

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

Regarding an Application for a Conditional Use)	Case File No.
Permit to Operate a Winery.)	Z0221-19-C
)	(Butteville Road Winery)

A. SUMMARY

1. The owner is Bob Lanphere. The applicant is Lanphere Construction & Development, LLC.
2. The subject property is located at 26444 Northeast Butteville Road, Aurora, OR 97002. The legal description is T3S R1W, Section 26, Tax Lot 2700, W.M. The subject property is approximately 18.25 acres and is zoned EFU – Exclusive Farm Use.
4. On September 19, 2019, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application. At the close of the public hearing, the record was closed.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on September 19, 2019. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, county planner Melissa Ahrens discussed the staff report and recommended approval of the application.
3. Bob Lanphere and Reed Stapleton testified in support of the application.
4. Wayne Richards testified in opposition to the application.

5. At the conclusion of the public hearing, the Hearings Officer closed the public hearing and closed the record.

C. FACTS

The subject property is an approximately 18.25-acre parcel zoned EFU. The property is located at 26444 Northeast Butteville Road, Aurora, OR 97002. The staff report gives an excellent description of the subject property and the proposed use:

“The subject property is located in a predominantly rural area, with an established agricultural character and pattern of development. The subject site is approximately 18 acres and generally rectangular in shape. The site is developed with the following improvements (See Exhibit 1); a single family residence, a barn, a red accessory building, and a farmers market building permitted in Z0393-05-C. The site also contains two storm basins, paved parking areas and drive aisles for site circulation. At the southern end of the site where the topography steepens, there is a vegetated resource area that will not be altered or otherwise disturbed as part of this project. There is also an existing cell tower near the south end of the site that was permitted separately in 1996 (file no. Z0034-96); the cell tower is unrelated to this land use application. The topography of the property is relatively level and contains a mix of cleared farmland and vegetated forest. According to the applicant, five acres of the property have already been planted with winery grapes, with two (2) more acres planned for future winery grape establishment. Access to the site is via an ODOT access easement off of Butteville Road. See Exhibit 2. This access easement is paved up to the property line of the subject property.

“All the adjacent and surrounding properties to the east, west and south are zoned Exclusive Farm Use. The adjacent property to the south is part of the I-205 right-of-way which includes a large undeveloped area in grass, the southbound on-ramp and freeway travel lanes. The adjacent property to the south is approximately 11.92 acres. This property is vacant and primarily in forest production. The adjacent properties to the west includes two tax lots. Tax lot 3300 is approximately 29 acres. This property is developed with a single family dwelling located near Boones Ferry Road. The property is partially in forest production and some sort of grass or field crop. Tax lot 3200 is approximately 36 acres. This property is vacant and primarily in timber production. The adjacent properties to the north are zoned EFU and RRFF-5. Tax lot 2000 is approximately 17 acres and developed with a single family dwelling and used for grass or field crop. The property directly to the north is part of the State Highway right-of-way and is developed with the access easement serving the subject property.

“A previous conditional use land use application for establishment of an

agricultural marketing and service center as a commercial activity in conjunction with farm use was approved through a Hearings Officer (HO) decision in 2005. The proposed winery would replace the previously approved agricultural marketing use and service center, with only limited sales and service of agricultural supplies still occurring on site in an existing building.

“* * * * *

“The applicant proposes a Conditional Use for Commercial activities in conjunction with farm use to authorize conversion of an existing farm stand site into a winery with processing, wine grape production, and tasting facilities on site. Existing on site buildings (a 10,000 sq. ft. building and a 4,250 sq. ft. building) will house the new wine processing and tasting room uses and up to seven acres of the property will be planted and maintained with wine grapes. Other grapes used for wine processing are proposed to be sourced from off-site locations within a 20 mile radius of the subject site. The proposed sourcing locations are identified in materials submitted by the applicant. Specifically, wine grapes are proposed to be sourced from the following sites:

- “1) 30595 SW Laurelview Road in Hillsboro – approximately 0.25 acres of grapes. This site is 13.5 miles from the Butteville Road winery site.
- “2) 33360 SW Laurel Road in Hillsboro – approximately 3.0 acres of grapes. This site is 15.1 miles from the Butteville Road winery site.
- “3) 30088 SW Egger Road in Hillsboro (Ruby Vineyards) – approximately 5.0 acres of grapes. This site is 13.2 miles from the Butteville Road winery site.

“Specifically, the applicant proposes to grow and harvest seven (7) acres of grapes on site that will be combined and processed with off-site sourced grapes into wine in facilities on the property. Wine made on site will be available for tasting and purchase in the proposed tasting room.

“The applicant will use existing buildings on the site as follows:

- “1) The existing small red building will be used for the tasting room. The tasting room will have approximately 4,250 square feet of floor area.
- “2) The larger building (10,000 square feet) will be used for several activities:

“Approximately 3,000 square feet will be used for sales and service of agricultural supplies. This use was approved under a previous conditional use review (Z0393-05-C).

“Approximately 5,000 square feet of the building will be used for wine production/processing.

“Approximately 2,000 square feet will be used for storage.

“The applicant anticipates approximately six employees will be on the site at any given time to manage the vineyard, make wine and staff the tasting room. The tasting room is expected to be open seven days a week from 10:00 AM to 7:00 PM. Vehicles anticipated to use the site will be those belonging to employees and visitors to the tasting room. Other equipment on the site will include a tractor and standing lawn mower for the vineyard and other property maintenance. As noted above, the applicant will use existing buildings and site improvements; no site development or disturbance is proposed as part of this project other than conversion of the existing buildings on site to accommodate the new use.

“An existing stream on the southern part of the property, a significant distance from the existing developed portions of the property, is shown on the County’s River and Stream Conservation Area (RSCA) Maps as ‘small’ and is subject to minimum setback of 50’ per Section 704 of the Zoning and Development Ordinance. The proposed conditional use and associated building conversions would not require a separate land use approval for any encroachment into the RSCA buffer. No other environmental overlays are present on site that would require additional land use review. Notice was provided to Department of State Lands and no comments have been received as of the date of this decision. Future disturbance within the RSCA may require submission of a land use application.” Staff Report 6-8.

D. DISCUSSION

The staff report thoroughly explains how all of the applicable approval criteria are satisfied. The majority of the findings in the staff report are not challenged. It would be a waste of the County’s money and resources to review and repeat all of the unchallenged findings in the staff report. I have reviewed the findings in the staff report, and I agree with those findings. Therefore, I adopt and incorporate the findings in the staff report in this decision, except as addressed further.

Clackamas Zoning and Development Ordinance (ZDO) 1203.03 provides the approval criteria for conditional uses. ZDO 1203.03(A) provides, “[t]he use is listed as a conditional use in the zoning district in which the subject property is located.” The applicant argues that the proposed use is “Commercial or processing activities that are in conjunction with farm or forest uses,” which is a conditional use in the EFU zone.

According to the applicant, the production of wine from the subject property and from local agricultural producers is a processing activity in conjunction with farm use.

Opponents argue that the proposed distillery is not a “commercial or processing activity in conjunction with” a farm use. “Commercial or processing activities that are in conjunction with farm or forest use” is not further defined in the ZDO. The staff report thoroughly explains how the production of wine can be a commercial or processing activity in conjunction with farm use. There does not appear to be any dispute that such activities *can* be a commercial use in conjunction with farm use, but rather whether the proposed winery satisfies the requirement for such a use.

A previous hearings officer addressed a similar issue in the Hammons Farm Stand Case, Z0775-02-C (Hammons Farm Stand). In that case, the applicant proposed to establish a farm produce stand that would sell plants, shrubs, and trees from the local area. Citing *Craven v. Jackson County*, 308 Or 281, 289, 779 P2d 1011, 1015 (1989), the hearings officer found that to be in conjunction with farm use, the commercial or processing activity must enhance the farming enterprises of the local agricultural community. *See also Hiebenthal v. Polk County*, 45 Or LUBA 297, 303 (2003) (commercial uses in conjunction with farm uses must enhance the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates). In that case, the applicant argued the “local agricultural community” should include farms on Suavie Island or in Hood River that were 40 to 55 miles away. The hearings officer found that the “local agricultural community” should be defined as “farms within an average of ten miles of the site. The average should be based upon the dollar amount of farm products the applicant buys from each farm.” Hammons Farm Stand 7. The hearings officer used an average rather than a strict ten mile radius in order to give the applicant some flexibility for when farms within ten miles could not supply all the applicant’s needs.

The same issue also arose for this hearings officer in the Boring Winery case, Z0226-15-C (Boring Winery). In Boring Winery, the applicant proposed to obtain grapes or hops from farms within a 400 mile radius or even further if within the state of Oregon. In other words, the applicant sought to include the entire state of Oregon as well as any other states (and part of Canada) that were within 400 miles of the subject property in the “local agricultural community.” I discussed the Hammons Farm Stand case and the average

of ten miles for the local agricultural community and found that the 400-plus mile radius suggested by the applicant did not constitute the “local agricultural community.” I also noted that there was nothing magical about the 10-mile radius requirement and if there were an argument that a different, reasonable distance was necessary for various reasons, then a different distance might be appropriate.¹

The staff report explains why this application provides an argument for an expanded range for the local agricultural community:

“* * * production and sales of wine requires sourcing from a broad agricultural area to ensure economically viable commercial wine production and processing. Specifically, the Willamette Valley AVA is recognized internationally for the high quality and distinctive attributes of its wine varieties. The Willamette Valley AVA (‘AVA’ denoting a viticultural appellation approved by the US TTB appellation control system) contains more than 70% of the wineries and vineyards in the state of Oregon. It represents more than 225 member wineries cooperating for the benefit, promotion and protection of the premium wine-growing region of Willamette Valley, the viticultural area defined in US 27 CFR paragraph 9.90. Since the WV AVA represents an official wine appellation, designated for its unique topographical and climatic characteristics that enable the production of high quality and economically profitable wine products, most growers within the AVA market and label their products as coming from within this identified agricultural area. Additionally, Oregon law requires that if a wine is marketed and labeled as coming from a federally designated AVA, that 95% of the grapes sourced for the wine come from that specific AVA. The WV AVA contains three predominant soil types suitable for wine grape production: Marine sedimentary, Jory, and Windswept alluvium. Rich alluvium soils on the valley floor are generally considered inappropriate for high quality grape cultivation and most wineries in the WV AVA depend on sourcing from other vineyards with one of the three preferred soil types to achieve specific flavor profiles for marketing and labeling purposes.

“The subject site is made up of predominately alluvium soils, namely Willamette silt loam (Code 88A and 88B) and Woodburn silt loam soils (Code 91B and 91C). Therefore, in order to achieve certain wine blends and ensure commercial success, the applicant is proposing to source wines from other areas of the AVA with different climates and soil types.

¹ I also denied an application for a distillery as a commercial use in conjunction with farm use in the Barrett Distillery case, Z0106-19-C (Barrett Distillery). In Barrett Distillery, the applicant proposed to obtain raw materials from a non-farm use and had only vague speculation about obtaining materials from the local agricultural community.

“The applicant is only proposing to source grapes for their commercial winemaking from a 20 mile area radius, however, the applicant is proposing to label and market their wines as WV AVA wine products. Per federal law regarding AVA geographic limitations and Oregon law requiring that 95% of wines are sourced from the AVA the applicant would already be limited to a specific agricultural area for sourcing outside the context of this land use application. Per the Hearings Officer findings in Case File No. Z0393-19-C ‘local’ means (1) relating to place, (2) of, characteristic of, or confined to a particular place, and (3) restricted, narrow, confined. The WV AVA is a federally established geographically restricted area, defined as such, due to the specific regional characteristics of the area predisposed to unique wine grape production. The WV AVA winegrowers and winemakers are an established and interconnected agricultural community that rely on grape sourcing flexibility to maintain productive agricultural businesses and wine quality.

“In the event of a change in management of a certain vineyard, a climatic condition that influences the crop on one or all the proposed sites, or other unforeseen circumstance, the applicant may need to source from an alternate vineyard within the WV AVA to maintain their preferred blend of grapes and ensure continued commercial viability. Additionally, flexibility in the source of grapes within the distinct WV AVA supports and promotes agricultural land uses and farmland preservation, since it allows for the applicant to work with a broader variety of vineyards in the established geographic limits of the WV AVA. As such, Staff recommend that in this particular case, due to the unique grape sourcing requirements of winemaking, and the presence of the subject site within an already defined wine appellation functioning as an interconnected agricultural network, that the ‘local agricultural area’ be defined as the WV AVA. Recommended Planning Condition No. 7 would require that the applicant source 100% of their grapes from the WV AVA, per the defined federal boundaries of this area (see Exhibit 3) to ensure that all of the grapes come from the local agricultural area of the WV AVA.” Staff Report 12-13.

The City of Wilsonville argues that the definition of “local agricultural community” should be kept to the 10-mile radius discussed in earlier cases. As explained, the 10-mile radius was not a magic number and a reasonable case for a larger area could be made. While it is a reasonably close call, I believe the applicant has demonstrated a case for a larger radius for the “local agricultural community.” As the staff report explains, the Willamette Valley AVA is a specifically delineated area that shares the same agricultural characteristics. Furthermore, the applicant is proposing to produce a significant amount of the grapes to be used on the subject property and importantly intends to procure the rest of

the grapes from within a 20-mile radius. The request to expand the “local agricultural area” to essentially the Willamette Valley is more of a contingency plan rather than the preferred plan. If the applicant’s initial proposal was for instance, to source all of the grapes from the Eugene area, I might feel differently. I am persuaded by the applicant’s testimony that the preferred plan is to source the overwhelming amount of grapes from the subject property or nearby vineyards. While this likely marks the furthest possible expansion of the “local agricultural community,” in the present case I agree with the applicant and staff and the expansion is warranted.

ZDO 1203.03(A) is satisfied.

ZDO 1203.03(C) provides, “[t]he proposed use is consistent with Subsection 1007.07, and the safety of the transportation system is adequate to serve the proposed use.” ZDO 1007.07(B) provides that approval of a development “shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner.” Both the City of Wilsonville and Wayne Richards (Richards) argue that traffic has increased substantially since the traffic study was conducted for the prior farm stand use of the property in 2004. As the staff report explains, however, the proposed use is located in an area where there is an exemption from ZDO 1007.07.²

ZDO 1203.03(C) also requires that the safety of the transportation system must be adequate to serve the proposed use. The City of Wilsonville argues that due to increased traffic in the area and the potential for conflicts with farm equipment that a new traffic impact analysis should be conducted. The staff report found that the safety of the transportation system was adequate to serve the proposed use:

“The subject site already contains adequate site circulation, safely accessible driveways and site entry points, and is located close to a major freeway (I-5) and Butteville road, which can easily distribute and accommodate the anticipated level of traffic accessing the site. Furthermore, the applicant’s submitted trip generation memo anticipates a reduction in traffic (trips generated) from the previously approved farmer’s market conditional use (per Z0393-05-C). The applicant’s trip generation memo also states that based on the current conditional use

² ZDO 1007.07(B)(1)(a & b) provides an exemption for development that is located “West of Highway 224 (south of Highway 212) or 152nd Drive (North of Highway 212)” and “South of Sunnyside Road (east of 82nd Avenue) or Harmony Road (west of 82nd Avenue) or Railroad Avenue (west of Harmony Road).” Opponents do not argue that the application does not qualify for this exemption.

proposal it is unlikely that Oregon Department of Transportation will consider the proposed winery to be a ‘change of use’ requiring a re-evaluation of existing access points. As of the date of this staff report, Staff have not received any formal comments from ODOT regarding the subject conditional use application.^[3]

“Overall, due to the existing on site circulation, roadway access and nearby transportation facilities the safety of the transportation system can be found adequate to serve the proposed use.” Staff Report 15.

While there is not overwhelming evidence regarding the safety of the transportation system, the findings of the staff report, the applicant’s traffic engineer conclusions, and lack of concern from ODOT are more persuasive than speculation from the City of Wilsonville.

ZDO 1203.03(C) is satisfied.

Both the City of Wilsonville and Richards argue that the potential current or future growing of cannabis on the property should affect the resolution of this case. I do not see that any actual or potential cannabis activity has anything to do with the proposed conditional use. Opponents’ arguments do not provide a basis to deny the application.⁴ Richards also argues that he does not want the property rezoned from EFU. The application is for a conditional use that is allowed in the EFU zone. The application does not propose to change the zoning of the subject property. Richards’ arguments do not provide a basis to deny the application.

The applicant has satisfied all of the applicable approval criteria.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** application Z0221-19-C, with the following conditions of approval.

F. CONDITIONS OF APPROVAL

General Conditions

- 1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated 5/17/19 and deemed complete 7/10/19. No work shall occur under this permit other than that which is specified within these documents. It shall be

³ ODOT subsequently stated that they had no comments regarding the application.

⁴ Of course, any cannabis activities would have to comply with the applicable cannabis provisions under the ZDO.

the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

- 2) PRIOR TO THE ISSUANCE OF BUILDING PERMITS, the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Engineering Division. Wendi Coryell may be contacted at 503-742-4657, or wendicor@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge.
- 3) The conditional use approval is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a) A building permit for a new primary structure that was part of the conditional use approval; or
 - b) A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 4) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.
- 5) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

Planning and Zoning Conditions

- 6) This approval and associated conditions do not in any way limit the proposed farm uses identified in this application or any other farm uses allowed under ORS 215.203.

The preparation, storage and disposal by marketing or otherwise of any farm crops, produce or livestock grown on the subject property qualifies as a farm use.

- 7) **PRIOR TO ISSUANCE OF A BUILDING PERMIT**, The applicant shall submit a written agreement that they will limit their sourcing of wine grapes to within the federally defined limits of the Willamette Valley American Viticultural Area (WVAVA) as generally depicted in Exhibit 3. At the request of the County, the property owner shall submit to the County a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this condition for the previous tax year and summarizes the location of all farm suppliers and the dollar value of produce purchased from each farm.
- 8) **PRIOR TO ISSUANCE OF A BUILDING PERMIT**, The applicant shall submit a written agreement that incidental sales of non-farm-related products shall not exceed fifteen-percent (15%) of total gross annual sales. At the request of the County, the property owner shall submit to the County a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this condition for the previous tax year and summarizes the percentage of gross sales from the wine tasting room. Sales shall be broken down by product type or category, including location of purchase, in sufficient detail to enable the planning director to distinguish between farm products from the local agricultural community and other products, including farm products from outside that community and sale of non-farm products. The planning director shall have the authority to determine whether particular products qualify as farm and/or non-farm-related products consistent with the findings in this report.
- 9) **PRIOR TO ISSUANCE OF A BUILDING PERMIT**, The applicant shall submit a written agreement that they will source at least a quarter of the total amount of the grapes used for the proposed wine processing from the subject site. At the request of the County, the property owner shall submit to the County a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this condition for the previous tax year.
- 10) **PRIOR TO ISSUANCE OF A BUILDING PERMIT**, the applicant shall submit a landscape plan to the County for review and approval prior to planting, illustrating the location of the vegetation and a legend, per ZDO Section 1009, including subsections 1009.03, 1009.04. The site shall be landscaped per the applicable requirements of Section 1009 prior to final Certificate of Occupancy. The applicant will also submit a one year vegetation guarantee to the County, prior to final Certificate of Occupancy.

- 11) **PRIOR TO ISSUANCE OF A BUILDING PERMIT**, the applicant shall submit documentation to demonstrate that the well has adequate capacity and potability to serve the proposed uses on the site, per ZDO Section 1006.03 Water Supply
- 12) Any signage proposed as part of the subject winery conditional use on the property will be required to meet the signage requirements of ZDO Section 1010.

Engineering Division Conditions

- 13) **PRIOR TO THE ISSUANCE OF A BUILDING PERMIT**, applicant shall obtain a Development Permit from the County Engineering Section.
- 14) **PRIOR TO BUILDING PERMIT ISSUANCE**, the applicant shall submit a parking plan listing the number of parking spaces required and the number of parking spaces provided, as well as signing and pavement-marking plan for on-site parking and circulation. Said plan shall, include re-striping of the existing parking lot area, where lines are not currently visible, to clearly define all existing parking spaces and parking lot circulation aisles. ADA parking spaces and required accessways shall also be identified. This plan shall be reviewed and approved by the Engineering section and the local Fire Marshal. The applicant shall label all carpool/vanpool, disabled, and loading berth spaces on the plans. Parking layout geometry shall be in accordance with ZDO section 1015.
- 15) **PRIOR TO BUILDING PERMIT ISSUANCE**, Applicant shall submit a written agreement to provide and maintain adequate intersection sight distances and stopping sight distances at the driveway approach intersection with SW Butteville Road in accordance with Roadway Standards section 240 and also to provide minimum horizontal and vertical clearances required by the Fire District on the access road. (20-ft wide and 13.5-ft high). The minimum required intersection sight distance is 665 feet. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance.

DATED this 8th day of October, 2019.


Fred Wilson
Clackamas County Hearings Officer

ENDANGERED SPECIES ACT NOTICE

The federal Endangered Species Act (ESA) is not a criterion for approval of this application. The County has reviewed the approval standards in light of the requirements of the ESA, believes that the criteria for approval are consistent with the terms of the ESA and has submitted the Development Ordinances for consideration for a "4(d)" programmatic limitation. However, the analysis included in this decision does not include an evaluation by the County of the applications for consistency with the ESA nor does the decision reach any conclusions concerning that federal law. The applicant are responsible for designing, constructing, operating and maintaining the activities allowed by an approval of this application in a manner that ensures compliance with the ESA. Any question concerning this issue should be directed to the applicant, their consultants and the federal agencies responsible for administration and enforcement of the ESA for the affected species.

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).