

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings that a proposed expansion of a deep-water navigation channel are consistent with a city’s obligations under Goal 9 and with city comprehensive plan policies requiring the city to maximize the potential opportunities of its deep-water port are insufficient bases to take a reasons exception to Goal 16 pursuant to OAR 660-004-0022(1)(a), because the findings fail demonstrate that, absent the exception, the city will fail to satisfy a requirement under Goal 9. *Confederated Tribes of Coos v. City of Coos Bay*, LUBA No 2020-012 (May 4, 2021).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A general desire to diversify or boost the local economy is an insufficient basis for an exception to a resource goal under OAR 660-004-0022(1)(a), to show a “demonstrated need” “based on one or more of the requirements” of Goal 9. An exception to a resource goal based on Goal 9 must be “exceptional,” in the sense that the rationale is self-limiting, justified by an exceptional circumstance, and not so broadly framed that it can be applied to establish other exceptions across a broad range of circumstances. *Oregon Shores Conservation Coalition v. Coos County*, LUBA No 2020-002 (May 4, 2021).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In the context of a reasons exception to allow a data center use on agricultural land, while a local government cannot judge whether a property has a service-based locational advantage without a complete understanding of the extent of services in the alternative locations, the absence of an inventory of existing infrastructure in the record does not undermine the decision-maker’s conclusion that the exception area provides a “significant comparative advantage,” for purposes of OAR 660-004-0022(3)(c), where alternative sites were not rejected based upon the unavailability of services. *1000 Friends of Oregon v. Morrow County*, 81 Or LUBA 508 (2020).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Speculation that a reasons exception to allow an industrial use on agricultural land will hasten future zone change applications does not establish that the exception will not “cause only minimal loss of reproductive resource lands” for purposes of OAR 660-004-0022(3)(c); however, the fact that that an equal amount of land elsewhere in the jurisdiction will be rezoned from industrial to agricultural does not demonstrate that that criterion is met where the findings do not discuss the quality or productivity of the resource lands in the proposed exception area or otherwise attempt to describe, in qualitative terms, what removing the agricultural zoning of the proposed exception area means for resource land productivity. *1000 Friends of Oregon v. Morrow County*, 81 Or LUBA 508 (2020).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In the context of a reasons exception to allow a data center use on agricultural land, that a site is under contract or currently used for the disposal of wastewater; that a site is in federal ownership and that its ownership transfer timeline is unknown; that much of a site is covered in wetlands and that removal and fill of the wetlands will increase risk and will increase costs in an amount in the tens of thousands of dollars; that a site is too close to other existing or planned data centers to avoid general, undefined issues of facility proximity and interdependence; and that a site is inconsistent with the applicant’s objective of ultimately extending services to a particular property do not

necessarily establish that those sites “cannot reasonable accommodate the use” for purposes of OAR 660-004-0020(2)(b). *1000 Friends of Oregon v. Morrow County*, 81 Or LUBA 508 (2020).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In determining whether to take a reasons exception under ORS 197.732(2)(c), where a local government finds that there is a public need to provide certain residents, many of whom are of limited financial means and mobility, with close access to the proposed uses, the local government does not err in concluding that “[a]reas that do not require a new exception cannot reasonably accommodate the use” under ORS 197.732(2)(c)(B) because the proposed location is the only location that is accessible to the residents. *VanSickle v. Klamath County*, 80 Or LUBA 241 (2019).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A locational attractor which may support a reasons exception under OAR 660-004-0022(3)(c) need not be located on rural land outside a UGB. *1000 Friends of Oregon v. Jackson County*, 80 Or LUBA 521 (2019).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. An approximately 80-acre photovoltaic solar power generation facility is not “industrial development” for purposes of OAR 660-004-0022(3)(c). *1000 Friends of Oregon v. Jackson County*, 80 Or LUBA 521 (2019).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where the challenged decision is limited to a single site in a remote rural area, is based on a single unique resource, and limits its authorization to five categories of rural industrial uses that are significantly dependent on that resource, nothing in OAR 660-004-0020 or -0022 precludes a county from justifying an amount of land for a range of deepwater port-dependent rural industrial uses based on the best available evidence regarding the types and land needs of likely industrial uses, without knowing exactly which industrial uses will locate in the exception area or exactly how much acreage each use will require. Although the typical reasons exception involves only a single proposed use, the size of which is generally known, and in such cases it is relatively easy to determine “the amount of land for the use being planned” for purposes of OAR 660-004-0020(2)(a), a county may take a reasons exception to allow more than one use, or even a range of uses, the exact nature and size of which may not be known. *Columbia Riverkeeper v. Columbia County*, 78 Or LUBA 547 (2018).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Goal 3 does not generally allow industrial uses on agricultural land. Goal 2 defines an “exception” in part as a comprehensive plan amendment to allow a use that “[d]oes not comply with some or all goal requirements applicable to the subject property or situations[.]” Goal 2 does not allow establishment of a zoning policy of general applicability. Where a local government authorizes five broad categories of industrial and commercial uses distinguished by a general type of good or commodity (dry bulk, liquid bulk, breakbulk, etc.), and each use is limited by the requirement that the use be significantly dependent on a deepwater port, that does not mean that as a consequence the county has approved an exception that establishes a “zoning policy of general applicability,” contrary to the Goal 2, ORS 197.732(1)(b)(A) and OAR 660-004-0005(1)(a) definition of “exception.” *Columbia Riverkeeper v. Columbia County*, 78 Or LUBA 547 (2018).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The county did not err in concluding that the “unique resource” at issue, a deepwater river port whose upland portions are located within the existing exception area, is still “located on agricultural or forest land” for purposes of OAR 660-004-0022(3)(a). Although “Agricultural Land” for purposes of Goal 3 and its implementing administrative rule does not include land areas subject to exceptions to Goal 3, it does not necessarily follow that agricultural land, as that term is used in OAR 660-004-0022 or other parts of the Goal 2 exception rule is subject to the same restriction. At least for the limited purpose of evaluating the need for and compliance with exception standards to allow new or changed uses contrary to the resource goals, land within an exception area potentially remains “agricultural land” subject to Goal 3, and where the original exception did not take an exception to Goal 4 the site potentially remains “forest land.” *Columbia Riverkeeper v. Columbia County*, 78 Or LUBA 547 (2018).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The issue of whether a county erred in adopting a reasons exception to Statewide Planning Goal 3 under both the catch-all provision at OAR 660-004-0022(1) and the specific provisions for rural industrial use at OAR 660-004-0022(3) was adequately raised below for purposes of ORS 197.763(1), where a participant argued below that the county cannot adopt exceptions under both provisions but must choose one or the other. *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Both the reasons set forth in the catch-all provision at OAR 660-004-0022(1) and the specific reasons set out in OAR 660-004-0022(3) provide non-exclusive lists of acceptable reasons to justify an exception to a statewide planning goal. A county could potentially seek to justify a reasons exception based on the standards set out in OAR 660-004-0022(1) even for a type of use that is subject to specific standards set out in OAR 660-004-0022(3), or vice versa. Consequently, nothing in the rule precludes a county from attempting to justify an exception alternatively under either OAR 660-004-0022(1) or (3). *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The Goal 13 requirement for local governments to “maximize the conservation of all forms of energy” does not impose an affirmative obligation on local governments to promote the development of renewable energy, or provide a basis to conclude that there is a “demonstrated need” to meet a goal requirement, in order to satisfy the standards at OAR 660-004-0022(1)(a) for adopting a reasons exception in order to site a solar energy facility on agricultural land. *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. An 80-acre utility-scale solar energy generating facility produces goods or services and thus qualifies as “industrial development” for purposes of OAR 660-004-0022(3), notwithstanding that the facility, once constructed, will require only a few permanent employees. *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county errs to the extent it justifies a reasons exception under OAR 660-044-0022(3)(a) to site an industrial use on agricultural land, based on proximity to and dependency on an electrical substation located

within a nearby urban growth boundary, because OAR 660-004-0022(3)(a) applies only to industrial uses that are dependent on resources located on agricultural or forest land. *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0022(3)(c) provides a sufficient reason for siting industrial development on resource lands where the use “would have a significant comparative advantage due to its location.” The text and context of OAR 660-004-0022(3)(c) indicate that the locational attractor that provides a significant comparative advantage justifying industrial development of resource land must also be located on resource land, and therefore an electrical substation located within an urban growth boundary cannot qualify as the locational attractor. *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0022(3)(c), which states that a significant comparative advantage due to “location” is a sufficient basis to adopt a reasons exception to site industrial development on resource lands, is not properly interpreted to allow industrial use of resource land to be justified based solely on proximity to resources located within a nearby urban growth boundary (UGB), because under such an interpretation the rule could potentially undermine the integrity of UGBs, and it is unlikely that in drafting the rule the Land Conservation and Development Commission intended that result. *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-011-0060(9)(a) and (b) provide examples of “[a]ppropriate reasons and facts for an exception to Goal 11” that are context for determining the scope of the general term “appropriate reasons and facts,” but they do not state the only “appropriate reasons and facts for an exception to Goal 11” to extend a sewer system into a rural area to solve a public health problem. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 455 (2016).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-011-0060(9) is not intended to describe the complete universe of situations that could justify a reasons exception to Goal 11. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 455 (2016).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county decision that it “may be” necessary to allow sewers systems to serve up to 11,000 lots in a 180-square-mile area of the county to address a future potential health hazard if the county later determines that septic systems and other treatment systems are not the best solution does not state “appropriate reasons and facts” for justifying a Goal 11 exception. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 455 (2016).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In approving an exception to Goal 11 to extend sewers onto rural land in the county, a county’s failure to distinguish between 3,353 high groundwater lots that are either already developed with houses or that are vacant but could be developed with houses, and other areas that it is proposing to serve with sewers in order to more easily allow future houses on rural lands but that the record does not demonstrate are located in high groundwater areas, makes the county’s ordinance adopting an exception to Goal

11 an ordinance that “establish[es] a planning or zoning policy of general applicability” in contravention of ORS 197.732(1)(b), rather than an ordinance that adopts an exception. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 455 (2016).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A finding that taking an exception to Goal 4 is warranted to allow adaptive reuse of Goal 5 historic structures located on forest lands because allowed uses under Goal 4 will not raise sufficient revenue to offset the cost of maintaining those structures, if supported by substantial evidence, is a sufficient reason why the policy embodied in Goal 4 should not apply to the exception area. *King v. Clackamas County*, 72 Or LUBA 143 (2015).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Goal 5 imposes obligations on local governments with respect to the preservation of historic resources and requires a local government to act in a way to help willing property owners achieve actual and not merely nominal preservation of historic resources. Such obligations can constitute a demonstrated need based on the requirements of Goal 5 as a basis for taking a reasons exception. *King v. Clackamas County*, 72 Or LUBA 143 (2015).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-004-0022, a county does not err in finding that a proposed adaptive reuse of a historic structure has special features or qualities that necessitate its location because the proposed use, adaptive reuse of a historic structure, must occur within the structure and cannot occur elsewhere. *King v. Clackamas County*, 72 Or LUBA 143 (2015).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-004-0020(2)(d), the relevant inquiry is whether the proposed use requiring an exception is compatible with adjacent uses, not whether the proposed use is more intensive than prior uses. *King v. Clackamas County*, 72 Or LUBA 143 (2015).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Nothing in OAR chapter 660, division 004, requires a county to identify one specific proposed use when adopting a reasons exception, or precludes a county from identifying a wide range of uses as the proposed “use.” *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Adopting a reasons exception for an open-ended range of unspecified industrial uses, justified under three separate, partially overlapping “reasons,” is a permissible approach, but compared to justifying a single proposed use under a single reason, the broader approach complicates an already difficult process, when the analysis moves to determining whether the proposal complies with the reasonable accommodation, ESEE and compatibility standards, and at the end of the process when the local government must apply zoning that limits uses to those allowed in the reasons exception. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In taking a reasons exception, a local government must ensure that there is a close, direct relationship between the reason that is advanced to justify the exception, the proposed use or uses that fit within that reason

and are analyzed under the exception standards, and the uses that are ultimately authorized by the zoning applied to the exception area. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0018(4) provides that in taking a reasons exception a local government shall adopt zoning that limits the uses to those justified in the exception. Complying with OAR 660-004-0018(4) is difficult when the reasons exception is intended to authorize a broad array of unspecified rural industrial uses, under three separate reasons, because it may be unclear which specific industrial uses are allowed in the exception area and whether they have been justified in the exception. That difficulty might be overcome if the exceptions document that is incorporated into the comprehensive plan, the conditions imposed, and the approval standards and plan policies that will apply to any proposed industrial use are sufficient to ensure that only uses justified in the reasons exception are allowed. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0022(3)(b) authorizes a reasons exception for rural industrial uses where “the use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible with densely populated areas.” However, findings that do not address proposed industrial uses or evaluate specific types of hazards or incompatibilities with densely populated areas are an insufficient basis to justify any industrial uses under OAR 660-004-0022(3)(b). *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0022(3)(c) authorizes a reasons exception for rural industrial uses where the use would have a significant comparative advantage due to its location in proximity to certain facilities or resources, which would benefit the county economy. Detailed findings that identify a significant comparative advantage to locating rural industrial uses in proximity to an adjacent industrial site with deep-water port access, power generating facilities, and railroad connections are sufficient to justify a reasons exception for rural industrial uses that benefit from proximity to the identified facilities or resources. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The “benefit the county economy” standard in OAR 660-004-0022(3)(c), which is applied in taking a reasons exception to allow rural industrial uses where there is a significant comparative advantage due to their location near certain resources, is a more generous standard than the “demonstrated need” standard that applies to reasons exceptions for non-industrial uses. To satisfy the “benefit the county economy” standard the county need not identify a demonstrated need for the industrial use based on the requirements of other statewide planning goals. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The “minimal loss of productive resources” standard in OAR 660-004-0022(3)(c), which is applied in taking a reasons exception to allow rural industrial uses where there is a significant comparative advantage due to location near certain resources, is concerned with loss of productive resources in the proposed exception area, not resource uses on adjoining lands. Further, the minimal loss standard

does not necessarily require evaluation of the actual revenues and employment generated by the current leasehold farmers of the exception area, since such data may not be easy to obtain and can be manipulated. Evaluation of average and potential farm income based on published sources may suffice. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0020(2)(b)(B) requires a finding that other areas that do not require a new exception cannot reasonably accommodate the proposed use. Where the proposed use is an expansion of an existing rural industrial park that has over 445 acres of vacant land that is available for development, the county cannot reject that vacant site under the reasonably accommodate standard simply because the vacant land is not controlled by the applicant. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. That an alternative 445-acre site within an existing industrial park has wetlands does not necessarily establish that the site is unbuildable or cannot “reasonably accommodate” proposed industrial use, absent evidence and findings that the cost of filling and mitigating for wetland areas would be so prohibitive that the cost alone or in combination with other factors renders the site unable to reasonably accommodate industrial use. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Rejecting alternative industrially zoned sites under the reasonable accommodation standard at OAR 660-004-0020(2)(b)(B) is highly problematic when the “proposed use” is an open-ended range of unspecified industrial uses, each with different characteristics and requirements, justified under three separate “reasons.” Under that approach, a local government cannot reject an alternative site simply because it cannot reasonably accommodate some industrial uses, but can only reject the alternative site if it cannot reasonably accommodate all of the proposed uses justified under the three reasons. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where a reasons exception for a 837-acre exception area is justified for proposed large-lot industrial uses of 50 to 300 acres, the county cannot reject alternative industrial sites that could accommodate some large-lot industrial uses simply because such sites are not equal in size to the exception area or cannot accommodate the same number of multiple large-lot industrial uses at a single location, absent findings establishing that multiple large-lot industrial uses must be located together at a single large site. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings that a 450-acre vacant site within an urban growth boundary zoned for heavy industrial use cannot reasonably accommodate proposed heavy industrial uses, because the site is more parcelized, is intended for labor intensive uses, and is close to populated areas, are insufficient bases to reject the alternative site, where the findings do not establish that the cost of assembling parcels is prohibitive, and that the proposed industrial uses exclude uses that are labor intensive or compatible with populated areas. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0020(2)(c) requires a comparison of the adverse environmental, economic, social and energy (ESEE) consequences of developing the proposed exception area, with the typical ESEE consequences of developing alternative resource lands. But OAR 660-004-0020(2)(c) does not require detailed evaluation of alternative sites unless such sites are specifically identified during the proceedings below. Where the petitioner did not specifically identify alternatives sites below, the failure of the county’s findings to compare ESEE consequences of developing specific alternative sites is not a basis for remand. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. LUBA will reverse under ORS 197.829(1) a governing body’s interpretation that a Limited Use overlay zone is applied to limit uses in exception areas only when the applicant requests it, and that instead conditions of approval can be applied to limit uses, when (1) the Limited Use overlay zone is expressly intended for that purpose, (2) nothing in the code suggests an alternative mechanism to limit uses or authorizes attaching conditions of approval to limit uses in exception areas, and (3) under the county’s interpretation and the criteria that govern designation of the overlay zone there are no circumstances under which the overlay zone could be applied. *Devin Oil Co., Inc. v. Morrow County*, 62 Or LUBA 247 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Substantial evidence supports a county’s finding that alternative sites not requiring an exception cannot accommodate a proposed travel plaza, where the record indicates that limited access to the alternative sites precludes use by large trucks. A county does not err in determining reasonable access by large trucks to be an essential or necessary characteristic of a proposed travel plaza. *Devin Oil Co., Inc. v. Morrow County*, 62 Or LUBA 247 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. After *1000 Friends of Oregon v. Yamhill County*, 203 Or App 323, 332-33, 126 P3d 684 (2005), was decided, LCDC amended OAR 660-012-0070 to make it clear that when approving an exception for a transportation facility on rural resource land, OAR 660-012-0070 sets out the exclusive criteria governing such exceptions. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. To approve an exception for a transportation facility on rural resource land, OAR 660-012-0070(4) requires that a county supply reasons why state policy in the applicable goals should not apply and also requires the county to demonstrate that there are transportation needs identified in the county’s TSP that cannot reasonably be satisfied by one or more of the non-exception measures specified in the rule. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county may not rely on transportation needs in a city’s transportation system plan to justify an exception for a new rural arterial road through the county, where the county transportation system plan states there is no need for new transportation facilities in the area and does not identify those city transportation

needs as county transportation needs. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-012-0070(4) requires that a county determine whether there are reasonable alternative measures to satisfy an identified transportation need that would not require a statewide planning goal exception. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-012-0070(5) imposes a requirement to consider whether a proposed transportation facility on rural resource land could reasonably be sited in alternative locations that would not require an exception. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-012-0070(6) sets out how a county must go about determining whether any identified alternative measures and alternative locations are reasonable under OAR 660-012-0070(4) and OAR 660-012-0070(5). OAR 660-012-0070(6) requires that certain specified factors and “other relevant factors” be considered and that “thresholds” be identified and applied in rejecting any alternatives as unreasonable. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. As OAR 660-012-0070(4) is currently written, it cannot be assumed that an identified transportation need is necessarily sufficient to provide a reason that justifies “why the state policy in the applicable goals should not apply.” *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. For reasons exceptions that are required in order to site “transportation facilities and improvements” on rural lands, the exceptions standards set out at OAR 660-012-0070 apply, rather than the standards set out in OAR 660-004-0020. *Foland v. Jackson County*, 61 Or LUBA 264 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Reasons that justify a goal exception under OAR 660-012-0070 may be sufficient to justify a goal exception under Goal 11, OAR 660-011-0060(9) and OAR 660-004-0020 and 660-004-0022. Where a local government reasonably concludes under OAR 660-12-0070 that an on-site septic system would not be adequate to handle the volume of projected waste from a transportation facility, a local government may also be able to rely on the same evidence to conclude that an exception to Goal 11 is justified. *Foland v. Jackson County*, 61 Or LUBA 264 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where a county’s EFU zone does not permit solid waste disposal sites, but the statutory EFU zone does allow solid waste disposal sites, under the holding in *DLCD v. Yamhill County*, 183 Or App 556, 53 P3d 462 (2002), a county may not approve an exception to Goal 3 (Agricultural Lands) to allow a solid waste disposal site on EFU-zoned property. Rather, the county must amend its EFU zone to allow solid waste disposal sites if it wishes to authorize that use on its EFU-zoned land. *Waste Not of Yamhill County v. Yamhill County*, 61 Or LUBA 423 (2010).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. There is no legal requirement that an airport owner must enter into a binding commitment to build a runway extension before a county can grant a reasons exception to extend the runway onto land that is subject to Goal 4 (Forest Lands). *Brockman v. Columbia County*, 59 Or LUBA 302 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A desire to improve a city airport and encourage economic development in a city may be legitimate reasons for an exception, even though other cities in the county may also be economically depressed. *Brockman v. Columbia County*, 59 Or LUBA 302 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Although the statutes and rules that encourage continued operation and vitality of Oregon’s airports do not necessarily trump the statewide planning goal exception criteria, it does not follow that a desire to encourage development of an existing airport cannot be a legitimate reason for an exception. *Brockman v. Columbia County*, 59 Or LUBA 302 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. That dwellings near an airport were constructed after the airport was built does not mean expansions of the airport onto land that requires a statewide planning goal exception need not satisfy the statewide planning goal exception standard that requires that the use allowed by the exception must be compatible with adjoining uses. *Brockman v. Columbia County*, 59 Or LUBA 302 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In approving a reasons exception to allow extension of an airport runway and additional airport development, the applicant and the county have the burden of proof to establish that the additional air traffic that will be generated by the additional airport development will be compatible with adjoining uses. *Brockman v. Columbia County*, 59 Or LUBA 302 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-004-0010(3), an exception to one statewide planning goal does exempt the local government from the requirements of other goals for which an exception was not taken. However, OAR 660-004-0010(3) does not prohibit a local government from relying on the reasons that justify an exception to one goal to justify an exception to another goal. Depending on the goals and circumstances, the same set of reasons may constitute a partial or complete justification for two or more goal exceptions. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county may rely on the reasons that justified a Goal 4 exception earlier approved by the county and Land Conservation and Development Commission (LCDC) for a proposed destination resort to justify reasons exceptions to Goals 11 and 14, where the record supports the county’s finding that the Goal 4 reasons are still valid and the Goals 11 and 14 exceptions merely implement and complete the earlier county and LCDC approval. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Because Goal 11 and Goal 14 serve congruent policy objectives, the reasons sufficient to justify a Goal 14 exception

for a destination resort may also be sufficient to justify an exception to Goal 11 to authorize a community sewer system to serve the destination resort. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Compliance with OAR 660-004-0020(2)(a) is shown by demonstrating that a proposed reasons exception complies with OAR 660-004-0022(3), which specifies appropriate reasons for an exception to the statewide planning goals for “Rural Industrial Development.” *Gordon v. Polk County*, 55 Or LUBA 67 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where the proposed use of the property is for “Rural Industrial Development” on resource land outside an urban growth boundary, and that use is provided for in OAR 660-004-0022(3), a showing of compliance with OAR 660-004-0022(1) is not required. *Gordon v. Polk County*, 55 Or LUBA 67 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-004-0020(2)(c), a local government must determine that the long term environmental, economic, social, and energy consequences of a goal exception are not significantly more adverse than would result from the same proposed use being located on other lands that require a goal exception. Where the petitioner argues that the county did not adequately review other lands that also require a goal exception in determining whether to grant a reasons exception, but petitioner’s argument focuses exclusively on lands that would not require a goal exception, petitioner provides no basis for reversal or remand. *Gordon v. Polk County*, 55 Or LUBA 67 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A finding that the economic success of a proposed wine country hotel would be enhanced by location in a “quiet rural atmosphere among vineyards and near wineries” is insufficient to demonstrate under OAR 660-004-0020(2) that the hotel “requires a location on resource land” as opposed to otherwise suitable non-resource land. *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. To establish a “demonstrated need” for a proposed hotel on agricultural land based on the requirements of Goal 9 under OAR 660-004-0022(1)(a) does not necessarily require demonstrating that the county is in violation of its Goal 9 obligations or that the county is faced with a circumstance in which it must choose between violating its Goal 9 or Goal 3 obligations. *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. To show a demonstrated need to locate a proposed hotel on resource land based on the general Goal 9 requirement to “provide adequate opportunities * * * for a variety of economic activities,” the county must establish that the county has failed or is at risk of failing to provide adequate opportunities for a variety of economic activities, and that taking an exception to Goal 3 to provide for a hotel is a necessary step toward satisfying that goal requirement. *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A locally unsatisfied market demand for a particular sub-type of lodging accommodation targeted at a small demographic of users is insufficient to establish that there is a demonstrated need for a proposed hotel to satisfy the Goal 9 requirement that the county provide “adequate opportunities for a variety of economic activities.” *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A comprehensive plan amendment that adopts a factual inventory of a county’s rural residential lands and rural unincorporated communities does not establish standards for evaluating future reasons exceptions to add rural residential lands or expand unincorporated communities. *Wetherell v. Douglas County*, 54 Or LUBA 520 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Comprehensive plan policies suggesting that existing rural unincorporated communities and existing rural residential areas may be expanded a local shortage of vacant rural residential lands develops, without regard to whether that shortage is caused by a general “market demand” for rural residential lands, would be inconsistent with OAR 660-004-0022(2) and (4), if such policies could be applied as a sufficient reason to expand rural residential areas without also establishing that the expansion is necessary to satisfy a housing need that is “generated by existing industrial, commercial, or other economic activity in the surrounding area.” *Wetherell v. Douglas County*, 54 Or LUBA 520 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A comprehensive plan policy that the county will “consider” and “support” adding new rural residential lands when certain vacant lands thresholds are met is not inconsistent with OAR 660-004-0022(2) and (4), where it is clear in context that the thresholds are not intended to provide a sufficient reason to approve an exception to designate new rural residential lands. *Wetherell v. Douglas County*, 54 Or LUBA 520 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under ORS 660-004-022, the permissible reasons that may be relied on to approve a reasons exception depend on the use or development that the reasons exception is being approved to allow. *Rhinhart v. Umatilla County*, 53 Or LUBA 402 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where a county’s findings of fact merely show that some constraints must be overcome to farm property, they do not establish sufficient reasons to support a reasons exception to Statewide Planning Goal 3 (Agricultural Lands). *Rhinhart v. Umatilla County*, 53 Or LUBA 402 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The first sentence of OAR 660-004-0022(2) prohibits reliance on a continuation of past development patterns in approving a reasons exception to Statewide Planning Goal 3 to allow rural residential development *Rhinhart v. Umatilla County*, 53 Or LUBA 402 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A generalized market demand for smaller, less expensive farm parcels to allow part-time farming in conjunction

with rural residential use is not a permissible reason for adopting a Statewide Planning Goal 3 exception to divide a small farm parcel into smaller farm parcels. *Rhinhart v. Umatilla County*, 53 Or LUBA 402 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-004-0022(2) it is not enough to show that persons who might want to buy proposed rural residences might work at nearby rural businesses. Rather, the county must show that the property that the exception is proposed for is needed to meet the market demand for housing that is created by “rural industrial, commercial, or other economic activity in the area.” *Rhinhart v. Umatilla County*, 53 Or LUBA 402 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In approving a reasons exception for rural residential development, Goal 2, Part II(c)(2) requires a demonstration that sites that do not require an exception cannot reasonably accommodate the use. In making that demonstration, it is error to exclude alternative sites simply because they do not have particular characteristics of the exception site, where those characteristics are not common or necessary attributes of rural residential development. *Rhinhart v. Umatilla County*, 53 Or LUBA 402 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where in adopting a committed exception under OAR 660-004-0028 the local government includes findings addressing some of the standards for adopting a reasons exception under OAR 660-004-0020(2), LUBA will remand to the local government to either delete those findings or explain what relevance they have to the committed exception. *Friends of Linn County v. Linn County*, 53 Or LUBA 420 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Because the provisions OAR 660-004 govern the exception process as it applies to statewide planning goals “except as provided for” in OAR 660-014, it is reasonably clear that the Land Conservation and Development Commission intends that a reasons exception for proposed urban development be evaluated under OAR 660-014, not OAR 660-004. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Given the strong family resemblance between the various rules that interpret and apply Goal 2, Part and ORS 197.732 in different contexts, any cases interpreting OAR 660-004-0022, the goal or the statute are at least potentially helpful in interpreting OAR 660-014-0040(2), or in evaluating a reasons exception under that rule. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where a local government proceeds to justify an exception under reasons listed in OAR 660-014-0040(2) or OAR 660-004-0022, the decision must demonstrate that each of the elements set out in the listed reason is met. That the listed reasons are not exclusive does not mean that an exception is permissible in circumstances where only some of the elements for each listed reason are met. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings addressing the standards for a reasons exception for transportation improvements under OAR 660-012-0070 are also sufficient to satisfy the standards for a reasons exception under OAR 660-004-0020(2), where the findings in fact address the substantive differences between the two standards, and the petitioner does not explain why failure to directly address the OAR 660-004-0020(2) standards warrants reversal or remand. *1000 Friends of Oregon v. Yamhill County*, 52 Or LUBA 418 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In justifying a reasons exception under OAR 660-004-0020(2) to allow nonresource uses on resource lands, a local government may choose the preferred alternative as long as the environmental, social, economic and energy consequences are not “significantly more adverse” than would typically result from using other resource lands for the proposed use. A local government is not required to choose the alternative that is “least disruptive to resource land.” *1000 Friends of Oregon v. Yamhill County*, 52 Or LUBA 418 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The environmental, economic, social and energy (ESEE) analysis does not elevate economic consequences above the other three types of consequences that must be analyzed. A local government could reach a sustainable conclusion that the long-term ESEE consequences of the preferred alternative “are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception,” notwithstanding that analysis of economic consequences indicates that another alternative is superior in that respect. *1000 Friends of Oregon v. Yamhill County*, 52 Or LUBA 418 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings that all resource land displaced by a proposed bypass consist of high-value farmlands and are similar in agricultural productivity are sufficient to satisfy the OAR 660-004-0020(2) requirement to determine which resource land is least productive, absent some argument from the petitioner for why an explicit productivity ranking is required. *1000 Friends of Oregon v. Yamhill County*, 52 Or LUBA 418 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Because OAR 660-004-0020(2)(b)(B)(iv) requires a local government to determine whether the “proposed use” can be “reasonably accommodated without the provision of a proposed public facility or service,” it is reasonably clear under the rule that the “proposed use” and the “public facility” are two different things. In the context of a Goal 11 exception to extend public facilities to serve proposed development on lands outside the urban growth boundary, the “proposed use” can only be the proposed development to be served by the facility extension, and not the extended public facility. *Todd v. City of Florence*, 52 Or LUBA 445 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In granting a Goal 11 exception to extend a public sewer system outside the urban growth boundary, OAR 660-004-0020(2)(b) through (d) require a city to evaluate the “proposed use,” the development served by that extended sewer facility, even if that development is not subject to the city’s approval authority and does not require a goal exception. *Todd v. City of Florence*, 52 Or LUBA 445 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The reasons set out in OAR 660-004-0022(1) are not the exclusive set of reasons that may justify an exception to applicable goals, and it is at least theoretically possible to identify a sufficient reason why the state policy embodied in the applicable goal should not apply that does not require evaluation of the ultimate use or proposed development of the exception area. *Todd v. City of Florence*, 52 Or LUBA 445 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. That it is economically advantageous to a developer to rely on public services extended from the urban growth boundary rather than develop such services on site is an insufficient “reason” why the state policy embodied in Goal 11 should not apply. *Todd v. City of Florence*, 52 Or LUBA 445 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Goal 11 requires an “orderly and efficient arrangement of public facilities and services.” That requirement is little offended by allowing a single sewer system to serve two adjoining areas that each have the legal right and ability to develop urban uses and urban-level public facilities, notwithstanding that one area is within an urban growth boundary and the other outside. *Todd v. City of Florence*, 52 Or LUBA 445 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-011-0060(9) requires that a local government adopting an exception to Goal 11 to extend a sewer system outside the urban growth boundary also adopt land use regulations that prohibit the sewer system from serving uses other than those justified in the exception. A provision in an intergovernmental agreement (IGA) that limits sewer access to residential and commercial uses is insufficient to satisfy OAR 660-011-0060(9), because the provision does not limit uses served by the sewer to uses specifically justified in the exception. *Todd v. City of Florence*, 52 Or LUBA 445 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. While OAR 660-004-0018(4) requires that local governments adopt a new reasons exception when changing the types or intensities of uses within an area subject to a reasons exception, a decision that simply corrects the official zoning map to accurately reflect prior zoning amendments does not change the types or intensities of uses allowed on the property. *Sullivan v. Polk County*, 51 Or LUBA 107 (2006).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A local government does not err by interpreting a local “need” standard to impose a much less rigorous standard than the need standard that was included in prior version of Goal 2 for approval of a reasons exception. *Wetherell v. Douglas County*, 50 Or LUBA 275 (2005).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Identifying a transportation need under OAR 660-012-0070 is sufficient to justify an exception under ORS 197.732(1)(c)(A). The county need not separately demonstrate that the state policies embodied in the applicable goals should not apply. *1000 Friends of Oregon v. Yamhill County*, 49 Or LUBA 640 (2005).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-012-0070(6), the reasonableness of non-exception alternatives is determined by the thresholds established by the local government, which include consideration of “cost, operational feasibility, economic dislocation and other relevant factors.” *1000 Friends of Oregon v. Yamhill County*, 49 Or LUBA 640 (2005).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. When taking an exception for a transportation facility on rural lands, the more specific provisions of OAR 660-012-0070 apply in place of the more general ESEE analysis requirements of Goal 2, Part II (c)(3), ORS 197.732(1)(c)(C), and OAR 660-004-0020(2)(c). *1000 Friends of Oregon v. Yamhill County*, 49 Or LUBA 640 (2005).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county does not err in rejecting sites that are smaller than the 70 to 75 acres that an applicant demonstrates are necessary for a proposed agricultural processing facility under OAR 660-004-0020(2)(b), notwithstanding that ethanol facilities have been sited on much smaller sites, where the proposed agricultural processing facility will produce a number of other outputs in addition to ethanol and the additional acres are needed for those other aspects of the agricultural processing facility. *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county’s findings that the complicated ownership of an alternative property and its lack of current rail access make it unsuitable as an alternative to an EFU-zoned parcel for development of an agricultural processing facility are adequate to explain why the property is not a reasonable alternative under OAR 660-004-0020(2)(b). *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county’s finding that developing a proposed EFU-zoned site would not have significantly more adverse environmental, economic, social and energy consequences than developing a nearby site that would also require a statewide planning goal exception is adequate to address OAR 660-004-0020(2)(c), where the nearby site would use the same transportation system and have similar impacts on that transportation system. *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county’s finding that a proposed agricultural processing facility will be compatible with adjacent uses under OAR 660-004-0020(2)(d) notwithstanding that it would produce some airborne particulates is adequate, where the findings establish that only 100 tons of particulates would be generated each year and that DEQ regulations require that the operator use the most advanced technology available to mitigate the impact of those particulates. *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county’s findings that odors from a proposed agricultural processing facility will not make that facility incompatible with adjacent properties under OAR 660-004-0020(2)(d) are adequate, where the findings

establish that odors would not normally extend beyond the facility site and would not adversely affect the nearest rural residential area three quarters of a mile away. *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Applicants for an exception to Goal 3 to rezone land to allow division into two parcels for eventual development of an additional nonfarm dwelling are not seeking approval for a “type of use” that could be approved as a nonfarm dwelling without an exception to Goal 3 and are not prohibited from taking an exception under the Court of Appeals’ ruling in *DLCD v. Yamhill County*, 183 Or App 556, 53 P3d 462 (2002). *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 508 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-004-0022(2), a reasons exception for rural residential development cannot be based on market demand for housing unless the housing demand is generated by existing or planned rural industrial, commercial or other economic activity in the area, and where the county makes a finding that the demand results from commercial and industrial development within the UGB, the county errs in concluding that OAR 660-004-0022(2) is satisfied. *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 508 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A reasons exception for rural residential development requires demonstration that areas that don’t require an exception cannot reasonably accommodate the proposed use. That standard is not met by applying a less stringent county standard that would allow granting an exception where other parcels already zoned for the proposed use are either unavailable or not as well suited to the proposed use. *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 508 (2004).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings that establish that a proposed motor speedway must be centrally located in its market area, that it will provide significant local economic benefits, and that it has characteristics that make locating the speedway within nearby urban growth boundaries an unreasonable alternative are sufficient to provide reasons for an exception to Goals 11 and 14. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings that establish that a gasoline station is needed to avoid forcing some departing speedway attendees to travel out-of-direction to buy gasoline when such out-of-direction travel would thereby adversely affect transportation facilities, are sufficient to provide a reason justifying an exception to Goal 14 to site the gas station next to a speedway on rural land, where the challenged decision imposes conditions to prevent the gasoline station from becoming a standalone facility that competes with nearby gas stations in urban areas. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A challenged decision establishes sufficient reasons to allow a restaurant and bar next to a speedway on rural land to satisfy significant on-site demand for such facilities, where locational and signage conditions are imposed to limit the possibility that those facilities would compete with nearby

facilities inside urban areas for other customers not associated with the speedway. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Identified needs to (1) attract speedway fans early and keep them on site longer to spread traffic impacts, and (2) provide on-site activities for family members accompanying racing spectators may provide sufficient reasons to permit siting indoor and outdoor speedway related recreational facilities on rural land. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings that merely suggest that speedway-dependent and related industrial uses may require close proximity to the speedway and state that they may generate sufficient noise to make an urban location inappropriate provide weak reasons for approving a rural location for such industries. However, where petitioner does not challenge that rationale, those findings may provide sufficient reasons for a Goal 14 exception. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where a county's findings addressing the comparative environmental, economic, social and energy consequences of siting a proposed speedway at the proposed rural location rather than other possible rural locations identify a number of unchallenged energy considerations that favor the proposed rural site, the county's failure to require that the applicant supply a fuel consumption analysis does not provide a basis for remand. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county may not rely on a previously adopted Goal 3 exception for airport related industrial uses to justify approving a major automobile speedway and speedway related uses on rural agricultural land. Although the same factors that the county relied on to justify Goal 11 and Goal 14 exceptions for the speedway and related uses might justify a new Goal 3 exception, a new Goal 3 exception must be adopted to replace the one that was adopted for the airport related industrial uses. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Although a previously approved Goal 3 reasons exception for a nearby parkway corridor may not by itself provide sufficient reasons to justify a new Goal 3 exception for a new parkway corridor across more acres of agricultural land, it is not legal error for a county to rely on the prior exception as one of its bases for granting a new exception. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under Goal 2, Part II(c)(4) an exception to allow a parkway on agricultural land requires that impacts on adjacent uses be reduced to a compatible level. Where a petitioner argues the challenged decision fails to do so and respondents identify no findings addressing this requirement, remand is required. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0022(2) establishes the reasons that may justify a statewide planning goal exception to allow rural

residential development on farm or forest land; OAR 660-004-0022(1) establishes reasons that may justify a statewide planning goal exception for uses that are not provided for in other subsections of OAR 660-004-0022. Historical residential use of a property without land use approvals is not a permissible reason for an exception under either OAR 660-004-0022(1) or (2). *Wetherell v. Douglas County*, 44 Or LUBA 567 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Reasons. In approving a reasons exception, ORS 197.732(1)(c) requires that an applicant establish that “[a]reas which do not require a new exception cannot reasonably accommodate the [proposed] use.” Whether requiring a person who is living on rural resource land without required permit approvals to move to areas that do not require an exception would cause a personal or economic hardship on that person has no bearing on whether there are areas that do not require an exception that could reasonably accommodate a dwelling for that person. *Wetherell v. Douglas County*, 44 Or LUBA 567 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under ORS 197.732(1)(c)(C), a local government must compare the proposed exception area with other alternative areas that also would also require an exception and find that selecting the proposed exception area will not have significantly more adverse environmental, economic, social and energy consequences than selecting one of those alternative areas for an exception. A decision that merely speculates that development of alternative exception sites would have significantly more adverse consequences is insufficient where it is not clear that the local government considered any other potential exception areas. *Wetherell v. Douglas County*, 44 Or LUBA 567 (2003).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Findings that merely assert that a property is better suited for rural residential use than for farm use are inadequate to support a reasons exception under OAR 660-004-0020 and 660-004-0022. *DLCD v. Yamhill County*, 42 Or LUBA 126 (2002).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Because OAR 660-004-0022(3) governs reasons exceptions for rural industrial development, and the OAR 660-004-0022(1) provisions for all other uses do not apply, a local government errs in applying OAR 660-004-0022(1) to an application to amend the comprehensive plan map and zoning map to allow rural industrial development. *Morgan v. Douglas County*, 42 Or LUBA 46 (2002).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The OAR 660-004-0022(1) requirement for a threshold finding that there is a demonstrated need for a proposed use or activity based on the requirements of Goals 3-19 is not met by a county simply finding that there is a market demand for the proposed use. The county must find that it is unable to satisfy its obligations under Goals 3-19 absent the proposed exception. *Morgan v. Douglas County*, 42 Or LUBA 46 (2002).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A county may not rely on a finding that an “established industrial use” on a proposed exception site demonstrates that the site has special features or qualities that necessitate the continued location of the use on the site to justify an exception under OAR 660-004-0022(1)(c), where the existing industrial

activity was developed in violation of a conditional use permit authorizing a much more limited home occupation and the county does not explain why the approved home occupation constitutes an “established industrial use.” *Morgan v. Douglas County*, 42 Or LUBA 46 (2002).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Sustainable findings under the seven Goal 14 factors state a legally sufficient “reason” justifying why the state policy embodied in Goal 14 should not apply, for purposes of adopting the exception necessary to include resource land within a UGB under OAR 660-004-0010(1)(c)(B)(i). *Alliance for Responsible Land Use v. Deschutes Cty.*, 40 Or LUBA 304 (2001).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. When taking a reasons exception to allow nonresource uses on resource land, a local government must identify the character of the use for which the exception is proposed in order to determine which approval criteria apply. If the proposed reasons exception involves urban uses, then OAR 660-014-0040 applies. If the proposed reasons exception involves rural uses, then OAR 660-004-0022(1) through (10) provide the applicable approval criteria. *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A reasons exception allowing rural residential housing must meet the approval criteria of OAR 660-004-0022(2), but approving a community water and sewer system also requires an exception to Goal 11 because such systems are not generally necessary for rural residential housing and must be approved as separate uses. *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Goal 10 concerns needed housing, and nothing in the Goal 10 rules requires a local government to provide housing for a “recreational golf course lifestyle” absent support for such housing in the local comprehensive plan or Goal 10 inventory. *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-004-0018(4) requires a new reasons exception when an applicant changes the type or intensity of uses within an area for which a reasons exception was approved. Where a reasons exception to Goal 3 is based on the proposed expansion of an existing truck stop, the county cannot approve a more intensive independent truck stop without a revised exception. *Flying J., Inc. v. Marion County*, 38 Or LUBA 149 (2000).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. A reasons exception to Goals 3 and 4 must be based on the considerations set forth in Goal 2 and OAR 660-004-0020 and 660-004-0022. Under OAR 660-004-0022, the fact that farm and forest land is not prime timber or agricultural land is not a legally cognizable basis to adopt a reasons exception to Goals 3 and 4. *McLane v. Klamath County*, 37 Or LUBA 888 (2000).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-004-022(2), which addresses reasons exceptions for rural residential development, the reasons justifying an exception for rural residential development cannot be based on market demand for housing, except as provided in the rule. *DLCD v. Yamhill County*, 31 Or LUBA 488 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. If reasons stated in OAR 660-04-022(1)(a) and (b) or (c) are not the basis for a reasons exception, the county must make clear in its findings that it intends to justify a reasons exception on some other basis. *DLCD v. Yamhill County*, 31 Or LUBA 488 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In the absence of a showing that the county has followed the process set forth in OAR Chapter 660, Division 16, to place a state viewpoint on its Goal 5 inventory, it may not rely on Goal 5 to protect the viewpoint from the impact of growing trees on the subject property. *DLCD v. Yamhill County*, 31 Or LUBA 488 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. In order to comply with OAR 660-04-020(2)(d), the county must identify all of the uses on property adjacent to a proposed exception area, not just the residential uses, and explain why the proposed use of the exception area is or will be rendered compatible with those uses. *Middleton v. Josephine County*, 31 Or LUBA 423 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Under OAR 660-04-020(2)(c), the county is not required to evaluate the ESEE consequences of locating a proposed use at any of the alternative sites suggested by petitioners where petitioners do not assert that locating the proposed racetrack at any of the alternative sites would produce significantly fewer impacts. *Middleton v. Josephine County*, 31 Or LUBA 423 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. The county's findings fail to demonstrate that the proposed use requires the use of resource land, as required by OAR 660-04-020(2)(a), where the findings only indicate that the proposed racetrack requires (1) low density, (2) varied topography with a dirt base, and (3) a 15-to-17-acre minimum size. *Middleton v. Josephine County*, 31 Or LUBA 423 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where the county's findings regarding the alternative sites analysis required by OAR 660-04-020(2)(b) offer little or no support for the conclusions drawn, LUBA will remand the county's decision on that basis alone, and need not reach the substantial evidence challenges. *Middleton v. Josephine County*, 31 Or LUBA 423 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. An exception to Goal 4 is not justified under OAR 660-04-022(1)(a) where the county fails to establish that a "need" for the proposed use exists by demonstrating that absent the proposed exception, the county would be unable to satisfy its obligations under one or more of Goals 3-19. *Middleton v. Josephine County*, 31 Or LUBA 423 (1996).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where a county makes an unchallenged determination that the "reason" justifying an exception to Goal 3 under ORS 197.732(1)(c)(A) and OAR 660-04-020(2)(a) is the need for a church to serve a congregation located in and around the City of Amity, the county is not required to consider as alternative sites

land within the UGBs of other cities in the county. *Cox v. Yamhill County*, 29 Or LUBA 263 (1995).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. Where a county makes an unchallenged determination that a three-acre site is required for a “reasons” goal exception, a finding that a 4.75-acre site is too small for the proposed use, because only 45-50 percent of the site is buildable, is sufficient to explain why that site is not a reasonable alternative for the proposed use. *Cox v. Yamhill County*, 29 Or LUBA 263 (1995).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. That a site contains buildings that would have to be removed does not, of itself, mean the site cannot reasonably accommodate a proposed new use under ORS 197.732(1)(c)(B) and OAR 660-04-020(2)(b). *Cox v. Yamhill County*, 29 Or LUBA 263 (1995).

6.3.4 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Reasons. OAR 660-12-060(4) prohibits using the existence of transportation facilities as a basis for approving exceptions to the requirements of OAR 660-12-065, adopted under OAR 660-12-070; or (2) exceptions to statewide planning goals, adopted under OAR 660-04-022 (reasons exceptions) or OAR 660-04-028 (committed exceptions). OAR 660-12-060(4) does not apply to an exception for a change to an established UGB, adopted under OAR 660-04-010(1)(c)(B). *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994).