

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 PAT ZIMMERMAN and
5 MICHAEL SHEEHAN,
6 *Petitioners,*

7
8 vs.

9
10 COLUMBIA COUNTY,
11 *Respondent,*

12 and

13
14
15 PORT OF ST. HELENS,
16 *Intervenor-Respondent.*

17
18 LUBA No. 2001-106

19
20 FINAL OPINION
21 AND ORDER

22
23 Appeal from Columbia County.

24
25 Michael F. Sheehan, Scappoose, filed the petition for review and argued on behalf of
26 petitioners.

27
28 Sarah Tyson, Assistant County Counsel, St. Helens, filed a response brief and argued
29 on behalf of respondent.

30
31 Mark J. Greenfield, Portland, filed a response brief on behalf of intervenor-
32 respondent.

33
34 BASSHAM, Board Member; BRIGGS, Board Chair; HOLSTUN, Board Member,
35 participated in the decision.

36
37 REMANDED

10/16/2001

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39 You are entitled to judicial review of this Order. Judicial review is governed by the
40 provisions of ORS 197.850.

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NATURE OF THE DECISION

Petitioners appeal a county ordinance adopting an urban renewal plan for the Port Westward Industrial Park.

MOTION TO INTERVENE

The Port of St. Helens moves to intervene on the side of respondent. There is no opposition to the motion, and it is allowed.

FACTS

The Port Westward Industrial Park (the park) is a 905-acre site located approximately seven miles northeast of the City of Clatskanie, in a rural area adjacent to the Columbia River. The park was originally a World War II-era logistics base. The site is designated rural industrial in the county’s comprehensive plan and zoned Resource Industrial Planning Development (RIPD). A 535-megawatt electric generating plant, a 1,250-foot dock, a 1.3-million barrel tank farm, and related facilities occupy approximately 120 acres of the park. Dredge-fill occupies another 300 acres. The remaining 485 acres are vacant. The park has deep-water port facilities and rail access, but limited road access.

The Columbia County Development Agency (agency) is an urban renewal agency created in 1999 under the provisions of ORS chapter 457 to address “blighted areas” in the county. On March 4, 2001, the agency filed an application with the county seeking approval of the Port Westward Urban Renewal Plan (the plan). The plan creates an urban renewal area that includes the park and public roads leading to the park. The plan contemplates construction of a number of improvements in two phases, including road, rail and water infrastructure improvements, to be paid from increased tax revenue generated by anticipated development of the park.¹ The plan anticipates that the improvements will be completed by

¹The county’s response brief succinctly explains how urban renewal areas work:

1 the year 2012, and will cost a total of \$33,875,954. The anticipated total debt with interest
2 under the plan is just over \$55 million. The plan is supported by a consultant’s report, which
3 estimates that, based on four anticipated new industrial projects at the park, the projected
4 incremental assessed values and tax revenues will be sufficient to retire the total debt.

5 The county’s planning commission recommended approval of the plan. The county
6 board of commissioners conducted a public hearing on the plan on May 23, 2001, and, on
7 June 13, 2001, adopted an ordinance approving the plan. This appeal followed.

8 **FIRST ASSIGNMENT OF ERROR**

9 Adoption of an urban renewal plan is governed by the provisions of ORS chapter 457.
10 ORS 457.095(3) requires in relevant part that a local government decision approving an
11 urban renewal plan shall include findings that “[t]he urban renewal plan conforms to the
12 comprehensive plan and economic development plan, if any, of the municipality as a
13 whole[.]”²

“* * * Article IX, Section 1c of the Oregon Constitution authorizes local governments having adopted an urban renewal plan to ‘freeze’ the property tax values of the property in the urban renewal area. * * * After the [urban renewal] Plan is adopted, the County Assessor certifies the unimproved value of the property. In subsequent years, the value of the property is assessed. As development occurs on that property, the property values increase. The taxes owing on that property [are] then split. The amount owing on the pre-improvement property is distributed to all of the taxing districts as usual. However, the amount of taxes owing above and beyond that pre-improvement amount (tax increment) is deposited into the urban renewal fund for repayment of urban renewal debt authorized under the Plan.” Response Brief 14.

²ORS 457.095 provides in relevant part:

“The governing body of the municipality, upon receipt of a proposed urban renewal plan and report from the municipality’s urban renewal agency and after public notice and hearing and consideration of public testimony and planning commission recommendations, if any, may approve the urban renewal plan. The approval shall be by nonemergency ordinance which shall incorporate the plan by reference. * * * The ordinance shall include determinations and findings by the governing body that:

- “(1) Each urban renewal area is blighted;
- “(2) The rehabilitation and redevelopment is necessary to protect the public health, safety or welfare of the municipality;

1 The Columbia County Comprehensive Plan (CCCP) sets forth a number of goals and
2 policies governing RIPD-zoned lands. In relevant part, CCCP Resource Industrial
3 Development Policy 3-F (Policy 3-F) states that it is the county’s policy to “[r]estrict
4 industrial development on land zoned [RIPD] to those uses that * * * will not require facility
5 and/or service improvements at public expense[.]”³

“(3) *The urban renewal plan conforms to the comprehensive plan and economic development plan, if any, of the municipality as a whole and provides an outline for accomplishing the urban renewal projects the urban renewal plan proposes;*

“* * * * *

“(6) Adoption and carrying out of the urban renewal plan is economically sound and feasible; and

“(7) The municipality shall assume and complete any activities prescribed it by the urban renewal plan.” (Emphasis added.)

³The CCCP policies governing Resource Industrial Development state, at CCCP 185:

“GOAL:

“It is a goal of the County to provide for industrial development on rural lands when such development can be shown to support, utilize, or in some manner be dependent upon, the natural resources of the area.

“POLICIES: It shall be a policy of the County to:

“1. Designate as Rural Industrial in the Plan those lands which are currently being utilized or which are recognized as being needed to accommodate rural and natural resource industries.

“2. Implement the Rural Industrial plan designation through the use of a single [RIPD] zone.

“3. Restrict industrial development on land zoned [RIPD] to those uses that:

“A. Are not generally labor intensive;

“B. Are land extensive;

“C. Are located with adequate rail and/or vehicle and/or deep water port and/or airstrip access;

“D. Complement the character and development of the surrounding area;

1 Petitioners contend that, while the county’s decision cites and quotes the CCCP
2 Resource Industrial Development policies, including Policy 3-F, as comprehensive plan
3 policies to which the plan must conform under ORS 457.095(3), the county’s findings do not
4 specifically address Policy 3-F at all. ORS 457.095 requires that the county adopt
5 “determinations and findings” directed at seven specified considerations, including that the
6 urban renewal plan conforms to the comprehensive plan as a whole. *See* n 2. We understand
7 petitioners to contend that ORS 457.095 requires the county to adopt findings specifically
8 addressing Policy 3-F.⁴

9 Petitioners further argue that Policy 3-F must be interpreted to prohibit any publicly
10 funded improvements to support rural industrial development. According to petitioners, the
11 adopted urban renewal plan is therefore inconsistent with Policy 3-F, because the plan’s
12 central premise is that desired new industrial uses will not locate at the park unless the
13 county invests tens of millions of dollars in new publicly financed infrastructure.

14 **A. Findings Required by ORS 457.095**

15 The county’s findings consist of two documents: an 18-page staff report and a six-
16 page set of supplemental findings. The findings do not specifically address Policy 3-F. The
17 challenged decision quotes a large number of policies under the Economy, Industrial

“E. Are consistent with the rural facilities and services existing and/or planned for the area; and

“F. *Will not require facility and/or service improvements at public expense; or*

“G. Are not appropriate for location within Urban Growth Boundaries due to their hazardous nature.” (Emphasis added.)

⁴The county asserts, and petitioners do not dispute, that the challenged decision is a legislative decision. Absent some requirement in the county’s code or elsewhere, legislative decisions need not be supported by findings. *Home Depot, Inc. v. City of Portland*, 37 Or LUBA 870, 877, *aff’d* 169 Or App 599, 10 P3d 316 (2000). Absent such a legal requirement for findings, the county may rely, in addition to any findings that are adopted, on argument in its brief and citations to the record and the county’s plan and zoning ordinance to demonstrate compliance with applicable criteria. *Id.*, citing *Redland/Viola/Fischer’s Mill CPO v. Clackamas County*, 27 Or LUBA 560, 564 (1994). Petitioners do not identify any code provision that requires that the urban renewal plan be supported by findings. Thus, there is no legal requirement other than ORS 457.095 that the county adopt findings supporting the decision.

1 Development, and Resource Industrial Development sections of the CCCP, including Policy
2 3-F, and adopts the following finding to address these CCCP policies:

3 **“Finding 29:** Development resulting from implementation of the Plan will
4 help to meet Comprehensive Plan Goal and Policies for the ‘Economy,
5 Industrial Development, and Resource Industrial Development.’ The Plan
6 will specifically encourage the creation of new and continuous employment
7 opportunities; encourage a stable and diversified economy; reserve valuable
8 industrial sites for industrial use; support improvements in local conditions in
9 order to make the area attractive to private capital investment considering tax
10 incentives, land use controls and ordinances, and capital improvements
11 programming.” Record 47.

12 In addition, the county’s supplemental findings state in relevant part:

13 “The Port Westward Urban Renewal Plan conforms to the [CCCP] as a whole
14 * * *. Section VI of the Plan sets forth the relevant portions of the [CCCP],
15 including its Rural Industrial, Economy, Industrial Development and Public
16 Facilities and Services Goals and Policies. * * *

17 “* * * * *

18 “* * * [T]he Resource Industrial Development Goal is aimed at providing
19 ‘industrial development on rural lands when such development can be shown
20 to support, utilize, or in some manner be dependent upon, the natural
21 resources of the area.’ The Plan conforms to this goal because its purpose is
22 to attract industry that will rely upon the natural resources located at the site.
23 For example, the site has a deep water port which is a significant benefit for
24 industries in transporting their goods. In addition the proximity of the
25 Columbia River will provide water for electrical generation, as well as for
26 other purposes. The site has been designated for industrial use largely based
27 upon its location on the deep water port. By seeking to attract industry in
28 need of such natural resource, the Plan supports the goal and policies of the
29 Comprehensive Plan.” Record 51.

30 The county and intervenor (respondents) argue that ORS 457.095 does not require
31 findings directed at each applicable goal, policy and sub-policy of the comprehensive plan.
32 Respondents emphasize that ORS 457.095(3) requires only a finding that the urban renewal
33 plan conforms to the CCCP “as a whole.” According to respondents, ORS 457.095(3)
34 requires the county to assess whether the urban renewal plan conforms with the *overall*
35 purpose and objectives of the CCCP, but does not require individual findings of compliance
36 with specific CCCP policies and sub-policies.

1 In *Tides Unit Owners Assoc. v. City of Seaside*, 11 Or LUBA 84 (1984), we addressed
2 whether a one-sentence conclusion that a proposed urban renewal plan conforms to the
3 comprehensive plan is sufficient to satisfy the findings requirement of ORS 457.095(3). We
4 concluded that, to perform our review function, the findings required by ORS 457.095(3)
5 must at least (1) set forth the specific provisions of the comprehensive plan that are
6 applicable to the decision and (2) express the city’s judgment concerning the relationship
7 between the renewal plan and the pertinent provisions of the comprehensive plan. 11 Or
8 LUBA at 91-92. *See also Holladay Investors, Ltd. v. City of Portland*, 18 Or LUBA 271,
9 276 n 4 (1989) (LUBA’s review function requires that the findings adopted pursuant to
10 ORS 457.095(3) adequately explain how the statutory standards are met). We are aware of
11 no other cases that address the adequacy or detail of the findings required by ORS 457.095.

12 It is unclear how the phrase “as a whole” modifies the finding requirement of
13 ORS 457.095(3).⁵ We have little problem agreeing with respondents that under
14 ORS 457.095(3) the county’s findings may abstract the common substance of applicable
15 comprehensive plan provisions and address that substance together, without reiteratively
16 addressing each provision. However, we reject the suggestion that ORS 457.095(3) allows
17 local governments to address only *some* of the goals and policies that it identifies as being
18 applicable and, without explanation, fail to address others.

19 Finding 29 quoted above purports to address the goals and policies in the Economy,
20 Industrial Development and Resource Industrial Development sections of the CCCP.
21 However, the terms of Finding 29 address only policies 1, 2, 8 and 10 of the Economy

⁵The phrase “as a whole” in ORS 457.095(3) can be read to reflect recognition that comprehensive plans often embody diverse policy objectives that can be in tension with each other. For example, as discussed below, the county argues that certain other applicable comprehensive plan goals and policies require the county to plan and develop timely and efficient public services to accommodate rural development. Those goals and policies are arguably in tension with Policy 3-F, at least as petitioners interpret that policy. Under this view, the phrase “as a whole” in ORS 457.095(3) is not intended to reduce the findings burden, as the county and intervenor argue, but to allow the local government to balance competing policies, if any, and resolve any tensions in favor of the policies it believes are more important or more germane.

1 section. Finding 29 does not address any goal or policy under the Resource Industrial
2 Development section. The supplemental finding quoted above is directed at the Resource
3 Industrial Development goal, but does not address Policy 3. Nothing in the challenged
4 findings directed to our attention appears to address the substance of Policy 3-F, or explain
5 why it is not necessary to do so.

6 The fact that the challenged decision is legislative in character does not obviate the
7 statutory findings obligation. Where a code or statutory findings requirement applies, the
8 local government must adopt adequate findings addressing applicable criteria,
9 notwithstanding the general rule that legislative decisions need not be supported by findings.
10 *Barnard Perkins Corp. v. City of Rivergrove*, 34 Or LUBA 660, 675 (1998); *Holladay*
11 *Investors, Ltd.*, 18 Or LUBA at 276 n 4.

12 As we stated in *Tides Unit Owners Assoc.*, findings required by ORS 457.095(3) must
13 express the local government’s judgment concerning the relationship between the renewal
14 plan and applicable comprehensive plan policies. The challenged findings neither express
15 nor imply any judgment regarding the relationship between the renewal plan and Policy 3-F.
16 Remand is appropriate for the county to express that judgment.

17 **B. Interpretation of Policy 3-F**

18 The main thrust of petitioners’ argument under this assignment of error is that the
19 renewal plan violates Policy 3-F, as petitioners interpret that provision. Petitioners believe
20 that Policy 3-F unambiguously prohibits the county from developing infrastructure at public
21 expense to support rural industrial development.⁶

22 The county responds, first, that Policy 3 in its entirety is inapplicable for purposes of

⁶We deem it necessary to address these arguments to some extent, notwithstanding our above conclusion that remand is appropriate to adopt findings addressing Policy 3-F. Petitioners request reversal of the decision under the first assignment of error, apparently because petitioners believe the renewal plan violates Policy 3-F, as petitioners interpret that provision, and therefore the decision is prohibited as a matter of law. OAR 661-010-0071(1)(c). If petitioners are correct, then there would be no point in remanding the decision for findings.

1 ORS 457.095(3), because it is focused not on broad legislative decisions regarding public
2 infrastructure, such as the present decision, but rather on decisions approving a specific
3 application for industrial development on a particular property. The county argues that
4 Policy 3 allows such development only if it is consistent with the enumerated requirements
5 of that policy, including Policy 3-F. Because the proposed urban renewal plan is designed to
6 attract *future* industrial development and does not authorize any specific development, the
7 county concludes, Policy 3 is simply not among the elements of the CCCP to which the plan
8 must conform under ORS 457.095(3).

9 The problem with that conclusion, of course, is that the county’s decision quotes
10 Policy 3, including Policy 3-F, as one of the CCCP provisions that must be considered under
11 ORS 457.095(3). Record 47; *see also* Record 51, 68 (setting forth the “relevant portions” of
12 the CCCP, including Policy 3-F). That listing of Policy 3-F suggests that the county board of
13 commissioners believes that the policy is at least potentially applicable.

14 The county next argues that if Policy 3-F is relevant for purposes of ORS 457.095(3),
15 the record and findings suffice to demonstrate that the proposed urban renewal plan conforms
16 to Policy 3-F. This argument in turn depends on the interpretation of Policy 3-F advanced in
17 the county’s response brief. The county argues that Policy 3-F is intended to protect the
18 county’s fisc from proposals for rural industrial development that “require facilities and/or
19 service improvements at public expense.” According to the county, such development
20 cannot “require” public facilities and services, within the meaning of Policy 3-F, if those
21 facilities and services are already in place when the development is proposed. Because the
22 urban renewal plan merely provides for public improvements in anticipation of future
23 industrial development, the county argues, it is not inconsistent with Policy 3-F. The county
24 also argues that improvements funded by the urban renewal district will not be “at public
25 expense,” within the meaning of Policy 3-F, because the burden of paying for the
26 improvements rests on the tax increment of private developers rather than on the county.

1 In the same vein, intervenor argues that Policy 3-F does not state or necessarily imply
2 that the county cannot plan and fund infrastructure improvements in anticipation of future
3 development. Intervenor argues that Policy 3 is directed at proposals for specific rural
4 industrial development. The terms of Policy 3, including Policy 3-F, are repeated in
5 Columbia County Zoning Ordinance (CCZO) Section 680, which implements the Resource
6 Industrial Development element of the CCCP and sets forth the uses allowed in the RIPD. In
7 relevant part, CCZO 683.1(A) allows industrial uses in the RIPD only if the requested use
8 conforms to the CCCP policies regarding rural industrial development, including Policy 3-F.

9 Intervenor also argues that the context of Policy 3 includes directives for the county
10 to do what petitioners contend is prohibited by Policy 3-F: plan and fund public
11 improvements for rural industrial development. For example, intervenor points to Economy
12 Policy 10 and Industrial Development Policy 7, which both require the county to

13 “Support improvements in local conditions in order to make the area attractive
14 to private capital investment. Consideration of such factors as the following
15 shall be undertaken:

16 “A. Tax incentives;

17 “B. Land use controls and ordinances;

18 “C. Capital improvements programming.”

19 Similarly, the Public Facilities and Services Goal is to “plan and develop a timely, orderly,
20 and efficient arrangement of public services as a framework for urban and rural
21 development.” Public Facilities and Services Policy 1 requires that “adequate types and
22 levels of public facilities and services be provided in advance of or concurrent with
23 development.” Policy 2 requires that the “level of facilities and services be appropriate for,
24 but limited to, the needs and requirements of the area to be served,” with specific reference to
25 rural industrial areas.

26 Respondents argue that, taken together, these goals and policies suggest that the
27 county has some obligation to plan and fund capital improvements to support anticipated

1 future industrial development, including rural industrial development. That obligation,
2 respondents contend, is at odds with petitioners’ reading of Policy 3-F, which would prohibit
3 the county from planning and funding public improvements to support future rural industrial
4 development. Respondents argue that Policy 3-F can and should be read consistently with its
5 text and context not to contain that prohibition.

6 We do not attempt to resolve the parties’ interpretational dispute, other than to
7 disagree with petitioners that Policy 3-F *must* be read to prohibit the county from planning
8 and funding improvements to support future resource industrial development. We have
9 already concluded that the county’s findings are inadequate to comply with ORS 457.095(3)
10 and that the decision must be remanded so that the county can adopt the required findings. If
11 the board of commissioners agrees with the interpretations of Policy 3-F that are advanced in
12 the response briefs it may adopt those interpretations in its findings.

13 The first assignment of error is sustained, in part.

14 **SECOND ASSIGNMENT OF ERROR**

15 Petitioners challenge the evidentiary basis for the county’s finding, pursuant to
16 ORS 457.095(6), that “[a]doption and carrying out of the urban renewal plan is economically
17 sound and feasible.” Further, petitioners argue that the county erred in finding that the report
18 accompanying the urban renewal plan satisfies ORS 457.085(3)(g), which requires that the
19 report contain a financial analysis with “sufficient information to determine feasibility.”

20 The county’s findings under ORS 457.085(3)(g) conclude that the report
21 accompanying the renewal plan contained information sufficient to determine the economic
22 feasibility of the plan. Similarly, the county found under ORS 457.095(6) that, based on a
23 projection that at least four new industrial developments will locate at the park, the plan is
24 economically sound and feasible.⁷

⁷The county’s findings state in relevant part:

1 The common evidentiary problem with both findings, petitioners argue, is that they
2 rely entirely on the assumption that at least four new major industrial facilities will locate in
3 the park within the relevant time period. According to petitioners, that assumption is not
4 sufficient to support the county’s feasibility findings, because none of the anticipated new
5 industrial uses has committed to locating on the site, and one of the four new uses is entirely
6 hypothetical. Petitioners cite to evidence submitted by petitioners to the effect that if any of
7 the county’s assumptions are incorrect, and even one of the anticipated new uses does not
8 locate on the site, the county will be unable to repay the total debt. Petitioners also contend
9 that the county did not consider the possibility that certain tax credits might apply to one of
10 the identified new uses in a manner that would reduce the tax increment revenues.
11 Therefore, petitioners contend, the record does not support the county’s finding that the
12 renewal plan is “economically sound and feasible,” or the finding that the report

“The adoption and carrying out of the urban renewal plan is economically sound and feasible. The [renewal] Plan and accompanying Report set out six projects to be undertaken pursuant to the Plan. These include water and rail improvements, road improvements in two phases, fire and life safety facility improvements, water access improvements, storm drainage system improvements, and other utility improvements in the Area. The Plan is economically sound and feasible because along with its accompanying Report, the Plan sets out the estimated cost to complete the projects and the funding for these projects. Section V of the Report sets out a Table of the costs associated with each improvement. It shows that total projected costs are \$38,223,754, including administrative costs. Grants in the amount of \$1,397,800 are anticipated from Federal EDA funds which leaves \$33,875,954 to be funded by obtaining loans or issuing bonds over approximately 20 years. The Project Fund will receive the proceeds from the loans or bonds, and will pay for the urban renewal share of the project costs.

“Table 1 in the appendix to the Report sets forth tax increment revenues from fiscal year 2002/2003 to FY 2020/2021 that are projected to be available to fund the Debt Service. The Debt Service Fund will receive the tax increment revenues and will pay debt service on the loans or bonds. Based on the projection that at least 4 projects will site within the Area, Table 2 in the appendix to the Report projects that tax increment funds will be sufficient to pay off the debt by fiscal year 2019-2020. County staff in conjunction with consultants has determined the available tax increment funds based on market value estimates provided by the companies proposing to site in the Area, which were then adjusted downward to establish taxable assessed value. Table 3 projects the Project Fund, including the interest earnings on the Fund. The table shows that the debt along with the interest earnings are sufficient to cover the estimated urban renewal share of the project costs. The financial analysis in the Plan and accompanying Report supports a finding that the Plan is economically sound and feasible.” Record 52-53.

1 accompanying the renewal plan contains “sufficient information to determine feasibility.”
2 ORS 457.095(6); 457.085(3)(g).

3 We addressed related contentions in *Union Station Bus. Community Assoc. v. City of*
4 *Portland*, 15 Or LUBA 4 (1986). In that case, the city’s findings under ORS 457.085(3)(g)
5 and 457.095(6) essentially concluded that the urban renewal plan *may be* economically
6 sound and feasible and, if not, the project would not be undertaken. We found such hedging
7 to be inconsistent with the statutes, which require an unequivocal finding, supported by
8 sufficient information, that the plan *is* economically sound and feasible. 15 Or LUBA at 8.
9 In the present case, the county’s findings are not equivocal on that point. However, we
10 understand petitioners to contend that, if the county bases the revenue side of its financial
11 analysis on anticipated new development, that new development must be presently
12 committed and certain to occur.

13 We disagree. As we noted in *Union Station Bus. Community Assoc.*, “feasible”
14 means “capable of being done, executed or effected; possible of realization.” 15 Or LUBA at
15 12. Whether a plan is “capable of being done” is a considerably different question than
16 whether the plan or eventualities assumed in the plan are certain to occur. Further, in
17 *Holladay Investors, Ltd. v. City of Portland*, 22 Or LUBA 90, 109 (1991), we rejected an
18 argument that uncertainty regarding the impact of a ballot measure on the renewal agency’s
19 taxing authority undermined the evidentiary support for the city’s finding of financial
20 feasibility. We concluded that, despite pending litigation and legal uncertainty, the city
21 reasonably relied on legal advice that the ballot measure would not impact the agency’s
22 taxing authority.

23 We believe a similar principle applies here. The financial analysis required by
24 ORS 457.085(3)(g) necessarily involves a projection of events over an extended period,
25 involving diverse parties including the local government, renewal agencies, other public
26 entities, and private landowners and potential developers. It is doubtful any urban renewal

1 plan could satisfy ORS 457.085(3)(g) and 457.095(6) if binding commitments from those
2 parties must be obtained prior to adoption of the plan, or if the plan can rely only on
3 certainties. In our view, the assumptions underlying the county’s financial analysis and plan
4 must be supported by substantial evidence, *i.e.*, evidence that a reasonable person would rely
5 upon in reaching the conclusion that the renewal plan is “economically sound and feasible.”

6 Under that standard, we agree with respondents that the county’s findings under
7 ORS 457.085(3)(g) and 457.095(6) are supported by substantial evidence. The county cites
8 to evidence that the three anticipated new industrial users, while not legally committed to
9 doing so, have advanced plans for locating in the park. With respect to the hypothetical
10 fourth use, the county cites to evidence that the park is one of the few deep water ports on the
11 Columbia River, and that with improved infrastructure the site will be attractive to new
12 industrial uses. Given the interest already expressed by the three identified new uses prior to
13 adoption of the plan, the county argues, it is reasonable to assume that at least one other new
14 use will locate on the site. Considering that evidence, and the other evidence cited to us by
15 the parties, including countervailing evidence, we conclude that a reasonable person would
16 rely upon the evidence the county relied upon in finding that the plan is feasible.

17 The second assignment of error is denied.

18 The county’s decision is remanded.