

LUBA Case Summaries

October 2025

Note: This information is compiled and made available to the public by the Land Use Board of Appeals (LUBA). These case summaries are provided for public informational use only. These case summaries are not considered part of the Board’s opinion and should not be cited as legal authority. Summarized decisions may be subject to judicial review, which may result in all or part of the LUBA decision being invalidated.

The full text of LUBA’s Final Opinions can be found at <https://www.oregon.gov/luba/Pages/Final-Opinions.aspx>. LUBA generally posts copies of its decisions online weekly. LUBA generally posts case summaries online monthly.

Case summaries below may include references to LUBA’s headnote index. Similarly indexed headnotes can be found at <https://www.oregon.gov/luba/Pages/Headnotes.aspx>.

● ***LaRoque v. City of Lebanon* (LUBA No 2025-044, Oct 3, 2025)** (Opinion by Wilson, Board Member)

Petitioners appealed a city decision interpreting chapter 16.20 of the Lebanon Development Code to allow recreational trails in the Low-Density Residential zone. Held: Petitioner failed to file their petition for review within the time allowed by OAR 661-010-0030(1) or any extension of that time under OAR 661-010-0067(2). Dismissed.

27.4.1 – LUBA Procedures/Rules – Petition for Review – Generally

● ***Soares v. City of Corvallis* (LUBA No 2025-022, Oct 9, 2025)** (Opinion by Wilson, Board Member)

Petitioners appealed a city council decision reapproving, on remand from LUBA, a tentative plat for a 10-lot subdivision. Held: The challenged decision was made on remand from *Soares v. City of Corvallis*, 56 Or LUBA 551 (2008). The city made inadequate findings regarding ORS 227.181 (1999) because the city did not explain whether and why the multiple extensions that the city granted to the applicant were for a “reasonable period of time.” A local code provision that may have voided the application was not applicable under the goal post rule. ORS 227.178(3)(a) (2003). The city did not err in deferring satisfaction of nondiscretionary technical engineering design standards to a later review process that will not offer an opportunity for public participation because those standards are not “applicable discretionary approval standards.” *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447-48 (1992). The city’s finding that the negative effects of development upon the natural environment will be minimized was not supported by substantial evidence where the city pointed to no evidence that overland stormwater runoff will be captured. Remanded.

1.4.6 – Administrative Law – Adequacy of Findings – Issues Addressed

LUBA Case Summaries

October 2025

25.4.6 – Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law

● ***O'Malley v. Clackamas County* (LUBA No 2025-046, Oct 21, 2025)**

(Opinion by Bassham, Board Member)

Petitioners appealed a violation letter issued by a county code enforcement officer. Held: LUBA lacks jurisdiction over the appeal because petitioner did not exhaust all local remedies available by right. ORS 197.825(2)(a). Dismissed.

26.2.2 – LUBA Jurisdiction – Land Use Decision: Statutory Test – Final Decision

● ***Central Oregon Landwatch v. Jefferson County* (LUBA No 2025-023, Oct 31, 2025)**

(Opinion by Zamudio, Board Chair)

Petitioner appealed a comprehensive plan map amendment and zone change from Rural Land to Rural Residential 2-acre and adopted exceptions to Statewide Planning Goals 3 (Agricultural Lands) and 14 (Urbanization). Held: The challenged decision was made on remand from *Central Oregon Landwatch v. Jefferson County*, LUBA No 2023-026 (July 25, 2024). Petitioner was not entitled to expanded process on remand to raise new issues or respond to evidence that was in the record during the initial proceeding. Jefferson County Zoning Ordinance (JCZO) 908.2; ORS 197.797; *Beck v. City of Tillamook*, 313 Or 148, 151, 831 P2d 674 (1992). Petitioner did not raise, and thus waived, issues challenging the Goal 14 irrevocably committed exception. ORS 197.797; *Boldt v. Clackamas County*, 21 Or LUBA 40, 46, *aff'd*, 107 Or App 619, 813 P2d 1078 (1991). Notwithstanding the county's conceded notice failure, LUBA would not consider an issue that "could have been raised before the local government." ORS 197.835(4)(a). Petitioner either was notified of the Goal 14 irrevocably committed exception or petitioner should have identified that issue through reasonably diligent review of the public record. The county's findings and statements of reasons supporting the Goal 3 irrevocably committed exception were insufficient to demonstrate that farm uses are impracticable on the subject property. ORS 197.732(6)(a), (1)(b); OAR 660-004-0028(1). Remanded.

7.6 – Goal 3 – Agricultural Lands – Exceptions to

18.7 – Goal 14- Urbanization – Exceptions to

25.3.9 – Compliance with Statutes – Raise it/Waive it

[End of Document]