

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county’s conclusion that a pesticide or herbicide label requires no setback from recreational areas, and, therefore, that approving a recreational area on EFU land will not force a significant change in accepted farm practices on surrounding lands devoted to farm use for purposes of the farm impacts test at ORS 215.296(1), is not supported by substantial evidence where farmers and the Oregon Department of Agriculture interpret the label as requiring a setback that could preclude application of the herbicide in significant portions of farmland adjacent to the proposed recreational area and where there is no expert testimony supporting the county’s interpretation. *Schrepel v. Yamhill County*, 81 Or LUBA 895 (2020).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. In the absence of countervailing expert testimony, LUBA will accept farmers’ contention that compliance with an EPA rule prescribing an Application Exclusion Zone (AEZ) for outdoor pesticide application is an accepted farm practice for purposes of the farm impacts test at ORS 215.296(1), regardless of whether it is applicable law, and a county errs by not analyzing the impacts of approving a recreational area on EFU land with respect to the EPA AEZ. *Schrepel v. Yamhill County*, 81 Or LUBA 895 (2020).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Under the farm impacts test at ORS 215.296(1), the issue is not whether any law would prevent an accepted farm practice, such as aerial spraying of pesticides, on the farms adjacent to the proposed nonfarm use but whether the proposed nonfarm use would force a significant change in the accepted farm practice on those farms, and the burden is on the applicant to demonstrate that the proposed nonfarm use would not force a significant change. *Schrepel v. Yamhill County*, 81 Or LUBA 895 (2020).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A condition of approval requiring a subsequent master planning process to determine the type and design of a fence surrounding a proposed nonfarm use in order to prevent “trespass related impacts” to surrounding lands devoted to farm use is not sufficient to satisfy the farm impacts test at ORS 215.296(1) where the condition excludes potential trespass from the “non-general public,” such as the applicant’s employees and agents, and the condition is not “clear and objective,” as required by ORS 215.296(2), where it does not define “trespass related impacts.” *Schrepel v. Yamhill County*, 81 Or LUBA 895 (2020).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings concluding that an aggregate quarry satisfies the farm impacts test at ORS 215.296(1) are inadequate and not supported by substantial evidence where the county identifies grazing as the only surrounding farm or forest use but does not verify that the grazing operation is in fact limited to grazing, without other uses such as breeding, or establish that logging on the grazing property, government ownership of surrounding forest lands, or maintaining of surrounding forest land as a timber investment do not involve protected forest activity. *Currie v. Douglas County*, 81 Or LUBA 602 (2020).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. In determining that a landfill does not “[f]orce a significant change” in accepted farm practices on

surrounding lands devoted to farm use under ORS 215.296(1)(a), a county errs in relying on a condition of approval requiring the landfill to install a second fence between the working face of the landfill and an adjacent farm to capture more trash that escapes the landfill before it enters onto the adjacent farm, where there is no quantification in the record of how effective the existing fence is at intercepting landfill trash. *Stop the Dump Coalition v. Yamhill County*, 79 Or LUBA 459 (2019).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county fails to correctly apply the farm impacts test at ORS 215.296(1) where it concludes that there are only a few farm or forest uses in the area but does not identify and discuss each farm or forest use, where it does not describe the operations on each of the surrounding properties devoted to farm or forest use, where it does not identify evidence of the unmitigated impacts of the proposed nonfarm use, and where it concludes that such impacts will be reduced but does not identify evidence that significant impacts are avoided. *Currie v. Douglas County*, 79 Or LUBA 585 (2019).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Under ORS 215.296(2), a county may impose conditions of approval to ensure compliance with the ORS 215.296(1) “significant change/cost” standard, in which case the question on appeal to LUBA is not whether the decision establishes that the proposed use complies with ORS 215.296(1), but whether the decision establishes that the proposed use, as conditioned, complies with ORS 215.296(1). *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A local government could reasonably conclude that a landfill expansion complies with the ORS 215.296(1) “significant change/cost” standard, notwithstanding testimony from an adjacent hay farmer regarding the need for weekly litter patrols to prevent trash entering farm soils or destroying farm equipment, based in part on a condition of approval that requires a second litter fence between the working face of the landfill and adjacent hay fields, where there is no dispute that the existing litter fence is somewhat effective at reducing the volume of wind-blown trash that escapes the landfill, and the second litter fence will reduce that volume further. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A local government can impose conditions of approval to ensure compliance with the ORS 215.296(1) “significant change/cost” standard that require the applicant to assume the cost or burden of performing actions on nearby farms necessary to prevent a significant change in accepted farming practices on those farms or significant increase in costs on those farms. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A local government could reasonably conclude that a landfill expansion complies with the ORS 215.296(1) “significant change/cost” standard, notwithstanding testimony from an adjacent hay farmer regarding the need for weekly litter patrols year-round to prevent trash entering farm soils or destroying farm equipment, based in part on a condition of approval that requires the landfill operator to provide, pay for, or reimburse the farmer for litter patrols prior to harvest, even if the

condition does not entirely eliminate the need for litter patrols at non-harvest times. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A local government could reasonably conclude that a landfill expansion complies with the ORS 215.296(1) “significant change/cost” standard, notwithstanding testimony that the existing intermittent falconry program simply displaces nuisance birds onto nearby farms, based on conditions of approval that require a more intensive falconry program and implementation of integrated techniques recommended by a wildlife biologist to discourage nuisance birds from remaining in the area. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A condition requiring the landfill operator to buy at market prices the entire crop of berries and cherries produced by a nearby farmer concerned with nuisance bird impacts on her crop is sufficient to reduce to insignificance the alleged adverse impacts of the landfill on the farmer’s farm practices. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A farmer’s reasonable apprehension about losing direct sale customers due to odor impacts of a landfill could lead the farmer to make changes in accepted farming practices or significantly increase the cost of farming practices; however, customer perceptions are not farm practices, and the feared or actual loss of direct sales customers alone, without any associated change or increased costs, is not a sufficient basis to conclude that the ORS 215.296(1) “significant change/costs” standard is violated. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. To address cumulative impacts on farm practices under ORS 215.296(1), the question is whether multiple impacts on individual farms, which may individually be insignificant, cumulatively force significant changes in farm practices or significantly increase the cost of farm practices on each individual farm that experiences multiple impacts. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. The applicant has the burden to demonstrate that individual insignificant impacts under ORS 215.296(1) are not cumulatively significant, and a local government cannot shift that burden to farmer/opponents to a proposed landfill, by finding that the farmer/opponents failed to explain how multiple impacts are cumulatively significant. *Stop the Dump Coalition v. Yamhill County*, 74 Or LUBA 1 (2016).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county errs in applying a rigorous “compelling evidence” standard to evaluate testimony from farmers located more than one mile from a proposed landfill, regarding impacts of the landfill operation on their farm costs and practices. Nothing in ORS 215.296(1) suggests that a county can apply different evidentiary standards on different parties based on the geographic distance to the proposed non-farm use. *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county errs in discounting the testimony of farmer/opponents that a landfill operation causes significant changes or significant costs to their farm practices, for failure to quantify or specify the degree of impacts. While the county is free to give more weight to testimony that is quantified or more detailed over less quantified or detailed testimony, requiring opponents to quantify or specify the degree of impacts, while not requiring similar quantification or specification from the applicant, who has the burden of proof, effectively shifts the burden of proof to the opponents. *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county errs in placing “great weight” on a longitudinal study offered by the applicant to demonstrate that the proposed expansion of a landfill will not cause significant change/increase costs to surrounding farm practices, by showing that farm uses on surrounding lands have remained stable and even expanded under the impacts of the existing landfill. Farm use may have remained stable despite significant changes or significant increases in costs to farm practices, or indeed because such changes have allowed farm operations to continue despite the impacts of the landfill. *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A finding that the amount of trash that escapes a landfill onto adjoining farm land is not “significant” in volume is not sufficient to demonstrate that the changes the farmer made to avoid trash damaging equipment and crops does not reflect a significant change or increased cost for purposes of ORS 215.296(1). The question is whether the changes are significant, not whether the impacts or volume of trash is significant. *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. The apparent success of a change in farming practices in mitigating or preventing lost revenue from impacts of landfill operations on surrounding farmland does not demonstrate that the change itself is not a significant change in farm practices, for purposes of ORS 215.296(1). *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. That a pheasant raising operation may be a recently established farm practice on farm land adjacent to a proposed landfill does not mean that the operation is a “hobby” or noncommercial farm use such that the county need not evaluate alleged impacts from the landfill operation on the pheasant raising operation. *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. To establish compliance with ORS 215.296(1), the applicant may initially survey farm uses on surrounding lands, and identify in general terms accepted farming practices associated with those farm uses. Remand is necessary where the initial survey identifies a farm stand adjacent to a proposed landfill, but does not identify, even in general terms, any accepted practices associated with the farm stand. *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where it is undisputed that direct sales of agricultural products is an accepted farm practice, a county must address allegations that odor and visual impacts from a proposed landfill adversely impact direct sales of agricultural products, for purposes of establishing compliance with ORS 215.296(1), even if the alleged adverse impacts are based on customers’ perceptions regarding landfill impacts. *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Notwithstanding that the record includes no evidence quantifying how much water would be transferred between a ranch and a proposed golf course, a county’s finding that the water transfer will not significantly change or increase the cost of farming practices on the ranch is supported by substantial evidence, where the ranch manager testifies that in exchange for transferring water, the applicant will improve the ranch’s irrigation system, and the ranch anticipates no change in the amount of irrigation water available or irrigation practices. *Oregon Coast Alliance v. Curry County*, 71 Or LUBA 297 (2015).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county errs in requiring an applicant to apply the ORS 215.296 “significant change/increase” standard to a study of the “surrounding area” that encompasses all agricultural land in the county, on the theory that a proposed conditional use will remove land from agricultural use and require county farmers to shoulder a greater burden of fixed costs in the county’s agricultural economy. The focus of ORS 215.296 is on the impacts of the proposed conditional use on agricultural practices in the proximate surrounding area, not attenuated impacts to the larger economy caused by conversion of the subject property from agricultural use to a conditional non-farm use otherwise allowed under ORS chapter 215. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. The scope of “surroundings lands” to which ORS 215.296 applies is not limited to lands adjacent to the subject property. However, failure to define the outer limits of the study area or to evaluate impacts on non-adjacent farm operations is not necessarily fatal to the application, if the surrounding agricultural area is homogenous, and there is substantial evidence that the conditional use has no significant impacts on farm practices on adjacent farm parcels. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.296(1) does not require a demonstration that a proposed conditional use of an EFU-zoned parcel will not prevent future agricultural use of the soils occupied by the non-farm conditional use. Because ORS chapter 215 authorizes in EFU zones several uses such as mining or solid waste disposal facilities that involve removal or loss of agricultural soil, such a requirement would effectively prohibit uses allowed in EFU zones under ORS chapter 215. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.296(1) requires some description of farm practices on surrounding farm lands, in order to evaluate whether the proposed conditional use will significantly change or increase the costs of

such practices. Where the record and planning commission decision includes no such description, on local appeal the governing body could conclude that the planning commission decision approving the conditional use is not supported by substantial evidence. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A winery that was initially approved as a permitted use under ORS 215.283(1)(n) and 215.452 was not required to consider its impact on farm and forest practices on nearby lands because ORS 215.296(1)(a) and (b) do not apply to such permitted use wineries. However, if that winery is to be expanded later in ways that are not allowed under ORS 215.452, as a “commercial activit[y] that [is] in conjunction with farm use” under ORS 215.283(2)(a), the expanded winery must comply with ORS 215.296(1)(a) and (b), which apply to “commercial activities that are in conjunction with farm use.” In that circumstance ORS 215.296(1)(a) and (b) apply to the entire winery as expanded, not just the later approved expansion. *Friends of Yamhill County v. Yamhill County*, 66 Or LUBA 212 (2012).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Petitioners’ challenge to a winery expansion presents no basis for remand under the ORS 215.296(1)(a) and (b) significant change/increase standard, where the county’s findings can be read to identify “spraying pesticides, burning fence lines and plowing fields” as accepted farming practices that might be impacted by an expanded winery operation, the county imposes a 200-foot buffer setback requirement on the winery and requires a recorded acknowledgement by the winery owner that nearby farms have a right to continue their accepted farming practices even if they impact the winery, and petitioners offer no direct challenge to the adequacy of those measure to avoid significant changes in or increases in the cost of accepted farming practices. *Friends of Yamhill County v. Yamhill County*, 66 Or LUBA 212 (2012).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.296(2), which provides that an applicant for a conditional use allowed under ORS 215.213(2) or 215.283(2) may demonstrate compliance with the ORS 215.296(1) no significant change/increase standard through imposition of clear and objective conditions, does not impliedly limit conditions to those intended to protect farm and forest uses. Neither does ORS 215.296(2) prohibit counties from adopting additional EFU zone approval standards to address the impacts of wind energy facilities on residential uses or Goal 5 resources. *Cosner v. Umatilla County*, 65 Or LUBA 9 (2012).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A hearings officer does not err in concluding that a county standard requiring a showing that the proposed “use” will not force a significant change in farm or forest practices or significantly increase costs of farm and forest practices does not apply to a property line adjustment, where the county standard applies to “uses” listed in the county’s EFU zone, and property line adjustments are not listed as a use. *Louks v. Jackson County*, 65 Or LUBA 58 (2012).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings are inadequate to explain how a proposed waste water treatment facility on EFU land would either “force a significant change in” the adjacent farming practices or “significantly

increase the cost of” an adjacent organic farming operation under ORS 215.296(1) where the findings do not explain what the “significant impacts” to the organic farming operation would be or explain how the potential for spray drift from the proposed facility would either “force a significant change in” the organic farm practices or “significantly increase the cost of” the operation. *Falcon Heights WSD v. Klamath County*, 64 Or LUBA 390 (2011).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A criterion that requires a local government to find that a proposed dwelling will not force a significant change in accepted farm practices on surrounding lands does not require the local government to address the indirect and speculative possibility that the owner of the land on which the proposed dwelling will be located may decide in the future not to lease any portions of the subject property that may have been available for leasing for grazing in the past. *Womelsdorf v. Jackson County*, 62 Or LUBA 34 (2010).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A general statement of concern that a proposed campground would cause “interactions between livestock and people” is insufficient under ORS 197.763(1) to raise the issue of compliance with a local code analogue to the ORS 215.296(1) that requires a finding that the proposed use will not force a significant change in or significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use. *Olstedt v. Clatsop County*, 62 Or LUBA 131 (2010).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where a petitioner fails to challenge all the reasons a hearings officer gives for finding that a proposed wind turbine facility will not force a significant change in or significantly increase the cost of accepted farm practices on nearby farms, petitioner’s challenge to the adequacy of one of the reasons the hearings officer gave provides no basis for reversal or remand. *Falls v. Marion County*, 61 Or LUBA 39 (2010).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. When a petitioner was required to raise local appeal issues below pursuant to *Miles v. City of Florence*, 190 Or App 500, 79 P3d 382 (2003), raising the issue that approval of a nonfarm dwelling would significantly increase the cost of farming practices is not sufficient to raise any issue concerning impacts on the stability of the overall land use pattern, and the petitioner may not raise the stability standard at LUBA. *Zeitoun v. Yamhill County*, 60 Or LUBA 111 (2009).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county does not err in concluding that, as conditioned, a personal use airport will not “significantly” impact a neighboring equine facility, where the only adverse impact identified by the facility owner is that guests are advised to delay mounting or dismounting horses until after planes land or take-off, and conditions of approval limit operations to 20 flights per month. *Johnson v. Marion County*, 58 Or LUBA 459 (2009).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. In analyzing significant changes to or significant increases in cost of farming practices on nearby lands, where a county wishes to disqualify unspecified farm practices that the county believes are

not intended to generate a profit, it is incumbent on the county in its findings to identify which practices it has not analyzed for that reason. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county’s error in failing to identify which farm practices on nearby lands are excluded from the significant change/increase analysis because they are part of “hobby farms” and are not intended to generate a profit is harmless error, where the governing body adopted unchallenged planning commission findings that discuss impacts of the proposed mining on farm practices without distinguishing between “hobby farms” and other farms, and conclude that any impacts on farm practices will be insignificant. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county does not err in failing to define a geographic area of analysis for the impacts of a non-forest use in a forest zone under a code “significant change/increase” standard that does not implement the similar significant change/increase standard applicable to EFU zones and that, unlike the statute, does not require analysis of impacts on “surrounding lands” or any other particular geographic area. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings that describe the only forest practice that adjoining timber operators identified as impacted by proposed mining on forest land are adequate for purposes of a code significant change/increase standard, where the code standard does not implement the statutory significant change/increase standard, and the petitioners do not explain why the code standard requires an exhaustive description of all forest practices on nearby lands. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. While a county’s failure to describe accepted farming practices on nearby lands would likely require remand under the ORS 215.296(1) significant change/increase standard or a code provision implementing that standard, such a failure is not necessarily reversible error under a similar code significant change/increase standard that does not implement the statute. Any failure to describe accepted farming practices under the code standard is harmless, where the county adopted unchallenged findings, supported by substantial evidence, that the proposed mining will not significantly affect any farm or forest practices. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.296(1) does not require that a county prevent all impacts on farming practices, only that the proposed use, as conditioned, not force a significant change in accepted farm practices or significantly increase the cost of accepted farm practices. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A hearings officer’s conclusion that a fence between a public park and grazing land is sufficient to ensure compliance with ORS 215.296(1) is supported by substantial evidence, notwithstanding the possibility that dogs may exit the park through an unfenced boundary and travel across intervening parcels to harass cattle, where there are no reported incidents of trespass across the unfenced

boundaries and only speculation to support the possibility. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Remand is necessary where the local government’s approval of an asphalt batch plant fails to address issues raised regarding the impact of emissions on especially sensitive crops grown nearby. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. The scope of “accepted farming or forest practices” that must be evaluated under the no significant change/increase standard is a fact-specific inquiry. A hearings officer does not err in evaluating the scope and intensity of “accepted forest practices” on adjacent lands based on the forest uses currently or recently occurring in the area, and need not assume that forest practices on adjacent parcels will occur at the most intensive level possible. *Central Oregon Landwatch v. Deschutes County*, 53 Or LUBA 290 (2007).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.284(2)(a) requires a demonstration that a proposed nonfarm dwelling or “activities associated with the dwelling” will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands. Improvements such as driveways, wells and septic systems are not “activities associated with the dwelling.” However, such improvements must be considered part of the proposed dwelling and thus must be considered when determining compliance with ORS 215.284(2)(a). *Wetherell v. Douglas County*, 51 Or LUBA 699 (2006).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. For purposes of determining whether a nonfarm dwelling proposed in the middle of an existing vineyard will force a significant change in or significantly increase the cost of accepted farming practices on “nearby lands,” the county’s determination of the dwelling’s impact on nearby lands must include consideration of the impact of the dwelling on the existing vineyard on the subject property itself. *Wetherell v. Douglas County*, 51 Or LUBA 699 (2006).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. An allegation that the county failed to consider the potential impact of a proposed nonfarm dwelling on wells located on nearby properties that serve *domestic* purposes does not provide a basis to reverse or remand the approval of a nonfarm dwelling, where the applicable approval criterion requires a demonstration of whether the proposal will force a significant change in or significantly increase the cost of accepted *farming practices*. *Wetherell v. Douglas County*, 51 Or LUBA 699 (2006).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Under a code standard requiring that a proposed forest dwelling not significantly change or increase the cost of farm or forest practices on nearby resource lands, the hearings officer’s failure to separately analyze more distant properties in the study area or identify its outer boundaries is not reversible error, where the hearings officer found no significant impacts on parcels adjacent to the subject property and, given the homogeneity of the surrounding area, significant impacts on non-adjointing parcels are unlikely. *Sisters Forest Planning Comm. v. Deschutes County*, 48 Or LUBA 78 (2004).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Testimony that approval of a non-farm dwelling will increase agricultural land costs because of the parcel’s increased value as a building site is at best indirect evidence of an increase in the cost of “farm practices” within the meaning of ORS 215.296(1). *Frazee v. Jackson County*, 45 Or LUBA 263 (2003).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings concluding that adjacent farms do not use pesticides or aerial spraying and will not cause conflicts with proposed nonfarm dwellings are sufficient to show compliance with the no significant change/increase standard, where petitioners do not identify other farm practices or conflicts that the county’s findings fail to address, and do not challenge the findings regarding pesticide use and aerial spraying. *Hanna v. Crook County*, 44 Or LUBA 386 (2003).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where a party during local proceedings advises the county that an existing or prior farm use on surrounding lands is in the process of being abandoned, and plans for the new farm use are sufficiently developed to allow the new farm use to be described in sufficient detail to allow the farm practices that will be associated with the new farm use to be identified, an applicant for a nonfarm use that is subject to ORS 215.296(1) must address the accepted farming practices that will be associated with that new farm use. *Dierking v. Clackamas County*, 38 Or LUBA 106 (2000).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Organic farming is not properly viewed as either a “farm use” or an “accepted farm practice.” However, organic farmers may employ accepted farming practices that are not normally associated with other types of farming. *Dierking v. Clackamas County*, 38 Or LUBA 106 (2000).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Impacts on “farm families, residents and workers” are not impacts on “accepted farm practices,” that must be considered under ORS 215.296(1). *Dierking v. Clackamas County*, 38 Or LUBA 106 (2000).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.286 does not require a guarantee that aggregate mining on land zoned for exclusive farm use will cause no adverse impacts on the water table on surrounding lands. *Jorgensen v. Union County*, 37 Or LUBA 738 (2000).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Petitioners’ argument that the county used a different definition of “accepted farming practices” than the definition provided in ORS 215.203(2)(c) does not provide a basis for reversal or remand, where petitioners do not demonstrate that the county’s definition is inconsistent with the statutory definition, or that application of the county’s definition supports a different result than would application of the statutory definition. *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. It is inconsistent with ORS 215.296(1) to arbitrarily limit the scope of analysis to properties within 500 feet of the subject property, where doing so results in failure to consider substantial evidence in the record of significant impacts from the proposed use to accepted farming practices on lands beyond 500 feet. However, where petitioners fail to challenge a finding that there are no significant impacts within 500 feet, and an extrapolation of that finding to lands beyond 500 feet, the county's error does not provide a basis for reversal or remand. *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Petitioners' argument at LUBA that using agricultural land for a golf course buffer violates the ORS 215.296(1) prohibition against forcing a significant change in farm practices on surrounding lands devoted to farm use was waived, where petitioners' arguments during the local proceedings concerning the proposed buffers were not sufficient for the decision maker to understand and respond to that issue. *DLCD v. Jackson County*, 36 Or LUBA 88 (1999).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A local provision requiring compatibility between a proposed use and development of abutting properties by outright permitted uses does not require an exhaustive listing and discussion of every subcategory of use permitted in the area. A county's general description of permitted uses and explanation why the proposed use is compatible with types of permitted uses is adequate. *Thomas v. Wasco County*, 35 Or LUBA 173 (1998).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Adequate findings of compliance with a local standard requiring that proposed nonresource uses not significantly increase the cost of accepted farm and forest practices must identify the farm and forest practices in the area, even if the local standard does not implement and thus need not be consistent with the similar statutory standard. *Thomas v. Wasco County*, 35 Or LUBA 173 (1998).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. In applying a local provision based on the no significant change/increased cost standard, the local government is not required to perform the impossible task of proving a negative or to quantify how much imposed conditions will reduce conflicts with farm uses below a certain threshold. It need only affirmatively consider the impacts of a proposed use on farm or forest practices, and in so doing, consider whether the use will force a significant change or significantly increase the cost of those practices. *Gutoski v. Lane County*, 34 Or LUBA 219 (1998).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Under ORS 215.296(1), the applicant bears the burden to demonstrate that the proposed use will force no significant change in accepted farming practices or their cost, and the local government's findings must affirmatively explain why it believes there are no such significant adverse impacts. *Just v. Linn County*, 32 Or LUBA 325 (1997).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. In order to demonstrate compliance with ORS 215.296(1), county findings must: (1) describe the farm and forest practices on surrounding lands devoted to farm or forest use; explain why the proposed use

will not force a significant change in those practices; and (3) explain why the proposed use will not significantly increase the cost of those practices. *Brown v. Union County*, 32 Or LUBA 168 (1996).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Under ORS 215.296(1), the county may not assume from an absence of information in the record that there are no adverse farm impacts. The burden is on the county to identify and explain why it believes there are no significant adverse impacts and why it believes the cost of accepted farm practices would not be increased. *Brown v. Union County*, 32 Or LUBA 168 (1996).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where the only use approved by the challenged decision is mineral and aggregate extraction on a 186-acre site, and no uses on the remainder of intervenor’s 490-acre parcel are subject to review under ORS 215.296, the county’s findings correctly limit the evaluation of compliance with ORS 215.296 to the 186-acre area of mineral and aggregate extraction. *Mission Bottom Assoc. v. Marion County*, 32 Or LUBA 56 (1996).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.296(1) does not require of the local government the impossible task of proving a negative; rather, the local government must affirmatively consider the impacts of a proposed use on farm or forest practices, and in consideration of those impacts, consider whether the use will force a significant change or significantly increase the cost of those practices. *Mission Bottom Assoc. v. Marion County*, 32 Or LUBA 56 (1996).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where the local code requires that a proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding land, the applicant has the burden of identifying the relevant accepted farm and forest practices and producing evidence showing those practices will not be significantly changed or their costs significantly increased. *Lyon v. Linn County*, 28 Or LUBA 402 (1994).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings of fact stating that accepted farm practices which occurred on adjoining properties have continued after a golf course was constructed do not constitute an improper interpretation of ORS 215.296(1) as being met simply because those past accepted farm practices have continued. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings that it is possible to apply agricultural sprays with little or no drift if label restrictions are followed do not constitute findings that spray drift is not an accepted farm practice. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where impacts on an individual accepted farm practice are such that they almost force a significant change in that practice, additional impacts on other accepted farm practices may lead to a conclusion that

there is a cumulative significant change in accepted farm practices, but such is not necessarily the case. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. An applicant may not construct a golf course, prior to receipt of a decision approving such construction that is sustained on appeal, and thereafter rely on the fact that construction has already occurred to avoid showing that the impacts on accepted farm practices and the costs thereof during construction of the golf course are not significant. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings that an orchard's accepted farming practices have not been significantly affected by trespassing golf balls are supported by substantial evidence where the evidence shows no orchard employees have been hit by golf balls, tree buffers are effective in deflecting golf balls and petitioner's testimony was discredited by video tape of petitioner collecting golf balls on the golf course property. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where there is conflicting evidence concerning the effectiveness of a condition requiring golf course closures during spraying operations to avoid significant effects on or cost increases in such spraying, a finding that the condition has been effective is supported by substantial evidence. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where the aerial spray applicator formerly used by an orchard will not spray orchards surrounded by a golf course and the only sprayer who will charges 2000 dollars more to do so, the county's findings must explain why this cost increase, viewed cumulatively with any other cost increases attributable to the golf course, is not significant. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

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

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where testimony below does not refer to ORS 215.296 by its statutory citation, title or any recognized abbreviation for either, and does not employ any of the operative terms of the statute, a reasonable local decision maker would not have understood that compliance with ORS 215.296 was raised below, and petitioner may not raise this issue before LUBA. *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where a golf course adjoining an orchard will force alterations in accepted farming practices and increase the costs associated with such practices, the relevant question under ORS 215.296(1) is whether

such alterations and increased costs will be *significant*. Where there is evidence in the whole record that would allow a local government decision maker to answer that question either way, LUBA is required by ORS 197.835(7)(a)(C) to defer to the local government's judgment. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where there is evidence in the local government record that the number of golf balls claimed to have landed in adjoining orchards is exaggerated, a decision approving a golf course and imposing a condition requiring the planting of trees to contain golf balls on-site and installation of a fence and screen to prevent golfers and golf balls from entering adjoining orchard property, is supported by substantial evidence. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where the aerial application of chemicals on an orchard adjoining a proposed golf course will be rendered more difficult, although possible, in that at least one aerial sprayer indicates he would be willing to spray the affected orchard, and the decision approving the golf course requires the operator to close the golf course to facilitate such spraying, there is substantial evidence in the record that the golf course will not force a significant change in or significantly increase the cost of aerial spraying of the adjoining orchard. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A decision that a golf course will not significantly change or increase the cost of ground spraying of an adjoining orchard is supported by substantial evidence, where there is conflicting evidence concerning the magnitude of ground spraying drift expected to travel onto adjoining properties, and the decision imposes a condition requiring that the golf course operator provide monitors to prevent golfers from coming into contact with ground spray drift. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where petitioners do not specifically challenge county findings which (1) identify a specific area surrounding a proposed golf course as the “surrounding lands” to be considered in determining compliance with ORS 215.296(1) and identical local code provisions, and (2) explain how the area was chosen, but rather assert a larger area should have been chosen, LUBA will uphold the county's identification of “surrounding lands.” *Schellenberg v. Polk County*, 22 Or LUBA 673 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.296(1), and identical local code provisions, require that a county consider the impacts of a proposed nonfarm use on *all* “surrounding lands devoted to farm or forest use,” whether that use is commercial or noncommercial. *Schellenberg v. Polk County*, 22 Or LUBA 673 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. A county may properly base its identification of “accepted farm or forest practices,” as those terms are used in ORS 215.296(1), on the definition of “accepted farming practice” in ORS 215.203(2)(c). *Schellenberg v. Polk County*, 22 Or LUBA 673 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Where the evidence establishes a reasonable farmer would not significantly change the manner in which the farm is managed due to a proposed golf course, and the opponents' evidence shows only that there is a remote possibility that there could be some impacts from such proposed golf course, the county's determinations that the proposed golf course will not seriously interfere with, force a significant change in, or significantly increase the cost of accepting farming practices in the area, are supported by substantial evidence. *Washington Co. Farm Bureau v. Washington County*, 22 Or LUBA 540 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Under ORS 215.296(1), the burden is on the applicant to show a proposed golf center will force no significant change in accepted farming practices or their cost, and on the county to so find. *Berg v. Linn County*, 22 Or LUBA 507 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Findings which fail to identify the farm practices employed on surrounding properties devoted to farm use cannot explain why the proposed use will not cause a significant change in or increase the cost of such practices, and are inadequate to comply with ORS 215.296(1). *Berg v. Linn County*, 22 Or LUBA 507 (1992).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Although the EFU zoning statutes do not establish specific approval standards for golf courses in EFU zones, ORS 215.296(1) establishes standards applicable to nonfarm uses in EFU zones generally, and requires that approval of such uses not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands. *Von Lubken v. Hood River County*, 22 Or LUBA 307 (1991).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. Under ORS 215.296(1) and similar local code provisions, the burden is on the applicant to show the proposed use will force no significant change in accepted farming practices or their cost, and on the county to so find. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. ORS 215.296(1) and similar local code provisions require a county to consider all issues relevant to whether the proposed use will force a significant change in accepted farm or forest practices on surrounding lands or significantly increase the cost of such practices. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std. In order to demonstrate compliance with ORS 215.296(1) and similar code standards, county findings must (1) describe the farm and forest practices on surrounding lands devoted to farm or forest use, (2) explain why the proposed use will not force a significant change in those practices, and (3) explain why the proposed use will not significantly increase the cost of those practices. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.

Without an adequate identification of the accepted farming practices on surrounding lands, the county’s findings cannot explain why the proposed use will not cause a significant change in or increase the cost of such practices, as required by ORS 215.296(1) and the local code. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.

Findings of compliance with a standard that a proposed golf course will not “force a significant change in,” or “significantly increase the cost of,” accepted farm or forest practices on surrounding lands do not necessarily satisfy a standard that the proposed golf course will not “interfere seriously” with accepted farming practices. *Washington Co. Farm Bureau v. Washington Co.*, 21 Or LUBA 51 (1991).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.

The requirement that conditions imposed to ensure that a proposed nonfarm use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands “be clear and objective,” does not necessarily require a local government to adopt *findings* explaining why conditions imposed for this purpose are clear and objective. *Washington Co. Farm Bureau v. Washington Co.*, 21 Or LUBA 51 (1991).

3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.

Whether a proposed dwelling (1) is permitted outright in an EFU zone, (2) is “accessory” to an underlying nonconforming use, and (3) complies with ORS 215.296(1), are determinations which require “interpretation or the exercise of factual, policy or legal judgment” within the meaning of ORS 197.015(10)(b)(A) and (C). *Komning v. Grant County*, 20 Or LUBA 481 (1990).