

LUBA Case Summaries December 2023

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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.

● ***King v. Columbia County* (LUBA No 2023-034, Dec 11, 2023)**
(Opinion by Rudd, Board Member)

Petitioner appealed a county board of commissioners’ approval of an application to site a forest template dwelling allowed by ORS 215.750 as implemented in Columbia County Zoning Ordinance section 504. Held: In three assignments of error, petitioner argued that the county erred in concluding that the parcels that the county relied upon to satisfy the forest template dwelling test are lawfully established units of land and that the road abutting the subject property existed on the relevant date. LUBA denied the three assignments of error because petitioner failed to demonstrate that the issues were preserved. Moreover, petitioner failed to develop their arguments and to challenge all relevant findings. Affirmed.

● ***Evergreen Land Conservancy v. Jackson County* (LUBA No 2023-080, Dec 19, 2023)**
(Opinion by Ryan, Board Chair)

Petitioner filed a notice of intent to appeal (NITA) that was not accompanied by the filing fee required by OAR 661-010-0015(4). LUBA issued an order that required petitioner to remit payment of the filing fee by a certain date. LUBA did not receive the required filing fee by the date specified in the order. Held: Dismissed.

● ***Friends of Yamhill County v. Yamhill County* (LUBA No 2023-057, Dec 20, 2023)**
(Opinion by Ryan, Board Chair)

Petitioner appealed a decision by the county board of commissioners approving a permit to conduct up to 18 agritourism and other commercial events per calendar year on land zoned exclusive farm use (EFU) allowed by ORS 215.283(4) as implemented in Yamhill County Zoning Ordinance Section 1013. Held: The applicant’s explanation that the events are related to their agricultural use, raising longhorn cattle, as well as a condition of approval that promotional materials will be provided at the events, is sufficient to establish that the events are “related to and supportive of agriculture” within the plain, ordinary meaning of those words in ORS 215.283(4). To obtain approval for up to 18 events or activities in a calendar year, an applicant must demonstrate that the proposed events or activities are “‘necessary to support’ the commercial farm uses or the commercial agricultural enterprises in the area.” ORS

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215.283(4)(d)(A). An applicant must demonstrate that the events are essential to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area. The county misconstrued ORS 215.283(4)(d)(A) by evaluating only a discreet, single farm use on the property, where it is undisputed that multiple farm uses are occurring. The county misconstrued ORS 215.283(4)(c)(E) and adopted inadequate findings that the events, in combination with other agritourism or other commercial events or activities authorized in the area, will not materially alter the stability of the land use pattern in the area. To establish that the proposed events will not materially alter the stability of that land use pattern, the applicant and the county must first identify the following: (1) the pertinent area, (2) the area's land use pattern, and (3) the other authorized agritourism or commercial events in the area. Remanded.

● ***Magie et al v. City of Astoria* (LUBA No 2022-015, Dec 29, 2023)**
(Opinion by Zamudio, Board Member)

Petitioners appealed a Community Development Director's determination that the short-term rental use of their property was not allowed. Held: Petitioners requested that this appeal be dismissed. Dismissed.

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