

31.1.2 Permits – Approval Standards – Application Requirements. Where the local code provides that certain applications (1) must be “submitted on a form provided by the [Planning] Director,” (2) “must be reviewed” pursuant to Type II procedures, (3) “may be reviewed” pursuant to Type I procedures in certain circumstances, and (3) “shall not be considered accepted solely because of having been received,” the planning director has discretion to reject an application filed on an incorrect form. *Mattson v. Lane County*, 81 Or LUBA 526 (2020).

31.1.2 Permits – Approval Standards – Application Requirements. A county decision determining vested rights involves the “discretionary approval of a proposed development of land,” and is therefore a “permit” decision under ORS 215.402(4). Such decisions must be processed under procedures consistent with ORS 215.416, regardless of whether a party’s request for the “permit” decision is accompanied by requests for non-“permit” decisions, whether the request is labeled or easily identifiable as an “application” for a “permit,” or whether the party affirmatively requests the required procedures. *Gillette v. Lincoln County*, 79 Or LUBA 549 (2019).

31.1.2 Permits – Approval Standards – Application Requirements. A permit applicant’s communication to a county—three days before the 180-day deadline to make a permit application complete under ORS 215.427(3)—that he intended to submit additional information to make his application complete is insufficient to constitute a request that the application be deemed complete under ORS 215.427(2)(b) and is insufficient to keep a permit application from becoming void under ORS 215.427(4)(a) through (c). *Bora Architects, Inc. v. Tillamook County*, 76 Or LUBA 330 (2017).

31.1.2 Permits – Approval Standards – Application Requirements. A county decision that approves a permit application that has become void under ORS 215.427(4) is “prohibited as a matter of law” and must be reversed. *Bora Architects, Inc. v. Tillamook County*, 76 Or LUBA 330 (2017).

31.1.2 Permits – Approval Standards – Application Requirements. Under the Court of Appeals’ reasoning in *Davenport v. City of Tigard*, 121 Or App 135, 141, 854 P2d 483 (1993), the statutory term “standards and criteria” is sufficiently malleable to encompass a two-step code requirement that first requires that an applicant submit sufficient information to allow the local government to determine whether mitigation conditions of approval are needed for the proposed mining use, and second requires that the local government determine if conditions of approval are needed and develop and impose those conditions if they are needed. *Tidewater Contractors v. Curry County*, 65 Or LUBA 424 (2012).

31.1.2 Permits – Approval Standards – Application Requirements. A joint application for a conditional use permit by owners of illegally divided parcels cannot rectify an illegal partition under a local code provision that prohibits the approval of permits unless “the violation can be rectified as part of the proposed development,” at least where the local government does not purport to validate unlawfully created parcels, pursuant to ORS 92.176. *Olstedt v. Clatsop County*, 62 Or LUBA 131 (2010).

31.1.2 Permits – Approval Standards – Application Requirements. Where an application requirement states that a tentative plat must show the approximate location of any wetlands on a property, a local government does not err in not requiring an application to submit a full wetland delineation. *Citizens for Responsible Development v. City of The Dalles*, 59 Or LUBA 369 (2009).

31.1.2 Permits – Approval Standards – Application Requirements. ORS 215.427(2) merely provides that a local government may request additional information before proceeding with a permit or rezoning application if it believes such information is necessary. The statute does not mean that once a local government indicates the application is complete that necessarily means the application includes substantial evidence that all applicable criteria are satisfied. *Sperber v. Coos County*, 56 Or LUBA 763 (2008).

31.1.2 Permits – Approval Standards – Application Requirements. Even though a local government may be in a position to require a modified application, that does not mean it must do so, when a condition of approval requiring submission of a revised plat neither constitutes procedural error nor prejudices a party's substantial rights. *Sisters Forest Planning Comm. v. Deschutes County*, 45 Or LUBA 145 (2003).

31.1.2 Permits – Approval Standards – Application Requirements. The absence of required information or analysis in an application is not necessarily viewed as a procedural error, and may be a basis for reversal or remand even without a showing of prejudice to petitioner's substantial rights, where the information or analysis is necessary to determine compliance with approval criteria. *Bauer v. City of Portland*, 44 Or LUBA 210 (2003).

31.1.2 Permits – Approval Standards – Application Requirements. Under a code provision requiring a "mitigation site plan" if development results in unavoidable significant detrimental environmental impacts, it is not error for the city to consider proposed mitigation in finding that the development will not result in significant impacts, and thus avoid the requirement for a mitigation site plan, where that approach does not avoid prescribed types of mitigation, and instead simply eliminates submission of redundant information. *Bauer v. City of Portland*, 44 Or LUBA 210 (2003).

31.1.2 Permits – Approval Standards – Application Requirements. ORS 227.175(2) requires that a city provide the opportunity for a consolidated permit application and review process; the statute does not require that each ordinance that adopts a new land use permitting process must separately set out provisions for such consolidated review. *Rest-Haven Memorial Park v. City of Eugene*, 39 Or LUBA 282 (2001).

31.1.2 Permits – Approval Standards – Application Requirements. Where a permit application omits required information, the omitted information is not contained elsewhere in the record, and the omitted information is necessary to demonstrate compliance with an applicable approval standard, the failure to provide the required information is not harmless procedural error and provides a basis for reversal or remand. *Hausam v. City of Salem*, 39 Or LUBA 51 (2000).

31.1.2 Permits – Approval Standards – Application Requirements. ORS 215.416(2) does not obligate a county to follow a consolidated procedure in considering a request for a local land use

approval. Rather, the statute provides that if an applicant chooses to submit a consolidated application, the county must have a procedure available to review the consolidated application as a whole. *McKenney v. Deschutes County*, 37 Or LUBA 685 (2000).

31.1.2 Permits – Approval Standards – Application Requirements. In the absence of a code prohibition or some other obstacle identified by petitioner, a city may find a proposal that is substantially modified on remand from LUBA to be a continuation of the original application. *Sullivan v. City of Woodburn*, 33 Or LUBA 356 (1997).

31.1.2 Permits – Approval Standards – Application Requirements. The omission of information required by a local code from a development application is harmless procedural error if the required information is located elsewhere in the record. *Brown v. City of Ontario*, 33 Or LUBA 180 (1997).

31.1.2 Permits – Approval Standards – Application Requirements. The county’s application requirements for a conditional use permit are not approval criteria; the fact that application requirements may not have been satisfied provides no basis for remand absent a showing that the failure to satisfy the requirements resulted in noncompliance with at least one mandatory approval criterion. *Le Roux v. Malheur County*, 32 Or LUBA 124 (1996).

31.1.2 Permits – Approval Standards – Application Requirements. To obtain reversal or remand of a decision because information required by the local code is missing from the application, petitioner must explain why the missing information is necessary to determine compliance of the proposed development with applicable approval standards, and the missing information must not be found elsewhere in the record. *Champion v. City of Portland*, 28 Or LUBA 618 (1995).

31.1.2 Permits – Approval Standards – Application Requirements. Code provisions which simply require a land use application to contain certain information, and explain the burden is on the applicant to establish compliance with relevant approval criteria, do not impose an affirmative requirement on the applicant to disclose a dispute the applicant may have with another jurisdiction concerning another permit. *Salem Golf Club v. City of Salem*, 28 Or LUBA 561 (1995).

31.1.2 Permits – Approval Standards – Application Requirements. The omission of required information from an application constitutes harmless procedural error if the required information is located elsewhere in the record. However, where such information is not located elsewhere in the record and such information is necessary for a determination of compliance with relevant approval standards, such an error is not harmless and warrants reversal or remand of the challenged decision. *Shapiro v. City of Talent*, 28 Or LUBA 542 (1995).

31.1.2 Permits – Approval Standards – Application Requirements. Where the local code creates a process for the submittal and review of an applicant’s “development impact statement” (DIS) as part of preliminary subdivision plat approval, the local governing body has considerable discretion in interpreting the role of the DIS process and must determine, in the first instance, whether the DIS content requirements are mere requests for information or impose substantive approval standards. *ONRC v. City of Oregon City*, 28 Or LUBA 263 (1994).

31.1.2 Permits – Approval Standards – Application Requirements. Absent a statutory or local code provision to the contrary, a local government may recognize a property owner who signs a permit application as an applicant, or allow a change in the applicants for a permit. *Reeves v. Yamhill County*, 28 Or LUBA 123 (1994).

31.1.2 Permits – Approval Standards – Application Requirements. In order for a petitioner to obtain reversal or remand of a decision because information required by the local code is missing from the application, petitioner must explain why the missing information is necessary to determine compliance of the proposed development with applicable approval standards, and the missing information must not be found elsewhere in the record. *Furler v. Curry County*, 27 Or LUBA 497 (1994).

31.1.2 Permits – Approval Standards – Application Requirements. Where an application for subdivision tentative plan approval does not contain information on the location of driveways and easements required by the code, but petitioners fail to establish the missing information is relevant to any applicable approval standard, the error is harmless and does not provide a basis for reversal or remand. *Barrick v. City of Salem*, 27 Or LUBA 417 (1994).

31.1.2 Permits – Approval Standards – Application Requirements. An applicant's failure to include particular information required by the local code on a permit application provides no basis for reversal or remand, unless petitioner explains why the missing information is necessary to determine compliance with specific applicable approval standards. *Wissusik v. Yamhill County*, 27 Or LUBA 94 (1994).

31.1.2 Permits – Approval Standards – Application Requirements. Unless a county notifies the applicant that its permit application is incomplete, as required by ORS 215.428(2), and the deficiency is not remedied within 180 days, under ORS 215.428(3) the county must apply the standards and criteria in effect when the application was filed. *Cummings v. Tillamook County*, 26 OR LUBA 139 (1993).

31.1.2 Permits – Approval Standards – Application Requirements. Where petitioner argues the local government erred by approving a conditional use permit without the consent of all owners of the subject property, but identifies no plan, code or other legal standard requiring that such consent be obtained, LUBA cannot grant relief. *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

31.1.2 Permits – Approval Standards – Application Requirements. In the absence of a code provision to the contrary, a local government is not required to allow modifications to a subdivision application to enable its approval. *Schatz v. City of Jacksonville*, 25 Or LUBA 327 (1993).

31.1.2 Permits – Approval Standards – Application Requirements. Where a sign-permitting process involves two steps—obtaining a sign permit and architectural review approval—and each step requires the filing of an application and an application fee, and is subject to different standards which are intended to be applied in addition to the requirements of the other, under ORS 227.178(3) an application for sign permit or architectural review approval is subject to the

standards in effect when that particular application is submitted. *A Storage Place v. City of Tualatin*, 25 Or LUBA 202 (1993).

31.1.2 Permits – Approval Standards – Application Requirements. Where the record includes a permit application dated prior to the adoption of certain land use regulation amendments changing the applicable approval standards, and petitioner offers no reason to believe the application was not submitted prior to those amendments, LUBA will assume the permit application was submitted before the amended standards took effect. *DLCD v. Crook County*, 25 Or LUBA 98 (1993).

31.1.2 Permits – Approval Standards – Application Requirements. Under ORS 215.428(1) to (3), an application for permit approval is considered complete when it is filed, unless the county notifies the permit applicant that information is missing. ORS 215.428(2). *DLCD v. Crook County*, 25 Or LUBA 98 (1993).

31.1.2 Permits – Approval Standards – Application Requirements. Where the local code establishes specific requirements for applications for mobile home parks, and also requires that the site plan for a proposed conditional use include information specifically required by the code for the proposed use, a conditional use permit application for a mobile home park must also include the information required for applications for mobile home parks. *Burghardt v. City of Molalla*, 22 Or LUBA 369 (1991).

31.1.2 Permits – Approval Standards – Application Requirements. A local code provision that establishes minimum requirements for what must be included in a PUD preliminary development plan application does not establish or modify the approval standards for such plans set forth elsewhere in the code. *Gilson v. City of Portland*, 22 Or LUBA 343 (1991).

31.1.2 Permits – Approval Standards – Application Requirements. Where an application for a residential care facility does not include a vicinity map showing the proposed site in relation to public transportation systems, as required by the local code, but information concerning the location of public transportation is found elsewhere in the record, the failure to include such vicinity map in the application is a procedural error that does not prejudice petitioner's substantial rights. *Murray v. Clackamas County*, 22 Or LUBA 247 (1991).

31.1.2 Permits – Approval Standards – Application Requirements. Where the local code requires that a PUD application include a landscaping plan, and the landscaping plan is not available anywhere in the record and is necessary for the city to adequately address compliance with an applicable approval standard, the omission of the plan is not a harmless or procedural error. *Schryver v. City of Hillsboro*, 20 Or LUBA 90 (1990).

31.1.2 Permits – Approval Standards – Application Requirements. A person files an "application for a permit," as provided in ORS chapter 215, when the person makes it known what the person seeks approval for and that county action to grant approval is requested. A county may require the person to use county forms and procedures, but may not rely on a lack of county forms or procedures to claim no application for a permit was submitted. *Kirpal Light Satsang v. Douglas County*, 18 Or LUBA 651 (1990).