

History of Ockenden LUBA Remand: March 5, 2008 - Present ***Walker v. Josephine County, 60 Or LUBA 186 (2009)***

May 5, 2011

LOCAL JOSEPHINE COUNTY PROCEEDINGS

The challenged land use decision is Josephine County's approval of a request to amend the Josephine County Comprehensive Plan (JCCP, Ordinance 81-11, as amended), by changing the designations from Forest and Agricultural to Residential and amending the Zoning Map of Josephine County (Ordinance 85-1, as amended), from Woodlot Resource (WR) and Farm Resource (FR) to Rural Residential - 5 Acre minimum (RR-5). The subject property is located in the 3200 block of Hugo Road. Property Owner: Ward Ockenden.

The Josephine County Rural Planning Commission (RPC) hearings included: March 5, 2008, February 5, 2007, January 22, 2007, and December 18, 2006. The RPC concluded that compliance with several criteria had not been met. On March 15, 2008 the RPC recommended denial of the application with a vote to disapprove 8 to 1.

The Josephine County Board of County Commissioners (BCC) held a public appeal hearing on the RPC's record February 20, 2008 which was continued to March 12, 2008, and then to March 19, 2008 when the record was closed and a tentative oral decision was made to approve the request with conditions. On August 4, 2008, the BCC considered a request by the applicant and property owner Ward Ockenden that it initiate a special hearing to further consider the matter at which time the BCC decided to conduct another hearing. A public hearing was held on September 12, 2008 for a decision on the request. An objection to the authority of the BCC to conduct the hearing on October 6, 2008 was raised by Holger Sommer, Mike Walker, Hal Anthony, John Makepeace, Wayne McKy, and Susan Liebenburg. The BCC noted the objections and stated that the special hearing was initiated by the BCC and authorized by the Josephine County Rural Development Code (RLDC) 31.030. On October 6, 2008 the BCC made a tentative oral decision to approve the request without conditions.

The "Findings of Fact" and final decision was signed November 26, 2008 by the BCC which became final December 2, 2008 with the "Notice of Legislative Land Use Decision."

Petitioners filed a notice of intent to appeal on December 18, 2008. The record of proceedings for LUBA No. 2008-224 was available April 27, 2009. Petitioners filed an objection to the record on May 4, 2009. On July 27, 2009, LUBA issued an order resolving the record objections and required the county to file a second supplemental record. On August 17, 2009, LUBA received a second supplemental record from the county. LUBA ordered the record settled on September 8, 2009.

NOTICE OF INTENT TO APPEAL (NOIA)

December 18, 2008 Petitioners Notice of Intent to Appeal (LUBA No. 2008-224) (start date)

RECORD

December 29, 2009 Respondent Request For Extension Of Time (11 days)
MOTION FOR EXTENSION OF TIME FOR FILING RECORD

April 23, 2009 Respondent First Transmittal of Record (115 days)
LUBA No. 2008-224 TRANSMITTAL OF RECORD OF PROCEEDINGS

May 4, 2009 Petitioners Objection to the Record (11 days)
OBJECTION TO RECORD

Map 18, 2009 Respondent Supplement to Record & Response (14 days)
SUPPLEMENT TO RECORD OF PROCEEDING and RESPONSE TO PETITIONER'S
OBJECTION TO THE RECORD

May 28, 2009 Petitioners Objection to the Record & Response (14 days)
OBJECTION TO THE RESPONDENT'S SUPPLEMENT TO RECORD OF
PROCEEDING and RESPONSE TO RESPONDENT'S RESPONSE TO PETITIONERS'
OBJECTION TO THE RECORD

June 3, 2009 Respondent Supplemental Response (6 days)
SUPPLEMENTAL RESPONSE TO PETITIONER'S OBJECTION TO THE RECORD

Walker v. Josephine County LUBA No. 2008-224 ORDER July 27, 2009 (54 days)
LUBA ORDER resolving the record sustaining some of the Petitioners' objections and partially
sustaining others.

July 30, 2009 Letter From Petitioners to Respondent (3 days)
Petitioners hand delivered record to Respondent for binding.

August 3, 2009 Respondent Put Record in Binders (4 days)
Pursuant to LUBA's Order dated July 27, 2009, Respondent put the Petitioners' copy of the
record into binders.

August 14, 2009 Respondent Request For Extension Of Time (11 days)
MOTION FOR EXTENSION OF TIME FOR FILING SECOND SUPPLEMENT TO RECORD
OF PROCEEDING

September 2, 2009 Respondent's Second Supplement to Record (11 days)
SECOND SUPPLEMENT TO RECORD OF PROCEEDINGS

Walker v. Josephine County LUBA No. 2008-224 ORDER September 8, 2009

December 18, 2008 Petitioners Notice of Intent to Appeal

The following time analysis is what the parties of the Ockenden LUBA appeal took to file, within legal time periods, their applicable papers to finalize the record of the proceedings as of September 10, 2009.

Respondent Josephine County used 161 days (64%) out of 252 days.

- 115 days
- 14 days
- 6 days
- 4 days
- 11 days
- 11 days
- 161 days

LUBA used 54 days (21%) out of 252 days.

- 54 days

Petitioners used 37 days (15%) out of 252 days.

- 11 days
- 14 days
- 3 days
- 9 days
- 37 days

The record of proceedings phase of the Ockenden LUBA appeal No. 2008-224 started on December 18, 2008 when Petitioners filed their notice of intent to appeal. As of September 11, 2009 the record phase has consumed 252 days (over eight months) and it is not over yet. This is the time it has taken for the parties to file, within legal time periods, their applicable papers to finalize the record of the proceedings.

The Respondent (Josephine County) has used the bulk of this time to prepare the record and supplements to the record of proceedings - 161 days (64%) out of 252 days. LUBA used 54 days (21%) out of 252 days to file an order on the record. The Petitioners used 37 days (15%) out of 252 days filing objections to the record.

LUBA REMAND December 15, 2009

Walker v. Josephine County, 60 Or LUBA 186 (2009).

PRESENT DAY: MAY 5, 2011

It has been over 17 months since the December 15, 2009 remand without a local remand proceeding scheduled.

SUMMARY

I think the first land use application from the same applicant for the same request started in 1993. It ended with a LUBA remand May 25, 1994 (LUBA No. 94-018) (*Doob vs. Josephine County* 27 Or LUBA 293 (1994)).

This present day LUBA remand started March 5, 2008 with the first local proceeding before the RPC to the present day, over three years. It has been over 17 months since the December 15, 2009 remand without a local remand proceeding scheduled.