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

MURPHY CITIZENS ADVISORY)
COMMITTEE,)
)
Petitioner,)
)
vs.)
)
JOSEPHINE COUNTY,)
)
Respondent,)
)
and)
)
COPELAND SAND & GRAVEL, INC.,)
)
Intervenor-Respondent.)

LUBA No. 93-024
FINAL OPINION
AND ORDER

Appeal from Josephine County.

Matthew G. Fawcett, Medford, filed the petition for review and argued on behalf of petitioner.

No appearance by respondent.

James R. Dole, Grants Pass, filed the response brief and argued on behalf of intervenor-respondent.

SHERTON, Chief Referee; HOLSTUN, Referee; KELLINGTON, Referee, participated in the decision.

REMANDED 05/11/93

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

1 Opinion by Sherton.

2 **NATURE OF THE DECISION**

3 Petitioner appeals a county decision granting
4 conditional use approval for an aggregate extraction
5 operation.

6 **MOTION TO INTERVENE**

7 Copeland Sand & Gravel, Inc., the applicant below,
8 moves to intervene in this proceeding on the side of
9 respondent. There is no opposition to the motion, and it is
10 allowed.

11 **MOTION TO SUPPLEMENT RECORD**

12 Petitioner moves to supplement the local record
13 submitted to the Board by respondent with the four pages
14 attached to the petition for review as Appendix B. There is
15 no opposition to the motion, and it is allowed.¹

16 **FACTS**

17 The subject property is zoned Exclusive Farm (EF) and
18 is owned by the Oregon Department of Transportation. It
19 consists of 9.46 acres and is triangular in shape. The
20 Applegate River adjoins the subject property on its
21 northeast side. Williams Highway adjoins the subject
22 property on its southeast side. Other EF zoned property
23 adjoins the subject property on its west side.

24 On March 10, 1992, intervenor-respondent (intervenor)

¹The four pages constituting Appendix B to the petition for review shall be cited in this opinion as Supp. Record 1-4.

1 applied for conditional use approval. Intervenor's proposal
2 was reviewed by the Site Plan Committee, and the committee's
3 recommendation was forwarded to the planning commission.
4 Record 114. On August 17, 1992, after a public hearing, the
5 county planning commission approved the application.
6 Petitioner appealed the planning commission's decision to
7 the board of county commissioners. On January 20, 1993,
8 after an "on the record" review,² the board of commissioners
9 adopted a decision affirming the decision of the planning
10 commission, with one additional condition of approval. This
11 appeal followed.

12 **FIRST ASSIGNMENT OF ERROR**

13 "Josephine County did not follow proper notice and
14 procedure requirements as set forth in
15 [ORS 197.763] and the procedural rights of
16 Petitioner were violated."

17 Petitioner contends the notices of the planning
18 commission and board of commissioners hearings did not
19 (1) list the applicable criteria from the county's
20 comprehensive plan and land use regulations, as required by
21 ORS 197.763(3)(b); and (2) did not include a statement that
22 failure to raise an issue with sufficient specificity

²The parties characterize the board of commissioners' review as "on the record." Additionally, with regard to appeals of planning commission decisions, Josephine County Land Use Hearing Rules (LUHR) 17(10) provides that "[t]he hearing for review of the initial decision shall be confined only to the record of that proceeding * * *." However, we note the decision itself indicates the board of commissioners conducted a site visit prior to making the challenged decision. Record 14-15.

1 precludes appeal to this Board based on that issue, as
2 required by ORS 197.763(3)(e). Petitioner also contends the
3 applicable criteria were not announced at the commencement
4 of the planning commission hearing, as required by
5 ORS 197.763(5)(a). Petitioner argues it "was not properly
6 advised of [its] substantial rights and [was], therefore,
7 disadvantaged during the hearing[s]." ³ Petition for
8 Review 5.

9 The hearing notice content requirements of
10 ORS 197.763(3) apply to the hearing notice which
11 ORS 197.763(3)(f) requires to be mailed a certain number of
12 days before the local government's evidentiary hearing on a
13 quasi-judicial land use application. In this case, the
14 county's evidentiary hearing was conducted by the planning
15 commission. The board of commissioners' hearing was for the
16 purpose of hearing oral argument, based on the record made
17 before the planning commission, concerning petitioner's
18 appeal of the planning commission decision. Therefore, the

³Petitioner also asks that we remand the county's decision "for failure to follow due process in the notice of public hearings mailed to affected property owner." (Emphasis added.) Id. Petitioner may intend the emphasized term as a shorthand manner of alleging unconstitutionality in the challenged decision. However, this Board has stated on numerous occasions that it will not consider claims of constitutional violations where the parties raising such claims do not supply legal argument in support of those claims. Joyce v. Multnomah County, 23 Or LUBA 116, 118, aff'd 114 Or App 244 (1992); Torgeson v. City of Canby, 19 Or LUBA 511, 519 (1990); Van Sant v. Yamhill County, 17 Or LUBA 563, 566 (1989); Chemeketa Industries Corp. v. City of Salem, 14 Or LUBA 159, 165-66 (1985); Mobile Crushing Company v. Lane County, 11 Or LUBA 173, 182 (1984). Accordingly, we decline to consider petitioner's unsupported reference to denial of due process.

1 notice of the board of commissioners' hearing was not
2 subject to the requirements of ORS 197.763(3).

3 As relevant to petitioner's contentions, the notice of
4 the planning commission hearing included the following
5 statements:

6 "Criteria: The request will be evaluated with
7 regard to the criteria. The criteria applicable
8 to the request can be viewed at the Planning
9 Office ([address]). Copies are available at 4
10 pages for a dollar."

11 "* * * * *

12 "Appeals: Any decision may be appealed to the
13 Board of County Commissioners. Failure to raise
14 an issue in person or by letter, or failure to
15 provide specific objections in order that the
16 [Planning] Commission may respond, precludes an
17 appeal to the Board." Supp. Record 2.

18 With regard to the first notice provision quoted above,
19 simply stating that applicable criteria can be viewed at the
20 planning office does not constitute listing the applicable
21 criteria, as is required by ORS 197.763(3)(b). The second
22 quoted provision states failure to raise an issue with
23 sufficient specificity before the planning commission
24 precludes appeal to the board of commissioners on that
25 issue.⁴ ORS 197.763(3)(e) requires a statement that failure
26 to raise an issue precludes appeal to LUBA on that issue.
27 We therefore agree with petitioner that the notice

⁴We express no opinion as to whether this statement is authorized by any provision of the JCZO, LUHR or other county regulation.

1 provisions quoted above do not comply with ORS 197.763(3)(b)
2 and (e).⁵

3 However, we have consistently held that where a party
4 has the opportunity to object to a procedural error before
5 the local government, but fails to do so, that error cannot
6 be assigned as grounds for reversal or remand of the local
7 government's decision in an appeal to this Board.⁶ Simmons
8 v. Marion County, 22 Or LUBA 759, 773-74 (1992);
9 Schellenberg v. Polk County, 21 Or LUBA 425, 444 (1991);
10 Torgeson v. City of Canby, 19 Or LUBA 511, 519 (1990);
11 Miller v. City of Ashland, 17 Or LUBA 147, 153 (1988); Meyer
12 v. City of Portland, 7 Or LUBA 184, 190 (1983), aff'd 67
13 Or App 274, rev den 297 Or 82 (1984); Dobaj v. Beaverton, 1
14 Or LUBA 237, 241 (1980). In this case, petitioner failed to
15 object to the board of commissioners concerning the county's
16 failure to comply with the procedural requirements of
17 ORS 197.763 in the notice of, and announcement at, the
18 planning commission hearing and, therefore, cannot assign
19 those errors as a basis for reversing or remanding the

⁵Because the county failed to comply with ORS 197.763, petitioner may raise new issues in this appeal. ORS 197.835(2)(a).

⁶As we explained in Simmons v. Marion County, 22 Or LUBA at 774 n 8, we do not believe that the requirement that parties raise objections to procedural errors, when it is possible to do so at any stage of the local proceedings, is superseded by the requirements of ORS 197.763(1) and 197.835(2).

1 county's decision.⁷

2 The first assignment of error is denied.

3 **SECOND ASSIGNMENT OF ERROR**

4 "The County acted in violation of state statutes
5 and its comprehensive plan and implementing
6 ordinances by failing to determine [based on]
7 adequate findings, supported by substantial
8 evidence in the record, that its decision complies
9 with all applicable criteria set forth in the
10 Josephine County Zoning Ordinance [JCZO]."

11 **A. JCZO 6.025(1)**

12 JCZO 6.025(1) provides that mining of aggregate
13 resources is a conditional use in the EF zone "subject to
14 [JCZO] 14.136 and 14.138." JCZO 14.136 (Mining and
15 Exploration) states:

16 "Exploration, mining and processing of aggregate
17 and other mineral resources * * * conditioned
18 upon, but not limited to, the following criteria:"

19 Subsections (a) through (h) under the above quoted provision
20 address factors such as access roads, screening, parking,
21 fences, erosion control, compatibility with adjoining

⁷Petitioner does not claim it was unaware of the procedural errors in the planning commission proceedings during its appeal before the board of commissioners, or that it was otherwise precluded from objecting to these procedural errors before the board of commissioners. In any case, petitioner does not explain how these procedural errors prejudiced its substantial rights, as is required to obtain reversal or remand of the challenged decision. ORS 197.835(7)(a)(B). Petitioner does not contend it was unable to present its case adequately because it was unaware of particular applicable local criteria. In addition, it is difficult to understand how local government failure to provide the written or oral statement that failure to raise an issue precludes appeal to LUBA on that issue could ever prejudice a party's substantial rights. The failure to provide such a statement, of itself, guarantees that a party will not be precluded from raising issues before LUBA. ORS 197.835(2)(a).

1 agricultural or forestry uses and suitability of the site
2 for agricultural or forestry uses. JCZO 14.138 (Setback
3 From Aggregate or Mineral Site) requires, among other
4 things, that a structure be set back 300 feet from a
5 "significant aggregate or mineral site."

6 Petitioner contends the challenged decision improperly
7 fails to identify JCZO 14.136(a)-(h) and 14.138 as
8 applicable approval criteria and to include findings
9 addressing these criteria.

10 Intervenor argues that ORS 215.416(9) requires the
11 county to "explain," not identify, the relevant criteria and
12 standards. According to intervenor, this does not require
13 that findings include citations to or verbatim quotes of
14 such standards. Intervenor further argues that the board of
15 commissioners' decision adequately explains and addresses
16 the relevant standards, in that the board of commissioners'
17 "primary objective was to ascertain whether the Planning
18 Commission had appropriately determined whether [intervenor]
19 had met its burden of proof." Intervenor's Brief 8.
20 Intervenor also contends petitioner improperly attacks the
21 planning commission's decision, whereas the only decision
22 subject to this Board's review is that of the board of
23 commissioners.

24 It is well established that the applicant for land use
25 approval bears the burden of proof in demonstrating that all
26 relevant approval standards are met. Fasano v. Washington

1 Co. Comm., 264 Or 574, 586, 507 P2d 23 (1973); Billington v.
2 Polk County, 13 Or LUBA 125 (1985); Bobitt v. Wallowa
3 County, 10 Or LUBA 112 (1984). When a lower level decision
4 maker's initial decision is appealed to the governing body,
5 the applicant retains the burden of proof in the proceeding
6 before the governing body. Coonse v. Crook County, 22
7 Or LUBA 138, 142 (1991) (Coonse); 1000 Friends of Oregon v.
8 Benton County, 20 Or LUBA 7, 14 (1990). Even where the
9 governing body's review is limited to the evidentiary record
10 below, the governing body must either make its own decision
11 and findings regarding compliance with applicable approval
12 standards, adopt by reference the decision and findings of
13 the lower level decision maker, or in some other way take
14 action such that a decision on the merits regarding
15 compliance with applicable approval standards becomes final
16 and subject to appeal to this Board as part of the governing
17 body's decision. Strawn v. City of Albany, 20 Or LUBA 344,
18 350 (1990); see also Coonse, supra, 22 Or LUBA at 143.

19 In this case, the decision adopted by the board of
20 commissioners for the most part addresses issues that were
21 raised in petitioner's local appeal.⁸ However, the

⁸We note that intervenor contends the board of commissioners lacked authority to address issues not cited as grounds for appeal in the local notice of appeal, and that this Board's review is similarly limited. However, although LUHR 17(6)(c) requires that a local petition for appeal contain "the specific grounds relied upon," we are aware of nothing in the JCZO or LUHR that limits the board of commissioners' scope of review to only those issue raised in the local petition for appeal. Further, even if

1 conclusion section of the board of commissioners' decision
2 includes the following statement:

3 "* * * We affirm the decision of the [Planning]
4 Commission reflected in the Findings signed
5 August 17, 1992." Record 22.

6 This statement indicates that the board of commissioners
7 either adopted by reference the findings and determinations
8 in the planning commission's August 17, 1992 decision (see
9 Gonzalez v. Lane County, ___ Or LUBA ___ (LUBA No. 92-108,
10 November 20, 1992), slip op 10), or let the planning
11 commission's decision become final and subject to review as
12 part of the board of commissioners' decision. Therefore, in
13 addressing petitioner's challenges to the adequacy of the
14 county's findings, we consider the findings in the planning
15 commission's decision as well.

16 ORS 215.416(9) provides:

17 "Approval or denial of a permit * * * shall be
18 based upon and accompanied by a brief statement
19 that explains the criteria and standards
20 considered relevant to the decision, states the
21 facts relied upon in rendering the decision and
22 explains the justification for the decision based
23 on the criteria, standards and facts set forth."

24 While we agree with intervenor that under ORS 215.416(9), it
25 is not essential that findings include citations to or
26 verbatim quotes of the applicable approval standards,
27 ORS 215.416(9) does require that a reasonable person be able
28 to determine from the local government's decision what it

the board of commissioners' scope of review were so limited, ours is not.
Tice v. Josephine County, 21 Or LUBA 371, 376 (1991).

1 considered to be the relevant criteria and standards. In
2 this case, we find nothing in the challenged decision that
3 explains whether the county interprets JCZO 14.136 and
4 14.138 to be approval standards applicable to the challenged
5 decision or, if so, why the decision complies with those
6 standards. We therefore agree with petitioner that the
7 county's findings are inadequate with regard to addressing
8 JCZO 14.136 and 14.138.

9 With regard to JCZO 14.136(a)-(h), intervenor argues
10 that even if the county's findings are inadequate, this
11 Board should affirm this aspect of the county's decision,
12 because "relevant evidence in the record * * * clearly
13 supports [this] part of the decision." ORS 197.835(9)(b).

14 In this case, it is uncertain how particular provisions
15 of JCZO 14.136(a)-(h) apply to the challenged decision.
16 JCZO 14.136 itself states that aggregate mining is allowable
17 as a conditional use in the EF zone if it is "conditioned
18 upon, but not limited to," the criteria of subsections (a)
19 through (h). The meaning of the quoted phrase is, at best,
20 unclear. Additionally, while some subsections of
21 JCZO 14.136 appear to be worded as approval standards (e.g.,
22 (c), (g), (h)), others are worded more like performance
23 standards (e.g., (a), (e), (f)) or like descriptions of
24 conditions that may be required (e.g., (b), (d)).

25 This Board is required to defer to a local government's
26 interpretation of its own ordinances, so long as the

1 proffered interpretation is not "clearly contrary to the
2 enacted language," or "inconsistent with express language of
3 the ordinance or its apparent purpose or policy." Clark v.
4 Jackson County, 313 Or 508, 514-15, 836 P2d 710 (1992).
5 Further, this Board may not interpret a local government's
6 ordinances in the first instance, but rather must review the
7 local government's interpretation of its ordinances. Weeks
8 v. City of Tillamook, 117 Or App 449, 453-54, ___ P2d ___
9 (1992). Accordingly, where the challenged decision does not
10 include interpretations of relevant approval standards, and
11 the provisions in question are ambiguous and capable of more
12 than one sustainable interpretation, as is the case here
13 with regard to JCZO 14.136(a)-(h), it is not possible for
14 the Board to determine whether the evidence in the record
15 "clearly supports" the challenged decision.

16 This subassignment of error is sustained.

17 **B. JCZO 15.213(1) and (2)**

18 JCZO 15.231(1) and (2) establish a total of eight
19 approval criteria applicable to the subject conditional
20 use.⁹ Petitioner first contends that with regard to

⁹JCZO 15.213(1) establishes the following "criteria for a conditional use:"

- "(a) The proposed use fully accords with all applicable standards of the County and state laws or regulations.
- "(b) If impacts will result from the proposed use, why adjoining property owners should bear the inconvenience of a change in land use."

1 JCZO 15.213(1) and (2), the county improperly shifted the
2 burden of proof from the applicant (intervenor) to the
3 opponent (petitioner). Petitioner cites only a county
4 finding stating "there was no reliable evidence * * * that
5 the proposed use would seriously undermine property values
6 of area residences." Record 20.

7 As we explained, supra, we agree with petitioner that
8 the applicant retains the burden of proof to demonstrate
9 compliance with applicable approval standards at all points
10 in the local proceedings. Coonse, supra; 1000 Friends of
11 Oregon v. Benton County, supra. However, the finding cited

In addition, JCZO 15.213(2) provides:

"In resource zones, a conditional use may be approved only when findings can be made to satisfy all of the following:

- "(a) That the use will not be injurious to property and improvement in the area of the request.
- "(b) That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the area where the proposed use would be located.
- "(c) That the use is compatible with resource uses in the nearby area.
- "(d) That the use does not interfere seriously with accepted forest or agricultural practices on adjacent lands devoted to resource use.
- "(e) That the use does not materially alter the stability of the overall land use pattern of the area and the area utilized for the conditional use shall be limited to the size necessary for the proposed use.
- "(f) That a disclosure statement is signed and recorded with the County which recognizes that agricultural and forest uses for lands zoned for resource use have priority over all land uses."

1 by petitioner as evidence of an improper shifting of the
2 burden of proof, read in context, is more in the nature of
3 an evaluation of the state of the evidentiary record.¹⁰ See
4 Goodrich v. Jackson County, 22 Or LUBA 434, 445 (1991). We
5 do not believe the decision indicates the county improperly
6 shifted the burden of proof of noncompliance with
7 JCZO 15.213(1) and (2) to petitioner.

8 Petitioner next contends the challenged decision fails
9 to include findings adequate to demonstrate compliance with
10 JCZO 15.213(1) and (2). We agree. The decision does not
11 include findings specifically addressing the requirements of
12 JCZO 15.213(1) and (2). Although some of the findings,
13 particularly finding 7 at Record 188, may incorporate some
14 of the language of JCZO 15.213(1) and (2), they are at best
15 conclusory and fail to identify the facts relied on by the

¹⁰We also note the finding cited by petitioner is prefaced by a statement that petitioner "has failed to present evidence from the record * * * to establish that [the Planning] Commission's decision was anything other than entirely appropriate." Record 20. In Coonse, supra, 22 Or LUBA at 142-43, we recognized that requiring an appellant to convince the appellate decision maker that there is an error in the initial decision does not impermissibly shift the burden of proof to opponents:

"* * * The opponents of the initial decision maker's decision also have a burden before the local appellate decision maker in the sense that the appellate decision maker may find the initial decision maker's decision to be well reasoned and supported by the evidentiary record. Unless the opponents of the initial decision are able to convince the appellate decision maker that the decision is erroneous in some way, the appellate decision maker may adopt that initial decision as its own. The processing of local appeals in this manner does not impermissibly shift the burden of proof assigned to applicants in land use proceedings in this state." (Footnote omitted.)

1 county or to explain the justification for finding
2 compliance with JCZO 15.213(1) and (2).

3 This subassignment of error is sustained.

4 **C. JCZO 15.219**

5 JCZO 15.216 requires that prior to the issuance of a
6 development permit, a site review by the county Site Plan
7 Committee be conducted. JCZO 15.219 (Criteria for [Site
8 Plan] Review and Decision) provides:

9 "The decision of the Site Plan Committee shall be
10 binding upon the Planning Department. No
11 development permit shall be issued unless the
12 requirements of the site plan approval are
13 incorporated and made part of the permit. In
14 those cases where the Planning Commission or
15 Hearings Officer has been delegated approval
16 authority for the proposed use, the requirements
17 of the Site Plan Committee are forwarded to the
18 hearing as a recommendation. * * * (Emphasis
19 added.)

20 JCZO 15.219(1) and (2) contain detailed criteria for site
21 plan approval.

22 The parties agree the proposed use requires site plan
23 review. The parties further agree that under JCZO 15.216 to
24 15.219, the Site Plan Committee is required to submit a
25 recommendation to the planning commission, which has
26 authority to grant final site plan approval as part of the
27 conditional use process, subject to appeal to the board of
28 commissioners. However, petitioner contends the county's
29 findings improperly fail to demonstrate compliance with the
30 site plan approval criteria of JCZO 15.219(1) and (2).

1 We agree with petitioner. The decision fails to
2 address the criteria of JCZO 15.219(1) and (2).

3 This subassignment of error is sustained.

4 The second assignment of error is sustained.

5 **THIRD ASSIGNMENT OF ERROR**

6 "The Applicant * * * failed to carry the burden of
7 proof by providing sufficient believable evidence
8 which demonstrates that the criteria for review
9 were met."

10 **A. Site Plan Content Requirements**

11 JCZO 15.218 establishes detailed specifications for the
12 contents of the site plan required by JCZO 15.216.
13 Petitioner contends the maps submitted by intervenor fail to
14 comply with the requirements of JCZO 15.218 for a site plan
15 in several respects, including scale, direction indicator,
16 boundaries, delineation of setbacks, and indication of
17 surrounding uses and riparian areas. Petitioner argues that
18 failure to comply with JCZO 15.218 renders intervenor's
19 application deficient.

20 Intervenor argues that JCZO 15.218 provides the items
21 listed in subsections (1) through (24) are to be indicated
22 on the site plan "as appropriate, upon request of the
23 Planning Director" and, therefore, are not mandatory
24 requirements. Intervenor also argues that much of the
25 information petitioner contends is missing from the maps
26 submitted by intervenor is located elsewhere in the record.
27 Intervenor further argues that petitioner has not explained

1 how any of the purported failures to comply with the site
2 plan requirements of JCZO 15.218 interfere with petitioner's
3 or the county's ability to address compliance of the
4 proposal with applicable approval criteria.

5 In McConnell v. City of West Linn, 17 Or LUBA 502, 525
6 (1989), we addressed the issue of compliance with land use
7 application content requirements as follows:

8 "We have held that omission of required
9 information from an application is harmless
10 procedural error if the required information is
11 located elsewhere in the record. Dougherty v.
12 Tillamook County, 12 Or LUBA 20, 24 (1984);
13 Families for Responsible Govt. v. Marion County, 6
14 Or LUBA 254, 277, rev'd on other grounds 65 Or App
15 8, 670 P2d 615 (1983). However, if the required
16 information is not available elsewhere in the
17 record, and is necessary for a determination of
18 compliance with applicable approval standards,
19 such an error is not harmless and warrants
20 reversal or remand of the challenged decision.
21 Hopper v. Clackamas County, 15 Or LUBA 413, 418
22 (1987); Hershberger v. Clackamas County, 15
23 Or LUBA 401, 408-09 (1987)."

24 Thus, in order for a petitioner to obtain reversal or
25 remand of a challenged decision because required information
26 is missing from the subject application, petitioner must
27 argue that the missing information is not found elsewhere in
28 the record, and must explain why the missing information is
29 necessary to determine compliance of the proposed
30 development with applicable approval standards. In this
31 case, petitioner does not relate the allegedly missing site
32 plan information to specific requirements of JCZO 15.218(1)-
33 (24), does not respond to intervenor's argument and

1 citations that some of the allegedly missing information is
2 found elsewhere in the record, and does not explain how the
3 missing information prevents determination of compliance
4 with applicable site plan or conditional use permit approval
5 standards. In these circumstances, petitioner has failed to
6 establish that any violations of the site plan requirements
7 of JCZO 15.218 that may exist provide a basis for reversal
8 or remand of the challenged decision.

9 This subassignment of error is denied.

10 **B. Other Issues**

11 In the remainder of this assignment of error,
12 petitioner challenges the evidentiary support for the
13 county's decision with regard to geology and flood hazards,
14 impacts on property values, feasibility of a required haul
15 road, noise, dust, impacts on livability and compliance with
16 site plan approval criteria.

17 We determine above that the county's findings are
18 inadequate to demonstrate compliance with JCZO 14.136,
19 14.138, 15.213(1) and (2) and 15.219. No purpose would be
20 served by reviewing the evidentiary support for inadequate
21 findings. Forster v. Polk County, 22 Or LUBA 380, 388
22 (1991); Benjamin v. City of Ashland, 20 Or LUBA 265, 276
23 (1990); DLCD v. Columbia County, 16 Or LUBA 467 (1988).
24 Petitioner does not identify under this subassignment of
25 error any additional approval standards with regard to which
26 it contends the county's decision is not supported by

1 substantial evidence in the record.

2 This subassignment of error is denied.

3 The third assignment of error is denied.

4 The county's decision is remanded.