

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. Where the only variable between multiple Urban Growth Area-Urban Growth Management (UGA-UGM) zones is lot size, and where a county code provision provides that “[t]he density of one UGA-UGM zoning district is not interchangeable with the density of another UGA-UGM zoning district without prior review and approval by the affected city and * * * County,” an interpretation by the county that the provision applies to zone changes of the subject property or changes to the underlying density of the zone in which the subject property is located, but that it does not apply to lot size variances, is inconsistent with the express language of the provision. In such cases, where the local code does not define “density” and the dictionary defines “density” as the quantity or number per unit of area, LUBA will make its own determination that a lot size variance in a UGA-UGM zone may qualify as an “interchange[.]” with the density of another UGA-UGM zone, thereby requiring city review and approval. *City of Albany v. Linn County*, 79 Or LUBA 528 (2019).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. Where a property owner whose property is subject to a rezoning application withdraws consent to the zone change, that withdrawal of consent may be effective to deprive a county of jurisdiction to proceed on the zone change application, even if it is possible that a circuit court will ultimately determine that the nonconsenting property owner is contractually obligated to support the zone change by contracts entered into by their predecessor-in-interest. *Setniker v. Polk County*, 75 Or LUBA 1 (2017).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. ORS 227.180(1)(b) authorizes city councils to provide that a decision by a hearings officer or other decision-making authority in a proceeding for discretionary permit or zone change approval is the city’s final decision. But ORS 227.180(1)(b) does not authorize a city council to make a hearings officer’s or other decision-making authority’s decision the city’s final decision concerning an application for a comprehensive plan map amendment. *Housing Land Advocates v. City of Happy Valley*, 73 Or LUBA 405 (2016).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. 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).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. While ORS 215.223(3) requires a county to provide notice of the hearing on a “zone change,” a proposal to correct the official zoning map to accurately reflect previously adopted ordinances is not a “zone change” within the meaning of ORS 215.223(3), and therefore the county’s failure to provide notice of such a map correction does not violate the statute. *Sullivan v. Polk County*, 51 Or LUBA 107 (2006).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. Where a planning commission recommendation to correct the zoning map is a condition precedent to the governing body’s correction of the zoning map under the local code, the governing body cannot “substitute”

for the required recommendation a planning commission recommendation to rezone the subject property under a different code provision. *Sullivan v. Polk County*, 51 Or LUBA 107 (2006).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. A decision that amends the comprehensive plan and zoning maps for a 20-acre parcel in single ownership is properly viewed as a quasi-judicial decision under *Strawberry Hill 4 Wheelers*, and therefore the county erred in conducting the hearing and adopting the decision under legislative procedures, which do not provide written notice to adjoining landowners. *Sullivan v. Polk County*, 49 Or LUBA 543 (2005).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. LUBA will remand a city’s zoning designation decision, where the decision is dependent on the validity of a concurrent annexation decision that LUBA has concluded does not comply with applicable law. *Just v. City of Lebanon*, 45 Or LUBA 179 (2003).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. Where a county has a unified zoning map and comprehensive plan map, any application for a zoning map amendment is by necessity also an application for a comprehensive plan map amendment. A combined zoning and comprehensive plan map amendment application is not one of the three kinds of land use applications described in ORS 215.427(1), and for that reason the fixed goal post rule at ORS 215.427(3) does not apply. *Rutigliano v. Jackson County*, 42 Or LUBA 565 (2002).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. A city does not exceed its discretion under ORS 197.829(1) in interpreting code language providing for “rezoning” of property for limited commercial purposes “on a conditional use basis” to allow limited commercial uses on the property pursuant to a conditional use permit, without amending the zoning map to apply a commercial zone to the property. *Chilla v. City of North Bend*, 41 Or LUBA 539 (2002).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. Neither Goal 2 nor ORS 197.175(2) require that zoning ordinance amendments that are necessary to implement a comprehensive plan map amendment be adopted at the same time as the plan amendment. *Neighbors for Livability v. City of Beaverton*, 37 Or LUBA 408 (1999).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. The lack of an available implementing zoning district at the time a conditional plan map amendment is adopted does not provide a basis for reversal or remand. In that event, at the time the city amends its zoning map to implement the conditional plan map amendment, it will be required to (1) adopt a new implementing zoning district or amend an existing zoning district so that it could be applied, or (2) adopt further plan map amendments that may be required to allow adoption of an implementing zoning district. *Neighbors for Livability v. City of Beaverton*, 37 Or LUBA 408 (1999).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. Where a comprehensive plan map amendment adopts a plan map designation that authorizes several zoning districts, LUBA will assume the city will later apply the zoning districts that will comply with housing goals, rather than zoning districts that might violate those housing goals. If inappropriate

zoning districts are applied later, the decisions adopting those zoning districts can be corrected through an appeal of those zoning map decisions. *Neighbors for Livability v. City of Beaverton*, 37 Or LUBA 408 (1999).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. Substantial evidence supports a city council’s finding that the planning commission, rather than a neighborhood association, “initiated” a plan and zone map change as required by local ordinance, where the planning commission was informed of the ordinance requirement, and voted to conduct proceedings on the request of the neighborhood association to consider the map change. *Herman v. City of Lincoln City*, 36 Or LUBA 521 (1999).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. A quasi-judicial plan and zone map amendment initiated by the city planning commission is an “application for a land use decision,” for purposes of the notice requirements of ORS 197.763(3), and thus the city’s notice of hearing must list the applicable criteria from its ordinance and plan. *Herman v. City of Lincoln City*, 36 Or LUBA 521 (1999).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure. There is no requirement that a legislative land use decision redesignating numerous properties include findings specifically setting out the justification for the change in designation made for each affected property. *McInnis v. City of Portland*, 27 Or LUBA 1 (1994).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure A local government decision approving a quasi-judicial zone change must be supported by written findings identifying the applicable criteria, setting out the facts relied on and explaining the reasons why the facts establish compliance with the applicable standards. *Strecker v. City of Spray*, 25 Or LUBA 264 (1993).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure Where no specific use is proposed in conjunction with a zone change, the notice of hearing is not required to indicate all of the possible uses of the property under the proposed new zone. However, where a reasons goal exception for a particular use is also proposed, ORS 197.763(3)(a) requires that the notice of hearing identify the particular use proposed to be made of the property. *Caine v. Tillamook County*, 22 Or LUBA 687 (1992).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure A local government may not condition approval of zoning and comprehensive plan map amendments on an applicant’s agreement to relinquish a right granted in a prior land use decision, unless there is a sufficient connection between the requested map amendments and the prior land use decision. *Olson Memorial Clinic v. Clackamas County*, 21 Or LUBA 418 (1991).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure Although detailed findings are not always required to justify conditions of land use approval, the evidentiary record must be sufficient to demonstrate a connection between the condition imposed and the planning purpose served by the condition. *Olson Memorial Clinic v. Clackamas County*, 21 Or LUBA 418 (1991).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure Where the evidentiary record demonstrates that the proposed expansion of a medical clinic is needed to provide adequate facilities for existing patients and staff and would not result in additional patients or staff, the local government improperly conditioned approval of required plan and zoning map amendments on the clinic’s agreement to relinquish a previously granted approval for parking lot egress onto an adjoining street. *Olson Memorial Clinic v. Clackamas County*, 21 Or LUBA 418 (1991).

30.2.4 Zoning Ordinances – Amendment – Map Amendment: Procedure Where a county’s land development ordinance provides for adoption of resolutions of intent to rezone and makes such resolutions binding commitments that the county will grant rezoning when conditions stated in such resolutions of intent to rezone are met, a resolution of intent to rezone is a final appealable decision. *Headley v. Jackson County*, 19 Or LUBA 109 (1990).