

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Remand for a county to adopt adequate findings demonstrating that expanding an existing aggregate mine is consistent with Goal 6, because it is feasible to comply with applicable environmental regulations, cannot be avoided under ORS 197.835(11), where the record does not “clearly support” a finding of consistency with Goal 6 or feasibility of complying with applicable regulations. That the expansion area is located on property previously designated as a significant resource site does not “clearly support” a finding of consistency with Goal 6, where the expansion area is not listed in the county’s inventory of significant aggregate sites. *Weiss v. Linn County*, LUBA No 2021-033 (June 10, 2021).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. In the context of an application to remove property from a county’s Goal 5 inventory of significant aggregate resources, where the county has previously determined, in two separate final, acknowledged decisions—one based on area-specific soils mapping and the other based on periodic review which resulted in an updated inventory—that the property should not be included on the county’s Goal 3 inventory of agricultural lands; where the county zoned the property for surface mining, a zone that does not implement Goal 3, after one of those previous determinations; and where the ESEE analysis for the property does not specify a post-mining zoning designation or use, a conclusion that the property is not agricultural land is supported by substantial evidence. The county, having previously determined that the property is not agricultural land, is not required to revisit whether the property is agricultural land. *Central Oregon Landwatch v. Deschutes County*, 80 Or LUBA 252 (2019).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Although the holding in *Beaver State Sand and Gravel vs. Douglas County*, 187 Or App 241, 65 P3d 1123 (2003), determined that ORS 215.298(2) prohibits surface mining on EFU-zoned lands unless the property is included on a Goal 5 inventory of significant aggregate resources, nothing in OAR 660-023-0180 prohibits a local government from otherwise maintaining a “Non-Significant Mining Mineral and Aggregate Inventory,” adding properties to that inventory, or allowing surface mining on properties included on that inventory pursuant to local code provisions regulating surface mining, and a local government is not required to apply any rules implementing Goal 5 to its decision to add property to that inventory. *Central Oregon Landwatch v. Deschutes County*, 80 Or LUBA 252 (2019).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. When Community Plan adopted as part of the county’s comprehensive plan includes a Significant Natural and Cultural Resources (SNR) Map, and an applicant for development of property that is included on the SNR Map provides the county with additional information identifying “the location of the natural resource(s),” as required by the applicable approval criteria, the requirement to precisely identify the location of the protected resource does not amount to an amendment of the SNR Map. *Warren v. Washington County*, 78 Or LUBA 107 (2018).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. When the hearings officer makes findings on a wildlife habitat area located within a Significant Natural and Cultural Resources (SNR) Map, the hearings officer’s task is to consider all of the evidence in the record and determine whether the applicable approval criteria are satisfied. A hearings officer’s task is not to determine whether intervenor’s submittals in support of the application are

“supported by substantial evidence in the record.” Rather, the hearings officer must weigh the evidence submitted against the applicable standards and criteria, and make that determination. *Warren v. Washington County*, 78 Or LUBA 107 (2018).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Only the portion of a proposed mining site that qualifies as “significant,” under OAR 660-023-0180(3)(a), is properly included on a county’s comprehensive plan inventory of significant aggregate resource sites under Statewide Planning Goal 5. *Save TV Butte v. Lane County*, 77 Or LUBA 22 (2018).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. In determining whether a local government inventoried elk habitat as a significant Statewide Planning Goal 5 resource and adopted a program to protect that inventoried significant elk habitat, or instead determined not to inventory the elk habitat as significant or to defer adopting a protection program, LUBA considers what the local government actually adopted rather than the labels or terminology the local government used in adopting the comprehensive plan. *Save TV Butte v. Lane County*, 77 Or LUBA 22 (2018).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where petitioner fails to identify any zoning or subdivision regulations that would govern the city’s decision whether or not to remove 35 trees from a city park and does not contend the park or trees in the park are inventoried as significant Goal 5 resources or identify any Goal 5 program that would apply to protect the trees at issue, petitioner fails to carry her burden to demonstrate that the challenged decision is a “land use decision” subject to LUBA’s jurisdiction. *Carlson v. City of Brookings*, 77 Or LUBA 497 (2018).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A county does not necessarily err by distinguishing between a large part of the county where few people live and a smaller part of the county where the majority of the county’s population lives as a basis for adopting programs with differing levels of protection for big game habitat. But a significant increase in permissible residential densities in the smaller more heavily impacted area must be justified. *Central Oregon Landwatch v. Crook County*, 76 Or LUBA 396 (2017).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where a property owner initially objects to designation of property as a historic resource, but later withdraws that objection or consents to the designation, the designation is not “imposed on the property” within the meaning of ORS 197.772(3). However, where a property owner objects to designation, and at later stages of the designation proceeding is simply silent regarding designation, that silence does not mean that the owner withdrew the objection or consented to the designation. *Lake Oswego Preservation Society v. City of Lake Oswego*, 70 Or LUBA 103 (2014).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where pursuant to ORS 197.772(3) a local government removes property from an inventory of historic resources at the request of the property owner, code provisions implementing Goal 5 that would otherwise require evaluation of whether removal is consistent with Goal 5 do not apply. Removal under ORS 197.772(3) and removal under Goal 5 and implementing regulations are alternatives. *Lake Oswego Preservation Society v. City of Lake Oswego*, 70 Or LUBA 103 (2014).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Because OAR 660-023-0190(2) expressly authorizes counties to proceed on a case-by-case basis to complete the Goal 5 inventory process with respect to energy resources, a county is not obligated to undertake a county-wide inventory of wind energy resources as a precondition to adopting legislative amendments protecting other types of Goal 5 resources from development impacts of wind energy facilities. *Cosner v. Umatilla County*, 65 Or LUBA 9 (2012).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. In order to add a site to a local government’s inventory of significant aggregate sites, an applicant must demonstrate that threshold amounts of aggregate are present on the site based on a “representative set of samples of aggregate material in the deposit on the site” under OAR 660-023-0180(3)(a). Where nothing in the Goal 5 rule specifies any particular standards that govern the methodology used to collect “a representative set of samples,” a county does not err in accepting and relying on samples collected using methods that a reasonable professional geologist would employ to determine the quantity of aggregate present on the site. *Protect Grand Island Farms v. Yamhill County*, 64 Or LUBA 179 (2011).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Under OAR 660-023-0180(3)(d)(B)(ii), in Yamhill County, an aggregate resource is not “significant” within the meaning of OAR 660-023-0180(3) unless “the average thickness of the aggregate layer within the mining area exceeds 25 feet.” Where aggregate is present both above and below an intervening layer of clay, it is not inconsistent with the text or purpose of the rule for a local government to consider the intervening clay layer to constitute “overburden” for purposes of mining the lower aggregate deposit. *Protect Grand Island Farms v. Yamhill County*, 64 Or LUBA 179 (2011).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A decision that merely adds an aggregate site to a comprehensive plan inventory of significant aggregate resource sites may not trigger application of the transportation planning rule (TPR) in any of the ways described in OAR 660-012-0060(1). But when the county decides to allow mining of the site and places an overlay zone on the site to allow mining, that zone change authorizes a new, more traffic-intensive use of the property and may trigger application of the TPR. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where the challenged decision approves (1) a comprehensive plan amendment adding a site to the county’s Goal 5 inventory of significant sites, and (2) a zone change to allow mining of the site, because the zone change application is consolidated with, and dependent upon, the plan amendment, the goal-post rule at ORS 215.427(3) does not operate to “freeze” the standards that apply to the zone change to those applicable on the date the application was filed. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Because the end of the planning period plays an important role under the Transportation Planning Rule (TPR) at OAR 660-012-0060(1) in determining whether proposed plan or zone amendments significantly affect transportation facilities, when the county amends its transportation system plan

to change the planning period from 2020 to 2030, the county must apply the new planning period in determining whether the proposed plan/zone change complies with the TPR. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. If there is sufficient information on the location, quality and quantity of a Goal 5 resource to determine that it is “significant,” OAR 660-016-0000(5)(c) requires a local government to include the site on its resource inventory, and “proceed through the remainder of the Goal 5 process.” *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. The estimated quantity and quality of mineral resources determined to be present on a site play a larger role in the Goal 5 planning process than merely determining whether the resources cross a threshold of significance. Those estimates are also central to the Conflict Resolution/ESEE Consequences and Program to Achieve the Goal phases of Goal 5 planning under OAR chapter 660, division 16. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. With respect to quantity, absent some indication that a local government believed the estimated quantity to represent a maximum and took that maximum estimated quantity into account in its ESEE analysis and ultimate decisions regarding the Program to Achieve the Goal, a new or amended ESEE analysis is not required simply because the applicant discovers that a larger amount of inventoried mineral is present at the site than was originally estimated. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. While an amended ESEE analysis under Goal 5 will generally be required to mine mineral resources other than those that are included on the site’s inventory, an amended ESEE analysis will not be needed for incidental mining of non-inventoried mineral resources. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. If a local government can establish that, had it known of the presence, quality and quantity of a non-inventoried mineral resource when it adopted the original ESEE analysis and Program to Achieve the Goal for a site based on other inventoried mineral resources, the differences between inventoried and non-inventoried resources are sufficiently minimal in terms of extraction methods, conflicts, etc., that the local government would have chosen to balance conflicts in the same way, and would have adopted the same Program to Achieve the Goal, mining of the non-inventoried mineral resource can be accurately viewed as “incidental” and such mining may proceed without an amended ESEE analysis for the site. *Hoffman v. Deschutes County*, 61 Or LUBA 173 (2010).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. 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).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A proposed aggregate resource site is significant if it meets any one of the criteria at subsections (a) to (c) of OAR 660-023-0180(3). *Delta Property Company v. Lane County*, 58 Or LUBA 409 (2009).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Even if an aggregate resource site is found to be “significant” under OAR 660-023-0180(3)(a) or (b), OAR 660-023-0180(3)(d) dictates that such aggregate resource sites are not “significant,” within the meaning of OAR 660-023-0180(3), if (1) more than 35 percent of the site’s soils are rated Class I by the Natural Resource and Conservation Service or (2) more than 35 percent of the site’s soils are rated Class II or a combination of Class I and II by the Natural Resource and Conservation Service and the average thickness of the aggregate layer does not exceed specified minimums in the rule. *Delta Property Company v. Lane County*, 58 Or LUBA 409 (2009).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where OAR 660-023-0180(3)(d)(B) applies, and the requisite average thickness of the aggregate layer is not shown to be present, an aggregate resource site is not “significant,” within the meaning of OAR 660-023-0180(3). *Delta Property Company v. Lane County*, 58 Or LUBA 409 (2009).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where a county has amended its comprehensive plan and land use regulations to include procedures and requirements for the consideration of post-acknowledgement plan amendments concerning aggregate resources, and the comprehensive plan and land use regulation amendments are acknowledged in periodic review as implementing OAR 660-023-0180, the provisions of OAR 660-023-0180(6) do not apply directly to an application to add a property to the county’s inventory of significant aggregate resources. *Stern v. Josephine County*, 58 Or LUBA 511 (2009).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where applicable, OAR 660-023-0180(6)(a) requires satisfaction of conditional use criteria and the provisions of ORS 215.296 and ORS 215.402 to 215.416 only where an aggregate site has already been placed on the county’s inventory of significant aggregate resources; it does not require satisfaction of those provisions where a county is making the initial decision whether to place a site on the county’s inventory. *Stern v. Josephine County*, 58 Or LUBA 511 (2009).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. For purposes of OAR 660-023-0180(3)(d) (the 35% Rule) and local ordinances implementing the rule, as long as aggregate is present in the requisite quantity and mining is not conclusively prohibited on the property by federal, state or local law, the county is not required to determine the likelihood of a successful permitting process in determining whether a site is “significant” under the 35% Rule. *Stern v. Josephine County*, 58 Or LUBA 511 (2009).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A local government with an acknowledged Goal 5 inventory is not required to update that inventory when

adopting a post-acknowledgment plan amendment that does not itself alter the acknowledged Goal 5 inventory. *Johnson v. Jefferson County*, 56 Or LUBA 25 (2008).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. 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).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A local government with an acknowledged Goal 5 inventory is not required to update that inventory when adopting a post-acknowledgment plan amendment that does not itself alter the acknowledged Goal 5 inventory. *Johnson v. Jefferson County*, 56 Or LUBA 72 (2008).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A finding that a proposed aggregate site may have a large basalt outcrop in the middle of the site is not supported by substantial evidence, where the only evidence supporting the finding is data from an off-site well and that finding is inconsistent with a deep boring that is near the center of the site and between the center of the site and the off-site well that the finding relied on. *Westside Rock v. Clackamas County*, 56 Or LUBA 601 (2008).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. To qualify as a “significant” aggregate resource site under OAR 660-023-0180(3)(d)(B)(ii), “the average thickness of the aggregate layer within the mining area” must exceed 25 feet. Where a county’s findings suggest the county may have erroneously concluded that boulders should not be considered in determining whether the requisite 25-foot-thick layer is present on a proposed aggregate resource site, remand is necessary so that the county can either (1) adopt findings under OAR 660-0023-0180(3) that do not discount aggregate significance based on the possible presence of boulders or (2) explain why the presence of boulders properly affects the determination of significance under OAR 660-0023-0180(3). *Westside Rock v. Clackamas County*, 56 Or LUBA 601 (2008).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where an applicant seeking to establish that a proposed mining site qualifies as a significant aggregate resource site does not argue to the county that opponents’ data from off-site wells is consistent with data from the applicant’s on-site wells or that the data from the off-site wells is unreliable because it was not collected under the supervision of a geologist, it is not unreasonable for the county to rely on the opponents’ evidence to conclude that the two on-site borings were not sufficient to establish that a 117-acre mining site qualifies as a significant aggregate resource site. *Westside Rock v. Clackamas County*, 56 Or LUBA 601 (2008).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Two 25-foot-deep test pits that show an overburden of several feet on top of 20+ feet of aggregate material do not establish that there is an aggregate layer of more than 25 feet and they do not establish that the aggregate layer that is present on the site is less than 25 feet deep. The 25-foot-deep pit can only confirm the geology of the 25 feet below the surface where the test pit was dug. *Westside Rock v. Clackamas County*, 56 Or LUBA 601 (2008).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A decision that adds an aggregate mining site to the county’s comprehensive plan inventory of significant mineral and aggregate resources and adopts background documents to the comprehensive plan, is a plan *text* amendment rather than a plan *map* amendment, and therefore under the county’s code the decision is subject to procedures and standards applicable to legislative plan amendments. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. The final steps in the analysis required under OAR 660-023-0180 to review requests for mining are limited and structured: (1) the county must determine whether there are any conflicts with the proposed mining, (2) if there are conflicts the county must consider whether there are measures that would minimize those conflicts, (3) if conflicts cannot be minimized, the county must determine the economic, social, environmental and energy consequences of allowing, limiting or not allowing mining. *Hellberg v. Morrow County*, 49 Or LUBA 423 (2005).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. 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).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where a local government has repealed its Goal 5 inventory of aggregate sites, the owner of EFU-zoned property listed on the repealed inventory is not entitled to a conditional use permit to mine the site under ORS 215.298(2). *Copeland Sand & Gravel, Inc. v. Jackson County*, 46 Or LUBA 653 (2004).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. The lack of specific evidence on whether aggregate samples tested by a laboratory were “representative,” as required by OAR 660-023-0180(3)(a), does not provide a basis for reversal or remand, where the samples came from an existing quarry and there is no suggestion in the record that the sample was not representative or that the quality of rock in the existing quarry was not uniform. *Bryant v. Umatilla County*, 45 Or LUBA 653 (2003).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Notwithstanding that OAR 660-023-0180(3)(a) requires that aggregate samples meet ODOT specifications for sodium sulfate soundness, where it is undisputed that ODOT in fact has not promulgated any such specifications, the failure of the applicant to test aggregate samples for sodium sulfate soundness does not provide a basis for reversal or remand. *Bryant v. Umatilla County*, 45 Or LUBA 653 (2003).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. The OAR 660-016-0000 requirement to identify the “location” of the resource within an identified “impact area” is intended to assist the local government to determine the “significance” of the resource and whether it should be included on the Goal 5 inventory. If found to be “significant,” the resource must be included on the Goal 5 inventory. The OAR 660-016-0000 requirements are

not intended to be a shortcut to the conflict identification and ESEE analysis required under OAR 660-016-0005 and 0010. *Hegele v. Crook County*, 44 Or LUBA 357 (2003).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. The valid inventory description for site-specific resources required by OAR 660-016-0000(2) refers to resource sites rather than smaller parcels such as tax lots. *Ramsey v. Multnomah County*, 44 Or LUBA 722 (2003).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A county decision establishing a one-half-mile radius impact area around proposed dwellings within a Goal 5 wildlife habitat area is supported by substantial evidence, where the county relies on studies that human impacts extend one-half mile from dwellings and elk prefer to be at least one-half mile from humans. *Doty v. Jackson County*, 43 Or LUBA 34 (2002).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Other than to require that the county “maintain a record” of a determination that a mining site is non-significant, OAR 660-023-0030(6) does not address or provide any criteria with respect to a request to add a mining site to the county’s comprehensive plan list of non-significant sites, and does not authorize the county to approve or deny that request based on concerns regarding the impacts of mining. *Beaver State Sand and Gravel v. Douglas County*, 43 Or LUBA 140 (2002).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Read in context, the ORS 215.298 provision allowing a mining operation on EFU-zoned lands if the site is on an “inventory” in a comprehensive plan is a reference to a Goal 5 “inventory” of mineral sites. Because under the 1982 Goal 5 rule the term “inventory” referred to an inventory of *significant* mineral sites, ORS 215.298 allows mining in an EFU zone only if the site is on a comprehensive plan inventory of significant mineral sites, not if the site is on a separate list of nonsignificant sites. *Beaver State Sand and Gravel v. Douglas County*, 43 Or LUBA 140 (2002).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Absent a showing that amendments regulating natural resources not on the city’s acknowledged Goal 5 inventory are intended to create or amend or have the effect of creating or amending a Goal 5 inventory, such amendments need not comply with Goal 5 or the Goal 5 rule. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. 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).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A local ordinance that institutes a process to remove property from a Goal 5 historic resources inventory but fails to include a method to determine whether the historic designation was “imposed” on the property, within the meaning of ORS 197.772(3), is inconsistent with that statute. *Demlow v. City of Hillsboro*, 39 Or LUBA 307 (2001).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A local government may not apply only local code provisions to an application to remove property from a historic resources inventory, where the local code provisions are inconsistent with statutory provisions permitting removal of certain properties from a historic resources inventory. *Demlow v. City of Hillsboro*, 39 Or LUBA 307 (2001).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. In addressing OAR 660-016-0000(2) and (3) for a proposed aggregate site expansion, the county must determine whether the aggregate resource on the subject site is of comparable or superior quality to aggregate resource sites already included on the acknowledged inventory, regardless of the availability of those sites for mining. *Sanders v. Yamhill County*, 34 Or LUBA 69 (1998).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. For a local government to properly evaluate the quality and quantity of aggregate resources on a parcel, test holes or borings must be “representative.” To be representative, a reasonable person must conclude that the local government’s findings as to the quantity and quality of the resource *throughout* the subject property are supported by substantial evidence. *Sanders v. Yamhill County*, 34 Or LUBA 69 (1998).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A finding that the subject property contains no identified Goal 5 resources is not adequate to address the Goal 4 requirement that “other forested lands” be designated as forest lands if such lands are needed to maintain soil, water, air, fish and wildlife resources. *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. 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).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. In approving a comprehensive plan amendment, the county’s analysis and findings regarding potential effects of an aggregate operation on surrounding lands are sufficient to support a 1B listing on the county’s Goal 5 inventory. Because listing the site as a potential aggregate resource does not actually permit a mining operation, the county is not required to address the requirements of ORS 215.296 as part of its decision. *O’Rourke v. Union County*, 32 Or LUBA 447 (1997).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. 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).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Because listing a 1B site adds the site to the Goal 5 inventory and under ORS 215.298(2), inventoried sites are available to be mined under a conditional use permit, a 1B site that has not yet been subjected to a Goal 5 significance review process nonetheless may be mined under a conditional use permit. *O’Rourke v. Union County*, 31 Or LUBA 174 (1996).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where an issue raised by petitioners regarding the county’s decision to include intervenor’s site in its Goal 5 inventory was decided in a prior LUBA appeal of the same decision, that issue cannot be raised again. *O’Rourke v. Union County*, 31 Or LUBA 174 (1996).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A 1B designation on the county’s Goal 5 inventory means that inadequate information exists on the site to determine its nature and, therefore, a county cannot rely on a site being listed as a 1B site to conclude that aggregate uses are allowed outright. *Tognoli v. Crook County*, 30 Or LUBA 272 (1996).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. OAR 660-16-000(3) recognizes practical limitations on information gathering with respect to both quantity and quality of aggregate resources at sites other than the one being evaluated under Goal 5 regulations. *Palmer v. Lane County*, 29 Or LUBA 436 (1995).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. If a local government adds an aggregate site to its comprehensive plan inventory as a “1B” site, a statement in the inventory that the site “will be reviewed through the Goal 5 process before [the local government’s] next periodic review” satisfies the requirement of OAR 660-16-000(5)(b) that the plan include a “time-frame” for completing the Goal 5 process. *O’Rourke v. Union County*, 29 Or LUBA 303 (1995).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. The analysis of resource location, quality and quantity and determination of site significance mandated by OAR 660-16-000(1) to (4) are required to be completed only if the 1A (do not put on inventory) or 1C (place on inventory and complete Goal 5 process) options are chosen. The 1B option is to be used where the available information indicates the possible existence of a resource site, but is not sufficient to perform the analysis required by OAR 660-16-000(1) to (4). *O’Rourke v. Union County*, 29 Or LUBA 303 (1995).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. A decision to list a site on a plan aggregate resources inventory as a “1B” site simply indicates the possible existence of an aggregate resource site. Such a decision, of itself, neither plans for nor regulates the *development* of aggregate resources and, therefore, OAR 660-16-030(1) does not apply. *O’Rourke v. Union County*, 29 Or LUBA 303 (1995).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. If the local governing body’s interpretation of its comprehensive plan as not already designating the subject property as a 1B aggregate resources site, or providing a method of doing so without

amending the acknowledged plan, is not clearly wrong, LUBA will defer to the governing body's interpretation. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. In adopting post-acknowledgment comprehensive plan amendments, other than amendments to the plan's acknowledged Goal 5 inventory itself, a local government is entitled to rely on its acknowledged Goal 5 inventory and need not consider possible impacts on alleged Goal 5 resource sites that are not included on the Goal 5 inventory. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where petitioner challenges a local government's failure to address the impact of a plan amendment on resources petitioner believes should be included on the local government's acknowledged Goal 5 inventory, but does not challenge the adequacy of the local government's findings concerning inventoried Goal 5 resources affected by the proposed plan amendment, petitioner fails to demonstrate the plan amendment violates Goal 5. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Where the only inventory of historic structures maintained by a city has not been adopted as part of the city's acknowledged comprehensive plan, a post-acknowledgment decision not to designate an inventoried building as a historical landmark is not a de facto post-acknowledgment plan amendment, even though the decision may ultimately allow the building to be demolished. *Historical Development Advocates v. City of Portland*, 27 Or LUBA 617 (1994).

9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory. Under the Goal 5 rule, 1B sites are those for which some information exists, but that information is not adequate to identify the site with particularity. For 1B sites, the local government must include the site in its plan as a special category and commit to complete the Goal 5 process in the future. However, the Goal 5 rule provides that special implementing measures are neither appropriate nor required for 1B sites. *Zippel v. Josephine County*, 27 Or LUBA 11 (1994).