

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** ORS 197.763 does not require local governments to treat staff-generated proposed findings that are submitted to the final decision maker for review and adoption at the final meeting as a “staff report” that must be made available to the public seven days prior to the meeting. Absent local provisions to the contrary, there is no right for parties to review or rebut proposed findings prior to their adoption. *Frewing v. City of Tigard*, 52 Or LUBA 518 (2006).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** A local government may not avoid the obligation to adopt findings addressing whether a proposed plan amendment complies with the Transportation Planning Rule (TPR) by relying on subsequent permit approvals to address traffic impacts of uses allowed by the amendment, where the criteria governing permit approvals do not require compliance with the TPR or include standards similar to TPR standards. *Staus v. City of Corvallis*, 48 Or LUBA 254 (2004).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** Because ORS 227.175(10) specifies that a *de novo* hearing on a permit application is not limited to the issues raised in the local notice of appeal, a city errs in failing to address an issue raised before the local appeal body on the grounds that the issue was not raised in the notice of local appeal. *Cotter v. City of Portland*, 46 Or LUBA 612 (2004).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** An ordinance that allows an up-or-down vote by the county electorate on permit approval decisions is incompatible with, and therefore preempted by, ORS 215.402, which requires that approval or denial of permit applications be governed by standards and criteria set forth in the county’s code and findings explaining why the proposal complies or fails to comply with those standards. *Sievers v. Hood River County*, 46 Or LUBA 635 (2004).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** ORS 836.623(1) requires explanatory findings addressing evidence that public safety requires a higher level of protection than the minimum set forth under the Airport Transportation Planning rule, even if the local government rejects that evidence and concludes that existing standards are sufficient to protect public safety. *Graham Oil Co. v. City of North Bend*, 44 Or LUBA 18 (2003).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** 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.

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** A local government may find compliance with approval criteria by finding that the proposed

means to achieve compliance is feasible, and imposing conditions of approval to ensure that the criteria are met. In the alternative, a local government may defer finding compliance with the criteria, but only by observing statutory notice and hearing requirements when making the deferred finding of compliance. *Stockwell v. Benton County*, 38 Or LUBA 621 (2000).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** A city's finding that it is feasible to comply with an approval standard requiring that public facilities can accommodate the proposed use is supported by substantial evidence, where the city conditions approval on the applicant making improvements to an intersection, including improvements that ODOT had imposed on a previous application for a more traffic-intensive use on the subject property. *Terra v. City of Newport*, 36 Or LUBA 582 (1999).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** The practice of incorporating other documents as findings runs the risk of adopting inconsistent findings. However, where a decision expressly incorporates other documents as findings, such an express incorporation is sufficient to adopt the other document as findings. *Hannah v. City of Eugene*, 35 Or LUBA 1 (1998).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** Under ORS 215.296(1), a local government must identify farm and forest uses on land surrounding the subject parcel and examine the practices necessary to continue those uses. The absence of findings sufficient to demonstrate compliance with ORS 215.296(1) undermines the conclusion that there will be no conflicts with surrounding farm or forest uses under Goal 5. *Sanders v. Yamhill County*, 34 Or LUBA 69 (1998).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** A local government misconstrues the meaning of "intensively developed recreational uses" under OAR 660-06-025(4)(e) when it assesses intensity as a product of the relative density of the proposed use with respect to the undeveloped portions of the parcel. *Donnelly v. Curry County*, 33 Or LUBA 624 (1997).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** For purposes of determining whether an RV camp is "intensively developed" and hence inappropriate "for a forest environment" under the Goal 4 Rule, a local government must compare the proposed use to other campgrounds on forest lands, or establish why it is appropriate to compare the proposed use with RV parks on nonresource lands. *Donnelly v. Curry County*, 33 Or LUBA 624 (1997).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** To comply with OAR 660-06-025(5)(a), a local government's findings must describe the farm or forest practices on adjacent and nearby forest lands, as well as explain why the proposed use does not significantly affect those practices. Findings that do not address all nearby lands and that simply refer to an adjacent property as a "woodlot" where a "small flock of sheep" is raised are inadequate. *Donnelly v. Curry County*, 33 Or LUBA 624 (1997).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** Comments made by city council members during the course of their deliberations that are not reflected in the county's final written findings are not relevant in determining whether the county complied with ORS 227.173(2). *Miller v. City of Joseph*, 31 Or LUBA 472 (1996).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** Absent local code provisions extending such a right, parties have no right to rebut proposed findings. *Sorte v. City of Newport*, 26 Or LUBA 236 (1993).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** A party's submission of proposed findings to a local decision maker does not constitute an ex parte contact warranting reversal or remand. In the absence of a local code provision to the contrary, there is no error in a local government's utilization of such a process. *Caine v. Tillamook County*, 25 Or LUBA 209 (1993).

**25.3.6 Local Government Procedures – Compliance with Statutes – Findings.** Where a local government concludes a permit applicant has submitted insufficient evidence to demonstrate it is feasible to comply with an applicable approval criterion, it may defer the required determination of compliance with that standard to a later stage in the approval process, but must assure that statutory notice and hearing requirements are observed in that later stage of approval. *Rhyme v. Multnomah County*, 23 Or LUBA 442 (1992).