

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a site is included on a local government’s Goal 5 inventory based on one type of mineral resource, a local government’s decision that mining of a different non-inventoried mineral resource on the site may proceed without an amended ESEE analysis under Goal 5 will be remanded where the quantity of the non-inventoried mineral resource is five times the amount of the inventoried mineral resource and the mining of the non-inventoried resource may leave a significantly larger and more visible headwall that will conflict with nearby uses more than if only the inventoried mineral resource were removed. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A local government’s zoning ordinance definitions of “dust-sensitive uses” and “noise-sensitive uses” apply in place of the broader consideration of “dust-sensitive uses” and “noise-sensitive uses” that the local government employed during the conflict identification/ESEE consequences phase of its Goal 5 planning, where the zoning ordinance Surface Mining Zone is the heart of the local government’s ultimate Program to Achieve the Goal and there is no suggestion that the local government intended the broader consideration of “dust-sensitive uses” and “noise-sensitive uses” in the earlier Goal 5 planning phase that led up to the Program to Achieve the Goal to apply in place of the zoning ordinance definitions. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. The fact that the entire Goal 5 planning document that a local government adopted for a site was adopted as part of the comprehensive plan does not necessarily mean that the identification of conflicts and ESEE analysis portions of that document that were not included in the Program to Achieve the Goal must be given regulatory effect. Whether those portions of the ESEE analysis have regulatory effect depends on the text of those portions of the ESEE analysis and their context. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where the zoning ordinance definition of “noise-sensitive uses” is ambiguous and could be interpreted to include the entire parcel where the use is located or more narrowly to include only the use’s structure, and there is some contextual support for limiting the use to the structure, LUBA will defer to the local government’s decision to adopt the more narrow interpretation. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a local government’s Goal 5 Program to Achieve the Goal for a particular mineral and aggregate site requires “ongoing incremental reclamation (subject to [Department of Geology and Mineral Industries] review and approval)” the local government likely could interpret that requirement to allow it to write a condition requiring “ongoing incremental reclamation” but expressly providing that DOGAMI is free to determine whether “ongoing incremental reclamation” is possible or desirable and

that DOGAMI may modify or waive that requirement altogether in its permitting process as DOGAMI sees fit. However, the county cannot simply abandon the requirement for “ongoing incremental reclamation” by claiming it lacks expertise in reclamation and does not understand the meaning of that requirement. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a zoning ordinance expressly prohibits a county from issuing a use permit as a precondition of commencing mining until the applicant secures a state agency approval for a reclamation plan, the local government’s failure to include such a requirement in the conditions attached to its conditional use and site plan approval decision is harmless error. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Conditions of approval are not too vague under the Court of Appeals’ reasoning in *Sisters Forest Planning Committee v. Deschutes Cty.*, 198 Or App 311, 108 P3d 1175 (2005), where the conditions of approval are not any more vague than many of the standards they were imposed to address. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A requirement that mining “not be allowed closer than one-quarter mile from any noise or dust sensitive use” is properly interpreted to impose a minimum setback, leaving the applicant to select the mining site so long as the site selected is at least one-quarter mile from any noise or dust sensitive use. Any attempt by the local government to interpret the standard to allow it unbridled discretion to enlarge the one-quarter mile setback would likely run afoul of the ORS 215.416(8)(a) requirement that permit applications be approved or denied based on “standards.” *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a zoning ordinance requires a mining permit applicant to demonstrate that a proposed mining operation can meet certain state standards and a state standard prohibits mining “without taking reasonable precautions to prevent particulate matter from becoming airborne,” and a local government interprets that state standard to require that the applicant successfully prevent all particulate matter from becoming airborne, the local government erroneously interprets the state standard. The state standard only requires that the applicant take reasonable precautions; it does not require the elimination of all airborne particulate matter. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where sage grouse habitat is not a significant resource shown on a county’s Goal 5 inventory of significant resources, the county need not consider impacts of a mining operation on sage grouse habitat, except to the extent impacts on

habitat also result in impacts to a sage grouse breeding site that is listed in the county's Goal 5 inventory. *Walker v. Deschutes County*, 59 Or LUBA 488 (2009).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A post-acknowledgment plan amendment that allows additional categories of conflicting uses that were already allowed under the acknowledged comprehensive plan allows new conflicting uses within the meaning of ORS 660-023-0250(3)(b), and the decision adopting the post acknowledgment plan amendment must therefore apply Goal 5. *Johnson v. Jefferson County*, 56 Or LUBA 25 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Under OAR 660-023-0030(3), where a local government determines that it does not have adequate information about a potential Goal 5 site, the local government “shall not regulate land uses in order to protect such sites.” *Johnson v. Jefferson County*, 56 Or LUBA 72 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where the Goal 5 program requires that the riparian setback be determined from the “top of high bank,” as characterized by “an abrupt or noticeable change from a steeper grade to a less steep grade,” a hearings officer errs in locating the top of high bank without addressing whether the location is characterized by an abrupt or noticeable change in grade. *The Piculell Group v. City of Eugene*, 56 Or LUBA 298 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A conclusion that the 374-foot elevation corresponds to the top of high bank, characterized by “an abrupt or noticeable change from a steeper grade to a less steep grade,” is not supported by substantial evidence, where evidence in the record indicates that the 374-foot elevation is one point on a barely perceptible slope with no perceptible change in grade. *The Piculell Group v. City of Eugene*, 56 Or LUBA 298 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Remand is necessary where one element of the test for determining the location of top of high bank is contingent on a finding that “natural conditions prevail,” but the hearings officer locates the top of high bank under that element without finding or explaining why “natural conditions prevail.” *The Piculell Group v. City of Eugene*, 56 Or LUBA 298 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A hearings officer correctly relied upon the city's Goal 5 resource map to identify the boundary of a protected riparian area, and rejected the applicant's argument that the riparian setback can be determined on a case-by-case basis depending on the location of existing riparian vegetation, where nothing in the city's Goal 5 program suggests that the location of resource sites can be “refined” based on a site-by-site analysis. *The Piculell Group v. City of Eugene*, 56 Or LUBA 298 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A county may use an area larger than the subject property as the denominator in applying a one-dwelling-per-160-acres standard intended to protect deer wintering range, if the area chosen is justified based on applicable code or comprehensive plan provisions, or shown to be consistent with the text, context and purpose of the standard. *Young v. Crook County*, 56 Or LUBA 704 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a county’s code and comprehensive plan are silent regarding how a one-dwelling-per-160 acres wildlife habitat standard is to be calculated, the county does not err in averaging residential density within the same 2000-acre study area that is used for the stability standard. *Young v. Crook County*, 56 Or LUBA 704 (2008).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where the Oregon Department of Fish and Wildlife (ODFW) testifies that that county’s Goal 5 program to protect Other Winter Range relies upon resource zoning to limit residential density, and the findings do not address that testimony or explain why the county believes it can rezone Other Winter Range land to nonresource use without amending the county’s Goal 5 program, LUBA will remand the decision to address the issue. *Lofgren v. Jackson County*, 55 Or LUBA 126 (2007).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A finding that rural residential development will have “minimal impact” on wildlife habitat is not supported by substantial evidence, where the only evidence relied upon is a study that addressed a different proposal under which one-fifth of the property would have been placed in a conservation easement, and the county fails to impose or require such a condition or easement, or explain why the proposed development satisfies the minimal impact standard without such a condition. *Lofgren v. Jackson County*, 55 Or LUBA 126 (2007).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a county limits application of its Goal 5 program to protect big game winter habitat to exclusive farm use zoned properties, a decision years later to remove exclusive farm use zoning amends an acknowledged land use regulation that was adopted to protect a Goal 5 resource, and under OAR 660-023-0250(3)(a) that rezoning decision must be justified under Goal 5. *Wood v. Crook County*, 55 Or LUBA 165 (2007).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a county inventoried big game habitat, identified conflicting uses, analyzed the ESEE consequences, and identified the subject property as a 3B site (allow the uses which conflict with the resource site fully), the county governing body’s interpretation that its code exempts 3B sites from further ESEE analysis is entitled to deference. *Kemp v. Union County*, 50 Or LUBA 61 (2005).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. OAR 660-023-0007 exempts the determination of a “program to protect historic resources” from the requirement to conduct an ESEE (economic, social, environmental and energy) analysis. The scope of that exemption is ambiguous, and could plausibly exempt (1) a local government’s entire historic resources “program,” as that rule broadly defines that term, or (2) only those parts of the program that “protect” historic resources, which a rule definition narrowly limits to local government review of applications for demolition or alteration of historic resources. Given the intertwined nature of most historic resources programs, the better reading of OAR 660-023-0007 is that it comprehensively exempts from the ESEE analysis adoption or modification of the “program,” not merely those parts of the program that require local government review of applications for demolition or alteration of historic resources. *NWDA v. City of Portland*, 50 Or LUBA 310 (2005).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a local government determines that there are no conflicting uses allowed under the applicable zoning districts, the local government need not undertake an ESEE analysis, but must simply adopt appropriate policies and ordinance provisions, such as zoning, to ensure preservation of the resource site. *Cox v. Polk County*, 49 Or LUBA 78 (2005).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where the “resource protection program” is zoning that protects open space, when a local government amends the zone to allow a new use that could conflict with preservation of open spaces, it must either apply Goal 5 or take an exception to Goal 5. If it applies Goal 5, it must either demonstrate that the new use is not a conflicting use or, if it is, conduct an ESEE analysis sufficient to determine whether to protect the resource fully, allow conflicting uses, or limit conflicting uses. *Cox v. Polk County*, 49 Or LUBA 78 (2005).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Findings that a text amendment adding a new use to a park zone are inadequate to address protection of historic sites under Goal 5, where the findings address only one of several parks with historic sites, and fail to explain why allowing a new potentially conflicting use on or near historic sites is consistent with Goal 5. *Cox v. Polk County*, 49 Or LUBA 78 (2005).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Comprehensive plan language stating that the county will contact the state fish and wildlife agency “for any matter which could affect existing or potential wildlife habitat” within general deer winter range areas does not authorize the county to waive a plan policy imposing an 80-acre density limitation to such areas after consulting with the agency. *Wood v. Crook County*, 49 Or LUBA 682 (2005).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. That the county’s Goal 5 program initially applied regulations

protecting big game habitat to areas zoned for resource use does not mean that such regulations are automatically lifted from a parcel of land that the county rezones from a resource zone to a newly created nonresource zone. *Wood v. Crook County*, 49 Or LUBA 682 (2005).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Adoption of an ordinance that authorizes demolition of a structure that the city’s Goal 5 historic inventory classifies as “noncontributing” and that is not protected under the city’s historic resource protection program does not alter the Goal 5 inventory or “amend” the city’s “resource list” within the meaning of OAR 660-023-0250(3)(a). *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Because OAR 660-023-0200(7) provides that local governments are not required to apply the ESEE process in order to determine a program to protect historic resources, it follows that a local government is also not required to apply the ESEE process when the city allows a new use that could conflict with a particular historic resource. *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a post-acknowledgment plan amendment allows new uses that could conflict with significant Goal 5 resource sites, and thus triggers application of the Goal 5 rule under OAR 660-023-0250(3), the city need not in all cases repeat the entire Goal 5 process, including the ESEE analysis. In many cases no more is required than an explanation for why the existing program to protect Goal 5 resources continues to be sufficient to protect those resources. *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. ORS 197.467 requires imposition of a conservation easement to protect Goal 5-designated resources on the site of a proposed destination resort, and that requirement is not obviated by the fact that the Oregon Department of Fish and Wildlife has indicated that it will not require a conservation easement. *Wetherell v. Douglas County*, 44 Or LUBA 745 (2003).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A county errs in interpreting a one dwelling per 40 acres density standard intended to protect Goal 5 wildlife habitat to be satisfied if the average dwelling density over a 1.2 million-acre area of the county does not exceed the standard, where the county’s interpretation gives the standard no regulatory effect until over 28,000 dwellings are built in the area, and is inconsistent with the purpose of the standard to protect wildlife habitat. *Wetherell v. Douglas County*, 44 Or LUBA 745 (2003).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A local standard imposing a one dwelling per 40 acre density limitation on Goal 5-protected wildlife habitat must be construed in a way that is consistent with its

purpose and context to allow no more than one dwelling per 40 acres on the subject property. As applied to a destination resort, such a standard may effectively prohibit a resort that proposes 200 single-family residential lots in a 500-acre area. *Wetherell v. Douglas County*, 44 Or LUBA 745 (2003).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A plan provision that simply repeats the Goal 5 rule requirement that resource sites be preserved, where no conflicting uses are identified, does not apply directly to protect a resource site where no conflicts are identified, where the plan makes clear that it is the “results and conclusions” of applying that plan provision and others that constitutes the county’s program to protect Goal 5 resource sites. *Dundas v. Lincoln County*, 43 Or LUBA 407 (2002).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where the county’s comprehensive plan makes it clear that it relied on a particular zoning district as its program to protect an existing mining operation from conflicting uses, and that zone allows mining and dwellings as conditional uses, the county does not err in requiring that a conditional use application to reopen that mine after it had been closed for over ten years to demonstrate that the mine would be compatible with nearby dwellings. Any error that the county may have committed in subjecting an existing mine with no conflicts to conditional use review in the future if the mine closed was rendered irrelevant by LCDC’s acknowledgment of the comprehensive plan. *Dundas v. Lincoln County*, 43 Or LUBA 407 (2002).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a county considers the impacts that a proposed rezoning would have on inventoried Goal 5 resources, and concludes that the existing Goal 5 protection program continues to be adequate to protect those resources, the county’s conclusion satisfies Goal 5. *Doty v. Coos County*, 42 Or LUBA 103.

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Under OAR 660-023-0250(3), a local government cannot adopt a post-acknowledgment plan amendment that amends the program to protect significant Goal 5 resources without establishing that the amendment complies with Goal 5 and the Goal 5 rule, even if the amendment merely increases the level of protection afforded inventoried Goal 5 resources. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Code provisions that were previously acknowledged to comply with Goal 5 and are carried forward into a new code without substantive change do not constitute an “amendment” of a Goal 5 regulation and thus do not trigger an obligation to establish that those amendments comply with the Goal 5 rule. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A zoning classification that implements a Goal 5 plan designation

and is applied to an inventoried Goal 5 resource site is among the regulations that “protect a significant Goal 5 resource” for purposes of OAR 660-023-0250(3). Therefore, a substantive amendment to such a zoning classification must be evaluated under the Goal 5 rule. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A “safe harbor” provision at OAR 660-023-0090(8) allowing local governments to adopt ordinances implementing Goal 5 that allow an “existing structure” in a riparian area to be repaired or replaced is not properly interpreted to require a threshold inquiry into whether the “existing structure” was lawfully approved or developed. *Tylka v. Clackamas County*, 41 Or LUBA 53 (2001).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. The terms and not the title of a code provision setting forth certain exceptions to prohibited activities in riparian areas control the scope of the exceptions in that provision. LUBA will affirm a hearings officer’s interpretation to that effect where the text and context of the provision indicate that the provision applies more broadly than its title suggests. *Tylka v. Clackamas County*, 41 Or LUBA 53 (2001).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Code provisions protecting historic structures that are described in the county’s inventory as significant, important or contributing to the significance of the overall resource are not properly interpreted to protect an accessory structure on the subject property that is not mentioned in the county’s inventory. *Paulson v. Washington County*, 40 Or LUBA 345 (2001).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A code provision allowing a historic resource to be relocated if it is on land that is “needed to accommodate” a planned transportation project is not properly interpreted in context to require the county to determine if an alternative alignment would not require relocation, where a related code provision prohibits the county from considering alternative alignments. *Paulson v. Washington County*, 40 Or LUBA 345 (2001).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Remand is appropriate where the local government approves an aggregate mine that appears to impact an inventoried Goal 5 groundwater resource without addressing issues raised below regarding whether the proposed mine complies with local provisions that were adopted to protect Goal 5 resources. *Jorgensen v. Union County*, 37 Or LUBA 738 (2000).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Under OAR 660-023-0180(4)(b) and OAR 660-023-0180(4)(c) a local government may either determine that there are no potential conflicts associated with a proposed aggregate mining proposal or that, although there are potential conflicts associated with the proposed aggregate mining, the conflicts can be minimized. The options available under these two rules are separate and distinct, and a decision that does

not make it clear which option is being selected must be remanded. *Turner Community Association v. Marion County*, 37 Or LUBA 324 (1999).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Under OAR 660-023-0180(4)(f) where a proposed aggregate mining operation will be located on Class I, II or Unique Farm land, the comprehensive plan must be amended to limit post-mining uses to uses listed under ORS 215.213(1) or 215.283(1) and fish and wildlife habitat uses. A decision authorizing mining that does not so limit post-mining uses must be remanded. *Turner Community Association v. Marion County*, 37 Or LUBA 324 (1999).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A committed-exception zone-change decision that acknowledges the existence of Goal 5 resources on the subject property, but concludes that the county's existing Goal 5 plan provisions will address any conflicts, is not adequate to demonstrate compliance with Goal 5, where the findings do not state which of the county's existing Goal 5 plan provisions ensure continued compliance once the exception is taken, and the findings do not consider whether the zone change may introduce the possibility of new conflicting uses. *Pekarek v. Wallowa County*, 36 Or LUBA 494 (1999).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A land development ordinance amendment adopting a half-acre minimum lot size for a flood hazard zone is not reviewable for compliance with Goal 5 where the acknowledged comprehensive plan calls for a half-acre minimum in the flood hazard zone. *Barnard Perkins Corp. v. City of Rivergrove*, 34 Or LUBA 660 (1998).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A Goal 5 program requiring a 100-yard setback from the crests of certain moraines satisfies the OAR 660-16-010(3) requirement for "clear and objective standards" where the crest of a moraine can be located using accepted survey techniques. *Buhler Ranch v. Wallowa County*, 33 Or LUBA 594 (1997).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. A Goal 5 program requirement for a "suitable visual buffer" does not satisfy the OAR 660-16-010(3) requirement for "clear and objective standards." Such a requirement must clearly specify the outcome to be achieved by the screening and the vantage point from which the proposed dwelling must be screened. *Buhler Ranch v. Wallowa County*, 33 Or LUBA 594 (1997).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Where a county has an acknowledged Goal 5 program, which includes an acknowledged inventory, and rural wetlands are included in a special category that is not part of that inventory, amendments to the county's ordinance that modify protections to rural wetlands do not change the county's procedures for inventorying Goal 5 resources and do not conflict with Goal 5 because they continue to provide interim protection of resources in a special category. *Redland / Viola / Fischer's Mill CPO v. Clackamas County*, 33 Or LUBA 152 (1997).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. LUBA will defer to the local governing body's interpretation that under its code provisions governing permits for the demolition of historic properties, the planning director's determination regarding compliance with pre-application requirements is not reviewable by the historic review board or appealable to the governing body. *Save Amazon Coalition v. City of Eugene*, 29 Or LUBA 238 (1995).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Whereas ORS 358.653(1) imposes a duty on state agencies and local governments that have a proprietary interest in historically significant properties to consult with the state Historic Preservation Office prior to seeking demolition of such properties, it does not establish requirements for state agencies and local governments to follow in carrying out their authority to regulate property under the ownership and control of other entities. *Save Amazon Coalition v. City of Eugene*, 29 Or LUBA 238 (1995).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. The provisions of ORS 358.920 to 358.950 and 97.740 to 97.760 concerning excavation of archaeological sites are not approval standards a local government must address in approving a planned development, so long as the local government does not approve the planned development in a way that obviates the applicant's responsibility to comply with those statutes, without demonstrating (1) the statutes do not apply to the excavation or construction that may be carried out under the challenged decision, or (2) the statutory requirements have been met. *ONRC v. City of Seaside*, 29 Or LUBA 39 (1995).

9.5 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Protection Programs. Code provisions that provide interim resource protection to property not on a local government's acknowledged Goal 5 resource inventories, until the Goal 5 planning process can be carried out, do not implement Goal 5. Therefore, local interpretations of such code provisions are not subject to reversal by LUBA under ORS 197.829(4). *Gage v. City of Portland*, 28 Or LUBA 307 (1994).