

21. Goal 17 – Coastal Shorelands. The petitioner failed to raise the issue below that the upland portion of a creek should be included within the coastal shoreland boundary as a riparian resource, where the only arguments made below regarding the creek concerned flooding and the only arguments regarding the shoreland boundary and riparian resources did not concern the creek. *Oregon Coast Alliance v. City of Brookings*, 71 Or LUBA 14 (2015).

21. Goal 17 – Coastal Shorelands. LUBA will affirm a local government’s interpretation of the provisions of its comprehensive plan that implement Goal 17 to be as protective as, but not more protective than, Goal 17, where the text of the comprehensive plan provisions make clear that the local government did not intend to regulate coastal shorelands more protectively than Goal 17. *Oregon Coast Alliance v. Curry County*, 68 Or LUBA 233 (2013).

21. Goal 17 – Coastal Shorelands. LUBA is required under ORS 197.829(1) to affirm a local government’s interpretation of a provision of its comprehensive plan that identifies the location of the coastal shorelands boundary as “the top of the seacliff along the seacliff shoreline” as a “general guide as to the location of the [boundary]” rather than a specific minimum elevation, where the interpretation is not inconsistent with the express language of the provision or the comprehensive plan map, and is plausible. *Oregon Coast Alliance v. Curry County*, 68 Or LUBA 233 (2013).

21. Goal 17 – Coastal Shorelands. Goal 17 provides in part that coastal shorelands must include “adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body[.]” In order to be consistent with Goal 17, a cliff erosion geologic hazard analysis that is relied on to determine the location of the coastal shorelands boundary must consider geologic instability from all causes of cliff erosion where the cliff erosion could impact the ocean. A geologic hazard analysis that does not analyze “adjacent areas of geologic instability” from causes of erosion other than waves hitting the shore cannot be relied on to locate the boundary consistent with Goal 17. *Oregon Coast Alliance v. Curry County*, 68 Or LUBA 233 (2013).

21. Goal 17 – Coastal Shorelands. Goal 17 requires in part that coastal shorelands must include “lands within 100 feet of the ocean shore[.]” A county decision that locates the coastal shorelands boundary at the top of the beach and at the bottom or mid-point of shorefront cliffs is inconsistent with Goal 17, because such locations are arguably where the “ocean shore,” as defined in ORS 390.605(2), ends and that interpretation gives little or no depth to the coastal shorelands boundary beyond the “ocean shore” in some places. *Oregon Coast Alliance v. Curry County*, 68 Or LUBA 233 (2013).

21. Goal 17 – Coastal Shorelands. Remand is necessary where county regulations implementing Goal 17 require that the county delineate the coastal shorelands boundary based on a geological hazard analysis of areas of geological instability adjacent to the ocean, but the county instead adopts a delineation that does not consider geological instability and is not based on a geological hazard analysis. *Oregon Coast Alliance v. Curry County*, 63 Or LUBA 324 (2011).

21. Goal 17 – Coastal Shorelands. Where in approving a destination resort in coastal shorelands that is dependent on groundwater the county addresses a number of comprehensive plan policies implementing Goal 17, but does not address a potentially applicable plan policy in the plan Goal 17 element that requires the county take measures to protect groundwater, remand is necessary for the county to either address the policy or explain why it is not applicable. *Oregon Coast Alliance v. Curry County*, 63 Or LUBA 324 (2011).

21. Goal 17 – Coastal Shorelands. Where a county finds that the comprehensive plan and zoning map designations for a parcel that is subject to Goal 17 can be amended consistently with the county’s acknowledged Goal 17 program because that Goal 17 program is unaffected by the amendment, an argument that “this casual dismissal of Goal 17 cannot provide the basis for the rezoning decision” is not sufficiently developed for review. *Holloway v. Clatsop County*, 52 Or LUBA 644 (2006).

21. Goal 17 – Coastal Shorelands. Even if the Goal 17 requirements governing shorelands “suitable for water-dependent uses” and “especially suited for water-dependent uses” have an independent significance under Goal 17, where the county’s acknowledged code and plan treat the two phrases interchangeably, any error in conflating the meaning of the two phrases cannot be challenged in a permit decision. *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. LUBA will affirm a governing body’s interpretation that only a portion of a coastal shorelands zone is designated as “suitable for water-dependent uses” and therefore subject to a policy that limits non-water-dependent development, where the zone refers to a comprehensive map that depicts only a portion of the zone as being “especially suited for water-dependent uses” and read in context it is clear that the policy is not intended to apply throughout the zone. *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. The purpose of OAR 660-037-0080(3) is to preserve suitable shorelands for water-dependent uses, by allowing non-water-dependent uses in such shorelands only if those uses are “incidental and subordinate.” It is inconsistent with that purpose to include large areas of coastal waters in calculating the ratio of water-dependent to non-water-dependent uses, because that greatly increases the size and extent of non-water-dependent uses allowed on coastal shorelands. *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. Outdoor spaces that may be attributed to water-dependent or non-water-dependent uses, in applying the ratio test at OAR 660-037-0080(3), include developed outdoor spaces such as parking lots, and undeveloped outdoor spaces that are committed by nearby development to either water-dependent or non-water-dependent uses. *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. A set of stairs 144 square feet in size providing pedestrian access to a 67,607-square foot area of beach and tideland does not “commit” that beach area to water-dependent uses, for purposes of OAR 660-037-0080(3). *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. Under the Goal 17 rule, a water-dependent use is a commercial, industrial or recreational use that requires location in proximity to an estuary in order to access the estuary. An artificial wetland used to mitigate wetland losses to residential development and filter storm water generated by residential development is not a “water-dependent use” for purposes of the rule, notwithstanding that the wetland function is dependent on water. *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. 130,000 square feet of open space areas interspersed between 115,945 square feet of non-water-dependent residential development is effectively committed to non-water-dependent uses, and must be counted as a nonwater-dependent use for purposes of the ratio test at OAR 660-037-0080(3). *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. A facility that allows public viewing of estuarine waters, such as a boardwalk or a wetland viewing area, is not a recreational water-dependent use for purposes of OAR 660-037-0080(3). *Oregon Shores Cons. Coalition v. Coos County*, 51 Or LUBA 500 (2006).

21. Goal 17 – Coastal Shorelands. Issues that could have been, but were not, raised in the first appeal to LUBA are waived in any appeal of the decision on remand under *Beck v. City of Tillamook*, 313 Or 148, 831 P2d 678 (1992). Findings adopted on remand explaining why proposed development is allowed in a public facility zone do not open the door to allow a petitioner to raise issues regarding whether the development is consistent with Statewide Planning Goal 17 (Coastal Shorelands). *Moreland v. City of Depoe Bay*, 50 Or LUBA 44 (2005).

21. Goal 17 – Coastal Shorelands. A comprehensive plan policy that applies only to estuarine areas governed by Goal 16 does not apply to proposed development within a zone that includes only coastal shorelands governed by Goal 17. *Oregon Shores Cons. Coalition v. Coos County*, 49 Or LUBA 1 (2005).

21. Goal 17 – Coastal Shorelands. A requirement in the Goal 17 rule that non-water-dependent uses be constructed at the same time or after the water-dependent use is “established” does not mean that the water-dependent uses must be operating at full capacity before non-water-dependent uses may be constructed. *Oregon Shores Cons. Coalition v. Coos County*, 49 Or LUBA 1 (2005).

21. Goal 17 – Coastal Shorelands. The Goal 17 rule requires that non-water-dependent uses be “incidental and subordinate” to water dependent uses, based on a 1-to-3 ratio between the square footage of indoor floor space and “outdoor acreage” distributed

between the two uses. However, “outdoor acreage” includes only outdoor areas that are developed for either non-water dependent or water dependent uses, such as parking lots or boat ramps, and does not include vacant, undeveloped uplands or tidal areas that are left in their natural state. *Oregon Shores Cons. Coalition v. Coos County*, 49 Or LUBA 1 (2005).

21. Goal 17 – Coastal Shorelands. Where legislative history indicates that the location of the Goal 17 Coastal Shorelands boundary is to be decided on case-by-case basis after site review for geologic hazards under the city’s code, the city errs in failing to conduct the required site review to locate the Coastal Shorelands boundary. *Crowley v. City of Bandon*, 43 Or LUBA 79 (2002).

21. Goal 17 – Coastal Shorelands. Where legislative history indicates that the location of the Goal 17 Coastal Shorelands boundary is to be decided on case-by-case basis after site review for geologic hazards under the city’s code, the city errs in failing to conduct the required site review to locate the Coastal Shorelands boundary. *Crowley v. City of Bandon*, 43 Or LUBA 79 (2002).

21 Goal 17 – Coastal Shorelands. A city errs in interpreting a comprehensive plan provision implementing Goal 17 to allow the top of a bluff and the Coastal Shorelands boundary located along that bluff to be moved westward as a result of excavating the top of the bluff, at least absent evidence that the area between the original boundary and the relocated boundary is geologically stable. *Crowley v. City of Bandon*, 43 Or LUBA 79 (2002).

21. Goal 17 – Coastal Shorelands. Where a petitioner does not explain why approval criteria for fill in a floodplain and coastal shoreland necessitated precise delineation of the floodplain boundaries and precise knowledge about the location, amount and nature of the fill, the local government’s failure to precisely delineate and describe the floodplain and fill provides no basis for remand. *Willhoft v. City of Gold Beach*, 41 Or LUBA 130 (2001).

21. Goal 17 – Coastal Shorelands. Plan policies that were clearly adopted to implement Goal 17 are not rendered inapplicable to a decision to approve fill in a coastal shoreland simply because the city codified those policies under the part of the comprehensive plan that is nominally devoted to Goal 16. *Willhoft v. City of Gold Beach*, 41 Or LUBA 130 (2001).

21. Goal 17 – Coastal Shorelands. A zoning ordinance provision that expresses a preference for nonstructural over structural solutions to erosion and flooding problems does not apply to an application for recreational vehicle park expansion that proposes erosion or flooding measures, at least where the proposal does not make structural erosion or flood control measures likely or inevitable. *Willhoft v. City of Gold Beach*, 41 Or LUBA 130 (2001).

21. Goal 17 – Coastal Shorelands. Where the city’s comprehensive plan locates the boundary of a Goal 17 overlay zone at the “top edge” of the bluff overlooking the ocean,

but nothing in the record supports the city's conclusion that proposed expansion of a dwelling built into the bluff will occur outside the overlay zone, remand is necessary for the city to identify the "top edge" of the bluff and the existing dwelling's location in relation to the zoning boundary. *Crowley v. City of Bandon*, 41 Or LUBA 87 (2001).

21. Goal 17 – Coastal Shorelands. Excavation or grading within a setback area in coastal shorelands is inconsistent with Goal 17, implementation requirement 5, and implementing local provisions to the extent excavation or grading increases the erosion rate of existing ocean bank material protecting new structures from erosion. *Terra v. City of Newport*, 36 Or LUBA 582 (1999).

21. Goal 17 – Coastal Shorelands. Where LCDC requires a county to adopt comprehensive plan amendments implementing a statewide planning goal by a certain date, and the county fails to implement the goal as of that date, the goal becomes directly applicable to county decisions pursuant to ORS 197.646, even if the goal did not become "effective" as to that county when LCDC adopted the goal. *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

21. Goal 17 – Coastal Shorelands. Implementation Requirement 6 of Goal 17, which requires that local governments shall retain or replace existing rights-of-way that provide access to or along coastal waters, unambiguously provides mandatory approval requirements. *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

21. Goal 17 – Coastal Shorelands. The extent of "coastal shorelands" subject to the requirements of Goal 17 are not limited to the "ocean shore" as that term is defined in ORS 390.065, but extend inland from the ocean shore at least 100 feet. *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

21. Goal 17 – Coastal Shorelands. Nothing in Implementation Requirement 6 of Goal 17, which requires that local governments shall retain or replace existing rights-of-way that provide access to or along coastal waters, limits the applicability of that requirement to rights-of-way that are currently being used to provide access to or along coastal waters. *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

21. Goal 17 – Coastal Shorelands. Goal 17, Implementation Requirement 6, requires that in vacating rights-of-way that provide access to or along the ocean shore, the vacating body must provide alternative rights-of-way that, individually or cumulatively, functionally replace the access lost through vacation. *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

21. Goal 17 – Coastal Shorelands. Where the vacation of a right-of-way subject to Goal 17, Implementation Requirement 6, is premised on providing alternative rights-of-way to replace access lost through vacation, the alternative rights-of-way must not be based on speculative acquisition of easements, and must be within both the "affected site" of the vacated right-of-way and within "coastal shorelands." *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

21. Goal 17 - Coastal Shorelands. Even where a county determines that a comprehensive plan amendment and zone change would not allow development within the Coastal Shorelands Boundary, the county must also demonstrate that the level of development permitted in the proposed rural residential zone outside the boundary will not adversely affect Goal 17 resources within the boundary. *Brown v. Coos County*, 31 Or LUBA 142 (1996).