24.2.5 Standing – Before LUBA – Adverse Effect. A property owner is adversely affected for purposes of ORS 197.830(3) where an impediment to development of property within sight and sound of their property is removed by an interpretation, such as a similar use determination, that applies county-wide and that potentially allows uses in addition to or beyond those listed in the adopted and acknowledged zoning ordinance, even where the zoning ordinance allows for such an interpretation without notice to any property owners or any persons if the interpretation does not relate to a specific property. *Jones v. Clackamas County*, 80 Or LUBA 1041 (2019).

24.2.5 Standing – Before LUBA – Adverse Effect. A zone verification is subject to LUBA's jurisdiction and a person adversely affected by the decision may appeal the decision to LUBA "[w]ithin 21 days of the date a person knew or should have known of the decision where no notice is required." ORS 197.830(5)(b). The city was not obligated to and did not provide notice of the zone verification decision to petitioner. Petitioner was put on inquiry notice of the zone verification decision when the city provided petitioner multiple notices of a subsequent land use application, review, and approval for site review, traffic impact analysis, and adjustment review for the same subject property and development described in the zone verification decision. The city invited petitioner to participate in that subsequent land use action and to review public planning documents at the planning division and online. The appeal was untimely filed and must be dismissed because petitioner failed to make such inquiries and the 21-day appeal period expired before petitioner filed the appeal. *Leyden v. City of Eugene*, 79 Or LUBA 151 (2019).

24.2.5 Standing – Before LUBA – Adverse Effect. Where the petitioners file a motion to take evidence for LUBA to consider affidavits and other documents to establish that petitioners filed a timely appeal and are adversely affected, along with a reply brief addressing the same jurisdictional issues, petitioners have sufficiently "explain[ed] with particularity" the facts petitioners seek to establish for purposes of OAR 661-010-0045(2)(a). *Rogue Advocates v. Jackson County*, 74 Or LUBA 38 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. While an unsigned or improperly signed declaration of a petitioner asserting facts that go to standing and whether the petitioner is adversely affected may be less persuasive in the face of conflicting evidence than a properly signed declaration, nothing in LUBA's rules requires that such declarations be signed in any particular manner, in order to be considered for the proffered purpose. *Rogue Advocates v. Jackson County*, 74 Or LUBA 38 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. Notwithstanding a petitioners' failure to identify the location of their property in relation to the property being developed, in order to establish that the decision to approve the development adversely affects petitioners under ORS 197.830(3), allegations that traffic from the development, which includes a 200-unit hotel, will adversely impact the petitioners' use of a narrow rural road for recreation and access to their property are sufficient to establish that the decision adversely affects the petitioners, absent evidence to the contrary. *Rogue Advocates v. Jackson County*, 74 Or LUBA 38 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. A petitioner fails to establish that an intergovernmental agreement (IGA) between a city and a county that establishes a county process and review procedure for a road improvement project on a county-owned road located within the

city will adversely affect petitioner within the meaning of ORS 197.830(3), where the petitioner argues that the road improvement project, if approved, will adversely affect petitioner, the IGA does not approve the road project or any proposed design or construction and does not apply any city or county approval criteria or standards that may apply to the road project, and allocates responsibility between the city and the county for the planning, design, approval and construction of the road project. *MGP X Properties, LLC, LLC v. Washington County* 74 Or LUBA 378 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. A petitioner fails to establish that an intergovernmental agreement (IGA) between a city and a county that establishes a county process and review procedure for a road improvement project located within the city on a county-owned road will adversely affect petitioner within the meaning of ORS 197.830(3), where the petitioner argues that the IGA eliminates petitioner's ability to participate in a city planning process for the road improvement project but petitioner does not take the position that the county planning process is an insufficient forum for petitioner to present its arguments against the road improvement project, explain how the county planning process differs from the city planning process in a way that adversely affects petitioner, or argue that petitioner will be prevented from participating in the county planning process for the road improvement project. *MGP X Properties, LLC, LLC v. Washington County* 74 Or LUBA 378 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. Persons who own property within sight or sound of property that is the subject of an appeal are presumptively adversely affected by an appealed decision concerning the property. However, a petitioner who claims its property is located "approximately 6,280 feet" from the subject property, and does not claim that its property is within sight or sound, is not presumptively adversely affected by the decision. *Pinnacle Alliance Group, LLC v. City of Sisters*, 73 Or LUBA 188 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. To have standing to appeal under ORS 197.830(3), a person must be "adversely affected" by the appealed decision. Petitioner's undeveloped allegations that the use approved by that decision will use the same city road and water systems as petitioner are not sufficient to demonstrate the petitioner will be adversely affected by the use, where petitioner's property is located over a mile away from the approved use. *Pinnacle Alliance Group, LLC v. City of Sisters*, 73 Or LUBA 188 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. To have standing to appeal under ORS 197.830(3), a person must be "adversely affected" by the appealed decision. Petitioner's undeveloped allegations that the use approved by that decision will have economic impacts and violates petitioner's due process and equal protection rights lack sufficient specificity to demonstrate the use will have an adverse effect on petitioner. *Pinnacle Alliance Group, LLC v. City of Sisters*, 73 Or LUBA 188 (2016).

24.2.5 Standing – Before LUBA – Adverse Effect. A petitioner fails to establish that it is "adversely affected" by a land use decision within the meaning of ORS 197.830(3) where the petitioner does not allege any adverse physical effect to its properties from the decision, and the only adverse effect alleged is economic harm to the petitioner as a business operator from business operations that will be conducted on the property that is the subject of the decision. *Devin Oil Co. Inc. v. Morrow County*, 72 Or LUBA 14 (2015).

24.2.5 Standing – Before LUBA – Adverse Effect. The statutes that confer standing to appeal to LUBA require a petitioner to establish that it has standing to appeal each decision that is made by a local government. The fact that a party may have appeared before the local government in a separate proceeding on a different application does not establish that that party is "adversely affected," within the meaning of ORS 197.830(3), by a different, albeit related, decision on a different application. *Devin Oil Co. Inc. v. Morrow County*, 72 Or LUBA 14 (2015).

24.2.5 Standing – Before LUBA – Adverse Effect. A party is not "adversely affected" within the meaning of ORS 197.830(3), by a land use decision merely because it requests notice of the decision under the notice provisions of the local government's code. *Devin Oil Co. Inc. v. Morrow County*, 72 Or LUBA 14 (2015).

24.2.5 Standing – Before LUBA – Adverse Effect. "Adverse affect" within the meaning of ORS 197.830(3) and (5) does not include purely economic effects on a business competitor that will suffer no physical effects from the proposed use of the subject property because it is located more than a hundred miles from the subject property. *Schnitzer Steel Industries, Inc. v. City of Eugene*, 67 Or LUBA 444 (2013).

24.2.5 Standing – Before LUBA – Adverse Effect. Standing to appeal a post-acknowledgment plan amendment to LUBA is governed by ORS 197.620(1), which requires only that the petitioner participate in the proceedings below. No statute governing LUBA requires that petitioners who wish to advance a facial constitutional challenge to an ordinance at LUBA must first demonstrate that the ordinance injures their legally protected interests. *Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010).

24.2.5 Standing – Before LUBA – Adverse Effect. The demonstration that must be made to demonstrate adverse affect under ORS 197.830(3) is not the same demonstration that must be made to demonstrate irreparable injury under ORS 197.845(1) to obtain a stay of a land use decision pending appeal at LUBA. The irreparable injury standard is a much more exacting standard. *Zirker v. City of Bend*, 55 Or LUBA 188 (2007).

24.2.5 Standing – Before LUBA – Adverse Effect. Even though a mining operation on the applicant's property may be indistinguishable from mining on adjacent properties that does not mean that there is no adverse effect on petitioner's adjacent property. The cumulative effects of the additional mining may increase the adverse effects on petitioners. *Michaels v. Douglas County*, 53 Or LUBA 16 (2006).

24.2.5 Standing – Before LUBA – Adverse Effect. A city is adversely affected by a second city's annexation ordinance, within the meaning of ORS 197.830(3), where the first city has annexed some of the same territory that was annexed by the second city and an appeal is pending challenging the first city's annexation ordinance. *City of Damascus v. City of Happy Valley*, 51 Or LUBA 150 (2006).

24.2.5 Standing – Before LUBA – Adverse Effect. Where a county code grants standing to file a local appeal to parties who are "adversely affected" by planning commission decisions, but the

local code does not define the term "adversely affected," LUBA will assume the county's intended meaning of that term is consistent with its meaning in other land use laws. As that term is used in the 1979 statute that governed standing to appeal to LUBA, adversely affected means the "decision impinges upon the petitioner's use and enjoyment of his or her property or otherwise detracts from interests personal to the petitioner." *Jefferson Landfill Comm. v. Marion Co.*, 297 Or 280, 283, 686 P2d 310 (1984). *Burke v. Crook County*, 46 Or LUBA 413 (2004).

24.2.5 Standing – Before LUBA – Adverse Effect. Where a local code grants standing to appeal planning commission decisions to parties who are "adversely affected," a county may not limit standing to appeal to the applicant, nearby property owners and persons who testified, where the local code does not clearly adopt that limited interpretation of the term "adversely affected." *Burke v. Crook County*, 46 Or LUBA 413 (2004).

24.2.5 Standing – Before LUBA – Adverse Effect. Voter approval of a initiative that adopts additional impediments to residential development of land that includes petitioner's property is sufficient to render petitioner "adversely affected" by the initiative for purposes of ORS 197.830(3), notwithstanding that petitioner does not currently propose residential development and current zoning does not allow for additional residential development of petitioner's property. *Sievers v. Hood River County*, 46 Or LUBA 635 (2004).

24.2.5 Standing – Before LUBA – Adverse Effect. For purposes of establishing standing to appeal to LUBA under ORS 197.830(3), petitioners who reside within sight of a disputed sign are presumptively adversely affected. Exactly how the sign affects petitioners and how many times petitioners have seen it are irrelevant considerations under that presumption, and depositions to resolve those matters are not warranted. *Frymark v. Tillamook County*, 45 Or LUBA 685 (2003).

24.2.5 Standing – Before LUBA – Adverse Effect. Depositions of two petitioners to inquire into their allegations that they are adversely affected by the challenged decision for purposes of ORS 197.830(3) are not warranted, where the movant fails (1) to specifically controvert those allegations, and (2) to establish that depositions of two petitioners are likely to affect the outcome of LUBA's review proceeding. *Frymark v. Tillamook County*, 45 Or LUBA 685 (2003).

24.2.5 Standing – Before LUBA – Adverse Effect. Under *Utsey v. Coos County*, 176 Or App 524, 32 P3d 933 (2001), a party seeking judicial review of a LUBA decision under ORS 197.850(1), in addition to meeting the statutory standing requirements, must also establish that the Court of Appeals' decision will have a practical effect on the appealing party's rights. LUBA is an executive branch agency rather than a court. Therefore, the standing requirements to appeal a local government land use decision to LUBA are established by ORS 197.830; and the statute does not require that the appellant establish that LUBA's decision will have a practical effect on the appellant. *Doob v. Josephine County*, 41 Or LUBA 569 (2001).

24.2.5 Standing – Before LUBA – Adverse Effect. A petitioner's undisputed claim that he owns property adjoining the property on which a proposed waste water processing facility will be located and is therefore within sight and sound of the proposed facility is sufficient to establish that the petitioner is adversely affected by the proposal. *Farrell v. Jackson County*, 39 Or LUBA 149 (2000).

24.2.5 Standing – Before LUBA – Adverse Effect. Petitioner's allegations that a decision extending approval for an RV park expansion to be constructed partially on fill in a floodplain will exacerbate flooding and traffic problems on the road that serves petitioner's property and that the development will harm fishing in an adjoining creek where petitioner fishes are sufficient to demonstrate that petitioner is adversely affected by the decision. *Willhoft v. City of Gold Beach*, 38 Or LUBA 375 (2000).

24.2.5 Standing – Before LUBA – Adverse Effect. LUBA will consider supplemental affidavits, submitted after oral argument in support of petitioners' standing, where the parties' arguments did not focus on the theory of standing supported by the affidavits and the facts asserted in the affidavits are not disputed. In that circumstance, an evidentiary hearing is not required for LUBA to consider the affidavits. *Wilbur Residents v. Douglas County*, 34 Or LUBA 634 (1998).

24.2.5 Standing – Before LUBA – Adverse Effect. Whether a person is "adversely affected" within the meaning of ORS 215.416(11)(a) is a fact-specific inquiry that depends upon the nature of the development and its externalities, the proximity of the person's property to the development, and any factors regarding the person's property or activities thereon that render the property more or less susceptible to impacts from the development. *Wilbur Residents v. Douglas County*, 34 Or LUBA 634 (1998).

24.2.5 Standing – Before LUBA – Adverse Effect. Merely because a person owns property from which he can see or hear a proposed development does not necessarily render that person adversely affected by the decision. *Wilbur Residents v. Douglas County*, 34 Or LUBA 634 (1998).

24.2.5 Standing – Before LUBA – Adverse Effect. Petitioners demonstrate they are adversely affected by a sewage treatment facility, where there is no attempt to rebut petitioners' allegations that they are adversely affected because they are within "sight and smell" of the facility and petitioners also allege "direct, specific, tangible and negative impacts" from the proposed facility. *Wilbur Residents v. Douglas County*, 34 Or LUBA 634 (1998).

24.2.5 Standing – Before LUBA – Adverse Effect. Where a county makes a permit decision without a hearing and fails to send the notice of decision required by ORS 215.416(11)(a) to persons "adversely affected" by the decision, such adversely affected persons have standing to appeal to LUBA within 21 days of actual notice of the decision. *Wilbur Residents v. Douglas County*, 34 Or LUBA 634 (1998).

24.2.5 Standing – Before LUBA – Adverse Effect. Where the procedure followed by the county to approve a permit only provided the applicant a right to participate or appeal, the county may not rely on ORS 215.416(11)(a) to contend petitioner lacks standing to appeal because petitioner is not "adversely affected." *Hugo v. Columbia County*, 34 Or LUBA 577 (1998).

24.2.5 Standing – Before LUBA – Adverse Effect. Although a lot line adjustment only has intangible impacts, those impacts may nevertheless adversely affect proximate property owners. Persons within sight or sound of property are presumptively adversely affected by a property line adjustment decision affecting the property. *Goddard v. Jackson County*, 34 Or LUBA 402 (1998).

24.2.5 Standing – Before LUBA – Adverse Effect. A party may not claim standing before LUBA exclusive of all other parties on the grounds that it is the only party adversely affected by a local decision. *Purdy v. City of Shady Cove*, 33 Or LUBA 331 (1997).

24.2.5 Standing – Before LUBA – Adverse Effect. When challenged decision requires that some of petitioners' property be acquired and dedicated as a road, petitioners are "adversely affected" and have standing under ORS 197.830(3). *Franklin v. Deschutes County*, 30 Or LUBA 33 (1995).

24.2.5 Standing – Before LUBA – Adverse Effect. Persons within sight and sound of a development proposal are presumed to be adversely affected by it. *Kamppi v. City of Salem*, 21 Or LUBA 498 (1991).

24.2.5 Standing – Before LUBA – Adverse Effect. Statements that petitioners' interests in developing their property are substantially impaired by local government adoption of a corrective program which will not correct the problem justifying a previously adopted moratorium, and will create a situation in which there is no foreseeable end to that moratorium, are adequate to allege petitioners have interests which are substantially affected by the adopted corrective program. *Schatz v. City of Jacksonville*, 21 Or LUBA 214 (1991).

24.2.5 Standing – Before LUBA – Adverse Effect. Where petitioner's affidavit in support of standing includes allegations concerning economic impact of the challenged decision on his law practice and is the only testimony or evidence in the record specifically addressing the alleged economic injury, the allegations in the affidavit are sufficient to establish standing based on the alleged economic impact. *Seto v. Tri-Met*, 21 Or LUBA 185 (1991).

24.2.5 Standing – Before LUBA – Adverse Effect. Allegations that (1) petitioners have ownership interests in land which is subject to an adopted moratorium on new construction, and (2) the moratorium prevents petitioners from developing such land for purposes for which it is zoned, are sufficient to demonstrate that petitioners' interests are substantially affected by the moratorium and, therefore, petitioners have standing to appeal the adoption of the moratorium to LUBA. *Schatz v. City of Jacksonville*, 21 Or LUBA 149 (1991).

24.2.5 Standing – Before LUBA – Adverse Effect. An allegation that a person is adversely affected by the *appeal* of a land use decision to LUBA does not satisfy the standing requirement of ORS 197.830(2)(1987) that an appellant be adversely affected by *the land use decision*. *McKay Creek Valley Assoc. v. Washington County*, 19 Or LUBA 537 (1990).