

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

CENTRAL OREGON LANDWATCH,  
*Petitioner,*

vs.

DESCHUTES COUNTY,  
*Respondent,*

and

MICHAEL GEMMET,  
*Intervenor-Respondent.*

LUBA No. 2022-087

FINAL OPINION  
AND ORDER

Appeal on remand from the Court of Appeals.

Carol E. Macbeth represented petitioner.

No appearance by Deschutes County.

Lisa Andrach represented intervenor-respondent.

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

AFFIRMED

11/13/2023

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

**NATURE OF THE DECISION**

Petitioner appeals a county hearings officer decision approving an application for a declaratory ruling that a guest ranch previously approved as a conditional use has been initiated on the subject property.

**BACKGROUND**

This matter is on remand from the Court of Appeals. *Central Oregon Landwatch v. Deschutes County*, 326 Or App 439 (2023). We set out the facts in our prior decision and do not restate them here. *Central Oregon Landwatch v. Deschutes County*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2022-087, Feb 3, 2023).

**THIRD ASSIGNMENT OF ERROR**

In our decision, we sustained petitioner’s third assignment of error and remanded the county’s decision to the county with instructions to consider the petitioner’s arguments on nonconforming uses and abandonment. *Id.* at \_\_\_ (slip op at 16). On judicial review, the Court of Appeals agreed with intervenor-respondent that “under the text and context of the applicable law, the declaratory ruling on initiation of use that [petitioner] sought did not involve the nonconforming use standards, so the hearings officer correctly declined to consider COLW’s arguments on nonconforming use and abandonment,” and reversed this portion of our decision.” 326 Or App at 448-49. Accordingly, for the reasons set out in the court’s decision, the third assignment of error is denied.

The county’s decision is affirmed.