



1 Opinion by Holstun.

2 **NATURE OF THE DECISION**

3 Petitioners appeal a decision granting conditional use  
4 approval for a livestock sales facility on intervenor's  
5 Exclusive Farm Use-Cropland (EFU-C) zoned property.

6 **MOTION TO INTERVENE**

7 Bernard Simonsen, the applicant below, moves to  
8 intervene on the side of respondent. There is no opposition  
9 to the motion, and it is allowed.

10 **FACTS**

11 The subject property includes approximately 17.6 acres  
12 and is improved with a dwelling and a 6800 square foot  
13 enclosed structure. The livestock sales authorized by the  
14 challenged decision would be held in the 6,800 square foot  
15 structure and would cater to breeders rather than commercial  
16 cattle buyers.<sup>1</sup> The record includes testimony that such  
17 sales are smaller and more social events and commonly are  
18 held in hotel ballrooms and convention facilities. As  
19 conditioned, intervenor would be limited to four sales per  
20 year, with no more than 100 cattle offered for sale at any  
21 single sale. Each sale is expected to attract approximately  
22 50 to 100 people.

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<sup>1</sup>Intervenor contends the 6,800 square foot building is attached to the dwelling and is of the same construction and quality as the dwelling. Intervenor states "[t]he dwelling is one of the finer homes in Klamath County, which would add to the prestige of the [cattle] sale." Intervenor-respondent's Brief 3.

1           The challenged decision also limits the times during  
2 which cattle may be delivered and the number of days before  
3 and after each sale cattle may be held on-site. The  
4 decision further requires that manure be removed within five  
5 days after each sale. Finally, the decision imposes a  
6 condition that intervenor obtain approval from the State  
7 Highway Division for a relocated entrance onto Highway 140.

8           Most of the surrounding properties, like the subject  
9 property, are zoned EFU-C and are utilized for cattle  
10 grazing. One nearby property is used as a poultry farm and  
11 the Shield Crest Golf Course is located across Highway 140.

12           **ASSIGNMENT OF ERROR**

13           All of petitioners' arguments concern the following  
14 approval criterion:

15           "The location, size, design and operating  
16 characteristics of the proposed use will not have  
17 a significant adverse impact on the livability,  
18 value or appropriate development of abutting  
19 properties and the surrounding area." Klamath  
20 County Land Development Ordinance (LDO) 54.040(C).

21           **A. Traffic Impacts**

22           Petitioners first argue the county failed to adopt  
23 findings addressing potential traffic impacts on the Shield  
24 Crest Golf Course. Petitioners point out that one of the  
25 proposed locations for the relocated entrance required for  
26 the approved facility is directly across from the existing  
27 entrance to the Golf Course. Petitioners contend this  
28 relevant issue was raised below; and the county, therefore,

1 is required to address it specifically in its findings. We  
2 agree. See Norvell v. Portland Area LGBC, 43 Or App 849,  
3 853, 604 P2d 896 (1979).

4 The county's findings identify and briefly discuss uses  
5 on adjoining properties, including the Shield Crest Golf  
6 Course. The findings also identify the existing traffic  
7 count on Highway 140 and the expected traffic from the  
8 proposed livestock sales and note the requirement that the  
9 applicant must secure approval from the State Highway  
10 Division for a relocated entrance. However, the findings do  
11 not explain why, based on those facts and other facts  
12 identified in the decision, the proposed facility will not  
13 cause significant adverse traffic impacts on the Shield  
14 Crest Golf Course.<sup>2</sup> In other words, the county's decision  
15 adopts findings of fact which might provide the basis for  
16 additional findings supplying a rationale for concluding the

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<sup>2</sup>Petitioners point out the State Highway Division will approve the location of the entrance based solely on safety considerations and, therefore, it cannot be assumed that compliance with LDO 54.040(C) necessarily will be achieved by the State Highway Division's review and approval of the relocated entrance on Highway 140. We agree with petitioners that the county may not defer the required finding of compliance with LDO 54.040(C) to the State Highway Division. Lousignont v. Union County, 16 Or LUBA 272, 278 (1987). However, although we conclude the county's findings concerning LDO 54.040(C) are inadequate with regard to the issue of traffic impacts on the golf course, we do not understand the county to have improperly deferred the required finding of compliance with LDO 54.040(C) to the State Highway Division. Moreover, to the extent petitioners suggest the county may not rely on the condition requiring Highway Division approval of a relocated entrance as part of its rationale in concluding the proposal will not have significant adverse traffic impacts on the golf course, we reject the argument. Sigurdson v. Marion County, 9 Or LUBA 163 (1983).

1 proposed facility will not have "a significant adverse  
2 impact on the livability, value or appropriate development  
3 of abutting properties and the surrounding area." However  
4 the challenged decision does not supply the required  
5 rationale explaining the county's apparent view that the  
6 proposed facility will not have significant adverse traffic  
7 impacts on the golf course. See DLCD v. Crook County, 25 Or  
8 LUBA 98, 108 (1993).

9 This subassignment of error is sustained.

10 **B. Operating Characteristics**

11 Petitioners next complain the county's findings fail to  
12 explain why the operation of the proposed facility, as  
13 conditioned, will not have a significant adverse impact on  
14 the golf course or on a dwelling located adjacent to one of  
15 the possible entrance locations. Moreover, petitioners  
16 contend that to the extent the county is relying on the  
17 particular operational plans of this applicant and the  
18 particular characteristics of the pure bred registered  
19 cattle the applicant plans to offer for sale, nothing in the  
20 decision limits sales to such cattle or ensures the  
21 operation will be carried out in accordance with the  
22 applicant's statements.

23 As with the traffic impacts issue, the county's  
24 findings fail to supply the required rationale connecting  
25 its findings of fact with its ultimate conclusion that the  
26 proposed facility, as conditioned, will not have significant

1 adverse impacts on the golf course or the residential use  
2 located adjacent to one of the proposed entrance points. We  
3 also agree with petitioners that the county must assure that  
4 there is an adequate reason to assume any features of the  
5 proposal upon which it is relying to assure compliance with  
6 LDO 54.040(C) will actually be part of the authorized use.

7 This subassignment of error is sustained.

8 **C. General Substantial Evidence Challenge**

9 Petitioners' entire argument under this subassignment  
10 of error is as follows:

11 "No facts exist in the record which can support a  
12 finding that the proposed use will not have a  
13 significant adverse impact on the surrounding  
14 properties. Therefore, the [Board of County]  
15 Commissioners, in concluding that there would be  
16 no significant adverse impacts, improperly  
17 construed the Land Development Code and their  
18 decision should be reversed." (Citation omitted.)  
19 Petition for Review 5.

20 As explained above, we conclude the county's findings  
21 concerning potential significant adverse impacts on the golf  
22 course and residential use adjacent to one of the proposed  
23 entrance points are inadequate. Therefore, no purpose would  
24 be served reviewing the evidentiary support for those  
25 findings, and we decline to do so. DLCD v. Columbia County,  
26 15 Or LUBA 302, 305 (1987). To the extent petitioners  
27 intend to make a broader general evidentiary challenge, the  
28 argument is not sufficiently developed for review.  
29 Deschutes Development v. Deschutes County, 5 Or LUBA 218,  
30 220 (1982).

- 1 This subassignment of error is denied.
- 2 Petitioners' assignment of error is sustained in part.
- 3 The county's decision is remanded.