

## LUBA Case Summaries October 2024

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● ***The Home Depot, Inc. v. City of Wilsonville* (LUBA Nos 2024-029/033, Oct 1, 2024)**  
(Opinion by Zamudio, Board Chair)

Petitioner appealed a city council decision verifying and determining the nature and extent of a nonconforming use and a subsequent city council decision that petitioner's use is not a continuation of the verified nonconforming use. Held: The city council plausibly interpreted the city code provisions governing nonconforming uses in concluding that the nature and extent of the protected nonconforming use is defined by the use at the time that it became nonconforming. Based on that interpretation, the city did not err in concluding that petitioner's proposed use is not a continuation of the verified nonconforming use. The city's application of the city code provisions governing nonconforming uses did not violate the codification requirement in ORS 227.173. Affirmed.

● ***Gould v. Deschutes County* (LUBA Nos 2024-036/040, Oct 9, 2024)**  
(Opinion by Ryan, Board Member)

Petitioners appealed emails from county counsel that denied requests to file local appeals of a county planner decision approving a one-year extension of previously issued site plan approvals on land use zoned for exclusive farm use. Held: LUBA had jurisdiction over the appeals because the emails concerned the application of Deschutes County Code Title 22, a land use regulation. The county correctly concluded that the county code did not entitle petitioners to a local appeal of the extension decision. Petitioners did not demonstrate that the county committed a procedural error because they did not demonstrate that the county failed to follow any procedures applicable to the challenged decisions. Affirmed.

● ***Leckie v. Lane County* (LUBA No 2024-024, Oct 10, 2024)**  
(Opinion by Ryan, Board Member)

Petitioner appealed a hearings officer decision concluding that petitioner's property is not a lawfully established unit of land. Held: Petitioner's property was originally included in a subdivision, those lots lines were later vacated by partition, and then attempted to be recreated by deed. The hearings officer did not misconstrue applicable local code, implementing state law, where they concluded that the later deed did not comply with the land division ordinance. The

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county's decision was supported by substantial evidence and did not misconstrue applicable law where it determined that a land use decision verifying a portion of a parcel as a legal lot, that was not the subject property, did not also verify the subject property as a legal lot. Affirmed.

- ***Phillips v. Polk County* (LUBA No 2024-031, Oct 18, 2024)**  
(Opinion by Ryan, Board Member)

Petitioner appealed a board of commissioners' decision vacating an unimproved county right of way. Held: Petitioner did not file a petition for review within the time required by OAR 661-010-0030(1). Dismissed.

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