16. Goal 12 – Transportation/ Goal 12 Rule. In comparing uses across different zoning districts for purposes of determining whether a rezone "significantly affects" a transportation facility under the Transportation Planning Rule (TPR), consistent assumptions must be used, with the only variables reflecting the different zoning standards. Where the opposition traffic expert used different assumptions about development under the original zone and the new zone that are not based on the differences between the two zones, that testimony does not undermine reliance on the applicant's expert's conclusion that the new zone does not allow more traffic-intensive uses than the old zone. *Save Downtown Canby v. City of Canby*, 70 Or LUBA 68 (2014).

16. Goal 12 – Transportation/ Goal 12 Rule. The Transportation Planning Rule (TPR) at OAR 660-012-0060 requires analysis of whether a zone change would significantly affect a transportation facility by, among other things, affecting the functional classification or performance standards of the facility as "measured through the end of the planning period." However, nothing in OAR 660-012-0060 requires an analysis of potential safety conflicts between site access and a nearby pedestrian crossing, much less an analysis of such conflicts through the end of the planning period. *Save Downtown Canby v. City of Canby*, 70 Or LUBA 68 (2014).

16. Goal 12 – Transportation/ Goal 12 Rule. While a railroad is a "transportation facility" as defined under the Transportation Planning Rule (TPR), nothing in the TPR requires local governments to adopt functional classifications or performance standards for railroads. Because OAR 660-012-0060(1) defines the ways that a plan amendment can "significantly affect" a transportation facility exclusively in terms of functional classifications or performance standards, absent any functional classification or performance standards for railroads OAR 660-012-0060(1) does not apply to require a local government to evaluate whether a plan amendment significantly affects a railroad. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171 (2014).

16. Goal 12 – Transportation/ Goal 12 Rule. In order to determine whether a redesignation "significantly affects" a transportation facility within the meaning of OAR 660-012-0060(1) a local government should compare the most traffic-generative use reasonably allowed in the current zone with the most traffic-generative use reasonably allowed in the new zone. Comparing the amount of traffic generated by the *current uses* of the property with the most-traffic generative use allowed in the new zone does not answer the question posed by OAR 660-012-0060(1), and may in fact provide misleading answers, unless the current uses of the property happen to be the most traffic-intensive uses allowed in the current zone. *Ooten v. Clackamas County*, 70 Or LUBA 338 (2014).

16. Goal 12 – Transportation/ Goal 12 Rule. The Transportation Planning Rule (TPR) at OAR 660-012-0060 does not require that estimates of background traffic levels include consideration of the traffic impacts from a proposed golf course adjacent to property that is the subject of a zone change application, because the golf course is a conditional use in the current zone in which it will be developed. *Reading v. Douglas County*, 70 Or LUBA 458 (2014).

16. Goal 12 – Transportation/ Goal 12 Rule. A city's conclusion that proposed high-density residential zoning complies with Goal 12 and the Transportation Planning Rule is not supported by an adequate factual base, where the city assumed full development under the old zoning but only partial development under the new zoning, for general economic reasons that apply equally to both development scenarios. Absent an explanation for using different background assumptions, a comparison of traffic-generative capacity allowed under new and old zoning under OAR 660-012-0060 must use consistent assumptions. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060(6)(a) allows a local government to reduce by 10 percent the estimated traffic generated under new zoning for a mixed-use, pedestrian friendly area, but only if the new zone prohibits uses that rely on automobile trips, such as motels. A city may still take advantage of the 10 percent reduction notwithstanding that the new zone allows hotels, given the significant differences between motels and hotels. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. Remand is necessary where the city assumes, without explanation, a ten percent reduction in estimated traffic when zoning new areas for high-density uses, but assumes no similar reduction in comparing traffic generated under existing high-density zoning. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a local government finds that a zone change will not generate more traffic than allowed under the existing zoning, and thus cannot significantly affect a transportation facility within the meaning of the Transportation Planning Rule, it is not reversible error for the local government to also adopt measures to ensure that development under the new zoning does not exceed estimated traffic levels. While such measures cannot substitute for compliance with the Rule, adoption of such precautionary measures are not erroneous. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. Raising a general transportation issue under a local zoning change approval criterion that addresses a number of concerns, without citing the transportation planning rule (TPR) or any of the substantive requirements of the TPR, is not sufficient to preserve a technical TPR argument for review at LUBA. *Savage v. City of Astoria*, 68 Or LUBA 225 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. Where planning staff initially takes a position that a zoning amendment proposal does not comply with an applicable approval standard, but later changes its position and takes the position that the proposal complies with the approval standard, the planning staff's initial position may be sufficient to preserve the issue of whether the proposal complies with the applicable approval standard for LUBA review. But where planning staff takes the position that a proposed zone change complies with the transportation planning rule (TPR) and never changes its

position regarding the TPR, the staff position is not sufficient to preserve an issue of TPR compliance for LUBA review. *Savage v. City of Astoria*, 68 Or LUBA 225 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. A Metro regional trail that is 22 miles long, connects rivers, parks and natural areas, and includes a number of recreational and educational facilities, is most accurately characterized as a "park" for purposes of a Metro Plan prohibition on parks in regionally significant industrial areas, rather than a transportation facility or "public facility" that is allowed in industrial areas, where the regional trail is not intended to provide transportation for the residents and workers of the industrial area, but is primarily a community recreational amenity. *Terra Hydr Inc. v. City of Tualatin*, 68 Or LUBA 279 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060, which requires that amendments to an acknowledged functional plan, comprehensive plan or land use regulation that significantly effect a transportation facility must put in place measures to offset that significant effect, does not apply to a local government's adoption of a transportation system plan (TSP). *Terra Hydr Inc. v. City of Tualatin*, 68 Or LUBA 279 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a city's bureau of transportation has adopted a rule that requires that development not cause signalized and stop-controlled intersections to operate below a specified level of service (LOS), and petitioner cites no authority that access drives that are not stop controlled or signalized are subject to the LOS requirement, LUBA will reject petitioner's argument that it was error for city to fail to find that access drives would operate within the specified LOS. *Lowery v. City of Portland*, 68 Or LUBA 339 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. One option a local government has to determine whether a zoning map amendment significant affects a transportation facility within the meaning of OAR 660-012-0060(1)(c) is to first evaluate whether the new zone authorizes more traffic intensive uses, compared to the old zone. If the two zones authorize the exact same set of uses, then the local government could conclude, without more, that development under the new zone will not generate more traffic than under the old zone, and no further inquiry is necessary for purposes of OAR 660-012-0060(1)(c). *Save Downtown Canby v. City of Canby*, 67 Or LUBA 385 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a local government rezones property from a commercial zone that allows the same set of use categories as the old commercial zone, but the new zone has much larger maximum building footprint and other development standards intended to allow larger scale commercial development, the local government is required to consider whether the larger scale development allowed under the new zone could generate additional traffic compared to smaller scale development under the old zone and, if so, conduct further analysis as required by OAR 660-012-0060. *Save Downtown Canby v. City of Canby*, 67 Or LUBA 385 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. That the city's transportation facilities were found to be sufficient to support planned and allowed uses when the city originally adopted its zoning ordinance is not a sufficient basis to conclude that a zoning map amendment is consistent with OAR 660-012-0060. *Save Downtown Canby v. City of Canby*, 67 Or LUBA 385 (2013).

16. Goal 12 – Transportation/ Goal 12 Rule. While Goal 1 requires ODOT to make use of existing local citizen involvement programs in amending the Oregon Highway Plan, it does not require ODOT to create new local citizen involvement programs, or mandate that local governments create or invoke local citizen involvement programs in coordinating future OHP future amendments to the Oregon Highway Plan. *Setniker v. ODOT*, 66 Or LUBA 54 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Findings supporting a legislative decision that amends the Oregon Highway Plan to provide a process for modifying mobility standards need not address issues raised below regarding whether future decisions approving higher mobility standards will cause increased congestion of specific transportation facilities and increase pollution contrary to Goal 6, where Goal 6 will apply directly to any future decisions approving higher mobility standards for specific transportation facilities, and such issues cannot be meaningfully addressed in a legislative decision adopting general amendments to the Oregon Highway Plan. *Setniker v. ODOT*, 66 Or LUBA 54 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Goal 9 requires local governments to provide adequate opportunities for a variety of economic activities, but does not require local governments to protect one type of economic activity against impacts created by other economic and non-economic uses. Goal 9 does not require that ODOT, in adopting higher mobility standards for state highways, address in its findings whether increased congestion from development allowed under the higher mobility standards will adversely affect existing economic activity. *Setniker v. ODOT*, 66 Or LUBA 54 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. The Goal 11 requirement to provide "timely, orderly and efficient arrangement of public facilities and services" is not particularly concerned with the performance standards governing state highways, a concern that is more specifically addressed under Goal 12 and the Transportation Planning Rule. Goal 11 does not add anything new or different to the specific Goal 12 requirements with respect to the performance of state highways, and findings addressing Goal 11 are not inadequate simply because they fail to consider whether modified highway performance standards are consistent with Goal 11. *Setniker v. ODOT*, 66 Or LUBA 54 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Goal 13 is mostly a planning goal, and includes few substantive requirements that could directly conflict with Oregon Highway Plan amendments that increase mobility standards for state highways. To the extent higher mobility standards encourage denser development that causes increased traffic

congestion, that is not inconsistent with Goal 13. *Setniker v. ODOT*, 66 Or LUBA 54 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Oregon Highway Plan (OHP) amendments that provide a process to adopt alternative mobility standards for state highways where it is infeasible to comply with the OHP mobility standard do not eliminate or conflict with the OAR 660-012-0035 requirement for local governments to consider system alternatives in adopting a transportation system plan. The OHP process and OAR 660-012-0035 requirement to evaluate system alternatives are cumulative, not conflicting. *Setniker v. ODOT*, 66 Or LUBA 54 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Oregon Highway Plan (OHP) amendments to the "no further degradation" standard to allow "small increases" in average daily traffic to already failing state highways do not conflict with the general OAR 660-012-0015(1) obligation to adopt transportation plans that identify transportation facilities "adequate to meet identified state transportation needs." The "no further degradation" standard is applied under the specific provisions of OAR 660-012-0060, and the "small increases" exception to that standard was adopted in coordination with LCDC amendments to OAR 660-012-0060. Because the "small increases" exception is consistent with the specific requirements of OAR 660-012-0060, it does not violate the general requirements of OAR 660-012-0015. *Setniker v. ODOT*, 66 Or LUBA 54 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the county adds a site to its map of lands eligible for destination resort siting, concludes based on site-specific traffic studies that destination resort development will significantly affect nearby transportation facilities within the meaning of OAR 660-012-0060, identifies the transportation improvements needed to ensure that allowed land uses are consistent with the performance standards of affected facilities, and requires the destination resort applicant to provide those improvements prior to development, the county has not deferred a determination of compliance with OAR 660-012-0060, but instead complied with the rule. That the county prudently imposed conditions requiring a second analysis and requiring additional improvements if needed at the time of development does not constitute an impermissible deferral of compliance with OAR 660-012-0060. *Central Oregon Landwatch v. Deschutes County*, 66 Or LUBA 192 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. In concluding that a decision adding a site to the county's map of lands eligible for destination resort development complies with the Transportation Planning Rule, the county may "adopt" measures demonstrating that allowed land uses are consistent with the performance standard of affected transportation facilities within the meaning of OAR 660-012-0060(2)(a) by adopting conditions requiring that the destination resort applicant pay for and provide transportation improvements prior to resort development, and need not require that the improvements be in place on the date the county adds the site to its map of eligible lands. *Central Oregon Landwatch v. Deschutes County*, 66 Or LUBA 192 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. The requirement at ORS 197.460(4) that an applicant for destination resort siting provide a traffic study that includes measures to mitigate a proportionate share of adverse impacts on transportation facilities is different from, and does not replace, the obligation to evaluate transportation impacts under OAR 660-012-0060 in amending the comprehensive plan map of lands eligible for destination resort siting. While a county might err if it relied entirely on ORS 197.460(4) to ensure compliance with OAR 660-012-0060, there is no error in citing ORS 197.460(4) as an additional basis to conclude that OAR 660-012-0060 is satisfied. *Central Oregon Landwatch v. Deschutes County*, 66 Or LUBA 192 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government may "adopt" measures under OAR 660-012-0060(2)(a) requiring a private developer to pay for and provide needed transportation improvements, and such measures need not be supported by evidence that the road authority for that facility has accepted the proposed improvement or evidence that private funding is available. *Central Oregon Landwatch v. Deschutes County*, 66 Or LUBA 192 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government does not err in not applying OAR 660-012-0070(5) and (6), which govern the analysis for transportation improvements that do not require a new exception, to evaluate the petitioner's alternative site for a highway interchange, where the record does not support the petitioner's claim that the new interchange could be located without expanding an existing exception area that was approved for a two-lane rural overpass. In that circumstance, OAR 660-012-0070(7) applies to govern the alternatives analysis when a transportation improvement requires a new exception. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Where constructing a new highway interchange in an existing exception area would constitute a change in the type of use or change in the intensity of the use justifying an existing exception, OAR 660-012-0070(10) and OAR 660-004-0018(4)(b) require a new exception as a matter of law, even if the existing exception area could accommodate the proposed interchange as a matter of engineering. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. A petitioner's arguments that the local government misconstrued OAR 660-012-0070(5) and (6) and adopted inadequate findings not supported by substantial evidence do not provide a basis for reversal or remand, where OAR 660-012-0070(7) governs the local government's decision instead of OAR 660-012-0070(5) and (6), and the two sets of rules have different substantive terms, requirements and standards. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. In approving an exception to allow construction of a temporary $25 million highway interchange, a local government is not required to include guarantees that the temporary interchange will not be converted to a permanent interchange or identify reasons to justify the interchange as permanent, where the exception decision approves only a temporary interchange, and any attempt to convert

it into a permanent interchange will require a new goal exception. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the Court of Appeals remands a decision to LUBA to address the proper application of the Transportation Planning Rule (TPR), at OAR 660-012-0060, and on remand to LUBA the parties dispute the meaning of a TPR provision, LUBA need not resolve that dispute when during the pendency of the appeal the TPR is amended to delete the disputed TPR provision, and the TPR as amended will govern the local proceedings on remand from LUBA. *Setniker v. Polk County*, 65 Or LUBA 49 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. LUBA will affirm a governing body's interpretation of a code standard allowing imposition of a limited use overlay zone if "it is required to limit the uses permitted in the proposed zone" by the reasons exception rule at OAR 660, Division 004, to employ the overlay zone to limit uses to ensure consistency with Statewide Planning Goal 12 (Transportation), and the need to take an exception to Goal 12, even though the county took reasons exceptions only to other statewide planning goals, where the county's interpretation is not inconsistent with the express language, purpose or underlying policy of the code standard. *Devin Oil Co. v. Morrow County*, 65 Or LUBA 104 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the county's decision on remand and supporting findings state that a condition is imposed requiring the applicant to construct a left-turn lane, a condition to that effect has been adequately imposed, notwithstanding that the county did not expressly amend the list of conditions imposed in its initial decision to include the requirement to construct a left-turn lane. *Devin Oil Co. v. Morrow County*, 65 Or LUBA 104 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. LUBA will affirm a governing body's interpretation of a local code provision to require only consideration of current adequacy of transportation facilities, notwithstanding local traffic analysis guidelines that require analysis of impacts from future planned uses, where the county interprets the guidelines to be non-mandatory, and that interpretation is not inconsistent with the express language, purpose or policy of the relevant local provisions. *Devin Oil Co. v. Morrow County*, 65 Or LUBA 104 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Uncontradicted evidence that a legislative text amendment allowing for the expansion of existing landfills would not affect the county's transportation facilities, because traffic generated by landfill expansion is not a net increase but simply replaces traffic generated by portions of the existing landfill that are at capacity and will be closed, is sufficient to demonstrate that the text amendment does not "significantly affect" any transportation facility within the meaning of the Transportation Planning Rule at OAR 660-012-0060(1). *Waste Not of Yamhill County v. Yamhill County*, 65 Or LUBA 142 (2012).

16. Goal 12 – Transportation/ Goal 12 Rule. Raising a number of transportation issues, without any specific reference to the regimented transportation planning analysis that is required under the transportation planning rule, is not sufficient to preserve the right to assign error at LUBA based on the city's failure to apply the regimented transportation planning analysis that is required by the transportation planning rule. *Rosenzweig v. City of McMinnville*, 64 Or LUBA 402 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. A decision that merely adds an aggregate site to a comprehensive plan inventory of significant aggregate resource sites may not trigger application of the transportation planning rule (TPR) in any of the ways described in OAR 660-012-0060(1). But when the county decides to allow mining of the site and places an overlay zone on the site to allow mining, that zone change authorizes a new, more traffic-intensive use of the property and may trigger application of the TPR. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. Because the end of the planning period plays an important role under the Transportation Planning Rule (TPR) at OAR 660-012-0060(1) in determining whether proposed plan or zone amendments significantly affect transportation facilities, when the county amends its transportation system plan to change the planning period from 2020 to 2030, the county must apply the new planning period in determining whether the proposed plan/zone change complies with the TPR. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the county's initial 2006 decision relies upon a traffic study to demonstrate compliance with the Transportation Planning Rule (TPR) at OAR 660-012-0060(1)(c), and the decision is remanded but the county takes no action on remand until 2010, the county need not require that the traffic study be updated to reflect current 2010 traffic conditions. The focus of OAR 660-012-0060(1)(c) is on the end of the planning period, based on projected traffic growth from a base condition, and for purposes of the rule it does not matter whether growth is projected from 2006 or 2010. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a local government relies upon conditions limiting traffic through a failing intersection turning movement from 4:00 to 6:00 p.m. to ensure compliance with the Transportation Planning Rule, but undisputed expert evidence shows that the turning movement is also failing during the a.m. peak hour and the off-peak p.m. hour of 3:00 to 4:00 p.m., the conditions are insufficient to ensure compliance with the rule. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. A condition requiring an aggregate company's trucks to avoid a particular intersection is likely to be effective, where the employer has sufficient authority to require its employees and contract haulers to avoid the intersection and, despite some economic incentives for noncompliance, a reasonable decision maker could rely on the condition to be effective to prevent impacts on the intersection. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060(2)(e) and 660-012-0060(3) provide a complementary and non-exclusive set of measures to ensure that uses allowed by a plan amendment are consistent with the function, capacity and performance standards of a transportation facility. Depending on the situation, one or both will apply to authorize use of measures to ensure compliance with the Transportation Planning Rule, and there is no gap between the two rule provisions or circumstance where neither provision applies and no mitigatory measures are possible. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. Where on remand a county relies for the first time on signalization of an intersection to ensure compliance with the Transportation Planning Rule, the issue of whether the county could rely on signalization could not have been raised in the initial appeal, and is not waived under *Beck v. City of Tillamook*, 313 Or 148, 153, 831 P2d 678 (2002). *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. Under the Transportation Planning Rule at OAR 660-012-0060(1) and (4), a local government generally can rely only upon "planned facilities or improvements" to ensure compliance with the rule, and cannot assume that unplanned, unfunded facility improvements will be put in place prior to the end of the planning period. *Setniker v. Polk County*, 63 Or LUBA 38 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. In general, in order to determine whether a land use regulation amendment significantly affects a transportation facility under OAR 660-012-0060(1)(c)(B) or (C), a comparison is required between the traffic associated with the most traffic-intensive uses allowed under the existing zoning with traffic associated with the most traffic-intensive uses allowed under the proposed zoning. *Willamette Oaks LLC v. City of Eugene*, 63 Or LUBA 75 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. In determining whether a proposed zone change significantly affects a transportation facility under OAR 660-012-0060(1), a proper baseline for comparison of the differences in traffic generated under the current zone and the proposed zone is development that is proposed concurrently with the zone change, where that zone change decision includes a condition of approval that imposes a vehicle trip cap to limit the transportation impacts from development under the new zone to transportation impacts that would have been generated under the current zone. *Willamette Oaks LLC v. City of Eugene*, 63 Or LUBA 75 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. To the extent *DLCD v. City of Warrenton*, 37 Or LUBA 933, 940-942 (2000) suggests that proposed zoning conditions of approval that limit the number of additional trips that could otherwise be expected under a proposed zoning map amendment cannot be considered when determining whether the proposed conditional rezoning will significantly affect a transportation facility, that suggestion is incorrect. *Willamette Oaks LLC v. City of Eugene*, 63 Or LUBA 75 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060(1)(a) is directed at decisions that change the functional classification of a transportation facility included in a

TSP through an amendment to the TSP, and does not apply where no such plan amendment is sought. *Willamette Oaks LLC v. City of Eugene*, 63 Or LUBA 75 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. If a mitigation measure under OAR 660-012-0060(2) or (3) would require transportation improvements that are inconsistent with a local government's adopted TSP, then a local government might be required to amend its TSP in order to comply with Statewide Planning Goal 2 (Land Use Planning). *Willamette Oaks LLC v. City of Eugene*, 63 Or LUBA 75 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. Although amendments to county standards for mapping sites that are eligible for destination resort siting are comprehensive plan amendments, and therefore potentially could result in significant affects on transportation facilities that could implicate OAR 660-012-0060, altering the standards for adding sites to the map in the future has no impact on transportation facilities. It is the future map amendments themselves that might significantly affect a transportation facility and implicate OAR 660-012-0060, and a county must consider OAR 660-012-0060 at the time those comprehensive plan amendments are adopted in the future. *Central Oregon Landwatch v. Deschutes County*, 63 Or LUBA 123 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government errs in adopting a finding of significant affect under OAR 660-012-0060(1) (TPR) on unspecified transportation facilities, unsupported by any analysis at all, and then requiring that the TPR be addressed at the time of specific destination resort development. Such an approach is substantially equivalent to the approach of deferring the OAR 660-012-0060(1) determination to a later development stage that was rejected in *Willamette Oaks, LLC v. City of Eugene*, 232 Or App 29, 36, 220 P3d 445 (2009) and is inadequate to satisfy the TPR. *Root v. Klamath County*, 63 Or LUBA 230 (2011).

16. Goal 12 – Transportation/ Goal 12 Rule. A city does not err by requiring that an applicant for development approval dedicate and construct a road extension through the area proposed for development where the transportation system plan shows the road extension. It does not matter that the extension shown on the transportation system plan is conceptual. *Reeves v. City of Wilsonville*, 62 Or LUBA 142 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. Where an assignment of error and the argument in support of that assignment of error does not specifically mention a transportation system plan policy that requires a public hearing before selecting a roadway alignment, the issue of whether that policy has been violated is adequately stated for LUBA review where the petitioner does include an argument that a public hearing is required and was not provided and in the petition for review cites to pages in the record where another party specifically cites the transportation system plan policy. *Reeves v. City of Wilsonville*, 62 Or LUBA 142 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. A condition of zone change approval limiting use of the property to a proposed travel plaza is insufficient to ensure consistency with the Transportation Planning Rule at OAR 660-012-0060, where the record indicates

that even limited to the travel plaza the zone change will significantly affect nearby transportation facilities, and the county failed to require other mitigation or improvements necessary to ensure that allowed uses are consistent with the capacity and performance measures of affected intersections. *Devin Oil Co., Inc. v. Morrow County*, 62 Or LUBA 247 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. To approve an exception for a transportation facility on rural resource land, OAR 660-012-0070(4) requires that a county supply reasons why state policy in the applicable goals should not apply and also requires the county to demonstrate that there are transportation needs identified in the county's TSP that cannot reasonably be satisfied by one or more of the non-exception measures specified in the rule. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. A county may not rely on transportation needs in a city's transportation system plan to justify an exception for a new rural arterial road through the county, where the county transportation system plan states there is no need for new transportation facilities in the area and does not identify those city transportation needs as county transportation needs. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0070(4) requires that a county determine whether there are reasonable alternative measures to satisfy an identified transportation need that would not require a statewide planning goal exception. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0070(5) imposes a requirement to consider whether a proposed transportation facility on rural resource land could reasonably be sited in alternative locations that would not require an exception. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0070(6) sets out how a county must go about determining whether any identified alternative measures and alternative locations are reasonable under OAR 660-012-0070(4) and OAR 660-012-0070(5). OAR 660-012-0070(6) requires that certain specified factors and "other relevant factors" be considered and that "thresholds" be identified and applied in rejecting any alternatives as unreasonable. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. As OAR 660-012-0070(4) is currently written, it cannot be assumed that an identified transportation need is necessarily sufficient to provide a reason that justifies "why the state policy in the applicable goals should not apply." *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. In determining whether a plan amendment would significantly affect a transportation facility, the impact must be measured at the end of the planning period. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a county approves an exception for a transportation facility that will cross privately owned and federally owned EFU-zoned land, the county must approve the exception for both the privately and federally owned land. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. For reasons exceptions that are required in order to site "transportation facilities and improvements" on rural lands, the exceptions standards set out at OAR 660-012-0070 apply, rather than the standards set out in OAR 660-004-0020. *Foland v. Jackson County*, 61 Or LUBA 264 (2010).

16 Goal 12 – Transportation/ Goal 12 Rule. A rest area is a facility that "assists in the movement of people and goods" and thus falls within the Transportation Planning Rule definition of "transportation facilities" set out at OAR 660-012-0005(30). *Foland v. Jackson County*, 61 Or LUBA 264 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. In considering alternative measures and locations under OAR 660-012-0070(4) and (5), a local government may rely on applicant-identified required characteristics that a proposed location must possess, or thresholds, in order to address the identified transportation need, as long as the local government justifies any such thresholds. If an alternative measure or location not requiring an exception does not satisfy a threshold, then the local government is not required to consider it in determining whether to approve an exception. OAR 660-012-0070(6)(b). *Foland v. Jackson County*, 61 Or LUBA 264 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0070(7) implements Goal 2, Part II(c)(3) and requires a local government to evaluate whether there are alternative sites, which would also require an exception, that would have fewer adverse impacts than the proposed site. *Foland v. Jackson County*, 61 Or LUBA 264 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. Even where no authority requires findings in support of a legislative decision, there must be enough in the way of findings or accessible material in the record to show that applicable criteria were applied and required considerations considered. Where the record of the legislative rezoning decision includes no findings or accessible material supporting the local government's view that the Transportation Planning Rule (TPR) does not apply to the decision, the local government can avoid remand only if it demonstrates in its response brief, as a matter of law, that the TPR does not apply to the rezoning decision and is not a required consideration. *Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. An ordinance that applies a new Airport zone to an existing airport that is a nonconforming use in the former industrial zone may

"significantly affect" nearby transportation facilities within the meaning of the Transportation Planning Rule (TPR), where under the former industrial zone it would be difficult to expand the nonconforming use airport and under the new zone an airport is an outright permitted use that can be easily expanded or intensified. *Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. In many cases, determining whether a zoning change "significantly affects" a transportation facility for purposes of the Transportation Planning Rule (TPR) can be accomplished by comparing the most traffic-intensive uses allowed in the old zone against the most traffic-intensive uses allowed in the new zone. If the reasonable "worst-case" scenario under the new zone would result in fewer impacts on transportation facilities than the reasonable "worst-case" scenario under the old zone, then no further inquiry under the TPR is required. *Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. Where an ordinance applies a new Airport zone to an existing airport that is a nonconforming use in the former industrial zone, and the surrounding transportation system is designed and planned to accommodate the existing nonconforming use airport, the most meaningful approach to determining whether the zone change "significantly affects" a transportation facility within the meaning of OAR 660-012-0060 may be a comparison of the traffic impacts of the airport use under the city's Transportation System Plan with the airport as it may reasonably be expanded under the new Airport zone. *Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. When a prior ordinance and settlement agreement require a city to apply a 20-year planning horizon for evaluating transportation impacts and improvements, the city does not err by applying a 20-year planning horizon in a study that was conducted in preparation for the application submittal instead of applying a 20-year planning horizon measured from the date of the decision. *Citizens for Responsible Development v. City of The Dalles*, 60 Or LUBA 12 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. When the proposed development is for a Wal-Mart that includes a full service grocery department, a city does not err in applying the Institute of Transportation Engineers (ITE) land use category for a "shopping center" rather than the ITE category for a "free standing discount store" because free standing discount stores do not include full service grocery departments. *Citizens for Responsible Development v. City of The Dalles*, 60 Or LUBA 12 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. When a traffic impact analysis (TIA) states that it was based on ODOT recommended guidelines but fails to follow those ODOT guidelines, and the final decision relies on that TIA and does not respond to opponents' challenges to the failure to comply with the ODOT guidelines, the decision to rely on a TIA is not reasonable and the decision is not supported by substantial evidence. *Citizens for Responsible Development v. City of The Dalles*, 60 Or LUBA 12 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. When relying on a condition of development under OAR 660-012-0060(2)(e) to approve development that would significantly affect a transportation facility, a local government cannot rely on a suggestion in a letter from ODOT when the suggestion is not reflected as a condition of approval. *Walker v. Josephine County*, 60 Or LUBA 186 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Under *Dept. of Transportation v. Coos County*, 158 Or App 568, 976 P2d 68 (1999), a comprehensive plan or land use regulation amendment that would generate traffic that would worsen the operation of an intersection that was already performing at a failing level of service D, but would not change that level of service to level of service F, would not "significantly affect" that failing intersection, within the meaning of the version of OAR 660-012-0060 that was at issue in *Dept. of Transportation v. Coos County*. *Eder v. Crook County*, 60 Or LUBA 204 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Under *DLCD v. City of Warrenton*, 37 Or LUBA 933 (2000), a land use regulation amendment that would generate traffic that would worsen the volume to capacity ratio of a transportation facility that was already operating at a failing volume to capacity ratio would "significantly affect" that transportation facility, within the meaning of the 1998 version of OAR 660-012-0060. *Eder v. Crook County*, 60 Or LUBA 204 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Under *Department of Transp. v. City of Klamath Falls*, 177 Or App 1, 9, 34 P3d 667 (2001) and the 1998 version of OAR 660-012-0060, a comprehensive plan or land use regulation amendment would "significantly affect" a transportation facility that was not already failing but was projected to fail during the planning period, if that amendment would cause the performance standard to be "violated sooner than it otherwise would be during the planning period." *Eder v. Crook County*, 60 Or LUBA 204 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Where petitioner assigns error under OAR 660-012-0060, arguing that the county inadequately mitigated for the traffic impacts of a proposed destination resort, but petitioner neither assigns error to the county's finding that the destination resort will not "significantly affect" the transportation facilities within the meaning of OAR 660-012-0060 nor challenges the legal reasoning that the county adopted in support of that finding, LUBA will deny the assignment of error. *Eder v. Crook County*, 60 Or LUBA 204 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a local code only requires that subdivision applicants provide a traffic study if the local government requests one, a cryptic statement in a letter that a subdivision applicant planned to provide a traffic study was not sufficient to trigger a requirement under the code that the applicant provide a traffic study or make it unnecessary for the local government to request a traffic study before denying the application for subdivision approval for failure to provide a traffic study. *Montgomery v. City of Dunes City*, 60 Or LUBA 274 (2010).

16. Goal 12 – Transportation/ Goal 12 Rule. A condition of rezoning approval that defers consideration of compliance with OAR 660-012-0060 to a subsequent review process at the time actual development of the property is proposed is permissible, provided that the zone change is effectively conditioned to prohibit traffic or other impacts inconsistent with the requirements of OAR 660-012-0060. *Willamette Oaks, LLC v. City of Eugene*, 59 Or LUBA 60 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a local government considering an application for a zone change defers consideration of compliance with OAR 660-012-0060 to a later review process that does not involve a comprehensive plan amendment or zone change, the local government must ensure that the Department of Land Conservation and Development (DLCD) receives notice of the subsequent review process by imposing an overlay zone or a condition of approval on the zone change that requires such notice to DLCD. *Willamette Oaks, LLC v. City of Eugene*, 59 Or LUBA 60 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government's interpretation of its land use regulations to limit application of (1) its land use regulation's requirement for preparation of a transportation impact analysis and (2) its minimum level of service standard to zone change decisions and certain planned unit development decisions cannot be sustained, where the text of the relevant land use regulation sections is inconsistent with that interpretation. *Siporen v. City of Medford*, 59 Or LUBA 78 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a comprehensive plan policy calls for a local government to "review parking requirements for residential development with the purpose of reducing the required number of spaces per unit," a legislative decision that amends parking space requirements for multiple family dwellings to increase the required number of parking spaces must be remanded so that the local government can adopt findings that explain how that legislative decision is consistent with the comprehensive plan policy. *Home Builders Association v. City of Eugene*, 59 Or LUBA 116 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Where there is (1) a lack of evidence that the additional parking spaces that would be required under a legislative land use regulation amendment will materially increase the total number of vehicle trips, (2) some evidence that the legislative amendment will not cause trips to increase materially, and (3) petitioner does not identify which transportation facilities it believes will be significantly affected by the amendment, a local government's brief finding that the legislative amendment will not significantly affect transportation facilities is adequate. *Home Builders Association v. City of Eugene*, 59 Or LUBA 116 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government's legislative land use regulation amendment that increases the required number of off-street parking spaces for multiple family dwellings could impact the local government's plan to comply with OAR 660-012-0045(5)(c)(A), which requires that the local government have a parking plan which "[a]chieves a 10% reduction in the number of parking spaces per capita in the MPO." Where such a legislative land use decision is not supported by findings that

address OAR 660-012-0045(5)(c)(A), the decision must be remanded. *Home Builders Association v. City of Eugene*, 59 Or LUBA 116 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Remand is necessary where the local government adopts exceptions to Statewide Planning Goals 11 and 14 to approve a destination resort, but fails to address comprehensive plan transportation policies that appear to implement Statewide Planning Goal 12 (Transportation), for which the local government did not adopt an exception, and the decision fails to explain why those policies are either satisfied or not applicable. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a city does not rely on the ORS 836.640 through 836.642 "through the fence" pilot program to adopt an Airport Related zoning district that authorizes airpark residential development with through the fence access to an airport, arguments that ORS 836.640 through 836.642 do not authorize the kind of through the fence access that is permitted in the city's new Airport Related zoning district provide no basis for reversal or remand. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122 (2008).

16. Goal 12 – Transportation/ Goal 12 Rule. A city's legislative decision to adopt a new Airport Related zoning district without applying the new zoning district to any property is not reversible where petitioner fails to demonstrate that the zone could in no circumstances be applied to property in the future without violating applicable legal standards. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122 (2008).

16. Goal 12 – Transportation/ Goal 12 Rule. A city satisfies its Goal 2 and Airport Planning Rule coordination responsibilities where the city considers an airport's and the Federal Aviation Administration's (FAA's) concerns about a zoning district that allows through the fence access for residential development next to a public airport and the city requires that any applicant for such residential development secure a through the fence agreement with the airport and a letter of support from the FAA. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122 (2008).

16. Goal 12 – Transportation/ Goal 12 Rule. Remand is necessary where a county approves a truck stop with restaurant and truck wash based on a traffic study that, without explanation, uses a trip generation category of "Gasoline/Service Station" rather than the apparently more appropriate category of "Gasoline/Service Station with Car Wash," and fails to take into account trips generated by the restaurant. *Western Land & Cattle, Inc. v. Umatilla County*, 58 Or LUBA 295 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. A finding that a proposed truck stop will not create a traffic hazard is not supported by substantial evidence, where the traffic impact analysis finds that the nearest intersection presents only a "marginal safety concern" but fails to take into account the 1,000 daily truck and vehicle trips the proposed truck stop will send through the intersection, and there is no evidence that the additional

traffic will not significantly decrease the intersection's safety or significantly increase the crash rate. *Western Land & Cattle, Inc. v. Umatilla County*, 58 Or LUBA 295 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. A code provision stating that permitted types of traffic impact mitigation "may include such improvements" as paving, curbing, contributions to traffic signals, etc. is not an exclusive list, and does not preclude a county from requiring an applicant to contribute money toward a future improvement project instead of requiring the applicant to actually construct the improvement. *Western Land & Cattle, Inc. v. Umatilla County*, 58 Or LUBA 295 (2009).

16. Goal 12 – Transportation/ Goal 12 Rule. Under OAR 660-012-0060(2)(e), if imposition of conditions of approval would require transportation improvements that are inconsistent with the acknowledged TSP, a local government may be required to amend its adopted transportation system plan, either pursuant to OAR 660-012-0060(2)(d) or simply to ensure that the amendment complies with the Goal 2 (Land Use Planning) consistency requirement. *Lufkin v. City of Salem*, 56 Or LUBA 719 (2008).

16. Goal 12 – Transportation/ Goal 12 Rule. When a local government fails to make a finding as to whether a proposed zone change will cause a significant effect on a transportation facility, the decision must be remanded for such a determination. *ODOT v. City of Madras*, 55 Or LUBA 347 (2007).

16. Goal 12 – Transportation/ Goal 12 Rule. The absence of explicit conditions of approval mandating that a rezoning applicant construct necessary transportation improvements is not necessarily reversible error, where the local government expressly incorporates the traffic analysis that requires the improvements, and thus the decision itself requires the improvements. However, remand is necessary to adopt conditions of approval where the decision does not purport to incorporate the traffic analysis or require the necessary improvements to be constructed. *Nygaard v. City of Warrenton*, 55 Or LUBA 648 (2008).

16. Goal 12 – Transportation/ Goal 12 Rule. Remand is necessary where the rezoning decision relies on conditions of approval to comply with OAR 660-012-0060(4)(b)(B), which requires that the city ensure that necessary transportation improvements are actually funded, but fails to impose any such conditions. *Nygaard v. City of Warrenton*, 55 Or LUBA 648 (2008).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a local government finds that OAR 660-012-0060 is satisfied, the findings adopt and incorporate the applicant's traffic impact analysis (TIA), and the TIA includes mitigation measures, the local government does not err in failing to expressly impose a condition of approval requiring those mitigation measures to be implemented. *Hildenbrand v. City of Adair Village*, 54 Or LUBA 734 (2007).

16. Goal 12 - Transportation/ Goal 12 Rule. In determining whether a plan or land use regulation amendment will "significantly affect a transportation facility" under the OAR

661-012-0060(1)(c)(C) non-degradation test, a city does not err in allowing the before and after volume to capacity (v/c) ratio to be computed to two decimal places rather than three decimal places. *Rice v. City of Monmouth*, 53 Or LUBA 55 (2006).

16. Goal 12 – Transportation/ Goal 12 Rule. Under OAR 660-012-0060(4), a local government errs in relying on conceptual highway improvements for which there is no funding mechanism in place or a written statement from the Oregon Department of Transportation that such improvements are reasonably likely to be provided by the end of the planning period, to conclude that plan amendments will not "significantly affect" the highway. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

16. Goal 12 – Transportation/ Goal 12 Rule. A condition of approval requiring that an applicant's employees avoid a failing intersection and instead use a much longer circuitous route to the site is inadequate to ensure that the proposed amendment will not "significantly affect" that intersection, where the condition does not take into account non-employee traffic generated by the proposed use, and there is no mechanism to monitor compliance by employees. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

16. Goal 12 – Transportation/ Goal 12 Rule. While OAR 660-012-0060 requires that local governments evaluate traffic impacts of uses allowed under a comprehensive plan designation or zoning district amendment, with focus on the most traffic-intensive uses among the uses allowed under the amendment, the rule does not require local governments to assume the most-traffic intensive use will occur at the maximum theoretically possible intensity. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

16. Goal 12 – Transportation/ Goal 12 Rule. A city's interpretation that its community service overlay (CSO) zoning designation functions as a conditional use rather than a traditional overlay zone is sustainable under *Church v. Grant County*, 187 Or App 518, 69 P3d 759 (2003) and ORS 197.829(1). Therefore, because the CSO zone overlay can only be applied to approve a specific use, and unlike other city overlay zones, the CSO zone does not require a zoning map amendment, the CSO designation does not trigger the obligation to address the transportation planning rule. *Oregon Transfer Company v. City of Milwaukie*, 53 Or LUBA 119 (2006).

16. Goal 12 – Transportation/ Goal 12 Rule. Even if the city's use of a community service overlay (CSO) zoning designation may constitute an "end run" around the transportation planning rule, because the city's code is acknowledged, any challenge to the CSO zoning designation is an impermissible attack on the city's acknowledged code. *Oregon Transfer Company v. City of Milwaukie*, 53 Or LUBA 119 (2006).

16. Goal 12 – Transportation/ Goal 12 Rule. A code provision that encourages the city to expand local maritime activities is not a "minimum acceptable performance standard" for purposes of the OAR 660-012-0060(1)(c)(B) requirement that plan amendments not reduce a transportation facility's performance below the minimum acceptable

performance standard identified in the transportation system plan or comprehensive plan. *People for Responsible Prosperity v. City of Warrenton*, 52 Or LUBA 181 (2006).

16. Goal 12 – Transportation/ Goal 12 Rule. Findings addressing the standards for a reasons exception for transportation improvements under OAR 660-012-0070 are also sufficient to satisfy the standards for a reasons exception under OAR 660-004-0020(2), where the findings in fact address the substantive differences between the two standards, and the petitioner does not explain why failure to directly address the OAR 660-004-0020(2) standards warrants reversal or remand. *1000 Friends of Oregon v. Yamhill County*, 52 Or LUBA 418 (2006).

16. Goal 12 - Transportation/ Goal 12 Rule. OAR 660-012-0060(3) allows a local government to approve a plan amendment that would significantly affect a transportation facility that is already expected to perform below its identified performance standard at the end of the planning period, if the applicant mitigates that impact so that there will be no further degradation of the performance of that facility at the end of the planning period. However, OAR 660-012-0060(3) does not require an absolute guarantee that a facility improvement that would be hastened by a required financial contribution mitigation will actually be built. Where the facility to be benefited is already included in the relevant transportation system plans and the TSP anticipates that the facility will be funded at some point in the planning period, that is sufficient. *Cornelius First v. City of Cornelius*, 52 Or LUBA 486 (2006).

16. Goal 12 - Transportation/ Goal 12 Rule. Where a specific financial contribution mitigation is identified that would satisfy the mitigation requirement of OAR 660-012-0060(3)(c) to prevent a plan amendment from resulting in further degradation of a transportation facility located in a neighboring city that is already expected to be failing at the end of the planning period, a city does not err by authorizing the neighboring city to instead apply that financial contribution to fund other intersection improvements that would also result in the plan amendment satisfying the OAR 660-012-0060(3)(c) non-degradation standard. *Cornelius First v. City of Cornelius*, 52 Or LUBA 486 (2006).

16. Goal 12 - Transportation/ Goal 12 Rule. Where a city amends its transportation system plan to include an access management plan that was previously prepared by ODOT, it is the city's obligation to comply with the OAR 660-012-0015(5) requirement for coordination with affected private providers of transportation services. While the city may be able to rely on ODOT's coordination efforts at the time the access management plan was adopted, the city must establish that such coordination in fact occurred. *Rhodes v. City of Talent*, 50 Or LUBA 415 (2005).

16. Goal 12 - Transportation/ Goal 12 Rule. Transportation system planning and transportation project planning under the transportation planning rule may not always constitute separate and distinct phases with no overlap. But where a transportation system plan already calls for highway improvements and petitioner does not explain why additional transportation systems alternatives analyses are required, LUBA will reject petitioner's argument that the city was obligated to conduct additional transportation

systems alternatives analyses under OAR 660-012-0035(1). *Rhodes v. City of Talent*, 50 Or LUBA 415 (2005).

16. Goal 12 - Transportation/ Goal 12 Rule. Where the drawings that accompany an access management plan are unclear, LUBA will assume that the more detailed construction plans that will be necessary to construct proposed improvements will call for improvements that are consistent with applicable design standards, where there is nothing in the record that suggests otherwise. *Rhodes v. City of Talent*, 50 Or LUBA 415 (2005).

16. Goal 12 - Transportation/ Goal 12 Rule. Where an access management plan appears to deviate slightly from two applicable design standards, and the city's decision does not explain why such deviation is permissible, LUBA will remand for that explanation. *Rhodes v. City of Talent*, 50 Or LUBA 415 (2005).

16. Goal 12 - Transportation/ Goal 12 Rule. A transportation system plan policy that "construction of transportation facilities shall be timed to coincide with community needs" suggests that community needs should not be allowed to outstrip the capacity of transportation facilities and that transportation facilities should not unnecessarily predate the community's need for those facilities. Where a city's decision includes no findings interpreting the transportation system plan policy or explaining why the proposed improvements are timely under the policy, LUBA will remand so that the city can adopt those findings. *Rhodes v. City of Talent*, 50 Or LUBA 415 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060(2)(d) requires a comparison of traffic impacts allowed under pre- and post-amendment plan and zoning, usually by comparing the most traffic intensive use allowed in each zone. However, the proper point of comparison is "allowed land uses," not uses allowed under a specific development plan, particularly development plans that can be modified at any time without a plan amendment or zone change. *Griffiths v. City of Corvallis*, 50 Or LUBA 588 (2005)

16. Goal 12 – Transportation/ Goal 12 Rule. While it could potentially be error for a local government to evaluate only "likely" uses rather than "allowed land uses" in comparing traffic impacts under OAR 660-012-0060(2)(d), where the local government in fact evaluates both, any error in evaluating likely uses is harmless error. *Griffiths v. City of Corvallis*, 50 Or LUBA 588 (2005).

16. Goal 12 – Transportation/Goal 12 Rule. Where a petitioner argues at the local level that the Transportation Planning Rule (TPR) applies to the challenged decision because a condition of approval of a previous zone change arguably requires application of the TPR, the decision maker is required to at least address the issue in its decision and explain why the TPR does not apply. *Wal-Mart Stores, Inc. v. City of Medford*, 49 Or LUBA 52 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. An amendment of a city's zoning map to change the zoning designation of property is an amendment of a land use regulation and,

therefore, is subject to OAR 660-012-0060(1). *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Where ODOT does not explain why it changed its mind and concluded that a zoning map amendment does not implicate the transportation planning rule, a city may not approve a change in zoning that will allow more intense development without requiring a transportation impact analysis to determine whether the potential additional traffic may "significantly affect a transportation facility." *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0050(1) exempts certain ODOT projects from the transportation planning rule, but that rule does not excuse a city from considering whether its decision to rezone property may be subject to the transportation planning rule. *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. A city may not defer its obligations to determine whether a rezoning decision will "significantly affect a transportation facility" or its decision whether to impose measures to mitigate that impact to a later date when specific development is proposed for the property, where the rezoning decision does not include a condition of approval that the transportation planning rule requirement be considered at that later stage and the city's land use regulations do not require that the transportation planning rule be considered at that later stage. *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. If the adopted transportation system plan assumes that property will be rezoned in the future to allow more intense development, the city may assume at the time of the assumed rezoning that the zone change has no significant impact on transportation facilities. However, a city may not assume that its rezoning decision will have no significant impact on transportation facilities where (1) it has not adopted the transportation system plan required by the transportation planning rule and (2) the transportation plan the city has adopted does not assume the property will be developed under the more intense zoning. *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a city has not adopted a transportation system plan, as required by the transportation planning rule, a zoning map change cannot significantly affect a city transportation facility under OAR 660-012-0060(2)(d) by causing the performance of a city transportation facility to fall "below the minimum acceptable level identified in the [transportation system plan]." If the city has no transportation system plan for the city transportation facility, there is no minimum acceptable performance level to violate. *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0055(4)(b) does not require that a city that has not adopted a transportation system plan must first prepare such a plan

before amending its land use regulations. *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Even if a city has not adopted a transportation system plan to establish performance standards for city transportation facilities, the Oregon Highway Plan establishes performance standards for state transportation facilities. Therefore, when amending its zoning map under OAR 660-012-0060 a city must consider whether the new zoning would allow development that will exceed those performance standards and thereby "significantly affect" those state transportation facilities within the meaning of OAR 660-012-0060(2). *Just v. City of Lebanon*, 49 Or LUBA 180 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the city's acknowledged transportation system plan (TSP) assumed that the subject property would develop at urban densities allowed under a city comprehensive plan designation, and did not assume that the property would develop under the pre-existing low-density county zoning, in conducting the comparison of traffic impacts allowed under the amended and unamended plan and zoning under OAR 660-012-0060 it is appropriate to use the city plan designation assumed in the TSP rather than the county zone. *Mason v. City of Corvallis*, 49 Or LUBA 199 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. The focus of OAR 660-012-0060(1) is on the land uses that are *allowed* under the amended plan and zoning regulations, not on the particular uses that the applicant may contemplate. Absent adequate justification for a different approach, the local government must assume that the property will develop at the most traffic-intensive use allowed under the amended plan and zoning, in determining whether the amendments "significantly affect" a transportation facility. *Mason v. City of Corvallis*, 49 Or LUBA 199 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government may assume that property will not develop under the most traffic-intensive uses allowed in the amended plan and zoning regulations for purposes of OAR 660-012-0060, where the presence of steep slopes, wetlands, significant natural features or other limitations on development potential make it highly improbable that the site can be developed with the most traffic-intensive uses allowed under the amended plan and zoning regulations. *Mason v. City of Corvallis*, 49 Or LUBA 199 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Implicit in OAR 660-012-0060(2)(d) is a causative element that triggers application of the rule only when the amendments (1) allow uses that generate more traffic than uses allowed under the unamended plan and zoning and (2) the additional traffic would reduce a facility's performance standards below the minimum acceptable level. Where the amended plan and zoning would generate less traffic than the unamended plan and zoning, then the amendment cannot significantly affect a transportation facility within the meaning of OAR 660-012-0060(2)(d). *Mason v. City of Corvallis*, 49 Or LUBA 199 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. The requirements of OAR 660-012-0060 only apply to amendments "to functional plans, acknowledged comprehensive plans and land use regulations." Where a city took separate actions to approve a master plan of development and to amend its comprehensive plan to conform to the master plan of development and petitioners only appealed the master plan of development approval decision to LUBA, the requirements of OAR 660-012-0060 did not apply to the only decision that was before LUBA in that appeal. *Oregon Shores Cons. Coalition v. City of Brookings*, 49 Or LUBA 273 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. A city land use regulation requirement that a master plan of development demonstrate that transportation facilities are "adequate," does not require any particular level of internal or external roadway connectivity. *Oregon Shores Cons. Coalition v. City of Brookings*, 49 Or LUBA 273 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Arguments that application of a city zoning district to an annexed area will conflict with Goal 12 are misdirected, where the challenged decision merely annexes the area but does not rezone it. *Cutsforth v. City of Albany*, 49 Or LUBA 559 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0040 merely requires that cities' transportation system plans (TSP) include a financing program. The rule does not require that the financing program must be amended every time the TSP is amended. *1000 Friends of Oregon v. City of Newberg*, 49 Or LUBA 626 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Identifying a transportation need under OAR 660-012-0070 is sufficient to justify an exception under ORS 197.732(1)(c)(A). The county need not separately demonstrate that the state policies embodied in the applicable goals should not apply. *1000 Friends of Oregon v. Yamhill County*, 49 Or LUBA 640 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. Under OAR 660-012-0070(6), the reasonableness of non-exception alternatives is determined by the thresholds established by the local government, which include consideration of "cost, operational feasibility, economic dislocation and other relevant factors." *1000 Friends of Oregon v. Yamhill County*, 49 Or LUBA 640 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. When taking an exception for a transportation facility on rural lands, the more specific provisions of OAR 660-012-0070 apply in place of the more general ESEE analysis requirements of Goal 2, Part II (c)(3), ORS 197.732(1)(c)(C), and OAR 660-004-0020(2)(c). *1000 Friends of Oregon v. Yamhill County*, 49 Or LUBA 640 (2005).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government may not avoid the obligation to adopt findings addressing whether a proposed plan amendment complies with the Transportation Planning Rule (TPR) by relying on subsequent permit

approvals to address traffic impacts of uses allowed by the amendment, where the criteria governing permit approvals do not require compliance with the TPR or include standards similar to TPR standards. *Staus v. City of Corvallis*, 48 Or LUBA 254 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. An attempt to incorporate documents in the record as findings of compliance with the Transportation Planning Rule fails, where the decision purports to incorporate hundreds of pages of minutes and written testimony without adequately identifying those documents, and the incorporation is qualified in a manner that makes it difficult or impossible to understand the facts relied upon and the justification for the decision. *Staus v. City of Corvallis*, 48 Or LUBA 254 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. A condition of rezoning approval that prohibits any development until a master plan is approved, under criteria identical to OAR 660-012-0060, is sufficient to ensure that traffic generated by uses allowed by the rezoning decision will be consistent with the function, capacity and performance standards of affected transportation facilities, and thus ensure compliance with OAR 660-012-0060 and Goal 12. *Citizens for Protection of Neighborhoods v. City of Salem*, 47 Or LUBA 111 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060 does not require preparation or analysis of a traffic impact statement, although depending on the nature of the proposed plan amendment and the local government's approach to finding or ensuring compliance with the rule, some kind of traffic generation or traffic impact analysis may be necessary. *Citizens for Protection of Neighborhoods v. City of Salem*, 47 Or LUBA 111 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. Although a petitioner waived its right to challenge a decision for failure to apply Goal 12 (Transportation) or the Transportation Planning Rule, LUBA will consider the legal arguments that the petitioner presents under that assignment of error when LUBA considers petitioner's arguments concerning nearly identically worded county code transportation standards under a different assignment of error. *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. A county does not improperly defer a determination that a rezoning decision will not significantly affect transportation facilities under county code provisions that parallel the Transportation Planning Rule, where (1) the rezoning decision effectively precludes development of the rezoned site without site design review, (2) the rezoning decision prohibits uses that would generate traffic that would be inconsistent with highway facility functional classifications or exceed levels of service and (3) any future site design review determination that the development of the site would not significantly affect transportation facilities would be a discretionary permit decision that would be appealable to LUBA. *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. Unless required by local standards, a city is not required to ensure that development permitted outright under existing plan and

zoning standards will not cause transportation facilities to fall below operational thresholds during the relevant planning period. *Heilman v. City of Corvallis*, 47 Or LUBA 305 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a city's functional classification scheme distinguishes street types based on the type or source of traffic, and requires that the majority of trips on a neighborhood collector serve traffic that starts and ends within the neighborhood, in rezoning land to higher-intensity commercial uses the city must evaluate whether the rezoning "significantly affects" the collector within the meaning of OAR 660-012-0060(2)(c), by allowing levels of travel that are inconsistent with the functional classification of that facility. *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. Where two traffic studies indicate that post-acknowledgment plan amendments may cause a transportation facility to fall below the minimum acceptable performance standard, and the respondent cites no evidence to the contrary that a reasonable person would rely upon, remand is necessary for the city to address whether the plan amendment will "significantly affect" that transportation facility within the meaning of OAR 660-012-0060(2)(d). *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. Nothing in the Transportation Planning Rule at OAR Chapter 660, Division 12 requires that a local government amend its transportation system plan before or contemporaneously with adopting a new fund to finance identified transportation improvements. *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. Because OAR 734-051-0155(4)(d) requires that access management plans shall be consistent with a city's transportation system plan and because OAR 734-051-0155(4)(k) requires that the access management plan be "adopted into" the city's transportation system plan, the city's adoption of the access management plan "concerns the adoption, amendment or application of * * * [a] comprehensive plan provision" within the meaning of ORS 197.015(10)(a) and, for that reason, is a land use decision subject to LUBA's jurisdiction. *Rhodes v. City of Talent*, 47 Or LUBA 574 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. A city errs by adopting an access management plan without adopting that access management plan as part of its transportation system plan and without following the procedures for a post acknowledgment plan amendment. *Rhodes v. City of Talent*, 47 Or LUBA 574 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. The OAR 660-012-0060 requirement that plan and land use regulation amendments "*shall assure* that allowed land uses *are* consistent with the identified function, capacity, and performance standards" of transportation facilities is written in the present tense. That the rule is written in the present tense is some indication that the rule drafters did not intend to require only that the traffic that would be generated by a

plan amendment "will be" consistent with the function, capacity and performance standards of affected transportation facilities at the end of the planning period, but intended to require such consistency throughout the planning period. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. OAR 660-012-0060, which governs amendments to comprehensive plans, serves a different purpose than the standards that apply to development of a transportation system plan. OAR 660-012-0060 was adopted to *prevent* local governments from allowing new uses that are not provided for in the plan and code, or anticipated in the TSP, which are inconsistent with the function and capacity of transportation facilities. The transportation system plan may be unconcerned with temporary failures of transportation facilities caused by already allowed uses, because there may be little the local government can do to address such temporary failures. But it does not follow that OAR 660-012-0060 is also unconcerned with temporary facility failures, or that its regulatory concerns are confined to those that animate the standards for developing a TSP. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. OAR 660-012-0060(1) provides a set of flexible tools that local governments must use to "assure" that allowed uses are consistent with the function, capacity and performance standards of transportation facilities. Those tools must be applied to mitigate both "temporary" failures that might be caused by plan amendments and to assure that such amendments do not hasten permanent failures. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. Under OAR 660-012-0040(4), LUBA does not have jurisdiction to review "timing and financing provisions" in a transportation financing program. However, LUBA does have jurisdiction to review a city decision that determines that a particular facility alternative is consistent with its transportation system plan, notwithstanding that such a decision may be driven in part by timing or financing considerations. *Ramsey v. City of Philomath*, 46 Or LUBA 241 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. A city decision that elects to construct a transportation facility that completes part but omits part of a recommended facility in a city's transportation system plan will be affirmed by LUBA where the facility to be constructed can be viewed as a first phase of the planned-for facility and the city's decision to construct the facility in phases is not inconsistent with the TSP. *Ramsey v. City of Philomath*, 46 Or LUBA 241 (2004).

16. Goal 12 - Transportation/ Goal 12 Rule. If after a first phase of a transportation system plan recommended facility is constructed a city determines to abandon the final phase, the city must amend the transportation system plan to reflect that choice. *Ramsey v. City of Philomath*, 46 Or LUBA 241 (2004).

16. Goal 12 – Transportation/ Goal 12 Rule. A threshold question under OAR 660-012-0060(2)(d) is whether development under proposed zoning will cause greater traffic impacts than development under existing zoning. If not, the inquiry under OAR 660-012-0060(2)(d)

ends there. If so, the local government must go on to evaluate whether the increased traffic will cause affected transportation facilities to fall below applicable performance standards. *Friends of Marion County v. City of Keizer*, 45 Or LUBA 236 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. In evaluating whether development under proposed zoning will cause greater traffic impacts than development under existing zoning for purposes of OAR 660-012-0060(2)(d), the local government must use consistent assumptions. *Friends of Marion County v. City of Keizer*, 45 Or LUBA 236 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the challenged decision increases the proportion of commercial-zoned lands in an area and decreases the proportion of industrial-zoned lands in that area, and does not alter the types of uses allowed in those commercial and industrial zones, a consistent comparison of traffic impacts for purposes of OAR 660-012-0060(2)(d) requires the local government to assume that the same uses will develop in industrial zones under the existing and proposed zoning, and the same uses will develop in commercial zones under the existing and proposed zoning. *Friends of Marion County v. City of Keizer*, 45 Or LUBA 236 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. An erroneous assumption in a supplemental study regarding traffic impacts of development under proposed zoning for purposes of OAR 660-012-0060(2)(d) is harmless error, where the initial traffic study reached the same conclusion of compliance with the rule using the correct assumption, and petitioner offers no reason to believe that remand to correct the erroneous assumption in the supplemental study will alter that ultimate conclusion. *Friends of Marion County v. City of Keizer*, 45 Or LUBA 236 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the challenged decision rezones 32 acres of land from a light industrial zone that allows traffic-intensive office uses to a heavy industrial zone that does not allow such office uses, the local government is not required to assume the proposed heavy industrial zone will be developed with office uses not allowed in the zone, for purposes of comparing traffic impacts under OAR 660-012-0060(2)(d). *Friends of Marion County v. City of Keizer*, 45 Or LUBA 236 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. The Oregon Department of Transportation's (ODOT's) general observation during local proceedings that it did not believe the city had adequately addressed the requirements of OAR 660-012-0060, which was followed up with specific concerns that the city addressed to ODOT's satisfaction, is not sufficient to allow a petitioner at LUBA to raise for the first time on appeal specific issues other than the specific concerns identified by ODOT. *Thomas v. City of Veneta*, 44 Or LUBA 5 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. A county population projection that does not itself "significantly affect" a transportation facility in any of the four ways described in OAR 660-012-0060 need not comply with that rule or local equivalents, notwithstanding that the population projection may set the stage for later decisions that

will significantly affect transportation facilities. *Tipperman v. Union County*, 44 Or LUBA 98 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0070(8) requires that a local government describe the adverse effects that the accessibility associated with an urban transportation facility may have on rural lands and adopt "measures which minimize [such] accessibility." Where an assignment of error is essentially a collateral challenge to a parkway that is already included in a transportation system plan rather than to the realignment of a portion of that already-approved parkway that is approved by the challenged decision, the assignment of error provides no basis for reversal or remand. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a county has alternative performance measures that have been approved by LCDC under OAR 660-012-0035(5), which establish a year 2015 target internal vehicle miles traveled (VMT) of 3,224,037 miles and establish a VMT/capita of 10.9, a decision to amend a transportation system plan such that the expect VMT/capita for 2015 remains at 10.9 but the expected internal VMT for the year 2015 increases slightly to 3,232,977 miles does not violate the alternative performance measures. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. A transportation system plan amendment that improves the expected performance of 13 intersections as compared to the existing transportation system plan does not significantly affect a transportation facility within the meaning of OAR 660-012-0060(2) and does not implicate the remedial measures that are required under OAR 660-012-0060(1), notwithstanding that a facility improvement that will be required to keep another section of roadway from failing within the planning period is placed in a less certain funding category. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. The Oregon Highway Plan Major Improvements Policy imposes a priority system favoring protection of the existing transportation system and improvements to or added capacity for the existing transportation system before building new transportation facilities. A transportation system plan amendment does not violate that priority policy where the findings demonstrate that for several decades those higher priority measures have been taken and are now inadequate to address local and regional traffic needs. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. In determining whether swapping plan designations between two similar areas of a parcel would result in a net increase in traffic impacts for purposes of the OAR 660-012-0060 requirement that plan amendments not "significantly affect" a transportation facility, a local government must consider the development potential of each area as zoned and planned, but need not consider extrinsic limitations on development, such as security concerns arising from threats of terrorism, that cast doubt on whether one of the areas could be developed to its full potential, under its existing designation. *Excelsior Investment Co. v. City of Medford*, 44 Or LUBA 553 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. Amendments to a city's comprehensive plan and land use regulations that result in an aerial tram being listed as a "basic utility" and an allowed use in the city's open space zone do not change the functional classification of the rights-of-way that the tram will pass over and, therefore, those amendments do not "substantially affect" a transportation facility within the meaning of OAR 660-012-0060. *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a transportation plan has been submitted to LCDC for acknowledgment review and LCDC has conducted that review with regard to Goal 12 and the Transportation Planning Rule (TPR), LUBA does not have authority to thereafter review the regional transportation plan for compliance with the TPR. That limit on LUBA's scope of review is not affected by the fact that the TPR was adopted to implement both Goal 12 and the ORS 197.712(2)(e) obligation concerning public facility plans, where the statutory obligation is not shown to impose transportation planning obligations that are different than those imposed by Goal 12. *Citizens Against Irresponsible Growth v. Metro*, 40 Or LUBA 426 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. Findings concluding that traffic from proposed industrial development will not change the functional classification of affected transportation facilities under OAR 660-012-0060(2)(a) and (b) are not sufficient to also conclude, for purposes of OAR 660-012-0060(2)(c), that levels of travel from the proposed development are consistent with the functional classification of affected facilities. *Alliance for Responsible Land Use v. Deschutes Cty.*, 40 Or LUBA 304 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. Depending on how functional classifications are defined in the pertinent transportation plan, evidence that levels of traffic generated by proposed development will violate the performance measure of affected transportation facilities may also be relevant to determining whether the development "significantly affects" a facility under OAR 660-012-0060(2)(c) by allowing levels of travel inconsistent with the functional classification of a transportation facility. *Alliance for Responsible Land Use v. Deschutes Cty.*, 40 Or LUBA 304 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. A finding that the proposed buildout of a subdivision will take longer than originally anticipated, and will generate less traffic during the planning period, is insufficient to demonstrate that the proposed development will not significantly affect a transportation facility that is projected to fail under increases in background traffic, where the proposed development, even if built out at a

slower pace, may cause the facility to fail earlier than it otherwise would. *DLCD v. Klamath County*, 40 Or LUBA 221 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. For an amendment to significantly affect a transportation facility under OAR 660-012-0060, the amendment must play a causative role in reducing the applicable performance standards below the minimum acceptable level. The focus of the inquiry is on the transportation impacts allowed by the amendment, not on impacts from uses already allowed by the existing plan or zoning. *ODOT v. City of Klamath Falls*, 39 Or LUBA 641 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. Although a local government may rely on improvements identified in its transportation system plan to avoid a finding of significant effect, a local government may not avoid the requirements of OAR 660-012-0060(1) by assuming the existence of unplanned future transportation improvements. *ODOT v. City of Klamath Falls*, 39 Or LUBA 641 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. Even if a transportation facility would fall below the applicable performance standard without the proposed amendment, a proposed plan amendment significantly affects the transportation facility if it would reduce the performance standard below the applicable performance standard sooner than would otherwise occur. *ODOT v. City of Klamath Falls*, 39 Or LUBA 641 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government may proceed under an assumption that a plan amendment significantly affects a transportation facility without making a specific determination under OAR 660-012-0060(2)(c) that the amendment is inconsistent with the functional classification of the facility. Although such a course creates difficulty in determining what level of mitigation is necessary under OAR 660-012-0060(1)(a) through (d), a condition that prevents the amendment from affecting the facility at all until necessary improvements are made overcomes that difficulty and complies with OAR 660-012-0060(1)(a). *ODOT v. City of Klamath Falls*, 39 Or LUBA 641 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. The transportation planning rule does not apply to the amendment of the Metro UGB where the amendment only converts rural land to urbanizable land, and does not alter the types or intensity of allowed land uses, reduce the performance standards of transportation facilities, or otherwise "significantly affect" a transportation facility within the meaning of OAR 660-012-0060. *Citizens Against Irresponsible Growth v. Metro*, 39 Or LUBA 539 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. The requirement under OAR 660-012-0065(3)(o) that the travel capacity and level of service of transportation facilities sited on rural EFU-zoned land must "be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan" is satisfied where the proposed facility would serve seven lot of record dwellings, the comprehensive plan authorizes rural dwellings and the EFU zoning statutes specifically authorize lot of record dwellings in EFU zones. *Friends of Yamhill County v. Yamhill County*, 39 Or LUBA 478 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. An existing road cannot be rejected as an alternative under OAR 660-012-0065(5)(a) because it is (1) unsafe, (2) does not meet "applicable standards," or (3) has not previously been "approved by a registered professional engineer." Under the rule, the county must also establish that the existing road cannot be improved to be "safe," meet "applicable standards," and be "approved by a registered professional engineer" "at a reasonable cost, not considering raw land costs, with available technology." *Friends of Yamhill County v. Yamhill County*, 39 Or LUBA 478 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. A decision that an existing road need not be considered as an alternative under OAR 660-012-0065(5)(a) is not supported by substantial evidence where there is no attempt to identify how costly it would be to address safety problems and bring the road up to applicable standards so that it could be approved by a registered engineer. *Friends of Yamhill County v. Yamhill County*, 39 Or LUBA 478 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0065(5)(a) prohibits consideration of "land costs," in determining whether the cost of an alternative is reasonable. "Land costs" are not limited to purchase of the fee title and include purchase of an easement. *Friends of Yamhill County v. Yamhill County*, 39 Or LUBA 478 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a zoning map is part of the city's zoning ordinance, an amendment of the zoning map constitutes a land use regulation amendment, within the meaning of OAR 660-012-0060, and must meet the requirements of OAR 660-012-0060(1) if the zoning map amendment will significantly affect a transportation facility. *Adams v. City of Medford*, 39 Or LUBA 464 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a city's finding that a zoning map amendment will not significantly affect transportation facilities is based on a lengthy transportation impact study, and petitioner attacks that finding based on other evidence of questionable relevance without developing any arguments challenging the transportation impact study, petitioner provides no basis for reversal or remand. *Adams v. City of Medford*, 39 Or LUBA 464 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government may rely on existing or planned facilities to determine whether its transportation facilities are adequate to handle additional traffic that will be generated by a proposed amendment. *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. If a local government relies on planned-for facilities to accommodate additional vehicle trips that will be generated by a proposed plan amendment, then the local government must find that those planned-for facilities will be built or improved on a schedule that will accommodate those additional trips. *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. If a proposed amendment will generate additional trips that cannot be absorbed by existing or planned-for facilities, then a local

government must adopt one or more of the strategies set out in OAR 660-012-0060(1) to make the proposal consistent with "the identified function, capacity and level of service of the [affected] facility," as is required by OAR 660-012-0060(1). *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. A determination by a local government that a proposed amendment will not *currently* significantly affect a transportation facility is insufficient to satisfy OAR 660-012-0060(1), because the rule requires a demonstration of no significant effect over the *entire* relevant planning period. *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government may rely on a transportation facility improvement that is not fully set out in the local transportation systems plan, where that improvement has been identified and deferred to a future refinement plan pursuant to OAR 660-012-0025. *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060 has no applicability to a decision vacating a county road, where the decision does not amend a functional plan, comprehensive plan or land use regulation. *Mekkers v. Yamhill County*, 39 Or LUBA 367 (2001).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government may not explicitly rely on a traffic study to demonstrate compliance with Goal 12 and then ignore a portion of the traffic study that describes anticipated deterioration in level of service. *DLCD v. Klamath County*, 38 Or LUBA 769 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. Where development will result in a change in the level of service and reduce performance standards of the facility below the minimum acceptable level of service over the relevant planning horizon, the proposed amendment "significantly affects" a transportation facility. *DLCD v. Klamath County*, 38 Or LUBA 769 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. The establishment of a new public use airport runway, along with associated road realignment and expansion of the airport boundary, is considered to be part of the "expansion of a public use airport," pursuant to OAR 660-012-0065(3)(n). *Lentz v. Lane County*, 38 Or LUBA 669 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. As long as the expansion of the public use airport continues to serve the same class of airplanes pursuant to OAR 660-012-0065, the expansion is considered to be consistent with Goals 3, 4, 11, and 14, and an exception to those goals is not required. *Lentz v. Lane County*, 38 Or LUBA 669 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. The "air, rail, water and pipeline transportation plan" required by OAR 660-012-0020(2)(e) to be included in a local government's Transportation System Plan need not include any information other than that specified in the rule; *i.e.*, the location and extent of existing or planned facilities. *Northwest Aggregates Co. v. City of Scappoose*, 38 Or LUBA 291 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. The coordination requirement at OAR 660-012-0015(5) provides that the adopting local government must provide notice and an opportunity to comment to affected local governments. However, the rule does not require that the adopting local government provide additional notice and opportunity to comment each time the proposal is modified. *Northwest Aggregates Co. v. City of Scappoose*, 38 Or LUBA 291 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060(1) and (2) contemplate that any mitigation measures that may be necessary to ensure that land uses allowed by amendments remain consistent with a facility's function, capacity and performance standards are considered after the local government has determined whether the proposed plan amendment significantly affects a transportation facility within the meaning of OAR 660-012-0060(2). It is inconsistent with that scheme to consider such mitigation measures as a means of avoiding the conclusion that an amendment significantly affects a transportation facility. *DLCD v. City of Warrenton*, 37 Or LUBA 933 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. Where an applicable transportation systems plan adopts particular performance standards, a local government errs by not using those standards to analyze whether a proposed amendment significantly affects a transportation facility, as defined by OAR 660-012-0060(2). *DLCD v. City of Warrenton*, 37 Or LUBA 933 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0045(5)(c) requires local governments to adopt legislation to comply with the rule's parking reduction requirements; it is not an independent decisional criterion applicable to every quasi-judicial application involving parking. *Douglas v. City of Lake Oswego*, 37 Or LUBA 826 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. A zoning ordinance text amendment that, as conditioned, would not permit development that would add more traffic to the transportation system than could be added under the zoning ordinance before the text amendment does not "significantly affect a transportation system," within the meaning of OAR 660-012-0060(2) (1998). *Marine Street LLC v. City of Astoria*, 37 Or LUBA 587 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060(2) (1998) does not require that a local government consider whether a proposed zoning text amendment to raise the permissible building height on one property will in some general way encourage development in the future on nearby properties that may, in turn, "significantly affect a transportation facility. *Marine Street LLC v. City of Astoria*, 37 Or LUBA 587 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government's failure to adopt a transportation system plan (TSP) by the date required by OAR 660-012-0055 does not preclude the local government from amending the transportation element of its comprehensive plan until it adopts a TSP, where it is clear under the comprehensive plan that the transportation element is a separate policy document than the TSP, and the

amendments to the transportation element are not intended to and do not have the effect of adopting a TSP. *Volny v. City of Bend*, 37 Or LUBA 493 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. A comprehensive plan amendment that changes a minor arterial to a major arterial changes the functional classification of a transportation facility and thus requires findings of compliance with OAR 660-012-0060. *Volny v. City of Bend*, 37 Or LUBA 493 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. The focus of OAR 660-012-0060 is on protecting transportation facilities from impacts inconsistent with their identified function, capacity and level of service, not on protecting adjacent residential land uses from the adverse impacts of transportation facilities. *Volny v. City of Bend*, 37 Or LUBA 493 (2000).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government's decision to rezone land to allow an industrial use generating up to 120 truck trips per day through local streets and a state highway must demonstrate compliance with Goal 12. LUBA will not exercise its authority under ORS 197.835(11)(b) to affirm the decision notwithstanding inadequate findings of compliance with Goal 12, where the parties cannot identify traffic studies or other evidence in the record sufficient to make it "obvious" or "inevitable" that the decision complies with Goal 12's requirement for a safe, convenient and economic transportation system. *Mulford v. Town of Lakeview*, 36 Or LUBA 715 (1999).

16. Goal 12 – Transportation/ Goal 12 Rule. A local provision that merely recites language from the Transportation Planning Rule, OAR 660-012-0045(2)(g), is not adequate to implement that rule, where the local provision does not contain any operative terms actually implementing the rule, and does not ensure that all amendments to land use designations, densities and design standards are consistent with the function, capacity and level of service of transportation facilities, as the rule requires. *Dept. of Transportation v. Douglas County*, 36 Or LUBA 686 (1999).

16. Goal 12 – Transportation/ Goal 12 Rule. Findings and conditions that require only external pedestrian improvements, and that require pedestrians in one part of the development to leave the subject property in order to go to another part of the development, are inadequate to demonstrate compliance with the Transportation Planning Rule's requirement for internal pedestrian facilities and clustering of buildings. *Terra v. City of Newport*, 36 Or LUBA 582 (1999).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a plan policy, implementing the Transportation Planning Rule, requires that the parking spaces per capita ratio must be reduced by 10 percent but does not specify how the starting point for computing the reduction must be computed, a city council interpretation that the starting point computation may include approved but not yet constructed parking spaces is within the city's interpretive discretion under ORS 197.829. *Baughman v. City of Portland*, 36 Or LUBA 353 (1999).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a city approves a development plan for a university district as part of a quasi-judicial proceeding, but does not incorporate it into the city's comprehensive plan or land use regulations, the development plan is not a comprehensive plan or land use regulation, and thus amendments to that plan are not subject to review for compliance with statewide planning goals or the Transportation Planning Rule. *Brome v. City of Corvallis*, 36 Or LUBA 225 (1999).

16. Goal 12 – Transportation/Goal 12 Rule. A county's transportation plan is inconsistent with the Transportation Planning Rule where it fails to inventory existing and committed bicycle and pedestrian facilities in the county, assess the capability and condition of those facilities, develop a system of planned improvements to those facilities, and depict planned improvements on a map, as required by OAR 660-012-0020. *Dept. of Transportation v. Douglas County*, 36 Or LUBA 131 (1999).

16. Goal 12 – Transportation/Goal 12 Rule. A letter from an ODOT employee regarding negotiations between ODOT and the county does not constitute an affirmative waiver of issues related to minimum street width standards under OAR 660-012-0045(7), where it is unclear what was resolved between the parties and whether the county implemented the parties' resolution. Even if petitioner ODOT had waived that issue, such waiver would not apply to petitioner DLCD. *Dept. of Transportation v. Douglas County*, 36 Or LUBA 131 (1999).

16. Goal 12 – Transportation/Goal 12 Rule. The requirement at OAR 660-012-0045(7) that the county evaluate whether its street width standards are the minimum consistent with operational needs is not satisfied by a county procedure to consider, on a case-by-case basis, whether certain street widths should be reduced. *Dept. of Transportation v. Douglas County*, 36 Or LUBA 131 (1999).

16. Goal 12 – Transportation/ Goal 12 Rule. A city does not err by failing to require that a subdivision access road be improved to particular city standards, where the applicable city criterion merely requires that the subdivision provide "paved" access. *Hunt v. City of Ashland*, 35 Or LUBA 467 (1999).

16. Goal 12 – Transportation/ Goal 12 Rule. Under OAR 660-012-0060(2)(d), a plan amendment "significantly affects" a transportation facility if it would reduce the level of service of that facility below the minimum identified acceptable level of service. Under that definition, a plan amendment that would further degrade a facility that is already operating below the minimum identified acceptable level of service "significantly affects" that facility. *Dept. of Transportation v. Coos County*, 35 Or LUBA 285 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-012-0060 does not require that a local government impose exactions to ensure that impacts from a plan amendment do not violate Transportation Planning Rule Level of Service requirements. *Dept. of Transportation v. Coos County*, 35 Or LUBA 285 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Compliance with OAR 660-012-0060 does not deprive a property of all beneficial use, where the current comprehensive plan

and zoning designations allow a range of uses that may generate any amount of traffic and are not subject to the rule. *Dept. of Transportation v. Coos County*, 35 Or LUBA 285 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. The Transportation Planning Rule, OAR 660-012-0060, requires that when a plan amendment "significantly affects" a transportation facility the local government must either ensure that the amendment is consistent with its transportation plan or amend its plan. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. When a land use allowed by a comprehensive plan amendment would "significantly affect" a transportation facility, a local government may not avoid the requirements of the Transportation Planning Rule, OAR 660-012-0060, by conditioning the amendment on improvements that maintain the facility above the thresholds provided in OAR 660-012-0060(2). *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government's reliance on a traffic study using a method not currently preferred but nonetheless required by the state Department of Transportation (ODOT) does not provide a basis for reversal or remand, where traffic analysis under either of two methods recognized by ODOT supports the conclusion reached by the local government. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government fails to satisfy the requirement of the Transportation Planning Rule, OAR 660-012-0060, to coordinate with affected jurisdictions, where it amends its comprehensive plan to allow a shopping mall designed to be a regional destination point, but limits its coordination efforts to ODOT and the surrounding county. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. When a local government has not adopted requirements in the Transportation Planning Rule at OAR 660-012-0045 regarding pedestrian and bicycle facilities, those requirements apply directly to local government land use decisions. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Although Oregon Laws 1997, chapter 859 (HB 2605) repeals two sections of the legislation that directed DLCD to adopt the Airport Planning Rule (APR), the 1997 legislation does not completely supersede the APR or DLCD's authority to adopt rules regarding airport planning. *Northwest Aggregates Co. v. City of Scappoose*, 35 Or LUBA 30 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the TPR and Airport Planning Rule specifically require that a jurisdiction include areas of its airport that extend beyond its corporate limits, a city action doing so does not violate the ORS 221.720 limitation of a

city's municipal power to its city limits. *Northwest Aggregates Co. v. City of Scappoose*, 35 Or LUBA 30 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Where petitioner adequately raised the issue of whether a street would continue to function as a local street, failure to specify the TPR or comprehensive plan provision that required that the street continue to function as a local street does not result in waiver of the issue. *Hannah v. City of Eugene*, 35 Or LUBA 1 (1998) (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Requiring that a street be connected to allow through traffic does not inevitably mean the street will cease to function as a local street, where there are identified measures that can be used to discourage non-local traffic. *Hannah v. City of Eugene*, 35 Or LUBA 1 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. A city's findings are adequate to demonstrate compliance with a criterion requiring that development approval not result in "unreasonable congestion," where the findings acknowledge that the required street connectivity will change the nature of the traffic on the street but also discuss "traffic calming measures" that are incorporated into the design. *Hannah v. City of Eugene*, 35 Or LUBA 1 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. An applicant does not carry his burden to demonstrate compliance with transportation-related criteria, where the findings supporting denial identify a flaw in the applicant's evidence resulting from conducting a traffic study in the summer when school trips would not be reflected in the study. *Lee v. City of Oregon City*, 34 Or LUBA 691 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Petitioner's allegations that decreases in potential housing density could affect transportation facilities are insufficient to show the challenged decision will "significantly affect a transportation facility," within the meaning of OAR 660-012-0060(1), where petitioner fails to identify any allegedly affected transportation facilities. *Barnard Perkins Corp. v. City of Rivergrove*, 34 Or LUBA 660 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. The Transportation Planning Rule requirements set forth at OAR 660-012-0045(2) by their terms apply directly to local codes, not local comprehensive plans. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Under OAR 660-012-0045(2) local codes must require compliance with ODOT access standards or require that an applicant obtain an access permit from ODOT as a condition of approval. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. The OAR 660-012-0045(2)(g) requirement that local governments adopt "regulations assuring that amendments to land

use designations, densities, and design standards are consistent with the functions, capacities and levels of service of facilities identified in the TSP" is not satisfied by a plan provision that fails to refer to the Transportation Planning Rule by name or number and that imposes a different threshold for application of the rule standard than is required by the rule. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. The requirement of OAR 660-012-0015(2)(a) that regional TSPs be consistent with the state TSP is violated by a comprehensive plan amendment that purports to require that ODOT provide access under circumstances that are not consistent with ODOT policies. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. The term "rural community" as used in OAR 660-012-0045(3) of the Transportation Planning Rule is broader than the term "rural community" as defined in OAR 660-022-0010(7) of the Unincorporated Communities rules. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. An amendment to a future streets plan does not significantly affect a transportation facility, and the TPR does not apply, where the record demonstrates that the decision does not change a functional classification or any standards relating to functional classifications and traffic levels would not be increased. *Fogarty v. City of Gresham*, 34 Or LUBA 309 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. Plan map and zoning amendments that significantly affect a transportation facility must be consistent with the Transportation Planning Rule (TPR). Therefore findings must address Goal 12 and the TPR as they apply to all access to the subject property unless the local government restricts access by imposing conditions of approval. *Sanders v. Yamhill County*, 34 Or LUBA 69 (1998).

16. Goal 12 – Transportation/ Goal 12 Rule. When a city finds a proposed development will not result in levels of travel or access inconsistent with the existing functional classification, the development does not "significantly affect a transportation facility" under OAR 660-12-060(2)(c), and OAR 660-12-060(1) does not apply. *Melton v. City of Cottage Grove*, 30 Or LUBA 331 (1996).

16. Goal 12 – Transportation/ Goal 12 Rule. When, prior to an appeal to LUBA, a city satisfies the coordination requirement of OAR 660-12-060(3) by consulting with the county, and the development proposal does not change between LUBA's remand order and a second appeal, the city is not required to consult with the county again during the proceedings on remand. *Melton v. City of Cottage Grove*, 30 Or LUBA 331 (1996).

16. Goal 12 – Transportation/ Goal 12 Rule. Where evidence identified in the city's brief clearly supports a finding that a proposed development will not significantly affect a transportation facility, LUBA will affirm that part of the city's decision under ORS

197.835(9), notwithstanding the city's failure to make the required finding. *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Where petitioners claim a local government decision authorizing improvements to a public right-of-way violates the Transportation Planning Rule (TPR), but fail to establish how the TPR applies to the challenged decision or how the proposed road improvements will frustrate compliance with the TPR, LUBA will deny petitioners' assignment of error. *Leathers v. Washington County*, 29 Or LUBA 343 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-12-045(4)(b) establishes minimum standards for preferential access to transit that local government regulations must meet, not maximum limitations beyond which local government regulation is prohibited. *Common Ground v. City of Gresham*, 29 Or LUBA 164 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. The requirements of OAR 660-12-045(4)(b)(B) and (C), for "clustering" buildings around transit stops and locating buildings "as close as possible" to transit stops, are not satisfied by requiring that buildings on designated transit streets abut sidewalks and that no more than 50 percent of the frontage on transit streets be occupied by auto parking and maneuvering areas. *Common Ground v. City of Gresham*, 29 Or LUBA 164 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Local government prohibitions against auto parking and maneuvering areas between a building and a transit street, and limitation of such areas to no more than 50 percent of the frontage along a transit street, are not inconsistent with or prohibited by OAR 660-12-045(4)(b). *Common Ground v. City of Gresham*, 29 Or LUBA 164 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. The requirements of OAR 660-12-045(3)(b) for facilities providing safe and convenient pedestrian and bicycle access are *minimum* requirements. Nothing in OAR 660-12-045(3)(b) or any other provision of the TPR prohibits local government adoption of architectural standards "to provide street safety and a comfortable pedestrian environment," even if they are not required by the TPR. *Common Ground v. City of Gresham*, 29 Or LUBA 164 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. In adopting a quasi-judicial comprehensive plan and land use regulation amendment, a local government is obligated either to demonstrate compliance with the Transportation Planning Rule (TPR) or, alternatively, establish that the TPR does not apply. *ONRC v. City of Seaside*, 29 Or LUBA 39 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a comprehensive plan amendment adopts a map indicating a street may be considered to receive a "Green Street" classification in the future, and future application of the "Green Street" classification will itself require a plan amendment, petitioners' challenge to the plan amendment based on

Goal 12 and the Transportation Planning Rule is premature. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a comprehensive plan map amendment to allow a proposed concrete batch plant will result in all aggregate and concrete trucks entering the subject property via a road that provides the sole access to certain existing dwellings, Goal 12 requires the local government to demonstrate the amendment will result in use of the road being safe and adequate. *Salem Golf Club v. City of Salem*, 28 Or LUBA 561 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Where a local government finds that a proposed road alignment is consistent with plan policies calling for a balanced transportation system designed to minimize energy impacts because it will shorten travel distance to a light rail station, that the facility will also shorten travel distance to a major arterial does not, of itself, mean the plan policies are violated. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Realigning a proposed minor arterial to run along an adjoining right of way does not "significantly affect a transportation facility" by changing "the functional classification of an existing or planned transportation facility," as those concepts are used in OAR 660-12-060(2). *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Where petitioner alleges a realigned minor arterial will in fact operate as a major arterial, but fails to challenge the local government's findings explaining why it believes the realigned roadway is properly classified as a minor arterial, petitioner provides no basis for reversal or remand. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

16. Goal 12 – Transportation/ Goal 12 Rule. Nothing in the Transportation Planning Rule authorizes local governments to exempt any type of retail, office or institutional buildings from the building orientation and location requirements of OAR 660-12-045(4)(b). *Sensible Transportation v. Washington County*, 28 Or LUBA 375 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. The building orientation and location requirements of OAR 660-12-045(4)(b) apply to new buildings located near transit stops, regardless of whether such buildings are located on a transit street. *Sensible Transportation v. Washington County*, 28 Or LUBA 375 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. The OAR 660-12-045(4)(b)(C) requirement that certain new buildings be located "as close as possible" to transit stops is not satisfied by code setback limitations that (1) allow a new building on a small lot fronting on a transit street to be situated 100 feet away from the transit street, or (2) require only that half of a new building on a large lot fronting on a transit street be located on the front half of such lot. *Sensible Transportation v. Washington County*, 28 Or LUBA 375 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. Where the deadlines established by OAR 660-12-055(1) and (2) for adoption of regional and local transportation system plans (TSPs) have not yet passed, and the local government has not yet adopted a TSP, the requirements of OAR 660-12-045(2) and (3) for regulations implementing TSPs are inapplicable to a decision amending the local code. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. That an amendment to an acknowledged local code may result in decreasing the level of service at an interchange does not, of itself, mean the amendment "significantly affects a transportation facility" under OAR 660-12-060(2). *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. That the record shows a code amendment will affect a site that has direct access onto a particular road is a sufficient basis for requiring the local government's determination under OAR 660-12-060(2)(c), that the amendment does not allow land uses resulting in "levels of travel or access * * * inconsistent with the functional classification of a transportation facility," to include consideration of impacts on that road. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. The coordination requirement of OAR 660-12-060(3) should be interpreted the same as the coordination provision in Goal 2, which requires the jurisdiction developing plan or land use regulation provisions (1) to exchange information with other affected governmental units; and (2) to consider and accommodate the needs of such governmental units as much as possible in formulating or revising the plan or regulations. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-12-060(1) is applicable to comprehensive plan amendments which significantly affect a transportation facility. Compliance with this rule provision must be addressed when a UGB amendment is adopted; it cannot be deferred to future annexation decisions within the UGB expansion area. *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. OAR 660-12-060(4) prohibits using the existence of transportation facilities as a basis for approving (1) exceptions to the requirements of OAR 660-12-065, adopted under OAR 660-12-070; or (2) exceptions to statewide planning goals, adopted under OAR 660-04-022 (reasons exceptions) or OAR 660-04-028 (committed exceptions). OAR 660-12-060(4) does not apply to an exception for a change to an established UGB, adopted under OAR 660-04-010(1)(c)(B). *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994).

16. Goal 12 – Transportation/ Goal 12 Rule. A local government can show an amendment to its acknowledged comprehensive plan and zoning maps complies with Goal 12 (Transportation) by establishing either (1) there is a safe and adequate transportation system to serve development under the proposed map designations, or

(2) development of the property under the proposed designations will not create greater or different transportation demands and impacts than development under the existing, acknowledged designations. *ODOT v. Clackamas County*, 27 Or LUBA 141 (1994).