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## Conditions Of Approval

### Findings Must:

- √ Identify the relevant approval standards (i.e., standards and criteria).
- √ Identify the facts which were believed and relied upon by the decision maker(s).
- √ Explain how those facts lead to the conclusion that the standards are, or are not, satisfied.
- √ Respond to specific issues relevant to compliance with applicable approval standards and criteria that were raised by citizens in the proceedings.
- √ **State that the approval standards are met or that compliance is feasible and impose conditions that will ensure compliance.**

This brochure is one of several in the “findings” series<sup>1</sup>.

### LUBA Opinions

- *Tenly Properties Corp. v. Washington County*, 34 Or LUBA 352 (1998)
- *Property Rights and Owners, Ltd. V. City of Salem*, 34 Or LUBA 258 (1998)
- *Harcourt v. Marion County*, LUBA No. 97-028 (1997)
- *Wicks-Snodgrass v. City of Reedsport*, 32 Or LUBA 292, *rev'd on other grounds*, 148 Or App 217, 939 P2d 625 (1997)
- *Just v. Linn County*, 32 Or LUBA 325 (1997)
- *Thomas v. Wasco County*, 30 Or LUBA 302 (1996)



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1. Hugo Neighborhood Association & Historical Society. 2003. *Land Use Decisions: What Are Findings?*. Brochure 1 in Findings Series. Grants Pass, OR.

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## LUBA Opinions

### *Harcourt v. Marion County*, LUBA No. 97-028

(1997) It is well established that findings cannot defer a determination on discretionary approval criteria to a later stage without providing the same notice and opportunity to be heard as provided in the initial proceeding. *See e.g., Foland v. Jackson County*, 18 Or LUBA 731 (1990); *Kellogg Lake Friends v. Clackamas County*, 17 Or LUBA 277 (1989). The county’s deferral of a determination on water availability does not provide for any public hearing or formal review of any kind.

### *Just v. Linn County*, 32 Or LUBA 325 (1997)

“A local government may properly grant permit approval based on either (1) a finding that an applicable approval standard is satisfied, or (2) a finding that it is **feasible** to satisfy an applicable approval standard and the imposition of conditions necessary to ensure that the standard will be satisfied.”

### More LUBA Opinions

- *Hilderbrand v. Marion County*, 28 Or LUBA 703, 706 (1995)
- *Burghart v. City of Molalla*, 29 Or LUBA 223, 236 (1995)
- *Forest Park Neigh. Assoc. v. City of Portland*, 27 Or LUBA 215 (1994)
- *Eppich v. Clackamas County*, 26 Or LUBA 498, 507-08 n4 (1994)
- *Rhynne v. Multnomah County*, 23 Or LUBA 442 (1992)
- *Bouman v. Jackson County*, 23 Or LUBA 628 (1992)
- *Foland v. Jackson County*, 18 Or LUBA 731, 779, *aff'd* 101 Or App 632 (1990), *aff'd* 311 Or 167 (1991)
- *Kellogg Lake Friends v. Clackamas County*, 17 Or LUBA 277 (1989)
- *McCoy v. Linn County*, *supra*, 16 Or LUBA at 301, *aff'd* 90 Or App 271 (1988)
- *Myer v. City of Portland*, 67 Or App 274, 678 P2d 741, *rev den* 297 Or 82 (1984)

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## More Information

### *Myer v. City of Portland*, 67 Or App 274, 678 P2d

**741, rev den 297 Or 82 (1984)** In *Myer* the Court of Appeals explained the significance of the word “feasibility.” By ‘feasibility’ LUBA means more than feasibility from a technical perspective. It means that substantial evidence supports findings that solutions to certain problems posed by the project are possible, likely and reasonably certain to succeed.

In summary, the issue is not with what agency will later oversee compliance, but with the determination of feasibility. For example, a local government may determine and make findings that a community sewer system is feasible - meaning that “substantial evidence supports findings that solutions to certain problems posed by the project are possible, likely and reasonably certain to succeed - but explicitly leave to DEQ the task of actually reviewing and signing off on the system by conditioning the issuance of a building permit on DEQ approval.

**More Information.** Would you like to learn more about citizen involvement in land use planning? Contact a member of the Land Use Committee of the *Hugo Neighborhood*.



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**Disclaimer.** This brochure is as much about providing information and provoking questions as it is about opinions concerning the adequacy of findings of fact and land use decisions. It does not provide recommendations to citizens and it is not legal advice. It does not take the place of a lawyer. If citizens use information contained in this paper, it is their personal responsibility to make sure that the facts and general information contained in it are applicable to their situation.

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## Hugo Neighborhood Association & Historical Society's Mission

This information brochure is one of a series of documents published by the Hugo Neighborhood Association & Historical Society (*Hugo Neighborhood*). It is designed to be shared with neighbors for the purpose of helping protect our rural quality of life by promoting an informed citizenry in decision-making. The *Hugo Neighborhood* is an informal nonprofit charitable and educational organization with a land use and history mission of promoting the social welfare of its neighbors.

### Land Use & History

The *Hugo Neighborhood's* land use mission is to promote the social welfare of the citizens of the area by working to promote Oregon Statewide Goal 1 — Citizen Involvement, and by preserving, protecting, and enhancing the livability and economic viability of its farms, forests, and rural neighbors. It will act, as requested, as a technical resource assisting neighbors to represent themselves.

On January 2003 we began the concept of volunteer membership dues. They are \$10.00 annually and will be used for paper, ink, envelopes, publications and mailings. Make checks to the *Hugo Neighborhood* and send them to a member of the Land Use Committee.

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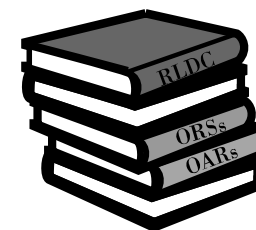
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## Conditions Of Approval

Brochure 6 In  
Findings Series



*Documented Compliance Determinations for  
Conditions of Approval to Meet Criteria That  
Determinations Are Made at a Stage That Provides  
Opportunity for Public Review and Comment.*

**December 20, 2003**

**Land Use Committee  
Hugo Neighborhood Association &  
Historical Society**

**Member of the CACNA Coalition**