

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

3	COLUMBIA RIVER PEOPLE'S)	
	UTILITY DISTRICT, A)	
4	Municipal Corporation,)	LUBA NO. 83-066
)	
5	Petitioner,)	FINAL OPINION
)	AND ORDER
6	v.)	
)	
7	CITY OF COLUMBIA CITY, A)	
	Municipal Corporation,)	
8)	
	Respondent.)	

9 Appeal from City of Columbia City.

10 Robert A. Lucas, St. Helens, filed a petition for review
11 and argued the cause on behalf of petitioner. With him on the
brief were Lucas, Petersen & Huffman.

12 Harold L. Olsen, St. Helens, filed a brief and argued the
13 cause on behalf of respondent. With him on the brief were
Olsen, Smith Weirich.

14 Bagg, Board Member.

15 Affirmed 10/31/83

16 You are entitled to judicial review of this Order.
17 Judicial review is governed by the provisions of Oregon Laws
1983, ch 827.

1 BAGG, Board Member.

2 NATURE OF THE DECISION

3 The Columbia River People's Utility District (CRPUD) asks
4 the Board to reverse a decision of Columbia City denying CRPUD
5 a conditional use permit to place an office and warehouse
6 complex on certain land within the city limits.

7 FACTS

8 CRPUD is purchasing a 16.9 acre site in Columbia City to
9 use as an operations center. The facility would include an
10 office building, a garage and storage building and space for
11 parking. The facility would occupy only about five acres of
12 the site. The property is presently owned by Crown Zellerbach.

13 This property is across Highway 30 from Crown Zellerbach's
14 sawmill. It is undeveloped, and is covered with brush and
15 trees. Land to the north is occupied by the Columbia City
16 Racquet Ball Club and by a 300 foot strip of land zoned for
17 forest purposes. Land immediately to the south is zoned for
18 residential use but is occupied by the Oregon State Police and
19 the Oregon State Forestry Division. There are garages and
20 parking areas associated with the Oregon State Police use, and
21 the Oregon State Forestry Division has its district office and
22 fire station on site.

23 This matter was first heard before the Columbia City
24 Planning Commission. The Planning Commission denied the
25 request, and the petitioner appealed this denial to the city
26 council. The city council conducted a de novo review of the

1 Planning Commission record and issued a denial accompanied by
2 findings on March 18, 1983. The city council adopted the
3 findings of the Planning Commission.

4 This appeal followed.

5 ASSIGNMENT OF ERROR NO. 1

6 "Columbia City erred in concluding that the proposal
7 was not an authorized conditional use and did not fit
the conditional use criteria."

8 Under this assignment of error, petitioner makes three
9 arguments. Petitioner first argues its request meets county
10 ordinance standards for conditional uses. Half of the property
11 is in the R-1 residential zone, and half is in the forest
12 zone. Conditional uses authorized in the R-1 zone are as
13 follows:

- 14 "a. Church
- 15 "b. Community Meeting buildings
- 16 "c. Federal and State buildings
- 17 "d. Home occupations
- 18 "e. Museums
- 19 "f. Public and private parks and other recreation
facilities such as tennis courts, etc.....
- 20 "g. Utilities and utility sub-stations necessary for
public service
- 21 "h. Temporary real estate office in legally recorded
subdivision
- 22 "i. Greenhouses having not more than 160 square feet
- 23 "j. Other uses as deemed appropriate by the Planning
Commission" Zoning Ordinance of the City of
Columbia City, Art 4, sec 4(3), p. 17,
(hereinafter Ordinance).

24 Conditional uses authorized in a forest zone are as follows:

- 25 "(a) Private and public parks, playgrounds,
recreational uses and accessory facilities.
- 26 "(b) Transmission lines and stations together with
accessory buildings.
- "(c) Warehouse." Id., Sec 9(2), p. 23.

1 The Board understands petitioner to argue its proposed use
2 would meet R-1 zone standards for "community meeting buildings"
3 because a portion of the building is available for community
4 meetings.

5 The petitioner also says the use is acceptable under
6 "federal and state buildings" on the ground that this provision
7 must have omitted city or other municipal buildings by simple
8 oversight. Thirdly, petitioner argues it is a utility and,
9 therefore, qualifies under "utility and utility sub-stations
10 necessary for public service."

11 Within the forest zone, petitioner states the largest
12 building it proposes is a warehouse with a fenced storage
13 yard. A warehouse is authorized as a conditional use in the
14 forest zone. Petitioner is apparently saying it is entitled to
15 consider its office complex with warehouse a warehouse only for
16 the purpose of securing a conditional use in the forest zone.

17 Included in this argument is a claim that if the proposed
18 use does not fit any of the conditional uses discussed above,
19 it is nonetheless permissible because it is a "similar use" to
20 those listed. The Columbia City Zoning Ordinance has a
21 provision for authorization of similar uses as follows:

22 "The Planning Commission may permit in a particular
23 zone a use not listed in this ordinance, provided the
24 use is of the same general type as the uses permitted
25 there by this ordinance. However, uses listed in
26 another zone or uses of the same general nature and
similar to uses specifically listed in another zone
are not authorized, by this section, for inclusion in
a zone where such uses are not listed. Where it is
specifically considered in another more intensive use

1 zone, it is presumed to be excluded from more general
2 provisions of a lower intensity zone." Id., Art 4,
3 sec 4(2), p. 7.

4 Respondent first argues a conditional use is a
5 discretionary permit and is not a matter of right. Respondent
6 says the county ordinance is written in such a fashion that it
7 does not mandate issuance of a conditional use permit even
8 though all criteria for granting the permit may have been
9 satisfied. Respondent is mistaken.

10 ORS 227.173 provides:

11 "(1) Approval or denial of a discretionary permit
12 application shall be based on standards and criteria,
13 which shall be set forth in the development ordinance
14 which shall relate approval or denial of a
15 discretionary permit application to the development
16 ordinance and to the comprehensive plan for the area
17 in which the development would occur and to the
18 development ordinance and comprehensive plan for the
19 city as a whole.

20 "(2) Approval or denial of a permit application shall
21 be based upon and accompanied by a brief statement
22 that explains the criteria and standards considered
23 relevant to the decision, states the facts relied upon
24 in rendering the decision and explains the
25 justification for the decision based on the criteria,
26 standards and facts set forth.

"(3) Written notice of the approval or denial shall
be given to all parties to the proceeding."

21 This statute prohibits a city from use of mere discretion in
22 approving or denying permit applications. A conditional use
23 application is a permit application. See ORS 227.160. Also
24 the statute requires findings, based upon those standards, to
25 support approval or denial.¹ The Board must proceed to
26 review the city's compliance with its conditional use

1 criteria.

2 The Board is not cited to anything in the record that shows
3 petitioner to have raised an assertion that it was entitled to
4 have its proposal considered a community meeting facility.
5 What the record shows is much discussion about why the proposed
6 use qualified is a "utility" or a "warehouse." Where the
7 record fails to show petitioner asserted this claim below, the
8 Board will not consider it on review. Dobaj v. City of
9 Beaverton, 1 Or LUBA 237 (1980).² The Board finds no error
10 in the city's failure to consider this proposal as a "community
11 meeting" facility.

12 Respondent goes on to deny petitioner's claim that the
13 proposed use fits within the authorization for "utilities" in
14 the conditional use section of the R-1 zone. Ordinance, Art 4,
15 Sec 4 (3). Respondent advises the city interpreted the term to
16 mean only those utility facilities which are customarily found
17 in a residential zone and are used to provide services to
18 residents. The Board understands respondent to refer to
19 electric power sub-stations and similar facilities providing
20 service directly to the persons in the residential area. The
21 city's finding on this issue is as follows:

22 "8. The purpose (goal) of the Single Family
23 Residential Zone is 'to establish conditions
24 which will maintain attractive, convenient
residential living typical of moderate density
areas.' The goal has been implemented, in part,

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26 //

1 by establishing minimum lot sizes of 10,000 sq.
2 ft. and not allowing duplexes. Duplexes are a
3 permitted use in the General Residential (R-2)
4 Zone. Utilities and utility substations
5 necessary for public service are permitted as a
6 Conditional Use.

7 "Utilities are not defined in the Zoning
8 Ordinance. The provision for utilities is
9 customarily found in a residential zone to allow
10 for the services to be provided to the residents
11 of the area." Record 49.

12 The Board finds this interpretation reasonable. There is
13 nothing in the ordinance to suggest the city intended
14 "utilities" to mean office buildings and shop and warehouse
15 facilities. The Board will defer to a municipality's
16 interpretation of its ordinance where the interpretation is
17 reasonable. Alluis v. Marion County, 7 Or LUBA 98 (1982).

18 Also, respondent says the proposed use does not fall into
19 the provision allowing "warehouses" as conditional uses in the
20 forest zone. The uses in the forest zone are limited to those
21 associated with the forest industry, according to the city. In
22 support of this view, respondent points to a provision in the
23 forest zone as follows:

24 "To carry out the purpose of the forest zone, no
25 provisions have been made for the construction of
26 dwellings, excepting buildings which may be necessary
to the practice associated with timber production and
harvesting." Ordinance, Art 4, sec 9(3), p. 23.

It is not immediately clear how this provision means no
non-forest building may be constructed in a forest zone. On
its face, this provision may be read to limit construction of
dwellings only.

1 The city's findings on this issue suggest the city
2 understands the provision to require any use in a forest zone
3 to be forest related.

4 "7. The purpose and intent of the Forest Zone is to
5 provide a buffer area from noise and visual
6 separation of conflicting uses. The Comp Plan
7 intent is for this land area to remain intact, as
8 is, and only allow limited use of the property.
9 Limitations on use of the property, as adopted in
10 the Zoning Ordinance, restricts the construction
11 of bulidings to accessory uses associated with
12 timber production and harvesting. Any activity
13 on the property is by mutual consent of Columbia
14 City and the property owner.

15 "Conditional uses in the zone allow for
16 transmission lines and stations together with
17 accessory buildings --and warehouses (timber
18 related). The CRPUD Conditional Use Request
19 exceeds the uses allowed in the Forest Zone. The
20 uses requested by CRPUD would require a zone
21 change." Record 49.3

22 The county's findings and the language in the forest zone
23 provide some basis for the city's interpretation of its view
24 that "warehouse" must be limited to a forest use. The
25 permitted uses in the zone are clearly limited to forest
26 uses.⁴ The other conditional uses in the zone, park and
recreation uses and transmission lines, are uses which arguably
further the purpose of the zone. The purpose of the forest
zone is

"to provide a buffer area from noise and visual
separation of conflicting uses." Ordinance, Art 4,
sec 9, p. 22.

Therefore, while not as clear as might be desired, the
city's reading of its ordinance is reasonable and not contrary
to the express terms of the ordinance. Bienz v. City of

1 Dayton, 29 Or App 761, 566 P2d 904, 919 (1977); Alluis, supra.

2 Also, the petitioner has asked for a use that includes both
3 a warehouse and an office building. The city properly
4 considered the request as a package or a "complex." As a use
5 which combines the warehouse with an office building, it is no
6 longer only a request for a warehouse. Even if the Board were
7 to find the city's interpretation of "warehouse" to be
8 unreasonably restrictive, there is nothing in the ordinance to
9 show the city intended to allow an office structure along with a
10 warehouse as a conditional use in the forest zone.

11 The city also considered other places where this complex
12 might be sited.

13 "The complex proposed by the CRPUD exceeds the stated
14 uses of the zone. Warehouses and storage yards are
15 permitted in industrial zones. Office space is
permitted in commercial zones and in light industrial
zones." Record 49.

16 The Board finds no authority in the zoning ordinance for
17 this statement. There is no light industrial zone in the
18 county's zoning ordinance. The one industrial zone, the heavy
19 industrial zone (M1), allows sawmills and uses related to their
20 operation. There are no other uses permitted in this single
21 industrial zone, except as follows:

22 "No new dwellings shall be erected on the M1 zone
23 except those to be lived in by watchmen or caretakers
of the premises." Ordinance, Art 4, sec 8(2), p. 22.

24 Presumably, this provision recognizes the single industrial use
25 in the city, Crown Zellerbach property, and no other.

26 The commercial zone, and there is only one, does not

1 mention office buildings or office space at all. The permitted
2 commercial uses are

- 3 "(a) Antique shops
- 4 "(b) Barber [sic] shops
- 5 "(c) Beauty Parlor
- 6 "(d) Neighborhood Grocery store
- 7 "(e) Signs subject to the approval of the Planning
8 Commission
- 9 "(f) Other similar uses or retail uses, if approved by
10 the Planning Commission, to serve the
11 neighborhood and which is [sic] not likely to
12 become objectionable to adjoining and nearby
13 residential property because of noise, traffic,
14 size, hours of operation or other objectionable
15 conditions." Id., sec 7(2), p. 21.

16 It does not appear from these provisions that office space is
17 permitted at all. The provision in sub (f), supra, appears to
18 be limited to other kinds of retail uses, not other kinds of
19 commercial uses generally.

20 It appears, therefore, that the complex as proposed can not
21 be sited anywhere in the city.⁵ As to the claim that the
22 application should be allowed as a "similar use" which may be
23 authorized under Art 1, sec 4(2) of the ordinance, respondent
24 argues the similar uses provision is a discretionary function
25 of the city council. The city is under no obligation whatever
26 to consider the application as a similar use in any of the
zones. Respondent is mistaken. The similar use provision
quoted supra, has a standard: The use must be "of the same
general type as the uses permitted" in the applicable zone.
Ordinance, Art 2, sec 4(2), p. 7. The Board wishes to stress
the discretion given to the city is not discretion to approve
or deny a request without standards and without reasons showing

1 compliance with those standards. In this case, the city would
2 be obliged, if requested, to apply this standard and to reach a
3 decision as to whether the application constituted a similar
4 use. However, the Board is cited to nothing in the record to
5 show the petitioner requested a similar use determination of
6 the planning commission or the city council.

7 In this case, the city did not rest on its interpretation
8 that the request did not fall within any of the established
9 conditional use criteria. The city made findings on whether
10 this conditional use application met its conditional use
11 criteria. The criteria are as follows:

- 12 "(1) The proposed conditional use must be consistent
13 with the Comprehensive Plan, all local
ordinances, State-wide goals and guidelines.
- 14 "(2) The proposed conditional use must be consistent
with the character of the area.
- 15 "(3) The proposed conditional use must not require
public services other than those existing or
programmed for the area.
- 16 "(4) The proposed conditional use must not adversely
affect natural resources.
- 17 "(5) The proposed conditional use must have minimal
adverse impact on the livability of adjacent
18 properties.
- 19 "(6) The proposed conditional use reasonably meet the
public need.
- 20 "(7) Additional criteria may be stipulated at the
beginning of the public hearing." Ordinance, Art
21 5, sec 1(4), p. 29.

22 The city held the request did not meet the first, second
23 and sixth of these criteria.

24 The city says criteria 1 was not met because

25 "[f]acts 7 and 8 show the proposal is not consistent
with the Comp Plan. Also this conclusion is supported
26 by testimony presented by area residents at the public
hearing." Record 51.

1 The Board understands the city to mean that the forest
2 lands provision of its comprehensive plan, as implemented
3 through the zoning ordinance, prohibits the proposed use. The
4 finding is also a reference to the city's residential zone
5 provisions, provisions the city understands will not
6 accommodate this proposal. While certainly sketchy and not as
7 complete as might be possible, the finding is a statement of
8 what the city believes, and incorporates ordinance criteria and
9 facts. The finding, therefore, is adequate to support this
10 denial, at least when read in context with the rest of the
11 city's order. See South of Sunnyside Neighborhood League v.
12 Clackamas County, 280 Or 3, 569 P2d 1063 (1977).

13 The next finding states

14 "[f]acts 8 and 9i show that the proposal is not
15 consistent with the character of the area." Id.

16 Fact 8, quoted at 7, simply describes the purpose of the
17 residential zone and adds that the city interprets this
18 provision to permit only the utilities customarily provided to
19 residents of the area. The finding goes on to say the CRPUD

20 "will serve only a small percentage of the Columbia
21 City residents; mainly the parcels west of Sixth
22 Street.

23 "The applicant has stated that the complex is a non-
24 polluting industry, and that 'they' are willing to
25 provide screening. The applicant also states that
26 their Conditional Use is permitted, by zoning, in
either of the two zones. The statements detailed
earlier indicate that the provision for utilities in a
zone is not meant to allow an industrial development;
and, therefore, the request is not consistent with the
Comprehensive Plan and/or the Zoning Ordinance."
Record 49.

1 This finding is not really responsive to criteria about the
2 character of the area. While the city's findings do discuss
3 the area in terms of its location and its zoning, the other
4 uses in the area are not described and, indeed, the area itself
5 is not described. What the city has done is simply said it
6 does not believe that this use is permissible under its
7 ordinance scheme, and it uses that belief as a basis for a
8 discussion about whether or not the use complies with the
9 character of the area. In order to be responsive to the
10 criteria, the county would need to describe the character of
11 the area, then discuss the character of the user and how it
12 fits the area. This analysis was not performed.⁶

13 The last of the findings challenged by the petitioner is
14 the following:

15 "Evidence presented at the hearing did not show how
16 the complex would meet a public need at this
17 location. Testimonies received at the public hearing
questioned why such a complex should be sited in a
predominantly residential city.

18 "Only a small portion of Columbia City would be served
19 by CRPUD. This kind of need cannot be shown."

20 Petitioner claims it meets the public need test "every bit
21 as much as does the Oregon State Policy and the Forestry
22 Division, our adjoining neighbors to the south." Petition for
23 Review 15. Petitioner quarrels with the view the need must be
24 to the city, and argues that while only a small portion of the
25 city is within the public service area of the district, a
26 general public need will be met by the facility.

1 Respondent argues the need referred to by the ordinance is
2 a need by the residents of the city. Respondent says there is
3 no public need in Columbia City to have a public utility
4 serving other areas situated within the city limits.

5 The city's finding includes two-parts. First, the finding
6 states there has been no showing of public need, and second,
7 the finding states there has been no explanation of why a
8 facility such as this must be placed in a residential area.
9 While public need is not a requirement imposed upon a city or a
10 county by statute, there is nothing to prohibit a city from
11 enacting a public need provision should it choose. Feitelson
12 v. City of Salem, 46 Or App 815, 613 P2d 489 (1980). Given
13 this enactment, the applicant is required to show how it is
14 that his proposal will meet a public need.

15 It is apparent the city has interpreted its "public need"
16 requirement to require a showing of a need for the proposed use
17 within the city. While it could be argued a public utility
18 provides a needed service for the general public, the city
19 believes inquiry into public need under the conditional use
20 ordinance is limited to whether or not a need of the city's is
21 served. The Board believes this interpretation is reasonable.
22 To hold otherwise might require jurisdictions to consider a
23 public need has been met whenever there is a showing of a
24 need miles away from local jurisdictional boundaries. The
25 effect of this view would be to make one jurisdiction serve the
26 needs of another jurisdiction. The Board has been cited to

1 nothing to suggest such a broad view represents the law. If
2 one considers a public need standard to be one which asks why
3 should Columbia City accommodate this use, then the city's
4 response in this case is reasonable and is supported by
5 evidence in the record. Petitioner does not deny its utility
6 will serve only a small part of the city.

7 Also, and perhaps most importantly, the petitioner has not
8 argued the requested facility is required before electrical
9 service may be provided. Petitioner's argument that because it
10 provides electrical service it has met the public need test is
11 not an explanation of how it is that an office building and
12 warehouse provides electrical service. If a public need exists
13 it is for electricity, not an office building and warehouse.

14 Columbia City's zoning ordinance does not account for a
15 wide range of uses, and it may be resistant to new uses within
16 the city. Also, while Columbia City apparently did not
17 recognize even the possibility of a conditional use as
18 proposed, it did consider its conditional use criteria in
19 looking at this proposal. In doing so, the city provided the
20 petitioner with an analysis of its proposal as would have been
21 required had petitioner requested a "similar use" determination
22 or had the city found the application fit one of the listed
23 conditional uses in the residential or forest zone. The fact
24 the city may have made errors in the course of its review of
25 the application does not mean its decision is invalid where the

26 / /

1 city found the petitioner did not meet one or more of the
2 conditional use criteria. Where only one criteria is unmet,
3 the decision-maker may deny the request. Jurgenson v. Union
4 Co. Court, 42 Or App 505, 600 P2d 1241 (1979).

5 The first assignment of error is denied.

6 ASSIGNMENT OF ERROR NO. 2

7 "The city erred in upholding and following the
8 planning commission decision when members had many ex
9 parte contacts with individuals opposing the CRPUD
10 request plus the chairman who had a conflict of
11 interest participated directly and indirectly in the
12 proceeding."

13 Petitioner argues the planning commission decision,
14 affirmed by the city council, was so tainted by ex parte
15 contact and conflict of interest that the council should have
16 reversed the planning commission. Petitioner claims the
17 chairman of the planning commission is an employee of Portland
18 General Electric Company, an entity with whom the petitioner is
19 engaged in condemnation proceedings. The chairman is also a
20 resident within 300 feet of the subject property thereby
21 requiring him to receive notice of the pendency of the action.
22 Petitioner says that although this individual was challenged by
23 the mayor and attorney for the petitioner, he declined to step
24 down. He participated in the proceeding and influenced it,
25 according to petitioner; but he did not vote on the matter.

26 Respondent argues the city council acted independently of
the planning commission. While minutes of the city council
meeting show that members of the city council felt they should

1 uphold the action of the planning commission, the council
2 reached its own decision, according to respondent.

3 The Board does not believe a procedural error on the part
4 of the Columbia City planning commission means a decision of
5 the city council is tainted and must be overturned. In this
6 case, the record shows the city council conducted a de novo
7 review of the record. The Board finds any bias which may have
8 existed on the part of a planning commission member was
9 rendered moot by this review. See Yost v. City of Ontario, 2
10 Or LUBA 49 (1980).⁷

11 The second assignment of error is denied.

12 ASSIGNMENT OF ERROR NO. 3

13 "The city erred in denying the CRPUD the right to
14 locate its governmental functions headquarters within
the territorial limits of Columbia City."

15 Under this assignment of error, petitioner argues the
16 applicant is a governmental entity, and as a governmental
17 entity may locate its facilities within the city "without
18 unreasonable limitations being placed on them [sic] by way of
19 zoning or other ordinance." Petition for Review 18. The Board
20 understands petitioner to argue that because it is a municipal
21 corporation, zoning restrictions which constitute an
22 unreasonable burden on the exercise of its governmental powers
23 can not be upheld.

24 The Board is aware of no authority to suggest that the
25 office building, shops, warehouses and other facilities of a
26 public utility may be exempted from local zoning regulations.

1 The Board believes the PUD stands in the same position as any
2 person or any entity under the ordinance. See also ORS 221.420
3 to ORS 221.470, 221.916. The fact the petitioner is a
4 municipal corporation does not mean it is exempt from land use
5 laws, and adherence to those laws does not consolidate an
6 unreasonable interference with the exercise of its governmental
7 functions. See ORS 227.286.

8 The third assignment of error is denied.

9 The decision of Columbia City is affirmed.

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FOOTNOTES

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4 Respondent relied on Anderson v. Peden, 284 Or 313, 587 P2d
5 59 (1978), for the proposition that the city could approve or
6 deny an application at will. Anderson v. Peden did not apply
7 ORS 215.41695), the companion statute to ORS 227.173. However,
8 the court recognized the existence of this new statutory
9 authority requiring decisions on permit applications be based
10 on "standards and criteria which shall be set forth in the
11 zoning ordinance * * * *" Id.

8 2
9 Also, even if there were some duty to consider all possible
10 conditional use categories, there is little in the record or
11 the ordinance to show a community building means anything other
12 than the commonly understood meaning of a facility where
13 persons in the community gather. Petitioner says the building
14 will have a community meeting room, but that availability does
15 not mean the complex is a community meeting facility in the
16 main.

14 3
15 The forest lands element of the city's comprehensive plan
16 includes as a goal "to conserve and maintain forest lands." To
17 that end," the city has two policies as follows:

16 "Encourage development of vacant lands within City
17 limits to help relieve pressure on adjacent forest
18 lands.

18 "Work with Crown Zellerbach in development plans for
19 the future of the buffer lands within the City limits."

20 4
21 The permitted uses are

22 "(a) Management, production and harvesting of forest
23 products.

24 "(b) Log storage, with appropriate fire hazard
25 safeguards." Ordinance, Art 4, sec 9(1), p. 23.

25 5
26 The petitioner stresses its use fits into either the R-1 or

1 the forest zone, by trying to claim the use is akin to a public
2 utility, a community building, a state or a federal building or
3 a warehouse. The Board notes the R-2 zone provides for city,
4 state and federal buildings for museums and other uses.
5 Arguably, it may be this office building is closer to a city
6 office building than it is to the uses described in the other
7 zones. However, petitioner did not apply below for a similar
8 use determination. Even if the shop and warehouse were
9 conditionally permissible in the forest zone, the attempt to
10 put an office and a warehouse together takes the request out of
11 the bounds of any permitted or conditional use provision in the
12 ordinance.

13 6
14 The Board notes respondent points to places in the record
15 where it is said wildlife use the site, that the character of
16 the neighborhood is residential (or at least it borders
17 residential property on three sides), that the neighbors oppose
18 the use and that the residents do not want an industrial use in
19 the geographic center of their residential city. The city did
20 not make findings on these issues. In a quasi-judicial
21 decision, findings are necessary to explain how the city
22 applied the criteria and reliance on the record is not
23 sufficient. See Hoffman v. Dupont, 49 Or App 699, 621 P2d 63
24 (1980); Gruber v. Lincoln County, 2 Or LUBA 180 (1980).

25 7
26 The Columbia City zoning ordinance provides, in part, that

27 "(3) Appeals and Procedures.

28 "* * *

29 "(c) The city council shall hold a public hearing to
30 consider such an appeal from a decision or ruling of
31 the Planning Commission and may affirm, reverse or
32 modify such decision or ruling of the Planning
33 Commission. This shall be a review hearing and need
34 not be a full evidentiary hearing." Zoning Ordinance
35 of Columbia City, Art 2, sec 2(3)(c).