Pass*, 48 Or LUBA 587 (2005).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that briefly describe existing parks within the city are inadequate to demonstrate that a proposed new park complies with a standard requiring that other properly zoned land is not available in sufficient quantity to meet current and projected needs. *Nielson v. City of Stayton*, 47 Or LUBA 52 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

A decision to deny a dwelling based on an applicant’s failure to demonstrate that the dwelling has only “minimum impact” on wildlife habitat is inadequate, where the hearings officer also found that the dwelling complies with big game habitat criteria and that such compliance establishes a presumption that the dwelling has only minimum impact on habitat, and the hearings officer does not explain those apparently inconsistent findings. *McAlister v. Jackson County*, 47 Or LUBA 125 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that proposed residential development is consistent with permitted uses in the zone are inadequate to demonstrate that the proposed development is compatible with the “existing land use pattern in the area.” *Doob v. Josephine County*, 47 Or LUBA 147 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a decision’s findings rely on the supply of light industrial lands outside the UGB, but fail to consider the supply of light industrial and commercial lands within the UGB zoned to allow a proposed storage facility on rural land that serves residents within the UGB, those findings are inadequate to demonstrate compliance with rezoning criteria requiring a “need” to rezone land. *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 160 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Conclusory findings that proposed development is consistent with the current development pattern in the area are inadequate to demonstrate that the proposed development is “consistent with the character of the surrounding area,” particularly when

the local code calls for a “detailed review.” *Seaton v. Josephine County*, 47 Or LUBA 178 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where LUBA is able to determine that a reasonable decision maker could rely on the evidence the decision maker chose to rely on, findings specifically addressing conflicting evidence are unnecessary. *Tallman v. Clatsop County*, 47 Or LUBA 240 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

That lot-of-record dwellings are allowed in the EFU zone is an insufficient basis to demonstrate compliance with a code standard requiring that a proposed lot-of-record dwelling will not materially alter the stability of the land use pattern in the area. *Tallman v. Clatsop County*, 47 Or LUBA 240 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

That lot-of-record dwellings are allowed in the EFU zone is an insufficient basis to demonstrate compliance with a code standard requiring a finding that the proposed dwelling will not create conditions or circumstances “contrary to the purposes or intent” of the county comprehensive plan and code. *Tallman v. Clatsop County*, 47 Or LUBA 240 (2004).

1.4.4 Administrative Law - Adequacy of Findings - Explanation of Rationale.

Whether property with predominantly nonfarm soils should nevertheless be viewed as “other lands suitable for farm use” under a county code standard that replicates the Goal 3 definition of agricultural land, is governed by specific considerations. That a property may have been briefly used as an elk and deer holding facility is not one of the specified considerations. *Rutigliano v. Jackson County*, 47 Or LUBA 470 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that recite lengthy efforts by the city historic preservation board to encourage an applicant to preserve an historic building are adequate to show that the city met its obligations under a plan policy requiring the city to “encourage” preservation of historic structures. *Chin v. City of Corvallis*, 46 Or LUBA 1 (2003).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

A finding that a proposed dead-end street can exceed the code maximum grade because there are no turning movements on the street is inadequate, where the finding fails to take into account turning movements at the intersection of the local street and the nearest public road, where the grade also exceeds the maximum. *McCulloh v. City of Jacksonville*, 46 Or LUBA 267 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that address a city requirement that a proposed annexation must be a “natural extension” of city limits are adequate, where the findings explain that the area to be annexed will provide contiguity between existing city boundaries and commercially zoned property located outside city limits that will require annexation and the extension

of urban services when they are developed. *West Side Rural F.P.D v. City of Hood River*, 46 Or LUBA 451 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. When a local decision maker denies a person standing to participate in the local proceeding, the local decision maker must explain why that person was denied standing. *Swanson v. Jackson County*, 46 Or LUBA 629 (2004).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. The proponent of “more stringent requirements” under ORS 836.623(1) has some burden to identify what additional requirements may be necessary to ensure public safety. Where the proponent merely argues that proposed development near an airport runway should be denied because existing standards cannot ensure ground safety against airplane crashes, local government findings rejecting the need for more stringent requirements may be equally conclusory. *Graham Oil Co. v. City of North Bend*, 44 Or LUBA 18 (2003).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. City findings that conclude that proposed park facility development within a floodway complies with a comprehensive plan policy regarding community parks are inadequate where those findings interpret the community park policy as being both aspirational *and* mandatory and the city’s findings provide no explanation for that apparent discrepancy. *Monogios v. City of Pendleton*, 44 Or LUBA 576 (2003).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city’s findings that a proposed tram system that will pass through open space zoned land is consistent with the purpose of the open space zone because the tram system will provide linkages between the hiking trails located at one end of the tramway and recreational amenities such as walkways, bikeways and parks located at the other end of the tramway adequately explains why the proposed tram system is consistent with that purpose statement. *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that a proposed destination resort is located in a setting with “high natural amenities” as required by ORS 197.445 is inadequate and not supported by substantial evidence, where neither the county’s decision nor the record identifies or describes any high natural amenities near the proposed resort. *Wetherell v. Douglas County*, 44 Or LUBA 745 (2003).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that a 1973 deed satisfied then existing subdivision regulations so as to legalize a parcel that was described in the 1973 deed is inadequate, where the finding does not address the terms of the subdivision ordinance nor explain why property described in a deed constitutes a “replat” or “resubdivision,” as those terms are used in the subdivision ordinance. *Palaske v. Clackamas County*, 43 Or LUBA 202 (2002).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a local zoning ordinance adopts a definition of “lot of record” for purposes of identifying certain nonconforming lots and parcels that may be developed notwithstanding their inconsistency with the zoning ordinance requirements, a finding that concludes that a tract of land is a parcel and therefore is developable, but does not address the lot of record definition, is inadequate. *Palaske v. Clackamas County*, 43 Or LUBA 202 (2002).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city’s finding that a county zoning boundary line is coterminous with the city’s coastal shorelands boundary is inadequate where the decision does not explain why the zoning boundary is related to the shorelands boundary or, assuming that is the case, why a subsequent city amendment relocating the coastal shorelands boundary effected a corresponding relocation of the zoning boundary. *DLCD v. City of Gold Beach*, 43 Or LUBA 319 (2002).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city’s finding that its coastal shorelands boundary is the landward “line of active and conditionally stable foredunes” is inadequate where the city’s comprehensive plan identifies the coastal shorelands boundary as the area on the property that is subject to ocean flooding and includes a map depicting the area subject to ocean flooding, and the city’s decision does not explain why the “line of active and conditionally stable foredunes” is the same as the area subject to ocean flooding. *DLCD v. City of Gold Beach*, 43 Or LUBA 319 (2002).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. LUBA will remand a city decision denying a partition application where it is not clear what documents make up the local decision and the documents that are identified as containing the final land use decision do not set out the city’s rationale for denying the application. *Martin v. City of Dunes City*, 43 Or LUBA 354 (2002).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. LUBA will remand a county decision that alternatives to siting a radio transmission tower on EFU-zoned land are infeasible where the county did not adopt findings explaining why six of the identified sites are infeasible and the parties do not cite to evidence in the record that “clearly supports” the county’s decision that the six sites are infeasible. *Van Nalts v. Benton County*, 42 Or LUBA 497.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a county considers dust impacts from mining that may have an impact on neighboring residential uses, those dust impacts may form a basis for denial only if the impacts violate applicable Department of Environmental Quality air quality standards. *Morse Bros., Inc. v. Linn County*, 42 Or LUBA 484.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city decision concluding that applying local sign ordinance criteria to deny a sign permit would violate Article I, section 8, of the Oregon Constitution is inadequate, where the findings do not identify what aspects of the local sign ordinance the city believes would be found to be unconstitutional or explain why the city believes it would be unconstitutional to apply the sign ordinance. *Haug v. City of Newberg*, 42 Or LUBA 411.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where an application for city approval of a sign that is larger than allowed by city sign standards does not meet the city’s criteria for approval of such larger signs, a city may not cite constitutional concerns and approve the request for a larger sign without (1) adopting a reviewable decision that explains what constitutional provisions the city believes would be violated and why, and (2) explaining why the appropriate remedy in that circumstance would not be to deny the request until constitutional provisions for allowing such larger signs are adopted. *Haug v. City of Newberg*, 42 Or LUBA 411.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where it is not apparent that a local road improvement standard is satisfied by improving

one road access or whether all accesses to a property must be improved to city standards prior to approval of a conditional use permit, city findings that establish that one access to the property is improved to city standards are inadequate to demonstrate that the local road improvement standard is met. *Monogios and Co. v. City of Pendleton*, 42 Or LUBA 291.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. It is inconsistent with a county’s findings obligation under ORS 215.416(9) for the county to simply declare, without explanation, that it prefers the staff count of existing dwellings in the area and is not persuaded by petitioners’ evidence of fewer dwellings, where petitioners provided specific, direct evidence supporting their dwelling count, and the staff figure is conclusory and based on evidence not in the record. *Matiaco v. Columbia County*, 42 Or LUBA 277.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. When an applicant asserts below that it is entitled to a well under the statutory exemption to obtaining a water use permit pursuant to ORS 537.545 and the findings supporting denial on the basis of lack of a water source do not address or respond to that assertion, the findings are inadequate. *Molalla River Reserve, Inc. v. Clackamas County*, 42 Or LUBA 251.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. When the applicant and the local government address approval criteria using different approaches, findings denying the application must provide an explanation for why the applicant’s approach is inadequate and explain, in at least a general way, how the applicant must address the criteria under the local government’s approach. *Molalla River Reserve, Inc. v. Clackamas County*, 42 Or LUBA 251.

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings that a proposed underground shooting range cannot be detected by sight, smell or sound from adjacent residential property are adequate to explain why the proposed shooting range is compatible with adjacent property. *Chilla v. City of North Bend*, 41 Or LUBA 539 (2002).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that existing improvements and the presence of seasonal drainage areas limit farm use of agricultural land is inadequate to demonstrate that the land is irrevocably committed to nonfarm uses, where the finding fails to describe the limitations, or explain why such longstanding limitations now render farm use of the subject property impracticable, given the history of farm use on the property. *Friends of Linn County v. Linn County*, 41 Or LUBA 358 (2002).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where the county’s code requires that streets providing access to a proposed land division be improved to a specified width and composition if the streets (1) will serve four or more lots or parcels and (2) are likely to serve additional lots or parcels in the future, LUBA will remand a decision when the county appears to answer those questions

in the affirmative by requiring compliance with the width standard, but does not require compliance with the composition standard, and does not explain the reason for the apparent inconsistency. *Dudek v. Umatilla County*, 40 Or LUBA 416 (2001).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that a proposed church expansion doubling the capacity of the church will not have greater adverse traffic impacts is inadequate, where the finding relies solely on the church’s current plan to consolidate multiple daily services into a single service, and fails to explain why concentrating traffic from multiple services will not result in greater impacts or to address the possibility that future growth in church membership associated with the expansion may require additional services. *Weaver v. Linn County*, 40 Or LUBA 203 (2001).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a variance criterion requires that a variance conform to the comprehensive plan, a city’s finding that a variance will promote in-fill and higher residential density is insufficient to demonstrate that the variance, allowing a lot to be divided into two lots, satisfies that criterion where the findings identify no comprehensive plan provisions encouraging in-fill and higher residential density. *Reagan v. City of Oregon City*, 39 Or LUBA 672 (2001).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a county adopts unchallenged findings that siting a cellular phone tower next to a power line right-of-way does not create a hazardous condition, because the tower is designed to collapse in on itself in high winds rather than fall to the side, and those findings are supported by testimony from an engineer with the company that will construct the tower, the county’s findings are adequate and supported by substantial evidence. *Pereira v. Columbia County*, 39 Or LUBA 575 (2001).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A decision that an existing road need not be considered as an alternative under OAR 660-012-0065(5)(a) is not supported by substantial evidence where there is no attempt to identify how costly it would be to address safety problems and bring the road up to applicable standards so that it could be approved by a registered engineer. *Friends of Yamhill County v. Yamhill County*, 39 Or LUBA 478 (2001).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a proposed aggregate extraction site must demonstrate compliance with a public need criterion and a criterion that requires consideration of alternative sites, but identified alternative sites are rejected without explanation and the only cited evidence regarding public need is testimony from the public works director that he would support a site anywhere in the county, the decision is not supported by adequate findings or substantial evidence. *Donnell v. Union County*, 39 Or LUBA 419 (2001).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city’s finding that a proposed memorial is compatible with the applicable park master plan is inadequate, where the city’s findings do not explain why the proposal to use a

nearby street for vehicular access and parking for the memorial is compatible with the plan's recommendation to close that street to vehicles. *Carlsen v. City of Portland*, 39 Or LUBA 93 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Remand is necessary for a city to address a criterion requiring the existence of a “specific geographic justification” to site a memorial within a public park, where the city's findings do not identify a geographic justification or explain why no such justification is needed. *Carlsen v. City of Portland*, 39 Or LUBA 93 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a city's findings explain both a short term and long term solution for storm water that will be generated by a proposal and how they will be paid for and explain how storm water will be detained onsite, those findings are adequate to demonstrate compliance with a site design review criterion that requires that the proposed drainage facilities minimize the impact on public agencies' drainage facilities. *Hubenthal v. City of Woodburn*, 39 Or LUBA 20 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that one alternative for providing sewer service to a proposed medical hardship dwelling has been approved by county health officials is inadequate to demonstrate compliance with an approval standard that requires that another alternative be used unless that alternative “is not feasible.” *Puma v. Linn County*, 38 Or LUBA 762 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a neighboring farmer identifies significant changes and significant cost increases to his ranching operation from a proposed motocross race track and off-road vehicle park, the county must find that the proposed park, as conditioned, will not cause those impacts. Such findings are inadequate where the county does not address those identified impacts or explain why the proposed park, as conditioned, will not cause those impacts. *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings that characteristics of adjoining uses support an irrevocably committed exception to Goal 3 are inadequate where the findings do not explain (1) how many of the adjoining lots are developed, (2) what activities on those lots have impacts on the proposed exception area, (3) why services provided to those lots impact the proposed exception area, or (4) why adjoining recreational and open space uses make farm use of the proposed exception area impracticable. *Jackson County Citizens League v. Jackson County*, 38 Or LUBA 489 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. In denying an application for land use approval based on a finding that the application does not comply with applicable criteria, a local government must explain in its findings why it believes the applicable criteria are not satisfied. Further, the local government's findings must be sufficient to inform petitioner either what steps are necessary to obtain approval or

that it is unlikely that the application will be approved. *Rogue Valley Manor v. City of Medford*, 38 Or LUBA 266 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings are inadequate, where they simply acknowledge statements that are made in a permit application and do not explain what the decision maker believes to be the relevant facts or explain why those facts lead to a conclusion that approval criteria are met. *Dayton Prairie Water Assoc. v. Yamhill County*, 38 Or LUBA 14 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city adopts inadequate findings of compliance with a standard requiring park facilities or fees in lieu thereof adequate to serve proposed development, where the findings fail to address whether an identified park site is adequate to serve the development, and fail to explain why system development charges (SDCs) collected at the time building permits are issued will suffice to pay for parks adequate to serve the development. *Breen v. City of Salem*, 37 Or LUBA 961 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Remand is appropriate where the county’s decision rezones 10 acres of a 121-acre farm/forest parcel to allow the landowner to site a nonresource dwelling, without explaining why the rezone is consistent with a code provision prohibiting rezoning that affords “special privileges to an individual property owner not available to the general public.” *McLane v. Klamath County*, 37 Or LUBA 888 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings that rely on factors such as soil acidity, poor drainage, traffic conflicts, and the availability of irrigation that are conditions common to the area are inadequate to explain why farming cannot practicably be managed on a parcel due to “extraordinary circumstances” that do not generally apply to other lands in the vicinity, as required by ORS 215.705(2). *Friends of Linn County v. Linn County*, 37 Or LUBA 844 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A county’s findings of compliance with the stability standard are inadequate, where the county fails to explain or justify a study area that places the subject property at the margin of the identified study area, and excludes from the study large EFU-zoned parcels adjacent to the subject property. *Friends of Linn County v. Linn County*, 37 Or LUBA 844 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A county’s findings under the stability standard are inadequate, where the county fails to identify any uses on most of the EFU-zoned parcels within the study area, but merely assumes that the dominant land use in the area is residential because of the small size of most parcels and the fact that most dwellings in the area predated zoning restrictions. *Friends of Linn County v. Linn County*, 37 Or LUBA 844 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A county’s finding that a proposed lot of record dwelling on high-value soils will not

materially alter the stability of the overall land use pattern is inadequate, where the county considers only the stability of the *nonfarm* land uses in the area, and fails to consider whether the proposed dwelling will encourage additional nonfarm development in a manner that destabilizes remaining farm uses. *Friends of Linn County v. Linn County*, 37 Or LUBA 844 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a zoning ordinance standard requires consideration of residential appearance and function of an “area” in approving a bed and breakfast facility, and a hearings officer’s findings use different areas in applying that criterion so that the analysis is internally inconsistent, the findings are inadequate to demonstrate compliance with the standard. *Hatfield v. City of Portland*, 37 Or LUBA 664 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Required findings that a variance is “necessary” due to “special conditions or circumstances peculiar to the property” are inadequate, where the findings are equivocal about whether the problems identified are present and fail to explain why the cited problems could not be eliminated by redesigning the proposed subdivision or by eliminating one or more lots. *Robinson v. City of Silverton*, 37 Or LUBA 521 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

A city’s findings of compliance with a variance criterion that requires that the variance be “necessary for the proper development of the subdivision and the preservation of property rights and values,” are inadequate where the findings do not identify any “property rights” or “property values” that would be threatened by the required 60-foot right of way or why the proposed subdivision could not be designed to accommodate the required 60-foot right of way. *Robinson v. City of Silverton*, 37 Or LUBA 521 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that dwellings can be built consistent with building setbacks are not responsive to a criterion that requires that the site be “suitable for the proposed use considering size, shape, location, topography and location of improvements and natural features.” *Robinson v. City of Silverton*, 37 Or LUBA 521 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

A city’s finding of noncompliance with an approval criterion must suffice to explain to the applicant what steps need be taken to demonstrate compliance, or why the application cannot gain approval under that criterion. *Ontrack, Inc. v. City of Medford*, 37 Or LUBA 472 (2000).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that state there is “sufficient evidence in the form of oral testimony and documentation to support the application,” and also state that existing adjacent parcels are “clustered around” two roads are insufficient to adequately describe the characteristics of adjacent lands and the uses located on them as required by OAR 660-004-0028(2)(b) and (6)(a). *DLCD v. Wallowa County*, 37 Or LUBA 105 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. City findings are inadequate to demonstrate compliance with flood hazard and storm water runoff requirements if they merely require the applicant to provide further studies to show that the runoff from the proposed development can be mitigated. *Highland Condominium Assoc. v. City of Eugene*, 37 Or LUBA 13 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A condition of approval that the applicant will provide a sanitary sewer capacity study and identify the location and ownership of utility infrastructure and easements does not demonstrate that adequate public utility systems are available or could be extended to service the proposed development as required by local ordinance. *Highland Condominium Assoc. v. City of Eugene*, 37 Or LUBA 13 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A city’s findings of compliance with conditional use criteria requiring that a “proposed use is consistent with the overall development character of the neighborhood with regard to building size, height, color, material and form” are conclusory and inadequate, where the city’s findings do not describe either the boundaries or characteristics of the relevant neighborhood, but instead compare the proposed use to development in geographically distant parts of the city without explaining why those areas are part of the relevant neighborhood. *Terra v. City of Newport*, 36 Or LUBA 582 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that the soils on the subject property are unsuitable for farm use is an inadequate, unexplained conclusion where the subject property is predominantly Class VI soils and the comprehensive plan provides that such soils have significant importance for grazing. *Pekarek v. Wallowa County*, 36 Or LUBA 494 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Committed exception findings must explain what it is about existing parcel size and ownership patterns that irrevocably commit resource land to nonresource use, specify the location of parcels created prior to application of the Goals, and distinguish those parcels created pursuant to the Goals. *Pekarek v. Wallowa County*, 36 Or LUBA 494 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Adequate findings regarding adjacent uses must specifically identify adjacent uses and explain what it is about the adjacent uses that make the farm use of the subject property impracticable. *Pekarek v. Wallowa County*, 36 Or LUBA 494 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Assuming that the existence of water and sewer lines on adjacent lands may be relevant to whether a property is irrevocably committed to nonresource use, findings must explain what that relevance is. *Pekarek v. Wallowa County*, 36 Or LUBA 494 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings addressing lands available for rural residential development need not consider

residential land within urban growth boundaries. Land within urban growth boundaries is not rural land. *Turrell v. Harney County*, 36 Or LUBA 244 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A county’s finding that a proposed nonforest dwelling is inconsistent with forest uses is inadequate where the finding is so conclusory that it fails to inform the applicant either what steps are necessary to obtain approval or that it is unlikely that the application can be approved. *Eddings v. Columbia County*, 36 Or LUBA 159 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A decision that offers only conclusory statements of compliance with an applicable zoning ordinance does not provide an adequate explanation of the basis for the local government’s determination of compliance. *Wood v. Crook County*, 36 Or LUBA 143 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a city council interprets a code standard that excuses a permit applicant from providing required parking where “special circumstances exist constituting a hardship” as being satisfied where the cost of providing the one additional parking site that is possible on the property will constitute an “economic hardship out of proportion to the gain of parking spaces,” and petitioner does not specifically challenge the city council’s findings, LUBA will affirm that interpretation unless it exceeds the city’s interpretive discretion under ORS 197.829(1). *Port Dock Four, Inc. v. City of Newport*, 36 Or LUBA 68 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. An assignment of error challenging the adequacy of findings that an approval criterion is met must be denied, where the decision maker also adopts alternative findings that the approval criterion does not apply to the challenged permit application and those alternative findings are not challenged. *Port Dock Four, Inc. v. City of Newport*, 36 Or LUBA 68 (1999).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings are inadequate where a local government’s decision makes conclusory statements of compliance with the applicable approval criteria without giving any factual or legal analysis to support the conclusion that the application complies with each of the criteria. *Larvik v. City of La Grande*, 34 Or LUBA 467 (1998).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. In applying a local provision based on the no significant change/increased cost standard, the local government is not required to perform the impossible task of proving a negative or to quantify how much imposed conditions will reduce conflicts with farm uses below a certain threshold. It need only affirmatively consider the impacts of a proposed use on farm or forest practices, and in so doing, consider whether the use will force a significant change or significantly increase the cost of those practices. *Gutoski v. Lane County*, 34 Or LUBA 219 (1998).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a local government's findings are supported in the record by substantial evidence, the findings will be considered sufficient even though there may also be evidence supporting the contrary position. *Risher v. City of Portland*, 33 Or LUBA 479 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. The county's findings do not demonstrate that the subject property is irrevocably committed to non-resource uses where the findings describe the characteristics of the subject property, but do not explain what impact those characteristics have on the practicability of uses on the property. *Brown v. Jefferson County*, 33 Or LUBA 418 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings that address neighborhood and regional characteristics under OAR 660-04-028(6)(d) by concluding that there will continue to be an increasing demand for additional rural residential homesites in the future are irrelevant to a conclusion that a committed exception is justified. *Brown v. Jefferson County*, 33 Or LUBA 418 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where, on remand, an applicant modifies a site plan for a gas station and car wash so that only the location of the gas pumps is carried forward from the original site plan to the modified site plan, a reasonable person could not conclude that the two plans are substantially similar. A finding that the plans are substantially similar does not adequately address the code requirements that apply to a site plan. *Sullivan v. City of Woodburn*, 33 Or LUBA 356 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A finding that an "exceptional circumstances" variance criterion is met because an existing substandard road cannot be improved to comply with the road standard without expanding the right-of-way is conclusory and inadequate. *Elder v. Douglas County*, 33 Or LUBA 276 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings of compliance with a variance criterion requiring that the variance be consistent with "the purposes" of the zoning ordinance, are inadequate where the findings fail to identify or discuss any of the three potentially applicable purpose sections in the zoning ordinance. *Elder v. Douglas County*, 33 Or LUBA 276 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a challenged decision does not discuss why granting a variance is the most effective method to relieve the special conditions of parcel size and shape, the findings do not establish that the variance meets local code requirements that special conditions apply to the subject property that "can be most effectively relieved by a variance." *Shaffer v. City of Salem*, 33 Or LUBA 57 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. In applying a code approval standard that requires the identification of an area whose

stability might be affected by a proposed development, the county's findings may not rely on inconsistent definitions of the area. *Ray v. Douglas County*, 32 Or LUBA 388 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A code approval standard that requires "a clear picture of the existing land use pattern" in a specified area is not satisfied by general findings about zoning and details about some of the properties in the area. *Ray v. Douglas County*, 32 Or LUBA 388 (1997).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Without findings explaining why, for purposes of a conditional use approval, a 13,660 square foot church 33 feet high is "essentially the same size and height" as a "12,000 +/-" square foot church 29 feet high, LUBA cannot affirm that it is. *Southeast Neighbors United v. Deschutes County*, 32 Or LUBA 227 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. In order to demonstrate compliance with ORS 215.296(1), county findings must: (1) describe the farm and forest practices on surrounding lands devoted to farm or forest use; (2) explain why the proposed use will not force a significant change in those practices; and (3) explain why the proposed use will not significantly increase the cost of those practices. *Brown v. Union County*, 32 Or LUBA 168 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a hearing officer's interpretation of an applicable code provision is inadequate for review because it omits necessary analytical steps, this Board may make the determination of whether the county's decision is correct. *Miller v. Clackamas County*, 31 Or LUBA 104 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. County findings are inadequate when they fail to interpret an applicable local regulation, and fail to identify facts upon which the county relied in reaching its conclusions. LUBA will not overlook such inadequacies in the findings when no party cites evidence in the record that compels the interpretation and conclusion made by the county. *DLCD v. Clatsop County*, 31 Or LUBA 90 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a standard requires a comparison of the traffic or parking generated by a proposed use to the traffic or parking that normally occurs in the district, and the findings contain no such comparison or other factual support to establish the basis upon which the county reached its conclusion that the standard is satisfied, the findings are inadequate and not supported by substantial evidence. *Canfield v. Yamhill County*, 31 Or LUBA 25 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A local government may find compliance with an applicable criterion by either (1) finding that the criterion is satisfied; or (2) finding that it is feasible to satisfy the criterion and imposing conditions necessary to insure compliance. *Thomas v. Wasco County*, 30 Or LUBA 302 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a county acknowledges an incompatibility between a proposed nonfarm use and surrounding farm uses, it cannot determine that the proposed use satisfies the requirement that it be compatible through the imposition of a condition which will mitigate but not resolve the incompatibility. *Thomas v. Wasco County*, 30 Or LUBA 302 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Conditions of approval do not substitute for establishing compliance with applicable criteria; before the county can impose conditions of approval, it must first establish that the criteria can be satisfied. *Thomas v. Wasco County*, 30 Or LUBA 302 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a local criterion requires that the county find a proposed use will not significantly reduce or impair significant wildlife, a finding that compliance with fencing specifications will "help the request comply" does not factually address or establish compliance with the criterion. *Thomas v. Wasco County*, 30 Or LUBA 302 (1996).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

To justify an irrevocably committed exception on forestland, the county must explain in findings why the facts upon which it relies lead to a conclusion that uses allowed by Goal 4 are impracticable. *DLCD v. Coos County*, 30 Or LUBA 229 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

The county must itself analyze and evaluate relevant facts in its findings to show how it reached its decision; it cannot do that analysis for the first time in its brief to LUBA. *DLCD v. Coos County*, 30 Or LUBA 229 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Both Goal 4 and Goal 2 require the county to evaluate the practicability of all forest uses on the subject property before determining that such uses are impracticable and taking a committed exception. *DLCD v. Coos County*, 30 Or LUBA 229 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Because OAR 660-09-025(1) allows a fair degree of imprecision in both the number and acreage of sites needed to accommodate industrial and commercial uses, as well as broad site categories, it is not necessary in cases involving very minor changes in acreages to support Goal 9 findings with extensive analysis. *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a local government makes multiple findings, each showing compliance with a code criterion, the possibility that one such finding may be wrong is not critical to the final decision. *Friends of Neabeack Hill v. City of Philomath*, 30 Or LUBA 46 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

A city may not justify noncompliance with provisions of Goal 14 and policies in the city's own

comprehensive plan on the ground that noncompliance is necessary to accommodate a particular development proposal. *DLCD v. City of St. Helens*, 29 Or LUBA 485 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a county code provision requires that a temporary mobile home be connected to an existing septic system "if feasible" and the county acknowledges the applicants have not applied for the authorization necessary to determine such feasibility, the county's findings are inadequate to establish compliance with the applicable code provision. *Collier v. Marion County*, 29 Or LUBA 462 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

The county's finding, made as part of its Goal 5 ESEE analysis, that an aggregate site located within a Big Game Habitat Range is not uniquely suited to wildlife must be supported by substantial evidence, not just a statement that the wildlife can "freely relocate" to other parts of the Big Game Habitat Range. *Palmer v. Lane County*, 29 Or LUBA 436 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

While a local government is required to identify in its findings the facts it relies upon in reaching its decision, it is not required to explain why it chose to balance conflicting evidence in a particular way, or to identify evidence it chose not to rely on. *Moore v. Clackamas County*, 29 Or LUBA 372 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

When the evidence in the record is conflicting, and the local government's findings fail to explain the basis for its conclusion or state which evidence it finds persuasive, LUBA must remand the decision for additional findings. *Moore v. Clackamas County*, 29 Or LUBA 372 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that state aggregate sites already on the comprehensive plan inventory are being depleted faster than expected, conclude there is a need to preserve additional aggregate sites to provide for long-term supply at multiple sites to protect the competitive nature of the aggregate market and explain why it is in the public interest that a competitive aggregate market be maintained, are sufficient to satisfy a code requirement that there be a "public need" to add the subject site to the plan inventory. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where, during a local government proceeding regarding the existence of a nonconforming use, specific issues were raised concerning whether a complete or partial interruption or abandonment of any nonconforming use of the subject property had occurred, findings that simply state use of the property has not been interrupted or abandoned are impermissibly conclusory. *Suydam v. Deschutes County*, 29 Or LUBA 273 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a local government relies on particular features to assure compliance of a proposed use with approval standards, it must assure there is an adequate reason to assume such features actually will be part of the use. More than testimony by the applicant expressing willingness to provide such features is required. *Penland v. Josephine County*, 29 Or LUBA 213 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings which do not identify the ways a destination resort preliminary development plan is different from the previously approved conceptual site plan, the magnitude of such differences or why the local government believes the differences are minor, are not adequate to establish compliance with a code standard requiring the preliminary development plan to conform to the conceptual site plan and alterations, if any, to be minor in nature. *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings supporting a local government decision that a proposed comprehensive plan amendment is a "major" plan amendment under the local code must explain the rationale for that conclusion. Quoting the code definition of "major" plan amendment and referring to unspecified principles or policies is not sufficient. *Cone v. City of Eugene*, 29 Or LUBA 133 (1995).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Identifying the area to be considered and the overall land use pattern of that area are prerequisites to determining whether a proposed partition satisfies a code requirement that it "not materially alter the stability of the land use pattern of the area." *McNamara v. Union County*, 28 Or LUBA 396 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. In addressing the ORS 215.448(1)(c) requirement that a proposed home occupation "will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located," the local government must identify the uses permitted in the applicable zone. *Holsheimer v. Clackamas County*, 28 Or LUBA 279 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings need not be perfect, and conditions may be imposed to assure compliance with approval standards. However, LUBA must be able to determine from the findings, conditions and evidence in the record that the relevant approval standards are met. *Mazeski v. Wasco County*, 28 Or LUBA 159 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a code standard requires that conditional uses "preserve assets of particular interest to the community," local government findings supporting approval of a proposed conditional use must explain whether a natural feature that will be affected by the conditional use is such an asset and, if so, why the standard is satisfied. *Mazeski v. Wasco County*, 28 Or LUBA 178 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Local government findings of compliance with an applicable approval standard must state the facts the local government relies on and explain why those facts lead to the conclusion that the standard is satisfied. *Reeves v. Yamhill County*, 28 Or LUBA 123 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. While a local government is required to identify in its findings the facts it relied upon in reaching its decision, it is not required to explain why it chose to balance conflicting evidence in a particular way, or to identify evidence it chose not to rely on. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Arguments that approval of a fill permit violates local code provisions on fill in drainageways provide no basis for reversal or remand where (1) the local government adopted findings that the disputed fill was not placed in a drainageway, (2) those findings are supported by substantial evidence, and (3) petitioner does not specifically challenge the findings. *Fechtig v. City of Albany*, 27 Or LUBA 480 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings which identify a lack of evidence concerning road capacity and evidence concerning traffic congestion during weekend events at existing uses and a proposed agricultural/horticultural school complex are adequate to explain why a decision maker concluded the applicant failed to carry its burden concerning a code "minimal adverse impact" standard. *Brentmar v. Jackson County*, 27 Or LUBA 453 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. While it may be that findings of noncompliance with a relevant approval standard need not be as exhaustive or detailed as those necessary to establish compliance with that approval standard, a local government is obligated to provide an explanation for its conclusion that the standard is not met. *Salem-Keizer School Dist. 24-J v. City of Salem*, 27 Or LUBA 351 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. In addressing a code requirement that a proposed conditional use satisfy state regulatory requirements, a local government determination that an exemption from certain state regulations applies must be reasonable. However, the local government need not establish that such a determination is correct. *Zippel v. Josephine County*, 27 Or LUBA 11 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings which identify some physical features and characteristics of an area, discuss planned improvements, and identify farm and nonfarm uses in the area do not establish the stability of the existing land use pattern of the area or explain why introducing a 120 lot residential planned unit development into the area will not materially alter that stability, as required by ORS 215.283(3)(c). *DLCD v. Crook County*, 26 Or LUBA 478 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings which identify facts relied on but fail to supply a rationale explaining why those facts led the local government to conclude a proposed livestock sale operation will not have significant adverse impacts on abutting properties are inadequate. *Collins v. Klamath County*, 26 Or LUBA 434 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a local government relies on particular features of a proposed use to assure compliance with approval standards, it must assure there is an adequate reason to assume such features actually will be part of the proposal. *Collins v. Klamath County*, 26 Or LUBA 434 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Petitioner's argument that the county failed to address evidence that escaped dogs can cause great damage in rural areas provides no basis for reversal or remand, where the county found the proposed kennel will comply with a code standard requiring no significant increase in the cost of accepted farm and forest practices because the design of the kennel will result in no dogs escaping from the facility. *Larry Kelly Farms, Inc. v. Marion County*, 26 Or LUBA 401 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where a comprehensive plan contains no existing inventory of significant aggregate resource sites and imposes different standards for plan amendments, depending on whether the amendment is a plan text or a plan map amendment, the local government must explain in its decision its rationale in processing and approving a request to amend the plan to designate a site as a significant aggregate resource site as a plan text amendment. *Nathan v. City of Turner*, 26 Or LUBA 382 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A local government is under no obligation to specifically discuss in a challenged decision all of the evidence in the record or to explain its reasons for choosing to rely upon particular evidence over other evidence. *City of Barlow v. Clackamas County*, 26 Or LUBA 375 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Although the small size of a property may limit the size and impacts of a proposed development, and therefore provide a basis for explanatory findings demonstrating compliance with approval standards limiting development impacts, the decision approving such development may not simply cite the small size of the property and conclude the standards are met. *Lucier v. City of Medford*, 26 Or LUBA 213 (1994).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where the challenged decision does not identify the characteristics of a proposed "soil remediation" use, or compare those characteristics with those of the listed, permitted uses in the applicable zone, the findings are inadequate to demonstrate the proposed "soil

remediation" use is similar to the listed, permitted uses in the applicable zone. *Murphy Citizens Advisory Comm. v. Josephine County*, 26 Or LUBA 181 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A local government decision that a shopping center may be allowed in a particular zone under code "similar use" provisions must (1) express an interpretation of the "similar use" provisions that is adequate for LUBA review, (2) actually apply the interpretation adopted, and (3) explain how the decision is consistent with that interpretation. *Loud v. City of Cottage Grove*, 26 Or LUBA 152 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Findings determining compatibility between a proposed nonforest dwelling and forest uses are inadequate where the findings simply conclude no conflicts have occurred between existing dwellings and forest uses, but fail to establish the proximity between those existing dwellings and forest uses, and fail to establish whether the existing dwellings have buffering or other characteristics similar to those of the subject parcel. *DLCD v. Lincoln County*, 26 Or LUBA 89 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Where the local code requires that a proposed driving range not alter the character of the surrounding area "in a manner which substantially limits, impairs or precludes the use of surrounding properties" for listed permitted uses, and findings acknowledge safety as a relevant consideration but simply rely upon the striking areas being more than 300 yards from adjacent properties to satisfy that safety consideration, the findings are inadequate to explain how the code standard is satisfied. *Moore v. Clackamas County*, 26 Or LUBA 40 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. Although a county had in the past applied a predominance test so that a property was not designated forest where less than one half of the property qualified as forestlands, such a test is not required by Goal 4. Findings that explain such a test may result in large parcels containing significant acreage of forestland not being designated for forest use under Goal 4 are adequate to support a decision not to apply the predominance test. *Westfair Associates Partnership v. Lane County*, 25 Or LUBA 729 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A local government decision approving a permit will be remanded to the local government if the decision fails to (1) identify the relevant approval standards, (2) set out the facts believed and relied upon by the local decision maker, and (3) explain how those facts lead to a decision that the proposal complies with the approval standards. *Lathrop v. Wallowa County*, 25 Or LUBA 693 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. A variance criterion requiring that there be no reasonably practical alternatives to granting the variance is met where the local government finds the subdivision roadway necessitating the variance is needed for compliance with the comprehensive plan, and

petitioners do not challenge that finding. *Eola-Glen Neighborhood Assoc. v. City of Salem*, 25 Or LUBA 672 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where a county code provision requires that there be no other "feasible location" for a proposed use, county findings that do not explain *why* identified alternative sites are not "feasible locations" for the proposed use are impermissibly conclusory, and LUBA will remand the challenged decision unless "the parties identify relevant evidence in the record which clearly supports" the county's decision in this regard. *Simmons v. Marion County*, 25 Or LUBA 647 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

In denying a request for permit approval, ORS 215.416(9) requires that a county provide an explanation of why the county believes the request fails to satisfy applicable standards. Where the required explanation is missing, LUBA will remand the decision. *Ball and Associates v. Josephine County*, 25 Or LUBA 525 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where an applicable standard requires a determination that a proposed plan amendment complies with the plan, findings which state only that the proposal "appears" to satisfy the plan are inadequate to demonstrate compliance with that standard. *Makepeace v. Josephine County*, 25 Or LUBA 370 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings explaining how the existing limited rural industrial uses near a proposed aggregate processing facility have not affected the historical stability of an EFU-zoned area, and that the existing and proposed industrial uses may discourage intrusion of rural residential development, are adequate to demonstrate compliance with an EFU zone "stability" standard. *McKay Creek Valley Assoc. v. Washington County*, 25 Or LUBA 238 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Where the challenged decision includes only a conclusory statement that detailed code criteria for PUD development plans are satisfied, and neither the decision itself nor the respondents' briefs explain how other findings addressing other code standards are adequate to demonstrate compliance with the PUD development plan criteria, LUBA cannot conclude the PUD development plan criteria are either satisfied or inapplicable to the subject proposal. *Davenport v. City of Tigard*, 25 Or LUBA 67 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale.

Findings that a proposed comprehensive plan map designation will offer more protection for resources identified in certain comprehensive plan policies than the existing plan map designation are adequate to support the change in plan designation, absent some explanation of why those findings are inadequate. *Reeves v. Washington County*, 24 Or LUBA 483 (1993).

1.4.4 Administrative Law – Adequacy of Findings – Explanation of Rationale. The requirement of OAR 660-16-005 for identification of conflicting uses is not satisfied by a local government finding that simply concludes, without explanation, that there are no potential conflicts between a Goal 5 resource site and existing uses. *Gonzalez v. Lane County*, 24 Or LUBA 251 (1992).