

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Traffic performance standards in the local government’s transportation system plan (TSP) are not approval criteria applicable to a limited land use decision that were incorporated pursuant to ORS 197.195(1), where the applicable criteria either do not refer to the TSP at all or where they only generally “incorporate[] by reference the city’s public facility master plans, including plans for domestic water, sanitary sewer, storm drainage, parks, and transportation.” *Oster v. City of Silverton*, 79 Or LUBA 447 (2019).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Traffic performance standards in the local government’s transportation system plan (TSP) are not approval criteria applicable to a limited land use decision that were incorporated pursuant to ORS 197.195(1), where the applicable criteria either do not refer to the TSP at all or where they only generally “incorporate[] by reference the city’s public facility master plans, including plans for domestic water, sanitary sewer, storm drainage, parks, and transportation.” *Oster v. City of Silverton*, 79 Or LUBA 447 (2019).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. LUBA will reject a county’s interpretation of its code—that a code provision which sets forth approval criteria regarding an application for a variance to the minimum lot size requirements within the county’s urban growth area may not apply to the county’s decision because it only applies to decisions made by the county’s planning director but not to decisions made by the planning commission or board of county commissioners—that was made for the first time in its response brief, because that interpretation is not reflected in the decision and is therefore not an interpretation by the local government. *City of Albany v. Linn County*, 78 Or LUBA 1 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the county approved a proposed variance to the 20-acre minimum lot size for two one-acre parcels, pursuant to a county code provision that provides that the county planning director may approve a variance for a proposed project if the city does not object to the variance, LUBA will reverse the county’s decision as “prohibited as a matter of law” pursuant to OAR 661-010-0071(c) where the county approved the variance as “consistent with the * * * city’s comprehensive plan,” but the city objected to the proposed variance because of the proposal’s inconsistency with the city’s comprehensive plan. *City of Albany v. Linn County*, 78 Or LUBA 1 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. The Goal 2 requirement that acknowledged comprehensive plans be the “basis” for land use decisions is not violated by citation to an adopted, but unacknowledged housing strategy document, where the cited portion of the document directly implements, in almost identical language, policy recommendations in the city’s acknowledged housing needs analysis. *Crowley v. City of Hood River*, 77 Or LUBA 117 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Language in a city’s acknowledged housing needs analysis finding an existing deficit of affordable housing in the city, and recommending that the city identify surplus city land for development with government-subsidized housing, provides a policy basis for the city to rezone public land from an open space zone to a residential zone that allows high density residential development. *Crowley v. City of Hood River*, 77 Or LUBA 117 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. That a city’s acknowledged buildable lands inventory indicates that the city already has an adequate supply of land zoned for R-3 (high density residential) does not undermine the city council’s conclusion that rezoning additional land to R-3 is necessary to address an identified shortage of affordable housing, where the city finds that the private housing market has been unable to address the need for affordable housing despite an adequate supply, and that rezoning surplus public land to R-3, to be donated to a housing agency, is necessary to facilitate development of affordable housing. *Crowley v. City of Hood River*, 77 Or LUBA 117 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where it is not clear whether the enacting body intended comprehensive plan or land use regulation provisions to be mandatory approval criteria, LUBA examines the wording and context of the particular provisions to determine whether they must be applied as mandatory approval criteria. *Friends of Canemah v. City of Oregon City*, 77 Or LUBA 434 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A list of special characteristics of a historic district are not mandatory approval criteria where they are not worded as mandatory requirements for future housing proposals. *Friends of Canemah v. City of Oregon City*, 77 Or LUBA 434 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where it is unclear whether historic guidelines operate as mandatory approval criteria, but the guidelines include a column identified as “Principle – Good Example” and a column identified as “Not Allowed,” and in each column there is a list of activities and features, the activities and features in the “Not Allowed” column are prohibited. *Friends of Canemah v. City of Oregon City*, 77 Or LUBA 434 (2018).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. The kind of conflict between a zoning map designation and a comprehensive plan map designation that under *Baker v. City of Milwaukie*, 271 Or 500, 514, 533 P2d 772 (1975), results in the zoning map designation giving way to the comprehensive plan map designation is where the zoning map designation would allow a more intensive use than the comprehensive plan map designation would allow. *Devlin v. Linn County*, 75 Or LUBA 163 (2017).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. LUBA will affirm a governing body’s interpretation of the phrase “designated common area” as used in a plan policy governing a resort community zone to mean something different than a definition of “common area” in an unrelated section of the comprehensive plan that cross-references the definition of “common property” as used in the Oregon Planned Communities Act at ORS 94.550(7), where the latter definition was adopted at a different time and to serve a different purpose than the plan policy governing the resort community zone. *Kine v. Deschutes County*, 75 Or LUBA 407 (2017).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. General expressions of concern that traffic from additional rural residential development would degrade the quality of a rural residential neighborhood are insufficient under ORS 197.763(1) to raise issues regarding consistency with comprehensive plan policies that promote rural residential neighborhoods, absent specific citation to such policies during the proceedings below. *Neil v. Columbia County*, 74 Or LUBA 442 (2016).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A hearings officer does not err in rejecting a zone change applicant’s proposed zoning diagram that orients true north toward the top border of the diagram, instead of matching the orientation of the north arrow on the applicable comprehensive plan map, which is tilted two degrees relative to the top border, where there is no basis to assume that the tilted north arrow on the comprehensive plan map is a “scriveners’ error.” *Laurel Hill Valley Citizens v. City of Eugene*, 73 Or LUBA 140 (2016).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A hearings officer correctly interprets the provisions of the comprehensive plan’s Housing chapter as not applying to an application for a zone change because a residential zone change proposes only a change in the zoning and possible density of housing but does not propose a particular type of housing. *Lennar Northwest, Inc. v. Clackamas County*, 73 Or LUBA 240 (2016).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A hearings officer correctly interprets the provisions of the comprehensive plan’s Public Facilities and Services chapter as not applying to an application for a zone change, where the chapter’s policies are directed at development, and the adopted land use regulations implement the policies and apply at the time of development. *Lennar Northwest, Inc. v. Clackamas County*, 73 Or LUBA 240 (2016).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A zoning ordinance regulation that allows fill if it will not increase the elevation of land is not necessarily inconsistent with a comprehensive plan provision that bans fill altogether, where fill only qualifies as fill, as defined in the comprehensive plan, if the fill will raise the elevation of land. *Pennock v. City of Bandon*, 72 Or LUBA 379 (2015).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where respondents respond to petitioner’s argument that a proposed development violates comprehensive plan standards by arguing in their response brief that the challenged decision is a “limited land use decision” and the plan policies therefore do not apply under ORS 197.195(1) because the plan policies have not been incorporated into the city’s land use regulations, and petitioner does not respond to that argument at oral argument or seek permission to respond in a reply brief, petitioner’s assumption that the plan policies apply is inadequate to state a basis for reversal or remand. *LO 138 LLC v. City of Lake Oswego*, 71 Or LUBA 195 (2015).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A 1,200 average daily traffic standard for local streets is not a hard and fast standard where other comprehensive plan language makes it clear that level of traffic on a local street is merely “desirable” and a number of other factors are considered in determining whether to classify a street as a “local” street. *LO 138 LLC v. City of Lake Oswego*, 71 Or LUBA 195 (2015).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a county applies a new rural zone that effectively prohibits new residential uses within a rural unincorporated community, the county may have to consider whether application of the new zone is consistent with its comprehensive plan Housing Element if the county relies upon vacant land within that community to meet an identified need to serve local, rural housing needs. *Seabreeze Associates Limited Partnership v. Tillamook County*, 71 Or LUBA 218 (2015).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A petitioner fails to establish that a comprehensive plan policy requiring the county to encourage development that can be efficiently converted to higher densities applies to a county decision to apply a new zone to a rural unincorporated community, where the plan policy specifies which communities it applies to, but does not mention the community where the new zone is applied to. *Seabreeze Associates Limited Partnership v. Tillamook County*, 71 Or LUBA 218 (2015).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Comprehensive plan descriptions of plan map designations are not properly applied as mandatory permit approval criteria. *Oregon Pipeline Company v. Clatsop County*, 71 Or LUBA 246 (2015).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A decision to “incorporate” comprehensive plan policies into a local government’s land use regulations, to make those policies criteria directly applicable to a limited land use decision, must be accomplished by as post-acknowledgment plan amendment that expressly makes specific policies applicable approval criteria for limited land use decisions. The mere adoption of land use regulations to implement

comprehensive policies does not “incorporate” such policies into land use regulations as directly applicable criteria. *SCAN v. City of Salem*, 70 Or LUBA 468 (2014).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A hearings officer does not misconstrue a site plan review standard requiring a finding that “negative impacts to the transportation system are mitigated adequately” as not requiring the applicant to construct bike lanes that are shown in the Bicycle System Element of the city’s Transportation System Plan (TSP), where the code standard does not refer to the TSP or indicate that site plan review is the vehicle to provide for construction of bike lanes depicted in the TSP. *SCAN v. City of Salem*, 70 Or LUBA 468 (2014).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. One way to satisfy the ORS 197.175(2)(d) requirement that post acknowledgment land use decisions must comply with a local government’s acknowledged comprehensive plan is to apply applicable comprehensive plan requirements directly as permit approval criteria. *Friends of the Hood River Waterfront v. City of Hood River*, 68 Or LUBA 459 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. One way to satisfy the ORS 197.175(2)(d) requirement that post acknowledgment land use decisions must comply with a local government’s acknowledged comprehensive plan is to apply acknowledged land use regulations that were adopted to fully implement the comprehensive plan. But in this circumstance, acknowledged land use regulations typically are not written to include an express requirement that permits must be consistent with the acknowledged comprehensive plan. *Friends of the Hood River Waterfront v. City of Hood River*, 68 Or LUBA 459 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Frequently, neither the acknowledged comprehensive plan nor the acknowledged land use regulations foreclose the possibility that some comprehensive plan requirements may continue to apply directly to individual land use decisions following acknowledgment. In this situation, while it may be that some of a city’s land use regulations generally implement and displace the comprehensive plan as directly applicable permit approval criteria, the text and context of potentially applicable comprehensive plan requirements must be examined to determine if the plan requirement is one that must be applied directly as an approval standard in determining whether to approve or deny an application for permit approval. *Friends of the Hood River Waterfront v. City of Hood River*, 68 Or LUBA 459 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. It is not enough for a petitioner at LUBA to identify “mandatory” language in a comprehensive plan policy. The text and context of the comprehensive plan must establish both (1) that the plan requirement is mandatory (rather than hortatory or aspirational) and (2) that the mandate must be applied directly as a permit approval standard for the permit decision on appeal. *Friends of the Hood River Waterfront v. City of Hood River*, 68 Or LUBA 459 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. In determining whether a comprehensive plan requirement applies directly to an application for permit approval, a local government is performing a function quite similar to the function the city was performing in

Siporen v. City of Medford, 349 Or 247, 243 P3d 776 (2010), *i.e.*, whether a comprehensive plan requirement is “applicable.” Under *Siporen* a local government’s interpretations of its comprehensive plan to determine which plan requirements are applicable as individual permit approval criteria are entitled to deference so long as its interpretations are “plausible.” If the city’s interpretation is plausible, LUBA must defer, even if LUBA believes there is a better interpretation. *Friends of the Hood River Waterfront v. City of Hood River*, 68 Or LUBA 459 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where one plan strategy directs that lands subject to flooding be designated “Floodplain” and the following plan strategy directs that no permanent structures may be erected in lands subject to flooding unless the structure complies with the “Floodplain” criteria, a local governing body’s interpretation of those plan strategies to require application of the “Floodplain” criteria only in areas that have already been designated “Floodplain” runs afoul of ORS 174.010 by failing to “give effect” to the second strategy and by “inserting what has been omitted” in the second strategy by inserting a requirement that the lands subject to flooding must have been zoned “Floodplain.” *Friends of the Hood River Waterfront v. City of Hood River*, 68 Or LUBA 459 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Whatever difference there may be between the word “consistent” in a local standard that requires conditional use permits to be consistent with the comprehensive plan and the word “comply” as used in ORS 197.175(2)(d), which requires that land use decisions be adopted in compliance with the comprehensive plan, land use decisions must comply with both requirements. *Friends of the Hood River Waterfront v. City of Hood River*, 67 Or LUBA 179 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. There is no reason why land use regulations could not fully implement a comprehensive plan, making it unnecessary to consider the comprehensive plan when making permit decisions. But there must be something in the text of the comprehensive plan or the land use regulations or both to support that result. *Friends of the Hood River Waterfront v. City of Hood River*, 67 Or LUBA 179 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. If a governing body intended that its land use regulations fully implement its comprehensive plan, so that the plan could never operate as a source of permit approval standards, it presumably would not have adopted a conditional use permit criterion that requires conditional uses “shall be consistent with the comprehensive plan.” *Friends of the Hood River Waterfront v. City of Hood River*, 67 Or LUBA 179 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where comprehensive plan goals and policies are directed at structures, development, floodplains and flood hazard areas, and the local governing body does not specifically address the text of those goals and policies in concluding that they do not apply and approving a building to be constructed in the floodplain, remand is required so that the governing body can explain why the text of those goals and policies supports its position that they do not apply. *Friends of the Hood River Waterfront v. City of Hood River*, 67 Or LUBA 179 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan policy adopted to implement Goal 5 is just as open ended and aspirational as Goal 5 itself and in unchallenged findings the city explains Goal 5 has been fully implemented through the Goal 5 resource inventory and ESEE evaluation process, petitioner fails to establish that the policy must be considered directly in approving a conditional use permit. *Friends of the Hood River Waterfront v. City of Hood River*, 67 Or LUBA 179 (2013).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A city planning commission interpretation that a comprehensive plan policy does not apply to a planned unit development application for a cell tower is correct where the text of the policy directs the city to implement one of several means of protecting open space, including adopting planned unit development ordinances, and does not contain any language that suggests that it is intended to apply on a case-by-case basis to individual applications for planned unit development approval that are processed under the city’s adopted planned unit development ordinances. *Northgreen Property LLC v. City of Eugene*, 65 Or LUBA 83 (2012).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A city planning commission interpretation that a comprehensive plan policy does not apply to a planned unit development application to site a cell tower is not correct, where (1) the text of the policy provides specific and mandatory direction that public facilities “be designed and located” to “preserve[] and enhance” desirable features of the area, (2) the preamble to the applicable comprehensive plan policy refers to “daily decisions” being guided by “site planning,” and (3) there is no similar provision in the city’s development code that requires the city to consider whether the design and location of a public facility “preserve[s] and enhance[s] desirable features of the area.” *Northgreen Property LLC v. City of Eugene*, 65 Or LUBA 83 (2012).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy requiring that the county consider proximity to residential uses and seasonal wind directions when making land use decisions relative to industrial or other uses likely to pose a threat to air quality does not apply to a legislative text amendment that simply adds landfill expansions to the list of uses potentially allowed in the EFU zone. Such a policy is directed at specific development proposals with a limited geographic focus, not legislative text amendments affecting large areas of the county. *Waste Not of Yamhill County v. Yamhill County*, 65 Or LUBA 142 (2012).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. In general, comprehensive plan policies that are worded as “shoulds” or in other similar nonmandatory language do not operate as independent mandatory approval criteria. But comprehensive plan policies must be interpreted in context, and where one comprehensive plan policy states that “right of way vacations are to be based upon the criteria” set forth in the comprehensive plan’s right-of-way vacation policies, that suggests the right-of-way vacations policies are not nonmandatory policies that the

city council is free to ignore, even if they are worded as “shoulds.” *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Comprehensive plan policies may be mandatory considerations, such that the local government is obligated to adopt findings addressing those considerations, even if individual policies are not mandatory approval criteria that must be independently satisfied or complied with. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A finding that the public interest will not be prejudiced if a right-of-way is vacated is not adequate to address a comprehensive plan policy that asks whether the proposed right-of-way vacation “satisfies a compelling public need,” because the finding answers a different question than the question asked by the comprehensive plan policy. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A finding that a proposed right-of-way vacation “will not degrade * * * accessibility in the surrounding neighborhoods” is not sufficient to address a comprehensive plan policy that “[a] proposed vacation should not limit, nor make more difficult, safe and convenient pedestrian and bicycle access,” where the barrier that two cemeteries currently pose for pedestrian, bicycle and vehicular traffic was the topic of considerable testimony and the vacation would eliminate the only existing publicly owned property to provide pedestrian and bicycle access through the cemeteries. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where in approving a destination resort in coastal shorelands that is dependent on groundwater the county addresses a number of comprehensive plan policies implementing Goal 17, but does not address a potentially applicable plan policy in the plan Goal 17 element that requires the county take measures to protect groundwater, remand is necessary for the county to either address the policy or explain why it is not applicable. *Oregon Coast Alliance v. Curry County*, 63 Or LUBA 324 (2011).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a plan amendment standard requires a finding that the change conforms to “applicable goals and polices” in the comprehensive plan, the city’s findings address those plan goals and policies the city deemed “applicable,” and on appeal petitioner argues generally that the city failed to address all plan goals and policies but does not identify any “applicable” goals or policies not addressed, LUBA will reject the argument. *Smith v. City of Salem*, 61 Or LUBA 87 (2010).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A Metro regional government Urban Growth Management Functional Plan (UGMFP) housing density requirement is not an approval standard applicable to a county’s land use decision approving a residential subdivision, where the UGMFP density requirement applies directly only when Metro region local governments fail to adopt implementing regulations, and the county adopted regulations implementing the UGMFP density requirement. *Kane v. City of Beaverton*, 61 Or LUBA 234 (2010).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy that a county should “strive to promote and encourage” a safe transportation network” is not a mandatory approval standard that applies directly to an application for land division. *MEK Properties, LLC v. Coos County*, 61 Or LUBA 360 (2010).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A land use regulation purpose statement that calls for dividing land so as to “promote public health, safety, convenience, and general welfare” and to “minimize * * * hazards” and to “minimize safety hazards and adverse impacts on the neighboring area” are not a mandatory approval standards that apply directly to an application for land division. *MEK Properties, LLC v. Coos County*, 61 Or LUBA 360 (2010).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A county decision to deny a partition based on a land use regulation design and development standard that requires “[a]ny access approval request under this section shall be reviewed to assure that no development occurs in known natural hazard areas without appropriate safeguards * * *” must be remanded where it is not clear that the standard applies to a partition that proposes no new access, it is not clear that the partition is accurately viewed as “development” and it is not clear whether there is any “known natural hazard area” present. *MEK Properties, LLC v. Coos County*, 61 Or LUBA 360 (2010).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. When a goal exception is taken to facilitate proposed development, any comprehensive plan policies that implement the goal for which the exception is taken no longer govern that development. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Remand is necessary where the local government adopts exceptions to Statewide Planning Goals 11 and 14 to approve a destination resort, but fails to address comprehensive plan transportation policies that appear to implement Statewide Planning Goal 12 (Transportation), for which the local government did not adopt an exception, and the decision fails to explain why those policies are either satisfied or not applicable. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A county errs in failing to address whether a mitigation plan for a destination resort is consistent with applicable comprehensive plan policies governing wildlife protection, and instead finding that issues raised regarding compliance with those policies will be addressed by requiring the applicant to obtain approval of the plan from the Oregon Department of Fish and Wildlife. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A city governing body does not err in interpreting comprehensive plan policies that govern “development” to be inapplicable to a proposal to annex and extend sewer service to fully developed property. *Link v. City of Florence*, 58 Or LUBA 348 (2009).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. When comprehensive plan and land use regulation amendments are adopted together, the land use regulations must be consistent with the amended comprehensive plan provisions rather than existing comprehensive

plan provisions that are being replaced by the new comprehensive plan provisions. *Johnson v. Jefferson County*, 56 Or LUBA 25 (2008).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A local government does not err in not considering comprehensive plan policies that are not applicable approval criteria. *Hermanson v. Lane County*, 56 Or LUBA 433 (2008).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan goal that the city should “promote, on an equitable basis, the highest level of services the citizens will support” is too general and nonmandatory to function as an approval criterion for a permit application seeking a variance to off-street parking requirements. *Grant v. City of Depoe Bay*, 53 Or LUBA 214 (2007).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy requiring the city to designate areas for *public* off-street parking facilities is not an applicable approval criterion with respect to an application for a variance to *private* off-street parking facilities. *Grant v. City of Depoe Bay*, 53 Or LUBA 214 (2007).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A county's interpretation that a comprehensive plan policy, which implements Statewide Planning Goal 7 (Natural Disasters and Hazards), requires regulation of development in known areas potentially subject to natural disasters and is aimed at reducing risks to life and property that are *caused by natural hazards*, is not applicable in the context of a determination whether development is appropriate in a beaches and dunes area, pursuant to a comprehensive plan policy that implements Statewide Planning Goal 18 (Beaches and Dunes), which is aimed at reducing impacts that may be *caused by the proposed development*. *Borton v. Coos County*, 52 Or LUBA 46 (2006).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a refinement plan specifies that applicable plan policies are “guidance for decision-making,” as long as the decision maker actually considers applicable plan policies and explains the basis for its choice to give one policy greater weight than another, where different policies compete or point to different results, LUBA will not disturb that choice on review. *Bothman v. City of Eugene*, Or LUBA 701 (2006).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Findings that an intervening road will buffer commercial and residential uses, and that rely on site design review standards to minimize adverse impacts of future commercial uses, are sufficient to explain why a zone change from office to commercial uses is consistent with a refinement plan policy that encourages location of office uses as a transition between commercial and residential uses. *Bothman v. City of Eugene*, Or LUBA 701 (2006).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Even where a comprehensive plan provision might not constitute an independently applicable mandatory approval criterion for a rezoning proposal, it may nonetheless represent a relevant and necessary consideration that must be reviewed and balanced with other relevant plan provisions pursuant to ordinances that require that the proposed rezoning be consistent with applicable plan provisions. *Bothman v. City of Eugene*, 51 Or LUBA 426 (2006).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy that expresses a clear policy preference that a specifically identified area remain in its existing zoning is a policy that must be considered and balanced with other applicable policies when rezoning property in the area, under rezoning criteria requiring that the proposed rezoning be consistent with applicable plan provisions, notwithstanding that the plan policy is not couched in absolute or mandatory terms. *Bothman v. City of Eugene*, 51 Or LUBA 426 (2006).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy that expresses a clear policy preference that general office uses buffer commercial and residential uses in a specific area is a policy that must be considered and balanced with other applicable policies in rezoning property in that area that is (1) zoned and developed for general office uses and (2) acts as a buffer between commercial and residential-zoned and developed areas. *Bothman v. City of Eugene*, 51 Or LUBA 426 (2006).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy requiring that the county “insure adequate provisions” for schools is a planning mandate to the county, not an approval criterion requiring that applicants for a planned unit development provide land for schools. *City of Damascus v. Clackamas County*, 50 Or LUBA 514 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. In order to “incorporate” a comprehensive plan standard into a local government’s land use regulations within the meaning of ORS 197.195(1) and thus apply that plan standard to a limited land use decision as an approval criterion, the local government must at least amend its land use regulation to identify specific plan policies or provisions that apply to a limited land use decision as approval criteria. A code requirement to “comply with the comprehensive plan” is insufficient to incorporate any comprehensive plan standard under ORS 197.195(1). *Paterson v. City of Bend*, 49 Or LUBA 160 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A finding that annexation is necessary to protect significant natural features on a site under more protective city regulations is a sufficient explanation for why there is a “public need” annexation, notwithstanding a plan

policy indicating a preference for infill and redevelopment over annexation. No amount of infill or redevelopment could preserve significant natural features on the site. *Mason v. City of Corvallis*, 49 Or LUBA 199 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy stating that the city should “work toward” development of vacant lands before annexing additional lands does not mandate anything and therefore is not an approval standard governing an annexation proposal. *Kingsley v. City of Sutherlin*, 49 Or LUBA 242 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Remand is necessary to adopt findings addressing a plan policy that requires the city to promote higher-density residential development adjacent to two identified service centers, and either explain why (1) the policy does not apply to an application to rezone property to medium-density residential or (2) why allowing medium-density residential development far from service centers is consistent with the policy. *Kingsley v. City of Sutherlin*, 49 Or LUBA 242 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A plan policy stating that the city will “provide incentives to enable” higher-density residential infill is not a mandatory approval criterion applicable to a quasi-judicial rezoning application. *Kingsley v. City of Sutherlin*, 49 Or LUBA 242 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A detailed water quality resources report that discusses the effects of development on groundwater is sufficient to satisfy a comprehensive plan policy that requires a “Development Impact Statement” addressing the “effect on the groundwater supply.” *Dinges v. City of Oregon City*, 49 Or LUBA 376 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A city’s acknowledged comprehensive plan is a potential source of approval criteria in reviewing an application for conditional use approval, because ORS 197.175(2)(d) requires that local governments “make land use decisions and limited land use decisions in compliance with the acknowledged plan and land use regulations.” *Save Our Skyline v. City of Bend*, 48 Or LUBA 192 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. The statutory requirement that land use decisions be consistent with acknowledged comprehensive plans does not mean that all parts of the comprehensive plan necessarily are approval standards, or that comprehensive plan provisions that can operate as approval standards are necessarily relevant to all quasi-judicial land use permit applications. *Save Our Skyline v. City of Bend*, 48 Or LUBA 192 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Even if a comprehensive plan provision is a relevant standard for a quasi-judicial land use permit application, it may simply be a relevant consideration that must be considered with other relevant considerations, rather than a mandatory approval criterion that must separately be satisfied along with other mandatory approval criteria. *Save Our Skyline v. City of Bend*, 48 Or LUBA 192 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. In determining whether particular comprehensive plan goals and policies are relevant approval criteria for a quasi-judicial

land use permit application, it is appropriate to consider first whether the comprehensive plan itself assigns a particular role to those goals and policies. *Save Our Skyline v. City of Bend*, 48 Or LUBA 192 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Remand is necessary to reconsider what plan policies apply to a proposal to rezone property from one commercial zone to another, when the findings are predicated on an erroneous assumption that the property is plan designated medium density residential rather than commercial. *Knutson Family LLC v. City of Eugene*, 48 Or LUBA 399 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. An approval standard that requires that the local government identify the alternative that “most effectively carries out comprehensive plan goals and policies” necessarily requires balancing when the plan includes many overlapping policies that can work at cross-purposes. Findings that explain how the city chose to balance those plan goals and policies and which goals and policies the city emphasized are adequate, even if petitioners would have emphasized other goals and policies. *Doob v. City of Grants Pass*, 48 Or LUBA 587 (2005).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. It is within a city’s interpretive discretion under ORS 197.829(1) to interpret comprehensive plan language setting out considerations for locating commercial development in the city as being planning directives to the city to be used in determining the appropriate plan designation or zone, and not as approval standards that an applicant for commercial development permitted outright in a particular zone must satisfy. *Heilman v. City of Corvallis*, 47 Or LUBA 305 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a local code separately requires that quasi-judicial zoning map amendments comply with the local code and comply with applicable comprehensive plan policies, a local government must consider whether there are particular comprehensive plan policies that apply to the zoning map amendment and a local government may not interpret the code to fully implement the comprehensive plan. *Frewing v. City of Tigard*, 47 Or LUBA 331 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where an intergovernmental agreement calls for a county to incorporate into its plan and code the city’s ordinances and plan provisions that address lands within the UGB, but the county never does so, the county did not err in refusing to treat the city’s provisions as applicable approval criteria. *Nez Perce Tribe v. Wallowa County*, 47 Or LUBA 419 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A blanket finding that “many” of the plan policies cited by opponents are not applicable mandatory approval criteria is inadequate to provide a reviewable interpretation or determination that a particular plan policy is inapplicable, especially when the decision imposes conditions that appear to be directed at the policy’s requirements. *Chin v. City of Corvallis*, 46 Or LUBA 1 (2003).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a refinement plan policy prohibits “development” of property prior to master plan approval, the code definition of

“development” includes excavation and fill, and there is no textual or contextual basis to conclude that “development” for purposes of the policy excludes excavation and fill authorized by a grading permit, then the policy is applicable to a challenged permit authorizing excavation and fill on the property. Because the grading permit “concerns” the application of a comprehensive plan provision, the permit is a land use decision subject to LUBA’s jurisdiction. *Jaqua v. City of Springfield*, 46 Or LUBA 566 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. That regulations governing grading permits do not expressly require compliance with comprehensive plan policies does not necessarily indicate that specific comprehensive plan policies cannot apply to grading permits, especially where the grading permit regulations require planning department review for compliance with “any applicable laws.” *Jaqua v. City of Springfield*, 46 Or LUBA 566 (2004).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Annexation decisions are governed by comprehensive plan annexation criteria or, if no such comprehensive plan criteria have been adopted, by the statewide planning goals. Where a city annexation decision is adopted without applying either its comprehensive plan or the statewide planning goals, the decision must be remanded. *Morsman v. City of Madras*, 45 Or LUBA 16 (2003).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a local code provision expressly requires that a proposed subdivision must “conform to” the comprehensive plan, the local government errs in interpreting the code to preclude the possibility that there are any comprehensive plan provisions that might apply directly to the subdivision proposal. *Paddock v. Yamhill County*, 45 Or LUBA 39 (2003).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. While ORS 197.175(2)(d) states that land use and limited land use decisions must be in compliance with acknowledged plan and land use regulations, it does not implicitly prohibit a city from applying other standards such as statutes or county regulations that are not part of the city’s acknowledged plan or regulations. *City of Woodburn v. Marion County*, 45 Or LUBA 423 (2003).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. ORS 197.175 requires that land use decisions comply with the applicable comprehensive plan. However, whether a particular plan provision is an approval criterion for a particular quasi-judicial land division application depends on the language of the comprehensive plan and its implementing regulations, with appropriate deference to any explicit or implicit interpretations of the comprehensive plan and implementing regulations by the local government. *Donivan v. City of La Grande*, 43 Or LUBA 477 (2003).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the comprehensive plan expressly provides that certain policies are approval criteria for conditional use master plans and those policies appear to apply, a city’s unexplained conclusion that the policies do not apply is insufficient and remand is required. *Boly v. City of Portland*, 40 Or LUBA 537 (2001).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where comprehensive plan policies require efforts to reduce automobile use and encourage mass transit use, and arguments are presented that approving an additional parking lot adjacent to a light rail station is inconsistent with those policies, the city’s unexplained dismissal of the issue requires remand. *Boly v. City of Portland*, 40 Or LUBA 537 (2001).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A city decision to approve a one-story building addition rather than a two-story addition will be affirmed where the petitioner fails to demonstrate that general comprehensive plan policies that advocate a compact urban form (1) apply to the challenged application, and (2) are violated by the city’s decision. *Thompson v. City of Ashland*, 40 Or LUBA 298 (2001).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a local governing body interprets comprehensive plan provisions not to impose relevant approval criteria for a particular rezoning request it is entitled to great deference on review. However, where a local governing body simply declares that the provisions are not approval criteria without any explanation, the declaration expresses no reviewable interpretation and the declaration is not entitled to deference. *Swyter v. Clackamas County*, 40 Or LUBA 166 (2001).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a generally worded purpose statement in a city’s comprehensive plan provides that a zoning designation is intended to confine strip commercial development to its existing locations, but does not expressly provide that the zoning designation may be applied only to those locations, the local government’s interpretation of the purpose statement to allow the zoning designation to be applied to other locations so long as it does not result in strip commercial development is not clearly wrong. *Neighbors for Livability v. City of Beaverton*, 40 Or LUBA 52 (2001).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a variance criterion requires that a variance conform to the comprehensive plan, a city’s finding that a variance will promote in-fill and higher residential density is insufficient to demonstrate that the variance, allowing a lot to be divided into two lots, satisfies that criterion where the findings identify no comprehensive plan provisions encouraging in-fill and higher residential density. *Reagan v. City of Oregon City*, 39 Or LUBA 672 (2001).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan provision requiring that all transportation-related decisions consider specified land use impacts is a mandatory approval criterion potentially applicable to a decision vacating a county road. *Mekkers v. Yamhill County*, 39 Or LUBA 367 (2001).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy statement that a local government “will rely” on the Forest Practices Act (FPA) to protect surface waters and fish and wildlife does not have the effect of making the FPA requirements into approval criteria for a forest template dwelling. *Fessler v. Yamhill County*, 38 Or LUBA 844 (2000).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A land use regulation text amendment establishing subjective criteria is consistent with a city’s plan policy providing that its land use regulations be as “clear and objective as possible,” where the city demonstrates that the subjective criteria are necessary in order to ensure compliance with other policy objectives. *Home Depot, Inc. v. City of Portland*, 37 Or LUBA 870 (2000).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a local land use regulation requires that a permit application be consistent with any relevant neighborhood plan, neighborhood plan policies which are described in the neighborhood plan as having the force of law are at least potentially relevant approval criteria for the permit. *Hatfield v. City of Portland*, 37 Or LUBA 664 (2000).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A petitioner’s arguments that a zoning ordinance amendment violates a plan policy discouraging uses that are not water dependent provides no basis for remand, where the challenged decision raises the maximum building height and does not approve any particular use of the property. *Marine Street LLC v. City of Astoria*, 37 Or LUBA 587 (2000).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. OAR 660-023-0180(4)(b)(F), which allows the county to consider land use conflicts with a proposed mine if such conflicts must be considered under a county mining ordinance adopted pursuant to ORS 517.780, does not permit a county to apply its comprehensive plan and land use regulations as decisional criteria for the proposed mine, notwithstanding a general provision in the mining ordinance that requires compliance with the county comprehensive plan and land use regulations. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A conflict or inconsistency with a comprehensive plan or land use regulation provision is not the kind of conflict that may be considered under OAR 660-023-0180(4)(b). The conflicts that may be considered under the rule

include conflicts between land uses. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where access to a mining site is via a “local road,” OAR 660-023-0180(4)(b)(B) allows a county to consider conflicts with that local road. However, where access to a mining site is via an arterial highway there are no local roads used for access and egress to the mining site and OAR 660-023-0180(4)(b)(B) does not permit the county to consider conflicts with other roads. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A local government may not expand the 1,500-foot impact area required by OAR 660-023-0180(4)(a) based on potential conflicts that exceed the scope of conflicts that may be considered under OAR 660-023-0180(4)(b). *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. OAR 660-023-0180(4)(d) directs that a county proceed to “determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site,” only where conflicts with a mining site are properly identified under OAR 660-023-0180(4)(b) and there are not “reasonable and practical measures” that would minimize those conflicts. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. When the local government cannot show that a comprehensive plan policy requiring site-specific soil surveys and geologic studies when potential geologic problems exist is couched in mandatory terms and absent some indication that it has been fully implemented in the zoning code, the policy is decisional criteria for development applications. *Highland Condominium Assoc. v. City of Eugene*, 37 Or LUBA 13 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. In the absence of a city’s determination whether a comprehensive plan policy is a mandatory approval criterion, LUBA will exercise its interpretative discretion under ORS 197.829(2) to determine that the plan policy is a mandatory approval criterion, where the terms of the plan policy require the city to determine that essential public services “can be provided to a site” before granting development approval. That the plan policy specifies an exception to its requirements reinforces the conclusion that it is mandatory. *Terra v. City of Newport*, 36 Or LUBA 582 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy requiring that “[e]xcavations and fills shall be limited to those minimal areas where alteration is necessary to accommodate allowed development” is couched in terms imposing certain requirements in development approvals, and is thus a mandatory approval criterion. *Terra v. City of Newport*, 36 Or LUBA 582 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A county comprehensive plan provision requiring that the county use the transportation system efficiently by locating industrial uses close to transportation is directed at legislative decisions, and does not constitute a

mandatory approval criterion applicable to a quasi-judicial decision to rezone land to allow industrial uses. *City of Newberg v. Yamhill County*, 36 Or LUBA 473 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A city commission is within its interpretative discretion under ORS 197.829 to determine that a requirement that planned unit development within a natural hazards zone be consistent with applicable comprehensive plan policies is satisfied by a demonstration of compliance with ordinance standards implementing those comprehensive plan policies. *Salo v. City of Oregon City*, 36 Or LUBA 415 (1999).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. ORS 197.175 requires that land use decisions comply with acknowledged comprehensive plans. When approval criteria included in acknowledged land use regulations entirely displace the comprehensive plan as relevant approval criteria, the comprehensive plan must make that intent clear. *Durig v. Washington County*, 35 Or LUBA 196 (1998).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Review criteria for subdivision approval found in the county’s acknowledged comprehensive plan are applicable by their terms to every subdivision, even where the subject property has been redesignated following a Goal exception. *Turrell v. Harney County*, 34 Or LUBA 423 (1998).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a city interprets an element of its comprehensive plan as a policy statement intended to guide creation of standards, rather than an approval criterion itself, and that interpretation is not inconsistent with the plan’s express language, purpose or underlying policy, LUBA will defer to that interpretation. *Jebousek v. City of Newport*, 34 Or LUBA 340 (1998).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. In the absence of an explicit statement that provisions of a comprehensive plan are not mandatory approval criteria, whether plan provisions constitute approval criteria depends on a case-by-case analysis of the wording and context of the particular provisions. *Trademark Construction, Inc. v. Marion County*, 34 Or LUBA 202 (1998).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a land use regulation requires that a proposed use demonstrate consistency with a comprehensive plan, the local government may measure the consistency of the proposed use with policies and other relevant standards in the comprehensive plan, even ones that, in themselves, may not constitute specific, mandatory approval criteria. *Trademark Construction, Inc. v. Marion County*, 34 Or LUBA 202 (1998).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where petitioner does not demonstrate that a forest management strategy is part of a county’s comprehensive plan, petitioner has not carried its burden of showing that the application of the forest management strategy is a land use decision over which LUBA has jurisdiction. *Mount Hood Stewardship Council v. Clackamas County*, 33 Or LUBA 284 (1997).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. The city’s failure to address aspirational criteria stated in the city’s comprehensive plan does not provide a basis for reversal or remand. *Stewart v. City of Brookings*, 31 LUBA 325 (1996).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan policy is couched in mandatory terms, but does not state an approval standard, the county’s failure to address that policy in its decision is not error. *Friends of Indian Ford v. Deschutes County*, 31 Or LUBA 248 (1996).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy that does not set out approval criteria for a land use permit decision may nevertheless state an underlying purpose or policy with which the county’s interpretation of its zoning ordinance must be consistent. *DLCD v. Tillamook County*, 30 Or LUBA 221 (1995).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Even if an interpretation of a local ordinance is colorable on its face, it may be inconsistent with the express, language, purpose and policy underlying the ordinance and expressed in a comprehensive plan. In such cases, LUBA cannot affirm the local government’s interpretation under ORS 197.829(1)(a) to (c). *DLCD v. Tillamook County*, 30 Or LUBA 221 (1995).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. ORS 227.173(1) requires that permit standards and criteria be set out in local development ordinances and that land use decisions identify applicable standards and criteria. The statute does not prohibit a local government from requiring compliance with comprehensive plan policies through an ordinance, or from applying comprehensive plan criteria in quasi-judicial proceedings. *Holland v. City of Cannon Beach*, 30 Or LUBA 85 (1995).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A city’s hearing notice is not defective for failure to list certain comprehensive plan provisions when the city makes specific findings that those provisions are not approval criteria. *Stevens v. City of Medford*, 29 Or LUBA 422 (1995).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the local code specifically requires the application of a historic landmark designation to be consistent with comprehensive plan historic preservation policies, but does not indicate any plan policies are applicable to decisions on permits for demolition of property subject to the historic landmark designation, the local governing body is not clearly wrong in interpreting the plan and code to provide that no plan policies are applicable to its review of such a demolition permit application. *Save Amazon Coalition v. City of Eugene*, 29 Or LUBA 238 (1995).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the challenged decision is made by a governing body and does not explain whether or to what extent apparently applicable comprehensive plan standards apply to the proposal, the challenged decision must be remanded for such an explanation. *Lamm v. City of Portland*, 28 Or LUBA 468 (1995).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. To decide whether a challenged decision is a “land use decision” under ORS 197.015(10)(a)(A)(ii), because it concerns the application of a comprehensive plan, LUBA must determine whether arguably relevant plan provisions cited by the parties are standards or criteria for making the challenged decision. *Fraser v. City of Joseph*, 28 Or LUBA 217 (1994).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a local government interprets a comprehensive plan provision using the word “should” as imposing a nonmandatory consideration, findings demonstrating compliance with the plan provision are not required. *Mazeski v. Wasco County*, 28 Or LUBA 159 (1994).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A local government acts within its interpretive discretion in interpreting a plan policy that “residential development should only be encouraged” in certain areas not to be an approval standard for individual development applications. *Furler v. Curry County*, 27 Or LUBA 497 (1994).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. The requirement of ORS 197.175(2)(d) that a land use decision or limited land use decision comply with a local government’s acknowledged comprehensive plan, does not necessarily mean that all plan provisions apply directly to individual development applications. *Shelter Resources, Inc. v. City of Cannon Beach*, 27 Or LUBA 229 (1994).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where one part of a comprehensive plan states it is implemented through legislative acts, but another part states that subdivisions must be in conformance with the plan and the code expressly states all subdivision decisions must be consistent with the plan, it is not contrary to the express words, purpose or policy of either the code or the plan for the city to apply certain plan housing policies to a subdivision application. *Shelter Resources, Inc. v. City of Cannon Beach*, 27 Or LUBA 229 (1994).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Following acknowledgment, ORS 197.175(2)(d) requires that a local government make its land use decisions in compliance with *applicable* provisions of its acknowledged comprehensive plan and land use regulations. However, individual comprehensive plan provisions may not impose mandatory approval criteria or apply to particular types of land use decisions. *Draganowski v. Curry County*, 26 Or LUBA 420 (1994).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where property is annexed and it is not clear whether a plan policy and implementing measure governing annexations applies in the particular circumstances, a remand is required so that the local government may either apply the plan policy and implementing measure or explain why it does not apply. *Sorte v. City of Newport*, 26 Or LUBA 236 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan explicitly provides that certain plan provisions are advisory, such provisions are not mandatory land use approval standards, even if such plan provisions are worded in mandatory

terms. *Downtown Comm. Assoc. v. City of Portland*, 80 Or App 336, 722 P2d 1258, rev den, 302 Or 86 (1986). *Eskandarian v. City of Portland*, 26 Or LUBA 98 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan or land use regulation does not explicitly designate which portions of the plan or land use regulation operate as mandatory land use approval criteria, a case-by-case inquiry, examining the wording and context of the particular plan and land use regulation provisions, is required to identify mandatory approval standards. *Eskandarian v. City of Portland*, 26 Or LUBA 98 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where comprehensive plan goals are worded as aspirations, and the plan states that whereas plan policies are to be used in daily decision making, plan goals are general directions for the future, LUBA will affirm a local determination that the plan goals are not approval standards for a permit application. *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Although Goal 11 requires that local governments include schools in comprehensive plan provisions for public facilities and services, there is no legal requirement that subdivision approval decisions include a determination that schools are adequate, unless the acknowledged comprehensive plan or land use regulations impose such a requirement. *Eola-Glen Neighborhood Assoc. v. City of Salem*, 25 Or LUBA 672 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy requiring cooperative efforts among neighboring jurisdictions concerning public facilities and services, with no mention of schools, does not provide a basis for reversing or remanding a decision approving a subdivision despite allegedly inadequate schools. *Eola-Glen Neighborhood Assoc. v. City of Salem*, 25 Or LUBA 672 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy directed at how a city expends funds for public facilities and services is not an approval standard applicable to approval of individual subdivision requests. *Day v. City of Portland*, 25 Or LUBA 468 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan policy specifically refers to wetlands identified in “future inventorying processes,” it is reasonable for the local government to interpret that plan policy as inapplicable to individual permit decisions not involving wetlands identified on the local government’s acknowledged plan inventory. *Frankton Neigh. Assoc. v. Hood River County*, 25 Or LUBA 386 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A local government’s failure to establish compliance with aspirational plan provisions which “encourage” and provide guidance about what a local government should do, is not a basis for LUBA to reverse or remand a challenged decision. *Neuharth v. City of Salem*, 25 Or LUBA 267 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A local code may provide a PUD process in which an approved PUD overall development plan, rather than the

comprehensive plan standards applied in approving the overall development plan, governs final PUD approval. *Westlake Homeowners Assoc. v. City of Lake Oswego*, 25 Or LUBA 145 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. 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).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A requirement in a local code that development be “consistent” with comprehensive plan policies and standards, is a general requirement that does not transform otherwise nonmandatory plan standards into approval standards. *McGowan v. City of Eugene*, 24 Or LUBA 540 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Under ORS 197.175(2)(d), a county is required to assure that amendments to its comprehensive plan map comply with the acknowledged comprehensive plan. Where a number of plan provisions applicable to such a decision impose conflicting requirements, the county must adopt findings balancing those conflicting plan provisions in determining whether the request is consistent with the plan. *Marson Trucking, Inc. v. Clackamas County*, 24 Or LUBA 386 (1993).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A former comprehensive plan that is “retained [by a local government] as resource and background documents” for its current comprehensive plan, does not establish approval standards for land use decisions. *Tylka v. Clackamas County*, 24 Or LUBA 296 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a local code standard requires that creation of new nonfarm and nonforest parcels be consistent with comprehensive plan forest and agriculture policies, the local government’s findings must demonstrate compliance with all such plan policies or explain why they do not apply. *DLCD v. Curry County*, 24 Or LUBA 200 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy that simply requires a county to “encourage” maximum utilization of vacant city land is not a mandatory approval standard for a zone change and subdivision application. *Larson v. Wallowa County*, 23 Or LUBA 527 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where golf courses are listed as conditionally permitted uses in an EFU zoning district, and an applicable code standard requires that proposed golf courses comply with applicable comprehensive plan policies, a county must balance applicable plan policies, and may not focus on particular plan policies to the exclusion of others. *Wells v. Clackamas County*, 23 Or LUBA 402 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a code approval standard applicable to a permit decision fully incorporates and refines a comprehensive plan

policy, the plan policy does not apply directly to the permit decision as an approval criterion. *Avgeris v. Jackson County*, 23 Or LUBA 124 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Whether plan policies are approval standards applicable to individual permit decisions is determined by reference to both the words used in the particular plan policy and the structure of the plan itself. In the absence of something in the plan to the contrary, plan policies worded in aspirational and general terms are intended to guide development of implementing ordinances, not individual permit decisions. *Citizens for Resp. Growth v. City of Seaside*, 23 Or LUBA 100 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A plan policy which contains mandatory language, and specifically envisions that it may be necessary to apply “additional measures” to particular development applications to protect the “integrity and function” of estuarine areas and to “carry out” the plan policy, is a mandatory standard applicable to individual applications for development adjacent to an estuarine area. *Citizens for Resp. Growth v. City of Seaside*, 23 Or LUBA 100 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy that is limited in its application to forest dwellings and to land exceeding a specified productivity rating, does not apply to a request for approval of a nonforest dwelling on property having less than the productivity rating specified in the policy. *Camp v. Josephine County*, 23 Or LUBA 6 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan policy directs the local government to adopt particular implementing regulations, and nothing in the wording or context of the policy indicates it was intended to apply to individual land use actions, the policy is not an approval standard for such actions. *Miller v. City of Dayton*, 22 Or LUBA 661 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Comprehensive plan policies and local code requirements establishing standards for construction of streets are not approval standards applicable to comprehensive plan transportation map amendments. *Davenport v. City of Tigard*, 22 Or LUBA 577 (1992).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Particular comprehensive plan provisions may or may not be standards governing individual land use decisions. Even where plan provisions are approval criteria for some types of land use decisions, they may not be approval standards for all types of land use decisions. *Goodrich v. Jackson County*, 22 Or LUBA 434 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Comprehensive plan agriculture policies are criteria applicable to a request for conditional use approval for a nonfarm use in an exclusive farm use zone, where the zoning ordinance specifically provides that conditional uses must comply with plan goals and policies and there is nothing in the language of the plan agriculture policies which suggests they were not intended to apply as applicable approval standards. *Waker Assoc., Inc. v. Clackamas County*, 22 Or LUBA 233 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Conditions imposed on particular property as part of the adoption of a quasi-judicial plan amendment/zone change are potentially applicable to decisions approving development of that property. *Broetje-McLaughlin v. Clackamas County*, 22 Or LUBA 198 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. ORS 215.130, and county regulations adopted pursuant thereto, provide limited authorization for counties to approve alterations to nonconforming uses which are contrary to provisions of their comprehensive plans and land use regulations. Therefore, plan policies are not approval standards for alteration of a nonconforming use. *Scott v. Josephine County*, 22 Or LUBA 82 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. When determining the applicability of comprehensive plan provisions to individual conditional use decisions, LUBA will first consider whether the comprehensive plan itself contains language which identifies how the provisions in question are intended to apply to individual conditional use decisions. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the comprehensive plan emphasizes that plan policies are intended to *guide* development actions and decisions, and that the plan must be implemented through the local code to have effect, such plan policies are not approval standards for individual conditional use decisions. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A local code statement of an intent not to encourage perpetuation of nonconforming uses and plan policies which are directed at zoning decisions and adoption of implementing land use regulations and planning inventories do not state approval standards applicable to decisions concerning modification of individual nonconforming uses. *Strawn v. City of Albany*, 21 Or LUBA 172 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Whether a plan policy is an approval standard depends upon the wording and context of the plan provision. *Stefan v. Yamhill County*, 21 Or LUBA 18 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan policy states that “no proposed rural area development shall substantially impair or conflict with the use of farm *or forest* land,” but the applicable rural zoning district contains no provisions addressing interference with forest uses, the plan policy itself is an approval standard for nonfarm dwellings proposed in that zone with regard to potential conflicts with forest uses. *Stefan v. Yamhill County*, 21 Or LUBA 18 (1991).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Comprehensive plan policies which contain aspirational language regarding goals to be implemented through the adoption of land use regulations are not mandatory approval criteria for individual permit applications and, therefore, it is unnecessary for LUBA to determine whether a decision approving a permit complies with such plan policies. *Wissusik v. Yamhill County*, 20 Or LUBA 246 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A plan policy that certain uses or activities be encouraged states general objectives, not permit approval criteria. *Benjamin v. City of Ashland*, 20 Or LUBA 265 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. In determining whether a particular comprehensive plan provision is an approval standard, LUBA considers the language used in the plan provision and the context in which it appears. A plan policy that states general objectives in non-mandatory terms is not an approval standard. *Thormahlen v. City of Ashland*, 20 Or LUBA 218 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A local code requirement that certain land use actions be consistent with the comprehensive plan does not transform all plan provisions into approval criteria for those decisions. To determine whether particular plan provisions are approval standards, LUBA looks to the language used in the plan provisions and the context in which such plan provisions appear. *Neuenschwander v. City of Ashland*, 20 Or LUBA 144 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Comprehensive plan policies that simply encourage certain development patterns are not independent approval criteria for decisions made under the plan. *Neuenschwander v. City of Ashland*, 20 Or LUBA 144 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the local comprehensive plan includes “specific” policies, but does not establish that all “specific” policies are merely advisory, the local government must determine for each relevant “specific” policy, based on the language and context of that policy, whether it is a regulatory standard potentially applicable to individual development proposals. *Axon v. City of Lake Oswego*, 20 Or LUBA 108 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy that “services shall be available or committed prior to approval of development” is a mandatory approval standard for individual development proposals. *Axon v. City of Lake Oswego*, 20 Or LUBA 108 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the local code provides for the approval of an overall PUD development plan and allows approved PUDs to be developed in phases, and the local government addresses the public services impacts of an entire PUD and finds relevant plan policies satisfied in approving such an overall PUD plan, the local government is not required to readdress plan public services policies in subsequent approval of a development phase, provided the requested phase approval is consistent with the type and intensity of development in the approved overall PUD plan. *Hoffman v. City of Lake Oswego*, 20 Or LUBA 64 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where a comprehensive plan provides that plan “goals, policies, strategies and standards” are “legally binding to land use decisions” when expressed in mandatory language, relevant plan agricultural goals, policies, strategies and standards which are expressed in mandatory language are applicable to a request for

conditional use approval for a golf course in the county's exclusive farm use zone. *Von Lubken v. Hood River County*, 19 Or LUBA 404 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the comprehensive plan is defined as including the plan policy document, plan map, zoning map and zoning and subdivision ordinances, as well as a number of other documents, a local code provision requiring that individual land use decisions comply with the comprehensive plan is not correctly interpreted as requiring compliance with only the zoning map and zoning and subdivision ordinances. *Von Lubken v. Hood River County*, 19 Or LUBA 404 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where plan standards identify nonfarm uses that may be allowed in the county's exclusive farm use zone and require that such uses be "minimized," a plan standard requiring that "development" not occur on lands capable of sustaining accepted farming practices is properly interpreted as not applying to the nonfarm uses specifically allowed in the exclusive farm use zone. *Von Lubken v. Hood River County*, 19 Or LUBA 404 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A finding that no plan policies apply to a proposed conditional use is adequate to demonstrate compliance with the comprehensive plan where petitioner fails to allege that any particular plan policies apply to the proposed use. *Keudell v. Union County*, 19 Or LUBA 394 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan policy governing "requests for rezonings to higher intensity residential uses" has no applicability where the issue is whether the *plan* map designation should be changed. *Bridges v. City of Salem*, 19 Or LUBA 373 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. A comprehensive plan statement that separation of use types along topographic, natural vegetation, and other features is "desirable" does not establish an approval criterion applicable to plan and zone map amendments. *Bridges v. City of Salem*, 19 Or LUBA 373 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the comprehensive plan specifies that a particular plan policy is itself an implementing measure, LUBA will conclude that policy applies as an approval criterion for land use decisions. *Murphey v. City of Ashland*, 19 Or LUBA 182 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Comprehensive plan policies which the plan states are specifically implemented through particular sections of the local code do not constitute independent approval standards for land use actions. *Murphey v. City of Ashland*, 19 Or LUBA 182 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Whether comprehensive plan goals and policies or zoning ordinance purpose sections are approval standards for conditional use approval in a particular instance, depends upon an examination of the relevant plan and code provisions. *Rowan v. Clackamas County*, 19 Or LUBA 163 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where the county code explicitly requires that a nonfarm conditional use in an exclusive farm use zone “satisfy” applicable plan goals and policies, and the county plan provides that its goals and policies shall “direct future decisions on land use actions,” the plan agriculture goals and policies are applicable to approval of the nonfarm conditional use. *Rowan v. Clackamas County*, 19 Or LUBA 163 (1990).

29.3.2 Comprehensive Plans – Applicability – As Decision Criteria. Where there is an apparent conflict between a plan provision and an amended code provision, the city must explain in its findings why the code amendment does not conflict with the plan provision. *Nicolai v. City of Portland*, 19 Or LUBA 142 (1990).