

29.2.1 Comprehensive Plans – Amendment – Generally. Where a significant resource overlay zone provision requires that (1) resource sites not be altered or impacted to a degree that destroys their significance, (2) the proposed development not result in the loss of habitat for threatened or endangered species, (3) all feasible alternatives to the development that would not result in a substantial adverse impact on identified resource values be considered and rejected, (4) the development be sited on the property in such a manner that minimizes adverse impacts on identified resources, and (5) documentation be provided regarding requirements for state or federal permits or licenses and that appropriate resource management agencies have reviewed the development proposal against their plans, policies, and programs, the local government does not err in concluding that that provision applies at the development stage rather than the PAPA stage. *VanSickle v. Klamath County*, 80 Or LUBA 241 (2019).

29.2.1 Comprehensive Plans – Amendment – Generally. That an alteration to a proposed PAPA is required by LUBA’s decision in a prior appeal and reduces the subject acreage does not mean as a matter of law that the proposed PAPA is not “altered to such an extent that the materials submitted no longer reasonably describe the proposed change,” thereby requiring notice of the alteration to DLCD pursuant to ORS 197.610(6). *Save TV Butte v. Lane County*, 80 Or LUBA 422 (2019).

29.2.1 Comprehensive Plans – Amendment – Generally. Under ORS 197.610(6), if a proposed PAPA is altered to such an extent that the notice submitted to DLCD under ORS 197.610(1) and (3) no longer reasonably describes it, the local government must submit notice of the alterations to DLCD at least 10 days before the final evidentiary hearing, which DLCD thereafter provides to the public. The larger statutory scheme at ORS 197.610 to 197.625 is intended to expand notice and participatory options for DLCD and a broader audience that may not receive local notice. A local government’s errors under ORS 197.610(6) require remand where they are of a kind or degree that calls into question whether the ORS 197.610 to 197.625 process nevertheless performed its function. *Save TV Butte v. Lane County*, 80 Or LUBA 422 (2019).

29.2.1 Comprehensive Plans – Amendment – Generally. Where notice under ORS 197.610(6) is sent to DLCD 17 days *after* the final evidentiary hearing occurred and describes the “date of first evidentiary hearing” and the “date of final hearing” but does not identify the date of the “final evidentiary hearing,” where there is a disparity between the text of the notice and the text of an ordinance included with the notice regarding the subject acreage, and where the notice is sent during a time when the record is left open only for evidence that is responsive to evidence that was submitted earlier, the totality of the errors in the submission of the notice and in the notice itself are of a kind and degree that make it doubtful that the ORS 197.610 to 197.625 process performed its function, and remand is required. *Save TV Butte v. Lane County*, 80 Or LUBA 422 (2019).

29.2.1 Comprehensive Plans – Amendment – Generally. A county’s comprehensive plan is a working document that must be updated to reflect existing conditions and future planning obligations. Where nothing in the statewide planning goals or the county’s comprehensive plan prohibits amendments to expand areas in the county to which certain plan designations may be applied, provided those areas meet all applicable statutory and rule requirements, such amendments do not provide grounds for remand or reversal. Counties have wide latitude to adopt and revise their comprehensive plans and zoning ordinances; amendments to the comprehensive

plan need only comply with the statewide planning goals. *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (2019).

29.2.1 Comprehensive Plans – Amendment – Generally. Goal 14 prohibits urban uses on rural lands. Where a county’s text amendments to its comprehensive plan do not allow any urban uses on rural land, but merely expand the allowable locations in the county that could be the subject of an application to change the plan designation to rural industrial, and the text amendments require the applicant to demonstrate that the proposed use for which the rural industrial plan designation change is consistent with all statewide planning goals, including Goal 14, a petitioner’s arguments that the amendments violate Goal 14 do not provide a basis for reversal or remand. *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (2019).

29.2.1 Comprehensive Plans – Amendment – Generally. A petitioner’s challenge to a county’s amendments to its comprehensive plan that expand the allowable locations in the county that could be the subject of an application to change the plan designation to rural commercial and rural industrial, that argue that the county’s adopted and acknowledged rural commercial and rural industrial zones impermissibly allow urban uses in contravention of Goal 14 are an impermissible collateral attack on an acknowledged land use regulation where no provisions of the county’s code were amended by the challenged decision. *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (2019).

29.2.1 Comprehensive Plans – Amendment – Generally. *Department of Transportation v. Douglas County*, 157 Or App 18, 24-25, 967 P2d 901 (1998), does not stand for the broad proposition that in an appeal of an amendment to an existing acknowledged comprehensive plan a petitioner may challenge both the amended and unamended parts of the comprehensive plan. *Department of Transportation* was a case where the county was attempting to bring its entire comprehensive plan into compliance with the transportation planning rule, and in that circumstance LUBA review was not limited to the amendment. *Nicita v. City of Oregon City*, 75 Or LUBA 38 (2017).

29.2.1 Comprehensive Plans – Amendment – Generally. LUBA will reject an assignment of error based on OAR 660-012-0035(3)(b), where petitioner makes no attempt to explain why the OAR 660-012-0035(3)(b) transportation system planning obligation has any bearing on or relevance to a quasi-judicial comprehensive plan and zoning map amendment that makes no changes to the city’s acknowledged transportation system plan. *Nicita v. City of Oregon City*, 75 Or LUBA 38 (2017).

29.2.1 Comprehensive Plans – Amendment – Generally. In considering whether new comprehensive plan and zoning map designations are consistent with statewide planning goal, comprehensive plan and code requirements of adequate and safe transportation facilities, a city does not err by concluding the new designations will have no impact on those facilities because the new designations include a condition that development under the new designations be suspended as soon as it generates the same traffic impact that would be generated under the existing acknowledge comprehensive plan and zoning map designations. *Nicita v. City of Oregon City*, 75 Or LUBA 38 (2017).

29.2.1 Comprehensive Plans – Amendment – Generally. ORS 215.431 expressly authorizes county governing bodies to allow planning commissions and hearing officers to make final decisions on some types of comprehensive plan amendments. *Housing Land Advocates v. City of Happy Valley*, 73 Or LUBA 405 (2016).

29.2.1 Comprehensive Plans – Amendment – Generally. That a comprehensive plan map amendment may be quasi-judicial, and therefore potentially approvable by a planning commission, does not mean relevant statutes may not require that action be taken by the governing body before the map amendment can become final and effective. *Housing Land Advocates v. City of Happy Valley*, 73 Or LUBA 405 (2016).

29.2.1 Comprehensive Plans – Amendment – Generally. The Court of Appeals' decision in *Colwell v. Washington County*, 79 Or App 82, 718 P2d 747 (1986), which held that a final decision by the governing body is necessary to make a comprehensive plan map amendment final and effective, was based on several statutes, some of which apply to counties only and some of which apply to both cities and counties. Absent a statutory exception, a final decision by a city's governing body is necessary to make a comprehensive plan map amendment final and effective. *Housing Land Advocates v. City of Happy Valley*, 73 Or LUBA 405 (2016).

29.2.1 Comprehensive Plans – Amendment – Generally. A petitioner is not required to appeal a planning commission decision approving a comprehensive plan map amendment to the city council, where under applicable law a decision by the city council is required in any event to make the comprehensive plan map amendment final and effective. In that circumstance, a petitioner is not required by ORS 197.825(2)(a) to exhaust a remedy that would do no more than require the city council to do what applicable statutes and Goal 2 already require the city council to do. *Housing Land Advocates v. City of Happy Valley*, 73 Or LUBA 405 (2016).

29.2.1 Comprehensive Plans – Amendment – Generally. There is no internal comprehensive plan conflict if lands that were previously added to a comprehensive plan map under prior mapping standards are allowed to remain on that map after the county adopts new mapping standards that those lands do not satisfy, so long as the county intended the new mapping standards to apply prospectively. *Central Oregon Landwatch v. Deschutes County*, 63 Or LUBA 123 (2011).

29.2.1 Comprehensive Plans – Amendment – Generally. Although amendments to county standards for mapping sites that are eligible for destination resort siting are comprehensive plan amendments, and therefore potentially could result in significant affects on transportation facilities that could implicate OAR 660-012-0060, altering the standards for adding sites to the map in the future has no impact on transportation facilities. It is the future map amendments themselves that might significantly affect a transportation facility and implicate OAR 660-012-0060, and a county must consider OAR 660-012-0060 at the time those comprehensive plan amendments are adopted in the future. *Central Oregon Landwatch v. Deschutes County*, 63 Or LUBA 123 (2011).

29.2.1 Comprehensive Plans – Amendment – Generally. In land use regulation, grandfather clauses shield land use rights that were gained under old land use laws from the application of new land use laws so that the new land use laws are only applied prospectively. *Central Oregon Landwatch v. Deschutes County*, 63 Or LUBA 123 (2011).

29.2.1 Comprehensive Plans – Amendment – Generally. A city does not err in determining that a golf course can support open space values when considering whether existing or proposed comprehensive plan designations better support various comprehensive plan policies. *Haertl Development Company v. City of Portland*, 59 Or LUBA 69 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. When determining what comprehensive plan designation is more appropriate, a local government may consider evidence regarding wildlife habitat protection, recreation, need for parkland, water quality preservation, noise and air pollution, and tree preservation with respect to the entire property at issue in deciding that open space is the proper designation. The consideration is not limited to inventoried habitat and riparian areas. *Haertl Development Company v. City of Portland*, 59 Or LUBA 69 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. An ordinance that adds a destination resort overlay to a number of acres that were not included on the originally adopted destination resort overlay map “amends” the destination resort overlay map. That the county may have intended to include those acres within the destination resort overlay when the map was originally adopted does not make the map “amendment” something other than an “amendment.” *Remington Ranch, LLC v. Crook County*, 59 Or LUBA 361 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. An ordinance that repeals an existing comprehensive plan and zoning map and replaces it with a revised map is an “amendment” of the existing comprehensive plan and zoning map. *Remington Ranch, LLC v. Crook County*, 59 Or LUBA 361 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. When an applicant files a consolidated set of applications for: (1) a comprehensive plan amendment; (2) a zone change that is dependent on that plan map amendment; and (3) a development permit that is dependent on that zone change, the goal post rule at ORS 197.427(3)(a) does not apply to “freeze” in place the standards and criteria that applied to that development permit as of the date the applications were filed. Instead the standards and criteria that apply are those supplied by the new plan and zoning designations. *Columbia Riverkeeper v. Clatsop County*, 58 Or LUBA 190 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. Where the challenged decision only creates a new zoning district without applying that zoning district to any property, a petitioner’s argument that future development proposals may violate the new zoning district’s requirement that new commercial development be small-scale and low impact is premature. *Carver v. Deschutes County*, 58 Or LUBA 323 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a petitioner argues that a comprehensive plan amendment is inconsistent with a comprehensive plan policy, but the cited comprehensive plan policy has been repealed, petitioner provides no basis for reversal or remand. *Carver v. Deschutes County*, 58 Or LUBA 323 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. While an annexation must be made in compliance with a city’s acknowledged comprehensive plan, no statute or administrative rule

requires that in annexing territory the city must contemporaneously amend its comprehensive plan map to depict the new city boundaries. *Link v. City of Florence*, 58 Or LUBA 348 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. Where part of a subarea plan is adopted by one ordinance and part of that subarea plan is adopted by a second ordinance, and the first ordinance is remanded by LUBA but the second ordinance is affirmed, the part of the subarea plan adopted by the second ordinance may provide the comprehensive plan basis for a parking garage. Where the second ordinance adopts a subarea plan parking policy and zoning code amendments that specifically authorize parking garages on certain specified properties and a city subsequently issues a decision approving a parking garage pursuant to the policy and zoning code, the city’s decision will be affirmed on appeal notwithstanding that the first ordinance was remanded, where petitioners identify no other comprehensive plan provisions that are inconsistent with approval of the parking garage. *NWDA v. City of Portland*, 58 Or LUBA 533 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. *Miles v. City of Florence*, 190 Or App 500, 79 P3d 382 (2003), did not overrule or modify *Colwell v. Washington County*, 79 Or App 82, 91, 718 P2d 747 (1986), and similar cases holding that the ORS 197.825(2)(a) exhaustion requirement does not require a petitioner to file a local appeal of a lower body’s initial comprehensive plan amendment decision to the governing body, because applicable statutes require the governing body to conduct a hearing on the amendment in any event. *Wetherell v. Douglas County*, 58 Or LUBA 638 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. Notwithstanding that a county’s code provides that the planning commission’s decision on a comprehensive plan amendment is “final” unless a local appeal is filed, under ORS 215.060 the county governing body must hold a public hearing on the plan amendment and take final action, and therefore the planning commission’s initial decision on the plan amendment is not “final” in any meaningful sense. *Wetherell v. Douglas County*, 58 Or LUBA 638 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. Even where a county’s code provides for local appeal as one of three possible paths by which a governing body will review the planning commission’s initial decision on a comprehensive plan amendment, because ORS 215.060 requires the governing body to hold a public hearing on a plan amendment at which testimony and issues can be raised, in that circumstance a petitioner before LUBA is not required to file a local appeal and specify issues in a notice of local appeal in order to exhaust administrative remedies or avoid waiver under *Miles v. City of Florence*, 190 Or App 500, 79 P3d 382 (2003). *Wetherell v. Douglas County*, 58 Or LUBA 638 (2009).

29.2.1 Comprehensive Plans – Amendment – Generally. When ORS 197.620(1) was first adopted, the requirement that a person must have “participated” during the local proceedings that led to adoption of a post-acknowledgment plan amendment required that an appellant have done more than make a bare neutral appearance during the local proceedings. *Century Properties, LLC v. City of Corvallis*, 51 Or LUBA 572 (2006).

29.2.1 Comprehensive Plans – Amendment – Generally. The text, context and statutory history of ORS 197.620(1) and 197.830(2) establish that while a bare neutral appearance will satisfy the

standing requirement under ORS 197.830(2) that an appellant must have “appeared,” such a bare neutral appearance will not satisfy the standing requirement under ORS 197.620(1) that an appellant must have “participated.” To have participated under ORS 197.620(2), an appellant must have asserted a position on the merits. *Century Properties, LLC v. City of Corvallis*, 51 Or LUBA 572 (2006).

29.2.1 Comprehensive Plans – Amendment – Generally. While deviations from the post acknowledgment plan amendment notice requirements at ORS 197.610(1) may constitute procedural errors that will not provide a basis for remand absent prejudice to a petitioner’s substantial rights, a complete failure to provide notice to the Department of Land Conservation and Development under ORS 197.610(1) is a substantive error and requires remand without regard to whether the failure prejudiced petitioner’s substantial rights. *Friends of Bull Mountain v. City of Tigard*, 51 Or LUBA 759 (2006).

29.2.1 Comprehensive Plans – Amendment – Generally. Language in the notice of a plan amendment that can be read to say that the plan designation of a parcel was changed from General Industrial to Light Industrial is not a basis to conclude at a later date that the parcel is designated Light Industrial rather than General Industrial, where the plan amendment itself does not change property’s plan designation to Light Industrial. *Status v. City of Corvallis*, 48 Or LUBA 254 (2004).

29.2.1 Comprehensive Plans – Amendment – Generally. A city does not err in failing to follow comprehensive plan amendment procedures in approving an annexation, where the annexation decision does not amend the city’s comprehensive plan. *Morsman v. City of Madras*, 47 Or LUBA 80 (2004).

29.2.1 Comprehensive Plans – Amendment – Generally. A comprehensive plan citizen participation provision that requires appointment of a three-person citizens’ advisory committee when the planning commission is considering a major change to the local government’s land use regulations is not correctly interpreted to give the planning commission unlimited discretion in deciding what changes constitute major changes. *Dobson v. City of Newport*, 47 Or LUBA 267 (2004).

29.2.1 Comprehensive Plans – Amendment – Generally. A post-acknowledgement plan amendment that redesignates more than two acres for commercial use must follow one of the three courses of action set out at OAR 660-009-0010(4). Although one of those permissible courses of action is to demonstrate that the post-acknowledgement plan amendment is consistent with the part of the acknowledged comprehensive plan that was adopted to implement the Goal 9 administrative rule, where the proposed action appears to be inconsistent with implementation strategies in the plan, the city must amend its acknowledged comprehensive plan following the planning requirements of OAR 660-009-0015 through 660-009-0025 and in doing so it must prepare an economic opportunities analysis. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

29.2.1 Comprehensive Plans – Amendment – Generally. A city may rely on the residential buildable lands inventory in its acknowledged comprehensive plan and need not update that inventory when adopting a post-acknowledgment plan amendment. Where that inventory shows a

surplus of residential buildable lands both before and after a plan amendment that designates some of those lands to allow other uses, the city may rely on that remaining surplus to find the plan amendment is consistent with Goal 10 housing planning requirements. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

29.2.1 Comprehensive Plans – Amendment – Generally. An assignment of error that challenges a county’s failure to apply code criteria governing zoning map amendments provides no basis for reversal or remand where the assignment of error contends the zoning code criteria should have been applied to a comprehensive plan map amendment. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

29.2.1 Comprehensive Plans – Amendment – Generally. A comprehensive plan policy that allegedly was adopted to clarify that certain county soils that had never been rated for forest productivity were assumed to be non-forest soils was ineffective to accomplish that purpose, where the plan policy also provided an alternative procedure for determining the suitability of soils for forest use to be applied where “a determination cannot be made” using the county’s soil rating system. *Doob v. Josephine County*, 41 Or LUBA 303 (2002).

29.2.1 Comprehensive Plans – Amendment – Generally. OAR 660-018-0010(11) and 660-018-0010(13), read together, exempt small tract zoning map amendments from the requirement, at OAR 660-018-0020 and ORS 197.610, that DLCD be notified of proposed plan or land use regulation amendments. *Neighbors for Sensible Dev. v. City of Sweet Home*, 40 Or LUBA 21 (2001).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a county fails to provide 45 days’ advance notice to the Department of Land Conservation and Development prior to the first hearing on a post acknowledgment plan amendment, and provides no explanation for why emergency circumstances warrant shorter notice, the county’s decision must be remanded. *Donnell v. Union County*, 39 Or LUBA 419 (2001).

29.2.1 Comprehensive Plans – Amendment – Generally. ORS 215.050(2) requires that zoning amendments shall implement the adopted comprehensive plan. When a local government adopts a zone change but does not adopt a contemporaneous comprehensive plan change, resulting in plan map/zoning map inconsistency, the decision must be remanded. *DLCD v. Klamath County*, 38 Or LUBA 769 (2000).

29.2.1 Comprehensive Plans – Amendment – Generally. Read in conjunction with the “safe harbor” provisions of OAR 660-013-0140, the requirement at OAR 660-013-0160(5) that a local government achieve full compliance with the Airport Planning Rule in amending its comprehensive plan and land use regulations applies only when the local government amends its plan or land use regulations to add different requirements than the plan or land use regulations previously imposed. *Northwest Aggregates Co. v. City of Scappoose*, 38 Or LUBA 291 (2000).

29.2.1 Comprehensive Plans – Amendment – Generally. The “air, rail, water and pipeline transportation plan” required by OAR 660-012-0020(2)(e) to be included in a local government’s Transportation System Plan need not include any information other than that specified in the rule,

i.e., the location and extent of existing or planned facilities. *Northwest Aggregates Co. v. City of Scappoose*, 38 Or LUBA 291 (2000).

29.2.1 Comprehensive Plans – Amendment – Generally. A demonstration of need for a UGB amendment must be based upon and consistent with the local government’s planning documents adopted pursuant to the Goal 2-mandated planning process. In order to amend the UGB based on different population and capacity projections than those in the local government’s comprehensive plan, the local government must amend the plan to include those different projections. *Residents of Rosemont v. Metro*, 38 Or LUBA 199 (2000).

29.2.1 Comprehensive Plans – Amendment – Generally. A local government’s failure to adopt a transportation system plan (TSP) by the date required by OAR 660-012-0055 does not preclude the local government from amending the transportation element of its comprehensive plan until it adopts a TSP, where it is clear under the comprehensive plan that the transportation element is a separate policy document than the TSP, and the amendments to the transportation element are not intended to and do not have the effect of adopting a TSP. *Volny v. City of Bend*, 37 Or LUBA 493 (2000).

29.2.1 Comprehensive Plans – Amendment – Generally. A comprehensive plan amendment that changes a minor arterial to a major arterial changes the functional classification of a transportation facility and thus requires findings of compliance with OAR 660-012-0060. *Volny v. City of Bend*, 37 Or LUBA 493 (2000).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a city approves a development plan for a university district as part of a quasi-judicial proceeding, but does not incorporate it into the city’s comprehensive plan or land use regulations, the development plan is not a comprehensive plan or land use regulation, and thus amendments to that plan are not subject to review for compliance with statewide planning goals or the Transportation Planning Rule. *Brome v. City of Corvallis*, 36 Or LUBA 225 (1999).

29.2.1 Comprehensive Plans – Amendment – Generally. A local government does not violate the Goal 2 consistency requirement by using updated population projections instead of population projections in its comprehensive plan to determine the size of the urban land need under the urban reserve rule, OAR 660-021-0030, where the two projections serve different purposes and use of the updated projections does not undermine or conflict with the comprehensive plan or implementing regulations. *D.S. Parklane Development, Inc. v. Metro*, 35 Or LUBA 516 (1999).

29.2.1 Comprehensive Plans – Amendment – Generally. The Transportation Planning Rule, OAR 660-012-0060, requires that when a plan amendment “significantly affects” a transportation facility the local government must either ensure that the amendment is consistent with its transportation plan or amend its plan. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. When a land use allowed by a comprehensive plan amendment would “significantly affect” a transportation facility, a local government may not avoid the requirements of the Transportation Planning Rule, OAR 660-012-

0060, by conditioning the amendment on improvements that maintain the facility above the thresholds provided in OAR 660-012-0060(2). *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. If a local government’s watershed is already in violation of applicable state environmental standards, it may not amend its comprehensive plan to allow future development that will compound that violation without either finding that the amendment is consistent with Goal 6 or taking an exception to Goal 6. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. Goal 11 applies when a local government redesignates land to allow for more intensive uses that place greater demand on public facilities than uses allowed under an existing designation. Goal 11 is not implicated when a local government redesignates land to allow a shopping center that will place fewer demands on public facilities than the residential uses allowed under the current designation. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. The Transportation Planning Rule requirements set forth at OAR 660-012-0045(2) by their terms apply directly to local codes, not local comprehensive plans. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. The OAR 660-012-0045(2)(g) requirement that local governments adopt “regulations assuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities and levels of service of facilities identified in the TSP” is not satisfied by a plan provision that fails to refer to the Transportation Planning Rule by name or number and that imposes a different threshold for application of the rule standard than is required by the rule. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. LUBA has no jurisdiction to review provisions of an acknowledged comprehensive plan for compliance with the Transportation Planning Rule, where those plan provisions are not amended by the challenged decision and are not affected by the challenged decision in a way that affects their compliance with the statewide planning goals. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. The requirement of OAR 660-012-0015(2)(a) that regional TSPs be consistent with the state TSP is violated by a comprehensive plan amendment that purports to require that ODOT provide access under circumstances that are not consistent with ODOT policies. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. Where petitioners’ arguments are directed at unamended provisions of an acknowledged comprehensive plan rather than the comprehensive plan amendments adopted by the challenged decision, petitioners present no basis for reversal or remand. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

29.2.1 Comprehensive Plans – amendment – Generally. An amendment to a future streets plan does not significantly affect a transportation facility, and the TPR does not apply, where the record demonstrates that the decision does not change a functional classification or any standards relating to functional classifications and traffic levels would not be increased. *Fogarty v. City of Gresham*, 34 Or LUBA 309 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. Where the local code permits the city council to “delete, add or modify any of the provisions” of a legislative proposal, the city council does not err by adopting an option that is different from the option that was provided to the city council. *Fogarty v. City of Gresham*, 34 Or LUBA 309 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a comprehensive plan does not provide for a proposed expansion of a mining site, a conditional use permit is insufficient to permit the expansion. In that circumstance, OAR 660-023-0180 requires a post-acknowledgment plan amendment and Goal 5 analysis. *Trademark Construction, Inc. v. Marion County*, 34 Or LUBA 202 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. LUBA’s scope of review is not precluded or affected when petitioner assigns error to a plan amendment but fails to assign error to a corresponding zone change. Under ORS 197.175(2)(b) and 197.835(7)(b), zoning ordinances must conform to and comply with the local government’s comprehensive plan, therefore a remand on the basis of error respecting the plan amendment would necessarily invalidate the corresponding zone change. *Geaney v. Coos County*, 34 Or LUBA 189 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. A plan amendment redesignating land as commercial on the basis of a nonconforming use is subject to review for compliance with applicable statewide planning goals, notwithstanding an acknowledged comprehensive plan policy that directs designation of such land as commercial rather than recognizing the nonconforming use, where a goals compliance challenge to the amendment is not an indirect compliance challenge to the comprehensive plan policy itself. *Geaney v. Coos County*, 34 Or LUBA 189 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. Goal 14 is applicable to a plan amendment redesignating rural land as commercial, where the land is outside the UGB and the commercial designation would permit any commercial use of any size or intensity, including large commercial uses such as a Wal-Mart store that are urban in character and intensity. *Geaney v. Coos County*, 34 Or LUBA 189 (1998).

29.2.1 Comprehensive Plans – Amendment – Generally. Application of criteria included in an acknowledged comprehensive plan governing redesignation of resource lands does not obviate the requirement that comprehensive plan and land use regulation amendments comply with the statewide planning goals. *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

29.2.1 Comprehensive Plans – Amendment – Generally. When a change in the type or intensity of an existing use is proposed for an exception area, the county must (1) make findings showing either that Goal 14 does not apply or the proposal complies with an existing Goal 14 exception; or (2) take a new Goal 14 exception. *Leathers v. Marion County*, 31 Or LUBA 220 (1996).

29.2.1 Comprehensive Plans – Amendment – Generally. When an earlier acknowledged comprehensive plan amendment imposes a condition that any proposed conditional use or use variance shall require a revised exception to the Statewide Planning Goals, a new plan amendment is required before additional conditional uses can be allowed, since taking an exception necessitates a plan amendment. *Leathers v. Marion County*, 31 Or LUBA 220 (1996).

29.2.1 Comprehensive Plans – Amendment – Generally. Under the county’s comprehensive plan, ODOT’s initiation of eminent domain proceedings gave it the requisite “ownership” interest in property to file an application for a plan amendment regarding the property, and that interest was not affected, for purposes of the plan amendment, by dismissal of the eminent domain proceeding after the agency’s application was deemed complete. *Schrock Farms, Inc. v. Linn County*, 31 Or LUBA 57 (1996).

29.2.1 Comprehensive Plans – Amendment – Generally. If it is obvious from the record that a particular goal does not apply to a proposed comprehensive plan amendment, it is not a basis for remand that the local government has not actually stated in its written decision that the goal does not apply. *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. When the city does not deliver notice of a comprehensive plan map amendment and facilities plan amendment to DLCD, as required by ORS 197.615(1), the amendments will not be deemed acknowledged under ORS 197.625(1) by the passage of time. *DLCD v. City of St. Helens*, 29 Or LUBA 485 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. All comprehensive plan amendments must comply with the Statewide Planning Goals. When adopting a comprehensive plan amendment, it is the local government’s obligation to explain in its findings why the plan amendment complies with the goals or why arguably applicable goal standards need not be addressed and satisfied. *O’Rourke v. Union County*, 29 Or LUBA 303 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. Where the local code provides petitioner has a right to initiate a minor comprehensive plan amendment, but only the local government can initiate a major plan amendment, and that the local government may refuse to do so for any reason, the process for local government-initiated plan amendments is not an administrative remedy petitioner is required to exhaust before seeking LUBA review of a local government decision that petitioner’s proposed plan amendment is a major plan amendment. *Cone v. City of Eugene*, 29 Or LUBA 133 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a local government decision to classify petitioner’s proposed comprehensive plan amendment as “major” is final, and denies petitioner a *right* he would otherwise have under the local code to have his proposed amendment reviewed on its merits, the local government’s decision is a land use decision as defined in ORS 197.015(10)(a)(A)(iii) and is subject to review by LUBA. *Cone v. City of Eugene*, 29 Or LUBA 133 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. Where amendments to a local government’s comprehensive plan or land use regulations do not amend or affect the local government’s acknowledged Citizen Involvement Program (CIP), the only way a petitioner can demonstrate a violation of Goal 1 is by demonstrating a failure to comply with the acknowledged CIP. *Churchill v. Tillamook County*, 29 Or LUBA 68 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. An amendment to a “refinement plan” that is part of a local government’s comprehensive plan is a comprehensive plan amendment and is reviewable for compliance with applicable provisions of the Statewide Planning Goals and their implementing rules. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. Legislative changes to acknowledged comprehensive plans or land use regulations that reduce a local government’s supply of industrially designated land must be supported by (1) findings demonstrating the remaining industrially designated land is adequate to satisfy the requirements of Goal 9, (2) argument establishing compliance with Goal 9 based on plan provisions, code provisions and evidence in the record, or both. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. The “public need” standard formerly imposed on quasi-judicial zone changes under *Fasano v. Washington Co. Comm.*, 264 Or 574, 507 P2d 23 (1973), does not apply to comprehensive plan amendments, unless the applicable comprehensive plan or land use regulations impose such a “public need” standard. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. In adopting post-acknowledgment comprehensive plan amendments, other than amendments to the plan’s acknowledged Goal 5 inventory itself, a local government is entitled to rely on its acknowledged Goal 5 inventory and need not consider possible impacts on alleged Goal 5 resource sites that are not included on the Goal 5 inventory. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a proposed transportation facility includes open space and pedestrian and bicycle facilities to satisfy comprehensive plan policies implementing Goal 8, petitioner’s speculation that those facilities might be eliminated in the future in favor of more traffic lanes provides no basis for reversal or remand. Such changes would require a plan amendment and a demonstration that the altered facility complies with the plan policies. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

29.2.1 Comprehensive Plans – Amendment – Generally. A comprehensive plan amendment must comply with the statewide planning goals. *Welch v. City of Portland*, 28 Or LUBA 439 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. Where the only inventory of historic structures maintained by a city has not been adopted as part of the city’s acknowledged comprehensive plan, a post-acknowledgment decision not to designate an inventoried building as a historical landmark is not a de facto post-acknowledgment plan amendment, even though the

decision may ultimately allow the building to be demolished. *Historical Development Advocates v. City of Portland*, 27 Or LUBA 617 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. ORS 215.503(2)(a), requiring all legislative acts related to comprehensive plans or zoning adopted by a county governing body to be by ordinance, applies to legislative decisions adopting or amending comprehensive plans and zoning ordinances, not to quasi-judicial plan or zone changes. *Sahagian v. Columbia County*, 27 Or LUBA 592 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. An amendment to a “refinement plan” that is part of a local government’s comprehensive plan is a comprehensive plan amendment. *Graville Properties, Ltd. v. City of Eugene*, 27 Or LUBA 583 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. A comprehensive plan amendment is quasi-judicial in nature if it results from a private development application, must comply with criteria in the Statewide Planning Goals and the plan itself, and affects a specific area, involving one property owner and a single property. *Graville Properties, Ltd. v. City of Eugene*, 27 Or LUBA 583 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a challenged decision adopts a new plan policy stating the city will allow a particular commercial-designated area to be developed “to serve both neighborhood commercial needs and as a community commercial center,” but declines to change a plan policy that commercial development of the area should be at an intensity consistent with General Office or Neighborhood Commercial zoning, LUBA will remand the decision for the city to interpret the relevant plan and code provisions in the first instance. *Graville Properties, Ltd. v. City of Eugene*, 27 Or LUBA 583 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. Providing notice of a post-acknowledgment plan or land use regulation amendment to the Department of Land Conservation and Development under ORS 197.610(1) is inadequate to satisfy a local government’s coordination obligations. *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. Where the acknowledged county comprehensive plan includes a methodology for rating forest soil types, a decision identifying and applying a soil type not included in the acknowledged plan provisions, to support a plan map amendment and zone change to nonresource designations, has the effect of improperly amending the acknowledged plan without following post-acknowledgment amendment procedures. *Doob v. Josephine County*, 27 Or LUBA 293 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. Where LUBA has remanded a city decision annexing certain property, a subsequent city decision amending the comprehensive plan and zoning designations for that property, in reliance on the annexation, exceeds the city’s authority. *Roloff v. City of Milton-Freewater*, 27 Or LUBA 256 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. Comprehensive plan and zone amendments which *lessen* the impacts or demands that goal, plan and code standards were adopted

to address are likely to be consistent with those goal, plan and code standards. *McInnis v. City of Portland*, 27 Or LUBA 1 (1994).

29.2.1 Comprehensive Plans – Amendment – Generally. 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).

29.2.1 Comprehensive Plans – Amendment – Generally. Prior to local government action to designate new or existing plans and regulations as its Transportation System Plan (TSP), in the manner required by OAR 660-12-010(2), any challenge to adoption of a plan or regulation amendment based on failure to comply with the TSP requirements of OAR 660-12-010 through 660-12-050 is premature. *Pacific Rivers Council, Inc. v. Lane County*, 26 Or LUBA 323 (1993).

29.2.1 Comprehensive Plans – Amendment – Generally. Where property is not included on the inventory of Goal 5 resource sites in a county's acknowledged comprehensive plan, the county is not required to consider in a post-acknowledgment plan map amendment proceeding whether the subject property ought to be added to the Goal 5 inventory. *Waugh v. Coos County*, 26 Or LUBA 300 (1993).

29.2.1 Comprehensive Plans – Amendment – Generally. A county may not amend its transportation plan in ways which conflict with the Oregon Bicycle Bill requirements set out at ORS 366.514(1), even though those statutory requirements would apply in any event. *Bicycle Transportation Alliance v. Washington Co.*, 26 Or LUBA 265 (1993).

29.2.1 Comprehensive Plans – Amendment – Generally. A local government may not amend its comprehensive plan to allow location of roadway alignments anywhere within one-mile-wide corridors without demonstrating the selected alignment complies with the statewide planning goals or that the local code standards applicable to such alignment decisions are sufficient to assure compliance with the statewide planning goals. *Bicycle Transportation Alliance v. Washington Co.*, 26 Or LUBA 265 (1993).

29.2.1 Comprehensive Plans – Amendment – Generally. It is impermissible for a local government to amend a land use ordinance or comprehensive plan provision in the guise of interpreting either. *Murphy Citizens Advisory Comm. v. Josephine County*, 26 Or LUBA 181 (1993).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a local government's final decision is not to adopt a legislative amendment to its acknowledged comprehensive plan and land use regulations, ORS 197.830(2) and 197.620(1) deny standing to appeal such a final decision to LUBA. *ODOT v. Klamath County*, 25 Or LUBA 761 (1993).

29.2.1 Comprehensive Plans – Amendment – Generally. Although the statewide planning goals apply when an acknowledged comprehensive plan is amended, an appeal challenging a post-

acknowledgment plan amendment may present goal compliance questions that either were or should have been raised prior to acknowledgment and, therefore, are foreclosed by acknowledgment. *Reeves v. Washington County*, 24 Or LUBA 483 (1993).

29.2.1 Comprehensive Plans – Amendment – Generally. 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).

29.2.1 Comprehensive Plans – Amendment – Generally. Plan text and map amendments and zoning text and map amendments are not “permits,” as that term is defined in ORS 215.402(4). *Leonard v. Union County*, 24 Or LUBA 362 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. That a local government may have provided inadequate notice of a post-acknowledgment plan and land use regulation amendment to the Department of Land Conservation and Development (DLCD) will not excuse a person’s failure to file a notice of intent to appeal that decision with LUBA within 21 days after the decision became final, where the person was not entitled to receive notice of the challenged decision from DLCD. *Leonard v. Union County*, 24 Or LUBA 362 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. LUBA does not apply land use decision making approval criteria in the first instance. It is the local government’s responsibility to consider the evidentiary record, identify the applicable standards, make the decision in the first instance and explain the basis for its decision in its findings. *ODOT v. City of Waldport*, 24 Or LUBA 344 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. A local code requirement that a comprehensive plan amendment be “necessary to fulfill an identified public need” would be satisfied if, pursuant to the Goal 5 planning process, the local government determined that the subject site is a significant resource site and should be protected. *Gonzalez v. Lane County*, 24 Or LUBA 251 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. Where Statewide Planning Goals are apparently applicable to a comprehensive plan amendment, a local government must either explain in its decision why the amendment complies with such apparently applicable goals, explain why those goals do not apply to the proposed plan amendment or explain why an exception to those goals is justified. *ODOT v. City of Newport*, 23 Or LUBA 408 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. To adopt a quasi-judicial plan amendment, a local government must make findings establishing the proposed amendment is in compliance with the Statewide Planning Goals. *ODOT v. Clackamas County*, 23 Or LUBA 370 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. In amending its comprehensive plan, it is error for a local government to neither explain in its decision why apparently applicable

Statewide Planning Goals do not apply, adopt findings demonstrating compliance with such goals, nor take an exception to such goals. *ODOT v. Clackamas County*, 23 Or LUBA 370 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. To adopt a quasi-judicial comprehensive plan amendment, a local government must adopt findings establishing the proposed amendment is in compliance with the Statewide Planning Goals. *Klein v. City of Hubbard*, 23 Or LUBA 367 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. In amending its comprehensive plan, it is a local government's obligation to explain in its findings why apparently applicable Statewide Planning Goal standards need not be addressed and satisfied. It is error for a local government to neither identify any goals applicable to a proposed plan amendment nor explain why apparently applicable goals are satisfied. *Klein v. City of Hubbard*, 23 Or LUBA 367 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. The applicant for comprehensive plan and zone map amendments has the burden of establishing compliance of the proposed amendments with the applicable approval standards. *Hess v. City of Portland*, 23 Or LUBA 343 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. Amending an acknowledged multi-jurisdictional metropolitan area comprehensive plan so that it is inconsistent with an unamended city "refinement plan" is permissible where the comprehensive plan (1) recognizes such conflicts may exist, (2) provides that all such conflicts are resolved in favor of the comprehensive plan, and (3) recognizes that amendments to refinement plans needed to make them consistent with the comprehensive plan may be delayed. *Neste Resins Corp. v. City of Eugene*, 23 Or LUBA 55 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. Unless a county can establish that its acknowledged comprehensive plan somehow obviates its obligation under ORS 197.175(2)(a) and 197.835(4) and Goal 14, it must either amend its comprehensive plan to include the subject property within an urban growth boundary or adopt an exception to Goal 14, before it may plan and zone rural land for urban uses. *Caine v. Tillamook County*, 22 Or LUBA 687 (1992).

29.2.1 Comprehensive Plans – Amendment – Generally. Inconsistencies between a decision made by two service districts and a county comprehensive plan and land use regulations do not make the service districts' decision a decision by the county or a de facto amendment to the county comprehensive plan. *Price v. Arch Cape Service District*, 22 Or LUBA 807 (1991).

29.2.1 Comprehensive Plans – Amendment – Generally. ORS 197.615(2)(a) requires that a local government give notice of decisions amending its acknowledged comprehensive plan and land use regulations to persons who participate during the local proceedings and request such notice in writing. *Club Wholesale v. City of Salem*, 19 Or LUBA 576 (1990).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a local government has no rules establishing specific procedures or forms for persons participating in post-acknowledgment plan and land use regulation amendment proceedings to utilize in making a written request for notice under ORS 197.615(2)(a)(B), and has no rules establishing to whom requests for such notice must

be directed, a request for a copy of the city's final *decision* directed to the city attorney is sufficient to satisfy ORS 197.615(2)(a)(B). *Club Wholesale v. City of Salem*, 19 Or LUBA 576 (1990).

29.2.1 Comprehensive Plans – Amendment – Generally. Where a local government provides a party with a copy of the decision amending its comprehensive plan and land use regulations, but fails to advise the party of the date the challenged decision became final or of the requirements for appealing the decision to LUBA, the notice requirements of ORS 197.615(2)(b)(B) and (D), applicable to post-acknowledgment plan and land use regulation amendments, are not satisfied. *Club Wholesale v. City of Salem*, 19 Or LUBA 576 (1990).