

LUBA Case Summaries September 2025

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● ***1000 Friends of Oregon v. Linn County*, LUBA Nos 2025-003/004 (Sept 4, 2025)** (Opinion by Zamudio, Board Chair)

Petitioner appealed two board of commissioners decisions rezoning the subject property from Farm/Forest to Non-Resource 5-acre Minimum. Held: A motion to strike will be granted where maps included in parties' briefs have been modified to illustrate a disputed point. *Carver v. City of Salem*, 42 Or LUBA 305, 309, *aff'd*, 184 Or App 503, 57 P3d 602 (2002). The county plausibly interpreted a dwelling density standard as being calculated by the number of dwellings within an entire section that includes mapped habitat as well as not mapped habitat. The county's findings were adequate and supported by substantial evidence. Affirmed.

9.5 – Goal 5 – Open Spaces and Natural Resources – Resource Protection Programs

● ***Friends of Yamhill County v. Yamhill County*, LUBA No 2022-081 (Sept 19, 2025)** (Opinion by Bassham, Board Member)

On remand from the Supreme Court. Petitioner appealed a board of commissioners decision approving a conditional use permit to operate a bed and breakfast as a home occupation. Held: The present record and findings do not support that any resident of the dwelling would be the "farm operator" who farms the vineyard that qualifies the property for the farm dwelling, and so do not provide a basis for the county to conclude that the dwelling proposed for the home occupation qualifies as a "dwelling" for the purposes of ORS 215.448(1)(c)(A). On remand, the county must make an initial determination, based on the proposed structure's design characteristics, including applicable building code standards, and other relevant considerations, whether the proposed structure is properly characterized as a dwelling or something else. On remand, the county must apply its local cognate of ORS 215.448(1)(c) consistently with the Supreme Court's decision, and must address its code definitions of "dwelling," "dwelling unit," and "family," and determine whether the proposed structure constitutes a "dwelling" when read in context with those definitions and any other relevant code text. Remanded.

LUBA Case Summaries September 2025

3.2.1 – EFU Statute/Ordinances – Farm Uses – Generally
31.3.10 – Permits – Particular Uses – Home Occupations

● ***Central Oregon Landwatch v. Deschutes County*, LUBA No 2025-034 (Sept 22, 2025)**
(Opinion by Bassham, Board Member)

Petitioner appealed a board of commissioners decision redesignating and rezoning a parcel from agricultural to rural industrial use. Held: An issue is preserved for review where it is sufficiently raised below so that the decision maker addresses the issue in the decision. ORS 197.797(1); *Kipp v. City of Astoria*, LUBA No 2024-012 (Dec 11, 2024) (slip op at 20-21). Statewide Planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) applies where the proposed rezoning allows “new uses that could be conflicting uses” and the economic, social, environmental, and energy (ESEE) analysis for the Goal 5 program adoption only evaluated the uses that existed at the time that the county adopted the Goal 5 program and not did not evaluate new uses allowed by the rezone. OAR 660-023-0250(3)(b); *Central Oregon Landwatch v. Deschutes County*, LUBA No 2023-008 (Apr 24, 2023) (slip op at 36-40). The county was not required to do a site-specific evaluation to determine if the proposed rezoning would allow urban uses of rural land, in contravention of State Planning Goal 14 (Urbanization), because the legislative history of this specific zone in this specific county is “independently sufficient” to demonstrate consistency with Goal 14. *Central Oregon Landwatch v. Deschutes County*, LUBA No 2022-075 (Dec 6, 2022), *aff’d*, 324 Or App 655, 525 P3d 895 (2023) (*Aceti V*). The county did not misconstrue OAR 660-033-0020(1)(a)(B) in weighing the seven factors to determine that the subject property is not suitable for farm use, nor did it misconstrue the definition of “farm use” in ORS 215.203(2)(a), and petitioner did not demonstrate that the findings were inadequate or not supported by substantial evidence. Remanded.

25.3.9 Local Government Procedures – Compliance with Statutes – Raise It/Waive It
9.4 – Goal 5 – Open Spaces and Natural Resources – ESEE Consequence Determination
18.5 – Goal 14 – Urbanization – Urban Uses on Rural Land
7.2.1 – Goal 3 Agricultural Lands – Agricultural Land Definition – Generally

● ***Juniper Institute, LLC v. Deschutes County*, LUBA No 2024-077 (Sept 24, 2025)**
(Opinion by Zamudio, Board Chair)

On remand from the Court of Appeals. Petitioner appealed a board of commissioners decision denying petitioner’s applications for a conditional use permit and site plan review for a psilocybin service center in the Exclusive Farm Use Zone (EFU) and Destination Resort (DR) Combining Zone. Held: The county plausibly construed Deschutes County Code (DCC) 18.128.015(A)(2), regarding the “adequacy of transportation access to the site,” in determining that the access to the site must be viewed with the context of the proposed conditional use. The county properly concluded that petitioner had failed to meet its burden to prove that it met the transportation access criteria because petitioner had not established that it is permitted to transport psilocybin across federal land. The county’s decision did not violate ORS 475A.530(1)(e). Affirmed.

1.1.3 – Interpretation of Law – Effect of Local Government Interpretation

**LUBA Case Summaries
September 2025**

50 – Psilocybin Laws

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