29.3.1 Comprehensive Plans – Applicability – Generally. When Community Plan adopted as part of the county's comprehensive plan includes a Significant Natural and Cultural Resources (SNR) Map, and an applicant for development of property that is included on the SNR Map provides the county with additional information identifying "the location of the natural resource(s)," as required by the applicable approval criteria, the requirement to precisely identify the location of the protected resource does not amount to an amendment of the SNR Map. *Warren v. Washington County*, 78 Or LUBA 107 (2018).

29.3.1 Comprehensive Plans – Applicability – Generally. When the hearings officer makes findings on a wildlife habitat area located within a Significant Natural and Cultural Resources (SNR) Map, the hearings officer's task is to consider all of the evidence in the record and determine whether the applicable approval criteria are satisfied. A hearings officer's task is not to determine whether intervenor's submittals in support of the application are "supported by substantial evidence in the record." Rather, the hearings officer must weigh the evidence submitted against the applicable standards and criteria, and make that determination. *Warren v. Washington County*, 78 Or LUBA 107 (2018).

29.3.1 Comprehensive Plans – Applicability – Generally. When a city approves an application, nothing requires the city or intervenor to rezone the property in connection with the application, when the current zoning is inconsistent with the comprehensive plan, and the current zoning does not allow for more intensive development than contemplated in the comprehensive plan. *Richardi v. City of Eugene*, 78 Or LUBA 299 (2018).

29.3.1 Comprehensive Plans – Applicability – Generally. In applying a development code standard that authorizes a local government to approve exceptions to lot size standards for planned developments if the development's "design and amenities" warrant the exceptions, the fact that preservation of open space is encouraged by the comprehensive plan does not mean the exceptions must be approved simply because the proposal would preserve open space. That the proposed open space is consistent with the comprehensive plan does not require approval of the requested exceptions. *J. Conser and Sons, LLC v. City of Millersburg*, 73 Or LUBA 57 (2016).

29.3.1 Comprehensive Plans – Applicability – Generally. A comprehensive plan policy requiring protection of "natural open space" does not apply to a former private golf course that is identified in a neighborhood sub-area plan as "Parks, Open Space," where the comprehensive plan distinguishes between "natural" open spaces and other types of open spaces, and the subject property is not identified as "natural" open space in any planning document. *Smith v. City of Salem*, 61 Or LUBA 87 (2010).

29.3.1 Comprehensive Plans – Applicability – Generally. Based on the Court of Appeals' decisions in *1000 Friends of Oregon v. City of Dundee*, 203 Or App 207, 216, 124 P3d 1249 (2005), and *D.S. Parklane Development, Inc. v. Metro*, 165 Or App 1, 22, 994 P2d 1205 (2000), it would be error for a local government to ignore available commercial and industrial land data in its acknowledged comprehensive plan and rely instead on different data that is not part of the acknowledged comprehensive plan to conclude that a land use regulation amendment will leave the local government with an adequate supply of commercial and industrial land. However, if the local government also adopts adequate findings based on the commercial and industrial land data

in its acknowledged comprehensive plan that the land use regulation amendment will not leave the local government with an inadequate supply of commercial and industrial land, the local government's additional findings that rely on data that is not included in the comprehensive plan provide no basis for reversal or remand. *McDougal Bros. Investments v. City of Veneta*, 59 Or LUBA 207 (2009).

29.3.1 Comprehensive Plans – Applicability – Generally. A regional plan requirement that local governments "review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses" in areas the regional agency has designated for industrial and employment development is nominally directed solely at *land use regulations*. But that regional plan requirement also would apply to limit *comprehensive plan* amendments, to the extent those comprehensive plan amendments would authorize land use regulations that would be inconsistent with the regional agency's requirement for land use regulations that limit retail commercial uses in such areas. *Graser-Lindsey v. City of Oregon City*, 59 Or LUBA 388 (2009).

29.3.1 Comprehensive Plans – Applicability – 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).

29.3.1 Comprehensive Plans – Applicability – Generally. A county does not err in failing to adopt findings addressing a county comprehensive plan inventory of mobile home parks in the course of approving a planned unit development that will replace an existing mobile home park, where pursuant to an urban growth management agreement the city rather than county comprehensive plan governs the application. *Saddle Butte Residents' Association v. Douglas County*, 56 Or LUBA 269 (2008).

29.3.1 Comprehensive Plans – Applicability – Generally. A state agency permit renewal decision that concludes, based on substantial evidence, that the renewed permit does not involve a substantial modification to or intensification of the permitted activity, and thus no land use compatibility statement is required from the affected local government, is not a land use decision subject to LUBA's jurisdiction under ORS 197.015(11)(a)(B), because it is not an agency decision with respect to which the agency is required to apply the goals. *Tualatin Riverkeepers v. ODEQ*, 55 Or LUBA 569 (2008).

29.3.1 Comprehensive Plans – Applicability – Generally. Regional plan provisions that limit regional planning to a designated region are not violated or improperly amended by non-regulatory expressions of interest in a city parks, recreation and open space plan concerning parks outside the region and city in the county, where the city's plan makes it clear that the county's plan is the

controlling planning document for such parks. *Home Builders Assoc. v. City of Eugene*, 52 Or LUBA 341 (2006).

29.3.1 Comprehensive Plans – Applicability – Generally. OAR 660-023-0180 prohibits application of local government standards to post-acknowledgment plan amendment to add a site to the plan inventory of significant aggregate sites, unless such standards (1) were adopted after 1989 and (2) provide "specific criteria" for proposals to amend the plan inventory of aggregate sites. A general agricultural policy requiring that nonagricultural development be based on demonstrated public need is not a "specific criteri[on]" regarding proposals to amend the aggregate inventory and therefore OAR 660-023-0180 prohibits application of the policy. *Hegele v. Crook County*, 44 Or LUBA 357 (2003).

29.3.1 Comprehensive Plans – Applicability – Generally. No reasonable person could interpret a plan policy stating that the county plans to participate with other counties in a regional aggregate needs analysis as imposing a requirement that an applicant seeking to amend the county's aggregate inventory must establish a "public need" for aggregate. *Hegele v. Crook County*, 44 Or LUBA 357 (2003).

29.3.1 Comprehensive Plans – Applicability – Generally. Under OAR 731-015-0075, an ODOT Class 3 project to improve a highway interchange must comply with any affected local government's comprehensive plan and, if the project does not comply, any comprehensive plan amendments that are necessary to bring the project into compliance must be adopted *before* ODOT issues its Revised Environmental Assessment for the interchange project. *Witham Parts and Equipment Co. v. ODOT*, 42 Or LUBA 435 (2002).

29.3.1 Comprehensive Plans – Applicability – Generally. A county errs by finding that its acknowledged zoning ordinance fully implements the acknowledged comprehensive plan, thus making it unnecessary to apply comprehensive plan provisions directly to an application for permit approval, where the acknowledged zoning ordinance specifically requires that the application for permit approval must demonstrate compliance with the acknowledged comprehensive plan and the county does not identify any zoning ordinance provisions that implement applicable comprehensive plan policies. *Fessler v. Yamhill County*, 38 Or LUBA 844 (2000).

29.3.1 Comprehensive Plans – Applicability – Generally. If state legislation preempts county regulation of noise from a firearm training facility, then comprehensive plan text that purports to regulate such noise is contrary to state statute and unenforceable. *City of Sherwood v. Washington County*, 38 Or LUBA 656 (2000).

29.3.1 Comprehensive Plans – Applicability – Generally. If a county has not yet amended its comprehensive plan and land use regulations to comply with OAR 660-023-0180, OAR 660-023-0180(7) requires that the county directly apply the substantive requirements and procedures of OAR 660-023-0180 to consideration of a post-acknowledgment plan amendment concerning mining authorization. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

29.3.1 Comprehensive Plans – Applicability – Generally. The scope of additional conflicts that may be considered under OAR 660-023-0180(4)(b)(F), is a question of state law and a county's

interpretation of OAR 660-023-0180(4)(b)(F) is not entitled to the deferential standard of review required by ORS 197.829(1) and *Clark v. Jackson County*, 313 Or 508, 836 P2d 710 (1992). *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

29.3.1 Comprehensive Plans – Applicability – Generally. Absent a statutory provision or agreement to the contrary, development within a UGB and outside a city's corporate limits is subject to the county's jurisdiction, ordinance and comprehensive plan. An intergovernmental agreement that requires the county to apply city comprehensive plan map designations does not, by implication, also require the county to apply city comprehensive plan text provisions. *City of Newberg v. Yamhill County*, 36 Or LUBA 473 (1999).

29.3.1 Comprehensive Plans – Applicability – Generally. Where a county's comprehensive plan contains or is required to contain provisions that by their terms apply to a decision vacating a county road within city limits, the county must apply those provisions. If any such provisions apply, the county's road vacation decision is a land use decision subject to LUBA's jurisdiction. *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

29.3.1 Comprehensive Plans – Applicability – Generally. Because ORS 368.361(3) imposes on the county the obligation to conduct proceedings and make findings in vacating a county right-of-way within city limits, the county and not the city has the obligation of applying any provisions of the city's comprehensive plan or land use ordinance that the city would apply, were the city conducting the vacation. *Oregon Shores Cons. Coalition v. Lincoln County*, 36 Or LUBA 288 (1999).

29.3.1 Comprehensive Plans – Applicability – Generally. A hearings officer's determination that an EFU-zoned property is not necessary to provide a proposed public service is not inconsistent with a drainage master plan and does not constitute an impermissible collateral attack on the drainage master plan, where the drainage master plan was not adopted in accordance with post-acknowledgment procedures and only identifies the site as a "preferred" site. *Clackamas Co. Svc. Dist. No. 1 v. Clackamas County*, 35 Or LUBA 374 (1998).

29.3.1 Comprehensive Plans – Applicability – Generally. Background reports, which typically contain data and information that describe a community's resources and features and address the topics specified in the applicable Statewide Planning Goals, are not the equivalent of comprehensive plans, which set forth the community's long-range objectives and the policies by which it intends to achieve them. *Mount Hood Stewardship Council v. Clackamas County*, 33 Or LUBA 284 (1997).

29.3.1 Comprehensive Plans – Applicability – Generally. Where the city's comprehensive plan expressly requires that new subdivisions shall have sidewalks, the city may not use the variance procedures of its subdivision ordinance in order to grant an exception to the comprehensive plan sidewalk requirement. *Wicks-Snodgrass v. City of Reedsport*, 32 Or LUBA 292 (1997).

29.3.1 Comprehensive Plans – Applicability – Generally. If a county recognizes a citizens planning advisory committee (CPAC) chosen in violation of election procedures previously adopted by resolution and incorporated by reference in its comprehensive plan, it ignores a

substantive violation of its plan and land use regulations, and the CPAC is a nullity. *Boom v. Columbia County*, 31 Or LUBA 318 (1996).

29.3.1 Comprehensive Plans – Applicability – Generally. The city's finding that its comprehensive plan contemplates a rationing of building permits through a traffic management ordinance does not satisfy inquiry into whether that rationing violates the state moratorium statute. *Home Builders Assoc. v. City of Wilsonville*, 30 Or LUBA 246 (1995).

29.3.1 Comprehensive Plans – Applicability – Generally. The fact that a city, in prior years, had an acknowledged ordinance rationing building permits does not excuse the city from seeking acknowledgement of a new rationing ordinance or from complying with the state moratorium statute. *Home Builders Assoc. v. City of Wilsonville*, 30 Or LUBA 246 (1995).

29.3.1 Comprehensive Plans – Applicability – Generally. A special district ordinance stating the district will provide service to all existing residences and all residences "hereafter constructed pursuant to a valid [county] building permit" is not inconsistent with the county comprehensive plan, because the county may issue building permits only if such permits are consistent with its acknowledged plan and implementing regulations. *Churchill v. Neahkahnie Water District*, 29 Or LUBA 354 (1995).

29.3.1 Comprehensive Plans – Applicability – Generally. Where a local government has a combined comprehensive plan and zoning map, there can be no *Baker* comprehensive plan/zoning map conflict. *ONRC v. City of Seaside*, 29 Or LUBA 39 (1995).

29.3.1 Comprehensive Plans – Applicability – Generally. Where a local government decision amending its land use regulations does not interpret comprehensive plan goals and map designations as being inapplicable to such amendments, but rather explains how the proposed amendment implements certain comprehensive plan goals and is consistent with certain plan map designations, it is clear the governing body interprets those plan goals and map designations as being applicable to the land use regulation amendment. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

29.3.1 Comprehensive Plans – Applicability – Generally. ORS 275.320 to 275.340 deal with a county's proprietary power to manage county-acquired land. The designation of county-acquired real property as "county forests, public parks or recreational areas" under ORS 275.320 does not supersede the comprehensive land use planning process established under ORS chapter 197. *Sahagian v. Columbia County*, 27 Or LUBA 592 (1994).

29.3.1 Comprehensive Plans – Applicability – Generally. An amendment to an acknowledged land use regulation must comply with the local government's acknowledged comprehensive plan. ORS 197.175(2)(d); 197.835(5)(a). *Rea v. City of Seaside*, 26 Or LUBA 444 (1994).

29.3.1 Comprehensive Plans – Applicability – Generally. Where a city comprehensive plan expressly recognizes that the county has jurisdiction to issue land use permits prior to annexation of unincorporated areas, the city must annex an unincorporated area before it has jurisdiction to

grant land use permits for such unincorporated areas. *Recht v. City of Newport*, 26 Or LUBA 316 (1993).

29.3.1 Comprehensive Plans – Applicability – Generally. A local government does not authorize projects not included in its comprehensive plan where a Recommended Roadways Improvement Map provision states that failure to include a particular project on that map does not preclude development of such project if the project is otherwise allowed by the comprehensive plan. *Bicycle Transportation Alliance v. Washington Co.*, 26 Or LUBA 265 (1993).

29.3.1 Comprehensive Plans – Applicability – Generally. Where a local government decision forming a service district to provide sewerage services discusses, but does not authorize, a particular means of sewage treatment, petitioner's challenge of the decision on the basis that the particular means of treatment violates a plan policy concerning extension of urban services outside UGBs is premature. *DLCD v. Marion County*, 23 Or LUBA 619 (1992).

29.3.1 Comprehensive Plans – Applicability – Generally. A local governing body is required by ORS 197.175(2)(d) to apply applicable provisions of its comprehensive plan and land use regulations in determining whether a wrecking certificate should be approved, notwithstanding that it has not adopted regulations as authorized by ORS 822.140(3). *Bradbury v. City of Independence*, 22 Or LUBA 398 (1991).

29.3.1 Comprehensive Plans – Applicability – Generally. That a nonconforming use is inconsistent with comprehensive plan provisions that did not exist or apply on the date the use became nonconforming provides no basis for reversal or remand, because ORS 215.130(5) provides the use may continue notwithstanding such inconsistency. *Coonse v. Crook County*, 22 Or LUBA 138 (1991).

29.3.1 Comprehensive Plans – Applicability – Generally. 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).