

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 WILLIAM R. KERSHLIS,)
5)
6 Petitioner,)
7)
8 and)
9)
10 PETER D. SPARACINO and JOHN)
11 E. MAKEPEACE,)
12)
13 Intervenors-Petitioner,)
14)
15 vs.)
16)
17 JOSEPHINE COUNTY,)
18)
19 Respondent,)
20)
21 and)
22)
23 JOHN LEDWIDGE, JUANITA LEDWIDGE,)
24 SANDOR BOGNAR, THERESA BOGNAR,)
25 and WAYNE KRUSE,)
26)
27 Intervenors-Respondent.)

)
LUBA No. 95-044

FINAL OPINION
AND ORDER

(MEMORANDUM OPINION)
ORS 197.835(16)

28
29
30 Appeal from Josephine County.

31
32 William R. Kershllis, Grants Pass, filed a petition for
33 review and argued on his own behalf.

34
35 Peter D. Sparacino, Grants Pass, filed a petition for
36 review.

37
38 No appearance by respondent.

39
40 Duane Wm. Schultz, Grants Pass, filed the response
41 brief and argued on behalf of intervenors-respondent.

42
43 HANNA, Referee; GUSTAFSON, Referee, participated in the
44 decision.
45

1
2
3
4
5

AFFIRMED

02/21/96

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

1 Opinion by Hanna.

2 **MOTION TO INTERVENE**

3 Peter Sparacino moves to intervene in this appeal
4 proceeding on the side of petitioner. There is no
5 opposition to the motion, and it is allowed.

6 John Ledwidge, Juanita Ledwidge, Sandor Bogнар, Theresa
7 Bogнар, and Wayne Kruse, move to intervene in this appeal
8 proceeding on the side of respondent. There is no
9 opposition to the motion, and it is allowed.

10 **DISCUSSION**

11 Petitioner appeals the challenged decision, approving
12 the tentative plan for 22 lot subdivision on 122 acres in an
13 area zoned for 5-acre rural residential use.

14 Petitioner argues that the county (1) improperly
15 considered the challenged decision under regulations in
16 place at the time of application for substantive issues, but
17 followed recently adopted regulations for procedural issues
18 thereby ignoring citizen involvement and opposition; (2) did
19 not follow the law that applies to wetlands; (3) did not
20 properly apply Statewide Planning Goal 14 and its local
21 equivalent; and (4) did not properly apply Statewide
22 Planning Goal 5 and its local equivalent, Josephine County
23 Comprehensive Plan, goal 7.

24 Intervenor-petitioner makes 21 assignments of error,
25 most of which consist of general allegations of the
26 impropriety of procedures and actions of county officials

1 without reference to approval criteria. Intervenor's brief
2 does not provide even the rudiments of a legal argument.

3 LUBA does not expect the layperson to present
4 sophisticated legal arguments. Nonetheless, LUBA must make
5 decisions based on legal authority. Neither petitioner's
6 nor intervenor's presentations include any relevant legal
7 authority for any assignment of error. Moreover, as
8 intervenor-respondent points out, most of petitioner's and
9 intervenor-petitioner's assignments of error pertain to
10 issues that were waived under ORS 197.763 because they were
11 not raised below.

12 Neither petitioner nor intervenor-petitioner provide
13 any basis whatever on which we can reverse or remand the
14 challenged decision. See Scholes v. Jackson County, 28 Or
15 LUBA 407 (1994), Camp v. Josephine County, 23 Or LUBA 6
16 (1992), Deschutes Development v. Deschutes Cty., 5 Or LUBA
17 218 (1982).

18 The county's decision is affirmed.

19