

## LUBA Case Summaries November 2025

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● ***ODFW v. Jackson County*, LUBA No 2025-037 (Nov 6, 2025)**  
(Opinion by Wilson, Board Member)

Petitioner appealed a county decision approving, after remand from LUBA, a post acknowledgement plan amendment (PAPA) that changes the comprehensive plan designation from Agricultural to Aggregate Resource and changes the zoning map designation from Exclusive Farm Use (EFU) to Aggregate Removal (AR) for 435 acres and adds 324 acres to the county’s inventory of significant aggregate resources. Held: Petitioner’s failure to provide a preservation statement in the fourth assignment of error of the petition for review, as required by OAR 661-010-0030(4)(d), was a technical violation where intervenor did not argue that the issue was not raised below, petitioner raised the issue in its only submission below, a nine-page submission bearing a title identifying the issue raised, and the issue was clearly addressed in the challenged decision. The county correctly construed the applicable law in identifying the conflicts between the proposed mining use and the existing deer and elk habitat, and imposing conditions to minimize the conflicts to a level where they are no longer significant. OAR 660-023-0180(1)(g); OAR 660-023-0180(5)(e); Jackson County Land Development Ordinance (JCLDO) 3.1.4(B)(1)(c). Briefly identifying a conflict and conditioning the approval with future studies for greater identification does not adequately “specify the predicted conflicts” of noise and dust for the purposes of OAR 660-023-0180(5)(b). *Rock Solid Sand and Gravel, LLC v. Umatilla County*, LUBA No 2023-033 (Oct 25, 2023). The county may not allow mining based on an alternative economic, social, environmental, and energy (ESEE) analysis under OAR 660-023-0180(5)(d) without first specifying the conflicts under OAR 660-023-0180(5)(b) and determining whether identified conflicts can be minimized under OAR 660-023-0180(5)(c). Remanded.

9.3 – Goal 5 – Open Spaces and Natural Resources/Goal 5 Rule – Conflicting Use Identification

● ***Romanov v. City of Nehalem*, LUBA No 2025-055 (Nov 7, 2025)**  
(Opinion by Wilson, Board Member)

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Petitioner appealed the city’s approval, with conditions, of a conditional use permit for a daycare facility. Held: The parties requested that the decision be remanded. OAR 661-010-0071(2)(e). Remanded.

● ***LaRoque v. Linn County*, LUBA No 2025-058 (Nov 13, 2025)**  
(Opinion by Wilson, Board Member)

Petitioner appealed the county’s approval of a conditional use permit for a multi-use public trail. Held: The parties requested that the decision be remanded. OAR 661-010-0071(2)(e). Remanded.

● ***Umstead v. Washington County*, LUBA No 2025-040 (Nov 25, 2025)**  
(Opinion by Bassham, Board Member)

Petitioners appealed a hearings officer’s approval of a preliminary plat for 30-lot subdivision within a rural exception area. Held: The hearings officer correctly construed a county criterion to regulate only those natural resources that are identified in the county’s Rural/Natural Resource Plan or Metro’s current Wildlife Habitat map, and not habitat designated by the Oregon Department of Fish and Wildlife (ODFW) that the county had not adopted into one of the county’s natural resource plans. Petitioners did not establish that the applicant’s geotechnical engineering report failed to include information required by county criteria requiring such reports to evaluate landslide risks on adjacent lands and to address proposed stormwater management, or that any informational deficiency in the report undermined a finding of compliance with an applicable approval criterion. Petitioner’s citations to a series of record pages, totaling 36, to demonstrate that an issue was preserved below does not violate the requirement in OAR 661-010-0030(4)(d), as interpreted in *Rosewood Neighborhood Association v. City of Lake Oswego*, LUBA No 2023-035 (Nov 1, 2023), that the preservation statement in the petition for review show with specificity that an issue was raised below, where each page cited clearly shows that the issue was raised. Where petitioner failed to argue in their petition for review that preservation was not required, petitioner cannot use their reply brief to argue that in the first instance without prejudicing responding parties’ substantial rights. OAR 661-010-0005. Findings addressing a county criterion that requires all lots to abut a public street or have an easement of record that failed to address the feasibility of access were inadequate and unsupported by substantial evidence, and the failure to impose adequate conditions of approval ensuring resolution of the access issues and compliance with the access criterion, required remand. Remanded.

1.4.1 – Adequacy of Findings – Generally

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