

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where an applicable comprehensive plan policy and intergovernmental agreement provision require a city to determine that adequate public services are available to a property that is proposed to be annexed, a city errs in failing to adopt findings regarding the availability of police protection. *Bowler v. City of Cave Junction*, 56 Or LUBA 152 (2008).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. LUBA will reject an argument that a legislative decision must be remanded to adopt findings addressing whether a proposed land use regulation is consistent with applicable comprehensive plan policies, where the petitioner identifies no local obligation to adopt findings, and the local government cites to a staff report that concludes the regulation is consistent with applicable plan policies. *J.T. Smith Companies v. City of West Linn*, 54 Or LUBA 339 (2007).

1.5.5 Administrative Law - Requirement for Findings - Local Standards. Where a non-duplicative plat name is a criterion for preliminary plat approval, a city does not err by granting preliminary plat approval without a plat name and imposing a condition of approval that the applicant submit a non-duplicative plat name prior to final plat approval. For such an approval criterion, it is at most harmless error that the city failed to find that it is feasible for the applicant to submit the required non-duplicative plat name. *Frewing v. City of Tigard*, 47 Or LUBA 331 (2004).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Findings challenges are necessarily derivative of the underlying criteria the findings address. Where the county code requires adoption of findings supporting legislative decisions, whether jurisdiction to review an adequate findings challenge in a legislative decision adopted to fulfill a periodic review work task lies with LUBA or LCDC depends on whether the findings address goal or rule compliance issues subject to LCDC’s exclusive jurisdiction. *City of Woodburn v. Marion County*, 45 Or LUBA 423 (2003).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A local code requirement for findings demonstrating that legislative decisions are “in the public interest and will be of general public benefit” does not implicate any Goal or rule requirements, and thus a challenge that the local government failed to adopt adequate findings addressing that criterion in adopting a decision to fulfill a periodic review work task is subject to LUBA’s exclusive jurisdiction. *City of Woodburn v. Marion County*, 45 Or LUBA 423 (2003).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A county commits no error in applying a zoning code requirement that a conditional use be found to be in harmony with the purpose and intent of the zone as a mandatory approval criterion where the provision expressly requires that determination. The county’s identification in its notice of hearing of the chapter in which that zoning code requirement appears is sufficient to give the applicant notice of that approval criterion where the chapter is short and code requirement for a finding concerning that criterion is clear. *Hick v. Marion County*, 43 Or LUBA 483 (2003).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A local planned unit development (PUD) requirement that development preserve “significant on-site resources” and “worthwhile natural features” does not impose an absolute requirement that significant vegetation and other natural resources must be preserved in all cases. A local government does not commit error by balancing such preservation requirements with other code requirements and explaining why in some cases the preservation requirement is sacrificed to achieve other code requirements. *Dept. of Transportation v. City of Eugene*, 38 Or LUBA 814 (2000).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a county code provision specifically requires findings documenting whether there is a need for additional land for a particular purpose and whether the timing is appropriate to rezone land for that purpose, but the county interprets the code provision to not require documentation of the need and timing elements in a particular instance, that interpretation is inconsistent with the express language of the provision and “clearly wrong.” *Jackson County Citizens League v. Jackson County*, 38 Or LUBA 357 (2000).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A local standard requiring adequate access to the subject property is not inapplicable merely because the road in issue is private rather than public. *Highland Condominium Assoc. v. City of Eugene*, 37 Or LUBA 13 (1999).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Although there is no statutory requirement that legislative land use decisions be supported by findings, such findings may be required by local ordinance. *Barnard Perkins Corp. v. City of Rivergrove*, 34 Or LUBA 660 (1998).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A local government cannot defer its obligation to make findings of compliance with applicable approval criteria to a state agency. *Harcourt v. Marion County*, 33 Or LUBA 400 (1997).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a city interprets its code erosion control standards as imposing construction guidelines, not approval standards requiring feasibility findings, LUBA must defer to that interpretation unless it is clearly wrong. *Arnett v. City of Lake Oswego*, 33 Or LUBA 384 (1997).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. 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).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. 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).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A local government decision granting site plan approval for off-street parking use of property containing an existing dwelling must address issues raised by petitioners concerning whether the approved site plan results in violations of code yard and setback requirements for the existing dwelling. *Jackman v. City of Tillamook*, 29 Or LUBA 391 (1995).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. 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).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. The coordination obligation imposed by Statewide Planning Goal 2 (Land Use Planning), and similarly worded local government comprehensive plan provisions, does not require that a local government accede to every concern expressed by a state agency, but does require that a local government adopt findings responding to legitimate concerns expressed by a state agency. *ONRC v. City of Seaside*, 29 Or LUBA 39 (1995).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the local code requires a determination that the proposal be in harmony with the natural environment in the area, and there is no dispute that native plant communities are a relevant characteristic of the natural environment, the decision must include findings determining the proposal is in harmony with the native plant communities in the natural environment. *Friends of the Metolius v. Jefferson County*, 28 Or LUBA 591 (1995).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the local code requires a determination that the proposal have minimal adverse impacts on the surrounding area, and the subject property is located within a wild and scenic river corridor, the decision must include findings evaluating the proposal's impacts on the wild and scenic river corridor. *Friends of the Metolius v. Jefferson County*, 28 Or LUBA 591 (1995).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the local code requires the proposal have only minimal impacts on adjacent properties, considering the operating characteristics of the proposed use, the decision must identify what the operating characteristics of the proposed use are. *Friends of the Metolius v. Jefferson County*, 28 Or LUBA 591 (1995).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a local government finds that a proposed road alignment is consistent with plan policies calling for a balanced transportation system designed to minimize energy impacts because it will shorten travel distance to a light rail station, that the facility will also

shorten travel distance to a major arterial does not, of itself, mean the plan policies are violated. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the challenged decision is made by a governing body and does not explain whether or to what extent apparently applicable comprehensive plan standards apply to the proposal, the challenged decision must be remanded for such an explanation. *Lamm v. City of Portland*, 28 Or LUBA 468 (1995).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the local code requires that certain "factors" be considered, a finding that the subject property is located in a school district is not responsive to the factor "school district service capability," because the finding says nothing about the capability of the school district to serve the proposed development. *McNamara v. Union County*, 28 Or LUBA 396 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the comprehensive plan requires a zone change application to demonstrate the chosen site is superior or equal to alternative sites, findings that simply state no one identified alternative sites during the local proceedings are inadequate to establish compliance with the plan standard. *Neuman v. City of Albany*, 28 Or LUBA 337 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a local government interprets a comprehensive plan provision using the word "should" as imposing a nonmandatory consideration, findings demonstrating compliance with the plan provision are not required. *Mazeski v. Wasco County*, 28 Or LUBA 159 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. 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).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a local government decision identifies a number of comprehensive plan provisions as approval standards for a request to cut trees, it may not approve the request without adopting findings demonstrating that the application complies with the identified plan policies. *Gettman v. City of Bay City*, 28 Or LUBA 116 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where an applicable comprehensive plan policy requires that residential uses adjacent to forestlands have adequate setbacks and fire prevention measures, a local government decision approving a forest dwelling must be supported by findings establishing what setbacks and fire prevention measures are required and why they are adequate. *Furler v. Curry County*, 27 Or LUBA 546 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where petitioner contends the challenged decision fails to address a comprehensive plan provision that appears to contain a standard applicable to the proposal, the local government must explain in its decision why the plan provision either is inapplicable to the proposal or is satisfied by the proposal. LUBA may not make such determinations in the first instance. *Laine v. City of Rockaway Beach*, 27 Or LUBA 493 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the local code's definition of "northern lot line" is ambiguous and recognizes there can be more than one northern lot line on any given piece of property, and the challenged decision determining compliance with solar access setback requirements simply contains a conclusory statement that a flag lot has only one northern lot line, LUBA will remand the decision for adoption of interpretive findings. *Sullivan v. City of Ashland*, 27 Or LUBA 411 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a county proposes to change the zoning of agricultural land designated Farm/Forest on its comprehensive plan map, a standard that "the purpose of the Comprehensive Plan and Zoning Ordinance will be carried out by approving the proposal" requires the county to explain how the proposed zone change carries out the purpose of the Farm/Forest plan designation and the plan agricultural goals. *DLCD v. Polk County*, 27 Or LUBA 345 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Findings which do not identify the provisions of the statewide planning goals, comprehensive plan or local code that govern a challenged code amendment are inadequate to satisfy a local code requirement that *all* code amendments be supported by findings explaining why the amendment complies with any relevant plan, code and statewide planning goal requirements. *Andrews v. City of Brookings*, 27 Or LUBA 39 (1994).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. 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).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a petitioner lists a number of apparently relevant comprehensive plan policies and argues the local government erred by not addressing the policies in its decision, petitioner's argument is sufficiently developed for LUBA review, and the decision must be remanded so that the local government can address those policies in its findings. *Waugh v. Coos County*, 26 Or LUBA 300 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. 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).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. To find compliance with a local code requirement that schools be adequate to meet anticipated demand, a local government must find that existing school facilities are adequate to serve the proposed project or that they can be made adequate by employing available techniques to maximize school facility capacity. *Langford v. City of Eugene*, 26 Or LUBA 60 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. In order to determine compliance with a code permit approval standard requiring that "the proposed use will not alter the character of the surrounding area" in a particular manner, the local government must first identify the "surrounding area" to be considered. *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a subdivision approval standard simply requires connection with a storm drainage system, and there is no allegation that the subdivision cannot be connected to a storm drainage system, allegations that the challenged decision fails to find the storm drainage system will be adequate to handle storm water provide no basis for reversal or remand of the decision. *Day v. City of Portland*, 25 Or LUBA 468 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A determination that an onsite dwelling is essential to carrying out the proposed forest management operation, supported by adequate findings and substantial evidence, demonstrates compliance with a local standard requiring that a forest management dwelling be "necessary for * * * a permitted forest use." *DLCD v. Coos County*, 25 Or LUBA 158 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. No statute or appellate court case requires that all legislative land use decisions be supported by findings. Absent allegations by petitioner that a legislative decision violates particular legal standards, a local government's failure to adopt findings in support of that legislative decision addressing the statewide planning goals and local comprehensive plan is not, of itself, a basis for reversal or remand of the decision. *Oregon City Leasing, Inc. v. Columbia County*, 25 Or LUBA 129 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a county approves a 120 unit PUD on rural land, but fails to address plan policies limiting the provision of urban public services on rural land, a remand is required so that the county may adopt findings explaining why these standards are not violated by the proposed PUD. *DLCD v. Crook County*, 25 Or LUBA 98 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. To demonstrate compliance with a local code approval standard requiring that a proposed use be compatible with "existing adjacent permitted uses," a local government must identify the existing adjacent permitted uses. A necessary step in identifying such uses is identifying what constitutes the "adjacent" area to be considered. *O'Mara v. Douglas County*, 25 Or LUBA 25 (1993).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a local code standard requires that creation of new nonfarm and nonforest parcels be consistent with comprehensive plan forest and agriculture policies, the local government's findings must demonstrate compliance with all such plan policies or explain why they do not apply. *DLCD v. Curry County*, 24 Or LUBA 200 (1992).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where the code requires that a proposed development be compatible with "adjacent residential developments," based on certain characteristics, the local government must (1) identify "adjacent residential developments," and (2) explain why the proposed development will be compatible, considering the specified characteristics. *Wilson Park Neigh. Assoc. v. City of Portland*, 24 Or LUBA 98 (1992).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Where a code provides that changes having significant impacts are major PUD amendments, and lists categories of changes that *might* result in significant impacts, whether a proposed amendment falls within a category on the list is not in itself determinative of whether the amendment is major. Because the categories are not independent bases for identifying a major amendment, a determination that a proposed PUD amendment is not major need not be supported by findings addressing each category. *Gage v. City of Portland*, 24 Or LUBA 47 (1992).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A general plan policy concerning transportation safety does not require that findings supporting a legislative comprehensive plan transportation map amendment negate every potential safety problem that might result from future implementation of the improvements authorized by the plan amendment. *Davenport v. City of Tigard*, 23 Or LUBA 565 (1992).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. A local government must determine compliance with a code standard requiring that a proposed golf course will have no significant adverse impact on wildlife. The local government may not leave a determination of compliance with a code approval standard to a state agency. *Kaye v. Marion County*, 23 Or LUBA 452 (1992).

1.5.5 Administrative Law – Requirement for Findings – Local Standards. Findings which state that the additional traffic generated by a proposed use would have "an insignificant additional impact" on the affected roads and would not result in "an unreasonable increase" in dust, are sufficient to demonstrate compliance with a code

requirement that the proposed use "will have minimal adverse impact on the livability, value or appropriate development of abutting properties or the surrounding area," with regard to adverse impacts from traffic and dust. *Avgeris v. Jackson County*, 23 Or LUBA 124 (1992).