

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. For purposes of evaluating whether the shipping associated with the proposed terminal would substantially interfere with the public trust rights of other waterway users, current navigation rules (e.g., those providing that a fishing boat must move out of a tanker’s course as necessary to prevent collision) do not provide relevant context. *Oregon Shores Conservation Coalition v. Coos County*, 81 Or LUBA 839 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government approves a liquefied natural gas (LNG) terminal to and from which tankers will be required to transit an estuary, and where the United States Coast Guard declares that it will impose a mobile “security zone” around each tanker, extending 500 yards on each side, from which all other vessels are generally excluded, findings that the security zone will not substantially interfere with public trust rights in the estuary are inadequate where they do not address testimony that two jetties at the mouth of the estuary form a relatively narrow channel and that tankers and large fleets of fishing vessels may need to transit the mouth of the estuary at the same time, at or near high tide. *Oregon Shores Conservation Coalition v. Coos County*, 81 Or LUBA 839 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. In the absence of countervailing expert testimony, LUBA will accept farmers’ contention that compliance with an EPA rule prescribing an Application Exclusion Zone (AEZ) for outdoor pesticide application is an accepted farm practice for purposes of the farm impacts test at ORS 215.296(1), regardless of whether it is applicable law, and a county errs by not analyzing the impacts of approving a recreational area on EFU land with respect to the EPA AEZ. *Schrepel v. Yamhill County*, 81 Or LUBA 895 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Recitals that the planning commission accepted the applicant’s responses to each criterion as findings of fact and, with the findings in the staff report, recommended approval of the application to the governing body, which in turn approved the planning commission’s recommendation, are insufficient to incorporate either the findings in the staff report or the findings prepared by the applicant into the governing body’s final decision. *Jacobus v. Klamath County*, 81 Or LUBA 785 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local government’s findings that there is adequate existing storage capacity to accommodate a modest growth in fossil fuel demand and, therefore, that a prohibition on establishing new fossil fuel terminals (FFT) and expanding existing FFTs will “[l]imit fossil fuels distribution and storage facilities to those necessary to serve the regional market” are (1) inadequate where natural gas falls under a local government’s definition of fossil fuels and where the findings do not address natural gas needs and (2) unsupported by an adequate factual base where the record establishes that natural gas demand will increase and where there is no evidence of the amount of terminal and storage capacity needed for natural gas generally. *Columbia Pacific v. City of Portland*, 81 Or LUBA 683 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local government’s findings that a prohibition on establishing new fossil fuel terminals (FFT’s) and expanding existing FFTs will “[m]aintain and strengthen [the local government’s] comparative economic advantages including access to a high-quality workforce” because the prohibition will apply to only one type of business are inadequate where they fail to consider the relationship between the FFTs, any products they make locally available to other businesses, and any resulting impact on the workforce. *Columbia Pacific v. City of Portland*, 81 Or LUBA 683 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings concluding that an aggregate quarry would be compatible with an adjacent grazing operation and periodic logging are inadequate and not supported by substantial evidence without an explanation of the manner in which the grazing operation is run—for example, whether it is seasonal or includes accessory activities such as breeding or calving—and the nature of the periodic logging. *Currie v. Douglas County*, 81 Or LUBA 602 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings concluding that an aggregate quarry satisfies the farm impacts test at ORS 215.296(1) are inadequate and not supported by substantial evidence where the county identifies grazing as the only surrounding farm or forest use but does not verify that the grazing operation is in fact limited to grazing, without other uses such as breeding, or establish that logging on the grazing property, government ownership of surrounding forest lands, or maintaining of surrounding forest land as a timber investment do not involve protected forest activity. *Currie v. Douglas County*, 81 Or LUBA 602 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local code provision requires that site design review be based upon consideration of the “[c]haracteristics of adjoining and surrounding uses,” the local government does not err by characterizing adjoining and surrounding uses simply as farm uses, even where the adjoining and surrounding lands contain dwellings, where the lands are zoned for farm and forest uses, where the dwellings are allowed in conjunction with farm and forest uses, and where the purpose of the zones and the comprehensive plan is to protect and conserve farm and forest lands for farm and forest uses. *Anderson v. Yamhill County*, 81 Or LUBA 618 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal or Remand – Inadequate Findings. Where a governing body concludes that a proposed hotel complies with a comprehensive plan provision requiring that such proposals have “no adverse impact” on the function of a nearby wildlife refuge, arguments at LUBA that the governing body improperly focused on impacts related to the operation of the hotel and did not consider impacts associated with demolition of an existing motel and construction of the new hotel provide no basis for reversal or remand where the petitioner did not clarify why demolition and construction were relevant or specify the adverse impacts of concern in their local appeal statement. *Oregon Coast Alliance v. City of Bandon*, 81 Or LUBA 285 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The mere existence of residential uses near a property proposed for an irrevocably committed exception to Goal 4 does not demonstrate that such property is necessarily committed to nonresource use,

and findings that the subject property is enclosed on three of its sides by existing residential development and that use of the subject property for a forestry operation could be potentially disruptive to that residential community are inadequate to describe the relationship of the subject property to adjacent lands, as required by OAR 660-004-0028(2)(c), where the findings do not address the relationship of the subject property to adjacent forest and resource land that are in timber production and forest use and/or that possess soils suitable for forestry production, or the potential for resource use of the subject property in conjunction with the adjacent forest-zoned properties. *Dooley v. Wasco County*, 81 Or LUBA 44 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The correct standard under OAR 660-004-0028(3) for an irrevocably committed exception to Goal 4 is not whether commercial forestry operations are practicable on the subject property—counties must consider forest operations that are smaller in scale and generate less revenue than commercial forestry operations—and findings that focus on alleged conflicts with nearby residential uses from conducting commercial forestry on the property are inadequate to demonstrate that forest uses are “impracticable,” as required by OAR 660-004-0028(3), where the findings do not consider whether forest operations that are smaller in scale would create similar conflicts that render forest use of the property impracticable; where, given the soil types on the property, the findings do not establish that forest use of the property is impracticable or explain why trees could not be planted on the property; and where the findings rely on conflicts with residential uses resulting from spraying, which are not sufficient, in themselves, to justify an irrevocably committed exception. *Dooley v. Wasco County*, 81 Or LUBA 44 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings and argument that forest uses are “impractical” on the subject property due to existing development and due to fire buffers that would be required along some of the property’s borders and around some of the existing development do not demonstrate that the property is “physically developed to the extent that it is no longer available” for forest uses, as required by ORS 197.732(2)(a) and OAR 660-004-0025(1) for a physically developed exception to Goal 4, and such a conclusion is not supported by substantial evidence where at least 87 percent of the property’s area is available for forestry and where the applicant does not attempt to quantify the amount of buffer that would be required to conduct forest uses or the amount by which that buffer would decrease the property available for forest uses. *Dooley v. Wasco County*, 81 Or LUBA 44 (2020).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government adopts a post-acknowledgment plan amendment creating a new zone that allows 20-acre lots, an argument that DEQ rules indicate that properties of 10 or more acres in size are generally able to support on-site wastewater systems is not sufficient to establish compliance with Goal 11 with respect to wastewater where those rules appear for the first time in the response brief, where there are no findings or evidence in the record addressing wastewater, and where there is no evidence in the record that the rule is accurate within the portion of the local government’s jurisdiction at issue. Similarly, references to the proximity of the majority of candidate lands to fire districts, to evidence that more demand for funds would not be created in one of the districts, to 10 years of data indicating that less than two percent of fires resulted from residential structures, and to local fire protection standards with which future development would be required to comply are not sufficient to establish compliance with Goal 11 with respect to fire

protection where there is no analysis of the likelihood of increased fire as more residences are potentially introduced into the area or discussion of the capacity of the existing fire service organizations to provide more service. *DLCD v. Douglas County*, 80 Or LUBA 98 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a local government legislatively decreases the height limit in one part of a historic district and increases the height limit in another part of the historic district, findings that focus on the importance of creating incentives for development of vacant parcels in the historic district, determine that the new height limits are lower than those outside the historic district, and conclude that “the issue of consistency [is] best left to the Landmarks Commission who remain charged with reviewing future development proposals” are not adequate to explain how the new height limits comply with a comprehensive plan policy that requires the local government to “preserv[e] and complement[] historic resources.” *Restore Oregon v. City of Portland*, 80 Or LUBA 158 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

While applying pesticides and herbicides in a manner that causes overspray or drift onto adjoining properties is not an accepted farm practice for purposes of the farm impacts test at ORS 215.296(1), where the labels for some pesticides and herbicides effectively require a setback from certain sensitive uses regardless of whether drift or overspray occurs, a county will likely have to make specific factual findings about the specific setbacks required by particular chemicals on particular farming operations on surrounding farmlands, based on application methods, and whether the operation of each setback would force a significant change in farm practices. *Van Dyke v. Yamhill County*, 80 Or LUBA 348 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A condition of approval requiring that an applicant construct a proposed fence between a proposed trail and adjoining farms; specifying only that the proposed fence must be “capable of preventing dogs and people from entering adjacent farm fields”; punting all determinations regarding fence design, materials, construction, etc. to a subsequent master planning process that offers no opportunity for a public hearing or other public input; and allowing adjacent landowners to opt out of installing a fence on their property line is inadequate where the county relies on the proposed fence to address a wide variety of different potential impacts, which might require different fence designs, materials, construction techniques, and maintenance routines in order to ensure that the trail will not cause significant impacts on farm practices for purposes of the farm impacts test at ORS 215.296(1). Such a condition is also not clear and objective for purposes of ORS 215.296(2). *Van Dyke v. Yamhill County*, 80 Or LUBA 348 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a local code provision requires a finding that “[t]he proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use,” and where the record includes undisputed expert testimony that fire and emergency access are inadequate unless a proposed trail and its bridges are built to certain standards, it is insufficient for the local government to state, without any supporting evidence, that it is “feasible” to design the trail and bridges to provide adequate fire and emergency access and then punt all determinations regarding trail and bridge design to a subsequent master planning process. *Van Dyke v. Yamhill County*, 80 Or LUBA 348 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an applicant proposes a planned development, and where a local code provision requires the local government to “seek to determine that the development * * * will not create a drainage or pollution problem outside the planned area,” the local government errs by not adopting findings determining whether the construction of a road extension that is proposed as part of and that would provide access to the planned development will create a drainage or pollution problem outside the planned area. *Lundeen v. City of Waldport*, 80 Or LUBA 450 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings are inadequate to explain how a proposed adjustment to the minimum lot size to allow a duplex on a corner lot will not “allow an increase in density in the [applicable] zone” under a local code provision where the findings merely conclude that the adjustment “does not result in an increase in density associated with the proposed use of the development site.” *Hunt v. City of the Dalles*, 79 Or LUBA 265 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county determines that a property qualifies for a forest template dwelling under ORS 215.750 because at least three dwellings existed on surrounding lots or parcels on January 1, 1993, based on a statement of the applicant, a recollection of the prior owner of one of the surrounding dwellings, an email from a contractor who worked on one of the surrounding dwellings, and a statement by the tax assessor that its records showed a dwelling in place on January 1, 1993, but where LUBA concludes that the county erred in accepting the email, where LUBA cannot determine whether the county would have reached the same conclusion without the email, and where the county’s findings failed to address evidence that the tax rolls indicate existence of the dwelling as of July 1993 rather than January 1993, LUBA will remand for the county to adopt adequate findings. *Eng v. Wallowa County*, 79 Or LUBA 421 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Absent a legal definition for how the center point of a property must be established for purposes of determining whether it qualifies for a forest template dwelling under ORS 215.750, a county errs by not explaining the basis for its conclusion that its chosen method is the most appropriate and by not addressing opponents’ arguments challenging that method. *Eng v. Wallowa County*, 79 Or LUBA 421 (2019).

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28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the county approves an amendment to a planned development approval for a resort, golf course and aerial challenge course, and petitioner argues the county improperly construed the applicable provisions of the county’s code, but petitioner has not ultimately challenged the board of county commissioners’ interpretation, or otherwise explained why LUBA is not required to affirm that interpretation under ORS 197.829(1), petitioner has provided no basis for reversal or remand. *Carkulis v. Lincoln County*, 79 Or LUBA 610 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioner argues the county committed a procedural error that prejudiced his substantial rights when the board of county commissioners failed to consider a written statement that petitioner submitted to the board of commissioners at the hearing, but petitioner does not establish that the board of county commissioners actually failed to consider petitioner’s written statement, and petitioner failed to object to the alleged procedural error below, petitioner has not established that the county committed a procedural error or violated an applicable legal standard. *Carkulis v. Lincoln County*, 79 Or LUBA 610 (2019).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county’s comprehensive plan policy provides that “areas” may be designated rural commercial when the areas (1) have a “historical commitment” to commercial uses, or (2) the “areas” are “located within an Unincorporated Community” and have “direct access to a road of at least collector classification,” petitioner has not demonstrated that the county commissioners’ findings regarding the meaning of “area” are inadequate or that the county’s reliance on a previous interpretation as authority for interpreting the term “areas” as used in rezoning criteria to refer only to the property being considered for rezoning, and not also to include the surrounding area, was in error where petitioner cites to no contextual differences suggesting that the term “areas” should be interpreted differently than the same term used in similar rezoning standards, or authority suggesting the county has an obligation to adopt specific findings regarding the parties’ alternative interpretations. *Stafford Investments, LP v. Clackamas County*, 78 Or LUBA 320 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA will uphold a county’s interpretation of its own comprehensive plan policy regarding when a property may be designated rural commercial where the county evaluated the historic uses of the subject property and concluded that those uses did not demonstrate a “historical commitment to commercial uses,” after concluding that (1) temporary commercial uses, (2) incidental or accessory commercial uses to permitted residential or farm uses on the property, and (3) the current unlawful commercial uses on the property were not sufficient to demonstrate “historical commitment” of the property to commercial use, where the county chose to focus on “commitment” which the

county understood to require an inquiry into the nature of the historic uses on the property and a determination of whether commercial uses have constrained the scope of the uses on the property such that going forward only commercial uses are feasible, rather than defining commitment in terms of years of commercial use. *Stafford Investments, LP v. Clackamas County*, 78 Or LUBA 320 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the city code initially requires the city to choose from low density residential (LDR), medium density residential (MDR) and high density residential (HDR) plan map designations based on which designation’s criteria “clearly apply or predominate,” it does not necessarily follow that the LDR criteria could not predominate simply because three of the four MDR criteria are met and five of the six HDR criteria are met, because the criteria for the three map designations are not mutually exclusive and most or all of the LDR criteria appear to be met. *Meisenheimer v. City of Springfield*, 77 Or LUBA 96 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where every residential plan map designation criterion is written so that it applies to an “area,” and the term “area” is not defined and application of the criteria can produce dramatically different results depending on the meaning of “area,” remand is required for the decision maker to explain its interpretation of the term “area.” *Meisenheimer v. City of Springfield*, 77 Or LUBA 96 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the city code initially requires the city to choose from low density residential, medium density residential and high density residential plan map designations based on which designation’s criteria “clearly appl[y]” or “predominate,” that determination is sufficiently ambiguous and subjective that remand is required whether the decision maker does not explain its understanding of what it means to “clearly appl[y]” or “predominate.” *Meisenheimer v. City of Springfield*, 77 Or LUBA 96 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where two of three different residential plan map designation criteria require proximity to a “transit transfer station,” but the code does not define the term “transit transfer station,” and the decision applies those criteria without adopting interpretive findings to explain the decision maker’s understanding of the meaning of the term “transit transfer station,” remand is required. *Meisenheimer v. City of Springfield*, 77 Or LUBA 96 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A hearings officer’s failure to expressly interpret ambiguous code language is not, by itself, a basis for remand, where the hearings officer’s decision primarily addressed a different issue raised by petitioner and LUBA agrees with the interpretation of that code language that is included in the county’s response brief. *Brannon v. Multnomah County*, 77 Or LUBA 275 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a hearings officer’s interpretive findings in support of his conclusion that a front setback and height standard qualify as “site-related development standards” are inadequate, LUBA will nevertheless affirm the hearings officer’s decision where the hearings officer’s decision is (1)

consistent with prior hearings officer decisions, (2) consistent with prior city council decision, (3) consistent with relevant purpose statements, and (4) consistent with the relevant legislative history. *Patel v. City of Portland*, 77 Or LUBA 349 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A hearings officer’s findings cannot be faulted for failing to address the impacts of a modification (variance) on petitioner’s nearby residence, where the findings expressly address those impacts and the relationship between the proposed structure and petitioner’s residence and point out that the proposed structure is downslope and offset from petitioner’s residence. *Patel v. City of Portland*, 77 Or LUBA 349 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A hearings officer’s failure to adopt findings that address potential impacts of a proposed building on one nearby dwelling in granting a maximum height modification (variance) is not a basis for remand, where the “on balance” nature of the modification (variance) approval standard does not necessarily require individual findings for every nearby residence, a public walkway between that dwelling and the proposed dwelling reduces any legitimate expectation of privacy, and the topography and scale of the proposed building is such that where the two structures adjoin each other they will be of similar height. *Patel v. City of Portland*, 77 Or LUBA 349 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local governing body commits no error in requesting that a prevailing party prepare written findings for it to adopt. And the governing body commits no error in adopting written findings that deviate from statements made at the final evidentiary hearing, and it is those written findings and not the oral statements that are subject to LUBA review on the merits. *Rawson v. Hood River County*, 77 Or LUBA 415 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings of fact and law are the decision; they are not evidence. A local governing body commits no error in adopting new findings following a LUBA remand for inadequate findings, without reopening the evidentiary record. *Rawson v. Hood River County*, 77 Or LUBA 415 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. In applying a vacation rental dwelling (VRD) standard that prohibits a VRD that would alter the character of the surrounding area so as to substantially limit permitted uses in the zoning district, the size of the residence, in and of itself, is largely irrelevant where a house of any size is permitted outright in the zone so long as it is occupied by the owner or leased on a long-term basis. Remand is required where the findings denying the VRD focus almost exclusively on the size of the dwelling rather than the proposed VRD use. *Gu v. City of Bandon*, 77 Or LUBA 535 (2018).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will remand a legislative text amendment prohibiting new fossil fuel export terminals when nothing in the city’s decision or the record explains how the amendment is consistent with the city’s comprehensive plan policy requiring the city to “support multimodal freight transportation improvements to provide competitive regional access to global markets.” *Columbia Pacific v. City of Portland*, 76 Or LUBA 15 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a city adopts a legislative text amendment prohibiting expansion of existing fossil fuel terminals without considering consistency with a subarea plan policy objective to “foster a business and policy environment that promotes continued private and public sector investments in infrastructure, facilities, equipment and jobs,” LUBA will remand the decision to the city to consider whether prohibiting expansion of fossil fuel terminals is consistent with the objective. *Columbia Pacific v. City of Portland*, 76 Or LUBA 15 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is necessary where a city adopts a legislative text amendment prohibiting expansion of existing fossil fuel terminals, without addressing consistency with a subarea plan policy objective to “maintain, protect and enhance private transportation investments” in the subarea, “including rail and marine terminals, to ensure continued viability as a major center for the import and export of industrial products in the State of Oregon.” *Columbia Pacific v. City of Portland*, 76 Or LUBA 15 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

In granting design review approval, whether the use for which design review approval is a permitted use in the applicable zoning district is a relevant issue, and when that issue is raised and the city fails to address that issue in its findings, remand is required for the city to adopt findings addressing the issue. *Glenwood 2006, LLC v. City of Beaverton*, 76 Or LUBA 162 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an applicant for a historic landmark designation advances three arguments why a property owner may not refuse to consent under ORS 197.722(1) and thereby terminate consideration of the application, the historic review board errs by terminating consideration of the application without adopting findings that respond to those arguments. *McLoughlin Neighborhood Assoc. v. City of Oregon City*, Or LUBA 180 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a city council has clear authority under a development code to impose conditions of approval to address potential land use conflicts and traffic congestion, and the city council appears to fail to impose conditions requested by project opponents because it was advised by county staff that it lacked authority to impose such conditions of approval, remand is required to the city council to consider imposition of any conditions of approval that it finds are warranted to mitigate any such potential land use conflicts or traffic congestion. *Hagan v. City of Grants Pass*, 76 Or LUBA 196 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a code “principle” is worded as alternative actions an applicant “should” take, and some of the “standards” that follow that “principle” are clearly worded as mandatory, while others are clearly worded as non-mandatory considerations, where the challenged decision does not address the disputed “principle,” remand is required for the city council to determine if the disputed “principles” are mandatory and, if so, to ensure one of the mandatory alternatives is satisfied. *Hagan v. City of Grants Pass*, 76 Or LUBA 196 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the hearings officer did not determine whether property is “buildable land” as defined in ORS 197.295, and the Buildable Lands Inventory (BLI) adopted by Metro that identifies lands on the BLI is not in the record of the proceeding before the county and does not provide an obvious answer to the question of whether all or part of the property is on the BLI, LUBA will remand the decision for further findings on the buildable land issue. *Warren v. Washington County*, 76 Or LUBA 295 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is necessary where a county vacates a public easement based in part on the applicant’s proposal to provide a replacement public easement, but the findings do not address issues raised below regarding the safety of the replacement easement. Even though the vacation criteria do not require a replacement easement or evaluation of the safety of a replacement easement, the proposed replacement easement was an essential justification for vacating the existing easement, and the county therefore must address issues raised below regarding its safety and suitability. *Neighbors for Smart Growth v. Washington County*, 76 Or LUBA 319 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county’s ESEE analysis relies on an inflated estimate of the number of acres of big game habitat added to its Goal 5 inventory and greater existing residential densities in an area to justify allowing significantly increased residential densities on big game habitat in that area, remand is required for a better explanation of the county’s rationale for increasing those residential densities. *Central Oregon Landwatch v. Crook County*, 76 Or LUBA 396 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where state agencies took the position before the county that two different county EFU zones were equally valuable for big game habitat, and without explanation the county amended its comprehensive plan Goal 5 protection program to allow significantly increased residential densities in one of those zones, remand is required for an explanation of the county’s rationale. *Central Oregon Landwatch v. Crook County*, 76 Or LUBA 396 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A 2,000-acre study area may be appropriate for calculating residential density for purposes of a density standard applied in inventoried big game habitat. But where the adequacy of that study area is questioned, and the county simply relies on an overbroad reading of a LUBA decision in an appeal of a prior quasi-judicial decision, remand is required. *Central Oregon Landwatch v. Crook County*, 76 Or LUBA 396 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where parties raise legitimate questions about how a study area will be used to calculate residential density and the local government fails to address those questions when it adopts the amendments governing use of the study area, the study area does not comply with the OAR 660-023-0050(1) requirement for “specific standards,” or the OAR 660-023-0050(2) requirement for “clear and objective” standards. *Central Oregon Landwatch v. Crook County*, 76 Or LUBA 396 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county repeals an existing comprehensive plan policy to protect upland game bird habitat, without any explanation for doing so, remand is required. *Central Oregon Landwatch v. Crook County*, 76 Or LUBA 396 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Remand is necessary where a code provision allows a property line adjustment as long as the adjustment does not result in an unbuildable parcel being made buildable, but the record includes no evidence regarding whether the adjusted parcel had one or more buildable sites prior to the adjustment, and the findings on that point are conclusory and not supported by substantial evidence. *Lowell v. Jackson County*, 75 Or LUBA 251 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where LUBA remands a county’s decision adopting an ordinance so that the county can provide the published notice of the board of county commissioners’ hearing that ORS 215.060 requires, considering petitioners’ arguments directed at the ordinance would be inconsistent with sound principles of judicial review when a different ordinance may be adopted as a result of LUBA’s remand. *Oregon Coast Alliance v. Clatsop County*, 75 Or LUBA 277 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A findings and evidentiary challenge to a county’s decision that wind turbines will not be so noisy as to violate a “substantial impact on the neighborhood” standard will be rejected, where the county found that the wind turbines would be no noisier than a “refrigerator,” an “average home,” a “quiet bedroom,” or a “quiet library,” and petitioner makes no specific challenge to those findings or their evidentiary support. *Burgermeister v. Tillamook County*, 75 Or LUBA 350 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a petitioner challenges the adequacy of a county’s findings that a small wind turbine is of the same general character as “communication towers, utility substations and transmission lines,” arguing that the findings do not address the wind turbines’ moving propellers, which the other uses do not have, but the findings in fact do address the moving propellers and provide a reason why the county did not believe that difference makes the wind turbines of a different “general character,” LUBA will reject petitioner’s findings challenge. *Burgermeister v. Tillamook County*, 75 Or LUBA 350 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A city is not required to adopt findings addressing Goal 8 when adopting a zoning ordinance amendment to prohibit and strictly regulate transient occupancy vacation rentals where the city’s comprehensive plan includes no indication that the city relied on transient occupancy vacation rental dwellings to meet its Goal 8 “recreational facilities” obligations under Goal 8. *Whittemore v. City of Gearhart*, 75 Or LUBA 374 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where comprehensive plan policy requires the city to protect “residential neighborhoods,” and a residential neighborhood has been historically been made up of year-round domiciles, long-term rentals, second homes and transient occupancy vacation rentals, a city is not required to adopt

findings to define “residential neighborhoods,” to adopt an zoning ordinance amendment to strictly regulate transient occupancy vacation rental dwellings, where the findings explain the motivation for the new restrictions is the dramatic increase in transient occupancy vacation rentals with internet-based marketing. *Whittemore v. City of Gearhart*, 75 Or LUBA 374 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner’s findings challenge that replacing short-term vacation rental use with long-term rental and use of residences as domiciles will increase the annual loading on septic systems challenges a finding the city did not make, where the city’s finding is addressing summer month loading and petitioner is addressing annual loading. *Whittemore v. City of Gearhart*, 75 Or LUBA 374 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A city council’s findings that identify the adverse impacts of a significant increase in the use of residences as vacation rental dwellings adequately identifies a “public need” in order to justify amendments to the city’s zoning ordinances which prohibit and severely restrict vacation rental dwelling use. *Whittemore v. City of Gearhart*, 75 Or LUBA 374 (2017).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. In adopting an exception to Goal 14 based on commitment to urban levels of development, a county must do more than address all the factors set out at OAR 660-014-0030(3) and adopt findings of fact. OAR 660-014-0030(4) requires “a statement of reason explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.” Where that explanation for why the facts the county found support a conclusion that the property is committed to urban use is entirely missing, LUBA will sustain the challenge to the Goal 14 exception. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 156 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a hearings officer finds that the only evidence on a key legal issue regarding required mitigation for the impacts of a destination resort was presented by permit opponents, but the record makes it clear that the applicant also submitted conflicting evidence on that legal issue, remand is required. *Central Land and Cattle Company, LLC v. Deschutes County*, 74 Or LUBA 326 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will remand a decision concluding that a unit of land is a legal lot of record based on a county building permit for a dwelling on an adjoining unit of land, where the findings fail to explain or establish how a building permit approval can create a discrete unit of land, much less a legal lot of record. *Grimstad v. Deschutes County*, 74 Or LUBA 360 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Remand is necessary where a code provision requires that development with multiple access points take access from the lower classification street, unless “physical conditions preclude” taking access from the lower classification street, and the city approves the development with access to a higher classification street without any evidence or explanation in the record demonstrating the code provision is complied with or that the exception applies. *McCollough v. City of Eugene*, 74 Or LUBA 573 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is necessary where a code standard requires that a percentage of the “frontage” be occupied by buildings, but the city approved development with 50 feet of frontage occupied by no buildings without any explanation in the record or decision why the standard is met. *McCollough v. City of Eugene*, 74 Or LUBA 573 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is required where a city approves development based on a calculation of a lot’s frontage along a cul-de-sac with the frontage measured in a straight line across the cul-de-sac, instead of along the property line, without any explanation in the record or decision for why measuring the frontage in that manner is consistent with code definition of frontage: the portion of the lot abutting a street. *McCollough v. City of Eugene*, 74 Or LUBA 573 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Imprecision in a hearings officer’s findings regarding the distance between a proposed asphalt batch plant and a greenway and trail and neighboring mobile home park provides no basis for reversal or remand, where there is evidence in the record showing those proximities and the imprecision in the findings do not establish that the hearings officer was under any misapprehension about how close the asphalt batch plant would be to the mobile home park or greenway and trail. *Meyer v. Jackson County*, 73 Or LUBA 1 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A finding that efforts over the last 100 years to address landslide danger to water reservoirs have been “Herculean,” is an expression of opinion, rather than a necessary finding of fact, and need not be supported by substantial evidence. *Fernandez v. City of Portland*, 73 Or LUBA 107 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is necessary where a hearings officer determines that a proposed zone change is consistent with a comprehensive plan map that is not property-specific by matching a single survey line with a road depicted on the plan map, but fails to consider other matchups between survey lines and features on the map that might provide a more accurate alignment of the zoning boundary with the comprehensive plan map, absent an explanation for why the additional survey lines matchups are unreliable. *Laurel Hill Valley Citizens v. City of Eugene*, 73 Or LUBA 140 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

An ordinance that amends the width and features of a buffer area between urban and rural lands is properly viewed as a legislative rather than quasi-judicial decision, where the ordinance was adopted as part of a legislative process that was not bound to result in a decision, the modified buffer affects over 135 acres of land that stretch over one mile in length, and the amendments potentially affect hundreds of property owners. *Forest Park Neighborhood Assoc. v. Washington County*, 73 Or LUBA 193 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where one of seven factors that the comprehensive plan describes as “guid[ing] the determination of the most appropriate zone” guides that areas that have historically developed on large lots should

“remain zoned consistent with the existing development pattern,” and the hearings officer interprets the “existing development pattern” to be synonymous with the existing zoning, remand is required in order for the hearings officer to explain why a change from 10,000-square-foot lots to 8,500-square-foot lots in an area with some 8,500-square-foot lots is not “consistent with the existing development pattern.” *Lennar Northwest, Inc. v. Clackamas County*, 73 Or LUBA 240 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where findings identify an applicable conditional use standard that requires that conditional uses must not impair permitted uses on surrounding property, but the decision includes no findings of fact or findings explaining why the decision maker believed proposed wind turbines satisfied that standard, remand is required for adequate findings. *Burgermeister v. Tillamook County*, 73 Or LUBA 291 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Under ORS 197.835(11)(b), LUBA may overlook inadequate findings where the evidence makes a finding of compliance with the criteria obvious or inevitable. But ORS 197.835(11)(b) generally will not apply where the criteria are subjective and does not apply in a case where an applicant for approval of wind turbines relies on one kind of evidence, opponents rely heavily on a different kind of evidence, and the decision makes no attempt to identify which evidence the decision maker found persuasive or why. *Burgermeister v. Tillamook County*, 73 Or LUBA 291 (2016).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a relevant issue is adequately raised in a land use proceeding, the findings supporting the final decision must address the issue and where the findings do not do so, remand is required. *Space Age Fuel, Inc. v. Umatilla County*, 72 Or LUBA 92 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

ORS 197.835(11)(b) authorizes LUBA to overlook “defective” findings regarding a relevant legal standard, if a party can identify evidence that “clearly supports” a decision that the standard is met. But where the legal standard requires completion of a condition within a “reasonable time,” there are no findings addressing the “reasonable time” standard, and the evidence falls far short of clearly supporting a decision that a 10-year delay in completing the condition was a “reasonable time,” ORS 197.835(11)(b) does not apply. *Space Age Fuel, Inc. v. Umatilla County*, 72 Or LUBA 92 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an ordinance that modified access spacing standards was conditioned so that it would not become effective until a development agreement for construction of roadway improvements specified in the ordinance was executed, execution of a development agreement for improvements that vary significantly from the improvements called for in the ordinance is not sufficient to make the ordinance effective. *Space Age Fuel, Inc. v. Umatilla County*, 72 Or LUBA 92 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a local code provision provides that minimum lot width may be reduced if “[o]n balance, the proposed lots will have dimensions that are consistent with the purpose of this section,” it is

remandable error where the local code provides for nine purposes to be considered, but the decision maker considers only some of the nine purposes, and concludes without explanation, that “on balance, the applicant has not demonstrated that the proposal is consistent with the purpose of the lot dimension regulations.” In this context, such findings are inadequate because an “on balance” determination requires the city to adopt findings explaining how it balances the different purposes. *Sage Equities, LLC v. City of Portland*, 72 Or LUBA 163 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a local code provision regulating minimum lot size requires a determination of whether a proposal is consistent with purposes of the code section, and an applicable code section is intended to ensure that “[e]ach lot has enough room for a reasonably-sized attached or detached house[.]” a finding that the applicants have not demonstrated that “each parcel has enough room for a reasonably sized detached house[.]” is conclusory, because it fails to explain what constitutes a “reasonably-sized” house. *Sage Equities, LLC v. City of Portland*, 72 Or LUBA 163 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand rather than reversal is the appropriate disposition when LUBA sustains an assignment of error to correct the city’s procedural error in failing to provide petitioners with an opportunity to propose conditions in response to new evidence. *Sage Equities, LLC v. City of Portland*, 72 Or LUBA 163 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the applicant for a temporary use permit raised an issue concerning whether its vendors would qualify for a blanket exemption from temporary business license fees, and in its brief the city takes the position that the city intended to reject the applicant’s position, but in its decision the city did not address the issue, remand is required for responsive findings. *Bend/Sisters Garden RV Resort, LLC v. City of Sisters*, 72 Or LUBA 200 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county identifies three related reasons why introduction of inconsistent uses in an area is justified, but the petitioner challenges the findings and evidentiary support for only one reason, the failure to challenge the remaining two reasons is not a basis to reject petitioner’s challenge, where the three reasons are not stated as independent alternatives, and the challenged reason appears to underpins the other two reasons. *Rogue Advocates v. Josephine County*, 72 Or LUBA 275 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is necessary where a county fails to address whether a comprehensive plan policy requiring the county to ensure that incompatible uses are not established “adjacent” to historic sites is violated by a proposal to run heavy trucks close to, but not across, a historic bridge, based on testimony that the truck traffic would make it unsafe for tourists and school groups to park and visit the bridge. Because there is no local interpretation of what “adjacent” means, and remand is required for other reasons, LUBA will remand the decision for the county to interpret the plan policy in the first instance, rather than interpret the plan policy on its own. *Rogue Advocates v. Josephine County*, 72 Or LUBA 275 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. OAR 660-023-0040(1) provides that an ESEE analysis “should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected” when developing a program to protect Goal 5 resources. A challenge to this “clear understanding” requirement that challenges the summary of the ESEE analysis rather than the adopted ESEE analysis itself provides no basis for reversal or remand, where the ESEE analysis identifies conflicts and consequences and identifies possible mitigation measures. *ODFW v. Crook County*, 72 Or LUBA 316 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. OAR 660-023-0040(5)(b) requires that when allowing conflicting uses fully the local government must show why measures to protect the resource to some extent should not be provided. Where a local government adopts a lengthy discussion regarding the extremely poor quality of a site for wildlife habitat and how wildlife that may be attracted to the site pose a serious risk of danger to airplanes landing and taking off from the airport, the decision adequately explains why the site should not be protected to some extent for wildlife habitat under Goal 5. *ODFW v. Crook County*, 72 Or LUBA 316 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city council’s findings appear to find that public sewer is a required public facility that is not available to property that is proposed for development, and the city council nevertheless approves development that will be served by an individual septic system without explaining why that action is consistent with a zoning standard that requires that all required public facilities have capacity and are available or can be made available to the development, remand is required. *Pennock v. City of Bandon*, 72 Or LUBA 379 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A board of county commissioners does not err in failing to address a petitioner’s argument that is inconsistent with a thirteen-year-old board of commissioners’ interpretation of a different LC provision. *Head v. Lane County*, 72 Or LUBA 411 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a petitioner argues below that the proposal is not consistent with the comprehensive plan for reasons that are relevant considerations under several applicable comprehensive plan policies, the petitioner may challenge the adequacy of the findings that were ultimately adopted to establish consistency with those plan policies, even if the petitioner failed to cite the plan policies specifically. *Kine v. City of Bend*, 72 Or LUBA 423 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A finding of compliance with a zone change standard requiring consistency with a comprehensive plan policy requiring that higher density residential uses be sited “near employment” is inadequate, where the finding does not address proximity to employment at all, other than state that the property is adjacent to a small convenience commercial node. *Kine v. City of Bend*, 72 Or LUBA 423 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A finding of consistency with a comprehensive plan policy requiring that higher density residential

use be sited in locations with “good access” to arterials is inadequate, where the finding states only that the site is located near an arterial, but without attempting to evaluate whether the site has or will in fact have good access to the arterial. *Kine v. City of Bend*, 72 Or LUBA 423 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A finding of consistency with a comprehensive plan policy requiring that residential densities maintain a proper relationship between public facilities and services and population distribution is inadequate, where the finding merely recites that proposed higher density residential development will comply with the density requirements in the code, but without explaining how density will maintain the proper relationship between public facilities and population distribution. *Kine v. City of Bend*, 72 Or LUBA 423 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A finding of consistency with a comprehensive plan provision requiring that future development shall respect the character of the existing area is inadequate, where the finding simply states that the general character of the area is “residential,” without evaluating whether placing higher density residential development in the middle of an area zoned and developed with low density residential development is consistent with respecting the character of the existing area. *Kine v. City of Bend*, 72 Or LUBA 423 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a zone change standard requires a finding that adequate transportation networks to support the use are presently provided or planned to be provided concurrently with development of the property, a finding that this standard is met because future development will be subject to subdivision and site design review is inadequate to establish that the subject site has required secondary access or that such access is planned to be provided concurrently with development of the property. *Kine v. City of Bend*, 72 Or LUBA 423 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner fails to establish that findings that a zone change is justified based on evidence of change in the community, where the findings identify two changes in the community that justify the zone change, but the petitioner challenges only the adequacy and evidentiary support for the findings regarding one of the identified changes. *Kine v. City of Bend*, 72 Or LUBA 423 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government adopts alternative findings to address disjunctive statutory requirements for annexation, any inconsistency between the alternative findings is not a basis for remand. *Oregon Coast Alliance v. City of Brookings*, 71 Or LUBA 14 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will reject a petitioner’s challenges to a local government’s conclusion that evidence of mere intent and capability to provide training or issue certifications is sufficient to demonstrate that the facility qualifies as a “firearms training facility” under ORS 197.770, where the petitioner does not acknowledge or challenge the local government’s alternative findings that the facility had in fact provided training and issued certification sufficient to demonstrate that the facility qualifies

as a “firearms training facility.” *H.T. Rea Farming Corp. v. Umatilla County*, 71 Or LUBA 125 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a zoning ordinance is deeply ambiguous regarding whether a previously approved resort master plan continues to have regulatory effect after a new Resort Community Zone is applied to the property, with parts of the ordinance, its supporting findings and the comprehensive plan supporting opposite conclusions, it is appropriate for LUBA to remand for the hearings officer to first address all of the conflicting language. *Widgi Creek Homeowners Association v. Deschutes County*, 71 Or LUBA 321 (2015).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where conditional use approval requires a finding of compliance with a three-pronged standard that “the proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties,” and the decision maker only addresses the “precludes” prong in granting approval, remand is required to address the other two prongs. *Morton v. Clackamas County*, 70 Or LUBA 7 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

An assignment of error challenging a local government’s modification of a previously imposed condition of approval must be denied where there is an unchallenged finding that the condition was not imposed to ensure compliance with any applicable approval criterion. *McCaffree v. Coos County*, 70 Or LUBA 15 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a governing body adopts findings that were prepared by others, those findings become the findings of the governing body, and it does not matter who prepared or previously adopted the findings. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an applicant identifies seven land use regulation standards and takes the position that they are not “clear and objective,” and for that reason may not be applied to deny its application for approval of “needed housing,” a city errs by applying those standards to deny the request for approval of needed housing without explaining in its findings why the city believes it is entitled to apply those standards to deny the application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A local government errs in denying an application for permit approval because it fails to provide adequate parking facilities, where there is no standard that requires “adequate parking facilities” and the local government finds that the proposal complies with the applicable off-street parking requirement. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A county governing body’s unexplained decision to rely on the on-line Merriam-Webster Dictionary definition of the term “penstock” does not constitute an interpretation that is adequate for review,

where the governing body's decision does not show it was a considered choice between possible definitions. *Pacificorp v. Deschutes County*, 70 Or LUBA 89 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA will deny an assignment of error that alleges that the city's findings are inadequate to explain why a proposed PUD is "reasonably compatible and harmonious with adjacent nearby land uses" where the assignment of error fails to challenge all of the city's findings and instead selectively quotes and challenges only portions of the findings. *Oakleigh-McClure Neighbors v. City of Eugene*, 70 Or LUBA 132 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the final decision consists of a single page stating that the application is "approved with conditions" and an attached staff report, which includes findings of compliance with approval standards and recommended conditions of approval, LUBA will conclude that the final decision adopts the staff report as incorporated findings and conditions. *Knapp v. City of Jacksonville*, 70 Or LUBA 259 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is necessary where the decision fails to adopt any findings addressing an applicable standard that limits fill to 20 feet of the "edge of the shoulder of driveways," even if the city implicitly adopted the applicant's position that the edge of a parking lot constitutes the edge of the shoulder of a "driveway," where the site plan appears to show fill placement more than 20 feet from the edge of the parking lot. *Knapp v. City of Jacksonville*, 70 Or LUBA 259 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The local governing body is entitled to some latitude in reconciling competing plan policies that address different but related needs regarding residential land use and housing, and findings are not inconsistent merely because they recognize some tension between the policies. *Hess v. City of Corvallis*, 70 Or LUBA 283 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A challenge to a single sentence that expresses a very broad view of the words "public need" in a comprehensive plan policy does not alone provide a basis for reversal or remand where the local government's decision is supported by almost three single-spaced pages of findings that explain the local government's reasoning. *Hess v. City of Corvallis*, 70 Or LUBA 283 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings are inadequate to explain why fire protection standards are met where the findings do not address whether the standards are met or why the evidence in the record supports a conclusion that it is feasible to meet the standards, particularly where the only evidence in the record is that the fire district is concerned about wildfires and will perform the required inspections. *Del Rio Vineyards, LLC v. Jackson County*, 70 Or LUBA 368 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings are inadequate to explain why the hearings officer concluded that a proposed aggregate operation will not force a significant change in or significantly increase the cost of accepted

farming practices where the decision fails to consider whether the standard is met but rather relies on a determination that a haul road that opponents argue will force a significant change in farming practices was authorized in previous decisions. *Del Rio Vineyards, LLC v. Jackson County*, 70 Or LUBA 368 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where, based on Natural Resources Conservation Service data, opponents take the position that the water table lies two feet below the surface of a proposed topsoil mining operation, but the local government accepts the applicant’s position that the water table lies 125 feet below the surface, but no party identifies the evidence the applicant and local government relied on for the 125-foot estimate, LUBA will remand the decision so that the county can adopt findings explaining the large discrepancy in the two estimates and why it accepted the 125-foot estimate. *Tolbert v. Clackamas County*, 70 Or LUBA 388 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the location, nature and height of an earthen berm that a hearings officer relied on to find that a proposed top soil mining operation complies with screening and sound mitigation standards is unclear, LUBA will remand for the hearings officer to adopt findings that more clearly identify the location, nature and height of the required berm. *Tolbert v. Clackamas County*, 70 Or LUBA 388 (2014).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is necessary where a city deletes two refinement plan policies requiring protection of existing manufactured dwelling parks, and zones the parks to make them non-conforming uses, but the findings do not explain how the amendments are consistent with a comprehensive plan policy requiring conservation of existing affordable housing. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Remand is required where the hearings officer’s findings either do not address an applicable approval criterion at all, or rely on findings from a different decision made more than 10 years prior to the challenged decision that appear to be addressing a different approval criterion. *Vesper Park v. Washington County*, 68 Or LUBA 106 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A city’s final decision includes adequate findings and a code interpretation adequate for review, where the final decision adopts a planning staff decision as its own, and the planning staff decision embodies a code interpretation that is adequate for review. *Sellwood-Moreland Improvement League v. City of Portland*, 68 Or LUBA 213 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings are adequate to demonstrate that in determining that a proposed conditional use airport is compatible with the neighborhood, the county considered “other related impacts” from the airport, including testimony from neighbors regarding safety and the risk of crash, and imposed conditions of approval that require that addressed those safety concerns. *Yih v. Linn County*, 68 Or LUBA 412 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings are inadequate to explain why a tentative planned unit development (PUD) and subdivision will not be a significant risk to public health and safety, where evidence in the record demonstrates that the portions of the property that will be developed with roads, parking lots, and sewer, water and electrical lines contain loose soils. In that circumstance, where the findings do not conclude that the public health and safety standard does not apply to roads, parking lots, and sewer, electrical and water lines, and there is no finding that these aspects of the proposed PUD and subdivision can be constructed on those loose soils without causing unreasonable or significant public health and safety concerns, the findings are inadequate. *Willamette Oaks, LLC v. City of Eugene*, 67 Or LUBA 33 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The findings denying an application for a quasi-judicial zoning and comprehensive plan map amendment are adequate, where they explain that the two commissioners who participated in the decision could not agree whether the application satisfied two approval criteria and that by operation of law that failure to achieve a majority vote in favor of the application results in denial. The county was not required to adopt findings that are adequate to deny the application on the merits, where the decision does not deny the application on the merits. *Warren v. Josephine County*, 67 Or LUBA 74 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Even if there is no statutory or other legal requirement that a building permit must in all cases be supported by findings, the record must be sufficient for LUBA or Court of Appeals review if the building permit qualifies as a land use decision. But the initial burden in an appeal to LUBA of such a building permit is to establish an arguable legal error. Once that is done, if the record is not sufficient to establish that the local government correctly applied the law, remand may be required. *Kerns Neighbors v. City of Portland*, 67 Or LUBA 130 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will not consider whether a city erred in the way it applied the roof height measuring method it applied, where petitioner only argues that a different roof height measuring method should have been used and LUBA concludes that the city applied the correct roof height measuring method. *Kerns Neighbors v. City of Portland*, 67 Or LUBA 130 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings that batching operations on property zoned exclusive farm use that would be prohibited under ORS 215.301(2) are authorized under ORS 215.301(2) and a 1981 permit are inadequate where the findings do not respond to arguments that a 1997 permit modified the 1981 permit to disallow batching operations. *Poto v. Linn County*, 67 Or LUBA 162 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A hearings official's expressions of misgivings about the quality of evidence submitted by an applicant do not mean the hearings officer required the applicant to meet an impermissible "absolute certainty" burden of proof. *Teen Challenge v. Lane County*, 67 Or LUBA 300 (2013).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Notwithstanding that a city erroneously determined that a particular section of the development code exempted a permit applicant from development code buffer requirements, where another section of the development code cited by the petitioner clearly does exempt the permit applicant from the buffer requirements, LUBA will affirm the city’s decision. ORS 197.835(11)(b). *Nielsen v. City of Gresham*, 66 Or LUBA 24 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city is required upon annexation to apply the city zoning district that “most closely approximates” the county zoning district and the city applies a city zoning district that treats 13 uses much differently than another city zone that appears to regulate those 13 uses in the same way the county zoning district regulates those 13 uses, remand is required because the city’s findings inadequately explain why the zoning district the city applied nevertheless “most closely approximates” the county zoning district it replaces. *Mintz v. City of Beaverton*, 66 Or LUBA 118 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where the city takes the position during the initial proceedings below that an adopted plan is an applicable approval criterion, but reverses that position during the multi-hearing proceedings before the city council and takes the position that the adopted plan is not an applicable approval criterion because it is not yet effective, a city does not commit error in failing to adopt findings that confirm that the plan is not a source of approval criteria. *Vest v. City of Molalla*, 66 Or LUBA 155 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Substantial evidence in the record supports a city’s finding that a proposed cell tower location is the only feasible location where the evidence demonstrates that (1) alternative sites are located outside of the search area identified by applicant for meeting its coverage objectives, (2) the tower cannot reasonably be located within a right-of-way because there is not sufficient area within the right-of-way to locate all of the necessary equipment, (3) co-location is not feasible because the heights of existing towers are inadequate, and (4) co-location on an existing rooftop facility is not feasible due to inadequate structural integrity of the rooftop. *Hill v. City of Portland*, 66 Or LUBA 250 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where on remand of a decision that amends a county zoning ordinance, the county adopts a new ordinance with new amendments, but does not explicitly or implicitly re-adopt the original ordinance, on appeal to LUBA of the new ordinance the petitioner cannot challenge the original ordinance or the findings adopted on remand that are intended to support the original ordinance. *Hatley v. Umatilla County*, 66 Or LUBA 265 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The absence of findings addressing whether an ordinance adopted on remand is consistent with applicable comprehensive plan policies is not a basis for reversal or remand, where the ordinance merely deletes text from the original ordinance subject to remand, on remand the county adopted findings concluding that the original ordinance is consistent with the plan policies, and the

petitioner identifies nothing in the deletions accomplished by the remand ordinance that might cause the county to reach a different conclusion with respect to the remand ordinance. *Hatley v. Umatilla County*, 66 Or LUBA 265 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A challenge that the local government’s findings are inadequate to identify potential conflicts under OAR 660-023-0180(5)(b) from a proposed aggregate mining operation provides no basis for reversal or remand of a decision where the petitioner’s argument reads in isolation two sentences from 77 pages of findings while ignoring several pages of findings that make clear that the local government considered all conflicts required to be considered under OAR 660-023-0180(5)(b), and where the petitioner does not identify with any specificity a particular source of conflict that the local government failed to consider. *Protect Grand Island Farms v. Yamhill County*, 66 Or LUBA 291 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings are inadequate to explain why a prohibition on constructing a berm within a floodway is not applicable, where the decision relies on construction of a noise berm to be located partially within a floodway to minimize noise conflicts with sensitive uses. *Protect Grand Island Farms v. Yamhill County*, 66 Or LUBA 291 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner’s arguments that the local government misconstrued OAR 660-012-0070(5) and (6) and adopted inadequate findings not supported by substantial evidence do not provide a basis for reversal or remand, where OAR 660-012-0070(7) governs the local government’s decision instead of OAR 660-012-0070(5) and (6), and the two sets of rules have different substantive terms, requirements and standards. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Remand is necessary where a county adopts standards that impose limitations on development of wind energy facilities, but the record includes no findings or other indications that the county considered whether the amendments are consistent with comprehensive plan policies that encourage the county to promote development of alternative energy sources. *Cosner v. Umatilla County*, 65 Or LUBA 9 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. In approving a property line adjustment between two EFU-zoned parcels to facilitate a proposed farm dwelling, under a standard that requires that the adjusted parcel “qualifies for a homesite,” a county may rely on a concurrent county decision approving a farm dwelling on the adjusted parcel to conclude that the “qualifies for a homesite” standard is met, and need not require farm income evidence or adopt findings as part of the adjustment decision that again demonstrate that the adjusted parcel qualifies for a farm dwelling. *Louks v. Jackson County*, 65 Or LUBA 58 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A hearings officer’s finding that a code requirement that a proposed kennel be compatible with surrounding uses is met where the kennel is required to satisfy applicable DEQ noise standards is inadequate, where the findings do not explain why the hearings officer concluded that compliance

with the applicable DEQ noise standards necessarily means that the proposed use is compatible with surrounding residential uses. *Butcher v. Washington County*, 65 Or LUBA 263 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A hearings officer’s finding that a proposed kennel operation is compatible with surrounding uses is inadequate and is not based on substantial evidence in the record, where the findings do not explain the basis for assuming that impacts from the noise and traffic associated with the kennel operation will be limited to the kennel’s historic operating levels, and no condition of approval limits the operation to its historic levels. *Butcher v. Washington County*, 65 Or LUBA 263 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will remand a decision where the findings are inadequate to explain why a hearings officer interprets setback provisions that require a 100-foot setback to apply only to a proposed new kennel building and to not apply to outdoor dog play areas. *Butcher v. Washington County*, 65 Or LUBA 263 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A comprehensive plan policy that requires a city to “adopt a program to improve maintenance of septic systems for the benefit of all residents” does not specify how the program will improve septic system maintenance and therefore does not necessarily require that a city septic system maintenance system must be mandatory and regulatory, as opposed to voluntary and educational, so long as the program will improve maintenance of septic systems. *Oregon Coast Alliance v. City of Dunes City*, 65 Or LUBA 358 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Although there is no general legal requirement that all legislative land use decisions must be supported by findings, where the scope and meaning of at least some applicable comprehensive plan policies are unclear, it is highly unlikely that a decision to replace an existing mandatory, regulatory program to improve septic system maintenance with a voluntary, educational program to achieve the same goal will be defensible on appeal without adequate findings. *Oregon Coast Alliance v. City of Dunes City*, 65 Or LUBA 358 (2012).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a permit extension criterion requires a local government to find that the permit applicant was not responsible for its failure to complete the development authorized by the permit within the term of the permit, a local government errs in finding that its determination concerning whether the applicant was responsible for that failure need not be supported substantial evidence. And while an applicant’s claim that it could not have completed development within the term of the term of the original permit due to a historic downturn in the economy might be substantial evidence if that is the only evidence in the record, that unsubstantiated claim is not substantial evidence if there is other evidence that the applicant was seeking an alternate development proposal during the term of the original permit. *Bard v. Lane County*, 63 Or LUBA 1 (2011).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. General findings that address some of the impacts of a proposal on the surrounding neighborhood

are inadequate to explain how the proposal satisfies specific conditional use criteria that apply to the proposal. *Poe v. City of Warrenton*, 63 Or LUBA 20 (2011).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county land use code enforcement proceeding is initiated by a “complaint” rather than “an application for a land use decision,” and the procedures followed by the county were its procedures for code enforcement proceedings rather than the quasi-judicial land use hearing procedures set out at ORS 197.763, the ORS 197.763(1) and 197.835(3) “raise it or waive it” rule does not apply, and petitioner’s failure to raise an issue below does not prevent petitioner from raising the issue for the first time at LUBA. *Wigen v. Jackson County*, 63 Or LUBA 490 (2011).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the critical finding in a hearings officer’s decision in a code enforcement proceeding is that petitioner had a longstanding regular practice of mowing grass and blackberry bushes in the riparian zone on his property, the only evidence that supports that finding is the testimony of the code enforcement officer based on field notes regarding conversations he had with petitioner that are not part of the record, petitioner testifies in the hearings before the hearings officer that he mowed in the riparian area on only one occasion, and it is not clear that the hearings officer even recognized that the testimony of petitioner and the code enforcement officer conflicted on the critical issue, remand is required. The hearings officer may be able to explain why he believed the code enforcement officer over petitioner, but without any explanation his decision is not supported by substantial evidence. *Wigen v. Jackson County*, 63 Or LUBA 490 (2011).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a hearings officer’s order appears to require that a property owner submit a plan to the Oregon Department of Fish and Wildlife to replant a significant area of petitioner’s property with native vegetation and the factual and legal basis for that requirement is not apparent in the hearings officer’s decision, the decision must be remanded so that the hearings officer may explain the factual and legal basis for the order. *Wigen v. Jackson County*, 63 Or LUBA 490 (2011).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an applicable comprehensive plan policy allows a local government to approve a partition of a property that is located partially within an urban growth boundary (UGB) along the UGB line if the property is “legally created,” remand is required where the local government’s findings fail to explain how the dividing an approximately 30-acre parent parcel in 1973 without review under applicable land partition regulations results in a “legally created” property. *Jacobsen v. Douglas County*, 62 Or LUBA 1 (2010).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioners argue the city erroneously assumed that future industrial development would result in 10 employees per acre in arriving at an estimate of the gross buildable acres needed, but it is clear from the city’s findings that its estimate of gross buildable acres needed did not rely on that assumption, petitioner’s assignment of error provides no basis for reversal or remand. *Friends of Yamhill County v. City of Newberg*, 62 Or LUBA 5 (2010).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where audio recording of the hearing at which a motion to adopt a proposed plan was passed discloses that the motion also was sufficient to adopt a separate supporting findings document, the fact that the motion described in the minutes of that hearing makes no mention of the separate findings document provides no basis for remand. *Parker Johnstone Wilsonville Honda v. ODOT*, 62 Or LUBA 116 (2010).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner’s argument that the city failed to comply with a transportation system plan policy that requires that the city hold a public meeting with affected property owners before selecting a roadway alignment provides no basis for reversal or remand, where the city adopted findings that the cited policy does not apply to the kind of decision on appeal and was satisfied even if it did apply, and petitioner fails to assign error to or otherwise challenge those findings. *Reeves v. City of Wilsonville*, 62 Or LUBA 142 (2010).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local government decision that determines that an entire property is located on a foredune and denies an application for a dwelling based on that determination will be remanded where the findings do not explain why the local government reached the conclusion it reached and the conclusion is not supported by any evidence in the record identified by the local government. *Rudell v. City of Bandon*, 62 Or LUBA 279 (2010).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner’s objection to a hearings officer’s finding that the portion of a site that is within a designated potential landslide area is “relatively small” provides no basis for reversal or remand where the finding is accurate and supported by the record and the finding has no apparent effect on the hearings officer’s application of the applicable landslide hazard regulation. *Gravatt v. City of Portland*, 62 Or LUBA 382 (2011).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county considers a variety of evidence in concluding that a tract is not suitable for commercial forest use but does not consider the cf/ac/yr of wood fiber data that must be considered in inventorying lands that are suitable for commercial forest use under OAR 660-006-0010 and 660-006-0005(2), remand is required. *Just v. Linn County*, 60 Or LUBA 74 (2009).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government’s findings rely heavily on particular factors set out in OAR 660-033-0020(1)(a)(B) to conclude that land does not qualify as “other lands” that are suitable for farm use under OAR 660-033-0020(1)(a)(B), and petitioner waived his right to challenge the findings concerning those particular factors because petitioner raised no issue below concerning those particular factors, LUBA will deny an assignment of error that challenges the adequacy of the county’s OAR 660-033-0020(1)(a)(B) findings. *Just v. Linn County*, 60 Or LUBA 74 (2009).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A county’s conclusory finding that a subdivision applicant does not have a vested right to complete a subdivision under Section 5(3) of Ballot Measure 49 provides no basis for reversal or remand,

where the county had adopted a decision that reached the same conclusion over one month earlier and that separate decision had not been judicially challenged and was therefore final. *Hoffman v. Jefferson County*, 60 Or LUBA 101 (2009).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioner assigns error under OAR 660-012-0060, arguing that the county inadequately mitigated for the traffic impacts of a proposed destination resort, but petitioner neither assigns error to the county’s finding that the destination resort will not “significantly affect” the transportation facilities within the meaning of OAR 660-012-0060 nor challenges the legal reasoning that the county adopted in support of that finding, LUBA will deny the assignment of error. *Eder v. Crook County*, 60 Or LUBA 204 (2009).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Although a local government land use decision maker is entitled to choose between conflicting believable expert testimony, where the decision maker does not demonstrate that it recognized the conflicting expert testimony and chose to believe one expert’s testimony rather than the other expert’s testimony, remand is required. *Gould v. Deschutes County*, 59 Or LUBA 435 (2009).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Absent a local or specific statutory requirement that legislative land use decisions be supported by findings, such decisions need not be supported by findings as long as LUBA and the appellate courts with the aid of the parties and the record can perform their review function. *Friends of Umatilla County v. Umatilla County*, 58 Or LUBA 12 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

In challenging a finding that a city adopted in support of its decision to vacate certain rights-of-way, a petitioner must do more than allege the challenged finding is false. *Bowers v. City of Eugene*, 58 Or LUBA 51 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

ORS 197.829(2) permits LUBA to interpret a local code provision in the first instance where there is a missing or inadequate governing body interpretation, but does not permit LUBA to supply missing findings of compliance with applicable approval criteria. *Holbrook v. City of Rockaway Beach*, 58 Or LUBA 179 (2009).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an applicable comprehensive plan policy and intergovernmental agreement provision require a city to determine that adequate public services are available to a property that is proposed to be annexed, a city errs in failing to adopt findings regarding the availability of police protection. *Bowler v. City of Cave Junction*, 56 Or LUBA 152 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings that describe the only forest practice that adjoining timber operators identified as impacted by proposed mining on forest land are adequate for purposes of a code significant change/increase standard, where the code standard does not implement the statutory significant change/increase standard, and the petitioners do not explain why the code standard requires an

exhaustive description of all forest practices on nearby lands. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. While a county’s failure to describe accepted farming practices on nearby lands would likely require remand under the ORS 215.296(1) significant change/increase standard or a code provision implementing that standard, such a failure is not necessarily reversible error under a similar code significant change/increase standard that does not implement the statute. Any failure to describe accepted farming practices under the code standard is harmless, where the county adopted unchallenged findings, supported by substantial evidence, that the proposed mining will not significantly affect any farm or forest practices. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a street vacation standard required the city to find “a greater public benefit would be obtained from the vacation than from retaining the right-of-way in its present status” and the city adopts findings that, among other things, explain that the vacation will cause minimal out of direction travel, petitioner must do more than quote parts of the city’s findings and claim they are preposterous. *Olson v. City of Springfield*, 56 Or LUBA 229 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city applies a street vacation criterion that requires the city to find “a greater public benefit would be obtained from the vacation than from retaining the right-of-way in its present status” and finds the required benefit would be realized by the new secure parking area that would be constructed in the vacated right-of-way adjacent to a new Justice Center, remand is not required simply because petitioner would have applied that “greater public benefit” criterion differently and retained the right-of-way for transportation purposes. With such a subjective standard, different reasonable persons could easily reach different conclusions about the public benefit to be derived from the proposed street vacation. *Olson v. City of Springfield*, 56 Or LUBA 229 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A code provision stating that where a planned development standard and the underlying zone conflict, the planned development standard controls does not resolve conflicts between planned development standards and other code provisions that are not part of the underlying zone. *Saddle Butte Residents’ Association v. Douglas County*, 56 Or LUBA 269 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A criterion that requires a county to find that a proposed subdivision is “consistent with the general nature of the area” is very subjective. Where the county’s findings cite the existence of many existing small parcels in the area that are similar in size to the proposed subdivision lots and petitioners merely cite concerns about possible interference with farming operations and a wildlife refuge, the concerns that petitioners cite are not so overwhelming that the county was obligated to acknowledge and expressly address those concerns in its findings. *Hines v. Marion County*, 56 Or LUBA 333 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city “overrides” code provisions requiring that a subdivision developer construct

sidewalks without identifying a basis in the city's code or comprehensive plan to waive or vary the sidewalk requirement, LUBA will remand the decision for the city to adopt findings explaining what authority allows the city to override the sidewalk requirement. *Soares v. City of Corvallis*, 56 Or LUBA 551 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where two 25-foot test pits show an aggregate layer that is at least 20 feet deep and shows no sign of diminishing and the decision maker does not seem to have appreciated that the test pits were consistent with the first 25 feet of two deep borings located elsewhere on the site that showed an aggregate layer of far more than the 25-foot width required to qualify as a significant aggregate resource site under OAR 660-023-0180(3)(d)(B)(ii), remand is required so that the county can make it clearer that it understood the significance of the two 25-foot test pits. *Westside Rock v. Clackamas County*, 56 Or LUBA 601 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where LUBA determines that three county findings regarding the significance of an aggregate site are not supported by substantial evidence, are inadequately explained, or fail to appreciate the significance of certain evidence in the record, remand is required where LUBA cannot assume the findings were minor or unimportant parts of the county's ultimate decision that the applicant failed to demonstrate that the aggregate site qualifies as "significant," under OAR 660-023-0180(3). *Westside Rock v. Clackamas County*, 56 Or LUBA 601 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA will remand a decision approving a broadcast tower that requires an above-ground water storage tank but does not require that the tank be screened as required by site design approval criteria. *Curl v. City of Bend*, 56 Or LUBA 746 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a comprehensive plan categorizes lands within the urban growth boundary according to suitability for development, a county errs by denying a request for rezoning on the basis that the requested rezoning is inconsistent with the comprehensive plan, where the findings identify nothing in the comprehensive plan that supports a conclusion that the property's low suitability rating precludes the requested rezoning. *Sperber v. Coos County*, 56 Or LUBA 763 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a rezoning standard requires a finding that the rezoning "will not seriously interfere with permitted uses on other nearby parcels," a county's findings that the standard is not met due to "access and fire safety concerns" are inadequate, where those findings address concerns with development on the rezoned property and have no obvious bearing on interference with development on nearby parcels. *Sperber v. Coos County*, 56 Or LUBA 763 (2008).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the dispute during local proceedings on remand regarding a visual impact approval criterion centered on whether photographic evidence submitted by broadcast tower opponents simulated six-foot diameter microwave antennas or much larger antennas, the hearings officer's unexplained decision to allow microwave antennas to be sited on the towers without additional review so long

as they did not exceed eight feet in diameter requires remand so that the hearings officer can explain her selection of the eight-foot parameter. *Save Our Skyline v. City of Bend*, 55 Or LUBA 12 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A hearings officer’s decision to incorporate a “safe harbor” in her approval of broadcast towers that would allow additional microwave antennas to be sited on the towers in the future without additional review against visual impact approval criteria so long as they were not sited higher than 150 feet is erroneous, where the decision included no explanation for why the 150-foot parameter was selected. *Save Our Skyline v. City of Bend*, 55 Or LUBA 12 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county’s findings note that property contains a spring and a road and that adjacent lands contain dwellings, but do not otherwise explain why the spring and the road and the adjacent dwellings make resource use of the property impracticable, the county’s findings are inadequate to demonstrate compliance with OAR 660-004-0028(2). *Gordon v. Polk County*, 55 Or LUBA 57 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A city’s failure to find that it is feasible to construct a driveway without encroaching on adjacent property is not a basis for remand, where the applicable criteria require no finding of feasibility, and the petitioner identifies no physical or other impediment to constructing the driveway without encroachment. *Brodersen v. City of Ashland*, 55 Or LUBA 350 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a petitioner does not explain why challenged findings are inadequate, but rather disagrees with the conclusion reached in those findings, petitioner’s challenge to the findings will not be sustained. *Knapp v. City of Corvallis*, 55 Or LUBA 376 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. To obtain remand of development approval based on evidentiary grounds, it is insufficient to simply cite the evidence that the hearings officer rejected and argue that the evidence undermines the hearings officer’s ultimate evidentiary choice. The petitioner must also challenge and establish error in the findings in which the hearings officer explained why he found petitioner’s evidence unreliable. *Wal-Mart Stores, Inc. v. City of Gresham*, 54 Or LUBA 16 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A finding that it is feasible to incorporate design features into a turn lane to render it safe is an insufficient basis to conclude that the turn lane complies with applicable criteria, where the hearings officer fails to impose any conditions requiring that such design features be used. *Wal-Mart Stores, Inc. v. City of Gresham*, 54 Or LUBA 16 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Petitioner’s argument that a finding is not supported by substantial evidence provides no basis for reversal or remand, where petitioner does not establish that the finding is required to address a

relevant legal standard. *Meadow Neighborhood Assoc. v. Washington County*, 54 Or LUBA 124 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A city’s findings in support of its decision to deny permit approval must adequately interpret and apply the criteria the city relies on to deny the application in a way that is consistent with the language of the criteria and must provide a coherent explanation for why the city believes the proposal does not comply with the criteria. A city decision will be remanded where its findings do not comply with these minimum requirements for adequate findings. *Caster v. City of Silverton*, 54 Or LUBA 441 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city’s decision focuses largely or entirely on the water tower that proposed cellular antennae would be sited on, and the antennae rather than the water tower are the subject of the conditional use application, the city’s decision will be remanded. *Caster v. City of Silverton*, 54 Or LUBA 441 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where it is clear that an ordinance that was adopted to replace a previously adopted ordinance was relying on the findings that were adopted to support the previously adopted ordinance, a county’s failure to expressly state that it was relying on those findings to support the replacement ordinance provides no basis for reversal or remand. *Thompson v. Umatilla County*, 54 Or LUBA 531 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A planning staff decision that a proposed crematory expansion to a nonconforming mortuary use is an outright permitted use in a residential zone will be remanded, where the decision does not explain the basis for that conclusion and the city’s code appears to prohibit expansions of nonconforming uses. *Hallowell v. City of Independence*, 53 Or LUBA 165 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local government errs in imposing a condition of approval limiting the maximum number of lots when that number was lower than the number of lots proposed by the applicant and the density allowed in the zone is consistent with the number of lots proposed by the applicant. *Gunzel v. City of Silverton*, 53 Or LUBA 174 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government rejects an engineer’s report supporting the applicant’s proposed lot sizes as not being “adequate documentation” under a local code provision allowing the applicant’s proposed lot sizes based on that documentation, it is error for the city to fail to fully explain why the report is inadequate. *Gunzel v. City of Silverton*, 53 Or LUBA 174 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A broadcast tower approval criterion that requires a decision maker to determine whether identified “public benefits outweigh any impacts which cannot be mitigated” is subjective. In assessing a findings and evidentiary challenge to a decision maker’s weighing of public benefits, the question is whether that weighing is (1) inadequately explained (necessitating a remand for additional

findings) or (2) unreasonable (and therefore not supported by substantial evidence). *Belluschi v. City of Portland*, 53 Or LUBA 455 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a city council adopts a staff report as supporting findings and the staff report quotes the applicant's proposed findings verbatim, but inserts the words "applicant states" at the beginning of each finding, LUBA will reject a challenge that the findings are inadequate to express what the city council found where: (1) the findings are worded as findings, (2) the findings immediately follow the criteria the findings address, and (3) it is sufficiently clear from the decision that the city council intended to adopt the applicant's findings as its own. *Ettro v. City of Warrenton*, 53 Or LUBA 485 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a rezoning opponent specifically cites and quotes comprehensive plan policies and argues the proposed rezoning is inconsistent with those policies, it is generally risky for a local government to approve the rezoning without specially addressing the cited comprehensive plan policies. However, where the petitioner makes no attempt to tie his substantive arguments to the cited plan policies and the city's responsive findings adequately address petitioner's substantive arguments, the city's failure to tie its responsive findings to the cited plan policies is not important. *Ettro v. City of Warrenton*, 53 Or LUBA 485 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a petitioner challenges a city council's findings concerning a screening and buffering criterion, but fails to challenge a finding that the city council adopted by reference, and that finding addresses and finds that the proposal complies with that criterion, LUBA will deny the assignment of error. *Ettro v. City of Warrenton*, 53 Or LUBA 485 (2007).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where planned unit development subdivision opponents argued before the city that the proposal was inconsistent with a number of comprehensive plan provisions, and it is not clear why at least some of those comprehensive plan requirements are not relevant approval requirements, the city erred by not addressing those comprehensive plan provisions in its findings and explaining why they do not apply as approval requirements or why the proposal is consistent with those requirements if they do apply. *Wasserburg v. City of Dunes City*, 52 Or LUBA 70 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a city adjustment committee lacks authority to consider a legal issue, the adjustment committee does not err by failing to address that legal issue in its findings, even though petitioners raised the legal issue below. *O'Brien v. City of Portland*, 52 Or LUBA 113 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA frequently analyzes findings challenges and evidentiary challenges separately and generally analyzes findings challenges first, because LUBA's resolution of the findings challenge frequently affects its resolution of the evidentiary challenge or makes it unnecessary to decide the evidentiary challenge. *Wal-Mart Stores, Inc. v. City of Bend*, 52 Or LUBA 261 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. It is not unreasonable for a local decision maker to cite issues raised regarding the evidence submitted by an applicant’s engineers that were not responded to, and to rely on opponents’ experts’ testimony to find that the applicant failed to carry its burden of proof. *Wal-Mart Stores, Inc. v. City of Bend*, 52 Or LUBA 261 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where specific criticisms of a transportation impact analysis are made, silence or continued support of the transportation impact analysis by the city engineer and Oregon Department of Transportation engineers is not sufficient to refute those issues. Ignoring issues is not the same thing as implicitly refuting those issues. *Wal-Mart Stores, Inc. v. City of Bend*, 52 Or LUBA 261 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Under a variance standard requiring that the “hardship” not be “self-created,” a finding that the “applicant’s desire to partition his property” created the “hardship” is an insufficient basis to deny the variance request, where the hardship is the lack of alternative access to the proposed parcel and there is no explanation in the findings how petitioner’s desire to partition his property created the lack of alternative access to the proposed parcel. *Krishchenko v. City of Canby*, 52 Or LUBA 290 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where (1) a hearings officer clearly recognizes a flooding issue, (2) the hearings officer thoroughly analyzes the issue, (3) LUBA can see no obvious flaws in the hearings officer’s analysis, and (4) petitioners neither acknowledge nor make any attempt to challenge the findings, petitioners fail to allege error that would provide a basis for reversal or remand. *Bickford v. City of Tigard*, 52 Or LUBA 301 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a zoning map amendment criterion requires the applicant to demonstrate that the uses allowed in the new zone would not “materially and/or adversely affect the character of the neighborhood,” selection of too small an area for analysis could frustrate the purpose of the criterion. However, where petitioners do not show that the area selected was too small and the city’s findings explain that the residential to commercial rezoning is in an area that is already a mixed commercial and residential area, petitioners do not demonstrate a basis for remand. *Cornelius First v. City of Cornelius*, 52 Or LUBA 486 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county signs a land use compatibility statement certifying that a state agency permit applicant’s proposal complies with all applicable local land use regulations, but fails to include any findings to support that certification, LUBA will remand the decision so that the county can adopt the required findings. *Wolfgram v. Douglas County*, 52 Or LUBA 536 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner may not fail to assign error to a finding that certain issues were not preserved and are not within the hearings officer’s scope of review, and instead on appeal to LUBA, simply assign

error with respect to the same issues that the hearings officer found were not preserved. *Franzke v. Tigard*, 52 Or LUBA 761 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. That a city’s decision is based in part on an erroneous interpretation of applicable law provides no basis for remand where its decision is separately based on findings that correctly interpret and apply the applicable law. *Leupold & Stevens, Inc. v. City of Beaverton*, 51 Or LUBA 65 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city’s decision was sustained in a prior appeal based on an interpretation that a comprehensive plan goal would be applied at the time a building permit was issued for the property, and the building permit is subsequently issued without addressing the comprehensive plan goal, LUBA will remand for the city to adopt findings addressing the comprehensive plan goal. *Jebousek v. City of Newport*, 51 Or LUBA 93 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where there are several ways a site may qualify as a geologic hazard area and a permit is issued in which the city considers some but not all of those ways, LUBA will remand so that the city can adopt the required findings. *Jebousek v. City of Newport*, 51 Or LUBA 93 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city is required by the Metro Code to prepare and release a report prior to annexation that describes how the annexation is consistent with agreements that the city is not a party to, but the Metro Code review criteria that govern review of the annexation on appeal do not require that the annexation be consistent with agreements the city is not a party to, Metro may not deny the annexation ordinance based on the city’s failure to comply with the report requirement without explaining why that violation of the report requirements has the same status as a violation of one of the review criteria and provides a basis for denial. *City of Damascus v. Metro*, 51 Or LUBA 210 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county finds that an original mining plan did not “minimize” turbidity impacts within the meaning of OAR 660-023-0180(5)(c) and 660-023-0180(1)(g), the county is not barred by the waiver principle in *Beck v. City of Tillamook*, 313 Or 148, 153-54, 831 P2d 678 (1992), from revisiting that turbidity impact minimization question where the county’s decision regarding the original mining plan is remanded for other reasons and on remand a revised and more limited mining plan is proposed. *Westside Rock v. Clackamas County*, 51 Or LUBA 264 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county denies an application for a mineral and aggregate zoning overlay because the applicant failed to supply a certificate that the mine would not result in an increase in flood elevations, the county’s decision must identify the legal requirement that the certificate be submitted at the time the zoning overlay is approved. *Westside Rock v. Clackamas County*, 51 Or LUBA 264 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a variance criterion allows a variance if topography makes strict compliance with the lot depth requirement an unreasonable hardship and the city’s findings granting the variance for four lots do not explain why a proposed roadway could not be relocated slightly to make four lots comply with the lot depth requirement, remand is required. *Lockwood v. City of Salem*, 51 Or LUBA 334 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. If the argument included in support of an assignment of error clearly alleges that findings are not supported by substantial evidence, the fact that an assignment of error that challenges the adequacy of the city’s findings does not expressly include a substantial evidence challenge does not preclude LUBA review of the substantial evidence arguments that follow that assignment of error. *Neighbors 4 Responsible Growth v. City of Veneta*, 51 Or LUBA 363 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a variance criterion requires the city to find that “public need” outweighs “adverse impacts” of developing wetlands and a party argues there is no market demand for the commercial development that the variance would allow, the city must address in its findings the role, if any, that market demand plays under the variance criterion and explain why the public need, as the city interprets those words, outweighs the identified potential adverse impacts. *Neighbors 4 Responsible Growth v. City of Veneta*, 51 Or LUBA 363 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a variance criterion requires the city to find that “public need” outweighs “adverse impacts” of developing wetlands and a party identifies many potential adverse impacts of such development, a city’s findings must do more than explain how the potential adverse impacts will be mitigated; the findings must explain why the public need outweighs the potential adverse impacts, as they may be mitigated. *Neighbors 4 Responsible Growth v. City of Veneta*, 51 Or LUBA 363 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A county finding that there is “nothing in the record” that would lead the county to believe that a proposed mining operation would cause a risk of traffic accidents does not demonstrate that the county ignored evidence that petitioners submitted to show the mine could cause such a risk, where there are other findings that show the county merely was not persuaded that petitioners’ testimony outweighed the testimony submitted by the applicant. *Lindsey v. Josephine County*, 51 Or LUBA 383 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where intervenors provide in their response brief an alternative theory for affirming the challenged decision in the event necessary findings are found not to be supported by substantial evidence, and that alternative theory does not appear in the challenged findings, LUBA will decline to affirm on that basis, and will remand to allow the local government to consider that alternative theory in the first instance. *Anderson v. Coos County*, 51 Or LUBA 454 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings demonstrating compliance with an approval criterion that requires that a proposed RV

park be compatible with surrounding residential areas based, in part, on vegetative screening are not sufficient to demonstrate compliance with a comprehensive plan policy requiring buffer zones between residential areas and conflicting land uses. *Jacobsen v. City of Winston*, 51 Or LUBA 602 (2006).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Technical revisions to a tentative subdivision plan need not be decided with public participation, and a condition of tentative subdivision plan approval requiring that, prior to submittal of the final plat, county staff will “red-line” the plat and return to applicant’s surveyor for corrections is not an impermissible deferral of findings to the second step of a two-step process. *Angius v. Washington County*, 50 Or LUBA 33 (2005).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Petitioner’s arguments do not provide a basis for remand where petitioner fails to challenge a county’s interpretation that a criterion that the “land must have adequate carrying capacity to support the densities and types of uses allowed by the proposed plan and zone designations” is satisfied where the land has adequate carrying capacity for uses and densities authorized by the challenged decision, rather than for all possible uses allowed in the zone. *Doob v. Josephine County*, 49 Or LUBA 113 (2005).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a petitioner shows that a county’s findings are inadequate, but the quality of the evidentiary record and the findings that could reasonably be adopted based on that record are disputed, remand is the appropriate remedy where (1) petitioner does not show that a county’s decision is “outside the range of discretion allowed the [county] under its comprehensive plan and implementing ordinances,” which would require reversal of the county’s decision and an order to approve the permit under ORS 197.835(10)(a) or (2) that the county’s decision to deny the permit “violates a provision of applicable law and is prohibited as a matter of law,” which would justify a decision by LUBA to reverse the county court’s decision under OAR 661-010-0073(1)(c). *Hellberg v. Morrow County*, 49 Or LUBA 423 (2005).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an interpretation of an ambiguous code standard that bars variances in some circumstances is needed to explain why the local government believes that standard did not bar an approved variance, and the appealed decision does not include either an express or implied interpretation of the code standard, remand is required. *Doyle v. Coos County*, 49 Or LUBA 574 (2005).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Although LUBA is authorized to interpret ambiguous local land use legislation in the first instance if the local government fails to adopt a needed interpretation, where interpreting the land use legislation in a way that would be consistent with the local government’s decision is problematic, LUBA will not attempt to interpret the legislation in the first instance. *Doyle v. Coos County*, 49 Or LUBA 574 (2005).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. If a local government wishes to interpret and apply traditional variance standards differently than those

standards have traditionally been interpreted and applied, it must articulate an interpretation of those standards that is sufficient for review. *Doyle v. Coos County*, 49 Or LUBA 574 (2005).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Annexation of a portion of road with one owner, though not required to result in a decision, is quasi-judicial, and therefore must be supported by findings addressing applicable standards. *Patterson v. City of Independence*, 48 Or LUBA 155 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The conclusory nature of a finding that faults the applicant for failing to present any evidence or evaluation of adverse impacts does not provide a basis for remand, where the hearings officer interpreted the code to require at least some evidence or evaluation of adverse impacts, and the applicant provided none. *Wiper v. City of Eugene*, 47 Or LUBA 21 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – inadequate Findings. Where a finding is ambiguous and could be read to misinterpret a code provision, but read in context it is reasonably clear that the local government did not intend the erroneous interpretation petitioner ascribes to it, and in fact intended an interpretation consistent with the code provision, petitioner's arguments based on that ambiguous finding do not provide a basis for reversal or remand. *Wynn v. Polk County*, 47 Or LUBA 73 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. When a petitioner raises an issue concerning a specific comprehensive plan provision, a local government is obligated to explain the extent to which, if any, the provision applies to the decision. *Doob v. Josephine County*, 47 Or LUBA 147 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Failure to adopt findings addressing a comprehensive plan policy requiring provision of preferential carpool and vanpool parking for new commercial uses is not a basis for remand, where the code leaves details of parking lot construction and striping to the city engineer at building permit review, the challenged decision requires the applicant to comply with all code parking requirements, and the petitioner offers no reason that the city engineer cannot require the applicant to provide carpool and vanpool parking as part of building permit review. *Heilman v. City of Corvallis*, 47 Or LUBA 305 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a city transportation plan assigns responsibility to the city engineer to determine the scope of a traffic study necessary to assess development impacts on "nearby key intersections," the city engineer's decision to limit the traffic study to intersections adjacent to the subject property and not to require study of intersections five blocks away is not a basis for reversal or remand, absent an explanation from petitioners as to why those intersections are both "nearby" and "key." *Heilman v. City of Corvallis*, 47 Or LUBA 305 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Although all legislative decisions need not be supported by findings when the local government can supply argument and citation to the record in its brief to demonstrate compliance with the

applicable criteria, such arguments must be based on evidence contained in the record rather than created out of whole cloth. *Naumes Properties, LLC v. City of Central Point*, 46 Or LUBA 304 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A county does not fulfill its obligation under the local code to consider the effect of proposed fill on “aquatic life and habitat, and wildlife habitat” by simply finding that the Oregon Department of Fish and Wildlife’s failed to express any concern regarding the proposal. However, where other county findings addressing a similar standard make it clear the county was relying on the relatively small amount of fill proposed and the impacted nature of the affected wetlands, to approve the requested fill, the county’s finding regarding the agency’s lack of concern provides no basis for reversal or remand. *Bonnett v. Deschutes County*, 46 Or LUBA 318 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local code standard requires that an applicant seeking to place fill in a wetland for a driveway consider whether there are practical alternatives to placing fill in wetlands, and the record indicates there may be a practical building site that could be reached by a shorter driveway that would not require filling the wetland that was not considered by the county based on a misconstruction of the local code standard, LUBA will remand the decision so that the county can consider whether the site is a practical building site. *Bonnett v. Deschutes County*, 46 Or LUBA 318 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A city’s failure to address subjective language in a sign code criterion does not provide a basis for reversal or remand, where the petitioner also argues that applying that code language to approve or deny a sign application would be inconsistent with Article I, section 8, of the Oregon Constitution. *Cotter v. City of Portland*, 46 Or LUBA 612 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. An adjoining property owner who faces loss of his only current access in the future and assigns error to a city council’s decision not to require a subdivision applicant to provide access presents no basis for reversal or remand, where the city council interprets a local code provision that requires subdivision applicants to provide access to adjoining properties not to apply where the adjoining properties currently have access and the property owner fails to demonstrate how the city council’s interpretation is erroneous under ORS 197.829(1). *McFall v. City of Sherwood*, 46 Or LUBA 735 (2004).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where LUBA concludes that relevant local code provisions make the comprehensive plan requirements potentially applicable to an application for subdivision approval and that a particular comprehensive plan provision applies and is not merely aspirational, and the local government approved the subdivision without addressing the comprehensive plan provision, the subdivision approval decision must be remanded. *Paddock v. Yamhill County*, 45 Or LUBA 39 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A county’s finding that proposed mining activities are not minimized sufficiently to avoid conflicts

with identified riparian resources is not adequate, where the riparian area is located near water courses that will receive water diverted from mining cells and the county adopted other findings that mining will not affect identified wetlands that are located between the riparian area and presumably would be more susceptible to fluctuations in water levels than the riparian areas. *Eugene Sand and Gravel, Inc. v. Lane County*, 44 Or LUBA 50 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a code provision appears to require analysis of cumulative impacts of development proposals, but the city’s decision does not address cumulative impacts and the city’s response brief fails to explain why no cumulative impact analysis is required or why the existing findings adequately address such impacts, LUBA will remand for the city to provide that explanation. *Bauer v. City of Portland*, 44 Or LUBA 210 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where LUBA cannot determine from the appealed decision or the record whether an approved parkway corridor crosses an inventoried Goal 5 significant vegetation and wildlife area, the decision must be remanded. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a zoning ordinance requirement that a site have 150 feet of frontage could apply in a number of different ways to a site with multiple road frontages, and the local government’s findings are inadequate to explain why the city applied that requirement in the way that it did, LUBA will remand for the city to interpret the zoning ordinance requirement in the first instance. *Miles v. City of Florence*, 44 Or LUBA 411 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA will remand a decision where petitioner identifies a discrepancy between the county zoning map and the map the county relied upon to approve a rezoning application, where the discrepancy may affect the county’s determination that coastal shorelands are not affected by the rezoning, and the county’s findings do not explain why the county did not rely on the county zoning map to establish the zoning boundary. *Doty v. Coos County*, 44 Or LUBA 448 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

There is no inconsistency in a city council subdivision approval decision that (1) refuses to delay approval or require setbacks for a possible future freeway, (2) requires elimination of a proposed subdivision access to the existing roadway that might be displaced by the possible future freeway, and (3) eliminates a planning commission requirement for pedestrian access to the roadway that might be displaced by the possible future freeway where (a) the possible future freeway is not yet included in the city’s comprehensive plan, (b) the decision to eliminate the proposed roadway connection is based on an Oregon Department of Transportation policy that would preclude approval of the roadway connection, and (c) a code provision excuses pedestrian connections where they are found to be “infeasible or inappropriate” and the city council adopts an unchallenged finding that the pedestrian connection is “not necessary.” *Baida v. City of Medford*, 44 Or LUBA 473 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where no code, statute or condition of preliminary subdivision plat approval requires that the city

resolve an issue regarding an alleged encroachment before granting final subdivision plat approval, the city's failure to resolve such issues do not provide a basis for reversal or remand. *Jordan v. City of Portland*, 44 Or LUBA 586 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A challenge to the adequacy of a finding that concludes that a local ordinance provision regarding the developability of nonstandard lots does not apply to a determination regarding lot legality provides no basis for reversal or remand, where LUBA decides that the disputed ordinance provision clearly does not apply. *Bear Creek Corporation v. Jackson County*, 44 Or LUBA 685 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. City findings that specifically respond to a petitioner's interpretational challenge and address the only comprehensive plan goal that petitioner cites in support of that interpretational challenge are adequate to overcome petitioner's challenge that the city's findings are inadequate. *Dimone v. City of Hillsboro*, 44 Or LUBA 698 (2003).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. An assignment of error challenging the evidentiary support for an alleged finding that a private bridge is not available to serve a proposed residential development provides no basis for remand where the decision is not based on the alleged finding and petitioner fails to challenge the findings that the city did make in support of its decision. *Oregon Diverse Industries v. City of Jacksonville*, 43 Or LUBA 135 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A finding that a proposed Head Start program is not a school is inadequate, where it does not answer the relevant the question under the code, which is whether the proposed use is a "public building." *Oregon Child Devel. Coalition v. City of Madras*, 43 Or LUBA 184 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local approval criterion requires a finding that a proposed use will have a minimal adverse impact on surrounding uses compared to the impact of development permitted outright, a city may not limit its impact analysis to only one permitted use, where other permitted uses in the zone may have impacts similar to those of the proposed use. *Oregon Child Devel. Coalition v. City of Madras*, 43 Or LUBA 184 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local approval criterion requires a finding that a proposed use will "preserve assets of particular interest in the community," a city council's finding that the proposed use does not satisfy the criterion is inadequate where the finding merely sets out a series of concerns about the proposed use without explaining why those concerns are "assets of particular interest" that the proposed use will not preserve. *Oregon Child Devel. Coalition v. City of Madras*, 43 Or LUBA 184 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will remand a city decision denying a partition application where it is not clear what documents make up the local decision and the documents that are identified as containing the final

land use decision do not set out the city's rationale for denying the application. *Martin v. City of Dunes City*, 43 Or LUBA 354 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county's legislative decision changes the comprehensive plan designation for a property from Industrial to Primary Agriculture, and the record does not reflect that the county considered other potentially suitable designations or explained why other potentially suitable designations should not be applied, the decision and record are insufficient to demonstrate that applicable criteria were considered. *Manning v. Marion County*, 42 Or LUBA 56 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where it is unclear who would own a proposed "personal use airport" in an EFU zone, and whether the uses that the owner plans to make of the airport would be consistent with the uses allowed under ORS 215.283(2)(h), the owner must be identified and the county's findings must explain why it concludes that the proposed uses fall within the uses allowed with a personal use airport. *Oregon Natural Desert Assoc. v. Grant County*, 42 Or LUBA 9 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A finding that a proposed use complies with a code criterion requiring a demonstration that the use be consistent with applicable comprehensive plan policies is inadequate where it merely summarizes the applicable comprehensive plan policies, and does not address issues raised regarding compliance with particular policy provisions. *Oregon Natural Desert Assoc. v. Grant County*, 42 Or LUBA 9 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Petitioner's challenge to the adequacy of findings that conclude that, as conditioned, a proposed personal use airport will not result in a "significant adverse impact on the livability, value or appropriate development" of an abutting use will be sustained where the findings fail to address testimony that, notwithstanding the mitigating conditions of approval, the proposed airport will result in significant adverse impacts to an adjoining national monument. *Oregon Natural Desert Assoc. v. Grant County*, 42 Or LUBA 9 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a hearings official adopts detailed findings concerning the nature of the "surroundings" in applying a local approval criterion that requires that a proposed use be compatible with its surroundings, geographic ambiguity about the outer reach of the "surroundings" that were considered by the hearings official will provide no basis for remand, where petitioners identify no uses that they believe fall within the relevant "surroundings" and were not considered by the hearings official. *Knight v. City of Eugene*, 41 Or LUBA 279 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a local "compatibility" standard is extremely subjective and reasonable persons could draw different conclusions from the record about whether a proposed 90-foot cellular tower would be compatible with its mixed residential and commercial surroundings, a hearings official's decision that the tower would be compatible will not be reversed on appeal simply because petitioners would reach the opposite conclusion. *Knight v. City of Eugene*, 41 Or LUBA 279 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Although local governments are required to address legitimate issues that are raised in a quasi-judicial land use proceeding concerning relevant approval criteria, local governments are not required to address in their findings every conflict in the evidence or every criticism that is made of particular evidence. *Knight v. City of Eugene*, 41 Or LUBA 279 (2002).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A petitioner's challenge to a finding that rezoning of a property is warranted to satisfy a commercial land need will be denied, where the need for commercial land is only one of several reasons given for the rezoning and the other reasons given are not challenged. *Dimone v. City of Hillsboro*, 41 Or LUBA 167 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a petitioner does not explain why approval criteria for fill in a floodplain and coastal shoreland necessitated precise delineation of the floodplain boundaries and precise knowledge about the location, amount and nature of the fill, the local government's failure to precisely delineate and describe the floodplain and fill provides no basis for remand. *Willhoft v. City of Gold Beach*, 41 Or LUBA 130 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioner raises issues regarding whether a proposed site design complies with potentially applicable approval criteria, the local government's decision must respond by either (1) determining that the cited provisions are not applicable approval criteria or (2) demonstrating that the proposal complies with such provisions. *Elliott v. City of Redmond*, 40 Or LUBA 242 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA will deny an assignment of error that challenges a decision for failing to make findings regarding applicable criteria when the decision properly incorporates additional findings that do address the applicable approval criteria, and the incorporated findings are not inadequate on their face. *McNern v. City of Corvallis*, 39 Or LUBA 591 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an approval criterion requires that a proposed cellular phone tower must not alter the character of the surrounding area, petitioner's arguments that the criterion is violated provide no basis for reversal or remand where petitioner challenges findings that the county did not adopt and fails to challenge the findings that the county did adopt. *Pereira v. Columbia County*, 39 Or LUBA 575 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioner challenges a finding that an amended approval criterion does not apply, but petitioner does not challenge alternative findings that the city adopted to address the amended approval criterion in the event it were found to apply, petitioner presents no basis for reversal or remand. *Adams v. City of Medford*, 39 Or LUBA 464 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a petitioner only expressed disagreement with assumptions included in a transportation impact study and repeats evidentiary arguments he made to the city council without attempting to challenge the findings the city adopted to respond to those arguments, petitioner presents no basis for reversal or remand. *Adams v. City of Medford*, 39 Or LUBA 464 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a city adopts findings addressing issues raised by petitioner during local proceedings, petitioner presents no basis for reversal or remand by repeating those issues at LUBA without challenging the findings the city adopted to address those issues. *Adams v. City of Medford*, 39 Or LUBA 464 (2001).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a site design review criterion requires that, “wherever possible,” direct driveway access to arterial streets not be allowed, and the challenged decision approves a site plan with direct driveway access onto an arterial street and a collector street without explaining why it is not possible to limit access to the collector street, the decision must be remanded. *Hubenthal v. City of Woodburn*, 39 Or LUBA 20 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Although LUBA may overlook a city’s failure to adopt findings addressing an approval criterion for signs under ORS 197.835(11)(b) where the record clearly supports the decision, where the record provides only an idea of what the signs will look like and the criterion requires a highly subjective judgment, application of ORS 197.835(11)(b) is not appropriate. *Hubenthal v. City of Woodburn*, 39 Or LUBA 20 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Although a decision maker is required to adopt findings that respond to relevant issues that are raised in quasi-judicial land use hearings, the decision maker is not necessarily required to adopt findings addressing particular items of evidence, provided LUBA is able to conclude that a reasonable decision maker could reach the disputed decision based on all the evidence. *Schwerdt v. City of Corvallis*, 38 Or LUBA 174 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioner challenges the adequacy and evidentiary basis for a local government’s decision determining that a proposed development “is or will be compatible” with the land use development pattern in the vicinity of the request, LUBA will analyze the findings to determine (1) whether the findings are adequate; (2) whether there is substantial evidence in the record to support a finding that, absent some conditions of approval, the compatibility standard is met; and (3) if conditions of approval are necessary to establish compatibility, whether the local government adopted such conditions. *DLCD v. City of Warrenton*, 37 Or LUBA 933 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

The Portland City Code does not require that the city adopt findings of fact to support its legislative decisions. Therefore, on appeal to LUBA, the city may rely upon citations to the comprehensive plan, code, the record and arguments in its brief to demonstrate that the legislative decision is

consistent with applicable plan and code provisions. *Home Depot, Inc. v. City of Portland*, 37 Or LUBA 870 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner’s arguments that amended land use regulations violate a comprehensive plan policy by increasing housing costs and discouraging infill development provide no basis for remand, where the plan policy encourages both infill and preserving neighborhood livability and the city’s findings explain that the regulations are needed to ensure that infill housing development can be accommodated in neighborhoods without eroding livability. *Homebuilders Association v. City of Portland*, 37 Or LUBA 707 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where an issue was raised below concerning whether a proposed bed and breakfast facility violated a plan policy regulating commercial development and is not addressed in a hearings officer’s decision and the policy itself and related plan and land use regulation provisions are unclear whether the policy applies, LUBA will remand the decision. *Hatfield v. City of Portland*, 37 Or LUBA 664 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a zoning ordinance standard requires consideration of residential appearance and function of an “area” in approving a bed and breakfast facility, and a hearings officer’s findings use different areas in applying that criterion so that the analysis is internally inconsistent, the findings are inadequate to demonstrate compliance with the standard. *Hatfield v. City of Portland*, 37 Or LUBA 664 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a zoning ordinance standard requires that the transportation system be capable of serving the proposed and existing uses and the findings addressing that standard focus exclusively on the relatively small traffic generating impact of the proposal without ever addressing the adequacy of the transportation system, the findings are inadequate to demonstrate compliance with the standard. *Hatfield v. City of Portland*, 37 Or LUBA 664 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A city does not err by failing to address a comprehensive plan policy that requires an impact assessment for in-water structures, where the decision does not approve any in-water structures. *Marine Street LLC v. City of Astoria*, 37 Or LUBA 587 (2000).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county’s findings are adequate to identify accepted farming practices on lands surrounding a proposed aggregate mining operation but do not explain why they will not be significantly affected by the mining operation, the county’s decision must be remanded. *Turner Community Association v. Marion County*, 37 Or LUBA 324 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a party argues that the decision is supported by substantial evidence, but fails to identify

where in the record that evidence is located, LUBA will not search the record for such evidence. *DLCD v. Wallowa County*, 37 Or LUBA 105 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the staff report identifies an approval criterion and the final decision fails to demonstrate compliance with the criterion or take the position that the criterion does not apply, the decision will be remanded. *Latta v. City of Joseph*, 36 Or LUBA 708 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A finding that the soils on the subject property are unsuitable for farm use is an inadequate, unexplained conclusion where the subject property is predominantly Class VI soils and the comprehensive plan provides that such soils have significant importance for grazing. *Pekarek v. Wallowa County*, 36 Or LUBA 494 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A committed-exception zone-change decision that acknowledges the existence of Goal 5 resources on the subject property, but concludes that the county’s existing Goal 5 plan provisions will address any conflicts, is not adequate to demonstrate compliance with Goal 5, where the findings do not state which of the county’s existing Goal 5 plan provisions ensure continued compliance once the exception is taken, and the findings do not consider whether the zone change may introduce the possibility of new conflicting uses. *Pekarek v. Wallowa County*, 36 Or LUBA 494 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A finding that a proposed planned unit development will “reduce” site disturbance is inadequate to demonstrate compliance with a standard that requires that the proposed development shall be designed to avoid unnecessary site disturbance. *Salo v. City of Oregon City*, 36 Or LUBA 415 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA will not exercise its authority under ORS 197.835(11)(b) to affirm a decision notwithstanding inadequate findings, where the local government fails to adopt findings of compliance with a criterion requiring that planned unit development be designed to minimize the number and size of cuts and fills, and it is not obvious from evidence in the record that the PUD design minimizes cuts and fills. *Salo v. City of Oregon City*, 36 Or LUBA 415 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA will reject an assignment of error that alleges findings are inadequate but fails to explain why the disputed findings are critical to the county’s decision. *Cotter v. Clackamas County*, 36 Or LUBA 172 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Exercise of LUBA’s authority under ORS 197.829(2) to interpret local land use law in the first instance is not appropriate where the relevant code provision prohibiting reduction of acreage available for farm use could refer to reduction (1) of acreage on adjacent lands or (2) of acreage on the subject property that is available for use in conjunction with farm uses on adjacent lands. Where both interpretations are plausible and it is disputed factually whether the relevant lands

could be used in conjunction with adjacent lands, a remand to the county to render its interpretation in the first instance is appropriate. *DLCD v. Jackson County*, 36 Or LUBA 88 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the county approves a golf course expansion without adopting findings addressing a comprehensive plan provision that prohibits approval of urban uses outside urban growth boundaries, LUBA will remand the decision so that the county can adopt findings addressing whether the subject golf course is “urban” and whether the proposed expansion of the golf course is consistent with the comprehensive plan provision. *DLCD v. Jackson County*, 36 Or LUBA 88 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a city council interprets a code standard that excuses a permit applicant from providing required parking where “special circumstances exist constituting a hardship” as being satisfied where the cost of providing the one additional parking site that is possible on the property will constitute an “economic hardship out of proportion to the gain of parking spaces,” and petitioner does not specifically challenge the city council’s findings, LUBA will affirm that interpretation unless it exceeds the city’s interpretive discretion under ORS 197.829(1). *Port Dock Four, Inc. v. City of Newport*, 36 Or LUBA 68 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

An assignment of error challenging the adequacy of findings that an approval criterion is met must be denied, where the decision maker also adopts alternative findings that the approval criterion does not apply to the challenged permit application and those alternative findings are not challenged. *Port Dock Four, Inc. v. City of Newport*, 36 Or LUBA 68 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

An assignment of error criticizing a city council for not discussing conflicting evidence will be rejected, because it is the written decision rather than oral deliberations where the decision maker is required to explain its choice between conflicting evidence. Moreover, where LUBA can determine that a reasonable decision maker would rely on the evidence the decision maker relied on, findings specifically addressing the conflicting evidence are not necessary. *Port Dock Four, Inc. v. City of Newport*, 36 Or LUBA 68 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Petitioner’s assignment of error will not be rejected solely because petitioner failed to challenge alternative findings that state law might preempt the county regulations at issue in the assignment of error, where the hearings officer’s alternative finding does not clearly conclude that state law preempts. *Neels v. Clackamas County*, 36 Or LUBA 54 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a hearings officer’s findings are inadequate to explain why a proposed use that qualifies as a permitted use as a “household” does not also fall within the definition of a “nursing home,” which is only allowed as a conditional use, a remand would normally be required. However, where the facts are not disputed, and LUBA is presented with a straightforward question of law, it may

consider whether the proposed use falls within the definition of “nursing home.” *Neels v. Clackamas County*, 36 Or LUBA 54 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A county fails to justify amending its UGB to include commercial land at a freeway interchange where, although the interchange land would have advantages over lands further from the freeway but already inside the UGB, the county fails to demonstrate a particular need for commercial land at the interchange or that the lands inside the UGB are unsuitable for commercial development. *DLCD v. Douglas County*, 36 Or LUBA 26 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county’s findings do not establish that a need for commercial land can only be satisfied at a freeway interchange, its findings considering alternatives outside the UGB are also inadequate where those findings fail to consider Class II through VI agricultural or nonresource lands simply because they are not close to a freeway interchange. *DLCD v. Douglas County*, 36 Or LUBA 26 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Factor 3 of Goal 14 is not met if the public facilities and services have to be upgraded to serve land that is added to its UGB and alternative sites within the UGB that could accommodate identified needs already have public facilities and services. *DLCD v. Douglas County*, 36 Or LUBA 26 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The ultimate issue in LUBA’s review of a decision adopting a committed exception under OAR 660-004-0028 is whether the adopted findings that are relevant and supported by substantial evidence are sufficient to demonstrate compliance with the standard of ORS 197.732(1)(b) that uses allowed by the goal are impracticable. *Lovinger v. Lane County*, 36 Or LUBA 1 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. In considering whether farm uses are impracticable, a county may not limit its consideration to “traditional” agricultural uses, where the feasibility of “nontraditional” agricultural uses is raised as an issue before the county. However, where the county’s findings nevertheless address the feasibility of “nontraditional” uses, the county’s possible misunderstanding of the scope of the required analysis provides no basis for reversal or remand. *Lovinger v. Lane County*, 36 Or LUBA 1 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A county’s conclusory finding that goals protecting housing are not violated by rezoning rural residential property for industrial use because proximity of the property to commercial and industrial uses and an interstate highway makes use of the property for rural residential uses impracticable is inadequate, where the record includes no evidence of conflicts with those uses that might make rural residential uses impracticable. *James v. Josephine County*, 35 Or LUBA 493 (1999).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county's land use decision approving a forest template dwelling consists of a single-page form that contains blanks for the subject property's legal description, zoning, size and the names and addresses of the applicant and any representatives plus signature lines, the decision is not supported by adequate findings. *Krieger v. Wallowa County*, 35 Or LUBA 305 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a city's decision adopts more restrictive land use regulations affecting residential lands, it must consider the impact of those regulations on unincorporated lands inside the UGB, if the city relies on such land to meet its identified housing needs. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A city's failure to adopt findings specifically addressing a plan criterion is not error where the substance of the plan policy is addressed in the city's findings. *Hannah v. City of Eugene*, 35 Or LUBA 1 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a sentence in a decision can be read to adopt an improperly narrow interpretation of a code, but when that sentence is read in context with the rest of the decision it is clear that the improper interpretation was not adopted, LUBA will assume the improper interpretation was not intended. *Hannah v. City of Eugene*, 35 Or LUBA

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an applicable approval criterion requires storm drainage plans that meet certain standards, the local government may not approve a land division without such storm drainage plans, or without finding that such plans are feasible and delegating the required evaluation to a sewerage agency. *Sunningdale-Case Heights Assoc. v. Washington Co.*, 34 Or LUBA 549 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a hearings officer interprets an approval criterion to require an explanation of resource practices on the property, the applicant may not rely on a lack of evidence of impacts on resource practices to establish that there will be no such adverse impacts. *Parsley v. Jackson County*, 34 Or LUBA 540 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings that were not adopted by the decision maker in support of the challenged decision provide no basis for reversal or remand, even if the findings are inadequate. *Rouse v. Tillamook County*, 34 Or LUBA 530 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where specific issues are raised concerning compliance with an approval criterion, the findings supporting the decision must respond to those issues. *Rouse v. Tillamook County*, 34 Or LUBA 530 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where local standards require that there be a “demonstrated public need” for a proposed subdivision of five-acre lots, letters from real estate agents describing the lack of listings for five-acre parcels do not “clearly support” a finding of demonstrated public need for the subdivision absent evidence relating the lack of listings to an identified need. *Turrell v. Harney County*, 34 Or LUBA 423 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings that the applicant has testified that applicable criteria will be met are conclusory and inadequate because they fail to identify the review standards, set out the facts relied upon or explain how those facts led to the decision. *Turrell v. Harney County*, 34 Or LUBA 423 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where it is not apparent that provision of water to a rural subdivision merely constitutes attachment to an existing proximate water supply rather than an “extension” of the water system, which is prohibited by Goal 11, LUBA will remand the decision for Goal 11 findings. *DeShazer v. Columbia County*, 34 Or LUBA 416 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A city’s error in not including findings addressing certain conditions of preliminary subdivision and PUD plan approval provides no basis for reversal or remand where the parties identify evidence in the record that clearly shows compliance with the conditions. *Rochlin v. City of Portland*, 34 Or LUBA 379 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where petitioner contends that findings are inadequate and not supported by substantial evidence, but fails to identify any particular criterion and only expresses disagreement with the city’s evaluation of the evidence, petitioner provides no basis for reversal or remand. *Kelley v. City of Cascade Locks*, 34 Or LUBA 374 (1998).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. When a challenged decision fails to incorporate a staff report or council minutes as findings, LUBA’s review of the challenged decision for adequate findings is limited to the decision itself. *Hackler v. City of Hermiston*, 33 Or LUBA 755 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government decision appears to authorize a nonconforming use and additional dwelling without notice or findings to support those approvals, LUBA will remand the decision. *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Although LUBA may interpret a local ordinance, it is not required to do so. *Opp v. City of Portland*, 33 Or LUBA 654 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. To comply with OAR 660-06-025(5)(a), a local government’s findings must describe the farm or

forest practices on adjacent and nearby forest lands, as well as explain why the proposed use does not significantly affect those practices. Findings that do not address all nearby lands and that simply refer to an adjacent property as a “woodlot” where a “small flock of sheep” is raised are inadequate. *Donnelly v. Curry County*, 33 Or LUBA 624 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where visual impact, noise and safety issues are relevant to compliance with applicable standards and are raised by petitioner below, the local government must adequately address those issues, and conclusory findings unsupported by substantial evidence are inadequate. *Port Dock Four, Inc. v. City of Newport*, 33 Or LUBA 613 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a hearings officer’s findings incorporate staff report findings that are inconsistent concerning one issue, LUBA will not remand the hearings officer’s decision where it is clear that the hearings officer’s findings superseded the staff report on that issue. *Central Bethany Dev. Co. v. Washington County*, 33 Or LUBA 463 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

The county’s findings of compliance with applicable criteria are inadequate where they do not identify the relevant approval standards, set out the facts relied upon, or explain how the facts lead to the conclusion that applicable standards are satisfied. *Harcourt v. Marion County*, 33 Or LUBA 400 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

There is no legal requirement that a local government address in its findings conflicting evidence upon which it chooses not to rely. Where a petitioner presents conflicting evidence to the city during a local appeal, but does not raise new issues, the city may rely on findings prepared prior to the local appeal. *Tandem Development Corp. v. City of Hillsboro*, 33 Or LUBA 335 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the city makes a determination that it is feasible to comply with a local code standard requiring that each lot in a proposed subdivision be buildable, it may defer addressing engineering details to a later date. *Brown v. City of Ontario*, 33 Or LUBA 180 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A hearings officer’s finding that other residentially zoned property “may not be developable” does not factually justify the conclusion that “there are no non-agricultural lands” with priority for development. *Alliance for Responsible Land Use v. Deschutes County*, 33 Or LUBA 12 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A county’s findings are inadequate where an applicable criterion for a zone change requires a finding that the need will be best served by changing the classification of the property in question as compared with other available property, and the county’s findings do not provide any express comparison of the subject property to other available property. *Alliance for Responsible Land Use v. Deschutes County*, 33 Or LUBA 12 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The county’s findings classifying livestock sales and shows as a “farm use” rather than as “stockyard and animal sales” are inadequate when the challenged decision does not relate the general findings to the property at issue, and therefore does not establish that the proposed use complies with the approval standards. *Collins v. Klamath County*, 32 Or LUBA 338 (1997).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Allegations that amount to no more than a disagreement with the local government’s ultimate conclusion in its findings provide no basis for reversal or remand of the challenged decision. *Richards-Kreitzberg v. Marion County*, 32 Or LUBA 76 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings provide no basis for reversal or remand when they are not necessary to support an applicable criterion. *Richards-Kreitzberg v. Marion County*, 32 Or LUBA 76 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where the county attempts to apply a rural residential zoning density in an irrevocably committed exception area, a conclusory finding that redesignation of the subject parcel will not cause adjacent resource lands to satisfy working paper guidelines for irrevocably committed exceptions does not substitute for the actual analysis required under OAR 660-04-018(2)(b)(B) regarding the potential commitment of adjacent resource lands to nonresource use. *Johnson v. Lane County*, 31 Or LUBA 454 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings adopted by the county approving a committed exception to Goals 3 and 4 are inadequate where they contain no discussion or explanation of how the existing uses on adjacent parcels make resource use on the subject property impracticable. *Johnson v. Lane County*, 31 Or LUBA 454 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The county’s reliance on the existence of adjacent non-resource parcels in justifying a committed exception is impermissible under OAR 660-04-028(6)(c)(A) where the findings do not adequately establish how or when the adjacent parcels were created. *Johnson v. Lane County*, 31 Or LUBA 454 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where the county’s findings regarding parcel size and ownership patterns on lands adjacent to a proposed exception area contain no reference to the analysis required by OAR 660-04-028(6)(c)(A), and do not suggest that the county is relying upon separate incorporated documents to provide that analysis, the county’s incorporation of the entire application does not provide a sufficient reference to the specific documents relied upon by the county to satisfy the applicable criteria. *Johnson v. Lane County*, 31 Or LUBA 454 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. 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 dirt base, and (3) 15-to-17-acre minimum size. *Middleton v. Josephine County*, 31 Or LUBA 423 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. 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).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. When a city’s final decision does not contain an interpretation of a comprehensive plan provision, LUBA need not remand for an interpretation, but may itself determine whether the city’s decision is correct. *Stewart v. City of Brookings*, 31 LUBA 325 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings are inadequate when they rely on a consultant’s summary conclusions which are not based on evidence in the record. *Friends of Metolius v. Jefferson County*, 31 Or LUBA 160 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a hearings officer’s interpretation of an applicable code provision is inadequate for review because it omits necessary analytical steps, this Board may make the determination of whether the county’s decision is correct. *Miller v. Clackamas County*, 31 Or LUBA 104 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local decision is subject to reversal, rather than remand, when the local government cannot demonstrate compliance with an applicable approval criterion. When a significant factual issue remains, the resolution of which could determine whether compliance is possible, the decision must be remanded. *DLCD v. Clatsop County*, 31 Or LUBA 90 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. County findings are inadequate when they fail to interpret an applicable local regulation, and fail to identify facts upon which the county relied in reaching its conclusions. LUBA will not overlook such inadequacies in the findings when no party cites evidence in the record that compels the interpretation and conclusion made by the county. *DLCD v. Clatsop County*, 31 Or LUBA 90 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. In the absence of adequate findings, LUBA may affirm a local government’s conclusion that a particular criterion is satisfied when facts in the record clearly support the conclusion. However, when there are no findings of compliance with a particular criterion, which was identified as applicable by the local staff and raised as an issue during the local proceedings, LUBA will not consider whether disputed facts could support findings of compliance. *DLCD v. Clatsop County*, 31 Or LUBA 90 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. When the county relies on a 1979 conditional use permit to find that a proposed partition satisfies the

county's approval criteria, the county must make affirmative findings that the conditional use permit is valid. *Tognoli v. Crook County*, 30 Or LUBA 272 (1996).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. 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).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local decision approving a replacement dwelling does not make specific findings regarding the applicability of a local ordinance establishing a legal access requirement, and does not indicate whether legal access is a mandatory approval standard, the decision must be remanded for appropriate findings. *Drake v. Polk County*, 30 Or LUBA 199 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. While ORS 197.835(9) requires LUBA to affirm a local government decision in the absence of adequate findings if the parties identify evidence that "clearly supports" the decision, "clearly supports" will be interpreted narrowly to mean "makes obvious" or "makes inevitable." *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Although ORS 197.829(2) allows LUBA, in certain circumstances, to interpret a local ordinance to the extent necessary to determine whether a local land use decision is correct, it is still the local government's responsibility to interpret its own comprehensive plan and land use regulations in the first instance, and LUBA is not required to do so. *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. ORS 197.835(9)(b) and 197.829(2) authorize LUBA to remedy minor oversights and imperfections in local government land use decisions, but do not permit or require LUBA to assume the responsibilities assigned to local governments, such as the weighing of evidence, the preparation of adequate findings and the interpretation of comprehensive plans and local land use regulations. *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. When a local ordinance requires a determination that its specific requirements can be satisfied by the imposition of conditions, the city must make findings, supported by substantial evidence, with respect to feasibility. *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county code provision requires that a temporary mobile home be connected to an existing septic system "if feasible" and the county acknowledges the applicants have not applied for the authorization necessary to determine such feasibility, the county's findings are inadequate to establish compliance with the applicable code provision. *Collier v. Marion County*, 29 Or LUBA 462 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local government’s conclusion that required netting will have limited visual impacts on adjacent properties is unacceptably conclusory when unsupported by findings concerning how much netting is required or how high the netting must be. *Moore v. Clackamas County*, 29 Or LUBA 372 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Failure of local government findings to address a specific issue raised by a party below, which is relevant to compliance with applicable approval standards, is a basis for remand. *Moore v. Clackamas County*, 29 Or LUBA 372 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. When the evidence in the record is conflicting, and the local government’s findings fail to explain the basis for its conclusion or state which evidence it finds persuasive, LUBA must remand the decision for additional findings. *Moore v. Clackamas County*, 29 Or LUBA 372 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Under *Dolan v. City of Tigard*, 512 US 374, 114 S Ct 2309, 129 L Ed2d 304 (1994), and *J.C. Reeves Corp. v. Clackamas County*, 131 Or App 615, 887 P2d 360 (1994), findings in support of a condition requiring an applicant for site plan approval for a fast food restaurant to construct certain street and frontage improvements must compare traffic and other effects of development to required improvements. *Clark v. City of Albany*, 29 Or LUBA 325 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where petitioner challenges the adequacy of one set of local government findings addressing a particular approval criterion for a comprehensive plan map change, but does not challenge a different set of local government findings also addressing the same criterion, petitioner’s assignment of error will be denied. *Mitchell v. City of Medford*, 29 Or LUBA 158 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where petitioner seeks remand because the challenged decision fails to include findings on specific relevant issues raised in testimony below, petitioner must explain why the cited testimony is relevant to an applicable approval standard. *ONRC v. City of Oregon City*, 29 Or LUBA 90 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. The absence of findings in support of a legislative decision is not in itself a basis for reversal or remand. It is possible for respondents to defend against a challenge to a legislative decision through argument in their briefs and citations to plan provisions, code provisions and evidence in the record. *Churchill v. Tillamook County*, 29 Or LUBA 68 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. That the findings supporting the challenged decision are similar or identical to those adopted in a previous local government decision based on a different site plan does not, of itself, provide a basis for reversal or remand. *Horizon Construction, Inc. v. City of Newberg*, 28 Or LUBA 632 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. There is no statutory or administrative law requirement that *all* legislative decisions be supported by findings. However, where there is a local code provision requiring that findings be adopted in support of legislative decisions, the absence of such findings, or the adoption of purely conclusory findings, can provide a basis for reversal or remand. *Foster v. Coos County*, 28 Or LUBA 609 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government adopts finding which, among other things, explain how a proposed road alignment will reduce traffic delay and congestion and thereby minimize air quality impacts as required by a plan policy, and petitioner merely cites testimony that the proposed alignment will increase trips and pollution but does not specifically challenge the local government's findings, petitioner provides no basis for reversal or remand. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where petitioner alleges a realigned minor arterial will in fact operate as a major arterial, but fails to challenge the local government's findings explaining why it believes the realigned roadway is properly classified as a minor arterial, petitioner provides no basis for reversal or remand. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where LUBA cannot determine which portions of a lower level local decision maker's decision are incorporated into the challenged governing body decision, the governing body's decision must be remanded. *Ellis v. City of Bend*, 28 Or LUBA 332 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a challenged permit decision is not supported by any findings, the decision must be remanded. *Murphy Citizens Advisory Comm. v. Josephine County*, 28 Or LUBA 274 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA is not required to remand a decision for a local government to interpret its comprehensive plan in the first instance unless petitioners offer some explanation for why they believe the plan provision the local government failed to address in its decision applies in the circumstances presented in the appeal. *Holsheimer v. Columbia County*, 28 Or LUBA 279 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local governing body's findings are unclear with regard to whether the local government interprets the provisions of the local code's unstable slopes overlay district as applicable to approval of a subdivision preliminary plat, the challenged decision does not contain an interpretation adequate for review and must be remanded. *ONRC v. City of Oregon City*, 28 Or LUBA 263 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where respondent contends the findings challenged by petitioner are not critical to the appealed decision, and petitioner identifies no approval standards to which the challenged findings are

relevant, the challenged findings, even if defective, provide no basis for reversal or remand. *Jones v. Lane County*, 28 Or LUBA 193 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings need not be perfect, and conditions may be imposed to assure compliance with approval standards. However, LUBA must be able to determine from the findings, conditions and evidence in the record that the relevant approval standards are met. *Mazeski v. Wasco County*, 28 Or LUBA 159 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government adopts a number of different findings addressing a code standard requiring protection of the visual character of the area, and petitioners challenge some but not all of those findings, but make no attempt to explain why the findings taken as a whole are inadequate, petitioners provide no basis for reversal or remand. *Mazeski v. Wasco County*, 28 Or LUBA 159 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where petitioners challenge planning commission findings addressing a standard requiring that the proposed use not force a significant change in farm or forest practices on adjoining lands, but do not challenge findings adopted by the county court which go beyond the planning commission findings, petitioners fail to provide a basis for reversal or remand. *Mazeski v. Wasco County*, 28 Or LUBA 159 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government decision identifies a number of comprehensive plan provisions as approval standards for a request to cut trees, it may not approve the request without adopting findings demonstrating that the application complies with the identified plan policies. *Gettman v. City of Bay City*, 28 Or LUBA 116 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where one of the local government’s critical findings depends on the scope of the term “houseboat,” and the term is not defined in the local code or in the challenged decision, the decision must be remanded for the local government to supply the needed explanation of the scope of the term. *Cole v. Columbia County*, 28 Or LUBA 62 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Even if a local code provision requiring that six percent of the gross area of a proposed subdivision be dedicated for open space is properly interpreted as a minimum rather than a maximum requirement, a decision requiring dedication of much more than six percent of the gross area of a proposed subdivision must be remanded so that the local government may adopt findings explaining that interpretation and showing the “rough proportionality” requirement of *Dolan v. City of Tigard* is satisfied. *Davis v. City of Bandon*, 28 Or LUBA 38 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. That a legislative land use decision is not supported by findings is not, in itself, a basis for reversal or remand, because no applicable legal standard requires that *all* legislative land use decisions be

supported by findings. *Redland/Viola/Fischer's Mill CPO v. Clackamas County*, 27 Or LUBA 560 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. If the local government interpretation of an applicable comprehensive plan provision expressed in a challenged decision is unclear, such that LUBA cannot determine whether the findings supporting the decision are adequate to demonstrate compliance with that plan provision, LUBA will remand the decision to the local government to clarify its interpretation. *Furler v. Curry County*, 27 Or LUBA 546 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Arguments that approval of a fill permit violates local code provisions on fill in drainageways provide no basis for reversal or remand where (1) the local government adopted findings that the disputed fill was not placed in a drainageway, (2) those findings are supported by substantial evidence, and (3) petitioner does not specifically challenge the findings. *Fechtig v. City of Albany*, 27 Or LUBA 480 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a petitioner fails to challenge a local governments' findings that fill is not located in a drainageway or floodway and that the fill will not endanger adjoining properties, as required by local code and plan standards governing fill, but rather expresses disagreement with the local government based in part on evidence not the record, petitioner's challenge provides no basis for reversal or remand. *Fechtig v. City of Albany*, 27 Or LUBA 480 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where the local code's definition of "northern lot line" is ambiguous and recognizes there can be more than one northern lot line on any given piece of property, and the challenged decision determining compliance with solar access setback requirements simply contains a conclusory statement that a flag lot has only one northern lot line, LUBA will remand the decision for adoption of interpretive findings. *Sullivan v. City of Ashland*, 27 Or LUBA 411 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. If local government findings addressing different approval standards conflict with each other, and this conflict is not reconciled in the challenged decision, the conflict may undermine the findings sufficiently to render them inadequate to support the local government's determinations of compliance. *Doob v. Josephine County*, 27 Or LUBA 293 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government fails to adopt findings identifying and applying applicable criteria, it is not possible for LUBA to perform its review function. *Laine v. City of Rockaway Beach*, 26 Or LUBA 417 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A petitioner's assignment of error will be rejected where it simply alleges code violations, without supplying any supporting argument, or alleges inconsistent findings and lack of substantial

evidence, without identifying the challenged findings. *Draganowski v. Curry County*, 26 Or LUBA 420 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Petitioner’s argument that the county failed to address evidence that escaped dogs can cause great damage in rural areas provides no basis for reversal or remand, where the county found the proposed kennel will comply with a code standard requiring no significant increase in the cost of accepted farm and forest practices because the design of the kennel will result in no dogs escaping from the facility. *Larry Kelly Farms, Inc. v. Marion County*, 26 Or LUBA 401 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a comprehensive plan contains no existing inventory of significant aggregate resource sites and imposes different standards for plan amendments, depending on whether the amendment is a plan text or a plan map amendment, the local government must explain in its decision its rationale in processing and approving a request to amend the plan to designate a site as a significant aggregate resource site as a plan text amendment. *Nathan v. City of Turner*, 26 Or LUBA 382 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a petitioner lists a number of apparently relevant comprehensive plan policies and argues the local government erred by not addressing the policies in its decision, petitioner’s argument is sufficiently developed for LUBA review, and the decision must be remanded so that the local government can address those policies in its findings. *Waugh v. Coos County*, 26 Or LUBA 300 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged decision refers to a staff report and the applicant’s proposed findings and explicitly incorporates those documents by reference, and those documents are attached as exhibits to the decision, the decision adequately adopts those documents as findings in support of the decision. *Lucier v. City of Medford*, 26 Or LUBA 213 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Although the small size of a property may limit the size and impacts of a proposed development, and therefore provide a basis for explanatory findings demonstrating compliance with approval standards limiting development impacts, the decision approving such development may not simply cite the small size of the property and conclude the standards are met. *Lucier v. City of Medford*, 26 Or LUBA 213 (1994).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged decision does not identify the characteristics of a proposed “soil remediation” use, or compare those characteristics with those of the listed, permitted uses in the applicable zone, the findings are inadequate to demonstrate the proposed “soil remediation” use is similar to the listed, permitted uses in the applicable zone. *Murphy Citizens Advisory Comm. v. Josephine County*, 26 Or LUBA 181 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged decision fails to explain whether an arguably relevant comprehensive plan provision imposes limitations on the kinds of uses allowed in the applicable zone, LUBA must remand the decision for such an interpretation. *Murphy Citizens Advisory Comm. v. Josephine County*, 26 Or LUBA 181 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioners raised an issue below concerning whether a particular code provision is an applicable approval standard, and the challenged decision contains no interpretation explaining that code provision is either inapplicable or satisfied, LUBA must remand the challenged decision. *Hixson v. Josephine County*, 26 Or LUBA 159 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioners contend the local government failed to adopt findings addressing standards that appear to be relevant to the challenged decision, and the challenged decision includes only a conclusory statement that applicants have adequately demonstrated compliance with such standards, LUBA will remand the decision for lack of adequate findings. *Cummings v. Tillamook County*, 26 OR LUBA 139 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged decision applies some design review standards to an application for conditional use permit approval, but fails to explain why other apparently applicable design review standards are inapplicable to the conditional use permit stage, the challenged decision must be remanded for the local government to adopt findings addressing the applicability of these other design review standards. *Moore v. Clackamas County*, 26 Or LUBA 40 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the local code requires that a proposed driving range not alter the character of the surrounding area “in a manner which substantially limits, impairs or precludes the use of surrounding properties” for listed permitted uses, and findings acknowledge safety as a relevant consideration but simply rely upon the striking areas being more than 300 yards from adjacent properties to satisfy that safety consideration, the findings are inadequate to explain how the code standard is satisfied. *Moore v. Clackamas County*, 26 Or LUBA 40 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a challenged decision states certain findings supersede other inconsistent findings, a general challenge that findings adopted to support the decision are internally inconsistent provides no basis for reversal or remand, where petitioner fails to explain why the findings are inadequate to establish consistency with particular approval criteria or explain why alleged inconsistencies are not resolved by the designated superseding findings. *Eola-Glen Neighborhood Assoc. v. City of Salem*, 25 Or LUBA 672 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

An erroneous finding that the local government cannot impose a condition of subdivision approval requiring measures to mitigate off-site traffic impacts, provides no basis for reversal or remand, where the local government adopts superseding findings explaining why it believes such measures

are not warranted and the local government's authority to require such measures is permissive rather than mandatory. *Eola-Glen Neighborhood Assoc. v. City of Salem*, 25 Or LUBA 672 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a challenged decision grants subdivision approval, petitioner's challenge to a finding that the property is located in two residential zones provides no basis for reversal or remand, where petitioner makes no attempt to explain why the zoning of the property is critical to the decision and both zones impose the same minimum lot area. *Eola-Glen Neighborhood Assoc. v. City of Salem*, 25 Or LUBA 672 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county code provision requires that there be no other "feasible location" for a proposed use, county findings that do not explain *why* identified alternative sites are not "feasible locations" for the proposed use are impermissibly conclusory, and LUBA will remand the challenged decision unless "the parties identify relevant evidence in the record which clearly supports" the county's decision in this regard. *Simmons v. Marion County*, 25 Or LUBA 647 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings supporting approval of a PUD that determine there are solutions available to various landslide, drainage and related problems affecting the subject property, and that those solutions are possible, likely and reasonably certain to succeed, are adequate to establish that the local government did not improperly defer compliance with relevant PUD standards. *Corbett/Terwilliger Neigh. Assoc. v. City of Portland*, 25 Or LUBA 601 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged decision lacks adequate findings of compliance with a relevant approval standard, LUBA will not reverse or remand if the parties cite evidence in the record that "clearly supports" a determination of compliance with the standard. *Choban v. Washington County*, 25 Or LUBA 572 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where petitioner cites an apparently applicable standard, and respondents do not cite any findings of compliance with that standard, LUBA will remand the decision for the local government to adopt findings of compliance with the standard or an explanation of why the standard is inapplicable. *Choban v. Washington County*, 25 Or LUBA 572 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

In denying a request for permit approval, ORS 215.416(9) requires that a county provide an explanation of why the county believes the request fails to satisfy applicable standards. Where the required explanation is missing, LUBA will remand the decision. *Ball and Associates v. Josephine County*, 25 Or LUBA 525 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a subdivision approval standard simply requires connection with a storm drainage system, and there is no allegation that the subdivision cannot be connected to a storm drainage system, allegations that the challenged decision fails to find the storm drainage system will be adequate to

handle storm water provide no basis for reversal or remand of the decision. *Day v. City of Portland*, 25 Or LUBA 468 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. That a challenged decision granting subdivision approval fails to demonstrate feasibility of compliance with an approval condition requiring that a subdivision street provide “no worse” access to an adjoining property than is currently provided to that adjoining property provides no basis for reversal or remand, where assuring “no worse” access is not required by any applicable approval standard. *Day v. City of Portland*, 25 Or LUBA 468 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Under ORS 215.448(1)(c), home occupations must be operated in dwellings or other buildings normally associated with uses permitted in the applicable zone. Where the county adopts no findings addressing this requirement, the decision must be remanded for findings of compliance with the requirement. *Weuster v. Clackamas County*, 25 Or LUBA 425 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA may not interpret a local government’s comprehensive plan in the first instance, rather the local government must interpret its own plan, and LUBA may review that interpretation. *Citizens for Resp. Growth v. City of Seaside*, 25 Or LUBA 367 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. No statute or appellate court case requires that all legislative land use decisions be supported by findings. Absent allegations by petitioner that a legislative decision violates particular legal standards, a local government’s failure to adopt findings in support of that legislative decision addressing the statewide planning goals and local comprehensive plan is not, of itself, a basis for reversal or remand of the decision. *Oregon City Leasing, Inc. v. Columbia County*, 25 Or LUBA 129 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where findings state facts relevant to whether a proposed nonfarm use will interfere with accepted farming practices, but do not identify the types of farming occurring in the area, and those findings are challenged as inadequate and not supported by substantial evidence, LUBA will sustain the challenge in the absence of any attempt by respondents to defend the findings or identify evidence supporting the findings. *DLCD v. Crook County*, 25 Or LUBA 98 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a decision recites facts that might provide a basis for explaining why a proposed nonfarm use will not materially alter the land use pattern of the area, but the findings do not identify the relevant area, examine uses existing in the area, or explain why the proposed use will not materially alter the stability of the land use pattern of the area, the findings are inadequate. *DLCD v. Crook County*, 25 Or LUBA 98 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings that a parcel lacks water rights and does not produce sufficient forage for livestock without supplemental feed are inadequate to demonstrate the parcel is generally unsuitable land

for agricultural production, where the parcel is large, has two active springs and is currently leased for grazing. *DLCD v. Crook County*, 25 Or LUBA 98 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a county approves a 120 unit PUD on rural land, but fails to address plan policies limiting the provision of urban public services on rural land, a remand is required so that the county may adopt findings explaining why these standards are not violated by the proposed PUD. *DLCD v. Crook County*, 25 Or LUBA 98 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. When a party raises a relevant issue below concerning whether a perceived surplus of classroom seats is in fact not a surplus due to the effects of already approved development, the local government must address that issue in its findings. *Burghardt v. City of Molalla*, 25 Or LUBA 43 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where unchallenged findings adopted by a local government are sufficient to demonstrate that an applicable approval standard is not met, petitioner's challenge to other findings of nonconformance with that approval standard provide no basis for reversal or remand. *Lardy v. Washington County*, 24 Or LUBA 567 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Allegations that amount to no more than a disagreement with the ultimate conclusion reached by the local government in its findings, provide no basis for reversal or remand of the challenged decision. *McGowan v. City of Eugene*, 24 Or LUBA 540 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Findings that a proposed comprehensive plan map designation will offer more protection for resources identified in certain comprehensive plan policies than the existing plan map designation are adequate to support the change in plan designation, absent some explanation of why those findings are inadequate. *Reeves v. Washington County*, 24 Or LUBA 483 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged findings are not necessary to the decision and do not purport to be binding on future proceedings, they provide no basis for reversal or remand. *Reeves v. Washington County*, 24 Or LUBA 483 (1993).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a local government fails to adopt any findings addressing apparently applicable statewide planning goal, administrative rule and comprehensive plan criteria, the local government may not avoid a remand by arguing petitioner failed to preserve its ability to raise the issue of compliance with those provisions by not raising the issue with sufficient specificity during the local proceedings. In such circumstances, it is the failure to adopt findings that necessitates remand. *ODOT v. City of Waldport*, 24 Or LUBA 344 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

That there are no findings establishing that the local government independently verified the evidence

submitted by an applicant provides no basis for reversal or remand of the local government's decision. *Giesy v. Benton County*, 24 Or LUBA 328 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will not consider a challenge to the adequacy of or evidentiary support for particular findings supporting a land use decision, where petitioner fails to include sufficient argument explaining why those findings are critical to the challenged decision. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a petitioner alleges a zoning map amendment violates plan policies and an LCDC administrative rule, a local government is obligated to adopt findings explaining either why the plan policies and rule do not apply to the disputed zone change or why the zone change is consistent with the plan policies and rule. *Recht v. City of Depoe Bay*, 24 Or LUBA 129 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a decision maker does not clearly identify in its decision the portions of a document that it adopts by reference as findings, it runs a risk that LUBA will not be able to identify and review any portion of such document as findings of the decision maker. *Wilson Park Neigh. Assoc. v. City of Portland*, 24 Or LUBA 98 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government's determination of compliance with a code standard requiring that adequate water service be provided to a proposed development is based entirely on the use of surface water, whether there are sufficient findings and evidence to demonstrate the adequacy of ground water to serve the proposed resort does not provide a basis for reversal or remand of the local government's decision. *Bouman v. Jackson County*, 23 Or LUBA 628 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government adopts findings specifically addressing an approval standard, petitioners may not fail to challenge the adequacy of the local government's findings, or their evidentiary support, and simply allege reasons why they believe the standard might be violated. *Mercer v. Josephine County*, 23 Or LUBA 608 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Inadequate findings concerning one of the bases for denying a permit application provide no basis for reversal or remand where there are other adequate findings of noncompliance with applicable approval standards. *Reeder v. Clackamas County*, 23 Or LUBA 583 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local government commits no error by failing to adopt findings addressing the impacts of a comprehensive plan transportation map amendment on an inventoried Goal 5 resource site, where the record shows the resource site is located outside the area affected by the challenged plan transportation map amendment. *Davenport v. City of Tigard*, 23 Or LUBA 565 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. City decisions granting preliminary and final subdivision plat approvals which are not supported by findings which identify the relevant approval standards and explain why those standards are met must be remanded for adoption of the required findings. ORS 227.173(2). *Warren v. City of Aurora*, 23 Or LUBA 507 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A challenged land use decision must contain findings addressing the applicable approval standards. *Veatch v. Wasco County*, 23 Or LUBA 515 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government neither adopts findings demonstrating compliance with a permit approval standard, nor finds it is feasible to comply with that standard, but instead defers the required determination of compliance with that standard to a later stage of the approval process where only the applicant has a right to notice and to participation and to appeal the decision, the decision must be remanded. *Rhyne v. Multnomah County*, 23 Or LUBA 442 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government adopts findings expressing alternative bases for concluding a particular approval criterion is met, and petitioner challenges only the findings addressing one of the bases, the assignment of error will be denied. *Avgeris v. Jackson County*, 23 Or LUBA 124 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a petitioner challenges a decision approving a nonforest dwelling on the basis of past bug infestations, but makes no attempt to demonstrate any connection between the proposed dwelling and the likelihood of additional bug infestations, and the local government adopted unchallenged findings that the dwelling would reduce the likelihood of such infestation, petitioner's challenge will be rejected. *Camp v. Josephine County*, 23 Or LUBA 6 (1992).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings which are not essential to the challenged decision, even if erroneous in some way, do not provide a basis for reversal or remand of the decision. *Marson v. Clackamas County*, 22 Or LUBA 497 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. That a finding is impermissibly conclusory, or is without evidentiary support in the record, is a basis for reversal or remand only if that finding is essential to the challenged decision. Therefore, where petitioners challenge the adequacy of or evidentiary support for a specific finding, they must also explain why that finding is essential to demonstrating compliance with an applicable approval standard. *Brandt v. Marion County*, 22 Or LUBA 473 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a county's findings in support of a decision approving a division of an EFU-zoned farm parcel into two farm parcels fail to distinguish between commercial and noncommercial agricultural enterprises in the area, the decision must be remanded. *Still v. Marion County*, 22 Or LUBA 331 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where a local government fails to adopt findings explaining why an amendment to its acknowledged comprehensive plan complies with the statewide planning goals, LUBA relies on respondents to provide argument and citations to the record in response to a petitioner’s allegations concerning goal violations. *Von Lubken v. Hood River County*, 22 Or LUBA 307 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where there is no applicable standard requiring a demonstration that there is a need for the proposed use, that findings stating there is a need for the proposed use are inadequate or not supported by substantial evidence provides no basis for reversal or remand. *Murray v. Clackamas County*, 22 Or LUBA 247 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged decision includes findings which appear sufficient to meet an applicable approval criterion, and petitioners offer no explanation of why the findings are inadequate, petitioners provide no basis for reversing or remanding the decision. *Broetje-McLaughlin v. Clackamas County*, 22 Or LUBA 198 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where findings are inadequate to allow review of a local government’s decision, LUBA will remand the decision. *Seger v. City of Portland*, 22 Or LUBA 162 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

While LUBA does not reverse or remand on the basis of inadequate findings if the local government cites evidence in the record to “clearly support” the challenged decision, where the evidence in the record is conflicting, such evidence does not “clearly support” the challenged decision. *Cummins v. Washington County*, 22 Or LUBA 129 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

In amending its urban renewal plan, a city is not required to adopt a financial analysis for an unsubsidized headquarters hotel or find that an unsubsidized headquarters hotel is financially feasible under ORS 457.085(3)(g) and 457.095(6) where (1) the original urban renewal plan included a subsidized headquarters hotel as an authorized project, and (2) the amendment to the urban renewal plan does not presently withdraw authorization for a public subsidy for the headquarters hotel. *Holladay Investors, Ltd. v. City of Portland*, 22 Or LUBA 90 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

LUBA does not reverse or remand a decision on the basis of inadequate findings where the parties cite evidence in the record which clearly supports the decision. *Kirkpatrick v. Jackson County*, 22 Or LUBA 3 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where the challenged decision incorrectly states that certain issues are not relevant to the applicable approval criteria, but also includes findings addressing those issues, there is no basis for reversal or remand of the decision unless petitioners establish that the findings are inadequate

to demonstrate compliance with the applicable approval standards. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. An incorrect finding does not provide a basis for reversal or remand where there is no indication in the challenged decision that the decision maker relied on the incorrect finding in determining compliance with applicable approval criteria. *Reynolds v. Clackamas County*, 21 Or LUBA 412 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where petitioners provide no explanation of why detailed findings addressing particular approval standards are inadequate to demonstrate compliance with those standards, LUBA will not sustain petitioner’s assignment of error. *Brown & Cole, Inc. v. City of Estacada*, 21 Or LUBA 392 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local code standard provides blocks may not exceed 1,000 feet unless topography or location of adjoining streets justifies an exception, and an issue is raised during the local proceedings concerning a proposed block in excess of 1,000 feet, the local government must adopt findings explaining why a block in excess of 1,000 feet is justified. *Southwood Homeowners Assoc. v. City of Philomath*, 21 Or LUBA 260 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government finds that otherwise applicable street width standards need not be satisfied in a proposed subdivision under a local code provision allowing narrower roads where consistent with “a plan for the neighborhood,” and petitioners do not challenge that finding, petitioners’ arguments that the subdivision violates street width requirements must be rejected. *Southwood Homeowners Assoc. v. City of Philomath*, 21 Or LUBA 260 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Challenges to findings that are not necessary to show compliance with applicable approval standards provide no basis for reversal or remand. *Southwood Homeowners Assoc. v. City of Philomath*, 21 Or LUBA 260 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where LUBA upholds one or more bases for a county’s decision denying a request for land use approval, findings concerning an additional basis for denying approval provide no basis for reversal or remand, even if such findings are erroneous. *Carsey v. Deschutes County*, 21 Or LUBA 118 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a local government’s findings are inadequate to establish that a proposed homeless shelter will not provide “care,” but the record contains evidence which clearly supports such a determination, LUBA will affirm the local government’s determination. *Smith v. City of Portland*, 21 Or LUBA 111 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. An assignment of error which simply alleges that findings addressing approval standards are conclusory will be rejected, even though some of the challenged findings are conclusory, if other findings addressing the approval standards are not conclusory and petitioner provides no additional argument in support of his allegations. *Wethers v. City of Portland*, 21 Or LUBA 78 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a necessary finding is technically defective in that it does not identify the facts upon which the decision relies, but the respondent identifies evidence in the record “which clearly supports” the decision, the defective finding provides no basis for reversal or remand. ORS 197.835(9)(b). *Wethers v. City of Portland*, 21 Or LUBA 78 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a petitioner alleges a local government failed to address specific plan policies in approving plan and zone map amendments, and the local government neither identifies findings addressing those plan policies nor claims the cited plan policies are inapplicable, the decision must be remanded so the local government can adopt findings explaining why its decision is consistent with the plan policies. *Wethers v. City of Portland*, 21 Or LUBA 78 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Findings addressing land use standards may or may not be required to support a legislative land use decision. However, the absence of such findings has no bearing on whether a decision actually is a land use decision. *Jentzsch v. City of Sherwood*, 20 Or LUBA 575 (1991).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. If findings in support of a denial of quasi-judicial land use approval adequately explain a sufficient basis for denial, they will be upheld. *Forest Park Estate v. Multnomah County*, 20 Or LUBA 319 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Allegations regarding the adequacy of the local government’s findings to establish compliance with a particular comprehensive plan policy provide no basis for reversal or remand of the local government’s decision if that policy is not an approval standard. *Thormahlen v. City of Ashland*, 20 Or LUBA 218 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. Where a challenged finding is conclusory and inadequate, but clearly relies on the preceding finding which is much more detailed, and petitioner does not challenge the preceding finding, the inadequacy of the challenged finding itself provides no basis for reversal or remand. *Keudell v. Union County*, 19 Or LUBA 394 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. LUBA will only reverse or remand a challenged decision on the basis of inadequate findings if the findings are necessary to the decision. *Lowrie v. Polk County*, 19 Or LUBA 363 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where respondent does not cite evidence in the record in support of its contention that there is evidence in the record which clearly supports the findings it failed to make, LUBA cannot deny a challenge to the adequacy of the findings on the basis of ORS 187.835(9)(b). *Chambers v. Clackamas County*, 19 Or LUBA 355 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

In addition to demonstrating that a challenged finding is inadequate or unsupported by substantial evidence, a petitioner must demonstrate the challenged finding is necessary to support the challenged decision. *Griffith v. City of Milwaukie*, 19 Or LUBA 300 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A challenge to the adequacy of and evidentiary support for a finding that a modification of a previously imposed condition of land use approval is justified based on changed circumstances provides no basis for reversal or remand, where none of the applicable criteria require that modifications of conditions of approval be based on changed circumstances. *Griffith v. City of Milwaukie*, 19 Or LUBA 300 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

A city decision to require, as a condition of approval, dedication of a right-of-way to improve street system efficiency and to provide future access to interior developable parcels is supported by adequate findings and substantial evidence in the record where the city's findings and the evidentiary record are sufficient to show a legitimate planning purpose is furthered by requiring the right-of-way dedication. *Vestibular Disorders Consult. v. City of Portland*, 19 Or LUBA 94 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an existing plaza fully satisfies a code requirement for at least one plaza in excess of five percent of the area of the block, no "adjustment" was required to grant a requested development approval which includes a plaza of less than five percent of the block's area. Because no "adjustment" was required, even if the findings explaining the justification for the "adjustment" are inadequate, they provide no basis for remand. *Corbett/Terwilliger Neigh. Assoc. v. City of Portland*, 19 Or LUBA 1 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

Where an ordinance provision requires that a proposed conditional use be consistent with the comprehensive plan, and petitioners contend an apparently relevant plan provision was not addressed, the county must identify findings establishing, or evidence "clearly supporting," a determination that either (1) the plan provision does not apply, or (2) the proposed conditional use is consistent with the plan provision. *Stefan v. Yamhill County*, 18 Or LUBA 820 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings.

OAR 660-04-020(2)(a) requires that the amount of land included in a goal exception be justified. Where a county's findings make no attempt to justify the number of acres included in an exception for a landfill, the county's decision must be remanded so that findings justifying the amount of acreage included in the exception can be adopted. *Dyke v. Clatsop County*, 18 Or LUBA 787 (1990).

28.8.6 LUBA Scope of Review – Grounds for Reversal/Remand – Inadequate Findings. A local government is not required to explain in its findings why it chose not to rely on certain evidence, as long as LUBA can conclude a reasonable decision maker could decide as the local government did, in view of all the evidence in the record. *Douglas v. Multnomah County*, 18 Or LUBA 607 (1990).