

LUBA Case Summaries

February 2025

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• ***Shaffer v. Yamhill County*, LUBA No 2024-052 (Feb 3, 2025)**
(Opinion by Rudd, Board Member)

Petitioners appealed a county planning director decision approving a lot line adjustment. Held: The county's failure to provide timely notice of the planning director decision and the related opportunity for a local appeal prejudiced petitioners' substantial rights. Remanded.

• ***Beyond Toxics v. City of Eugene*, LUBA No 2024-063 (Feb 20, 2025)**
(Opinion by Ryan, Board Member)

Petitioner appealed a zone verification decision. Held: The city withdrew the decision for reconsideration pursuant to ORS 197.830(13)(b) and OAR 661-010-0021. Petitioner did not refile their original notice of intent to appeal, or an amended notice of intent to appeal in accordance with OAR 661-010-0021(5)(a). Under, OAR 661-010-0021(5)(e), the appeal is dismissed. Dismissed.

• ***Juniper Institute, LLC v. Deschutes County*, LUBA No 2024-077 (Feb 21, 2025)**
(Opinion by Zamudio, Board Chair)

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 on property in the Exclusive Farm Use and Destination Resort Combining zones. Held: The county implausibly interpreted the term "access" in Deschutes County Code 18.128.015(A)(2) in determining that there was not adequate transportation access to the site. The county's finding that petitioner acknowledged that its proposed use was not allowed by the express terms of a right-of-way across Bureau of Land Management land was not supported by substantial evidence. The county also exceeded its authority by applying and interpreting federal law, the Controlled Substance Act, in denying the applications. ORS 197.835(10)(a)(A). Reversed.

LUBA Case Summaries
February 2025

- ***Stevenson v. Jackson County*, LUBA No 2024-052 (Feb 26, 2025)**
(Opinion by Zamudio, Board Chair)

Petitioners appealed a county decision denying an application for an ownership of record dwelling on property in an Exclusive Farm Use zone. Held: Petitioners 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.

- ***Confederated Tribes of the Warm Springs Reservation of Oregon et al. v. Deschutes County*, LUBA Nos 2023-038/039/041 (Feb 26, 2025)**
(Opinion by Zamudio, Board Chair)

On remand from the Court of Appeals. Petitioners appealed a board of commissioners decision approving the modification of a destination resort final master plan amending the resort's fish habitat mitigation plan and adopting measures that the county determined will satisfy the no net loss standard in Deschutes County Code 18.113.070(D). Held: As directed by the Court of Appeals' decision, the county must address the issue of whether the resort's fish habitat mitigation plan violates the Treaty with the Tribes of Middle Oregon, dated June 25, 1855. Remanded.

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