

# Oregon Supreme Court decides not to review Aurora Airport case

Wilsonville Spokesman

Corey Buchanan, December 09 2021

## The case over airport planning may now be reconsidered by the Land Use Board of Appeals.

The Oregon Supreme Court declined to review an Oregon Court of Appeals decision that identified flaws with Aurora Airport planning, according to a decision released Thursday, Dec. 9.

Earlier this year, the Court of Appeals determined that there were significant errors in the process to finalize the 2012 Aurora Airport Master Plan and reversed and remanded a decision made by the Oregon Land Use Board of Appeals over the initial petition submitted by the cities of Wilsonville, Aurora and other entities.

In its initial decision, the land use board had not identified issues in the airport planning process. The Oregon Department of Aviation and airport business interests filed petitions for the Supreme Court to review the decision.

The Wilsonville government has continuously questioned the 2012 planning effort, believing land use laws were broken -- including the addition of a controversial runway extension project to the plan following public involvement -- and leading to its collaboration on the petition. Assistant City Attorney Ryan Adams described the Supreme Court's decision as a "win for public process."

Mayor Julie Fitzgerald also issued a statement that framed the Supreme Court's denial of review as a sign of agreement with the city's position.

"We are pleased that the Oregon Supreme Court agreed with Wilsonville and upheld the Oregon Court of Appeals decision with regard to the Oregon Department of Aviation's flawed master planning process at the Aurora Airport. Wilsonville's voice matters," Fitzgerald wrote in the statement. "We will continue to zealously advocate that our citizens must have their voices heard in this important process that affects us all."

Now that the Supreme Court has issued its decision, the respondents -- including the Oregon Department of Aviation and the Aurora Airport Improvement Association -- can file a petition for reconsideration to the Supreme Court. If that doesn't hold up, the case will return to the land use board for further litigation.

However, this time, LUBA would have to consider the opinion brought about by the Court of Appeals. Adams also said this stage of the process would include the department of aviation being required to produce the original airport master plan prior to alleged modification. Adams said the plan had been modified as recently as 2017 and that the original plan had never been produced. The Court of Appeals concurred that the plan had been modified following initial adoption.

"The issue is, LUBA did not know what was before it because it did not have the correct master plan before it," Adams said.

Those representing airport business interests have said the Court of Appeals decision could set a dangerous precedent when it comes to airport development because it established a different interpretation in terms of the methodology for when exemptions to land use laws can be issued. They also said the new interpretation could leave the state vulnerable to litigation.

Oregon Department of Aviation Director Betty Stansbury declined to comment on the matter and airport business representatives could not immediately be reached.