

## LUBA Case Summaries

### July 2025

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● ***Oregon Shores Conservation Coalition v. City of Rockaway Beach*, LUBA No 2025-001 (July 2, 2025)**  
(Opinion by Bassham, Board Member)

Petitioner appealed a city council decision approving an application to modify a planned unit development (PUD) that the city originally approved in 2008, and to authorize construction of Phase 2 of the original PUD approval. Held: The city's decision that no residential uses will occur in the Special Area Wetland zone was not supported by adequate findings. The city's findings were inadequate because they failed to explain whether and how a PUD condition of approval that required the developer to complete the improvements within one year unless the city granted an extension impacted the schedule for Phase 2 of the PUD. Remanded.

1.4.1 – Adequacy of Findings – Generally.  
45.1 – Conditions of Approval – Generally.

● ***Miller Family Farm Limited Partnership v. Lane County*, LUBA No 2024-086 (July 2, 2025)**  
(Opinion by Zamudio, Board Chair)

Petitioner appealed a county hearings official decision denying a floodplain verification for two buildings located in the Special Flood Hazard Area. Held: The hearings official correctly concluded that the two buildings were “walled” “structures” that required floodplain development permits. Affirmed.

1.1.1 Administrative Law – Interpretation of Law – Generally.  
1.1.2 Administrative Law – Interpretation of Law – Rules of Construction.  
30.4 Zoning Ordinances – Interpretation.

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- ***Hutto v. Jackson County*, LUBA No 2024-088 (July 10, 2025)**  
(Opinion by Bassham, Board Member)

Petitioners appealed a county planner's decision approving with conditions their application for a temporary forest labor camp. Held: The county did not err in imposing an expiration date for the temporary forest labor camp that was based on the expiration date of petitioners' current Oregon Department of Forestry logging permit, which was the only expiration date supported by the record. The county did not commit any procedural error that prejudiced petitioners' substantial rights. The county did not err in imposing various conditions of approval on the temporary forest labor camp requiring compliance with wildfire hazard mitigation standards. Petitioners did not establish that the county planner was actually biased and incapable of deciding the application based on the record and the applicable standards. Affirmed.

1.2.4 Administrative Law – Denials – Evidence to Support.

1.8 Administrative Law – Burden of Proof.

- ***Piculell Properties, LLC v. City of Eugene*, LUBA No 2025-020 (July 10, 2025)**  
(Opinion by Bassham, Board Member)

Petitioner appealed a planning commission decision approving with conditions its application for a 39-lot residential subdivision. Held: Petitioner requested that this appeal be dismissed. Dismissed.

- ***Carroll v. Lane County*, LUBA No 2024-054 (July 17, 2025)**  
(Opinion by Bassham, Board Member)

On remand from the Court of Appeals. Petitioners appealed a hearings official's decision denying a legal lot verification and four property line adjustments. Held: The hearings official misconstrued Lane Code 13.030(3)(n)(ii)(bb) in concluding that the subject property was not lawfully created by deed. *Carroll v. Lane County*, 340 Or App 514, 527, \_\_\_ P3d \_\_\_ (2025). The court's decision did not affect the disposition of the remaining assignments of error. *Carroll v. Lane County*, LUBA No 2024-054 (Dec 11, 2024). Remanded.

- ***Doherty v. Morrow County*, LUBA No 2025-038 (July 18, 2025)**  
(Opinion by Bassham, Board Member)

Petitioners appealed a county approval of a partition of land. Held: The county withdrew the decision for reconsideration pursuant to ORS 197.830(13)(b) and OAR 661-010-0021. Petitioners did not refile their original notice of intent to appeal, or an amended notice of intent to appeal, in accordance with OAR 661-010-0021(5)(a). Under OAR 661-010-0021(5)(e), the appeal was dismissed. Dismissed.

- ***Hampton Lumber Mills-Banks, Inc. v. City of Banks*, LUBA No 2025-016 (July 21, 2025)**  
(Opinion by Zamudio, Board Chair)

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Petitioner appealed a city ordinance amending its zoning code to change the city's industrial zone to a light industrial zone. Held: The city withdrew the decision for reconsideration pursuant to ORS 197.830(13)(b) and OAR 661-010-0021. Petitioner did not refile their original notice of intent to appeal, or an amended notice of intent to appeal, in accordance with OAR 661-010-0021(5)(a). Under OAR 661-010-0021(5)(e), the appeal was dismissed. Dismissed.

● ***Eugene Clean Fuels LLC v. City of Eugene*, LUBA No 2025-007 (July 23, 2025)**  
(Opinion by Wilson, Board Member)

Petitioner appealed a city zoning verification decision that determined petitioner's proposed use is a "Regional Distribution Center" and therefore a prohibited use in the Heavy Industrial zone. Held: The city did not commit any procedural error where it did not allow petitioner to respond to materials submitted by opponents on reconsideration of the decision or by failing to provide a staff report, because the city code did not contain any processes for decisions on reconsideration of a zoning verification decision. The city misconstrued the law by interpreting "Regional Distribution Center" based on the separate meanings of "regional," "distribution," and "center," rather than recognizing and applying its meaning as a term of art. Remanded.

1.1.1 Administrative Law – Interpretation of Law – Generally.

1.1.2 Administrative Law – Interpretation of Law – Rules of Construction.

30.4 Zoning Ordinances – Interpretation.

● ***McDougal v. Lane County*, LUBA Nos 2025-024/030 (July 31, 2025)**  
(Opinion by Zamudio, Board Chair)

Petitioner appealed a county staff decision denying petitioner's Agricultural Building Self Certification application for two structures on the same lot on land zoned Nonimpacted Forest Lands and Impacted Forest Lands, and a subsequent planning staff decision denying petitioner's local appeal of the denial decision. Held: A county's denial of an agricultural building self-certification application is a land use decision because it concerns the application of land use regulations where the county considers and determines whether the building is or will be developed in a zone that allows those structures – a resource or rural residential zone – and the ministerial exception does not apply because the county used legal judgment in determining that the structures are not located on a farm operation by reference to the meaning of "farm use" in Lane County Code (LC) 16.090(83) and ORS 215.203(2)(a). ORS 197.015(10)(a)(A), (b)(A); *see also* ORS 455.315 (concerning agricultural building exceptions). LC 14.080(1)(a)(i) does not allow for a local appeal of a Type 1 determination except where the application is found to constitute a land use decision. The application at issue in this appeal constituted a land use decision and the county erred in rejecting petitioner's local appeal. Remanded.

3.1 – EFU Statute/Ordinances – Farm Uses – Other Uses.

25.4.7 – Local Government Procedures – Compliance with Local Ordinances/Regs – Appeal Rights.

26.2.1 – LUBA Jurisdiction – Generally.

26.2.6 – Land Use Decision: Statutory Test – Ministerial Exception.

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● ***Landwatch Lane County v. Lane County*, LUBA No 2025-008 (July 31, 2025)**  
(Opinion by Wilson, Board Member)

Petitioner appealed a county decision approving two legal lot verifications. Held: The hearings official did not misconstrue the law when, in considering Lane County Code (LC) 13.030(3)(o), defining a “legal lot,” and LC 13.140(1)(a)(i)(bb), concerning legal lot verifications, they did not revisit a past lot line adjustment that followed the county process for lot line adjustments available at the time. The hearings official did not misconstrue applicable law where they determined, for purposes of LC 13.140(1)(a)(i), the past lot line adjustment was “lawfully approved.” Affirmed.

1.1.1 Administrative Law – Interpretation of Law – Generally.  
33.3 Land Divisions – Lot Line Adjustments.

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