

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

ROYAL BLUE ORGANICS,
Petitioner,

vs.

CITY OF SPRINGFIELD,
Respondent,

and

SPRINGFIELD UTILITY BOARD,
Intervenor-Respondent.

LUBA Nos. 2019-092/094/095/134

FINAL OPINION
AND ORDER

Appeal on remand from the Court of Appeals.

William H. Sherlock and Zack P. Mittge represented petitioner.

Kristina Kraaz represented respondent.

Micheal J. Gelardi represented intervenor-respondent.

ZAMUDIO, Board Member; RUDD, Board Chair, participated in the
decision.

RYAN, Board Member, did not participate in the decision.

REMANDED 06/11/2021

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

NATURE OF THE DECISION

In these consolidated appeals, petitioner challenges four related decisions approving development of an electrical substation and transmission line by intervenor-respondent Springfield Utility Board (SUB). Those four decisions include tentative site plan review, tree felling permit, hillside development permit, and director's use interpretation.

BACKGROUND

This matter is on remand from the Court of Appeals. *Royal Blue Organics v. City of Springfield*, ___ Or LUBA ___ (LUBA Nos 2019-092/094/095/134, Nov 12, 2020), *rev'd and rem'd*, 310 Or App 518, ___ P3d ___ (2021). In our decision on review to the court, we affirmed the director's use interpretation and remanded the city's site plan review approval, tree felling permit, and hillside development permit.

We observed that the substation site and substation access road overlay a delineated wetland, which will be filled to allow that development. We agreed with petitioner that the planning commission erred in finding that the wetland is not a "watercourse" subject to water quality protection standards in Springfield Development Code (SDC) 4.3-115. The court reversed that aspect of our decision and held:

"The water quality protection standards of SDC 4.3-115(C)(1)(a) do not apply to the proposed substation site on tax lot 101. Instead, the natural resource protections of SDC 4.3-117 apply and, because the

1 wetland on the site was designated by the city as nonsignificant, the
2 required protections are through the federal and state permits SUB
3 received for the site development.” 310 Or App at 533.

4 The court’s opinion does not require us to revisit any other dispositions.

5 For the reasons explained in our November 12, 2020 decision, except as
6 modified by the Court of Appeals’ decision, the city’s site plan review approval,
7 tree felling permit, and hillside development permit are remanded.