

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 18-06-19-07 IN THE MATTER OF ELECTING WHETHER OR NOT TO HEAR AN APPEAL OF A HEARINGS OFFICIAL DECISION AFFIRMING AND PARTIALLY MODIFYING A PLANNING DIRECTOR'S DECISION TO APPROVE A FOREST TEMPLATE DWELLING ON TAX LOT 102, ASSESSOR'S MAP 19-04-11 (FILE NO. 509-PA17-05775; KASLE)

WHEREAS, the Lane County Hearings Official has made a decision to affirm and partially modify a Planning Director's approval of forest template dwelling application on Tax Lot 102, Assessor's Map 19-04-11;

WHEREAS, the Lane County Planning Director has received an appeal of the Hearings Official's decision to the Board of County Commissioners pursuant to LC 14.515(3)(f)(ii), requesting that the Board elect not to further hear the appeal and to deem the Hearings Official decision the final decision of the County; and

WHEREAS, on May 17, 2018, the Lane County Hearings Official affirmed his May 1, 2018 decision on the application after reviewing the appeal; and

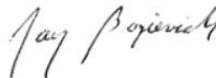
WHEREAS, Lane Code 14.600 provides the procedure and criteria that the Board follows in deciding whether or not to conduct an on-the-record hearing for an appeal of a decision by the Hearings Official; and

WHEREAS, the Board of County Commissioners has reviewed this matter at a public meeting of the Board.

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDERS** as follows:

1. That the appeal does not comply with the criteria of Lane Code 14.600(3) and therefore, the Board declines to further review the appeal and consider arguments therein. Findings of fact in support of this determination are attached as Exhibit "A."
2. That the Lane County Hearings Official decision dated May 1, 2018, and the letter affirming the decision dated May 17, 2018 attached as Exhibit "B," which affirmed and partially modified the Planning Director's decision is adopted, ratified, and affirmed by the Board of County Commissioners as the County's final decision. Furthermore, to the extent that the Hearings Official interpreted Lane Code 16.211(5) and (8), that the Board expressly agrees with and adopts those interpretations.

ADOPTED this 19th day of June, 2018



Jay Bozievich, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date

6-7-18

LANE COUNTY OFFICE OF LEGAL COUNSEL

ORDER EXHIBIT "A"

FINDINGS IN SUPPORT OF THE ORDER

1. Findings herein are provided for the appeal of Department File No. 509-PA17-05775.
2. Notice of the May 1, 2018 Hearings Official's decision was mailed to the applicant and parties of record on May 3, 2018.
3. On May 14, 2018, Andrew Mulkey, representing LandWatch Lane County, filed a timely appeal and requested that the Board of County Commissioners not conduct a hearing on the appeal and deem the Hearings Officer's decision the final decision of the County, pursuant to LC 14.515(3)(f)(ii).
4. On May 17, 2018, the Hearings Official reviewed the appeal and affirmed his decision without further consideration pursuant to LC 14.535(1).
5. A decision by the Board to hear the appeal on the record must conclude that a final decision by the Board can be made within the time constraints established by ORS 215.427. In this case, the deadline for a decision within 150 days after the application was deemed complete was May 20, 2018. Therefore, a final decision by the Board through holding an on-the-record hearing cannot be made within the time constraints of ORS 215.427.
6. In order for the Board to hear arguments on the appeal, Lane Code 14.600(3) requires the appeal to comply with one or more of the following criteria:
 - *The issue is of Countywide significance.*
 - *The issue will reoccur with frequency and there is a need for policy guidance.*
 - *The issue involves a unique environmental resource.*
 - *The Planning Director or Hearings Official recommends review.*
7. Issues raised in the appeal statement are largely specific to the application and to the creation or reconfiguration of parcels counted within the 160-acre "template" measurement to demonstrate compliance with Lane Code 16.211(5)(c)(i).

As described in the Hearings Official's decision, the appellant's arguments with regards to Tax Lot 201 (Section 14) appear to rest on the conclusion that an illegal deed transfer or property line adjustment to a lawfully created lot or parcel destroys that lot or parcel's legal lot status. The Hearings Official found no law or case law that supports that conclusion and found that it is inconsistent with the premise of ORS 92.017

The Hearings Official has reviewed the appeal and found that the allegations of error have been adequately addressed in his decision and do not warrant reconsideration, as explained in his May 17, 2018 letter affirming his May 1, 2018 decision.

The Planning Director has consistently interpreted that ORS 215.417 and OAR 660-033-0140(5) and (6), considering SB 724 that revised these provisions in 2001, are not intended to prohibit additional one-year timeline extensions.

Issues raised in the appeal concerning ORS 215.417 and ORS Chapter 92 are a matter of State law interpretation on which the County would not have deference on appeal to LUBA.

Therefore, the Planning Director does not believe that the implications of the decision are of countywide significance, that the issues will occur with frequency, or that there is a

need for policy guidance. To the extent that the issues will occur with frequency, the Hearings Official's decision or any forthcoming LUBA opinion would provide guidance.

8. The issues raised in this appeal do not relate to, or involve, a unique or Goal 5 inventoried environmental resource. Issues raised in this appeal relate to provisions of ORS Chapter 92 and Lane Code 16.211(5) and (8).

To the extent issues have been previously raised before the Hearings Official concerning impacts to wetlands, the Hearings Official has required as a condition of approval that the applicant provide a letter from Department of State Lands that concludes the development of the roadway will not require a wetlands permit or that all necessary wetland permits have been obtained. Countless jurisdictional wetlands are located throughout the County and therefore are not necessarily "unique," and are subject to Department of State Lands wetland protections regulations. Wetlands on the subject property are not identified as "Major" (significant) wetlands on the County's Goal 5 inventory.

The Hearings Official's decision states that "rare/uncommon" plants are located on the subject property. None of these plants have been found within 150 feet of the roadway. Development of a wider roadway with 20-foot deep turnouts every 500 feet will not approach any areas where these plants are found.

9. The Planning Director recommends that the Board elect *not* to conduct an on-the-record hearing for the appeal and adopt, affirm, and ratify the Lane County Hearings Official decision as the County's final decision, and expressly agree with and adopt any interpretations of Lane Code 16.211(5) and (8) made by the Hearings Official. The May 1, 2018 Hearings Official's decision and his May 17, 2018 letter affirming his decision does not include a recommendation that the Board of Commissioners conduct an on-the-record hearing for the appeal.
10. To meet the requirements of Lane Code 14.600(2)(b), the Board is required to adopt a written decision and order electing to have a hearing on the record for the appeal or declining to further review the appeal. The Board has reviewed this matter at its meeting on June 19, 2018, finds that the appeal does not comply with the criteria of Lane Code Chapter 14.600(3), declines to further review the application, and elects not to hold an on the record hearing for the appeal.
11. The Board therefore elects not to conduct an on-the-record hearing for the appeal and to adopt, affirm, and ratify the Lane County Hearings Official decision as the County's final decision. Furthermore, to the extent that the Hearings Official has interpreted Lane Code 16.211(5) and (8), the Board expressly agrees with and adopts those interpretations.

LANE COUNTY HEARINGS OFFICIAL
APPEAL OF A PLANNING DIRECTOR APPROVAL OF A TEMPLATE
DWELLING WITHIN AN F-2 DISTRICT

Application Summary

On September 8, 2017, a request to establish a dwelling in the Impacted Forest Lands (F-2) zone was submitted to Lane County Land Management Division by Thom Lanfear, an agent for the Applicant, Diane Kasle. The application was deemed complete on October 5, 2017. On December 4, 2017, the Director issued a determination that the subject property complied with the applicable standards and criteria for a Forest Template Dwelling pursuant to LC 16.211(5) and (8). Notice of the determination was mailed to surrounding property owners and interested parties. On December 26, 2017, a timely appeal was submitted by LandWatch Lane County.

Parties of Record

Diane Kasle	LandWatch Lane County	Thom Lanfear
Andrew Mulkey	Lauri Segel	

Application History

Hearing Date: January 25, 2018
(Record Held Open Until April 12, 2018)

Decision Date: May 1, 2018

Appeal Deadline

An appeal must be filed within 12 days of the issuance of this decision, using the form provided by the Lane County Land Management Division. The appeal will be considered by the Lane County Board of Commissioners.

Statement of Criteria

Lane Code 16.211(5)&(8)

Findings of Fact

1. The property subject to this application, hereinafter referred to as the “subject property,” is located on tax lot 102, assessor’s map 19-04-11-00, about 5.5 miles west of the City of Creswell on a private road easement off of Camas Swale Road. The subject property is vacant, is about 40 acres in size, and is owned by the Applicant. The subject property is not contiguous to any other properties under

the same ownership and therefore is not part of a tract. The property abuts parcels zoned Impacted Forest Land (F-2/RCP) to the east, Exclusive Farm Use (E-40/RCP) to the south and Non-Impacted Forest Lands (F-1/RCP) to the west and north. The surrounding properties are rural in character and those to the east and south contain uses that are normally associated with low density residential development.

2. The subject property was created as Parcel 1 of partition M53-83. It has not been reconfigured through a subsequent property line adjustment.
3. Fifty six percent of the subject property's soils are estimated to produce approximately less than 49 cubic feet per acre per year of wood fiber per NRCS data. These soils consist of 52D Hazelair silty clay loam, 7-20% slopes (36%); 102C Panther silty clay loam, 2-12% slopes; 105A Pengra silt loam, 1-4% slopes (12%); and 125C Steiwer loam, 3-12% slopes (1%).

Based upon the average soil productivity of the subject property, the 3-parcel template test required by Lane Code 16.211(5)(c)(i)(aa) is applicable to this application. In addition, Lane Code 16.211(5)(c)(i)(bb) requires that at least three dwellings existed on January 1, 1993, and continue to exist on lots located within a 160 acre square centered on the subject property. The following table documents the 3 parcels relied upon by the Applicant to satisfy Lane Code 16.211(5)(c)(i)(aa):

Count	Assessor's Map	Tax Lot	Date of Creation	Documentation
1	19-04-14	201/300	1978	M638-78, Parcel 2
2	19-04-11	104	1980	M31-80, Parcel 2
3	19-04-14	102	1978	M69-78, Parcel 1
4	19-04-11	105	1983	M52-83, Parcel 1

4. Lane Code 16.211(5)(c)(i)(bb) requires that at least three dwellings existed on January 1, 1993, and continue to exist on lots located within a 160 acre square centered on the subject property. The Applicant has relied upon the following dwellings/tax lots:

Count	Assessor's Map	Tax Lot	Year	Date of Dwelling on Property
1	19-04-14	201/300	1978	1979
2	19-04-11	104	1980	1980
3	19-04-14	102	1978	1915

5. The proposed dwelling will be located 500 feet from the dwelling on tax lot 104 to the east. It will be accessed by a driveway to Camas Swale Road. The proposed dwelling location is in the most level area that is not forested, with slopes less than 10 percent, and on some of the least productive soils (52D Hazelair). The proposed dwelling will be sited more than 850 feet from the F-1 properties.
6. The subject property is located outside the service boundary area of the South Lane County Fire & Rescue District but meets the District's criteria for annexation. It is approximately one mile from South Lane County Fire & Rescue Station 204, which has a brush truck and tender. The District has four fire stations and collectively, has three fire engines, four tenders and five brush trucks. As a condition of approval, the Applicant will need to provide evidence of a long-term services contract with the Lane County Fire & Rescue District and request annexation into the fire district.
7. Tax lot 201, assessor's map 19-04-14 was created in 1948 by warranty deed. (See Book 376, Page 601, Lane County Department of Deeds and Records). The property was subsequently partitioned and tax lot 201 became part of Parcel 2 of Partition M638-78.

Partition M638-78 created two parcels: Parcel 1, which consisted of tax lot 200; and Parcel 2, which consisted of tax lots 201, 300, 600, 601 and 601, assessor's map 19-04-14. In 2010, Lane County approved serial property line adjustments under PA 10-5988. This property line adjustment involved tax lot 300, assessor's map 19-04-15, which was labeled Property 1; a legal lot created by warranty deed on July 23, 1943; Property 2, a parcel created by warranty deed on August 21, 1953, and Property 3, which was Parcel 2 of Partition M638-78. One result of this reconfiguration was to shrink Property 3 (Parcel 2 of Partition M638-78) to the current configuration of tax lot 201, assessor's map 19-04-14.

8. Partition M69-78 created tax lot 102 (Section 14) as Parcel 1 of that partition. In 1980, Lane County approved Partition M31-80, which created two parcels. Parcel 1 consisted of the subject property, tax lot 102 (Section 11) and tax lots 100 and 101. Parcel 2 consisted of tax lot 104. Subsequently, Lane County approved partition M53-83. Parcel 1 of this partition consisted of tax lot 102, assessor's map 19-04-11, and Parcel 2 consisted of tax lots 102, 101 and 100, assessor's map 19-04-14. (See Figure 1) This latter partition operated to vacate tax lot 102, assessor's map 19-04-14, under the *Weyerhaeuser* case¹ as the partition map did not recognize tax lot 102 as an underlying legal lot.

¹ *Weyerhaeuser Real Estate Development Co. v. Polk County*, 246 Or App 548 (2011).

Partition M52-83 created 3 parcels. Parcel 1 consisted of tax lot 105. Parcel 2 consisted of tax lot 100 and Parcel 3 consisted of tax lot 106.

9. Some “rare/uncommon” plants are located on the subject property. None of these plants have been found within 150 feet of the roadway. Development of a wider roadway with 20-foot deep turnouts every 500 feet will not approach any areas where these plants are found.

The subject property also contains mapped wetlands. A wetlands expert has inspected the roadway and has determined that no wetlands were present on or adjacent to the roadway. Notice was provided to the Oregon Department of State Lands (DSL), as required by ORS 215.418. The DSL has issued a determination letter that states that wetlands exist on the site and that a delineation is necessary if there are impacts to wetlands that exceed 50 cubic yards of material.

10. Oregon Water Resources Department records document yield information of 10 wells within assessor’s map 19-04-11. Eight of these wells produced at least 7 gallons per minute (gpm) with six over 15 gpm. One well that was listed as producing less than 7 gallons per minute was replaced with a 7 gpm well. The well on tax lot 100 produces 10 gpm and the well on tax lot 106, one property east of the subject property, produces 30 gpm.

Decision

THE PLANNING DIRECTOR DECISION APPROVING THE REQUEST (PA 17-05775) BY DIANE KASLE FOR A TEMPLATE FOREST DWELLING ON TAX LOT 102, ASSESSOR’S MAP 19-04-11 IS AFFIRMED, with the following modifications to the Director’s conditions of approval (*Modifications are in italic*):

6. Provide evidence of a written request for a long-term services contract with the nearest fire protection district recorded in Lane County Deeds and Records and request annexation into the fire protection district boundaries.

If the Lane County Fire & Rescue District and the Planning Director determine that inclusion within the District or contracting for residential fire protection is impracticable, the property owner shall implement and maintain a Fire Protection Plan as an alternative means for protecting the dwelling or manufactured dwelling from fire hazards, consistent with Lane Code 16.211(8)(c)(ii)(aa) – (dd).

New Condition of Approval #14 that shall be met prior to approval for legal occupancy of the proposed dwelling:

14. *Prior to issuance of a building permit, the applicant shall submit a letter from the Department of State Lands that concludes that the development of the roadway*

will not require a wetlands' permit or that all necessary permits have been obtained.

Justification for the Decision (Conclusion)

The subject property is zoned F-2 Impacted Forest Land. The Applicant is requesting approval to construct a single-family dwelling as provided by Lane Code 16.211(5)(c). Dwellings authorized by this provision are known as "forest template" dwellings because some of the applicable approval criteria of Lane Code 16.211(5) must be analyzed through the placement of a 160-acre square template centered on the center of the subject property (tract). Additionally, the placement of a dwelling on non-impacted forest land must meet the siting standards provided by Lane Code 16.211(8).

Under the template dwelling regulations, the standards differ depending upon the soil productivity of the property upon which the dwelling is to be placed. In the present case, a majority of the soils on the subject property are not capable of producing more than 49 cubic feet per acre per year of wood fiber. Therefore, Lane Code 16.211(5)(c)(i) is applicable. Under Subsection (aa) of this standard, an applicant must demonstrate that there were three legal lots that existed on January 1, 1993 that are located within the 160-acre square template. Under Subsection (bb) of this standard, an applicant must demonstrate that there were three dwellings that existed on January 1, 1993 and continue to exist that are located within the 160-acre square template that is centered on the subject property.

The allegations of error raised by the Appellant in its appeal are as follows:

- I. *The Applicant cannot count tax lot 102, Section 14 in the "template" parcelization count nor can its dwelling be considered as a qualifying template dwelling.*

The Appellant points out that tax lot 102 in Section 14, which was created in 1978 by Partition M69-78, cannot be counted in the Applicant's template test because it was vacated by the creation of Parcel 2 of partition M53-83. The Appellant further notes that Parcel 2 was unlawfully divided by warranty deed on May 6, 1992 that separated tax lot 102. (See Reel 1760, Instruments 9224955 and 9224956, Lane County Deeds and Records.) The Appellant argues that neither tax lot 102 nor Parcel 2 can be used to satisfy Lane Code 16.211(5)(c)(i)(aa) as they were not legally created prior to January 1, 1003 and, consequently, the 1915 dwelling cannot be used to satisfy Lane Code 16.211(5)(c)(i)(bb).

Tax lot 102, assessor's map 19-04-14 was created through Partition M69-78. The Appellant is correct that Parcel 2 of Partition M53-83 operated to vacate this legal lot. Therefore, that tax lot did not constitute a separate legal lot on January 1,

1993. An apparently illegal deed transaction in 1992 separated tax lot 102 from Parcel 2.

While the Applicant's analysis does erroneously rely upon tax lot 102, assessor's map 19-04-14 as a parcel counted towards satisfying Lane Code 16.211(5)(c)(i)(aa), the appeal before the hearings official is de novo. There is no question that Parcel 2 of Partition M53-83 created a legal lot. The Hearings Official can and does recognize this parcel as satisfying Code 16.211(5)(c)(i)(aa) in place of tax lot 102, assessor's map 19-04-14. An illegal division of that parcel by warranty deed does not destroy the legal lot status of the parcel but rather is a void attempt to create a legal lot out of tax lot 102.

The Code requires that the dwellings that existed on January 1, 1993 (and continue to exist) be located on the lots or parcels that were counted under LC 16.211(5)(c)(i)(aa). The 1915 dwelling counted by the Applicant is located on Parcel 2 of Partition M53-83 and therefore can be used to satisfy Lane Code Lane Code 16.211(5)(c)(i)(bb).

This allegation of error is dismissed.

2. *Tax lot 201 (Section 14) has been reconfigured since its creation by partition in 1983 (sic) and the reconfiguration of a partition requires replat procedures.*

Tax lot 201, which was part of Parcel 2 of Partition M638-78, was reconfigured as part of a property line adjustment in PA 10-5988. I tend to agree with the Appellant that a reconfiguration of a platted partition or subdivision must be done through replatting or through the adoption of an appropriate ordinance.² The question then becomes: "What is a reconfiguration?" The Attorney General offered a circular opinion that it "... *is something more than a single adjustment or a series of adjustments that are so minor so as not to constitute a reconfiguration.*" The significant redrawing of subdivision lot lines would constitute a reconfiguration as would the addition of a new lot.

The 2010 property line adjustment significantly reconfigured Parcel 2 of Partition M638-78. At this time, Lane County had no regulations governing the use of property line adjustments. Parcel 2 (Property 3 of this property line adjustment) was shrunk to the current configuration of tax lot 201, assessor's map 19-04-14. The property line adjustment changed multiple boundaries between the three parcels and was recorded as a single action. I believe that the Appellant is correct

² Oregon AG OP-6350 (January 25, 1990).

that this property line adjustment required a replat, since it significantly changed the boundaries of platted Parcel 2, and that it may have resulted in illegal serial property line adjustments, as determined by LUBA in the *Bowerman* case³ but decided on other grounds by the Oregon Court of Appeals⁴.

The question then is whether the illegal property line adjustment of Parcel 2 of Partition M638-78 erased the legal lot status of that parcel. I do not believe so. First, ORS 92.017 provides: “A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law.” The property line adjustment could not have vacated Parcel 2 via replat as the provisions of ORS 92.170, which pertain to amending a recorded plat, were not followed. Neither had Lane County adopted any alternative method of amending a recorded plat by 2010. Finally, the property line adjustment did not divide the parcel to create a new parcel. Since the property line adjustment did not vacate or divide Parcel 2, that parcel remains a lawfully created parcel, albeit in its pre-2010 configuration.

Second, Parcel 2 of Partition M638-78 was a legal lot as of January 1, 1993. Subsequent changes in configuration, as long as they do not have the effect of qualifying a lot or parcel for the siting of a dwelling, do not eliminate the fact that a lot or parcel that otherwise qualifies as a legal lot as of January 1, 1993 continues to satisfy Lane Code 16.211(5)(c)(i)(aa) and ORS 215.750(a)(A).⁵

This allegation of error is dismissed.

3. *The Applicant’s template diagram is drawn to a different scale than the tax maps and fails to show the parcels within the template as they were configured in 1993.*

The Applicant has submitted a supplemental template diagram that illustrates the boundaries of the 1993 parcels relied upon to satisfy Lane Code 16.211(5)(c)(i)(aa). The original template map and the supplemental map include notations that articulate why the boundary of the template extends from the center of the subject property past the edge of the northern boundary of Parcel 2 of Partition M 638-78. The Applicant’s January 25, 2018 submission (Thom Lanfear to the Hearings Official) explain in detail how the dimensions and measurements of the template diagram were determined and why they are accurately represented on the supplemental template diagram. The Hearings Official agrees with this analysis and embraces it as his own.

This allegation of error is dismissed

³ *Bowerman v. Lane County*, 74 Or LUBA 644 (2016).

⁴ *Bowerman v. Lane County*, 287 Or App 383 (2017).

⁵ *LandWatch Lane County v. Lane County* (Sayre), LUBA No. 2016-082 (2/15/2017). See also OAR 660-006-0005(5).

that this property line adjustment required a replat, since it significantly changed the boundaries of platted Parcel 2, and that it may have resulted in illegal serial property line adjustments, as determined by LUBA in the *Bowerman* case³ but decided on other grounds by the Oregon Court of Appeals⁴.

The question then is whether the illegal property line adjustment of Parcel 2 of Partition M638-78 erased the legal lot status of that parcel. I do not believe so. First, ORS 92.017 provides: "*A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law.*" The property line adjustment could not have vacated Parcel 2 via replat as the provisions of ORS 92.170, which pertain to amending a recorded plat, were not followed. Neither had Lane County adopted any alternative method of amending a recorded plat by 2010. Finally, the property line adjustment did not divide the parcel to create a new parcel. Since the property line adjustment did not vacate or divide Parcel 2, that parcel remains a lawfully created parcel, albeit in its pre-2010 configuration.

Second, Parcel 2 of Partition M638-78 was a legal lot as of January 1, 1993. Subsequent changes in configuration, as long as they do not have the effect of qualifying a lot or parcel for the siting of a dwelling, do not eliminate the fact that a lot or parcel that otherwise qualifies as a legal lot as of January 1, 1993 continues to satisfy Lane Code 16.211(5)(c)(i)(aa) and ORS 215.750(a)(A).⁵

This allegation of error is dismissed.

3. *The Applicant's template diagram is drawn to a different scale than the tax maps and fails to show the parcels within the template as they were configured in 1993.*

The Applicant has submitted a supplemental template diagram that illustrates the boundaries of the 1993 parcels relied upon to satisfy Lane Code 16.211(5)(c)(i)(aa). The original template map and the supplemental map include notations that articulate why the boundary of the template extends from the center of the subject property past the edge of the northern boundary of Parcel 2 of Partition M 638-78. The Applicant's January 25, 2018 submission (Thom Lanfear to the Hearings Official) explain in detail how the dimensions and measurements of the template diagram were determined and why they are accurately represented on the supplemental template diagram. The Hearings Official agrees with this analysis and embraces it as his own.

This allegation of error is dismissed

³ *Bowerman v. Lane County*, 74 Or LUBA 644 (2016).

⁴ *Bowerman v. Lane County*, 287 Or App 383 (2017).

⁵ *LandWatch Lane County v. Lane County* (Sayre), LUBA No. 2016-082 (2/15/2017). See also OAR 660-006-0005(5).

Summary

The Appellant's primary arguments rest on the conclusion that an illegal deed transfer or property line adjustment to a lawfully created lot or parcel destroys that lot or parcel's legal lot status. I am aware of no law or case law that supports that conclusion and it is inconsistent with the premise of ORS 92.017. For the reasons stated above I affirm the Planning Director's approval of this request for a forest template dwelling.

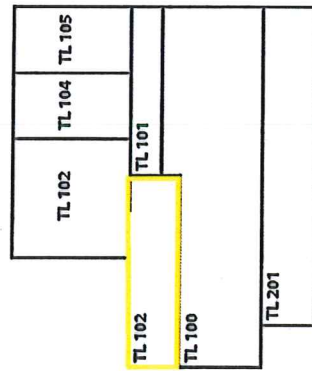
Respectfully Submitted,



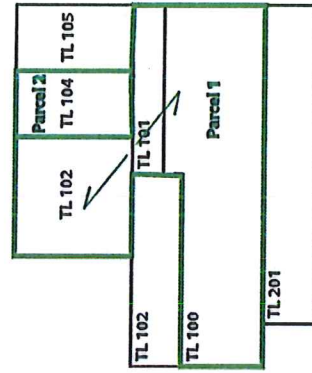
Gary Darnielle
Lane County Hearings Official

FIGURE 1
PA 17-05775

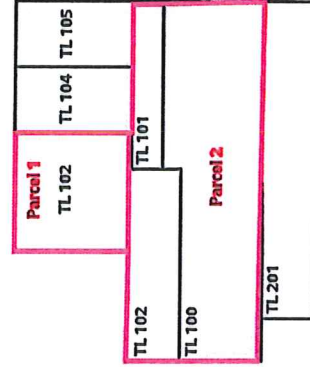
Partition M69-78



Partition M31-80



Partition M53-83





May 17, 2018

Ms. Lydia Kaye, Manager
Land Management Division
3050 N. Delta Highway
Eugene, OR 97408


Re: Appeal of Hearings Official decision affirming, with modification, the Planning Director's approval of the Kasle request (PA 15-05774) for a template forest dwelling on tax lot 102, assessor's map 19-04-11.

Dear Ms. Kaye:

On May 1, 2018, I affirmed, with modification, the Planning Director's approval of the Kasle request (PA 15-05775) for a template forest dwelling on tax lot 102, assessor's map 19-04-11. On May 14, 2018 LandWatch Lane County appealed my decision. Upon a review of this appeal, I find that the allegations of error have been adequately addressed in that decision and that a reconsideration is not warranted.

Accordingly, on the authority of Lane Code 14.535(1), I shall affirm my May 1, 2018 decision without further consideration. Please advise interested parties of this decision.

Sincerely,


Gary L. Darnielle
Lane County Hearings Official

cc: Amber Bell (file)