AGENDA COVER MEMO

Memorandum Date: July 25, 2024
Report Date: September 24, 2024

TO:	Board of County Commissioners
DEPARTMENT:	Public Works
PRESENTED BY:	Kent Howe & Jim Mann (Howe Mann Consulting)
AGENDA ITEM TITLE:	REPORT / Barriers to Affordable Housing - Analyses and Recommendations (Howe Mann Consulting)

I. MOTION

None.

II. AGENDA ITEM SUMMARY

Kent Howe & Jim Mann (Howe Mann Consulting) will present analyses and recommendations following completion of a study directed by the Board on Barriers to Affordable Housing.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

On February 2, 2023, the Board assigned staff to solicit for a consultant to conduct a comprehensive review on barriers to housing that are within the jurisdiction and control of Lane County. Concerns raised by the Board included a lack of affordable housing; a lack of inventory; and the difficulty, cost, and time it takes to obtain approvals and permits under Lane County jurisdiction. The Board wanted an evaluation to determine if Lane County is doing everything legally possible to assist in increasing the stock of affordable housing available in rural Lane County.

In June 2023, the County issued a Request for Qualifications (RFQ) for consulting assistance to complete a study on the barriers to affordable housing in Lane County. The County received five proposals. In September 2023, the Board voted to conditionally award the contract to Howe Mann Consulting with the understanding that County Counsel would work to obtain appropriate assurances that their work for the County would not pose any actual or perceived conflicts of interest.

In December 2024, the Board voted to award a contract to Howe Mann Consulting in the Amount of $60,000 to conduct a Barriers to Affordable Housing Study and directed the County Administrator to execute the contract.

B. Policy Issues

Policies related to housing and land use will be discussed in the presentation.

C. Board Goals

The Strategic Plan contains the following objective within the "Vibrant Communities" strategic priority:

"Invest in the Land Management Division to ensure adequate and sustainable staffing levels and resources are available to be responsive and agile in meeting current and future housing needs and customer service expectations."

D. Financial and/or Resource Considerations

Recommendations presented may have financial implications, but impacts have not been analyzed by staff.

E. Health Implications

Housing issues are closely linked to community health due to of the positive effects that available and affordable housing have on human health and well-being. The County may be able to improve health outcomes for county residents by identifying barriers to affordable housing and working to address these barriers.

F. Analysis

See attached report.

G. Alternatives/Options

See attached report.

IV. RECOMMENDATION

Recommendations are provided in the report.

V. TIMING/IMPLEMENTATION

As directed by the Board.

VI. FOLLOW-UP

As directed by the Board.

VII. ATTACHMENTS

1) Report responding to completion of Scope of Work (requested by staff)
2) Barriers to Affordable Housing Report
3) Report Attachments A1 – F6

SCOPE OF WORK for Board Report on Barriers to Affordable Housing

	Page in Report and/or Attachment #
1. **Statement of Work**	
1. Consultants will conduct a study of existing literature,	Pgs 2 & 3 (1-6) and 8 (1), Attach D1
state and local building and land use codes and permit review processes to barriers to affordable housing	Pgs 4-5 (14-16), Pg 6-7 (22-25), Attach B1-B5, E1-E4
and make prioritized recommendations to increase production and reduce costs of housing in accordance with the requirements of this contract.	Pg 18, Pg 3 (8), Pg 4 (10-13, 17-21) Attach A4
2. The scope of Consultants' Work is further described in Exhibit D.	See below, Exhibit D
3. Consultants must also perform the Work in a manner consistent with the offers and statements in Exhibit A.	See below, Exhibit A
EXHBIT D - BARRIERS TO AFFORDABLE HOUSING SCOPE OF WORK	
1. Conduct a literature review...	Pgs 2 & 3 (1-6) and 8 (1), Attach D1
	Pgs 6 & 7, (22-25), Attach E1-E4
2. Evaluate Land Use Code Impediments	
3. Evaluate Building Code Impediments	Interviews indicate Building Code is Clear and Objective and generally well implemented, Attach C1 & C2, #17
4. Review processes at Lane County's Land Management Division and Lane Code to answer the following questions:	
• What processes in Planning and Building Divisions can be improved to speed the delivery and reduce the cost of housing?	Pg 3 (7-8, 10-21), Attach A4, B1-B5
•	
• What substantive standards can be changed for review of housing proposals that will increase production and reduce costs?	Pg 6 (22-25), Attach E1-E4

- What Lane Code provisions can be changed to increase housing production and reduce costs? — Pg 6 (22-25), Attach E1-E4
-
- What are the relative priorities for making changes recommended based on the above? — Pg 18

5. Review the current structure and staffing of Lane County's Land Management Division... — Attach C1, C4 and F6

6. Present findings to the Lane County Board of Commissioners. — Scheduled for August 20th

EXHIBIT A
4.0 IMPLEMENTATION OF REVIEW

- **Literature Review.**.. — Pgs 2 & 3 (1-6) and 8 (1), Attach D1
-
- **Lane County Code (Land Use/Development Provisions)** The vendors will conduct an interview schedule of interested parties to gather information regarding the Code, particular provisions of the Code and interpretation of particular provisions. LMD staff will also be interviewed for that purpose. That information will be used in conjunction with the vendors' individual review of the Code to determine what barriers to affordable housing within the Code and by application of its provisions to individual client requests. — Attach C1-C5 and Attach E1-E4

  Interested parties consist of the County's clients within the land use system. Clients are defined as individual property owners, representatives of property owners (i.e., land use consultants and

lawyers), advocacy groups (i.e., Land Watch of Lane County, Homebuilders Association, etc.) and other necessary interested/impacted property owners and businesses.

- **Building Code Provisions** While building code provisions are primarily a matter of state jurisdiction...

Interviews indicate Building Code is Clear and Objective and generally well implemented, Attach C1 & C2, #17

- **LMD Processes and Lane Code provisions regarding building development** The vendors will conduct an interview schedule of interested parties to gather information about how timely and effectively LMD serves its clients. In addition to LMD clients (as defined above) and LMD staff, interested persons such as Lane County Legal Counsel and LCOG Hearings Officials will be interviewed. The LMD Property Records Online (LMDPRO) that records information regarding the processing of client applications (use permits, zoning, timelines, approvals, denials, appeals, etc.) shall be examined by the vendors...

Attach C1-C5 and

Pgs 8-17 (2-3)

- **LMD Funding and Staffing Levels** The vendors will interview LMD staff to gather information regarding the sufficiency and effectiveness of the County's funding of LMD and the experience and knowledge of LMD staff. In conjunction with a review of the Lane County General Fund associated with LMD and interviews of Lane County Legal Counsel, the LMD Staff interviews will produce information

Attach C1, C4 and F6

that will be used to determine what barriers to affordable housing existing in relation to LMD funding and staffing levels.

- **Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules** The vendors will interview knowledgeable experts regarding state statutes, building codes and administrative rules. Such experts will be drawn from knowledgeable entities and individuals such as 1000 Friends of Oregon, the Oregon Property Owners Association, state legislators with expertise in the Oregon land use system.

Pg 7 (26 & 27)



REPORT

BARRIERS TO AFFORDABLE HOUSING

ANALYSES AND RECOMMENDATIONS FOR LANE COUNTY BOARD OF COMMISSIONERS

Prepared by Howe Mann Consulting
Kent Howe and Jim Mann
July 22, 2024

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INTRODUCTION

Howe Mann Consulting ("HMC") contracted with Lane County to conduct the following work to analyze barriers to affordable housing in Lane County and to recommend to the Board of County Commissioners (the "Board") ways to reduce or eliminate these barriers.

1. Analyses of studies and other relevant literature primarily concerning locating affordable housing within city limits and urban growth boundaries;

2. Analyses of the entire LMD customer service for rural land use matters in Lane County;

3. Turnkey amendments to Lane Code; and

4. Recommended changes to State laws.

Section 1 of this report lists recommendations to the Board to reduce or eliminate barriers to affordable housing. Section 2 of this report summarizes the background information in support of the recommendations. The report attachments include the analyses of detailed information.

Section 1. List of Recommendations.

1. The Board can support the city's study of their future housings needs and resulting Urban Growth Boundary expansion proposals for affordable housing.

2. The Board can support the cities of Eugene and Springfield when they co-adopt their Comprehensive Plans to adopt a middle-housing code to further the city's efforts to achieve more affordable, fair and equitable housing outcomes for Lane County within their Urban Growth Boundaries.

3. The Board can further the city's efforts to achieve more affordable, fair and equitable housing outcomes within Lane County by supporting their UGB expansion proposals for housing production within the city's UGBs, consistent with the Housing Production Strategy, and supporting the city's subsidy programs.

4. The Board can further the city's efforts to achieve more affordable, fair and equitable housing outcomes within Lane County by continuing Lane County's role in helping with denser infill of residences inside urban growth boundaries through property tax incentives for multi-unit properties and considering Lane County owned land inside UGB's.

5. The Board can further the County's efforts to achieve more affordable, fair and equitable housing outcomes within Lane County by ensuring that, while working inside Oregon's strict land use codes, residential opportunities are allowed in Rural Residential zoned areas include allowing Accessory Dwelling Units (ADUs).

6. The Board can further the County's efforts to achieve more affordable, fair and equitable housing outcomes within Lane County by ensuring that, while working inside Oregon's strict land use codes, expedite rural commercial zoning conversions to mixed use to allow for the infill of residential development. And, change zoning limits on the number of ADUs per property for long-term rentals and provide free pre-approved ADU plans for private use.

7. Establish a Proactive Customer Service Goal for the Lane County Land Management Division (the "LMD") and include the specific customer service action plans recommended in this report. Proactive customer service is a strategic approach where a business provider, like the LMD, whose business includes processing building permits and land use permits or applications, anticipates and addresses customer needs before they arise. This is in contrast to reactive customer service, where customers have to reach out to the LMD or deal with problems after they happen. As part of its Annual Report to the Board, the Lane County Planning Commission should evaluate and advise the Board about the effectiveness of the Lane Management Division's efforts to implement the Proactive Customer Service Goal. This advisory role is consistent with Lane County General Plan Policies, Goal 1 Policy 4. This goal will be implemented by recommendations 8 through 21 in this report.

8. Redesign the LMD website for Hearings Official hearings to be easier to use by following the Howe Mann Consulting recommended website design in HMC Report Attachment A4.

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9. For the five years of Hearings Official hearings, from 2020 to 2024, a detailed yearly index of the hearings should be prepared and posted on the Hearings Official hearings website. Howe Mann Consulting prepared the useful indices for the 2022 (HMC Report Attachment A2) and 2023 (HMC Report Attachment A3) Hearings Official hearings that are word searchable and include the following details:

    - the application file number,
    - the initial application hearing date,
    - a summary description of the application,
    - the persons or parties involved at the hearing for the application,

- the hearing staff and excerpts of their recommendations to the Hearings Official,
- the Hearings Official decision and excerpts of the decision,
- any appeal to LUBA and excerpts from the LUBA decision, and
- any appeal to the Oregon Court of Appeals and excerpts from the decision.

10. The LMD website for the Hearings Official includes a Remand Proceedings/Documents file that contains copies of only three LUBA decisions for Hearings Official applications of all years. There are many more LUBA decisions or remands and court cases for Hearings Official applications than these three. See the indices for the 2022 and 2023 Hearings Official applications. The Remand Proceedings/Documents file and the corresponding Hearings Official application files should be updated by LMD staff to include the missing LUBA and Court decisions.

11. The LMD website for the Hearings Official includes a Land Division Ordinances – Library file with copies of only 5 historic Lane County land division regulations for the time period dating from the first subdivision ordinance adopted by Lane County in 1949. There are many more Lane County historic land division regulations than these 5. LMD Staff needs to scour its LLV and land division files to get copies of these other land division regulations and then put them on this website.

12. LMD management should assign one position to coordinate with LMD Staff and to complete the work in recommendations 3 and 4. Otherwise, this work may not be consistently done.

13. Applicants should not be required to pay the $3,488 appeal fee for Hearing Official remand hearings from LUBA when the reasons for the remands are erroneous County decisions. Otherwise, applicant are financially punished for the erroneous County's decisions that results in increases the costs of rural housing in Lane County. The LMD planning fee schedule for Hearings Official items needs to amended to make this change.

14. The LMD LLV application form must be revised to obtain needed information:

    - deeds listed on the Assessment and Taxation Property Description Card and in the chain of title for the subject property and parent property and parent going back to before 1949;
    - illustrations for each deed with a different legal description;
    - all deeds must be certified by the County Recorder;
    - a map of the proposed legal lot;
    - clearly readable deeds;

- a narrative explaining how the subject property and parent property and property was created and changed over time;
- a narrative explaining how the creation of the subject property and parent property and parent complied with any applicable land use regulations;
- signatures on the form for owner, applicant or agent, unless the agent is an attorney;
- use of an up-to-date application form; and
- the fee payment.

15. When LMD staff revise land use application forms, they should not do this in a vacuum without first soliciting comments and suggestions from customers and using them to revise the applications. Many customers have decades of land use experience and could provide helpful suggestions.

16. Before a LLV application is submitted to the LMD, the applicant or applicant's agent should have the option to make a fifteen (15) minute appointment with one of the knowledgeable LMD Staff who processes LLV applications. The purpose of the appointment would be for the applicant or applicant's agent to bring the LLV application and have a knowledgeable Staff planner review it for completeness and determine the LLV application fee. The purpose of the meeting would not be for the Staff Planner to conduct a substantive evaluation of the application or give an opinion if the application could be approved. The Staff planner would follow-up the meeting with an email to the applicant or agent, and to the property file, that summarizes the matters discussed at the meeting. This meeting could save the customer time waiting in line to see a planner and help quicken the application review process for acceptance.

17. If an attorney is representing an applicant and provides a letter or email stating this to the LMD, then it should not be necessary to have the attorney sign a separate owner authorization form.

18. Lane County should hire a fulltime land use attorney dedicated to timely assisting LMD Staff and the Board of Commissioners with land use legal matters and training.

    a. The office for this land use attorney should be located in the LMD for easy access for Staff.

    b. This land use attorney should not be diverted by others to perform legal work unrelated to land use planning if proactive land use assistance is needed by LMD Staff.

19. The LMD Manager must support proactive customer service by anticipating and responding to customer needs on the front end of land use application processes and not waiting until there are problems.

20. LMD staff made decisions for LLV application PA23-05142 (No. 9) and PA23-05543 (No. 37), that clearly did not follow the requirements to have deeds in the record for the subject property and the parent property going back to before April 7, 1949. LMD Staff needs to start consistently following these requirements when they do their LLV application completeness checks and decisions.

21. HMC Report Attachment F4 is a copy of the Lane County Public Works Department LMD Planning 2023 Expectations that includes this list of expectations:

    - Demonstrate active listening and empathy
    - Meet customers where they are at
    - Strive to find law or code supported options, when they exist
    - Clearly and thoroughly explain answers and the "why"
    - Identify considerations that the customer may not be aware of
    - Take time to research questions where the answer is not immediately apparent
    - Provided response within 24 to 48 business hours for POD calls and planning permit-related inquiries
    - Communicate changes in turnaround time estimates or assigned staff
    - Notify applicants when we find 'red flags". Reach out at least once before issuing a permit denial or significantly modified application. Document this outreach.
    - Respond to referral comments in decisions
    - Seek out and consider public input/involvement as appropriate for work projects"

    Some of these expectations may sound good, like "Demonstrate active listening and empathy" and "Meet customers where they are at". But they lack specific action plans to be accomplished. An expectation like, "Provide response within 24 to 48 business hours for POD calls and planning permit-related inquiries" is a specific action plan. These expectations should be revised to have specific and proactive customer service action plans like the HMC action plans in this report.

22. Support the proposed HMC turnkey amendments, in HMC Report Attachment E1, to LC 16.001 to .009. The purposes of these amendments are:

    - To articulate that there is direct correlation between supply of homes and affordability of homes;

- To articulate the relationship between private property rights and affordable, efficient and sufficient housing in rural Lane County; and
- To the extent allowed by State law, remove all code provisions that impede affordable housing.

23. Support the proposed HMC turnkey proposed amendments, in HMC Report Attachment E2, to LC 14,080(5) to reestablish elective Board review of land use decisions. This amendment includes:

    - A requirement for the Planning Director to provide a monthly report to the Board regarding interpretive issues then pending Hearings Official proceedings;
    - An opportunity for parties to timely appeal the interpretive decisions to the Board; and
    - A requirement that the Board may elect to review a Hearing Official decision at any time prior to the filing of an appeal to LUBA, or, if an appeal has been filed to LUBA, prior to the time set for filing the record (ORS 197.830(13)(b).

24. Support proposed amendments, in HMC Report Attachment E3, to LC 13 for property line adjustments, legal lot verifications and validation of a unit of lands.

25. Support proposed amendments, in HMC Report Attachment E4, to LC 14.080(4) to add subsection (f) requirements for a final decision by the Hearings Official.

26. For State legislation, recommend an amendment to ORS 215.213(1)(q), for “lawfully established”, to include in the definition of “lawfully established” existing dwellings that were established prior to the acknowledgement of a County’s comprehensive plan and that have been continuously taxed by the County Tax Assessor from before that acknowledgement. The acknowledgement date for the Lane County Rural Comprehensive Plan would be September 13,1984.

27. For State legislation, recommend amendments to ORS 215.101(1), 92.017 and 91.176 for “lawfully established” to include in the definition of “lawfully established” units of land that were created by deeds or land sale contracts prior to the acknowledgement of a County’s comprehensive plan. The acknowledgement date for the Lane County Rural Comprehensive Plan would be September 13,1984.

28. Lane County contracts with LCOG for an attorney to perform Lane County Hearings Official responsibilities. Lane County Hearings Official hearings frequently involve uncontested and contested interpretations of land use laws. HMC recommends that LCOG hire a land use attorney approved by the Board in order for the Lane County Hearings Official responsibilities to be most effectively performed.

Section 2. Summary of Background Information for the Recommendations.

1. In support of recommendations 1 – 6, above, HMC conducted a literature review of background reference studies and other relevant documents as necessary to evaluate barriers to affordable housing in Lane County. The results of this work are the 11 pages report in HMC Report Attachment D1.

2. In support of recommendations 7 – 12, HMC conducted an extensive review of 2022 and 2023 Hearings Official applications and decisions that is summarized as follows.

   The Index for the 2022 Hearings Official Applications, in HMC Report Attachment A2, and the Index for the 2023 Hearings Official Applications, in HMC Report Attachment A3, includes the following information from the Lane County Land Management Division's website, HEARINGS OFFICIAL AGENDAS, AUDIO, AND DOCUMENT, and from separate research done for applicable LUBA and Oregon Court of Appeals decisions:

   - the initial application hearing date,
   - the application file number,
   - a summary description of the application,
   - the persons or parties involved at the hearing for the application,
   - the hearing staff and excerpts of their recommendations to the Hearings Official,
   - the Hearings Official decision and excerpts of the decision,
   - any appeal to LUBA and excerpts from the LUBA decision, and
   - any appeal to the Oregon Court of Appeals and excerpts from the decision.

   The purpose of this detailed information is to provide LMD customers with a word searchable index to find Hearings Official applications and to research a wide range of topics that would be applicable for someone preparing land use applications. To give a complete and accurate picture of the Hearings Official applications and decisions that is not in the LMD Hearings Official or property records, the indices contain relevant information from applicable LUBA and Court of Appeals decisions that have resulted in affirmations, reversals, or remands of

Hearings Official decisions. The information from these indices provided the following detailed, factual basis for the analyses and recommendations in this report.

1) The information in the Index for the 2022 Hearings Official Applications, in HMC Report Attachment A2, is summarized as follows:

   a. In 2022 there were forty (40) Hearings Official applications with decisions:

      - Five (5) applications were unrelated to affordable rural housing: No's 1, 22, 32, 38 & 39; and
      - The other thirty-five (35) applications were related to affordable rural housing.

   b. Sixteen (16) of the thirty-five (35) Hearings Official applications were for appeals of Planning Director decisions for LLV applications. In other words, 46% or almost half of the thirty-five (35) Hearings Official applications were for appeals of Planning Director decisions for LLV applications.

   c. The Hearings Official decisions for the thirty-five (35) applications included:

      - Reversals of 11 Planning Director decisions: No's 9, 10, 11, 14, 17, 18, 20, 21, 25, 26 & 34.
      - Affirmations of two (2) Planning Director decisions that that were appealed to LUBA and remanded to lane County: No's 2 and 29.
      - Affirmation of one (1) Planning Director decision that was appealed to LUBA and reversed, and then appealed to the Oregon Court of Appeals who affirmed the LUBA decision: No. 8.
      - Affirmations of two (2) Planning Director decisions that were appealed to and affirmed by LUBA, and then appealed to the Oregon Court of Appeals and reversed: No's 28 and 29.

   In summary, sixteen (16) or 49% of the Planning Director application decisions for applications related to affordable housing were reversed or remanded on appeal. This reversal and remand rate is costly to property owners and the County, and should be reduced.

2) The Information in the Index for 2023 Hearings Official Applications, in HMC Report Attachment A3, is summarized as follows:

   a. In 2023 there were 26 applications with Hearings Official decisions:

- Three (3) applications were unrelated to affordable rural housing: No's 2, 11, & 26;
- The other twenty-three (23) applications were related to affordable rural housing.

b. Eleven (11) of the twenty-three (23) Hearings Official applications were for appeals of Planning Director decisions for LLV applications. In other words, 48% or almost half of the thirty-five (23) Hearings Official applications were for LLV application appeals.

c. The Hearings Official decisions for the 23 applications included:

- Reversals of five (5) Planning Director decisions: No's 8, 9, 10, 24 & 25.
- Affirmation of one (1) Planning Director decision that was appealed to LUBA, and remanded by LUBA: No. 7.
- Affirmation of one (1) Planning Director decision that was appealed to and reversed by LUBA, and appealed to the Oregon Court of Appeals who affirmed LUBA: No. 1.

In summary, seven (7) or 30% of the Planning Director application decisions were reversed or remanded on appeal. This reversal and remand rate is costly to property owners and the County, and should be reduced.

d. When LMD Staff participates in Hearings Official hearings, they present and advocate for their interpretations of Lane Code, State Laws, LUBA decisions and Hearings Official cases. One reason for reversal or remands of Planning Director decisions on appeal is that the Planning Director has improperly interpreted the laws. This greatly increases the costs of these affordable housing applications. For example, the 2022 Hearings Official's decision for LLV application 509-PA21-06048 reversed the Planning Director's decision for denial primarily because Staff incorrectly interpreted:

- LC 13.030(3)(w)(i) that, per the Hearings Official, "dictates that such a lien foreclosure does not constitute a partition and that County approval was not required;" and
- LUBA 2003-098 which staff used to argue "lien foreclosures do not act to legitimize otherwise unlawful divisions."

e. LMD staff recently posted the Hearings Official Decision Tracker, for Planning Director decisions and Hearings Official application decisions made from 2017 to 2024. See this in HMC Report Attachment F5. The Tracker includes this

information: application #, name reference, appellant, zone, proposal, PD decision and HO decision. It does not contain this information.

- LUBA and Court of Appeals remands, reversals or affirmations of certain Hearings Official decisions are missing. Without this information, the Hearings Official Decision Tracker inaccurately tracks decisions that have been affirmed, reversed or remanded by LUBA and Court of Appeals. This information is in the HMC 2022 and 2023 Hearings Official indices.

- The initial hearing dates for the Hearings Official applications are needed by customers to find Hearings Official files on the Hearings Official website. The Hearings Official files on the Hearings Official website grouped by the dates when they initially heard. This information is in the HMC 2022 and 2023 Hearings Official indices.

- When customers prepare and address the requirements and issues for their land use applications, it would be helpful for them to know how the requirements and issues were addressed in applications similar to theirs. The HMC 2022 and 2023 Hearings Official indices have helpful, substantive excerpts of the decisions to assist customers.

3) In order to find records on the Hearings Official website, a customer must know the application file number and the date when the hearing occurred. Then, a customer must navigate through and open several files to get the application file. This is confusing and time consuming. HMC recommends a redesign for the Hearings Official website that will make it easier for customers to find Hearings Official files. See this in HMC Report Attachment A4.

4) The LMD website for the Hearings Official has a file for "Remand Proceeding/Documents" that contains copies of only three LUBA decisions. This file is currently useless for customers and needs to be updated to include copies of all LUBA and Court of Appeals decisions that were applicable to Lane County land use decisions. Next, copies of these decisions need to be put into the property files for the affected properties.

3. In support of recommendations 7 and 13 – 20, HMC analyzed the Legal Lot Verification ("LLV") received by the Planning Director in 2023, and decided. The results of this work are in HMCR report Attachments B1 through B5. This information is summarized as follows.

1) A "Legal Lot" or a "Lawfully Established Unit of Land" is a must for affordable rural housing on all rural lands in Lane County and is necessary to:

- legally sell land,
- obtain a new dwelling,
- replace an existing dwelling or a dwelling destroyed by fire, flood, earthquake or other disasters,
- divide land or,
- do a property line adjustment.

A "Lawfully Established Unit of Land" is a lot or parcel in an approved and recorded subdivision or partition plat or a unit of land that has been determined to be lawfully established by approval of a Type 1 or Type II Legal Lot Verification ("LLV") application.

2) The kinds of land use applications that are related to or may require legal lots to do are those for a:

   - Validation of a unit of Land ("VUL")
   - Partition,
   - Subdivision,
   - Replat
   - Property Line Adjustment ("PLA"),
   - New dwelling,
   - And dwelling replacements.

3) Based on the LMD fee information in HMC Report Attachment F2, in 2022 and 2023, the largest, single source of LMD planning application fee revenue was from LLV application fees:

   - 2022 LLV application fees: $223.417.40, and
   - 2023 LLV application fees: $195,634.17.

4) Based on the information in HMC Report Attachment A1, in 2022 and 2023 Planning Director decisions for LLV applications were more frequently appealed than decisions for other land use applications related to affordable rural housing.

   - In 2022, decisions for 33 Planning Director applications related to affordable rural housing were appealed to the Hearings Official. 15, or 45%, of those decisions were for LLV applications.

   - In 2023, decisions for 23 Planning Director applications that were related to affordable rural housing were appealed to the Hearings Official. 11, or 48%. of those decisions were for LLV applications.

5) The Lane County appeal fee to the Hearings Official for the first evidentiary hearing is limited by Statute to $250. Other Lane County Hearings official appeal fees include $1365.76 for a Hearings Official reconsideration hearing and $3,488 for a Hearings Official hearing because of a remand from LUBA. Based on the LMD fee information in Howe Mann Consulting Report 4 Attachment A, the appeal fee revenue for LLV applications was:

   - $12,682 in 2022, and
   - $19,715 in 2023.

   These appeal fees covered only a small fraction of the LMD Staff and Hearings Official costs to process the appeals that are being subsidized by the LLV application fees and from other sources.

6) The costs for a property owner to prepare a LLV application vary widely depending on the subject property, the number of professionals involved, and the circumstances of any contested appeal.

7) Based on the information in HMC Report Attachment B5, consisting of a list from LUBA of all Legal Lot Verification and Validation of a Unit of Land application decisions appealed to LUBA by Counties in the State of Oregon from 2020 to 2024:

   - 19 LUBA Decisions were on the merits;
   - 13 (68%) of these 19 LUBA decisions were for appeals from Lane County; and
   - 6 (32%) of these 19 LUBA decisions were for appeals from all other counties in the State of Oregon.

   LUBA had more than twice as many appeals from Lane County for LLV and VUL applications than from all other counties in the State of Oregon. Lane County has become a battle ground in the State of Oregon for LLV and VUL applications.

8) The list of the LLV applications received by the LMD in 2023, in HMC Report Attachment B3, was obtained by Howe Mann Consulting from the LMD Online permit website. Each LLV application in this list that was received and processed for a decision, excluding a large number of those that were withdrawn or voided, was analyzed in HMC Report Attachment B1. This information included;

   - the application file number,
   - the date the application was received,

- the date the application was deemed complete or initially deemed incomplete with notes about any information needed for completion,
- the date the referral notices were mailed to nearby owners and other persons or entities,
- the range of dates, from the earliest to the most recent, for the instruments listed on the Assessment and Taxation Property Description Card (the "ATPDC") for the subject property,
- the range of dates, from the earliest to the most recent, for the instruments submitted with the application,
- the Planning Director decision for the LLV application, and
- Howe Mann Consulting summary comments for most applications.

9) 47 LLV applications were received by the LMD in 2023 and then processed for decisions in 2023 and 2024. Some LLV applications not included in this number were received by the LMD and either withdrawn or voided because of inaction.

a. When received by the LMD, a LLV application must be reviewed for completeness within 30 days of receipt. LMD Staff must then notify the applicant in writing that the application was deemed complete and accepted or if the application has been initially deemed incomplete and exactly what additional information is needed for acceptance.

- 18, or 38%, of the LLV applications were initially deemed complete by LMD Staff;
- 31, or 62%, of the LLV applications were initially deemed incomplete by LMD staff for the following reasons:
  - ✓ deeds were missing;
  - ✓ illustrations were needed for each deed with a different legal description;
  - ✓ the deeds were not certified by the County Recorder;
  - ✓ a map of the proposed legal lot was needed;
  - ✓ clear deeds were needed;
  - ✓ a narrative explaining how the property was created and changed over time was missing;
  - ✓ missing signatures on the form for owner or applicant or agent;
  - ✓ an out-of-date application form was used; or
  - ✓ the fee payment for the application was missing

b. The average number of days taken by staff to perform the initial completeness review for LLV applications, with two application exceptions, was 28.6 days per application (1291 total days for the reviews divided by 45 applications = 28.6). A written completeness review was not done by staff for LLV application No. 16 because, it was

a simple Type 1 LLV application. A completeness review was done by staff for LLV application No. 41 on the same day that it was received, apparently because the subject property was a parcel in an approved partition, there was a lawful property line adjustment to that parcel and a knowledgeable Staff was available to review it. Time taken to perform the initial completeness review can be significantly reduced by using an improved LLV application form to get the needed information and by allowing an applicant, prior to submitting a LLV application, to schedule a fifteen minute appointment a with a planner who processes LLV applications.

c. The average number of days taken by applicant to complete a LLV application, initially deemed incomplete, was 59 days (total days 1835 divided by 31 applications = 59 days).

d. The average number of days taken by the Planning Director to process a LLV application from the date it was deemed complete was 124 days (total days 5,356 divided by 43 + 124 days). LLV application No. 16 was not included in this count because, it was a Type 1 application. Application No's. 38, 42 and 44 were not included in this count because, the decisions for these applications are pending.

In summary, a 62% initial incompleteness rate for LLV applications received by the LMD in 2023 is a definite problem that is caused in part by not performing front-end customer service. This problem can be significantly reduced by performing the front-end customer service improvements in HMC recommendations 7 and 8.

10) The referral notices for each LLV application were generally mailed by the LMD to nearby property owners and to interested persons and organizations within a week of application acceptance. This is very timely. Based on the information from the LMD in HMC Report Attachment F1, referral notices were mailed to those who paid a $300 subscription fee: Bill Kloos, LaneWatch Lane County and the Eugene Water and Electric Board. The purpose of referral notices is to obtain comments from those concerned and to provide an opportunity for staff and the applicant to address and try to resolve concerns prior to the Planning Director decision.

11) Deed information is needed to complete an LLV application for the subject property and for the parent property and parent starting from the present and going back to before April 7,1949, when the first subdivision regulations in Lane County Ordnance No. 3. were enacted.

Staff has frequently mentioned the need for this information in some of their LLV applications decisions with this summary of a Hearings Official decision. ”**Moolenijzer PA21-05280** (RR), HO decision affirmed that the entire history of the creation of a property must be considered through the LLVRN process, including review of how the parent property and its parents were created. Applied the “Rule of 4” to review all divisions and the concepts of Doughty, in that if an unlawful division occurred at any point throughout a property’s history, the property could not be verified.”

In the Planning Director decision for the denial of LLV application No. 4, PA23-05054, the Planning Director finding emphasized the need for this deed information in order to approve it. “There is no evidence in the record that supports the applicant's statement that the parent property was lawfully created prior to 1975. The first deed in the record is that of the sale from ODOT to Allen signed on August 28,1975 (758/37374), which is after the date land divisions required partitioning approval on March 26, 1975. Because the property's history prior to this conveyance is not provided in the record, staff cannot find that the parent property was created lawfully.”

The Planning Director decision for LLV application PA23-05142 (No. 9) ignored the abovementioned requirements for deed information and approved this application with this finding. “Although the deed history for the Parent Property was not included with this application, per County records, it appears that the Parent Property was previously in the configuration as shown here in Orange.” ***PD decision findings page 6*** Why didn’t staff inform the applicant when the completeness review was done that additional deeds were needed?

The Planning Director decision for LLV application No. PA23-05543 (No. 37), ignored the abovementioned requirements for needed deed information and approved this application with this finding. “Based upon the following information, the creation of the Subject Property as a separate parcel (April 14, 1957) complied with effective land division and zoning regulations because: a. When the Subject Property was created as a separate unit of land (April 14, 1957), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (April 14, 1957), there were no zoning regulations in effect to govern its creation.” ***PD decision findings page 7*** According to the LMD website property information file for the subject property, the applicant for LLV application No. PA23-05543 submitted only the deeds listed on the ATPDC, with the earliest deed dated from 1967. In response to the notice that the application was initially

deemed incomplete, the applicant submitted a 2021 deed. Why didn't staff request the applicant to submit additional deeds when the application completeness review was done? There are no deeds earlier than 1967 in the website record for this application. The Planning Director reference to two 1957 deeds that were not in the record is not an acceptable substitute for the missing deeds in the chain of title for the subject property and the parent property and parent going back for before April 7, 1949.

LMD Staff needs to start consistently following these deed requirements for LLV application completeness reviews and decisions.

12) 47 LLV applications were received and processed for decisions by the Planning Director in 2023:

- 32 (68%) of these LLV applications were approved by the Planning Director;
- 12 (25%) of these LLV applications were denied by the Planning Director; and
- 3 (7%) of these LLV applications are pending decisions by the Planning Director

4. Comments on Nimpkish and Template Dwellings on F-2 Parcels.

Over the past couple of years, there has been considerable discussion about the litigation defining the relationship between F-2 parcel size and the right to develop forest template dwellings. In the Nimpkish litigation, LUBA reversed several decades of county interpretation of its own comprehensive plan policy discussing parcel size as it relates to dwelling approvals on F-2 land. Before the Nimpkish LUBA decision, parcel size did not matte for template dwelling; a template dwelling could be approved under the template test regardless of parcel size. After the Nimpkish decision, an 80 or 40-acre minimum parcel size is required that effectively eliminated the ability of owners of vacant F-2 zone parcels to qualify their parcels for new dwellings. This is clearly not what Lane County intended when it adopted the template dwelling requirements in the Oregon Revised Statutes.

One way that the Board may attempt to restore the County policy that allows dwellings on F-2 land regardless of parcel size requires the Board to interpret its comprehensive plan Goal 5 Policy 11. If the Board reinstates the County staff's decades long interpretation, the issue will likely will be taken to LUBA again. LUBA will review the matter under a standard that is very deferential to the Board's interpretation. However, it is possible that LUBA could disagree with the Board and uphold the parcel size minimums. In that event, the Board should consider revisiting the county plan to amend it as necessary to restore the policy that has been in place for decades.

By allowing template dwellings of F-2 zoned land regardless of parcel size, Lane County has helped meet the need for affordable rural housing.

Section 3. Priorities for the Recommendations.

Priority 1**:** recommendations 7-21 for improvements to customer service

Priority 2: recommendations 1-6 to support housing development within UGB's

Priority 3: recommendations 22-25 for amendments to Lane Code

Priority 4: recommendations 26-27 to support amendments to State laws

Priority 5: recommendation for the LCOG hiring of the Hearings Official



Howe Mann Consulting

Report Attachment A1

Howe Mann Consulting Report Attachment A1
Summary of 2022 & 2023 Hearings Official Applications

This report analyzed the detailed information in the Howe Mann Consulting Report Attachment A2 Index for the 2022 Hearings Official Applications, and the Howe Mann Consulting Report Attachment A3 Index for the 2023 Hearings Official Applications. The information in Attachments A and B was taken from the Lane County Land Management Division's website, HEARINGS OFFICIAL AGENDAS, AUDIO, AND DOCUMENT and included the following information:

- the initial application hearing date,
- the application file number,
- a summary description of the application,
- the persons or parties involved at the hearing for the application,
- the hearing staff and excerpts of their recommendations to the Hearings Official,
- the Hearings Official decision and excerpts of the decision,
- any appeal to LUBA and excerpts from the LUBA decision, and
- any appeal to the Oregon Court of Appeals and excerpts from the decision.

One purpose of this information was to provide a word searchable index source of information to find Hearings Official applications and topics. The other purpose of this information was to provide a detailed, factual basis for the analyses in this report.

1. The information in How Mann Consulting Report Attachment A2 Index for the 2022 Hearings Official Applications is summarized as follows:

    a. In 2022 there were forty (40) Hearings Official applications with decisions:

        - Five (5) applications were unrelated to affordable rural housing: No's 1, 22, 32, 38 & 39; and
        - The other thirty-five (35) applications were related to affordable rural housing.

    b. Sixteen (16) of the thirty-five (35) Hearings Official applications were for appeals of Planning Director decisions for LLV applications. In other words, 45.7% or almost half of the thirty-five (35) Hearings Official applications were for LLV application appeals.

    c. The Hearings Official decisions for the thirty-five (35) applications included:

        - Reversals of 11 Planning Director decisions: No's 9, 10, 11, 14, 17, 18, 20, 21, 25, 26 & 34.
        - Affirmations of two (2) Planning Director decisions that that were appealed to LUBA and remanded to lane County: No's 2 and 29.

- Affirmation of one (1) Planning Director decision that was appealed to LUBA and reversed, and then appealed to the Oregon Court of Appeals who affirmed the LUBA decision: No. 8.
- Affirmations of two (2) Planning Director decisions that were appealed to and affirmed by LUBA, and then appealed to the Oregon Court of Appeals and reversed: No's 28 and 29.

In summary, sixteen (16) or 48.5% of the Planning Director application decisions for applications related to affordable housing were reversed or remanded on appeal. This reversal and remand rate is bad, costly to all parties involved and needs to be reduced.

2. The Information in Howe Mann Consulting Report Attachment A3 Index for 2023 Hearings Official Applications is summarized as follows:

   a. In 2023 there were 26 applications with Hearings Official decisions:

      - Three (3) applications were unrelated to affordable rural housing: No's 2, 11, & 26;
      - The other twenty-three (23) applications were related to affordable rural housing.

   b. Eleven (11) of the twenty-three (23) Hearings Official applications were for appeals of Planning Director decisions for LLV applications. In other words, 47.8% or almost half of the thirty-five (23) Hearings Official applications were for LLV application appeals.

   c. The Hearings Official decisions for the 23 applications included:

      - Reversals of five (5) Planning Director decisions: No's 8, 9, 10, 24 & 25.
      - Affirmation of one (1) Planning Director decision that was appealed to LUBA, and remanded by LUBA: No. 7.
      - Affirmation of one (1) Planning Director decision that was appealed to and reversed by LUBA, and appealed to the Oregon Court of Appeals who affirmed LUBA: No. 1.

   In summary, seven (7) or 30.4% of the Planning Director application decisions were reversed or remanded on appeal. This reversal and remand rate is not good and steps should be taken to improve it.

3. Hearings Official hearings are quasi-judicial proceedings where the Hearings Official conducts the hearing and then, based on the information presented and at a later date, makes a written decision that can be appealed to LUBA. Other

participants in the hearing are LMD Staff, attorneys, proponents, and opponents who present their oral and written facts and arguments. When LMD Staff participate in the hearings, they present and advocate for interpretations of Lane Code, State Laws, LUBA decisions and Hearings Official cases. One big reason for reversals or remands of Planning Director decisions is that Staff has improperly interpreted the legal requirements. This creates a lot of animosity between Staff and applicants who are represented by their attorneys or professionals, and can greatly increase the costs of applications for affordable housing.

4. Recommendations.

These and other recommendations are included in the Howe Mann Consulting Report to the Lane County Board of Commissioners.

1) Currently, if a customer wants to find the records for a certain application heard by the Hearings Official, the customer needs to know the application file number and the date when the hearing occurred. For example, suppose a customer wants to find the records for application PA22-05274 heard by the Hearings Official on April 27, 2023. The customer must then search through four files to get to the desired application records. The LMD website for Hearings Official hearings is very difficult to use and should be redesigned so that the customer needs to open one file to get the one wanted. A recommended design is in Howe Mann Consulting Report Attachment A4.

2) For the five years of Hearings Official hearings, from 2020 to 2024, a detailed yearly index of the hearings should be prepared and posted on the Hearings Official hearings website. Howe Mann Consulting Attachments A2 and A3 are example indices for the 2022 and 2023 Hearings Official applications that should be used and are word searchable and include the following information:

- the initial application hearing date,
- the application file number,
- a summary description of the application,
- the persons or parties involved at the hearing for the application,
- the hearing staff and excerpts of their recommendations to the Hearings Official,
- the Hearings Official decision and excerpts of the decision,
- any appeal to LUBA and excerpts from the LUBA decision, and
- any appeal to the Oregon Court of Appeals and excerpts from the decision.

3) The LMD website for the Hearings Official includes a Remand Proceedings/Documents file that contains copies of only three LUBA

decisions for Hearings Official applications of all years. There are many more LUBA and Court of Appeals decisions that should be added to this file as shown in the indices for the 2022 and 2023 Hearings Official applications.

4) The LMD website for the Hearings Official includes a Land Division Ordinances – Library file that contains copies of only 5 historic Lane County land division regulations for the time period dating from the first subdivision ordinance adopted by Lane County on April 7, 1949. There are many more Lane County historic land division regulations than these 5. LMD Staff needs to scour its LLV and land division files to get copies of these other land division regulations and then put them on this website.

5) Applicants should not be required to pay the $3,488 appeal fee for Hearing Official hearings for remands from LUBA if the reasons for the remands were because of the County's erroneous decision. Otherwise, requiring the applicant to pay the $3,488 fee punishes the applicant for the County's errors and increases the property owner costs for rural housing in Lane County. The LMD planning fee schedule for Hearings Official items needs to amended to make this change. The long-term goal of reducing the costs of LUBA appeals should be to reduce the number of LUBA appeals.

6) As shown in this report, there is a big need for LMD staff to have access to a County Counsel land use attorney. Lane County should hire a fulltime land use attorney dedicated to timely assisting LMD Staff and the Board of Commissioners with land use legal matters and training.

   a. Funding for this position should be decided by department managers and the Board of County Commissioners.

   b. The office for this land use attorney should be located in the LMD for easy access by LMD Staff.

   c. This land use attorney should not be diverted by others to perform legal work unrelated to land use planning.

Howe Mann Consulting

Report Attachment A2

Howe Mann Consulting Report Attachment A2
Index of 2022 Hearings Official Hearing Applications

This index is for the land use applications heard by the Lane County Hearings Official in 2022 and does not include information for withdrawn applications. It includes the following information for each application:

- Hearing date and application file number,
- Identification of the type or application and subject property,
- Identification of owner, applicant appellants, hearing staff and Hearings Official,
- Summary of the Planning Director's recommendation taken from the auction recommendation,
- Summary of the Hearings Official decision take from the actual decision,
- Summary and any appeal to LUBA decision take from the actual decision, and
- Summary of any Oregon Court of Appeals decision taken from the actual decision.

This index is word searchable and can be word searched to find certain applications or topics.

Recommendation 1: This index should be modified as necessary to improve it and should then posted on the LMD Hearings Official website for the 2022 Hearings Official applications.

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1. 1/20/2022 Hearing Application File 509-PA21-05046: An appeal of a Type II Director denial of a Request for Approval of a Floodway Development Permit pursuant to Lane Code 16.244(8)(c). Specifically, the applicant proposes to construct a barn and storage building in the floodway.

    - Owner/Applicant/Appellant: Keith Baskett
    - Appellant's Agent: Kim O'Dea
    - Proponents:
    - Opponents: LWLC - Agent Lauri Segel, Tom Bowerman, McKenzie Bowerman

    - Staff: Deanna Wright. Staff1/13/2022 report to the Hearings Official recommendation:

      "Based on the above findings, **staff respectfully request that the Hearings Official affirm the Planning Director's denial**." *page 2*

    - Hearings Official: Anne Davies. Hearings Official 3/11/2022 decision:

      "The applicant alleges that denial of the subject application will result in a Measure 49 claim because the current version of the code prohibits all

development in the floodway. It is unclear what relevance this assertion has to the subject appeal. The Hearings Official does not understand the applicant to allege that the denial of the application itself constitutes a taking.

As discussed above, the provisions of LC 16.244 survive the *Brentmar* protections because they are safety regulations. The Roads standards apply to the access easement, are not satisfied, and **the Planning Director's denial of the subject application must be affirmed**." *page 10*

2. 2/03/2022 Hearing Application File 509-PA21-05220: Appeal of Type II Director APPROVAL of a Preliminary Partition in the Nonimpacted Forest Lands (F-1) zone pursuant to Lane Code 13.050, 13.060, and 16.210(7). Specifically, the application is proposing to replat two (2) F-10-zone parcels consisting of Tax Lots 802, 803, and 804 into two (2) parcels, with Parcel 1 to consist of five (5) acres with an existing dwelling to remain, and Parcel 2 to consist of 75.26 acres. Assessor's Map and Tax Lot: 19-04-03-00-00802, 00803, and 00804;

- Owner/Applicant: Tranquil Lands, LLC. Applicant's Agent - Mike Reeder
- Appellant: LWLC Agent - Sean Malone
- Proponents: Reida Kimmel, Charles Kimmel
- Opponents:
- Staff: Taylor Carsley. Staff 1/27/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, **staff respectfully recommend that the Hearings Official affirm the Planning Director's decision to approve the application with conditions**." *page 2*

- Hearings Official: Anne Davies, Hearings Official 3/04/2022 decision:

  "All three of LandWatche's challenges to the Planning director's decision approving the application are denied. Accordingly, **the Planning Director's decision for approval of the application is affirmed**." *page 10*

- **Luba No. 2022-038** FINAL OPINION AND ORDER, LANDWATCH LANE COUNTY (Sean Malone), *Petitioner,* vs. LANE COUNTY, *Respondent, and* TRANQUIL LANDS, LLC (Mike Reeder), *Intervenor Respondent*: 8/08/2022 decision.

  "Thus, ORS 215.780 and LC 16.210(7) allow the creation of two substandard parcels if the applicable criteria are met. We agree with petitioner that the hearings officer misconstrued the LC. LC 13.130(3)(e) does not apply to intervenor's application to complete a non-minor shift in property lines. A

request to accomplish a non-minor shift in property lines through a property line adjustment or replat to create two substandard parcels, one five-acres in size with a dwelling established before 1995, must comply with LC 16.210(7), which, as we explain above, allows a replat to create two parcels less than 80 acres in size, subject to applicable criteria and conditions. The second subassignment of error is sustained. The first assignment of error is sustained, in part." *page 22*

"Because we conclude that the hearings officer improperly construed LC16.210(7) and LC 13,130(5), remand is the appropriate remedy. **The decision is remanded**." *page 25*

3. 2/17/2022 Hearing Application File 509-PA21-05280: Appeal of a Reconsidered Decision Approving a Type II Director APPROVAL of a Primary Farm Dwelling in the Exclusive Farm Use Zone (E60), pursuant to Lane Code (LC) 16.212(3)-2.1, and Applicable Standards LC 16.212(4)(y), 7(c) & (d) and (15); for Assessor's Map and Tax Lot: 17-02-24-00-0019-04-03-00-00401'

- Owner/Applicant: Ryan and Britta Acuri. Applicants' Agent - Mike Reeder
- Appellant: LWLC - Agent Sean Malone
- Proponents:
- Opponents:

- Staff: Kevin Gilbride. Staff 2/10/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, **the Director** considers, that subject to the submittal of additional narrative/evidence outlining the scope of the commercial farm operation on the subject tract, **the Hearings Official should affirm the original approval**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 3/16/202 2Decision:

  "The Hearings Official finds that all of the applicable approval criteria are satisfied, and **the Planning Director's decision for approval of the subject application is affirmed**." *page 8*

4. 2/24/2022 Hearing Application File 509-PA21-05317: Appeal of a Type II Director DENIAL of a Legal Lot Verification Research & Notice for one (1) Legal Lot identified as Assessor's Map and Tax Lot Number 18-04-14-12-00200, pursuant to Lane Code Chapter 13.140.

- Owner/Applicant/Appellant: Compeau Family Trust Agent - Jed Truett Metro Planning
- Appellant' Agent: Kim O'Dea
- Proponents:
- Opponents:

- Staff: Taylor Carsley. Staff 1/20/2022 report to the Hearings Official recommendation:

  "Applicability of Kasle

  LUBA made clear in (LUBA No 2018-077, Kasle), the narrow applicability of concluding that an unlawfully created parcel did not vacate an underlying lawfully created parcel for purposes of a template test, which has specific temporal language. The issue at hand is whether or not the results of an unlawful land division are lawful parcels. In Kasle, LUBA agreed with the petitioner that an unlawful division of land creates two new, unlawful units of land.

  Applicability of Moolenijzer

  The core of the appellant's argument relies on the fact that the lawful status of the parent parcel is irrelevant, so long as a subsequent conveyance is done lawfully. The Hearing Official recently made clear in Moolenijzer (see 509-PA21-05452, Attachment 6) that a lawful division of land that is created unlawfully does not cure the previous unlawful division for purposes of legal lot verification. The Hearings Official also concluded that the status of a parent unit of land (i.e. whether the unit of land was created lawfully or not) is relevant in subsequent lawful conveyances for purposes of later legal lot verification, regardless of whether Lane Code or ORS required evidence of legal lot status for formal land divisions, at the time the lawful conveyance took place." *page 2*

  "Based on the findings above, and the attached documents. **staff find that the subject property is not a lawfully established unit of land** as defined by Lane Code 13.030 and must be denied, pursuant to the requirements of Lane Code 13.140." *page 3*

- Hearings Official: Anne Davies. Hearings Official 3/18/2022 decision; "**The Planning Director's decision denying the subject application is affirmed**." *page 3*

5. 2/24/2022 Hearing Application File 509-PA21-05521: Appeal of Type II Director DENIAL of a Validation of a Unit of Land for property identified as Assessor's Map and Tax Lot Number 18-04-11-00-00900, pursuant to Lane Code 13.150.

- Owner/Applicant/Appellant: Compeau Family Trust; Agent - Jed Truett Metro Planning
- Appellant's Agent: Kim O'Dea
- Proponents:
- Opponents:

- Staff: Taylor Carsley. Staff 1-20-2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, staff find the subject property does not qualify under Lane Code 13.150(1)(b) for a Validation of a Unit of Land. It appears a potential remedy may under a Type II Tentative Partition, since all land in the parent parcel are under the common ownership of the applicant. Pursuant to the requirements of Lane Code 13.150, **the original denial of the VUL should be affirmed by the Hearings Official**."

- Hearings Official: Anne Davies. Hearings Official 3/18/2022 decision:

  "For purposes of the issue in this appeal, the subject property was created by deed, unlawfully, in 1963. It is that sale that provides the relevant date for determining compliance with LC 13.150(1)(b). The property could not have complied with the 60-foot frontage requirement that was in effect in 1963. Accordingly, LC 13.150(1)(b) is not satisfied.

  The Planning Director's decision denying the subject application is affirmed." *page 4*

6. 2/24/2022 Hearing Application File 509-PA21-05523: Appeal of Type II Director DENIAL of a Validation of a Unit of Land for property identified as Assessor's Map and Tax Lot Number 18-04-11-00-01000, pursuant to Lane Code 13.150. Assessor's Map and Tax Lot: 18-04-11-00-01000.

   - Owner/Applicant/Appellant: Compeau Family Trust; Agent - Jed Truett Metro Planning
   - Appellant's Agent: Attorney Kim O'Dea
   - Proponents:
   - Opponents:

   - Staff: Taylor Carsley. Staff 1/20/2022 report to the Hearings Official recommendation:

"Based on the findings above, and the attached documents, staff find the subject property does not qualify under Lane Code 13.150(1)(b) for a Validation of a Unit of Land. It appears a potential remedy may under a Type II Tentative Partition, since all land in the parent parcel are under the common ownership of the applicant. Pursuant to the requirements of Lane Code 13.150, **the original denial of the VUL should be affirmed by the Hearings Official**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 3/18/2022 decision:

  "For purposes of this appeal, the subject property was created by deed, unlawfully, in 1963. It is the sale that provides the relevant data for determining compliance with LC 13.150(1)(b). The property could not have complied with the 60-foot frontage requirement that was in effect in 1963. Accordingly, LC 13.150(1)(b) cannot be satisfied. **The Planning Director's decision denying this application is affirmed**." *page 4*

7. 2/24/2022 Hearing Application File 509-PA21-05555: Appeal of Type II Director DENIAL of six (6) Property Line Adjustments between seven (7) properties contained within the properties identified as Assessor's Map and Tax Lot Numbers 18-03-15-00-0201, 18-03-15-00-00202, 18-03-15-00-00205, 18-03-15-00-00208, 18-03-15-00-0209, 18-03-15-00-00300, 18-03-15-00-00302, 18-03-15-00-00303, 18-03-15-00-0304, 18-03-10-01400, & 18-03-16-30-02500, pursuant to LC 13.130.

   - Owner/Applicant/Appellant: McDougal Bros. Investments, Lane Community College – Jennifer Hayward, City of Eugene Parks and Open Space, LeeLynn Inc., Wiley Mountain Inc, LLC.
   - Appellant's Agents: Attorney Kim O'Dea and Mike Evans.
   - Proponents:
   - Opponents: LWLC - Lauri Segel, 1000 Friends of Oregon - Andrew Mulkey

   - Staff: Kevin Gilbride. Staff 1-20-2022 report to the Hearings Official recommendation:

     "Based on the findings above, and the attached documents, the Director finds that the proposal does not meet the requirements of Lane Code 13.130 for property line adjustments, and **the original denial should be affirmed by the Hearings Official**." *page 5*

   - Hearings Official: Anne Davies. Hearings Official 4/06/2022 decision:

     "**THE PLANNING DIRECTOR'S DENIAL** OF THE McDOUGAL INVESTMENTS, ET AL. REQUEST (PA 2 1-05555) FOR SIX PROPERTY

LINE ADJUSTMENTS INVOLVING SEVEN PROPERTIES **IS AFFIRMED**." *page 3*

"The Hearings Official affirms the Planning Director's determination that a demonstration of compliance with LC 13.l30(3)(b) (that the properties subject to the proposed property line adjustment are "legal lots") requires the applicants to first obtain final legal lot verifications for the properties sought to be adjusted. Based on this ruling, the applicants are required to obtain those final legal lot verifications. Accordingly, the final determination of the lawful status of the subject properties will be made in the context of those legal lot verification applications. The discussion above under the second through fourth assignments of error is *dicta* and is provided only as informational for the parties." *page 8*

- Hearings Official Reconsideration 5/16/2022 Decision:

"In sum, the applicants concede that properties 1 and 6 are not legal lots. There is not sufficient evidence to confirm that properties 2 and 3 are legal lots. Properties 4 and 5 are legal lots. Property 7 is not a legal lot. **The Hearings Official's original decision is affirmed** as clarified herein." *page 11*

8. 3/31/2022 Hearing Application Files 509-PA11-05854, 509-PA13-05566, 509-PA14-05756, 509-PA15-05298, 509-PA15-05481, 509-PA15-05758, 509-PA17-05196, 509-PA18-05812. Appeal of Director Revocation of the approvals pursuant to Lane Code Chapter 14.090(8)(a)(iv). Assessor's Map and Tax Lot: 16-02-14-00-01102, 16-02-14-00-01100, 16-02-14-00-01103, 16-02-14-00-00805.

- Owner Applicant/Appellant 1: Kim and John O'Dea
- Owner Applicant/Appellant 2: Shealene and Tom Vogel
- Owner Applicant/Appellant 3: Cody and Elysia Johnson
- Owner Applicant/Appellant 4: Theresa and Benard Perkins
- Attorney for Appellants of the Director's Decision: Greg S. Hathaway
- Attorney for Cody and Alysia Johnson for Reconsideration of the Hearings Official Decision: Zach Mittge Hutchinson Cox
- Attorney for Shealene and Tom Vogel for Reconsideration of the Hearings Official Decision: T. Beau Ellis
- Proponents:
- Opponents: 1000 Friends - Andrew Mulkey, LWLC - Sean Malone and Lauri Segel
- Staff: Kevin Gilbride. The Staff 3/24/2022 report to the Hearings Official recommendation:

"Based on the findings above, and the attached documents, **the Director request the Hearings Official uphold the revocation of the subject decisions**." *page 9*

- Hearings Official Anne Davies. Hearings Official 6/27/2022 reconsidered decision:

  "**The Planning Director's Decision is affirmed**."

  "The Hearings Official appreciates that the individuals who are now seeking reconsideration are in an unenviable position, to say the least. It is therefore understandable that they seek recourse through placing blame on the County for alleged procedural errors and the length of time it took to discover the false deeds. However, it is worth stating again that the fault for the delay and subsequent resulting damage cannot be placed at the feet of the County. The County did not fabricate deeds, and the County did not seek to defraud anyone.

  The Lane Code provides the Planning Director and the Hearings Official the authority to revoke approvals that are obtained using false or misleading information. While the potential losses that will be experienced by the purchasers of the falsely created properties in this case are a consideration in the exercise of that discretion, given the seriousness of this matter, the fact that the challenged revocations do not nullify previously issued building permits, and the availability of remedies through circuit court, the Hearings Official finds that revocation in this instance is appropriate and therefore upholds the determination affirming the Planning Director's decision."

- Luba Decisions No's. 2022-066 and 2022-067, dated 2/13/2023: FINAL OPINIONs AND ORDERs, CODY JOHNSON and ELYSIA JOHNSON, *Petitioner;* THOMAS VOGEL and SHEALENE VOGEL, *Intervenors Petitioners;* vs. LANE COUNTY, *Respondent,* and LANDWATCH LANE COUNTY and 1000 FRIENDS OF OREGON, *Intervenors Respondents*: "**REVERSED"** *page 2***.**

  "The circumstances that occurred in this appeal are nearly identical to the circumstances in Church. After the 2012 LLV and the seven additional land use decisions became final, the county amended the LC to include a provision that allows it to revoke a previous approval if"[t]he approval was secured with false or misleading Information." LC 14.090(8)(a)(iv).8 The county relied on that provision to revoke the 2012 LLV and the seven other land use decisions that relied on the 2012 LLV. In my view, LC 14.090(8)(a)(iv) is a prohibited "retroactive ordinance," and the county is prohibited, as a matter of law, from using that provision to revoke previously final land use decisions." *pages 24-25*

- IN THE COURT OF APPEALS OF THE STATE OF OREGON No. 417 August 16, 2023 485:

  Cody JOHNSON, Elysia Johnson, Thomas Vogel, Shealene Vogel, and Lane County, Respondents v. LANDWATCH LANE COUNTY and 1000 Friends Of Oregon, Petitioners. Land Use Board of Appeals 2022066

  KIMBERLY O'DEA, John O'Dea, Bernard Perkins, Theresa Iverson-Perkins, Thomas Vogel, Shealene Vogel, and Lane County, Respondents, v. LANDWATCH LANE COUNTY and 1000 Friends of Oregon, Petitioners. Use Board of Appeals 2022067; A180799

  "SUMMARY AND CONCLUSION. LUBA concluded that the county's reliance on LC 14.090(8)(a)(iv) in 2022 to revoke the LLV was an impermissible attack on that LLV because it contravened the express policy objective of finality in land use decisions given the passage of time. The county's challenge to the LLV was a challenge to the propriety of the decision to verify the legal lots in the first place. LUBA determined that, on this record, the county's decision to revoke the LLV more than 10 years after it had first approved it violated the statutory preference for finality of land use decisions. And, further, LUBA clarified that the county's use of its own local code provision to accomplish that which would have been barred under state land use laws as untimely was improper. Indeed, the county's decision to revoke the LLV was not only inconsistent with finality, but it also worked against finality. LUBA's order is not unlawful in substance**. Affirmed**." *page 498*

9. 3/31/2022 Hearing Application File 509-PA21-05621: Appeal of a Type II, Director Denial of a Legal Lot Verification Research and Notice for one (1) Legal Lot, pursuant to LC 13.140. Assessor's Map and Tax Lot: 16-02-14-00-01000 and 16-02-14-00-01101 together.

   - Owner: Carl and Shari Welle
   - Applicant/Appellant: Jack Welle
   - Appellant's Agent: Bill Kloos
   - Proponents:
   - Opponents: LWLC - Lauri Segel

   - Staff: Kevin Gilbride. The Staff 2/17/2022 report to the Hearings Official recommendation:

     "Based on the findings above, and the attached documents, **the Director** considers that the subject property cannot be considered an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's denial**." *page 2*

- Hearings Official: Anne Davies. The Hearings Official 4-26-2022 Decision:

  "THE PLANNING DIRECTOR'S DENIAL OF THE WELLE REQUEST (PA 21-05621) FOR THE LEGAL LOT VERIFICATION AND NOTICE OF COMBINED TAX LOTS 1000 AND 1101, ASSESSOR'S MAP 16-02-14, **IS REVERSED**."

  "This case is distinguishable from other property line agreement cases decided by the Hearings Official in that the boundary agreement in this case was ratified, affirmed, and approved by the Lane County Circuit Court. The court decree determined the ownership of the disputed property; accordingly, any subsequent execution or recording of a deed conveying title to the property was merely a formality and not required. Title had already passed upon the signing of the decree or at the latest, upon payment of the agreed upon consideration. Hence, the absence of such a deed from the record is immaterial.

  Further, the boundary line was adjusted and determined by the court decree. No further approval from the County was required. This conclusion is supported by the language of the Boundary Agreement itself, which was ratified in the court decree. The conclusion that no other county approval was required is also supported by HB 2312, which applies in this case, and dictates the conclusion that the subject property is a lawfully established unit of land." *page 7*

10. 3/31/2022 Hearing Application File: 509-PA21-05525, Appeal of a Type II, Director Denial of a Validation of Unit of Land for one (1) property, pursuant to LC 13.150, Assessor's Map and Tax Lot: 19-01-20-00-00701.

- Owner: Karen Racely and Jim Jorgensen
- Applicant/Appellant: Jim Jorgensen, Agent - Kim O'Dea
- Proponents:
- Opponents: Carter McKenzie

- Staff: Kevin Gilbride. Staff 3/24/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, staff find the subject property does not qualify under Lane Code 13.150(1)(b) for a Validation of a Unit of Land. Pursuant to the requirements of Lane Code 13.150, **the original denial of the VUL should be affirmed by the Hearings Official.**" *page 2*

- Hearings Official: Anne Davies. Hearings Official 4/29/2022 decision:

  "The subject property was created by deed, unlawfully, in 1976. It is that sale that provides the relevant date for determining compliance with LC 13.150(1)(b). The applicants have demonstrated that the property could have

complied with the access requirements found in the version of Lane Code that was in effect in 1976. Accordingly, LC 13.150(1)(b) is satisfied, and **the Planning Director's decision denying the subject application is reversed**." *page 5*

11. 3/31/2022 Hearing Application File: 509-PA21-05759: Appeal of Type II Director DENIAL of one (1) Property Line Adjustment between two (2) portions of the property identified as Assessor's Map and Tax Lot Number 21-03-12-00-00100, pursuant to LC 13.130.

- Owner: Carl and Shari Welle
- Applicant/Appellant: Jack Welle, Agent - Kim O'Dea
- Proponents:
- Opponents:

- Hearing Staff: Kevin Gilbride. Staff 2-17-2022 Staff report recommendation: "

  "Based on the findings above, and the attached documents, the Director finds that the proposal does not meet the requirements of Lane Code 13.130 for property line adjustments, and **the original denial should be affirmed by the Hearings Official**." *page* 2

- Hearings Official Anne Davies. Hearings Official 5/02/2022 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE 4 W'S LLC and LOILTD LLC REQUEST (PA21-05759) FOR A PROPERTY LINE ADJUSTMENT BETWEEN THE COMMON BOUNDARY BETWEEN THE SOUTHERN AND NORHERN PORTIONS OF TAX LOT 100, ASSESSOR"S MAP 21-03-13, **IS REVERSED**." *page 2*

  "**Conclusion**

  The sole basis for the Planning Director's denial was the flawed 2019 deed. That flaw was subsequently corrected through the re-recording of the 2022 deed. As explained above, the particular circumstances of this remedy, which involves the relation back of the cure to the original 2019 deed date, excuse the applicant from having to obtain a further legal lot verification. Of particular note, the parties appear to agree that there were no other conveyances or actions involving the subject property between 2107 and the date the application was submitted. This decision does not address possible requirements to obtain legal lot verification in a case where the methods of curing unlawful conveyances involve different facts than those presented here." *page 4*

12. 4/14/2022 Hearing Application File 509-PA21-05856: Appeal of a Type II, Director APPROVAL of Legal Lot Verification Research and Notice for two (2) properties and one (1) Property Line Adjustment pursuant to Lane Code 1.140 and 13.130. Assessor's Map and Tax Lot: 16-05-34-00-01000, 16- 05-34-00-01001, and 16-05-34-00-01002

- Owner/Applicants: Jill Brown, Molly Jones and Mary and Milton Decker
- Applicant's Agent: Law Office of Bill Kloos
- Appellant: LandWatch Lane County

- Hearing Staff: Kevin Gilbride
- Hearings Official: Anne Davies

- Staff: Kevin Gilbride. Staff 4/12/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, the Director considers that the subject legal lot verifications and property line adjustment are valid, pursuant to Lane Code 13.140 and 13.130, respectively, and request that the Hearings Official affirm the Planning Director's approval." *page 3*

- Hearings Official: Anne Davies, Hearings Official 6/13/2022 decision:

  "Neither the appeal for nor the appeal statement nor the transmittal email contained a signature of the appellant or the appellant's representative. The signature requirement in LC 14.080(1)(c) is jurisdictional. Accordingly, the appeal is dismissed." *page 5*

13. 4/14/2022 Hearing Application File 509-PA21-05891: Appeal of a Type II, Director APPROVAL of dwelling in the Impacted Forest Lands (F-2) Zone pursuant to the 'Template Dwelling' provisions of Lane Code 16.211(2)-2.4 and House Bill 2225 Assessor's Map and Tax Lot: 18-03-16-10-00401

- Owner/Applicant: McKeon Ventures, LLC
- Applicant's Agent: Michael Gelardi
- Appellant: LandWatch Lane County

- Hearing Staff: Kevin Gilbride
- Hearings Official: Anne Davies

- Staff: Kevin Gilbride.

- Staff 4/7/2022 report to the Hearings Official recommendation:

"Based on the findings above, and the attached documents, the Director respectfully requests that the Hearings Official affirm the Planning Director's approval for a "template dwelling" on Assessor's Map and Tax Lot 18-03-06-10-00401 pursuant to Lane Code 16.211(2)-2.4 and House Bill 2225. Based on the findings above, and the attached documents, barring additional clarification from the applicants." *page 4*

- Hearings Official: Anne Davies, Hearings Official 5/19/2022 decision:

  THE PLANNING DIRECTOR'S APPROVAL OF THE MCKEON VENTURES, LLC REQUEST (PA 21-05891) FOR A TEMPLATE DWELLING ON TAX LOT ASSESSOR'S MAP 18-03-16-10, IS AFFIRMED, SUBJECT TO REVISED CONTITION OF APPROVAL #3." *page 2*

14. 4/21/2022 Hearing Application File 509-PA21-05755: Appeal of a Type II, Director Denial of a relative farm help dwelling pursuant to Lane Code 16.212(3)-2.3. Assessor's Map and Tax Lot:16-05-08-00-00704.

- Owner/Applicant/Appellant: Peter Wiese/Laurel Wakestraw
- Appellant' Agent: Zack Mittge Hutchinson Cox
- Proponents:
- Opponents: LWLC - Lauri Segel

- Staff: Kevin Gilbride. Staff 3/31/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, barring additional clarification from the applicants, **the Director respectfully requests that the Hearings Official affirm the Planning Director's denial** for a "relative farm help dwelling" *page 3*

- Hearings Official: Anne Davies, Hearings Official 7-29-2022 decision: "**THE PLANNING DIRECTOR DECISION DENYING THE WIESE/WAKESTRAW**

  REQUEST (PA 20-05755) FOR A RELATIVE FARM HELP DWELLING ON TAX LOT 704 OF ASSESSOR'S MAP 16-05-08, **IS REVERSED**." *page 2*

  "The Hearings Official finds that all of the applicable approval criteria are satisfied, and **the Planning Director's denial of the subject application is therefore reversed**." *page 7*

15. 4/28/2022 Hearing Application File 509-PA21-05932: Appeal of a Type II, Director DENIAL of a Legal Lot Verification Research and Notice for one (1) Legal Lot, pursuant to LC 13.140. Assessor's Map and Tax Lot: 17-02-24-00-01400 (north portion).

- Owner/Applicant Appellant: Kevin McGlinchey
- Appellant's Agents - Jim McGlaughlin and Mike Farthing
- Proponents:
- Opponents:

- Staff: Kevin Gilbride. Staff 4/12/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, the Director considers that the subject property cannot be considered an individual lawfully established unit of land, per Lane Code 13.140, and respectfully request **that the Hearings Official affirm the Planning Director's denial**." *page 2*

- Hearings Official: Anne Davies, Hearings Official 6/13/2022 decision:

  "It is often to a property owner's advantage to rely on the well-accepted theory that conveyances of multiple properties into common ownership do not vacate property lines. It generally allows the owner to recognize more legal lots than might otherwise be shown as tax lots on the relevant tax maps. However, there will inevitably be circumstances where that theory backfires against an applicant. This appears to be one of those times.

  It appears the property line between the two properties conveyed in 1890 was never vacated. As a result, as shown in attached Exhibit F, the Wards purchased two properties in 1956. An L-shaped property was sold out in 1963, leaving two properties still owned by the Wards, as shown in yellow on Figure 4 of Exhibit D (one property is shown on the other side of the red line and the other is shown on the south side of that line). When the Wards conveyed the strip (tax lot 1401) to Nellie Scott in 1972, they retained two properties to the east of tax lot 1401 and two properties to the west of tax lot 1401. So the number of properties that were created when the 1972 conveyance occurred *(see* Exhibit E and Figure 5 of Exhibit D) exceeds three and would have required land division approval. No such approval was obtained, and the 1972 conveyance thus constituted an unlawful land division. Accordingly, the subject property is not a lawfully established unit of land.

  The Planning Director's denial of the subject application for legal lot verification of the northern portion of tax lot 1400 is affirmed." *page 4*

16. 4/28/2022 Hearing Application File 509-PA21-05933: Appeal of a Type II, Director DENIAL of a Legal Lot Verification Research and Notice for one (1) Legal Lot, pursuant to LC 13.140. Assessor's Map and Tax Lot: 17-02-24-00-01400 (south portion).

- Owner/Applicant Appellant: Kevin McGlinchey
- Appellant's Agents - Jim McGlaughlin and Mike Farthing
- Proponents:
- Opponents:

- Staff: Kevin Gilbride. Staff 4/12/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, the Director considers that the subject property cannot be considered an individual lawfully established unit of land, per Lane Code 13.140, and respectfully request **that the Hearings Official affirm the Planning Director's denial**." *page 2*

- Hearings Official: Anne Davies, Hearings Official 6/13/2022 decision:

  "It is often to a property owner's advantage to rely on the well-accepted theory that conveyances of multiple properties into common ownership do not vacate property lines. It generally allows the owner to recognize more legal lots than might otherwise be shown as tax lots on the relevant tax maps. However, there will inevitably be circumstances where that theory backfires against an applicant. This appears to be one of those times.

  It appears the property line between the two properties conveyed in 1890 was never vacated. As a result, as shown in attached Exhibit F, the Wards purchased two properties in 1956. An L-shaped property was sold out in 1963, leaving two properties still owned by the Wards, as shown in yellow on Figure 4 of Exhibit D (one property is shown on the north side of the red line and the other is shown on the south side of that line). When the Wards conveyed the strip (tax lot 1401) to Nellie Scott in 1972, they retained two properties to the east of tax lot 1401 and two properties to the west of tax lot 1401. So the number of properties that were created when the 1972 conveyance occurred *(see* Exhibit E and Figure 5 of Exhibit D) exceeds three and would have required land division approval. No such approval was obtained, and the 1972 conveyance thus constituted an unlawful land division. Accordingly, the subject property is not a lawfully established unit of land." *page 4*
  The Planning Director's denial of the subject application for legal lot verification of the southern portion of tax lot 1400 is affirmed." *page 4*

17. 5/05/2022 Hearing Application File 509-PA21-05913: Appeal of Type II Director DENIAL of one (1) Property Line Adjustment between two (2) portions of the property identified as Assessor's Map and Tax Lot Number 15-04-17-03103 (Property 1), and 15-04-17-00-03101 & 03102 together (Property 2), pursuant to LC 13.130.

- Applicant 1: Howard and Laura Fielder -

- Appellant 2 Don and Jean Phillips
- Appellants' Agent: Aaron Noteboom Law LLC
- Proponents:
- Opponents:

- Staff: Taylor Carsley. Staff 4/28/2022 report to the Hearings Official recommendation:

  "The foundation of the appellant's appeal statement relies upon part of a legal description taken out of context, with relevant information omitted and statute that happens to be inapplicable in this situation. Based on the findings above, and the attached documents, **the Director finds** that the proposal does not meet the requirements of Lane Code 13.130 for property line adjustments, and **the original denial should be affirmed by the Hearings Official**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 5/25/2022 decision:

  "Because the Planning Director denied the subject application based on LC 13.130(3)(f), they did not address other applicable approval criteria, and they did not impose conditions of approval to ensure compliance with all applicable approval criteria. The conditions of approval proposed by the applicant are not sufficient to address all relevant criteria." *pages 7-8*

  "Further, LC 13.130(3)(g) provides that, with some exceptions, a property line adjustment is subject to the property line setbacks for the applicable zone. In order to ensure compliance with these approval criteria, and others, the Hearings Official adopts the Conditions of Approval set forth in Exhibit E, attached hereto and incorporated herein.

  Conclusion

  "The Hearings Official reverses the Planning Director's denial of the subject application and approves the request, subject to the conditions of approval set forth in Exhibit E." *page 8*

18. 5/26/2022 Hearing Application File 509-PA21-05768, Appeal of a Type II, Director Denial of a Legal Lot Verification Research and Notice for one (1) Legal Lot, pursuant to LC 13.140. Assessor's Map and Tax Lot: 18-05-02-00-00500.

- Owner/Applicant/Applicant: Pat Goodwin
- Proponents:
- Opponents:

- Staff: Kevin Gilbride. Staff 3/31/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, the Director considers that the subject property cannot be considered an individual lawfully established unit of land, per Lane Code 13.140, and respectfully request **that the Hearings Official affirm the Planning Director's denial**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 7-29-2022 decision:

  "As discussed above, the Hearings Official interprets the 1935 quitclaim deed as describing a 50-foot strip of land that stretches from the west boundary of Mary and John Haldorson's property to the east boundary. The quitclaim deed also supports the conclusion that the Haldorsons conveyed all of their right, title and interest in the 50-foot strip of land to Lane County. The quitclaim deed therefore created an intervening ownership that separated the property to the north of the road from the property to the south of the road. **The subject property was lawfully created, and the Planning Director's denial is overturned**.

  The Hearings Official understands that, for many reasons, it is not ideal to base the fee interest vs. easement determination on nuanced factual issues such as specific language in the deed or the use of particular words in Board Orders accepting dedications that occurred decades ago. It creates a situation where different results will be reached depending on seemingly insignificant word choice. However, those word choices did have legal significance, whether the people realized it at the time or not. And the Hearings Official sees no reasonable alternative to this case-by-case approach." *pages 7-8*

19. 5/26/2022 Hearing Application File 509-PA21-06040: Appeal of a Type II, a Type II Director approval of a dwelling in the Impacted Forest Lands (F-2) Zone pursuant to the Template Dwelling' provisions of Lane Code 16.211(2)-2.4 and House Bill 2225. Assessor's Map and Tax Lot**:** 18-03-09-00-05303.

- Owner/Applicant: Edwin Cosmos Corbin, Agent - Kim O'Dea
- Appellant: LWLC – Sean Malone and Lauri Segel
- Proponents:
- Opponents:
- Staff: Taylor Carsley. Staff 5/19/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, **the Director respectfully requests that the Hearings Official affirm the Planning Director's approval for a "template dwelling"** on Assessor's Map and Tax

Lot 18-03-09-00-05303 pursuant to Lane Code 16.211(2)-2.4 and House Bill 2225." *pages 2-3.*

- Hearings Official: Anne Davies. Hearings Official 6/02/2022 decision:

  "THE PLANNING DIRECTOR'S APPROVAL OF THE EDWIN COSMOS CORBIN REQUEST (PA 21-06040) FORA FOREST TEMPLATE DWELLING ON TAX LOT 5303, ASSESSOR'S MAP 18-03-09 **IS AFFIRMED**, WITH THE ADDITION OF THE FOLLOWING CONDITION OF APPROVAL:

  "Prior to occupancy of the new dwelling, or within 18 months from the date of this decision, whichever is sooner, obtain the building permit(s) necessary to convert/remove any existing kitchen and/or cooking facilities in the building permitted through 509-BP-14-01983 or cause to have an inspection fully verifying consistency with the guest house requirements of LC 16.090(107)." *page 2*

20. 6/09/2022 Hearing Application File 509-PA21-05506: Appeal of Type II Director DENIAL of a Legal Lot Verification Research & Notice for property identified as Assessor's Map and Tax Lot Number 16-02-23-00-01301, pursuant to Lane Code 13.140.
    - Owner/Applicant/Appellant: Penny Jordan/Eymann Farm LLC
    - Appellants' Agent: Kim O'Dea
    - Proponents:
    - Opponents:

    - Staff: Taylor Carsley. Staff 6/02/2022 report to the Hearings Official recommendation:

      "Based of the findings above, and the attached documents, staff find that there is not sufficient evidence in the record to demonstrate the lawful status of the Subject Property, and as such, pursuant to the requirements of Lane Code 13.140, **the original denial should be affirmed** by the Hearings Official. The Planning Director will recognize the decision made in 509-PA94-00184 if the subject application is withdrawn." *page 2*

    - Hearings Official: Anne Davies. Hearings Official 7/21/2022 decision:

      "**THE PLANNING DIRECTOR'S DENIAL** OF THE EYMANN FARM LLC REQUEST (PA 21-05506) FOR THE LEGAL LOT VERIFICATION AND NOTICE OF TAX LOT 1301, ASSESSOR'S MAP 16-02-23, **IS REVERSED**." *page 2*

      "Conclusion "As discussed above, the County is precluded from approving an application for one legal lot that has, during the course of an appeal, morphed

into a request to approve two legal lots. Accordingly, the Hearings Official teats the applicant's request as seeking exactly what it applied for – one legal lot verification for the subject property. The 1994 LLV is a final determination, notwithstanding that no notice was given, and the Planning Director's denial is a collateral attack of that determination. The Planning Director's decision must therefore be reversed. Tax Lot 1301 constitutes one legal lot." *page 4*

21. 6/09/2022 Hearing Application File 509-PA21-05507: Appeal of Type II Director DENIAL of a Legal Lot Verification Research & Notice for property identified as Assessor's Map and Tax Lot Number 16-02-23-00-01301, pursuant to Lane Code 13.140.

- Owner/Applicant/Appellant: Penny Jordan/Eymann Farm LLC
- Appellants' Agent: Kim O'Dea
- Proponents:
- Opponents:

- Staff: Taylor Carsley. Staff 6/02/2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, staff find that there is not sufficient evidence in the record to demonstrate the lawful status of the property, and as such, pursuant to the requirements of Lane Code 13.140, **the original denial should be affirmed by the Hearings Official**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 7/21/2022 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE EYMANN FARM LLC REQUEST (PA 21-05507) FOR THE LEGAL LOT VERIFICATION AND NOTICE OF TAX LOT 1209, ASSESSOR'S MAP 16-02-24, **IS AFFIRMED**." *page 3*

  "In short, there appears to be no deed in the record, as far as the Hearings Official can tell, that describes the subject property as it appears on attached Exhibit A. There are deeds that convey properties that include less than the entirety of the subject property and deeds that convey more than the subject property. Further, there does not appear to be a property line adjustment, executed with or without County approval, that resulted in the configuration of the property for which legal lot verification is now sought. The applicant provides no response to the Planning Director's statement quoted above, other than to recommend that the Hearings Official can impose a condition of approval requiring the applicant to record a document consolidating Property 1 and 2 of the 2011 PLA.

As the applicant still owns Properties 1 and 2, it is likely that it will be able to execute the necessary documents to obtain a verification for a legal lot (or two). However, given the current configuration of the subject property, and the state of the record before the Hearings Official, an approval of the subject request is not justified." *pages 3-4*

22. 6/10/2022 Hearing Application File: 509-PA22-05132: Request for Type III Hearing Official approval of a Telecommunications Tower pursuant to Lane Code 16.264 (3) and (4), and Lane Code 16.211 (3)-6.12 Assessor's Map and Tax Lot: 18-03-28-00-00907.

- Applicant: New Cingular Wireless PCS, LLC
- Applicant's Agent: Smartlink - Debbie Griffin
- Owner: Tom Heer
- Proponents:
- Opponents:

- Staff: Taylor Carsley. Staff report to the Hearings Official recommendation:

"The applicant has failed to meet Lane Code 16.264(4)(e)(ii) by securing the written consent of homeowners within 1,200 feet of the facility. Although the **"**considered, staff considers that the applicant has not shown through a preponderance of evidence that the subject criterion violates federal law for the reasons discussed in Response 32. Accordingly, **staff recommends the Hearings Official deny the subject application or further assess the merits of additional evidence provided by the applicant** that address the feasibility of alternative sites that are less intrusive based upon Lane County standards. Should the Hearings Official approve the application, staff recommends making such approval contingent upon the recommended conditions of approval contained in Exhibit C." *page 16*

- Hearings Official: Anne Davies. Hearings Official 9/22/2022 Reconsideration decision:

"**THE HEARINGS OFFICIAL'S DECISION DENYING NEW CINGULAR WIRELESS PCS, LLC'S REQUEST** (PA 22-05132) TO SITE A TELECOMMUNICATIONS TRANSMISSION TOWER ON TAX LOT 907, ASSESSOR'S MAP 18-03-28, **IS AFFIRMED**, AS MODIFIED HEREIN." *page 2*

"**Conclusion**

The burden is on the applicant to present a prima facie case that a challenged local regulation constitutes an effective prohibition. Notwithstanding the FCC's ruling that an applicant need not always demonstrate a significant gap in

service when dealing with small cell installations, the Hearings Official believes that an applicant's prima facie case still must include an alternatives analysis. Where a proposed cell tower violates a local aesthetic standard, such as the 1200-foot setback requirement in this case, an applicant may not refuse to consider alternative sites that also violate that standard, where those alternative sites are or may be less objectionable than is the proposed location to the values sought to be protected by the local regulation." *page*

23. 7/14/2022 Hearing Application File 509-PA21-05737: Appeal of a Type II Director Denial of Property Line Adjustment for Property pursuant to Lane Code 13.130, 18-04-09-00-04100 (Property 1) & 18-04-09-00-04001 & 04002 (together as Property 2).

- Owner/ Applicant/ Appellant: Russell Evans Living Trust (Property 1) and James & Shari Hoover (Property 2); Agent - Nickell Land Surveying & Planning LLC
- Proponents:
- Opponents: LWLC - Lauri Segel and Sean Malone

- Staff: Taylor Carsley. Staff 7/07/2022 report to the Hearings Official recommendation:

  "Based on the findings made in the decision, staff find that the property line adjustment cannot be approved under the current application. Therefore, pursuant to Lane Code 13.130, **staff respectfully request that the Hearings Official affirm the Planning Director's denial**. *page 2*

- Hearings Official: Anne Davies. Hearings Official 8/18/2022 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE EVANS/HOOVER REQUEST (PA21-05737) FOR A PROPERTY LINE ADJUSTMENT BETWEEN TAX LOT 4100 (PROPERTY 1) AND TAX LOTS 4001 AND 4002 COMBINED (PROPERTY 2) OF ASSESSOR'S MAP 18-04-09, **IS AFFIRMED**." *page 2*

  "Conclusion

  The Hearings Official agrees with the Planning Director that the 2006 property line adjustment had the legal effect of adjusting the boundaries of the Properties, even though the PLA was not approved by the County. The current configuration of the Properties is as shown on Exhibit A. The requested adjustment is really no adjustment at all, and the applicants cannot use their legal fiction theory to avoid obtaining legal lot verifications where the property line adjustment that resulted in the current configuration was not approved by the County." *page 5*

24. 7/14/2022 Hearing Application File 509-PA22-05021: Appeal of a Type II Director Denial of (1) Property Line Adjustment between two (2) properties pursuant to Lane Code 13.130 and a Legal Lot Verifications Research & Notice for one (1) property pursuant to Lane Code 13.140. **Assessor's Map and Tax Lot**: 17-06-20-00-00200 (Property 1) and 17-06-20-00-00201 (Property 2)

- Owner/Applicant /Appellant: Dalta Cook, Goebel Engineering & Surveying, Inc.
- Proponents:
- Opponents: LWLC - Lauri Segel and Sean Malone

- Staff: Taylor Carsley. Staff report (no date) to the Hearings Official recommendation:

  "Based on the findings made in the decision, staff find that the property line adjustment and legal lot verification cannot be approved under the current application. Pursuant to Lane Code 13.130 and 13.140, staff respectfully request the Hearings Official **affirm the Planning Director's decision**."

- Hearings Official: Ann Davies. Hearings Official 8/11/2022 decision:

  "**Decision**

  THE PLANNING DIRECTOR'S DENIAL OF THE DALTA COOK REQUESTS (PA 22-05021) FORA LEGAL LOT VERIFICATION OF TAX LOT 201, ASSESSOR'S MAP 17-06-20, AND A PROPERTY LINE ADJUSTMENT BETWEEN TAX LOTS 200 AND 201, ASSESSOR'S MAP 17-06-20, **IS AFFIRMED**." *page 2*

  "Conclusion

  Property 2 is not a lawfully established unit of land because the property boundaries consistent with the current configuration were vacated by the 1977 partition. To the extent there were conveyances after the 1977 partition that described Property 2 as a discrete unit of land, those conveyances would have been unlawful. **The Planning Director's decision is affirmed**." *page 7*

25. 7/28/2022 Hearing Application File 509-PA21-06048: Appeal of Type II Director Denial of a Legal Lot Verification Research and Notice pursuant to Lane Code 13.140, Assessor's Map and Tax Lot: 17-02-36-10-01300.

- Owner/Applicant: Matthew and Alyssia Urness, Applicants' Agent - Jim Mann
- Appellants: Matthew and Alyssia Urness, Agent - Mike Reeder
- Proponents:
- Opponents: LWLC - Lauri Segel and Sean Malone

- Staff: Kevin Gilbride. Staff 7/21/2022 report to the Hearings Official recommendation:

  "The appellant's appeal statement is included as Attachment 2. Staff summarizes the basis of the appeal in a single point; the appellant argues that the intent of ORS 92 and Lane Code in stating that lien foreclosures "do not constitute a partitioning of land" was to exempt the foreclosures from the requirements of partitioning rather than not considering the foreclosures to have lawfully divided land. The appellant supports their consideration with an in-depth analysis of the legislative history of the adoption of the "exemptions". *page 1*

  "ORS 215.263(7) implements the exemptions of ORS 92.010(7) for lien foreclosures. LUBA's consideration in Perkins is that creation of properties without proper local review and approval does not result in the "creation" of a parcel at all, and that the foreclosure exemptions do not provide for anything different. As such, the lien foreclosure relied on by the applicant in this case did not result in the creation of a lawfully established unit of land, and **the subject application must be denied**.
  V. SUMMARY

  Based on the findings above, and the attached documents, **the Director** considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140, and respectfully request **that the Hearings Official affirm the Planning Director's denial**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 9/08/2022 decision:

  "Decision

  THE PLANNING DIRECTOR'S DENIAL OF THE MATTHEW AND AL YSSIA URNESS REQUEST (PA 21-06048) FORA LEGAL LOT VERIFICATION OF TAX LOT 1300, ASSESSOR'S MAP 17-02-36-10, **IS REVERSED**.*" page 3*

  "**<u>Conclusion</u>**

  In sum, the Hearings Official rejects staffs' contention that the subject property was created through an unlawful land division in 1994. The property was created in 1995 with the execution of the Trustee's Deed, which constituted the foreclosure of a lien. Although the property that was created through the lien foreclosure was only a portion of the entire property as it existed at the time, LC 13.030(3)(w)(i) dictates that such a lien foreclosure does not constitute a partition and that County approval was not required. The Hearings Official thus concludes that the 1995 lien foreclosure fall squarely within the exemption set forth in Lane Code.

Further, the Hearings Official concludes that the property lines were lawfully adjusted in 1997 and 2002. The subject property was lawfully established, and **the Planning Director's denial of the applicant's request for legal lot verification for tax lot 1300 is therefore reversed**." *page 9*

- BEFORE THE LAND USE BOARD OF APPEALS OF THE STATE OF OREGON, LANDWATCH LANE COUNTY, Petitioner Vs. LANE COUNTY, Respondent, and MATTHEW URNESS and ALYSSIA URNESS, Intervenors-Respondents. LUBA No. 2022-095 FINAL OPINION AND ORDER.

  "Petitioner's sole assignment of error is that the hearings officer misconstrued the law and erred in concluding that TL 1300 was lawfully created in 1995. We will reverse or remand a local government decision that misconstrues the applicable law. ORS 197.835(9)(a)(D)." *pages 6-7*

  "ORS 92.010(9) provides:

  '"Partitioning land' means dividing land to create not more than three parcels of land within a calendar year, but does not include:
  "(a) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots[.]"

  Similarly, LC 13.030(3)(w)(i) defines "partitioning land" as dividing land to create not more than three parcels of land within a calendar year but not including dividing land as a result of lien foreclosure. Thus, a division of land resulting from a lien foreclosure is not the act of "partitioning land" within the meaning of ORS 92.010(9)." *pages 7-8*

  "The assignment of error is denied. The county's decision is affirmed." *page 14*

- **LMD staff did not post the decision for "LUBA No. 2022-095" on the LMD website for the Hearings Official or in the LMD property records for this application.**

26. 9/08/2022 Hearing Application File 509-PA21-05806: Appeal of Type II Director DENIAL of a request for approval of a Type II Verification of Nonconforming Use pursuant to Lane Code 16.251(1) and ORS 215.130. The specific request is for verification that the residential use of a dwelling at 25367 Ferguson Road is a lawful nonconforming use that may be continued. Assessor's map and Tax Lot 15-05-19-00-00400

- Owner/Applicant/Appellant: Sage & Lynne Dorsey, Ferguson Creek Investments LLC
- Appellants' Agent: Zack Mittge, Hutchinson Cox
- Proponents:
- Opponents:

- Staff: Shawna Adams. Staff 9/01/2022 report recommendation to the Hearings Official:

  "For the reasons explained, detailed in the Director's decision, and summarized above, staff respectfully requests **that the Hearings Official affirm the decision to deny the request** made under file 509-PA21-05806. Upon request, **staff can provide draft conditions of approval for consideration in the event the Hearings Official reverses the Planning Director decision**." *page 4*

- Hearings Official: Anne Davies. Note***: A copy of the Hearings Official decision was not in the Hearings official records file. It was in the LMD property records file.*** The Hearings Official 10/17/2020 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE FERGUSON CREEK INVESTMENTS, LLC REQUEST (PA 21-05806) FOR VERIFICATION OF A NONCONFORMING USE FOR A DWELLING ON TAX LOT 4001, ASSESSOR'S MAP 15-05-19, **IS AFFIRMED**." *page 2*

  "**Conclusion**

  The authorization to replace an existing dwelling in the EFU zone is exclusively through the provision in Table 16.211-1 that authorizes alteration, repair or replacement of an existing dwelling. Tablet 6.212-1-2.7. An existing, lawfully established dwelling is a conforming use, is therefore not a nonconforming use, and **the Planning Director was correct in denying the subject application for verification of a nonconforming use. The Planning Director's decision is affirmed**." *page 5*

- **LUBA No. 2022-099**, 6/09/2023: FERGUSON CREEK INVESTMENTS, LLC, *Petitioner,* vs. LANE COUNTY, *Respondent*, and LANDWATCH LANE COUNTY, *Intervenor-Respondent.*

  "We agree with petitioner that the hearings officer misconstrued ORS 215.130, ORS 5 215.213(l)(q), and ORS 215.291 when they determined that ORS 215.213(l)(q) makes existing dwellings conforming uses eligible exclusively for alteration, restoration, or replacement under ORS 215.291 and therefore

ineligible for a nonconforming use determination. On remand, the county should decide whether the subject structure is a nonconforming use.

The decision is remanded." *page 14*

- In response to the decision in LUBA No. 2202-099, on 9/29/2023 the Hearings Official Anne Davies opened the record for submittal of legal arguments based on the existing record and evidence without a hearing on remand, and allowing for additional briefing by the parties as the Hearings Official determined appropriate. On November 28, 2023, the Hearings Official issued a decision incorporating the Planning Director's earlier decision in the findings and denied the application.

- **LUBA No. 2023-087**, 4/29/2024: FERGUSON CREEK INVESTMENTS, LLC, *Petitioner,* vs. LANE COUNTY, *Respondent*, and LANDWATCH LANE COUNTY, *Intervenor-Respondent.*

  "Petitioner appeals the hearing official's decision on remand from Ferguson 8 Creek Investment, LLC v. Lane County, _ Or LUBA _ (LUBA No 2022-099, 9 June 9, 2023) (Ferguson I}." *page 3*

  "Petitioner's first assignment of error and part of petitioner's second assignment of error are that the hearings official misconstrued the law because they repeat their error from Ferguson I. Petition for Review 5, 14. Intervenor responds that other findings by the hearings official make clear that they understood the extent of our decision in Ferguson I and intended to abide by It. We will reverse or remand a local government decision where the local 18 government misconstrued the law. ORS 197.835(9)(a)(D)." *page 8 "*The first assignment of error and part of the second assignment of error are sustained." *page 10*

  "**REMAINDER OF SECOND ASSIGNMENT OF ERROR** Petitioner argues that the hearings official misconstrued ORS 215.130(5) 4 and made a decision not supported by substantial evidence when they determined 5 the Smaller Dwelling did not become a nonconforming use in 1980. Petition for 6 Review 18." *page 11 "*Petitioner argues that there is not substantial evidence to support the hearings official's conclusion that "there was insufficient evidence to demonstrate that the subject dwelling existed or was inhabited on September 1, 12 2001." Because we sustain petitioner's argument that the hearings official misconstrued ORS 215.130(11) and new findings are required, it Is premature for us to address the substantial evidence challenge. The second assignment of error is sustained, in part." *page 19*

  "**THIRD ASSIGNMENT OF ERROR** Petitioner argues that the hearings official misapplied the law and made a decision not supported by adequate findings because they denied the application based on abandonment of the use before

September 2001, which is the earliest date that the hearings official may consider when verifying the nature and extent of the use. Petition for Review 23." *page 19 "*For the reasons set out in our resolution of the second assignment of error, we agree with petitioner that the hearings official misapplied the law by considering evidence outside the 20-year look back period. Because we sustain this element of the appeal, the hearings official will be required to make new findings on remand, and it is unnecessary for us to address the evidence relied upon. The third assignment of error is sustained." *page 20*

"**FOURTH ASSIGNMENT OF ERROR** Petitioner's fourth assignment of error is that the hearings official's findings are inadequate and are not supported by substantial evidence because the findings improperly rely upon staff speculation relating to a letter from an electric utility concerning service to the property and statements by intervenor, Adequate findings identify the relevant criteria, the facts relied upon, and how the facts lead to the conclusion that the criteria are or are not met." *page 20 "*However, because new findings are required, it is premature for us to address the fourth assignment of error. The decision is remanded." *page 21*

- **Lane County staff did not post the LUBA No. 2023-087 decision *on* the LMD website for the Hearings Official or in the property records for this application.**

27. 9/15/2022 Hearing Application File 509-PA22-05092: Appeal of Type II Director Approval of a Tentative Partition (Replat) pursuant to Lane Code 13.050, 13.060, and 16.212(14) in the Exclusive Farm Use (E-30) Zone. Specifically, the applicant is proposing to replat Tax Lots 200 and 202 for purposes of a property line adjustment between both properties, with Parcel 1 to increase in size to 2.36 acres and Parcel 2 to decrease in size to 37.06 acres. Assessor's Map and Tax Lot: 17-02-36-20-00200 (Property 1) and 17-02-36-20-00202 (Property 2)

- Owner/Applicant/Appellant: Elmo & Jeanette Underwood (Property 1); Jeremy & Clara Sherer (Property 2)
- Agent: Jeremy A. Sherer
- Proponents:
- Opponents:

- Staff: Taylor Carsley. Staff 9/08/2022 report to the Hearings Official recommendation:

  "Staff find that the tentative replat was not only the application submitted to effect the proposed reconfiguration, but was the only appropriate application to do so. For the reasons listed above, the replat necessitates the conditions of approval at issue with the applicant. Therefore, pursuant to Lane Code 13.050,

13.060, and 13.120, **staff respectfully request that the Hearings Official affirm the Planning Director's approval, as conditioned**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 9/26/2022 decision:

  "**THE PLANNING DIRECTOR'S APPROVAL** OF THE SHERERIUNDERWOOD REQUEST FOR A TENTATIVE PARTITION REPLAT (PA 22-05092), ON TAX LOTS 200 AND 202, ASSESSOR'S MAP 17-02-36-20, **IS AFFIRMED**." *page 2*

28. 9/22/2022 Hearing Application File 509-PA21-06031: Appeal of a Planning Director denial of a Type II: Legal Lot Verification Research and Notice pursuant to Lane Code 13.140. Assessor's Map and Tax Lot: 15-01-21-00-00511.

- Owner/Applicant/Appellant: Bruce Green
- Applicant's Agent: Don Nickell
- Proponents:
- Opponents:

- Staff: Kevin Gilbride. Staff 9/15/2022 report to the Hearings Official recommendation:

  "In other words, both the Lane County Hearings Official and LUBA determined that a validation of a unit of land does not automatically result in the validation or restore the lawful status of remainder properties, even in cases where the remainders were originally created through a locally approved process. The property owners must file for relief under ORS 92.176 and Lane Code 13.150. As such, the subject application must be denied." *page 2*

  "Based on the findings above, and the attached documents, **the Director** considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's denia**l." *page 2*
- Hearings Official: Anne Davies. Hearings Official 10/03/2022 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE GREENE REQUEST (PA 21-06031) FOR THE LEGAL LOT VERIFICATION OF TAX LOT 511, ASSESSOR'S MAP 15-01-21-00 **IS AFFIRMED**." *page 2*

  "The subject property was the creature of an unlawful land division. The subsequent validation of the adjoining property, tax lot 522, did not cure the illegal status of the subject property. **Therefore, the denial of the application by the Planning Director must be affirmed.**" *page 4*

29. 9/29/2022 Hearing Application File 509-PA22-05164: Appeal of a Planning Director denial of a Type II: Legal Lot Verification Research and Notice pursuant to Lane Code 13.140. Assessor's Map and Tax Lot: 16-02-27-00-02002.

- Applicant/Owner/Appellant: Marcia A. Jenkinson
- Appellant's Agents on Appeal: Bob Hines, Branch Engineering and Zack Mittge, Hutchinson Cox
- Proponents:
- Opponents:

- Staff: Kevin Gilbride. Staff 9/22/2022 report to the Hearings Official recommendation:

  "Staff agrees with the appellant that the Land Division regulations in effect at the time of the creation of the original parent property (1961) to the subject property allowed for the creation of three (3) or fewer properties without official review and approval by the Land Management Division through a minor subdivision process. However, in this case, the creation of the original parent property in 1961, shown in **Figure 4** of the Planning Director's staff report, was the fourth such division in a calendar year. As such, per the findings of the Planning Director and Hearings Official in such cases as *Moolenijzer1, Stubblefield2, McGlinchey3, Compeau4, and Basaraba5,* the parent property's creation constituted a de-facto "statutory subdivision" as defined by ORS 92.010 at the time (referred to as a "major subdivision" in Lane County parlance). A statutory subdivision required application, review and approval to/by the Land Division Review Committee of Lane County as a major subdivision per Lane County Ordinance No. 3. Staff notes that an additional de-facto statutory subdivision may have occurred when the subject property, tax lot 2002, was deeded through land sales contract in 1964 from George and May Denker to William Keho, shown in **Figure 8** of the Planning Director's denial.
  Additionally, per the Findings of the Planning Director, Hearings Official, and LUBA in Doughty6 , Kasle7 , and Compeau, in cases where a property was created unlawfully, it remains unlawful until rectified through a lawful process. As such, although the subject property was later conveyed by deed in 1964, Instrument No. 237/45919, at a time when a deed conveyance could be considered a lawful land division process, the unlawful status of the parent property invalidated the potentially lawful nature of this conveyance." ***pages 1-2***

  "Based on the findings above, and the attached documents, **the Director** considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's denial**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 11/01/2022 decision:

  "**THE PLANNING DIRECTOR'S DE**NIAL OF THE JENKINSON REQUEST CPA 22-05165) FOR THE LEGAL LOT VERIFICATION OF TAX LOT 2001, ASSESSOR'S MAP 16-02-27 **IS AFFIRMED**." *page 2*

  "**Conclusion**

  As discussed above, Ordinance No.3 regulated land divisions where the resulting properties were greater than five acres unless the division was for agricultural purposes. The applicant has not demonstrated that the conveyances in 1961 were for "agricultural purposes." **Therefore, the denial of the application by the Planning Director is affirmed**." *page 6*

- LUBA Nos. 2022 – 101/102 FINAL OPINION AND ORDER, 07/07/2023, Marcia Jenkinson and Dan Jenkinson (Zack Mittge) P*etitioners* vs. Lane County (Rebekah Dohrman) *Respondent,* Appeal from Lane County. "**The County's decision is affirmed**." *page 16*

  "Even if the issue was not waived, the references to Tax Lot 2001 and file number PA22-05165 in the decision for file number PA 22-05164 are clearly typographical errors that do not warrant reversal or remand. The county responds, and we agree, that the hearings officer issued a decision on the legal lot status of Tax Lot 2002 in file number PA22-05164. While the cited paragraph refers to Tax Lot 2001 and file number PA22-05165, the decision document's header refers to file number PA22-05164. Record 3-7. The footers of the exhibits attached to the decision document also refer to file number PA22-05164. Record 11 8-12. Moreover, the facts and legal analysis for the two applications are identical. The typographical error in the cited paragraph does not warrant reversal or remand. See Walker v. City of Sandy, 62 Or LUBA 358, 366-67 (2010) (finding no grounds for reversal or remand where a city council's findings rejected the need for a condition of approval, and yet the condition of approval was erroneously carried forward into the city council's decision). The first assignment of error is denied." *page 7*

  "However, for the reasons explained above, we agree with the hearings officer that the county was not required to apply the five-acre limitation. The hearings officer did not misconstrue Ordinance No. 3, 16 The second assignment of error is denied." *page 16*

- **Lane County staff did not post the decision "LUBA Nos. 2022 – 101/102 FINAL OPINION AND ORDER, 07/07/2023" on the LMD website for the Hearings Official or in the property records for this application.**

- IN THE COURT OF APPEALS OF THE STATE OF OREGON, Marcia JENKINSON and Dan Jenkinson, Petitioners, v. LANE COUNTY, Respondent. Land Use Board of Appeals 2022101, 2022102; A181949. Argued and submitted September 20, 2023. Zachary P. Mittge argued the cause for appellant. Also on the brief was Hutchinson Cox. Rebekah Dohrman argued the cause and filed the brief for respondent. Before Shorr, Presiding Judge, and Mooney, Judge, and Pagán, Judge. MOONEY, J. Reversed and remanded. *page* 372

  "By defining "subdivide land" to include property divided into four or more lots of any size, the county had effectively increased the scope of its delegated authority from regulating land divisions resulting in relatively small lots to regulating land divisions that resulted in much larger lots. Increasing the breadth, or scope, of the county's delegated authority is not the same as adding more stringent approval standards for land divisions over which the county had been delegated authority to regulate. The land divisions that occurred in 1961 did not result in lots of less than five acres. Applying the law that existed at the time, before Lane County had adopted a home-rule charter, petitioners' predecessors in interest would not have been required to obtain county approval for the land division and it was unlawful in substance for LUBA to conclude otherwise. **Reversed and remanded."** *page 379*

- LUBA Nos. 2022 – 101/102 FINAL OPINION AND ORDER, 5/01/2024, Marcia Jenkinson and Dan Jenkinson (Zack Mittge) P*etitioners* vs. Lane County (Rebekah Dohrman) *Respondent,* Appeal on remand from the Court of Appeals. "Petitioners argue that the hearings officer misconstrued applicable law in concluding that two 1961 conveyances constituted an unlawful division of land. We rejected that argument. On judicial review, the Court of Appeals agreed with petitioners. We therefore must sustain this assignment of error and remand for the reasons set out in the court's decision. The county's decision is remanded." *page 2*

30. 9/29/2022 Hearing Application File 509-PA22-05165: Appeal of a Planning Director denial of a Type II: Legal Lot Verification Research and Notice pursuant to Lane Code 13.140. Assessor's Map and Tax Lot: 16-02-27-00-02001.

- Applicant/Owner/Appellant: Marcia A. Jenkinson
- Appellant's Agents on Appeal: Bob Hines, Branch Engineering and Zack Mittge, Hutchinson Cox
- Proponents:
- Opponents:
- Staff: Kevin Gilbride. Staff 9/22/2022 report to the Hearings Official recommendation:

"Staff agrees with the appellant that the Land Division regulations in effect at the time of the creation of the original parent property (1961) to the subject property allowed for the creation of three (3) or fewer properties without official review and approval by the Land Management Division through a minor subdivision process. However, in this case, the creation of the original parent property in 1961, shown in **Figure 4** of the Planning Director's staff report, was the fourth such division in a calendar year. As such, per the findings of the Planning Director and Hearings Official in such cases as *Moolenijzer1, Stubblefield2, McGlinchey3, Compeau4, and Basaraba5,* the parent property's creation constituted a de-facto "statutory subdivision" as defined by ORS 92.010 at the time (referred to as a "major subdivision" in Lane County parlance). A statutory subdivision required application, review and approval to/by the Land Division Review Committee of Lane County as a major subdivision per Lane County Ordinance No. 3. Staff notes that an additional de-facto statutory subdivision may have occurred when the subject property, tax lot 2002, was deeded through land sales contract in 1964 from George and May Denker to William Keho, shown in **Figure 8** of the Planning Director's denial.

Additionally, per the Findings of the Planning Director, Hearings Official, and LUBA in *Doughty6, Kasle7,* and *Compeau,* in cases where a property was created unlawfully, it remains unlawful until rectified through a lawful process. As such, although the subject property was later conveyed by deed in 1967, Instrument No. 344/83327, at a time when a deed conveyance could be considered a lawful land division process, the unlawful status of the parent property invalidated the potentially lawful nature of this conveyance." *pages 1-2*

"Based on the findings above, and the attached documents, **the Director** considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's denial**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 10/31/2022 decision:

  "**THE PLANNING DIRECTOR'S DE**NIAL OF THE JENKINSON REQUEST CPA 22-05165) FOR THE LEGAL LOT VERIFICATION OF TAX LOT 2002, ASSESSOR'S MAP 16-02-27 **IS AFFIRMED**." *page 2 – See the excerpt for this case under*

  "**<u>Conclusion</u>**

  As discussed above, Ordinance No.3 regulated land divisions where the resulting properties were greater than five acres unless the division was for agricultural purposes. The applicant has not demonstrated that the

conveyances in 1961 were for "agricultural purposes." Therefore, the denial of the application by the Planning Director is affirmed." *page 6*

- LUBA Nos. 2022 – 101/102 FINAL OPINION AND ORDER, 07/07/2023, Marcia Jenkinson and Dan Jenkinson (Zack Mittge) P*etitioners* vs. Lane County (Rebekah Dohrman) *Respondent,* Appeal from Lane County. "**The County's decision is affirmed**." *page 16*

  "Even if the issue was not waived, the references to Tax Lot 2001 and file number PA22-05165 in the decision for file number PA 22-05164 are clearly typographical errors that do not warrant reversal or remand. The county responds, and we agree, that the hearings officer issued a decision on the legal lot status of Tax Lot 2002 in file number PA22-05164. While the cited paragraph refers to Tax Lot 2001 and file number PA22-05165, the decision document's header refers to file number PA22-05164. Record 3-7. The footers of the exhibits attached to the decision document also refer to file number PA22-05164. Record 11 8-12. Moreover, the facts and legal analysis for the two applications are identical. The typographical error in the cited paragraph does not warrant reversal or remand. See Walker v. City of Sandy, 62 Or LUBA 358, 366-67 (2010) (finding no grounds for reversal or remand where a city council's findings rejected the need for a condition of approval, and yet the condition of approval was erroneously carried forward into the city council's decision). The first assignment of error is denied." *page 7*

  "However, for the reasons explained above, we agree with the hearings officer that the county was not required to apply the five-acre limitation. The hearings officer did not misconstrue Ordinance No. 3, 16 The second assignment of error is denied." *page 16*

- IN THE COURT OF APPEALS OF THE STATE OF OREGON, Marcia JENKINSON and Dan Jenkinson, Petitioners, v. LANE COUNTY, Respondent. Land Use Board of Appeals 2022101, 2022102; A181949. Argued and submitted September 20, 2023. Zachary P. Mittge argued the cause for appellant. Also on the brief was Hutchinson Cox. Rebekah Dohrman argued the cause and filed the brief for respondent. Before Shorr, Presiding Judge, and Mooney, Judge, and Pagán, Judge. MOONEY, J. Reversed and remanded. *page* 372 - *See the excerpts for this Court of Appeals case under Hearing Application File 509-PA22-05164 (above).*

- LUBA Nos. 2022 – 101/102 FINAL OPINION AND ORDER, 5/01/2024, Marcia Jenkinson and Dan Jenkinson (Zack Mittge) P*etitioners* vs. Lane County (Rebekah Dohrman) *Respondent,* Appeal on remand from the Court of Appeals. "Petitioners argue that the hearings officer misconstrued applicable law in concluding that two 1961 conveyances constituted an unlawful division

of land. We rejected that argument. On judicial review, the Court of Appeals agreed with petitioners. We therefore must sustain this assignment of error and remand for the reasons set out in the court's decision. The county s decision is remanded." *page 2*

31. 10/06/2022 Hearing Application File 509-PA22-05247: Appeal of Type II Director decision to conditionally approve a Forest Template dwelling pursuant to Lane Code 16.211 (2)-2.4 and House Bill 2225. Assessor's Map and Tax Lot: 21-03-33-00-00401.

- Applicant/Owner/Appellant: Anita Webb
- Appellants' Agent: Bill Kloos
- Proponents:
- Opponents: LWLC - Lauri Segel and Sean Malone. 1000 Friends of Oregon - Andrew Mulkey

- Staff: Shawna Adams. Staff 9/29/2022 report to the Hearings Official recommendation:

  "For the reasons explained above, **the Director respectfully requests that the Hearings Official affirm the Planning Director's approval** of the subject template dwelling proposal as conditioned." *page 4*

- Hearings Official: Anne Davies. Hearings Official 11/09/2022 decision:

  "**THE PLANNING DIRECTOR DECISION APPROVING, WITH CONDITIONS**, THE REQUEST (PA 2-05247) BY ANITA WEBB LIVING TRUST FOR A FOREST TEMPLATE DWELLING ON TAX LOT 401, ASSESSOR'S MAP 21-03-33 **IS AFFIRMED, AS MODIFIED HEREIN**." *page 2*

  "**Conclusion**

  To be clear, the Hearings Official does not decide in this case that a condition of approval requiring development of Doolittle Road to the full road standard would constitute a taking. Neither does the Hearings Official conclude that an approval authority must approve of a requested modification of road standards in any particular circumstance. The Code provides the approval authority discretion to apply modified road standards where justified. Given the lack of evidence in the record in this case that a 16-foot road would increase the safety or reduce travel times in any way, in comparison to a 12-foot road, and the exceedingly onerous burden that would fall on the applicant to single-handedly improve the road, at great expense, the Hearings Official concludes that the requested modifications are appropriate. Accordingly, applicant's request for modifications to LC16.211 (6)(b)(ii) and (iii) are granted, and **the Planning**

Director's decision is affirmed with modified Conditions of Approval 7 and 8, set forth above." *page 9*

32. 10/20/2022 Hearing Application File 509-PA21-05529: Appeal of a Type II Director approval of a trucking terminal expansion pursuant to Lane Code 16.292(3)(c) and (4). Assessor's Map and Tax Lot: 18-03-14-40-00600.

- Owner/Applicant: Tom Walsh-– Walsh Trucking. Applicant's Agent - Bill Kloos
- Appellant: Jim Chenoweth/Charles W. Woodward, IV
- Proponents:
- Opponents: Marjorie and Tim Buster, Tom & Janice Lutz, Cecil and Danny Haworth

- Staff: Taylor Carsley. Staff 10/13/2022 report to the Hearings Official recommendation:

  "Based on the findings made in the decision, staff find that the approval is consistent with the relevant criteria of LC 16.292(3)(c) and (4). **Staff respectfully request the Hearings Official affirm the Planning Director's decision**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 12/08/2022 decision:

  "**THE PLANNING DIRECTOR'S APPROVAL** OF THE WALSH TRUCKING REQUEST (P A 21-05529) FOR APPROV AL OF A SPECIAL USE PERMIT AUTHORIZING EXPANSION OF AN EXISTING TRUCKING TERMINAL ONTO TAX LOT 600, ASSESSOR'S MAP 18-03-14-40, **IS AFFIRMED WITH MODIFIED CONDITION OF APPROVAL #6**." *page 3*

  "**<u>Conclusion</u>**

  The Planning Director's decision is affirmed, with the modification to Condition of Approval #6, discussed above." *page 12*

33. 11/10/2022 Hearing Application File 509-PA21-05832: Appeal of a denial of a Type II: Legal Lot Verification Research and Notice pursuant to Lane Code 13.140. Assessor's Map and Tax Lot: 18-01-27-00-00600.

- Owner/Applicant/Appellant: Robert and Becky Miles
- Appellants' Agent: Scott Goebel - Branch Engineering, Kim O'Dea
- Proponents:
- Opponents: LWLC - Lauri Segel and Scott Malone

- Staff: Kevin Gilbride. Staff 10-6-2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, **the Director** considers that the subject property is an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's approval**." *page 2, Note: This recommendation was apparently an error in the Staff report, that from the report discussion**, intended to recommend denial**.*

- Hearings Official: Anne Davies. Hearings Official 12/27/2022 decision:

  "THE PLANNING DIRECTOR'S DENIAL OF THE MILES REQUEST (P A 21-05832) FOR THE LEGAL LOT VERIFICATION OF TAX LOT 600, ASSESSOR'S MAP 18-01-27 IS AFFIRMED." *page 3*

  "**Conclusion**

  As discussed above, both the 1999 and 2003 attempted property line adjustments were unlawful. As a result, the subject property was not lawfully created. The Planning Director's denial of the request for legal lot verification is affirmed." *page 6*

34. 12/01/2022 Hearing Application File 509-PA21-05909: Appeal of a Director denial of a Type II property line adjustment between tax lot 1601 and tax lot 2100 (as Property 1) and tax lot 1600 (portion) (as Property 2) of assessor's map 18-02-24, pursuant to LC 13.130.

- Applicant/Appellant: Mike Evans, Appellant's Agent – Bill Kloos
- Owner 1: Norm McDougal
- Owner 2: Weyerhaeuser Co.
- Proponents:
- Opponents:

- Staff: Josh Gattis. Staff undated report to the Hearings Official recommendation:

  "Based on the findings made in the decision, staff find that the property line adjustment cannot be approved. Pursuant to Lane Code 13.130, **staff respectfully request the Hearings Official affirm the Planning Director's decision.**" *page 2*

- Hearings Official: Anne Davies. Hearings Official 12/27/2022 decision:

"**THE PLANNING DIRECTOR'S DENIAL** OF THE MCDOUGAL/WEYERHAEUSER COMPANY REQUEST (PA 21-05909) FOR A PROPERTY LINE ADJUSTMENT BETWEEN TAX LOTS 1601 AND 2100 (PROPERTY 1) AND A PORTION OF TAX LOT 1600 (PROPERTY 2) OF ASSESSOR'S MAP 18-02-24, **IS REVERSED**. **THE APPLICATION IS APPROVED**, SUBJECT TO CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT C, ATTACHED TO THIS DECISION." *page 2*

35. 12/08/2022 Hearing Application File 509-PA21-05341: Appeal of Type II Director Denial of a Legal Lot Verification Research and Notice for one (1) Legal Lot pursuant to LC 13.140. Assessor's Map and Tax Lot 20-05-14-00-00403/00404.

- Applicant, Owner, Appellant: Craig and Cindy Royce
- Appellants' Agent: Kim O'Dea
- Proponents:
- Opponents: LWLC - Sean Malone

- Staff: Kevin Gilbride. Staff 12/01/2022 report to the Hearings Official recommendation:

  "The subject property, per the applicant and appellant's own statement, is not in a lawful configuration at this time, and therefore cannot be verified as a lawfully established unit of land." *page 2*
- Hearings Official: Anne Davies. Hearings Official 1/23/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE ROYCE REQUEST (PA21-05341) FOR THE LEGAL LOT VERIFICATION OF PROPERTY COMPRISED OF TAX LOTs 403 and 404 OF ASSESSOR'S MAP 20-05-14 IS AFFIRMED." *page 2*

36. 12/08/2022 Hearing Application File Application File 509-22-05447, Appeal of Type II Director Denial of a Legal Lot Verification Research and Notice for one (1) Legal Lot pursuant to LC 13.140. Assessor's Map and Tax Lot 15-01-23-00-00703 (2 Portions 1 for each legal lot).

- Applicant, Owner, Appellant: David and Jane Love
- Appellants' Agent: Kim O'Dea
- Proponents:
- Opponents:
- Staff: Kevin Gilbride. Staff 12/01/2022 reports to the Hearings Official recommendations:

  "(PA22-05447) Based on the findings above, and the attached documents, the Director considers that the subject property is an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request**

that the Hearings Official affirm the Planning Director's approval." *page 4*

As such, the subject property cannot be considered a lawfully established unit of land pursuant to Lane Code 13.140, and **the subject application must be denied**.

V. SUMMARY

Based on the findings above, and the attached documents, **the Director** considers that the subject property is an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's approval**." *pages 3 & 4*

- Hearings Official: Anne Davies. Hearings Official 1/23/2023 decisions:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE LOVE REQUEST (PA22-05447) FOR THE LEGAL LOT VERIFICATION OFA PORTION OF TAX LOT 703 ASSESSOR'S MAP 15-01-23 **IS AFFIRMED**." *page 3*

37. 12/08/2022 Hearing Application File Application File PA22-05448: Appeal of Type II Director Denial of a Legal Lot Verification Research and Notice for one (1) Legal Lot pursuant to LC 13.140. Assessor's Map and Tax Lot 15-01-23-00-00703 (2 Portions 1 for each legal lot).

- Applicant, Owner, Appellant: David and Jane Love
- Appellants' Agent: Kim O'Dea
- Proponents:
- Opponents:
- Staff: Kevin Gilbride. Staff 12/01/2022 reports to the Hearings Official recommendations:

  "(PA22-05447) Based on the findings above, and the attached documents, the Director considers that the subject property is an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's approval.**" *page 4*

  "(PA22-05448) Additionally, staff notes that the record includes no evidence that the subject property has ever been described as a discrete unit of land. Its proposed existence has only ever been as part of a greater legal description, and as shown above and in the deed history, the premise of the applicant's argument regarding existence of a property was an error in description.

As such, the subject property cannot be considered a lawfully established unit of land pursuant to Lane Code 13.140, and **the subject application must be denied**.

V. SUMMARY

Based on the findings above, and the attached documents, **the Director** considers that the subject property is an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's approval**." *pages 3 & 4*

- Hearings Official: Anne Davies. Hearings Official 1/23/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE LOVE REQUEST (PA22-05448) FOR THE LEGAL LOT VERIFICATION OFA PORTION OF TAX LOT 703 ASSESSOR'S MAP 15-01-23 **IS AFFIRMED**." *page 3*

38. PA22-05219 Hearings Official: Anne Davies. Hearings Official 2/27/2023 decision:"PA22-05219 FOR A VARIANCE TO THE COUNTY'S WET FLOOD-PROOF REQUIREMENTS FOR AN AGRICULTURAL STRUCTURE WITHIN THE 100-YEAR FLOOD HAZARD AREA ON TAX LOT 703, ASSESSOR'S MAP 17-03-24-31
.

- Applicant, Owner, Appellant: Jon and April Ekstrom
- Appellants' Agent: James R. Dole
- Proponents:
- Opponents: LWLC - Lauri Segel and Robert Emmons; Steve and Lana Jurgens; Terry Mathews; John Umenhofer

- Staff: Taylor Carsley.

- Staff undated report for PA22-05219 to the Hearings Official recommendation:

  "The application does not support findings of fact for approval and **staff recommend the Hearings Official deny the subject application**. Should the Hearings Official approve the application, staff recommend making such approval contingent upon Exhibit C – Suggested Conditions of Approval." *page 1*

- "PA22-05219 Hearings Official: Anne Davies. Hearings Official 2/27/2023 decision:

  "PA22-05219 FOR A VARIANCE TO THE COUNTY'S WET FLOOD-PROOF REQUIREMENTS FOR AN AGRICULTURAL STRUCTURE WITHIN THE 100-

YEAR FLOOD HAZARD AREA ON TAX LOT 703, ASSESSOR'S MAP 17-03-24-31 **IS DENIED**" *page 3*

"Conclusion Some of the floodplain regulations set forth in LC 15.244 are necessary in order for the County to maintain participation in the floodplain insurance program. Accordingly, any provision for variance to those regulations must be interpreted strictly to ensure that property and individuals are safe from dangers from flood. As explained above, the proposed variance does not satisfy all of the applicable approval criteria." *page 15*

39. 509-PA22-05220: A request for Type II Planning Director review and approval of a Floodway Development Permit pursuant to Lane Code 16.244(5)(b)(iv). Specifically, the applicant proposes to remove approximately 179 cubic yards of gravel associated with driveway access from the floodway. Assessor's Map and Tax Lot 17-03-24-31-00703.
    - Applicant, Owner, Appellant: Jon and April Ekstrom
    - Appellants' Agent: James R. Dole
    - Proponents:
    - Opponents: LWLC - Lauri Segel and Robert Emmons; Steve and Lana Jurgens; Terry Mathews; John Umenhofer
    - Staff: Taylor Carsley.
    - Staff undated report for PA22-05220 to the Hearings Official recommendation:

      "The application supports findings of fact for approval and **staff recommend the Hearings Official approve the subject application** with conditions included in Exhibit C – Suggested Conditions of Approval." *page 2*

    - Hearings Official: Anne Davies. Hearings Official 3/27/2023 decision:

      "Finding'. Lane Code 16.253 sets forth the County's riparian regulations. Subsection (2) of LC 16.253, entitled "Removal of Vegetation Within the Riparian Setback Area," sets forth the maximum amount of indigenous vegetation that may be removed in a protected riparian setback area. Subsection (2)(d) provides exceptions to the rules set forth in subsections (2)(a)-(c). As relevant, subsection (2)(d)(iv) excepts from the regulations "normal and accepted farming practices." Buildings and structures are NOT included in this exception. Previously, a hazelnut orchard and associated access had spanned the Class I- designated area on the north side of the property for many years. The orchard was removed to convert the agricultural use on the property to support livestock management, which is a farm use under the definition of Lane Code 16.090(83). The exception above accounts for normal and accepted farming practices other than buildings or structures

occurring on land zoned for exclusive farm use (EFU). According to staffs recommendation, removal of driveway fill associated with an agricultural use does not conflict with Lane Code 16.253. LandWatch did not object to staff's conclusion in this regard. The Hearings Official agrees with staffs assessment that this criterion is satisfied." *page 6*

- "Conclusion The applicant's request for a fioodway development permit to move the driveway fill out of the floodway is granted, subject to the conditions set forth in attached Exhibit C.." *page 7*

40. 12/22/2022 Hearing Application File 509-PA22-05255: Appeal of an Approval of a Type II: Replacement of a dwelling in the Exclusive Farm Use E40 and new site pursuant to Lane Code 16.212(3)-2.7 and Lane Code 16.212(4)(y) and (6)(a). Assessor's Map and Tax Lot: 19-04-32-00-000400.

- Owner/Applicant: Kirk Giudici, Agent Kim O'Dea
- Appellant: Richard Dvorak, Agent: Mike Farthing
- Proponents: Ashley Krieger
- Opponents:

- Staff: Taylor Carsley. Staff 12-15-2022 report to the Hearings Official recommendation:

  "Based on the findings above, and the attached documents, **the Director** considers that the subject replacement dwelling meets the approval criteria found in LC 16.212(3)-2.7, and **respectfully requests that the Hearings Official affirm the Planning Director's approval**." *pages 2-3*

- Hearings Official: Anne Davies. Hearings Official 12/27/2022 decision:

  "**THE PLANNING DIRECTOR'S DECISION APPROVING THE REQUEST** (PA22-05525) BY KIRK GIUDICI FOR A REPLACEMENT DWELLING ON TAX LOT 400, ASSESSOR'S MAP 19-04-31 **IS AFFIRMED**." *page 2*

decisions for Hearings Official applications of all years. There are many more LUBA and Court of Appeals decisions that should be added to this file as shown in the indices for the 2022 and 2023 Hearings Official applications.

4) The LMD website for the Hearings Official includes a Land Division Ordinances – Library file that contains copies of only 5 historic Lane County land division regulations for the time period dating from the first subdivision ordinance adopted by Lane County on April 7, 1949. There are many more Lane County historic land division regulations than these 5. LMD Staff needs to scour its LLV and land division files to get copies of these other land division regulations and then put them on this website.

5) Applicants should not be required to pay the $3,488 appeal fee for Hearing Official hearings for remands from LUBA if the reasons for the remands were because of the County's erroneous decision. Otherwise, requiring the applicant to pay the $3,488 fee punishes the applicant for the County's errors and increases the property owner costs for rural housing in Lane County. The LMD planning fee schedule for Hearings Official items needs to amended to make this change. The long-term goal of reducing the costs of LUBA appeals should be to reduce the number of LUBA appeals.

6) As shown in this report, there is a big need for LMD staff to have access to a County Counsel land use attorney. Lane County should hire a fulltime land use attorney dedicated to timely assisting LMD Staff and the Board of Commissioners with land use legal matters and training.

   a. Funding for this position should be decided by department managers and the Board of County Commissioners.

   b. The office for this land use attorney should be located in the LMD for easy access by LMD Staff.

   c. This land use attorney should not be diverted by others to perform legal work unrelated to land use planning.

Howe Mann Consulting

Report Attachment A3

Howe Mann Consulting Report Attachment A3
Index of 2023 Hearings Official Hearing Applications

This index is for the land use applications heard by the Lane County Hearings Official in 2023. It includes the following information for each application:

- Hearing date and application file number,
- Identification of the type or application and subject property,
- Identification of owner, applicant appellants, hearing staff and Hearings Official,
- Summary of the Planning Director's recommendation taken from the auction recommendation,
- Summary of the Hearings Official decision take from the actual decision,
- Summary and any appeal to LUBA decision take from the actual decision, and
- Summary of any Oregon Court of Appeals decision taken from the actual decision.

This index is word searchable and can be word searched to find certain applications or topics.

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1. 1/19/2023 Hearing Application File 509-PA21-05928: Appeal of a Type II Director approval of a request for a Relative Farm Help Dwelling in the Exclusive Farm Use Zone for property identified as Assessor's Map and Tax 19-03-22-00-02500, pursuant to Lane Code 16.212(3)-2.3.

    - Owner/Applicant/Appellant: Kim and Scott Helsel
    - Applicants' Agent - Bill Kloos
    - Appellant: LWLC - Sean Malone
    - Proponents:
    - Opponents: Sandra Mason

    - Staff: Shawna Adams. Staff 1/13/2023 report recommendation to the Hearings Official:

      "Based on the assignments of error outlined in the appeal statement, the Director finds no basis to conclude the Director exceeded their jurisdiction or misconstrued the relevant approval criteria. Therefore, the Director respectfully requests that the Hearing Official affirm the Director's decision approving the relative farm help dwelling pursuant to Lane Code 16.212(3)-2.3." *page 4*

    - Hearings Official: Anne Davies. Hearings Official 3/23/2023 decision:

      "**THE PLANNING DIRECTOR DECISION APPROVING THE HELSEL REQUEST** (PA 21-05928) FOR A RELATIVE FARM HELP DWELLING ON TAX LOT 2500 OF ASSESSOR'S MAP 19-03-22, **SUBJECT TO CONDITIONS OF APPROVAL, IS AFFIRMED**." *page 2*

”**Conclusion**

The Hearings Official finds that LandWatch and other opponents' objections to the Planning Director's approval of the subject application relate to approval criteria that are not clear and objective. Pursuant to ORS 197.307(4), the County is precluded from applying those approval criteria to the subject application.6 Based on the analysis provided above, **the Planning Director's decision is affirmed, but on different grounds**.” *page 6*

- **Luba No. 2023-037 Final Opinion and Order, 1**/29/2023; LANDWATCH LANE COUNTY (Sean Malone), *Petitioner*, vs. LANE COUNTY, *respondent* and KIM HESEL, *Intervenor-Respondent* (Bill Kloos).

  “For the reasons explained above, we agree with petitioner that ORS 197.307(4) (2017) does not limit the county's application of LC provisions that implement ORS 215.213 and the LCDC rules at OAR 660-033-0130(9) to intervenor's application for a relative farm help dwelling. **The county’s decision is remanded**.” *page 23*

- IN THE COURT OF APPEALS OF THE STATE OF OREGON, LANDWATCH LANE COUNTY, Respondent, v. L A N E COUNTY, Respondent, and Kim HELSEL, Petitioner. Land Use Board of Appeals 2023037; A182319. Submitted November 7, 2023.Bill Kloos filed the brief for petitioner. Sean Malone filed the brief for respondent LandWatch Lane County. No appearance for respondent Lane County. Before Shorr, Presiding Judge, and Mooney, Judge, and Pagán, Judge. PAGÁN, J. **Affirmed.**

  “Petitioner urges us to adopt an expansive reading of ORS 197.307(4), but “the fact that a statutory provision describes something in relatively broad terms does not always mean that the legislature intended the most expansive meaning possible.” Lake Oswego Preservation Society v. City of Lake Oswego, 360 Or 115, 129, 379 P3d 462 (2016). We decline petitioner’s invitation to interpret the statute in a manner that would permit counties to dispense with the discretionary approval criteria set out in ORS 215.213, and in related LCDC rules and county code provisions that address relative farm help dwellings on land zoned EFU. Focusing on the context and the legislative history of the 2017 amendments, we conclude that ORS 197.307(4) applied only to housing within an urban growth boundary.8 Consequently, it did not apply to petitioner’s application for a relative farm help dwelling on land zoned EFU, and it did not relieve petitioner from compliance with the requirements for such a dwelling contained in the Lane Code.” *page 476*

2. 1/26/2023 Hearing Application File 509-PA22-05370: Appeal of Director approval

of a Horse Facility in the Rural Residential Zone for property identified as Assessor's Map and Tax Lot 19-02-03-00-00906, pursuant to: LC16.290(4)(u), (5) and (7).

- Applicant: Katie Ebbage, Applicant's Agent - Bill Kloos
- Appellant: Barry L. Taub, Jessica N. Bridges
- Proponents: Robert and Janet Hollander
- Opponents:

- Staff: Noray Ann-Spradling. Staff 1/19/2023 report recommendation to the Hearings Official:

  "Based on the findings made in the decision, staff find that the approval is consistent with the relevant criteria of LC 16.292(3)(c) and (4). **Staff respectfully request the Hearings Official affirm the Planning Director's decisio**n." *page 3*

- Hearings Official: Luara Ruggari. Hearings Official 3/13/2023 decision:

  "**THE PLANNING DIRECTOR'S APPROVAL**, WITH CONDITIONS, OF THE SPECIAL USE PERMIT FOR A HORSE FACILITY ON TAX LOT 906, ASSESSOR'S MAP 19-02-03, **IS AFFIRMED, AS MODIFIED HEREIN**." *page 2*

  "**Conclusion**

  With Condition 6 omitted and the other Conditions set forth in attached Exhibit A, the Hearings Official finds the proposed use complies with all applicable approval criteria. Accordingly, **the Planning Director's decision is affirmed, as modified herein**." *pages 7-8*

3. 2/28/2023 Hearing Application File 509-PA22-05328: Appeal of Director denial of an Accessory Farm Dwelling within the Exclusive Farm Use Zone (E40) for property identified as Assessor's Map and Tax Lot 20-03-10-00-01505, pursuant to LC 16.212(3)-2.4.

   - Owner/Applicant/Appellant: Edwin and Wendy Aro
   - Appellants' Agent: Mark Shipman
   - Proponents:
   - Opponents: LWLC – Lauri Segel and Sean Malone

   - Staff: Taylor Carsley. Staff 4/14/2023 report recommendation to the Hearings Official:

"**The Director** considers that the subject property is not a lot or parcel, cannot meet the criteria necessary to approve the Accessory Farm Dwelling under LC 16.212(8)(a)(bb), and **respectfully requests that the Hearings Official affirm the Planning Director's denial**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 4/12/2023 decision:

  "**THE PLANNING DIRECTOR DECISION DENYING THE REQU**EST (PA 22-05328) BY WENDY AND EDWIN ARO FOR AN ACCESSORY FARM DWELLING ON TAX LOT 1505 OF ASSESSOR'S MAP 20-03-10, **IS AFFIRMED**." *page 2*

  "In this case, the Lane Code requires the applicant to demonstrate that the subject property is a lawfully created lot or parcel, and that it is in that lawful configuration at the time the application is submitted. The applicant must either (1) submit an application for validation of unit of land and obtain a determination that the subject property, as currently configured, is a lawful unit of land, followed by an application for an accessory farm dwelling; or (2) take the necessary steps to re-deed and/or reconfigure the property lawfully, as necessary to demonstrate that the property that will contain the proposed dwelling was lawfully created, and then re-submit the application for an accessory farm dwelling." *page 4*

4. 4/06/2023 Hearing Application File 509-PA22-05203: Appeal of Director Denial of a Final Legal Lot Verification with Notice for 1 legal lot as preliminarily Identified under Planning Action File 509-00-05040 for property identified as Assessor's Map and Tax Lot 18-02-34-00-02900, pursuant to LC 13.140.

   - Owner/Applicant/Appellant: Paul Hines
   - Appellant's Agent: Kim O'Dea
   - Proponents:
   - Opponents:

   - Staff: Taylor Carsley. Staff 3/30/2023 report recommendation to the Hearings Official:

     "The Director considers that the subject property is not a lot or parcel, cannot meet the criteria necessary to approve the application under Lane Code 13.140. **Staff respectfully requests that the Hearings Official affirm the Planning Director's denial**." *page 2*

   - Hearings Official: Anne Davies. Hearings Official 5/01/2023 decision:

     "**THE PLANNING DIRECTOR'S DENIAL** OF THE HINES REQUEST (P A 22-05203) FOR A LEGAL LOT VERIFICATION OF A PORTION OF TAX LOT

2900, ASSESSOR'S MAP 18-02-34, **IS AFFIRMED**." *page 2*

"**Conclusion**

The subject property was the creation of an unlawful land division in 1970. The subsequent partition in 1986, which did not include the subject property, did not change or cure the unlawful status of the subject property. **Therefore, the denial of the application by the Planning Director must be affirmed**." *page 8*

5. 4/13/2023 Hearing Application File 509-PA22-05655: Appeal of Director Denial of a Legal Lot Verification and Research Notice for one legal lot for property identified as Assessor's Map and Tax Lot 17-35-11-00-300,17-35-02-30-02600,17-35-02-00-00600, pursuant to LC 13.140. This application included two Applicant applications for reconsideration.

- Owner/Applicant/Appellant: Franklin-Clarkson Timber Company Agent - Jim Hunt
- Appellant's' Agents, Jim Hunt, Bill Kloos
- Proponents:
- Opponents: LWLC - Sean Malone

- Staff: Taylor Carsley. Staff 4/27/2023 memorandum recommendation to the Hearings Official:

  "The applicant has not provided convincing evidence that the grantors and grantees intended to simply adjust property lines. Even if they had, the adjustment does not appear to meet an exemption from partitioning requirements under ORS 92.010. The applicant first proposed a *de-facto* property line adjustment argument after the Planning Director's decision, and after the appeal statement was submitted. Staff contend that **the Planning Director's denial was warranted in light of the applicant's new arguments and respectfully request the Hearings Official affirm that decision**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 11/17/2023 reconsideration 2nd decision:

  "**THE HEARINGS OFFICIAL'S PREVIOUS DECISION AFFIRMING THE PLANNING DIRECTOR'S DENIAL** OF THE HUNT REQUEST FOR A TYPE" LEGAL LOT VERIFICATION OF A UNIT OF LAND MADE UP OF PORTIONS OF TAX LOT 300, ASSESSOR'S MAP 17-35-11; TAX LOT 2600, ASSESSOR'S MAP 17-35-02-30; AND TAX LOT 600, ASSESSOR'S MAP 17-35-02, **IS AFFIRMED**." *page 2*

  "In the Hearings Official's Order granting this second request for

reconsideration, the Hearings Official sought evidence from the parties, apart from the deeds themselves, that spoke to the "can't have it both ways" argument. The applicant submitted evidence that he alleges shows that the properties owned by the United States have been treated as one property. That evidence is mainly evidence that the United States has done nothing other than manage the lands as BLM lands.

The Hearings Official disagrees that the evidence that the properties owned by the United States have been managed by the BLM for resource uses and are intended to continue to be "tied up for preservation," with no plans for resale, partition or subdivision, is sufficient to signify an intent to treat the two properties as a unitary property. As stated previously, the Hearings Official does not believe the Hunt affidavit speaks to the intent of the conveyance or provides other evidence that would justify treating the 1991 conveyance as a *defacto* property line adjustment.

Finally, staff asserted that "blocking up" of timber ownerships can be done with illegal partitions just as well as with *de facto* property line adjustments. The applicant responds, arguing that there is unrefuted "expert evidence" in the record that these kinds of exchanges are "never" done for the purpose of creating new units of land. First of all, the Hearings Official does not view Mr. Hunt's declaration as "expert evidence." Further, even if true, the fact that the conveyances for "blocking up" timber ownerships are not done for the purpose of creating new units of land does not change the fact that the 1991 conveyance did in fact create a new unit of land.

There is nothing that would preclude the United States from selling tax lot 301 in the future to a landowner, separate from tax lot 100. Because the properties are not owned by the applicant, the Hearings Official cannot impose a condition of approval that grants the subject request based on a condition that those properties be consolidated. Without evidence of intent to accomplish a property line adjustment, which appears to be nonexistent, or other evidence supporting why the County should treat the conveyance as a *de facto* property tine adjustment, the Hearings Official must conclude that the applicant has failed to satisfy his burden of demonstrating that the 1991 conveyance should be treated as a *de facto* property line adjustment." *page 9*

6. 4/20/23 Hearing Application File 509-PA22-05608: Appeal of Director Denial of a Legal Lot Verification and Research Notice for 1 Legal Lot in the Rural Residential 5 Zone (RR5) for property identified as Assessor's Map and Tax Lot 18-02-29-00-01000, pursuant to LC 13.140.

- Owner/Applicant/Appellant: Patrick and Barbra Mooney
- Appellants' Agent: Andrew F. Stamp
- Proponents:

- Opponents:

- Staff: Kevin Gilbride/Josh Gattis. Staff 4/13/2023 report recommendation to the Hearings Official:

  "Based on the findings above, and the attached documents, **the Director** considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's denial**." *page 2*

- Hearings Official: Anne Davies. 3 Hearings Official 6/27/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE MOONEY REQUEST (PA 22-05608) FORA TYPE II LEGAL LOT VERIFICATION OF TAX LOT 1000, ASSESSOR'S MAP 18-02-29, **IS AFFIRMED**." *page 3*

  "The applicant's theory is that the 1979 partition, which occurred after the dates that the Planning Director asserts the subject property was unlawfully created, made the subject property legal. He alleges that the two-parcel partition had the effect of creating three lawful properties: Parcel l, Parcel 2, and the subject property. The applicant appears to argue that the 1979 partition created the property line dividing what was then William Shukle's property and the property that comprised tax lots 900 and 1000. The partition did no such thing. The property line between tax lots 900-1000 and the Shukle property was created unlawfully in 1966. The 1979 partition, which involved only the Shukle property and created only two Parcels, did not serve to rectify the unlawful nature of the adjacent property that comprised tax lots 900 and 1000 or of the individual properties (tax lot 900 or tax lot 1000, individually). LUBA and previous Hearings Official decisions are inconsistent with the applicant's theory in this regard." *page 5*

  "**Conclusion**

  The Planning Director's decision denying the Subject Application is affirmed." *page 6*

7. 4/20/2023 Hearing Application File 509-PA22-05528: Appeal of Director Denial of a Validation of Unit of Land for One Property for property identified as Assessor's Map and Tax Lot 19-02-18-40-0060, Pursuant to LC 13.150. This included two Applicant applications for reconsideration.

   - Owner/Applicant/Appellant: Planktown Holdings, LLC, Applicants Agents - Renee Clough and Mike Reeder
   - Appellant's Agents: Renee Clough, Mike Reeder
   - Proponents:

- Opponents: Bryan Palmer, Ashlee Hodge, Mikayle Karcher, William Karcher

- Staff: Kevin Gilbride/Josh Gattis. Staff 4/13/2023 report recommendation to the Hearings Official:

  "The subject property has been described or conveyed as a unit of land on a number of occasions, beginning in 1968. However, each occurrence of description or conveyance, whether that was in 1968, 1977, 1982, 1988, 1998, or 2003, failed to meet or to have the potential of meeting the land divisions in effect at the time of the division. As such, the subject property fails to meet the primary criteria for validation found in LC 13.150(1)(b). Therefore, based on the findings above, and the attached documents**, the Director** considers that the subject property is not eligible for validation per Lane Code 13.150, and **respectfully request that the Hearings Official affirm the Planning Director's denial**." *page 4*

  "Although the Planning Director considers that the 1968 configuration of the subject property is not eligible for validation through LC 13.150, staff considers that, if the Hearings Official considers that the 1968 conveyance is indeed eligible, then the applicant must also demonstrate that the current configuration of the subject property, as affected by the conveyance/reconfigurations in 1998-2003 is also eligible. As for the current record, staff considers that there is not evidence that the subject property reached its current configuration in compliance with the provisions of ORS 92.176." *page 6 5/11/2023 Staff memorandum*

- Hearings Official: Anne Davies. Hearings Official 8/31/2023 2nd decision:

  "**THE HEARINGS OFFICIAL'S PREVIOUS DECISION AFFIRMING THE PLANNING DIRECTOR'S DENIAL** OF THE PLANKTOWN HOLDINGS, LLC REQUEST (PA 22-05528) FOR THE VALIDATION OF A UNIT OF LAND FOR TAX LOT 1000, ASSESSOR'S MAP 18-04-11, **IS AFFIRMED, BUT FOR DIFFERENT REASONS, AS SET FORTH BELOW**." *page 2*

- **Luba No. 2023-069 Final Opinion and Order,** 1/08/2024; PLANKTOWN HOLDING, LLC (Mike Reeder), *Petitioner*, vs. LANE COUNTY (Rebekah Dohrman), R*espondent.* **The County's decision is remanded.** *page 8*

  "We agree with petitioner. ORS 92.177 recognizes that an application for validation of a unit of land could possibly or likely not be able to gather the signatures of all of the owners of a parent property from which the property that is the subject of the validation application was sold.

  We agree with Petitioner that nothing in the express language of ORS 92.176 requires Petitioner to demonstrate that the Lager Parcel was lawfully created. ORS 92.176(1) allows a county to approve "an application to validate *a unit of*

land that was created by a sale that did comply with applicable criteria for the creation of a unit of land if *the unit of land"* satisfies (a) and (b). (Emphasis added.) The statutory remedy is tied to "an application" and focuses the analysis on "the unit of land" that is the subject of the application." *page 6*

"The hearings officer adopted no findings regarding whether the 1968 creation of the Property could have complied with the 1962 Subdivision Ordinance.3 Petitioner takes the position in the petition for review that nothing in the 1962 Subdivision Ordinance would have required petitioner to demonstrate that the Larger Parcel was lawfully created. Petition for Review 27. Remand is required in order for the hearings officer to address in the first instance whether in 1968 the Property could have complied with the 1962 Subdivision Ordinance." *page 7*

8. 4/20/2023 Hearing Application File 509-PA22-05536: Appeal of Director Denial of a Legal Lot Verification and Research Notice for one legal lot for property identified as Assessor's Map and Tax Lot 16-05-30-00-01201, pursuant to LC 13.140.

- Owner/Applicant/Appellant: Bruce Koffler
- Appellant's Agent: Bill Kloos
- Proponents: Mike Evans
- Opponents:
- Staff: Kevin Gilbride/Josh Gattis. Staff 4/13/2023 report recommendation to the Hearings Official:

  "Based on the findings above, and the attached documents, **the Director** considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's denial**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 6/12/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE KOFFLER REQUEST (P A 22- 05536) FOR LEGAL LOT VERIFICATION OF TAX LOT 1201, ASSESSOR'S MAP 16-05-30, **IS REVERSED**." *page 2*

  "**Conclusion**

  The Hearings Official concludes that the 1944 deed reflects an intent on the part of the parties to that conveyance to convey three separate discrete units of land. Accordingly, the subject property was lawfully established via deed in 1944, pursuant to LC 13.030(3)(n)(ii)(bb). Therefore, the denial of the application by. **the Planning Director is reversed**." *page 8*

9. 4/27/2023 Hearing Application File 509-PA22-05274: Appeal of Director Approval

of a Temporary Medical Hardship Dwelling in the F-2 Zone for property identified as Assessor's and Tax Lot 18-05-19-00-00200, pursuant to LC 16.211(2)-2.6.

- Owner/Applicant: Paul Brandt
- Appellant: Land Watch Lane County - Sean Malone
- Proponents:
- Opponents:

- Staff: Noray-Ann Spradling. Staff 5/17/2023 report recommendation to the Hearings Official:

  "It has not been County practice to request or require information about the nature of the hardship for which the applicant is applying under. Under the 1996 Health Insurance Portability and Accountability Act (HIPPA), health professionals are not allowed to disclose individually identifiable health information. According to the U.S. Department of Health and Human Services, the HIPPA privacy rule was enacted in order to prevent an individual's medical information from being used against them (2006, US Dept Health and Human Services). Requesting private health information from individuals applying for Temporary Medical Hardship Dwelling approvals creates a barrier to those individuals who fear reprisal or discrimination based on their qualifying health condition." *page 3 5/17/2023 Memorandum to Hearings official*

- Hearings Official: Anne Davies. Hearings Official 7/12/2023 decision:

  "**THE PLANNING DIRECTOR'S DECISION** APPROVING THE BRANDT REQUEST (PA 22-05274) FOR A SPECIAL USE PERMIT FOR A TEMPORARY MEDICAL HARDSHIP DWELLING ON TAX LOT 200, ASSESSOR'S MAP 18-05-19, **IS REVERSED**." *page 2*

  *"***Conclusion**

  While the criterion provided for determining that a medical hardship exists is vague at best, the Hearings Official believes that there must be some regulatory oversight to prevent the situation where a physician's certificate, without more, would justify approval of a hardship dwelling. That said, this case does not ultimately rule on that issue because the Hearings Official concludes that the Lane Code requires, at least until legislatively amended, all hardship dwellings to use the same subsurface sewage system as is used for the existing primary dwelling. This application does not satisfy that requirement. **The Planning Director's decision approving the subject application is therefore reversed**." *page 6*

10. 4/27/2023 Hearing Application File 509-PA22-05766: Appeal of Director Denial of

a Final Legal Lot Verification Research & Notice for One Property for property identified as Assessor's Map and Tax Lot 18-01-06-00-00700, zone Rural Residential (RR10), pursuant to LC 13.140.

- Owner/Applicant/Appellant: Douglas Mart & David Mart
- Appellants' Agent: Kim O'Dea
- Proponents:
- Opponents:

- Staff: Kevin Gilbride/Josh Gattis. Staff 4/20/2023 report recommendation to the Hearings Official:

  "Based on the findings above, the information currently in the record, and the attached documents**, the Director** considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140, and **respectfully request that the Hearings Official affirm the Planning Director's denia**l." *page 3*

  Staff 6/01/2023 memo to the Hearings Official:

  "The incomplete nature of the subject application is central to issues in the case. Staff first raised the incomplete nature of the history provided for the creation of the subject property to the applicant at the time of completeness check. No additional information regarding the history of the subject property was provided by the appellant's agent until the date of the Hearing, when the agent provided several deeds and re-mapping of the Planning Director's original decision figures. At the Hearing, staff indicated that they would be willing to review the appellant's submittal for accuracy and noted that in order to clearly determine the lawful status of the subject property, a full history of the divisions of the parent property leading up to the creation of the subject property would be necessary. Staff reviewed the appellant's submitted revised maps and the deeds provided and consider that the mapping appears to be correct. However, to this date, the appellant has not provided the history of divisions since the institution of land division regulations through Lane County Ordinance No. 3, enacted April7, 1949, for the parent property. The Hearings Official has previously ruled that a full review of the history of a parent property is necessary to determine the lawful status of a child property in Basaraba1 , Moolenijzer2 , and Gould3 . As such, the appellant did not demonstrate with a preponderance of evidence that the subject parent property was not subject to an unlawful subdivision, therefore the subject property cannot be considered a lawfully established unit of land based on the information currently in the record." *page 1*

- Hearings Official: Anne Davies. Hearings Official 6/29/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE MART REQUEST (PA 22-0576) FOR A TYPE II LEGAL LOT VERIFICATION OF TAX LOT 700, ASSESSOR'S MAP 18-

01-06, **IS REVERSED**." *page 2*

"However, staff asserts that the applicants have failed to provide "the history of divisions since the institution of land division regulations through Lane County Ordinance No.3, enacted April 7, 1949, for the parent property." Accordingly, staff assert that "the appellant did not demonstrate with a preponderance of evidence that the subject parent property was not subject to an unlawful subdivision." *See* staff memorandum dated June 1, 2023.

The applicants provided deeds and mapping from well before Ordinance No.3 was adopted, as well as deeds and mapping of the parent property from the date the Ordinance No. 3 was adopted until April 5, 1954, when the subject property was created in its current configuration. It is unclear what further information would be required. According to the applicants' corrected mapping, which staff does not appear to contest, the subject property was lawfully created on April 5, 1954.

Conclusion

The Planning Director's decision denying the subject application **is reversed and the request for legal lot verification of tax lot 700 is granted.** *page 3*

11. 5/04/2023 Hearing Application File 509-PA22-05049: Appeal of Director Approval of a Commercial Breeding, Boarding and Training Kennel Home Occupation in the Marginal Lands Zone for property identified as Assessor's Map and Tax Lot 18-03-27-00-00400, pursuant to LC 16.214(3)3-1, (3d), (4) and (7). This included Applicant application for reconsideration.

- Owner/Applicant: Lindsay Burch, Applicant's Agent - Kim O'Dea
- Appellant: North Hideaway Neighbors, Appellants' Agents – William Sherlock and Zack Mittge
- Proponents:
- Opponents:

- Staff: Shawna Adams. Staff 4/27/2023 report recommendation to the Hearings Official:

  "For the reasons explained, detailed in the Director's decision, and summarized above, **staff respectfully requests that the Hearings Official affirm the decision to approve** the request made under file 509-PA22-05049 as conditioned." *page 5*

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- HO 1st Reconsideration Decision 10-16-2023:

"**THE HEARINGS OFFICIAL'S PREVIOUS DECISION AFFIRMING THE PLANNING DIRECTOR'S APPROVAL** OF THE SUBJECT HOME OCCUPATION REQUEST, SUBJECT TO CONDITIONS, **IS AFFIRMED**." *page 2*

12. 6/01/2023 Hearing Application File 509-PA22-05599: Appeal of Planning Action File No. 509-PA22-05599, a Type II Director Denial of a Legal Lot Verification Research & Notice for two (2) properties for property identified as Assessor's Map and Tax Lot 15-01-23-00-00502 and 15-01-24-00-00200 and 15-01-24-00-00201, pursuant to Lane Code 13.140; and Director Denial of two (2) Property Line Adjustment between three (3).

- Owner/Applicant/Appellant: Allen and Stephen Binford
- Appellants' Agent: Kim O'Dea
- Proponents:
- Opponents: LWLC - Sean Malone

- Staff: Kevin Gilbride/Josh Gattis. Staff 6/01/2023 report recommendation to the Hearings Official:

  "Based on the findings above, the information currently in the record, and the attached documents, the Director considers that the subject properties are not an individual lawfully established units of land, per Lane Code 13.140, and therefore cannot be adjusted under the provisions of LC 13.130. **The Director respectfully requests that the Hearings Official affirm the Planning Director's denial.**" *page 5*

- Hearings Official: Anne Davies. Hearings Official 7/28/2023 decision:

  "**Conclusion**

  Property 3 cannot be verified in the configuration requested for reasons set forth above. It is possible that, if approval were sought through a separate application, Property 2 could be verified as a legal lot, as it was created only three parcels out of each Parent A and Parent B. It is also possible that, if sought through a separate application, the first requested property line adjustment (*see* Exhibit B) could be approved, since it involves only Property 1 and Property 2 both of which are potentially lawfully established units of land.

  However, the applicants file one application for all four approvals, PA 22-05599. As the Hearings Official understands it, the applicants could have filed separate applications for each separate requested approval, but that would have required a higher application fee. By opting for a single application, the applicants ran the risk that denial of one request would sink the others. The Hearings Official believes that under the current scenario, the application must be approved or denied as a whole. Because property 3 cannot be verified as a lawfully

established unit of land, the application must be denied. **The Planning Director's decision denying the application is affirmed, but for the reasons set forth above**." *page 6*

13. 6/01/2023 Hearing Application File 509-PA22-05344: Appeal of Director of Denial of a Legal Lot Verification Research & Notice for property identified as Assessor's Map and Tax Lot 15-05-34-00-00200, pursuant to LC 13.140.

- Owner/Applicant/Appellant: Knutson Revocable Trust, Agent - Matthew Martin
- Proponents:
- Opponents: LWLC - Sean Malone

- Staff: Kevin Gilbride/Josh Gattis. Staff 6/1/2023 report recommendation to the Hearings Official:

  "Based on the findings above, the information currently in the record, and the attached documents, the Director considers that the subject property is not an individual lawfully established unit of land, per Lane Code 13.140. **The Director respectfully requests that the Hearings Official affirm the Planning Director's denial**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 7/24/2023 decision:

  "The Hearings official concludes that the subject property was not entirely separated from the lands to the east of the Territorial Highway by fee title because Territorial Highway was not owned in feet for the entirety of the length of the subject property. Accordingly, the **denial of the application by the Director is affirmed**." *page 4*

14. 6/22/2023 Hearing Application File 509-PA22-05765: Appeal of Director Denial of a Legal Lot Verification Research & Notice for One Legal Lot, zoned Rural Residential (RR-10), for property identified as Assessor's Map and Tax Lot 17-03-14-00-00300, pursuant to LC 13.140.

- Owner/Applicant/Appellant: Steven Bailey
- Appellants' Agents - Don Nickell, Kim O'Dea
- Proponents:
- Opponents:
- Staff: Taylor Carsley/Josh Gattis. Staff report recommendation to the Hearings Official:

  "The Director considers it clear that the subject property was created as a result of a series of divisions that created 4 or more properties within a single calendar year, violating the "rule of 4" imposed by Ordinance No. 3 in light of the 1953

addition of ORS 92.010(1). Therefore, **staff respectfully request the Hearings official affirm the Director's denial**." *page 2*

- Hearings Official: Anne Davies. Hearings Official 8/10/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE BAILEY REQUEST (PA 22-05765) FOR THE LEGAL LOT VERIFICATION OF TAX LOT 301, ASSESSOR'S MAP 17-03-14, **IS AFFIRMED**." *page 2*

15. 7/20/2023 Hearing Application File 509-PA22-05616: Appeal of Director Approval of a Modification of Approval to increase the development site of previously approved forest template dwelling under 509-PA18-05467 for property identified as Assessor's Map and Tax Lot 18-03-16-10-02300, pursuant to LC 14.090(5) and LC 16.211(5) and (6).

    - Owner/Applicant/Appellant: Cynthia Land
    - Appellant's Agents: Katie Keidel, Kim O'Dea
    - Proponents:
    - Opponents:

    - Staff: Peter Anderson. Staff 5/10/2023 report for the Director approval of PA 22-05616:

      "Based on the findings and conditions as applied, the proposed development is consistent with the criteria of LC 14.090(5) and the siting standards in LC 16.211(5) and (6), as conditioned. Accordingly, **approval** is granted subject to conditions of approval in **Exhibit A**." *page 16*

    - Hearings Official: Anne Davies. Hearings Official 9/08/2023 decision:

      "**THE PLANNING DIRECTOR'S**, THE BK, LLC REQUEST (PA 22-05616) FOR A TYPE II MODIFICAATION OF FOREST **TEMPLATE DWELLING APPROVAL** (PA 18-05647) ON TAX LT 2300, ASSESOR'S MAP 23—03-16-10, **IS AFFIRMED** SUBJECT TP THE FOLLOWING ADDITIONAL CONDITION:" *page 2*

16. 8/03/2023 Hearing Application File 509-PA23-05144: Appeal of Director Denial of a Legal Lot Verification Research & Notice for one property identified as Assessor's Map and Tax Lot 18-04-23-00-00700, pursuant to LC 13.130.

    - Owner/Applicant/Appellant: Barbara Dumsell – Harmony Oaks Ranch
      Appellant's Agent: Kim O'Dea

- Proponents:
- Opponents: LWLC - Lauri Segel and Sean Malone

- Staff: Taylor Carsley. Staff 7/27/2023 report recommendation to the Hearings Official:

  "The creation of tax lot 700 is the result of an unlawful division that occurred in 1997, not of individual legal lot verifications on all other portions of the parent property. Therefore, **staff respectfully request that the that Hearings official affirm the Director's denial**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 9/21/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE HARMONY OAKS, LLC REQUEST (PA 23-05144) FOR A LEGAL LOT VERIFICATION FOR TAX LOT 700 OF ASSESSOR'S MAP 18-04-23, **IS AFFIRMED**. decision." *page 3*

  "**Conclusion**

  Where the County has issued decisions based on theories that certain conveyances were lawful, the County is not precluded from denying a legal lot verification for a property that has not previously been determined to be lawful, where the County now determines that those same conveyances were not lawful. **The Planning Director's decision denying the subject request is affirmed**." *page 4*

17. 9/07/2023 Hearing Application File 509-PA 05321: A request for Director approval of dwelling in Impacted Forest lands (F-2) Zone pursuant to the 'Template Dwelling' provisions of Lane Code 16.211(2)-2.4, House Bill 2225, and RCP Goal 5 Flora and Fauna Policy 11. Ownership Edward J. King/E.J.K. Investments and Assessor's Map and Tax Lot 21-25-12-00-00843.

    9/07/2023 Hearing Application File 509-PA23-05322: A request for Director approval of dwelling in Impacted Forest lands (F-2) Zone pursuant to the 'Template Dwelling' provisions of Lane Code 16.211(2)-2.4, House Bill 2225, and RCP Goal 5 Flora and Fauna Policy 11. Ownership Edward J. King/E.J.K. Investments and Assessor's Map and Tax Lot 21-35-07-30-02900.

    9/07/2023 Hearing Application File 509-PA23-05323: A request for Director approval of dwelling in Impacted Forest lands (F-2) Zone pursuant to the 'Template Dwelling' provisions of Lane Code 16.211(2)-2.4, House Bill 2225, and RCP Goal 5 Flora and Fauna Policy 11. Ownership Edward J. King; Assessor's Map and Tax Lot 21-35-07-30-02800.

The Lane County Planning Director elected to process these three applications through a Type III Hearings Official procedure in accordance with Lane Code 14.030(1)(b)(ii)(cc). On 9/27/2023 the Hearings official conducted an evidentiary hearing for these three applications. There is one combined record for these applications consisting of several hundred pages. To access these records, to this Lane County website link.

https://www.lanecounty.org/cms/One.aspx?portalId=3585881&pageId=6285782

- Applicant: Edward J. King, and Edawrd J. King/E.J.K. Investments; Applicants' Agent – Bill Kloos
- Appellant: LWLC - Agent Sean Malone; LWLC requested: "that the Hearings Official uphold LUBA's and the Court of Appeals' interpretation of Policy 11 and deny the applications."
- Proponents: See record.
- Opponents: See record.

- Hearing Staff: Julia Doberstein (509-PA23-05321) and Shawn Adamas (509-PA23-05322/05323). Staff 8/31/2023 report to the Hearings Official recommendation:

  "For the reasons explained above, the Director concludes that the proposals do not satisfy Policy 11, based on their failure to meet ODFW's recommended 40 acre 'clustered' density standard for major big game habitat with parcel size as the denominator." *page 10*
  Decision:

- Hearings Official: Anne Davies. Hearings Official 11/22/2023 decisions, the same for all three applications:

  "**Decision**

  THE E.J.K. INVESTMENTS APPLICATION FOR APPROVAL OF A FOREST TEMPLATE DWELLING (PA-23-05321) ON TAX LOT 843, ASSESSOR'S MAP 21-25-12 IS DENIED."

  The Staff packet for the March 19 Board hearing on the record, for draft Board Order No. 24-04-19-04, in Exhibit B, was supposed to contain a copy of the Hearings Official decision PA-23-05321. Instead, it contained a copy of the Hearings Official decision for PA-23-05323 and mislabeled it as the decision for PA-23-05321.

  "**Decision**

THE EDWARD J. KING APPLICATION FOR APPROVAL OF A FOREST TEMPLATE DWELLING (PA-23-05323) ON TAX LOT 2800, ASSESSOR'S MAP 21-35-07-30 IS DENIED." *page 2 of the Hearings Official findings for PA 23-05323*

"**Decision**

THE EDWARD J. KING/E.J.K. INVESTMENTS APPLICATION FOR A APPROVAL OF A FOREST TEMPLATE DWELLING (PA-23-05322) ON TAX LOT 2900, ASSESSOR'S MAP 21-35-07-30 IS DENIED." page 2 *of the Hearings Official findings for PA 23-05322; page 46 Board packet*

"**Decision**

THE EDWARD J. KING APPLICATION FOR A APPROVAL OF A FOREST TEMPLATE DWELLING (PA-23-05323) ON TAX LOT 2800, ASSESSOR'S MAP 21-35-07-30 IS DENIED." *page 2*

Conclusion *(the same for all three decisions)*

"The Hearings Official agrees with the applicant that, in review by LUBA of the Board's decision in this case, LUBA will be required to defer to the Board's interpretation of its own policy (Policy 11). However, that statement is tempered by the fact that any interpretation must be consistent with the requirements imposed by Statewide Planning Goal 5 as it relates to the protection of Big Game habitat. Given the language of LUBA's opinions quoted above, in *Nimpkish* and *King*, the Hearings Official believes that the Board has an uphill battle if it wishes to adopt an interpretation that does not fully implement ODFW's recommended residential densities, which is required by Policy 11.

With regard to any hope on the part of the County to "remove barriers" for approval of dwellings in the F-2 zone due to the current emergency for needed housing, the Hearings Officer does not believe that the answer to the housing cris should include ignoring the protections of Goal 5 for Big Game habitat to facilitate housing in a rural resource zone. There are better places for such needed housing where the necessary needed facilities are available and where precious resources will not be impacted." *page 10 for all three decisions.*

As of 3/19/2024, the Lane County website for the Hearings Official did not contain copies of the Hearings Official decisions for these three applications. The LMD property records website did not contain copies of the decisions.

- 3/19/2024 On the Record Hearing to Review the Hearings Official's Denial of Three Forest Template Dwelling Proposals in the Impacted Forest Lands Zone (F-2): Assessor's Map 21- 25-12, Tax Lot 843, File No. 509- PA23-05321 (E.J.K. Investments); Assessor's Map 21-35-07, Tax Lot 2900, File No. 509-PA23-05322 (E.J.K. Investments); Assessor's Map 21-35-07, Tax Lot 2800, File No. 509- PA23-05323 (Edward J King).

  3/01/2024 Staff memorandum recommendation to the Board of Commissioners:

  "IV. RECOMMENDATION Affirm the Hearings Official's decision under Option 1 or Option 2, either by adopting the attached orders remaining silent on the Hearings Official's interpretation or by modifying the Orders under Option 2 to expressly agree with the Hearings Officials interpretation of Policy 11, with any clarifications the Board finds to be warranted." *page 12*

18. 9/07/2023 Hearing Application File 509-PA23-05322: A request for Director approval of dwelling in Impacted Forest lands (F-2) Zone pursuant to the 'Template Dwelling' provisions of Lane Code 16.211(2)-2.4, House Bill 2225, and RCP Goal 5 Flora and Fauna Policy 11. Ownership Edward J. King/E.J.K. Investments and Assessor's Map and Tax Lot 21-35-07-30-02900.

19. 9/07/2023 Hearing Application File 509-PA23-05323: A request for Director approval of dwelling in Impacted Forest lands (F-2) Zone pursuant to the 'Template Dwelling' provisions of Lane Code 16.211(2)-2.4, House Bill 2225, and RCP Goal 5 Flora and Fauna Policy 11. Ownership Edward J. King; Assessor's Map and Tax Lot 21-35-07-30-02800.

20. 10/12/2023 Hearing Application File 509-PA23-05071: Appeal of Director Approval of Modification of Approval for property identified as Assessor's Map and Tax Lots 18-05-07-00-02302 and 18-05-07-00-02306, pursuant to LC 14.090(5) and the siting criteria in LC 16.211(5) and (6). Specifically, the proposal is to modify the template dwelling homesite location approved under Planning Action File No. 509-PA17-05752.

    - Owner/Applicant: Michael Speiser, Agents Jed Truett, Kim O'Dea
    - Appellant: LWLC - Lauri Segel and Sean Malone
    - Proponents: Katherine A. Connell and Sterling J. Thompson
    - Opponents:

    - Staff: Julia Dobberstein. Staff 10/05/2023 report recommendation to the Hearings Official:

"For the reasons summarized above and detained in the Director's decision, staff find that the proposed development modification meets the provisions of LC 14.090(5) and the siting criteria of LC 16.211(5) and (6). Therefore, **staff respectfully requests that the Hearings Official affirm the Planning Director's approval** of File No. 509-PA23-05071." *page 3*

- Hearings Official: Anne Davies. Hearings Official 11/22/2023 decision:

  "THE MICHAEL SPEISER REQUEST FOR A TYPE II APPROVAL (PA23-05071) FOR A MODIFICATION OF TEMPLATE DWELLING APPROVAL (PA15-05752) ON TAX LOTS 2302 AND 2306, ASSESSOR'S MAP 18-05-7, **IS AFFIRMED SUBJECT TO THE CONDITIONS** OF APPROVAL CONTAINED IN EXHIBIT ATTACHED TO THE NOTICE OF PENDING LAND USE DECISION IN THE MATTER MAILED AUGUST 24, 2023." *page 2*

21. 10/12/2023 Hearing Application File 509-PA23-05222: Type III Modification of Approval pursuant to the provisions of LC 14.090(5) and LC 16.211(6)(a) & (c) for property as Assessor's Map and Tax lot 18-03-16-10-00401. Specifically, the proposal is to modify the conditions of approval regarding the fire safety plan requirements and primary safety zone standards approved under Planning Action File No. 509-PA21-05891.

    - Owner/Applicant: McKeon Ventures, LLC
    - Applicant's Agent - Mike Gelardi, Gelardi Law, PC
    - Proponents:
    - Opponents:
    - Staff: Noray-Ann Spalding. Staff 10/05/2023 report recommendation to the Hearings Official:

      "Based on the findings above, the proposed Modification of Approval is consistent with the applicable criteria in Lane Code 14.090(5) and LC 16.211(2)-2,4. As such, **Staff is recommending that the Hearings official <u>Approve</u> this request** for Modification of Approval." *page 8*

    - Hearings Official: Anne Davies. Hearings Official 11/13/2023 decision:

      "THE MCKEON VENTURES LLC FOR A TYPE III HEARINGS OFFICIAL APPROVAL (PA 23-05222) FOR A MODIFICATION OF FOREST TEMPLATE DWELLING APPROVAL (PA 21 -05891) ONTAX LOT 401, ASSESSOR'S AP 18-03-16-10, **IS AFFIRMED**, SIBJECT TO THE CONDITIONS OF APPROVAL CONTAINED IN EXHIBIT C, ATTACHED HERETO." *page 2*

22. 10/19/2023 Hearing Application File 509-PA22-05045: Appeal of Director Denial of a Legal Lot Verification Research & Notice for 1 Legal Lot, zoned Exclusive Farm Use (E40) for property identified as Assessor's Map and Tax Lot 16-03-17-00- 00100, pursuant to LC 13.140.

- Owner/Applicant/Appellant: Justin Brown, Applicant's Agent - Jim McLaughlin
- Appellant's Agent Jim Mclaughlin:
- Proponents:
- Opponents: LWLC - Lauri Segel
- Staff: Kevin Gilbride. Staff 10/12/2023 report recommendation to the Hearings Official:

"Based on the evidence provided, the subject property was unlawfully divided in 1987 after land divisions were enacted that required prior approval for new lots or parcels in Lane County. No approval was found for the creation of the subject property. **Therefore, staff respectfully request that the Hearings official affirm the Planning Director's denial**." *page 3*

- Hearings Official: Anne Davies. Hearings Official 12/06/2023 decision:

"**THE PLANNING DIRECTOR'S DENIAL** OF THE JUSTINE BROWN REQUEST (PA 23-05045) FOR A LEGAL LOT VERIFICATION FOR TAX LOT 100 OF ASSESSOR'S MAP 16-03-17, **IS AFFIRMED**." *page 2*

23. 10/19/2023 Hearing Application File 509-PA22-05679: Appeal of Director Denial of a Type II farm dwelling on non-high value farmland identified as Assessor's Map 19-02-1-00-00201 and zoned as Exclusive Farm Use (E40), pursuant to LC 16.212(3)2.1. This included one applicant request for reconsideration.

- Owner/Applicant/Appellant: Mark and Jeanifer Leach
- Appellants' Agent: Kim O'Dea
- Proponents: Thomas E. Ellis
- Opponents: LWLC - Sean Malone

- Staff: Noray-Ann Spalding. Staff 9/01/2023 report to the Hearings Official recommendation:

"**The Director** considers that TL 201 was a single farm operation that was owned and operated by Mr. Leach with two existing dwellings for three years prior to the submittal of this application and cannot meet the criteria necessary to approved the Farm Dwelling under LC 16.212(7)(b)(II), and **respectfully requests that the Hearings Official affirm the Director's denial**."

recommendation." *page 3*

- Hearings Official: Anne Davies. Hearings Official 1/31/2024 Reconsideration 1 Decision:

  "**THE HEARINGS OFFICIAL PREVIOUS DECISION AFFIRMING THE PLANNNING DIRECTOR'S DENIAL** OF THE APPLICANTS' REQUEST (PA22-05279) FOR A PRIMARY FARM DWELLING ON TAX LOT 201 OF ASSESSOR'S MAP 19-02-08, **IS AFFIRMED**" *page 3*

24. 11/16/2023 Hearing Application File 509-PA22-05594: Appeal of a Director Denial of a Type II Legal Lot Verification Research & Notice for one (1) Legal Lot identified as the west portion of Assessor's Map and Tax Lot No. 20-05-14-00-00405, pursuant to LC 13.140.

- Owner/Applicant/Appellant: Cindy Royce
- Appellant's Agent: Kim O'Dea
- Proponents:
- Opponents: LWLC - Sean Malone

- Staff: Kevin Gilbride. Staff 11/09/2023 report recommendation to the Hearings Official:

  "Based on the evidence provided, the subject property was adjusted unlawfully in 2006 and therefore cannot be verified as a lawfully established unit of land pursuant to LC 13.140. Therefore, **staff respectfully request the Hearings Official affirm the Director's denial.**" *page 3*

- Hearings Official: Anne Davies. Hearings Official 12/18/2023 decision:

  "The Hearings official agrees with the applicants that the County is not at liberty to expand the universe of circumstances covered by subsection (b) based on a guess as to what the legislature might have intended – especially where such interpretation would require words to be inserted that are not there. *See* ORS 174.010 ("In the construction of a statute, the office of is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted***.").

  Conclusion

  The Planning Director decision denying the subject request is overturned, and the request is granted, subject to the conditions of approval." *page 11*

25. 11/16/2023 Hearing Application File 509-PA23-05196: Appeal of a Director Denial of one (1) Property Line Adjustment between two (2) properties identified as Assessor's Map and Tax Lot No. 15-06-25-00-00500 (Property 1) and 15-06-25-00-00502 (Property 2), pursuant to LC 13.130.

- Owner/Applicant/Appellant: Robin Pieffer
- Appellant's Agent: Mike Reeder
- Proponents:
- Opponents: LWLC - Sean Malone

- Staff: Kevin Gilbride. Staff 11/09/2023 report recommendation to the Hearings Official:

  "As currently proposed, the adjustment does not meet the requirements for a "minor shift;" therefore, the subject application is the incorrect application type, and must be denied, pursuant to the requirements of LC 13.130(5).

  V. SUMMARY

  Based on the findings above, and the attached documents, **staff find that the subject application is the incorrect application type, and must be denied**, pursuant to the requirements of Lane Code 13.130(5)**.**" *page 3*

- Hearings Official: Anne Davies. Hearings Official 12/18/2023 decision:

  "**THE PLANNING DIRECTOR'S DENIAL** OF THE PFEIFFER/KING ESTATE WINERY REQUEST (PA23-05196) FOR A PROPERTY LINE ADJUSTMENT BETWEEN TAX LOTS 500 AND 502 OF ASSESSOR'S MAP 15-05-22, **IS REVERSED**. **THE APPLICATION IS APPROVED** SUBJECT TO THE CONDITIONS OF APPROVAL IN ATTACHED EXHIBIT B." *page 2*

  "The Planning Director erred in concluding that the proposed adjustment needed to be processed according to he replat procedures. LC 13.150(5)(b) provides: "If a property adjustment within a plat qualifies a property line adjustment rather than a replate, it must comply with LC 13.130." The challenged Planning Director otherwise concludes that the proposed PLA satisfies the approval criteria in LC 13,130. LandWatch does not challenge those findings. Accordingly the application must be approved."

  Conclusion

  The definitions found in Lane Code for "lots, "parcels" and "lawfully established

units of land" appear to be very intentional. The Hearings Official is not at liberty to interpret them to mean something different than they are defined in the Code. The interpretation announce in this decision may result in a very broad scope of the term "minor shift". If the County wishes to require replate procedures for a larger universe than this decision allows, it will have to revised the Code to accommodate that intention. **Planning Director's decision is reversed, subject to the conditions of approval in attached Exhibit B**." *page 6*

26. 11/30/2023 Hearing Application File 509-PA23-05313: Appeal of a Director Approval of a Modification of Approval of Planning Action File No. 509-PA95-03623 as Modified by 509-PA12-05365 and 509-PA19-05109 for increases to the size of an existing structure pursuant to Lane Code 14.090(5) and Lane Code 16.215(5), Assessor's Map and Tax Lot No. 16-06-20-00-01900 & 01901.

- Camp Lutherwood
- Applicant's Agent: Metro Planning
- Applicant's Agent on Appeal: Kim O'Dea
- Appellant: LWLC

- Staff: Taylor Carsley

- Staff 11/22/2023 report recommendation to the Hearings Official:

  "For the reasons summarized above and detailed in the Director decision, staff find that the proposed development site modification meets the provisions of LC 14.090(5) and the siting criteria of LC 16.210(5) and (6). Therefore, staff respectfully request that the Hearings Official affirm the Planning Director's approval of 509- PA23-05313 and clarify issues raised in the appeal statement and record materials." *page 6*

- Hearings Official: Anne Davies. Hearings Official 1/12/2024 decision:

  "THE PLANNING DIRECTOR'S APPROVAL OF THE CAMP LUTHERWOOD REQUEST (PA-05313) FOR A TYPE II MODIFICATION OF APPROVAL (PA-19-05109) ON TAX LOTS 1900 AND 1901, ASSESSOR'S MAP 16-06-20, IS AFFIRMED, SUBJECT TO CLARIFICATION OF APPROVAL #1, SET FORTH BELOW, ANND THE DELETION OF CONDITION #8." page 4

Howe Mann Consulting

Report Attachment A4

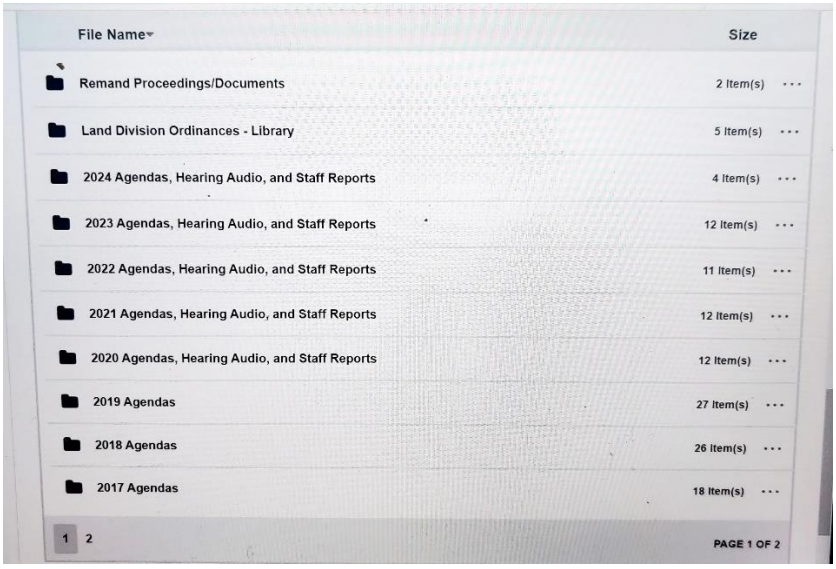
Howe Mann Consulting Report Attachment A4
Recommended Redesign for LMD Website Hearings Official Files

The Lane County Land Management Division put the Lane County Hearings Official records on this LMD website address:

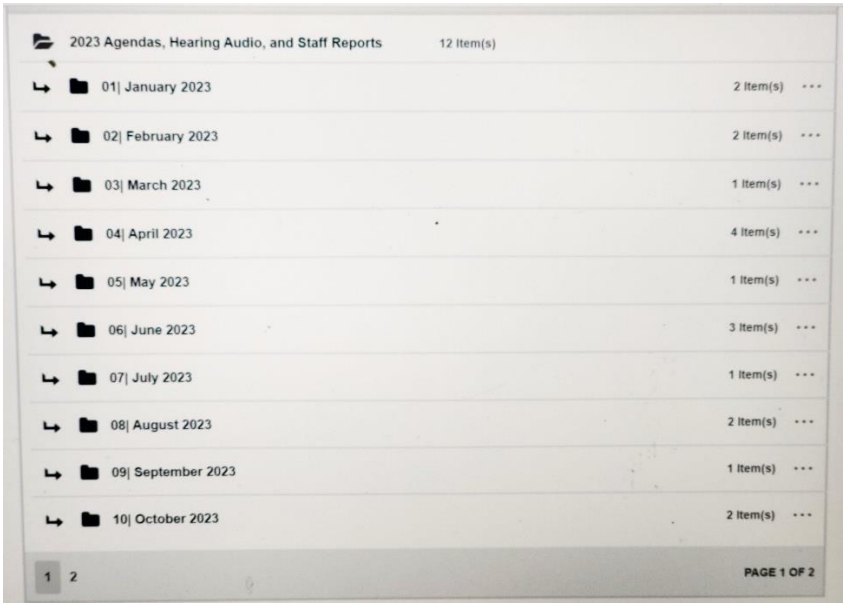
https://www.lanecounty.org/cms/One.aspx?portalId=3585881&pageId=6285782 .

Currently, if a customer wants to find the records for a certain application heard by the Hearings Official, the customer needs to know the application file number and the date when the hearing occurred. For example, suppose a customer wants to find the records for application PA22-05274 heard by the Hearings Official on April 27, 2023. The customer must then open the following files to get to the desired application file.

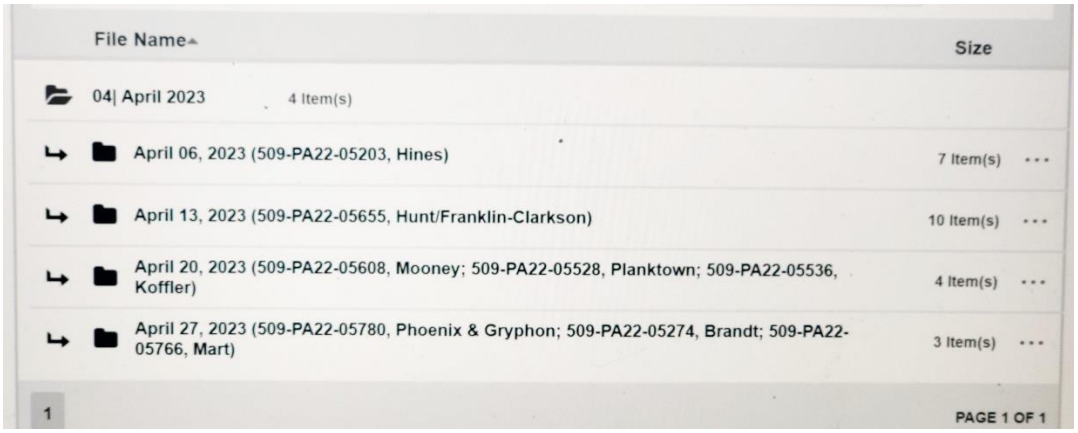
File 1: List of Hearings Official hearing years



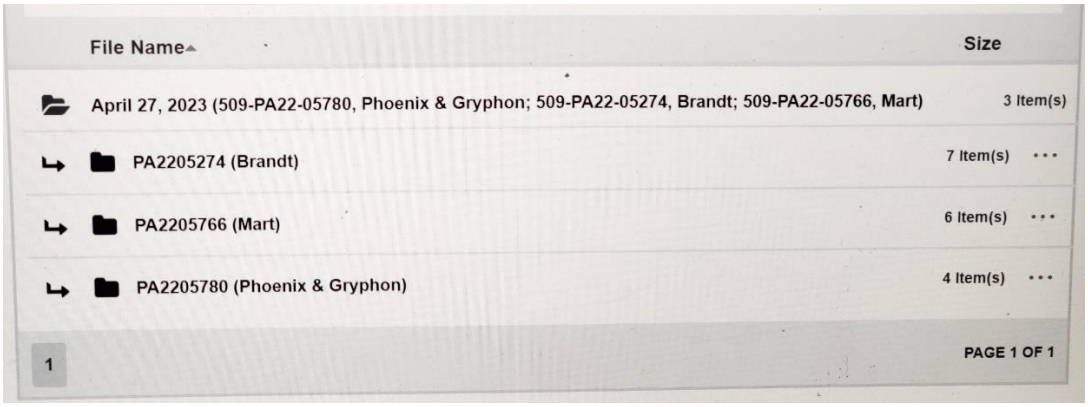
File 2: List of Hearings Official hearings months by the year



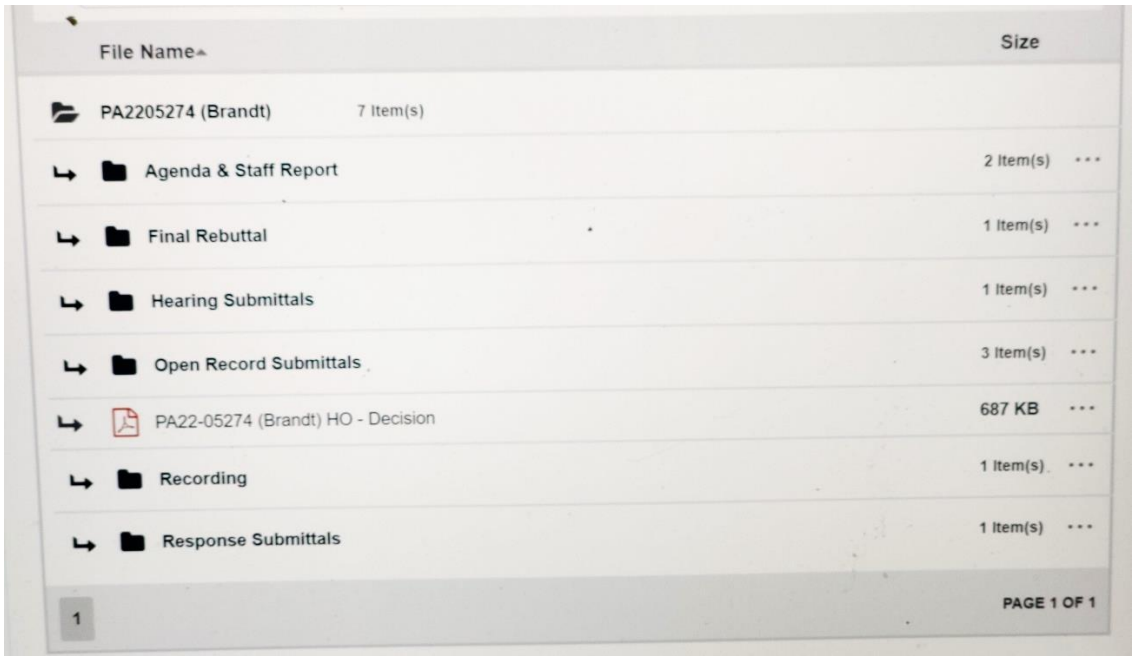
File 3: List of the Hearings Official hearing dates by the month and year



File 4: List of the applications heard by the Hearing Official by date



File 5: Files for the selected application heard by the Hearings Official



Howe Mann Consulting Report Attachment A4
Recommended Redesign for LMD Website Hearings Official Files

Howe Mann Consulting has three recommendations to make the LMD website for Hearings Official hearing records easier for customers to access and use.

Recommendation 1.

The website for the Hearings Official records should be redesigned so that if a customer opens the file for a certain year, it will display all of the hearing applications files for that year arranged in order by the initial hearing dates. For example, the website for the Hearings Official records for 2023 might look something like this:

2023 Hearings Official Application Records

- 1/19/2023 Hearing Application File 509-PA21-05928, Hesel
- 1/26/2023 Hearing Application File 509-PA22-05370, Ebbage
- 2/28/2023 Hearing Application File 509-PA22-05328, Aro
- 4/06/2023 Hearing Application File 509-PA22-05203, Hines
- 4/13/2023 Hearing Application File 509-PA22-05655, Franklin-Clarkson
- 4/20/23 Hearing Application File 509-PA22-05608, Mooney
- 4/20/2023 Hearing Application File 509-PA22-05528, Planktown
- 4/20/2023 Hearing Application File 509-PA22-05536, Koffler
- 4/27/2023 Hearing Application File 509-PA22-05274, Brandt
- 4/27/2023 Hearing Application File 509-PA22-05766, Mart
- 4/27/2023 Hearing Application File 509-PA22-05780, Fields and Hyland
- 5/04/2023 Hearing Application File 509-PA22-05049, Burch
- 6/01/2023 Hearing Application File 509-PA22-05599, Benford
- 6/01/2023 Hearing Application File 509-PA22-05344, Knutson
- 6/22/2023 Hearing Application File 509-PA22-05765, Bailey

Recommendation 2.

For the five years of Hearings Official hearings from 2020 to 2024, a word searchable index should be prepared for the applications heard that year. How Mann Consulting Attachments C and D are proposed indices and summaries for 2022 and 2023 Hearings Official applications that contain the following helpful information extracted from the hearing records:

- Hearing date,
- Application file number,

- Application description from the Hearings Official agenda,
- Names of the persons or organizations who participated in the hearing,
- Summary of Director decision or staff recommendations consisting of excerptions of the decision or recommendation,
- Summary of Hearings Official decision consisting of excerptions of the Hearings Official decision,
- Summary of any LUBA decision for an appeal from the Hearings Official decision,
- Summary of any Court of Appeals decision from an appeal of the LUBA decision.

Indices like these should be prepared by the LMD for 2024, 2021 and 2020, and then posted on the website for the Hearings Official hearings. This information would help customers (i.e., interested persons, property owners and professionals) to find applications and then learn more about what the County and State requirements are for certain kinds of land use applications. The requirements would include evolving County and State interpretations of the laws and how the county interprets certain hearing documents like mortgages, contracts, deeds, plats and previously approved or denied permits or applications. This information would be helpful for persons wanting to prepare certain applications or participate in application hearings.

Recommendation 3.

The website for the Hearings Official records currently has a box for Remand Proceedings/Documents and it contains just two LUBA decisions: LUBA No. 2022-38509-PA21-05220 (Tranquill Lands) and LUBA No. 2022-099, PA21-05806 (Ferguson Creek). The information in this file is deficient to the point of being worthless. In the last five years, there have been numerous LUBA decisions in response to Hearings Official decisions. This file needs to be updated to include these LUBA decisions. The individual Hearings Official files need to be updated to include these LUBA decisions. The Hearings Official indices, discussed in recommendation 2, need to summarize these LUBA decisions. How else, without searching the LUBA records, can a customer know if LUBA has upheld, reversed or remanded a Hearings decision? The same thing should be done for appeals from LUBA decisions to the Oregon Court of Appeals. One of the LMD staff needs to be assigned the responsibility to perform this work.

Howe Mann Consulting

Report Attachment B1

Howe Mann Consulting Report Attachment B1
Analysis of and Recommendations for Planning Director Processing of LLV Applications

This report analyzes the Lane County Land Management Division's processing of legal lot verification applications and, based on this analysis, makes eleven recommendations to significantly improve the LLV application processing, to assist Staff and to significantly improve customer service. The primary sources of factual information for this report are Howe Mann Consulting report attachments B1 through B5:

- Report Attachment B2: 49 pages Howe Mann Consulting report that analyzed the LMD processing and Planning Director decisions for Legal Lot Verification "LLV" applications received by the LMD in 2023;

- Report Attachment B3: LMD website generated list of LLV applications received by the LMD in 2023;

- Report Attachment B4: actual timelines for the processing of 2023 LLV applications; and

- Report Attachment B5: list of statewide appeals to LUBA for LLV applications.

A. <u>The Big Picture of Lane County Legal Lots</u>.

1. A "Legal Lot" or a "Lawfully Established Unit of Land" is a must for affordable rural housing on all rural lands in Lane County and is necessary to:

   - legally sell land,
   - obtain a new dwelling,
   - replace an existing dwelling or a dwelling destroyed by fire, flood, earthquake or other disasters,
   - divide land or,
   - do a property line adjustment.

   A "Lawfully Established Unit of Land" is a lot or parcel in an approved and recorded subdivision or partition plat or a unit of land that has been determined to be lawfully established by approval of a Type 1 or Type II Legal Lot Verification ("LLV") application, or by approval of a Validation of a Unit of Land application.

2. The kinds of land use applications that are related to or may require legal lots to do are those for a:

   - Partition,
   - Subdivision,
   - Replat
   - Property Line Adjustment ("PLA"),
   - New dwelling,
   - And dwelling replacements.

3. Based on the LMD fee information in Howe Mann Consulting report Attachment F4, in 2022 and 2023, the largest, single source of LMD planning application fee revenue was from LLV application fees:

   - 2022 LLV application fees: $223.417.40, and
   - 2023 LLV application fees: $195,634.17.

4. Based on the information in Howe Mann Consulting report Attachment A1, for 2022 and 2023 Hearings Official applications and decisions, Planning Director decisions for LLV applications were more frequently appealed than decisions for other land use applications related to affordable rural housing.

   - In 2022, decisions for 33 Planning Director applications related to affordable rural housing were appealed to the Hearings Official. 15, or 45%, of those decisions were for LLV applications.

   - In 2023, decisions for 23 Planning Director applications that were related to affordable rural housing were appealed to the Hearings Official. 11, or 48%. of those decisions were for LLV applications.

5. The Lane County appeal fee to the Hearings Official for the first evidentiary hearing is limited by Statute to $250. Other Lane County Hearings official appeal fees include $1365.76 for a Hearings Official reconsideration hearing and $3,488 for a Hearings Official hearing because of a remand from LUBA.

   Based on the LMD fee information in Howe Mann Consulting report Attachment F4, the LMD appeal fee revenue for all applications was:

   - $12,682 in 2022, and
   - $19,715 in 2023.

   Based on the information in in Howe Mann Consulting report Attachment A1 for 2022 and 2023 Hearings Official applications and decisions:

   In 2023 eleven (11) of the twenty-three (23) 2023 Hearings Official application decisions were for appeals of Planning Director LLV application decisions. The total appeal fees received by the LMD for the eleven (11) appeals would have been $2,750.

   In 2022 sixteen (16) of the thirty-five (35) 2022 Hearings Official application decisions were for appeals of Planning Director decisions for LLV applications. The

total appeal fees received by the LMD for the sixteen (16) appeals would have been $4,000.

These appeal fees covered only a small fraction of the LMD Staff and Hearings Official costs to process the appeals that are being subsidized by other LLV application fees or from other sources.

Recommendation 1. Applicants should not be required to pay the $3,488 appeal fee for Hearing Official hearings for remands from LUBA if the reasons for the remands were because of the County's erroneous decisions. Otherwise, requiring the applicant to pay the $3,488 fee punishes the applicant for the County's erroneous decisions and increases the costs of rural housing in Lane County. The LMD planning fee schedule for Hearings Official items needs to amended to make this change.

6. The estimated property owner costs to prepare a LLV application and then to shepherd it through the application review processes varies widely depending on the application and the circumstances of an appeal. This isa best guess estimate.

   - $3,183.84 plus $72.96 per deed for the LMD application fee,
   - $3,000 to $5,000+ for professionals to prepare the application,
   - $5,000 to $20,000+ for an attorney to assist with the application during the Planning Director and Hearings Official appeal processes,
   - $10,000 to $20,000+ for an attorney to assist with an appeal to LUBA, and
   - $10,000 to $20,000+ for an attorney to assist with an appeal to the Oregon Court of Appeals.

   These cumulative expenses are horrendous for property owners who have reasonable LLV applications and significantly increase the costs of affordable rural housing.

7. Based on the information in Howe Mann Consulting report Attachment B5 consisting of a list from LUBA of all Legal Lot Verification and Validation of a Unit of Land application decisions appealed to LUBA by Counties in the State of Oregon from 2020 to 2024:

   - 19 LUBA decisions were on the merits;
   - 13 (68%) of these 19 LUBA decisions were for appeals from Lane County; and
   - 6 (32%) of these 19 LUBA decisions were for appeals from all other counties in the State of Oregon.

   LUBA had more than twice as many appeals from Lane County for LLV and VUL applications than from all other counties in the State of Oregon. Lane County has become a battle ground in the State of Oregon for LLV and VUL applications.

8. Based on the interview information in Howe Mann Consulting report Attachment C1, attorneys who do land use work around the State of Oregon say that Lane County is one of the most difficult counties to work with and that some LMD Staff seem to be putting obstacles in the way of getting land use applications approved.

B. Analysis of Planning Director Processing and Decisions for LLV Applications Received in 2023.

The list of the LLV applications received by the LMD in 2023, in How Mann report Attachment B3, was obtained by Howe Mann Consulting from the LMD Online permit website. Each LLV application in this list that was received and processed for a decision, excluding a large number of those LLV applications that were withdrawn or voided, was analyzed in the 49 pages Howe Mann Consulting report Attachment B2 that included this kind of information:

- the application file number,
- the date the application was received,
- the date the application was deemed complete or initially deemed incomplete with notes about any information needed for completion,
- the date the referral notices were mailed to nearby owners and other persons or entities,
- the range of dates, from the earliest to the most recent, for the instruments listed on the Assessment and Taxation Property Description Card (the "ATPDC") for the subject property,
- the range of dates, from the earliest to the most recent, for the instruments submitted with the application,
- the Planning Director decision for the LLV application, and
- Howe Mann Consulting summary comments for most applications.

The following comments and recommendations are based primarily on the information in Howe Mann Consulting report Attachment B2.

1. 47 LLV applications were received by the LMD in 2023 and then processed for decisions in 2023 and 2024. Some LLV applications not included in this number were received by the LMD and either withdrawn or voided because of inaction.

   a. When received by the LMD, a LLV application must be reviewed for completeness within 30 days of receipt. LMD Staff must then notify the applicant in writing that the application was deemed complete and accepted or if the application has been initially deemed incomplete and exactly what additional information is needed for acceptance.

- Eighteen (18), or 38%, of the LLV applications were initially deemed complete by LMD Staff;
- Thirty-one (31), or 62%, of the LLV applications were initially deemed incomplete by LMD staff for the following reasons:
  - ✓ deeds were missing;
  - ✓ illustrations were needed for each deed with a different legal description;
  - ✓ the deeds were not certified by the County Recorder;
  - ✓ a map of the proposed legal lot was needed;
  - ✓ clear deeds were needed;
  - ✓ a narrative explaining how the property was created and changed over time was missing;
  - ✓ missing signatures on the form for owner or applicant or agent;
  - ✓ an out-of-date application form was used; or
  - ✓ the fee payment for the application was missing

b. The average number of days taken by Staff to perform the initial completeness review for LLV applications, with two application exceptions, was 28.6 days per application (1291 total days for the reviews divided by 45 applications = 28.6). A written completeness review was not done by Staff for LLV application No. 16 because, it was a simple Type 1 LLV application. A completeness review was done by Staff for LLV application No. 41 on the same day that it was received, apparently because the subject property was a parcel in an approved partition, there was a lawful property line adjustment to that parcel and a knowledgeable Staff was available to review it.

c. The average number of days taken by Staff to perform a completeness review to accept a LLV application was fifty-nine (59) days (total days 1835 divided by 31 applications = 59 days).

d. The average number of days taken by the Planning Director to process a LLV application from the date it was deemed complete and accepted was 124 days (total days 5,356 divided by 43 + 124 days). LLV application No. 16 was not included in this count because, it was a Type 1 application. Application No's. 38, 42 and 44 were not included in this count because, the decisions for these applications are pending.

In 2023 62% of the LLV applications received by the LMD and processed for Planning Director decisions were initially deemed incomplete. The LMD LLV application form currently asks the applicant to submit only copies of the deeds listed on the ATPDC. As seen by the examples in LLV applications PA23-05054 and PA 23-05543, many ATPDC's do not list instruments for the subject property that back to before April 7, 1949. The current LLV application form actually sets up

the applications for denial or inconsistent decisions by the Director by failing to require the needed deed information. This incompleteness rate is a definite problem that can be fixed by doing the following improvements front end improvements to LLV application processing per recommendations 2 and 3.

Recommendation 2: The LLV application form should be revised to include a checklist and explanation about the information that needs to be submitted with this application. This checklist could be similar to the LMD checklist for how to complete a plot plan. This checklist should at least include the list of information on pages 4 and 5. The LLV application form needs to be revised to require copies of the deeds in the chain of title for the subject property and parent property and parent going back to before April 9, 1949, when Lane County's first subdivision ordinance was adopted. Exceptions to this might be when subdivision or partition plats, "Permits" or noticed legal lot verification applications are involved with the property and included with the application.

Recommendation 3: When Staff revises LMD land use application forms, they should involve experienced, private sector persons in helping to design the application forms. These persons can bring decades of experience to assist the LMD with this task take could result in more complete and better application forms.

Recommendation 4: Before a LLV application is submitted to the LMD, the applicant or applicant's agent should have the option to make a fifteen (15) minute appointment with one of the knowledgeable LMD Staff who processes LLV applications. The purpose of the appointment would be for the applicant or applicant's agent to bring the LLV application and have a knowledgeable Staff planner review it for completeness and determine the LLV application fee. The purpose of the meeting would not be for the Staff Planner to conduct a substantive evaluation of the application or give an opinion if the application could be approved. The Staff planner would follow-up the meeting with an email to the applicant or agent, and to the property file, that summarizes the matters discussed at the meeting. This meeting could save the customer time waiting in line to see a planner and help quicken the application review process for acceptance.

2. The referral notices for each LLV application were generally mailed by the LMD to nearby property owners and to interested persons and organizations within a week of application acceptance. This is very timely. Based on the information from the LMD in Howe Mann Consulting report Attachment F1, referral notices were mailed to the following persons and entities who paid a $300 subscription fee: Bill Kloos, LaneWatch Lane County and the Eugene Water and Electric Board. The purpose

of referral notices is to obtain comments from those concerned and to provide an opportunity for staff and the applicant to address and try to resolve the concerns prior to the Planning Director decision.

3. Certain deed information is needed to complete an LLV application. This information generally includes the deeds and land sales contracts in the chain of title for the subject property and for the parent property and parent from the present and going back to before April 7,1949, when the first subdivision regulations in Lane County Ordnance No. 3. were enacted. Other information may be necessary, and when appropriate may be used instead of certain deeds or land sales contracts, such as copies of approved subdivision or partition plats, and approved permits like those for legal lot verifications and property line adjustments. All of the information relied upon by the Planning Director to make the decision needs to be in the application record.

   In Howe Mann Consulting Report 4 Attachment E Staff Identified Barriers to Affordable Housing, page 10, LMD Staff summarized the information needed for LLV applications as follows: "**Moolenijzer PA21-05280** (RR), HO decision affirmed that the entire history of the creation of a property must be considered through the LLVRN process, including review of how the parent property and its parents were created. Applied the "Rule of 4" to review all divisions and the concepts of Doughty, in that if an unlawful division occurred at any point throughout a property's history, the property could not be verified."

   In the Planning Director decision for the denial of LLV application No. 4, PA23-05054, the Planning Director finding emphasized the need for this kind of information in order to approve it. "There is no evidence in the record that supports the applicant's statement that the parent property was lawfully created prior to 1975. The first deed in the record is that of the sale from ODOT to Allen signed on August 28,1975 (758/37374), which is after the date land divisions required partitioning approval on March 26, 1975. Because the property's history prior to this conveyance is not provided in the record, staff cannot find that the parent property was created lawfully." The ATPDC for the subject property in PA23-05054 listed instruments that when back to 1975 and no further; and these were what the applicant submitted. If additional instruments were needed, then staff should have informed the applicant about this when they did the application completeness check rather than waiting to mention it when the application was denied.

   Based on the information in Howe Mann Consulting Report 4 Attachment A, the Planning Director ignored the information requirements, stated above, and without the required information, made these two LLV application decisions.

   a. In the decision for LLV application No. PA23-05142 (No. 9), the Planning Director made this decision finding in order to approve it:

"Although the deed history for the Parent Property was not included with this application, per County records, it appears that the Parent Property was previously in the configuration as shown here in Orange." ***PD decision findings page 6***

This finding was pure fluff, awful and sets a bad example for applicants who must follow the requirements for having the necessary information in the record. In denying LLV application PA23-05054, discussed above, the Director held the feet of that applicant to the fire for not having the necessary information in the record for the application. When the application completeness review was done for LLV application PA23-05054, Staff should have requested the applicant to submit the missing information.

b. In the decision for LLV application No. PA23-05543 (No. 37), the Planning Director made this decision finding in order to approve it:

"Based upon the following information, the creation of the Subject Property as a separate parcel (April 14, 1957) complied with effective land division and zoning regulations because: a. When the Subject Property was created as a separate unit of land (April 14, 1957), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (April 14, 1957), there were no zoning regulations in effect to govern its creation." ***PD decision findings page 7***

According to the LMD website property information file for the subject property, the applicant for LLV application No. PA23-05543 submitted only the deeds listed on the ATPDC, with the earliest deed dated from 1967. In response to the notice that the application was initially deemed incomplete, the applicant submitted a 2021 deed. There are no deeds earlier than 1967 in the website record for this application. A mere reference by the Planning Director to two 1957 deeds is not an acceptable substitute for the missing deeds in the chain of title for the subject property and the parent property and parent going back for before April 7, 1949. When the application completeness review was done, Staff should have requested this applicant to submit the missing and needed information.

Recommendation 5: LMD staff made decisions for LLV application PA23-05142 (No. 9) and PA23-05543 (No. 37) that clearly did not follow the requirements to have deeds in the record for the subject property and the parent property going back to before April 7, 1949. LMD Staff needs to start consistently following these requirements when they do their LLV application completeness checks and decisions.

4. For each LLV application decision, the Director's report findings generally included helpful illustrations of certain deed legal descriptions. These illustrations were necessary to show and help evaluate the changing configurations of the parent and parent property and the subject property.

5. Of the LLV 47 applications received and processed for decisions by the Planning Director in 2023:

   - 32 (68%) of these LLV applications were approved by the Planning Director;
   - 12 (25%) of these LLV applications were denied by the Planning Director; and
   - 3 (7%) of these LLV applications are pending decisions by the Planning Director.

   The Planning Director's LLV application decisions frequently include references to and interpretations of Hearings Official decisions, LUBA decisions and State laws. When LMD staff makes their own interpretations of the law or deeds and land sales contracts, they come close to performing an attorney's work. Some of these decisions, and previous ones for 2022 and 2023 Hearings Official applications, did not correctly interpret the land use laws and were reversed on appeals.

   Recommendation 6: Lane County should hire a fulltime land use attorney dedicated to timely assisting LMD Staff and the Board of Commissioners with land use legal matters and training. A land use attorney is needed who should not be diverted to perform work not related to land use planning. The office for this land use attorney should be located in the LMD for easy access for Staff. Funding for this position should be decided by department managers and the Board of County Commissioners.

Howe Mann Consulting

Report Attachment B2

Howe Mann Consulting Report Attachment B2
Analysis of 2023 Legal Lot Verification Applications and Decisions

File No.	Date Application Received	Date Application Deemed Complete	Date Referral Notices Mailed	Date Range of the Instruments on the PDC	Date Range of Instruments Analyzed by Mapping in the PD Decision	Date and Summary of the PD Decision
No. 1: 509-PA23-05019	1/11/2023	Application Initially Deemed Incomplete on 2/1/2023: needed missing deed & illustration. Application Deemed Complete on 2/15/2023.	2-28-2023	1941 to 2020	1940 to 1974	**Approved** 6/1/2023 by the Planning Director with the following findings. "When the Subject Property was originally created (April 9, 1974), there were no land division regulations in effect to govern its creation. When the Subject Property was created (April 9, 1974), there were zoning regulations in effect to govern its creation. The first zoning for this property was adopted on March 25, 1966 when it was zoned to Agriculture / Grazing / Timber (AGT) by Ordinance Number 66-000. At that time the AGT zone did not have a minimum Lot or Parcel size, therefore the Subject Property met or exceeded the zoning minimum Lot or Parcel size." "The Subject Property, taxlot 16-04-23-00-00900, was lawfully created and has not been vacated or further divided." ***PD decision findings page 10*** **Comments:** The mapping in the Planning Director findings for the establishment of the parent property illustrates deeds and contracts from 1940 to 1974.

No. 2: 509-PA23-05023	Date Application received: 1/11/2023	Application Initially Deemed Incomplete on 2/10/2023: needed missing deed and illustration Application Deemed Complete on 2/15/2023	Referral Notices Mailed: 2/28/2023	Date Range of Deeds Listed on the PDC: 1953 to 2020	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1952 to 1962	5/22/2023 **APPROVED** by the PD **"**When the Subject Property was originally created (February 21, 1953), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on May 2, 1962, which required property owners to Partition property in order to lawfully divide it. When the Subject Property was created (February 21, 1953), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 25, 1966 when it was zoned to Agriculture / Grazing / Timber (AGT) by Ordinance Number 66-091." ***PD decision findings page 8*** "The Subject Property, taxlot 16-04-23-00-00900, was lawfully created and has not been vacated or further divided." ***PD decision findings page 9*** **Comments:** The mapping in the Planning Director findings for the establishment of the parent property illustrates that the parent property was established by a deed in 1952.

No. 3: 509-PA23-05045	Date Application Received: 1/24/2023	Date Application Deemed Complete: 2/23/2023	Date Referral Notices Mailed: 2/28/2023	Date Range of the Instruments on the PDC: 1941 to 2022	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1964 to 1987	9/15/2023 **DENIED** by the PD Appealed to the Hearings Official who affirmed the PD and **DENIED** the application. "There is no evidence that taxlot 104 was considered to any extent in the 2012 Legal Lot Verification for the neighboring property and was definitely not verified as a discrete legal lot." ***PD decision findings page 8*** **"**Based upon the following information, the creation of the Subject Property as a separate parcel did NOT comply with effective land division and because: a The Subject Property, taxlot 16-03-17-00-00100, was created on May 11, 1987 without prior approval, and therefore does not qualify as a lawfully established unit of land." ***PD decision findings page 12*** "Based upon the following information, the creation of the Subject Property as a separate parcel did NOT comply with effective land division and because: a "There is no evidence that taxlot 104 was considered to any extent in the 2012 Legal Lot Verification for the neighboring property and was definitely not verified as a discrete legal lot." ***PD decision findings page 8*** "**THE PLANNING DIRECTOR'S DENIAL** OF THE JUSTINE BROWN REQUEST (PA 23-05045) FOR A LEGAL LOT VERIFICATION FOR TAX LOT 100 OF ASSESSOR'S MAP 16-03-17,

						IS AFFIRMED." ***Hearings Official 12/06/2023 decision, page 2*** "Further, it is unclear as to what remedy the applicant is seeking, even if it could be said that in 2012 the County failed to adequately investigate the application. The ruling that the LLV did not address the the legal lot status of tax lots 104 and 100 would still stand. Legal lot verifications of those tax lots were not sought at that time. Again, the 2012 decision annot be read to make as to the legal lot verification of either tax lot 104 or 100. Finally, any opportunity to challenge the 2012 decision on that basis has long since passed**. <u>Conclusion</u>** The planning Director decision denying the subject request is affirmed." ***Hearings Official 12/06/2023 decision, page 5*** **Comments**: The applicant unsuccessfully argued that the subject property was a legal lot approved by a 2012 Legal Lot verification application.
No. 4: 509-PA23-05054	Date Application received: 1/27/2023	Application Initially Deemed Incomplete 2/23/2023: Needed a map of the legal lot and Illustrations of certain needs	Date Referral Notices Mailed: 3/9/2023	Date Range of the Instruments on the PDC: 1976 to 2019	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1976 to 2019	5/26/2023 **DENIED** by the PD with the following findings: **"**Based on the evidence provided, the Subject Property, Taxlot 18-03-35-00-01200, was created on August 28, 1975. At the time of its creation, Lane County required Partitioning approval prior to creating new Lots or Parcels." ***PD decision findings page 2***

		Date Application Deemed Complete: 3/1/2023				"There is no evidence in the record that supports the applicant's statement that the parent property was lawfully created prior to 1975. The first deed in the record is that of the sale from ODOT to Allen signed on August 28,1975 (758/37374), which is after the date land divisions required partitioning approval on March 26, 1975. Because the property's history prior to this conveyance is not provided in the record, staff cannot find that the parent property was created lawfully. Even if the parent property was created lawfully, it has since been unlawfully divided and is no longer a single, unitary unit of land in the proposed configuration. Because the unlawful 1975 division occurred, it rendered the subject property unlawful. The Hearings Official summarized this holding in Hines (PA22-05203), provided as Attachment 3 and also in Moolenijzer (PA21-05452}, provided as Attachment 4. LUBA has also addressed the applicant's interpretation of ORS 92.017 in LandWatch Lane County v. Lane County, 80 Or LUBA 415 (LUBA 2019-044)(Doug/7fy)." ***7/27/2023 Staff report to the HO, pages 1&2*** ***Comments:** "There is no evidence in the record that supports the applicant's statement that the

						parent property was lawfully created prior to 1975." This evidence needed to at least consist of deeds or land sales contracts in the chain of title for the subject property and parent property going back to or before 1949 when Lane County adopted Ordinance No. 3 for subdivisions. When staff did their application completeness review, why didn't staff inform the applicant that this additional deed evidence was necessary? By waiting until denying this application to inform the applicant about the needed deed information, Staff acted contrary to LC 14.050(1): "(e) Incomplete Application. If an application is incomplete, the Director will notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information within the timeframe set forth in subsection (1)(f) below." The Planning Director needs to be held accountable for this action.
No. 5: 509-PA23-05064	Date Application received: 2/2/2023	Application Deemed Incomplete 3/3/2023: Application is missing 6 deeds 477/4019, 495/18465, 495/18455,	Date the Referral Notices mailed: 4/3/2023	Date Range of the Instruments on the PDC: 1971 to 2019	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1944 to 2015	7/5/2023 **DENIED** "This deed (287/125, 10/18/1944) describes the Parent Property as shown here in Yellow. Staff note that the roadway which crosses the Parent Property, known now as Meyer Road (County Road Number 430), was established by Petition in 1888. Underlying fee title to the road way is likely held by

		495/21988, 509/29202, & 790/17764 Application Deemed Complete 3/8/2023				adjoining property owners. Therefore, it does not appear that the roadway served to de facto partition the Parent Property." ***PD Decision findings page 6*** "The Subject Property, taxlot 20-03-13-00-01004, was not created as a discrete unit of land until after land division regulations required partitioning approval, and therefore cannot qualify as a Legal Lot." "In this case, for Legal Lot purposes, the entire property had already been conveyed by Land Sales Contract in 1970 (see Figure 3 above) and the Grantors retained a lien until the contract was fulfilled. The 1972 deed (see Figure 6 above) effectively released the lien on a portion of the property so the new owners could get a home loan (creating taxlot 1004) but this did not otherwise serve to divide the property." ***PD Decision findings page 13*** **Comments:** The deed and contract mapping in the Planning Director findings for the establishment of the parent property illustrates deeds or contracts beginning from 1944 to 1992.
No. 6: 509-PA23-05074	Date Application received: 2/6/2023	Application Initially Deemed Incomplete 3/6/2023: Notice of provide deeds for three other	Date the Referral Notices mailed: 4/7/2023	Date Range of the Instruments on the PDC: 1970-2002	Historic Permit Information and a 2022 deed were analyzed.	12/19/2023 **APPROVED** "The Subject Property, comprised of Assessor's Map and Tax Lot Numbers 18-03-15-00-00300,18-03-15- 00-00303, and a portion of 18-03-15-00-00304, was Noticed

		tax lots Application Deemed Complete 3/10/2023				as a Legal Lot and then approved for Property Line Adjustment through the Type I Ministerial process which resulted in the proposed configuration and recognizes its established Legal Lot status." ***PD decision findings page 12*** **Comments.** The Planning Director decision used information from historic permit and plat approvals and one deed to determine the lawfully established status of the parent property and the subject property.
No. 7: 509-PA23-05075	Date Application received: 2/6/2023	Application Initially Deemed Incomplete 3/6/2023: provide additional deeds and illustrations Application Deemed Complete: 3/10/2023	Date the Referral Notices mailed: 4/4/2023	Date Range of the Instruments on the PDC: 1943 to 2008	Historic Permit Information and two 2011 deeds were analyzed.	12/23/2023 **APPROVED** "The original Subject Property, taxlot 18-03-16-30-02500, was verified as a legal lot under Planning Action Number 509-PA08-05576 and approved for Property Line Adjustment through the Type I Ministerial process under Planning Action Number 509-PA 10-05952." ***PD decision findings page 14*** **Comments.** The Planning Director decision used historic permit approvals and approved plats, and two deeds to determine the lawfully established status of the parent property and the subject property.
No. 8: 509-PA23-05092	Date Application received: 2/13/2023	Date Application Deemed Complete: 3/13/2023	Date the Referral Notices mailed: 4/4/2023	Date Range of the Instruments on the PDC: 1941 to 2020	Date Range of Instruments Analyzed by Mapping in the PD Decision:	6/14/2023 **APPROVED** "The Subject Property was lawfully created on August 20, 1940 and lawfully adjusted on August 9, 1991, and has not been vacated or

					1916 to 2020	further divided since." ***PD decision findings page 1***
No. 9: 509-PA23-05142	Date Application received: 2/27/2023	Application Initially Deemed Incomplete: 3/28/2023: Missing 6 deeds Application Deemed Incomplete 5/5/2023: Need recent deed Application Deemed Complete: 5/6/2023	Date the Referral Notices mailed: 5/31/2023	Date Range of the Instruments on the PDC: 1968 to 2023	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1963 to 2005	9/18/2023 **APPROVED** "Although the deed history for the Parent Property was not included with this application, per County records, it appears that the Parent Property was previously in the configuration as shown here in Orange." ***PD decision findings page 6*** "When the Subject Property was created (July 19, 1968), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind subdivision on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. When the Subject Property was created (July 19, 1968), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 29, 1978 by Ord. Number 688/716 when it was zoned to Agriculture/Grazing/Timber (AGT-5). c. When the Subject Property was reconfigured (2004) the County did not regulate Property Line Adjustments, however, the serial adjustment appears to conform to ORS Property Line Adjustment criteria." ***PD decision findings page 8*** "The Subject Property, taxlot 20-02-31-00-00105, was lawfully created in 1968 and lawfully adjusted in 2004, and has not been

						vacated or further divided since. Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 20-02-31-00-00105 qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page 9*** ***Comments.** Why didn't staff inform the applicant when the application was reviewed for completeness that "the deed history for the Parent Property was not included with this application, per County records" Instead, staff waited until the Planning Director decision to state this? This was very unhelpful to the applicant and contrary to LC 14.050(1), "(e) Incomplete Application. If an application is incomplete, the Director will notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information within the timeframe set forth in subsection (1)(f) below." Then, without this deed history, the Planning Director decision found, "it appears that the Parent Property was previously in the configuration as shown here in Orange." The requirements to find that the parent parcel has been lawfully established are in

						LC 13.030(n): "Lawfully Established Unit of Land. "(i) A lot or parcel created by filing a final plat for subdivision or partition; or (ii) Another unit of land created: (aa) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or (bb) By deed or land sales contract, if there were no applicable planning, zoning or (cc) Lawfully established unit of land does not mean a unit of land created solely to establish a separate tax account. subdivision or partition ordinances or regulations." LMD staff made the decisions for LLV application PA23-05142 that clearly did not follow the requirements to have deeds in the record for the subject property and the parent property going back to before April 7, 1949. LMD Staff needs to start consistently following these requirements when they do their LLV application completeness checks and decisions.
509-PA23-05140	CLOSED					
No. 10: 509-PA23-05144	Date Application received: 2/28/2023	Date Application Deemed Complete: 3/28/2023	Date Referral Notices Mailed: 4/6/2023	Date Range of the Instruments on the PDC: 1956 to 2021	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1958 to 2015	6/14/2023 **DENIED** by the PD "Based upon the following information, the creation of the Subject Property as a separate parcel did NOT comply with effective land division and zoning regulations because: a. When the original Subject Property was created, there were

						land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. No Partition Approval was issued for the Subject Property. b. When the Subject Property was created, there were no zoning regulations in effect to govern its creation. The Subject Property was zoned Impacted Forest (F-2) on February 29, 1984 by Ordinance Number PA884." ***PD decision findings page 14*** 9/21/2023 **DENIED** by the HO "Where the County has issued decisions based on theories that certain conveyances were lawful, the County is not precluded from denying a legal lot verification request for a property that has not previously been determined to be lawful, where the County now determines that those same conveyances were not lawful. The Planning Director's decision denying the subject verification request is affirmed." "The Subject Property was created on December 15, 2015 without prior application approval and therefore, does not qualify as a lawfully established unit of land." ***Hearings Official decision findings page 4*** **Comments.** In this LLV application, the

						applicant presented deeds for what was asserted to be the apparent parent parcel created by partition M34-75.
No. 11: 509-PA23-05153	Date Application received: 3/2/2023	Date Application Deemed Complete: 3/28/2023	Date the Referral Notices mailed: 4/18/2023	Date Range of the Instruments on the PDC: 1962 to 2016	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1948 to 2015	6/20/2023 **DENIED** "When the original Subject Property was created (July 7, 1961), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. When the Subject Property was created (July 7, 1961), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 29, 1980 by Ord. Number 840. However, the Subject Property was reconfigured in 2015 without prior application and approval and therefore, does not qualify as a lawfully established unit of land." ***PD decision findings pages 9 & 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1948 to 1962.
No. 12: 509-PA23-05155	Date Application received:	Date Application Deemed Complete:	Date the Referral Notices	Date Range of the Instruments	Date Range of Instruments Analyzed by	6/20/2023 **APPROVED** by the PD. "a. When the original Subject Property was

	3/2/2023	3/28/2023	mailed: 4/18/2023	on the PDC: 1962 to 2016	Mapping in the PD Decision: 1948 to 2015	created (May 22, 1962), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was originally created (May 22, 1962), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 29, 1980 when it was zoned to Rural Lands I by Ordinance Number 840." "Finding 3: The Subject Property, taxlot 16-01-05-00-00302, was lawfully created, has remained in its original configuration, and has not been vacated or further divided since its creation. Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 16-01 -05-00-00302 qualifies as one {1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED. ***PD decision findings page 9*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1948 to 1963.

No. 13: 509-PA23-05151	Date Application received: 3/2/2023	Date Application Deemed Complete: 3/28/2023	Date the Referral Notices mailed: 4/18/2023	Date Range of the Instruments on the PDC: 1961 to 2016	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1948 to 2015	6/20/2023 **APPROVED** by the PD "When the original Subject Property was created (May 20, 1963), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. When the Subject Property was originally created (May 20, 1963), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 29, 1980 when it was zoned to Rural Lands I by Ordinance Number 840." "Finding 3: The Subject Property, taxlot 16-01-05-00-00301, was lawfully created, has remained in its original configuration, and has not been vacated or further divided since its creation. "Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 16-01-05-00-00301 qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings pages 9 & 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by

						deeds beginning from 1948 to 1963.
No. 14: 509-PA23-05152	Date Application received: 3/2/2023	Date Application Deemed Complete: 3/28/2024	Date the referral notices were mailed: 4/18/2023	Date Range of the Instruments on the PDC: 1962 to 2016	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1948-2015	6/20/2023 **APPROVED** by the PD "When the original Subject Property was created (May 20, 1963), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. When the Subject Property was created (May 20, 1963), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 29, 1980 by Ord. Number 840. When the Subject Property was enlarged (April 12, 1977) there were no Property Line Adjustment or Zoning regulations in effect at the time. Staff find that the sale of the strip of land to an abutting property owner likely qualified as (The remaining text was omitted in the findings). ***PD decision findings page 9*** "The Subject Property, taxlot 16-01-05-00-00305, was lawfully created, was enlarged by a 1977 de facto Property Line Adjustment, and has not been vacated or further divided since." ***PD decision findings page 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property

						was apparently, incrementally created by deeds beginning from 1948 to 1962.
No. 15: 509-PA23-05154	Date Application received: 1/27/2023	Application Initially Deemed Incomplete 2/23/2023: Needed map of the legal lot and deed illustrations Date Application Deemed Complete: 3/1/2023	Date the referral notices were mailed: 4/18/2023	4 Date Range of the Instruments on the PDC: 1976 to 2019	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1948 to 2015	6/20/2023 **DENIED** by the PD "Based upon the following information, the original creation of the Subject Property as a separate parcel complied with effective land division and zoning regulations because: a. When the original Subject Property was created (July 7, 1961), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (July 7, 1961), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 29, 1980 by Ord. Number 840. c. However, the Subject Property was reconfigured in 2015 without prior application and approval and therefore, does not qualify as a lawfully established unit of land. Finding 3: The Subject Property, taxlot 16-01-05-00-00304, was lawfully created but subsequently unlawfully adjusted in 2015. DECISION 509-PA23-05154 Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 16-01-05-00-00304 does NOT qualify as a (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot must be

						DENIED and is hereby NOTICED." ***PD decision findings pages 9 & 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1948 to 1960.
No. 16: 509-PA23-05192 **Type I**	Date Application received: 3/16/2023	Date Application Deemed Complete:	No mailed referrals necessary	Date Range of the Instruments on the PDC: 1941 to 1974		4/3/2023 **APPROVED** by Josh Gattis "The Applicant's submitted materials include a property description card from Lane County Assessment and Taxation, as well as a 1936 Deed (Book 187 Page 597) from Lane County Deeds and Records that demonstrates the subject property was conveyed as a discrete unit of land on October 9, 1936 from Jefferson & Clara Spencer to Arno Peiterson. The description contained in the deed provided appears to match the current configuration shown on the provided tax lot map. Less a small portion dedicated to the adjacent roadway, there is no evidence that the property was ever reconfigured." ***PD decision findings page 2***
509-PA23-05209	CANCELLED					
509-PA23-05218	CANCELLED					
No. 17: 509-PA23-05211	Date Application received: 3/22/2023	Application Initially Deemed Incomplete 4/21/2023: Need clear deed	Date the referral notices were mailed: 5/11/2023	Date Range of the Instruments on the PDC: 1945 to 2008	Date Range of Instruments Analyzed by Mapping in the PD Decision:	9/30/2023 **APPROVED** "When the Subject Property was created (November 22, 1944), there were no land division regulations in effect to govern its

		& illustrations Date Application Deemed Complete: after 5/8/2023			1944 to 1994	creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. When the Subject Property was created (November 22, 1944), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on June 9, 1976 by Ord. Number 587 when it was zoned to Agriculture/Grazing/Timber (AGT-5)." ***PD decision findings page 7*** "The Subject Property, taxlot 19-03-14-21-00100, was lawfully created and has not been vacated or further divided since its creation. The Subject Property, taxlot 19-03-14-21-00100, was lawfully created and has not been vacated or further divided since its creation." ***PD decision findings page 8***
509-PA23-05220	3/22/2023 **CANCELLED**	4/21/2023 Initially Deemed Incomplete: No payment has been received				
No. 18: 509-PA23-05221	Date Application received: 3/22/2023	Date Application Deemed Complete: 4/21/2023	Date the referral notices were mailed: 4/26/2023	Date Range of the Instruments on the PDC:	Date Range of Instruments Analyzed by Mapping in the PD Decision:	8/30/2023 **DENIED** by the PD Appealed to the Hearings Official 9/27/2023 and the appeal was withdrawn 10/12/2023 "This deed (155/3416 May 25, 1960)

				Deeds from 1899 to the present were submitted by the applicant	1899 to 2021	describes the Parent Property as well as other contiguous railroad properties." ***PD decision findings page 6*** "Based on the evidence provided, the Subject Property, Taxlot 16-01-18-00-02600, was created after March 26, 1975. At the time of its creation. Lane County required Partitioning approval prior to creating new Lots or Parcels. Because no approval was found for this division, it must be viewed as unlawful***." PD decision findings page 10*** **Comments**: The subject property was part of a former Southern Pacific Co. railroad property that was the parent parcel. The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1899 to 1998.
No. 19: 509-PA23-05219	Date Application Received: 3/22/2023	Date Application Deemed Complete: 4/21/2023	Date the referral notices were mailed: 4/26/2023	Date Range of the Instruments on the PDC: 1941 to 2014	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1939 to 2014	6/1/2023 **APPROVED** by the PD "Based upon the following information, the subject property was created on April 9, 1974." ***PD decision findings page 10*** "When the Subject Property was originally created (April 9, 1974), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind subdivision on March 26,1975, which required property owners to Partition property in order to lawfully divide it.

						When the Subject Property was created (April 9, 1974), there were zoning regulations in effect to govern its creation. The first zoning for this property was adopted on March 25, 1966 when it was zoned to Agriculture / Grazing / Timber (AGT) by Ordinance Number 66-000. At that time the AGT zone did not have a minimum Lot or Parcel size, therefore the Subject Property met or exceeded the zoning minimum Lot or Parcel size." "The Subject Property, taxlot 16-04-23-00-00900, was lawfully created and has not been vacated or further divided." ***PD decision findings page 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1939 to 1947.
No. 20: 509-PA23-05231	Date Application Received 3/28/2023	Application Initially Deemed Incomplete 4/27/2023: Payment not received, needed missing 2022 deed & illustration Date Application Deemed Complete:	Date referral notices mailed: 6/12/2023	Date Range of the Instruments on the PDC: 1910 to 2006	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1910 to 2022	10/26/2023 **APPROVED** by the PD "Based upon the following information, the creation of the Subject Property (April 15, 1957) as a separate parcel complied with effective land division and zoning regulations because: a. When the Subject Property was created (April 15, 1957), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in

		6/6/2023				order to lawfully divide it. b. When the Subject Property was created (April 15, 1957), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on November 12, 1975 by Ordinance Number 564 when it was zoned to Agriculturc/Grazing/Timbcr (AGT-5)." ***PD decision findings page 7*** "The Subject Property, a portion of taxlot 19-01-08-00-02201, was lawfully created in 1957 and has not been vacated or further divided since." ***PD decision findings page 7*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1910 to 1919.
509-PA23-05230	3/28/2023 **VOIDED INCOMPLETE 181 DAYS**	Initially Deemed Incomplete: 4/27/2023				**Comments**: Needed fee payment.
509-PA23-05247	3/28/2023 **VOIDED INCOMPLETE 181 DAYS**	Application Initially Deemed Incomplete: 4/29/2023				**Comments**: Needed missing deeds, illustrations, narrative & payment for 2 deeds
No. 21: 509-PA23-05248	Date Application Received: 4/3/2023	Application Initially Deemed Incomplete: 5/3/2023 Needed 4 additional deeds,	Date referral Notices Mailed: 5/25/2023	Date Range of the Instruments on the PDC: 1941 to 2020	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1941 to 1983	9/15/2023 **APPROVED** by the PD "a. When the original Subject Property was created (1972), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations

		illustrations & signature Date Application Deemed Complete: 5/24/2023				for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. B. When the Subject Property was created (1972), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 4, 1976 by Ord. Number 592/606 when it was zoned Farm Forest (FF-20). LC 13.010 Legal Lot. A lawfully created lot or parcel. 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 Subject Property, taxlot 18-06-01-00-02201, was lawfully created in 1972 and subsequently lawfully adjusted in 1983. The property remains in its lawfully adjusted configuration and has not been vacated or further divided." ***PD decision findings page 12*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1942 to 1971.
No. 22: 509-PA23-05253	Date Application Accepted: 3/30/2023	Date Application Deemed Complete: 4/29/2023	Date Referral Notices Mailed: 5/2/2023	Date Range of the Instruments on the PDC: 1941 to 2022	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1934-1999	7/17/2023 **APPROVED** by the PD with the following findings: "a. When the Subject Property was created as a separate unit of land (July 10, 1963), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind

						of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (July 10, 1963), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 25, 1966 when it was zoned Agriculture / Grazing / Timber (AGT) by Ordinance Number 66-091. LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3; The Subject Property, Taxlot Number 18-03-26-00-00300, was lawfully created in its current configuration on July 10, 1963. The Subject Property has not been vacated or further divided since." ***PD decision findings page 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created through a series of deeds and contracts beginning from 1935 to 1963.
No. 23: 509-PA23-05257	Date Application Received: 4/5/2023	Application Initially Deemed Incomplete 5/4/2023: Need 7 deeds, illustrations and narrative	Date referral Notices Mailed: 8/8/2022	Date Range of the Instruments on the PDC: 1955 to 2022	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1942-2022	10/27/2023 **APPROVED** by the PD with the following findings: "a. When the Subject Property was created (December 22, 1969), there were no land division regulations in effect to govern its creation. Lane County adopted applicable

		Application Deemed Complete: 8/1/2023				regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (December 22, 1969), there zoning regulations in effect to govern its creation. The first zoning for this property was adopted on April 9, 1959 when it was zoned by Special Airport Ordinance #105: 58-027A. The Subject Property was then zoned to Single Family Residential (R-1) by Ordinance Number 66- 081. The Subject Property appears to meet the minimum lot size required by the zoning ordinance. LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3: The Subject Property, taxlot 16-04-05-33-00600, was lawfully created in 1969 and has not been vacated or further divided since." ***PD decision findings page 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from to 1922 to 1969.
No. 24: 509-PA23-05258	Received: 4/5/2023	Deemed Initially Incomplete 5/4/2023: Needed deed	Date Referral notices mailed: 8/8/2023	Date Range of the PDC Instruments: 1944 to 2022	Date Range of Instruments Analyzed by Mapping in the PD Decision:	10-27-2023 **APPROVED** by the PD with the following findings: "a. When the Subject Property was created (August 21, 1956), there were no land

		illustrations & narrative Deemed Complete 8/1/2023			1942 - 2022	division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (August 21, 1956), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on April 9, 1959 when it was zoned by Special Airport Ordinance #105: 58-027A. The Subject Property was to Single Family Residential (R-1) by Ordinance Number 66-081." "The Subject Property, taxlot 16-04-05-33-00500, was lawfully created in 1956 and has not been vacated or further divided since." ***PD decision findings page 10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds from 1942 to 1954.
509-PA23-05270	4/14/2023 CLOSED					
No. 25: 509-PA23-05289	Date Application Received: 4/21/2023	Application Initially Deemed Incomplete 5/19/2023: Need 2023 deed, deed illustrations,	Date Referral notices mailed: 6/12/2023	Date Range of the PDC Instruments: The PDC was not in the property file	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1947 to 1984	**APPROVED** 10/26/2023 by the PD with the following findings: "Based upon the following information, the creation of the Subject Property as a separate parcel (April 21, 1951) complied

		and owner signature Application Deemed Complete: 6/2/2023		records		with effective land division and zoning regulations because: a. When the Subject Property was created (April 21, 1951), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on July 3,1970, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (April 21, 1951), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on September 22, 1972 by Ordinance Number 72-101 when it was zoned to Rural Residential (RR). Finding 3: The Subject Property, taxlot 21-03-02-00-00100, was lawfully created in 1951 and has not been vacated or further divided since." ***PD decision findings page 8*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1947 to 1951.
No. 26: 509-PA23-05306	Date Application Received: 5/2/2023	Application Initially Deemed Incomplete 6/1/2023: Needed 3 deeds and illustrations for all deeds Date Application	Date Referral notices mailed: 9/27/2023	Date Range of the PDC Instruments And a list provided by the Applicant: 1922 to 2021	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1947 to 1954	**APPROVED** 12/4/2023 by the PD with the following findings: "Based upon the following information, the creation of the Subject Property as a separate parcel complied with effective land division and zoning regulations because: a. When the Subject Property was created as a separate unit of land (March 12, 1954),

		Deemed Complete: 8/26/2023				there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (March 12, 1954), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on November 12, 1975 when it was zoned Farm Forest (FF-20) by Ordinance Number 564. LC 13.010 Le2al Lot. A lawfully created lot or parcel. 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. Finding 3: The Subject Property, Taxlot Number 19-01-16-20-03300, was lawfully created prior to land division and zoning regulations and has not been vacated or further divided since." ***PD decision findings page 8*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently created by a 1947 deed.
No. 27: 509-PA23-05329	Date Application Received: 5/10 /2023	Application Initially Deemed Incomplete 6/8/2023: Missing deed illustrations and	Date Referral notices mailed: 8/14/2023	Date Range of the PDC Instruments: 1921 to 2004	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1920 to 2013	**DENIED 11/13/2023** by the PD with the following findings: "Based upon the following information, the creation of the Subject Property as a separate parcel did NOT comply with

		"narrative explaining how the property was created or changed over time" Application Deemed Complete 8/9/2023			(14 map illustrations)	effective land division and zoning regulations because: a. When the Subject Property was created (2013), there were land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. No Partitioning approval was found for this property. b. When the Subject Property was created (2013), there were zoning regulations in effect to govern its creation. The zoning for this property was adopted on February 29, 1984 by Ordinance Number PA884 when it was zoned to Rural Residential (RR-5). LC 13.010 Legal Lot. Finding 3: The Subject Property, taxlot 17-15-17-13-00304, was not lawfully created and therefore, does not qualify as a Legal Lot." ***PD decision findings page 14*** **Comments.** The deed mapping in the PD decision indicates that the parent parcel was apparently, incrementally created by deeds beginning from to 1920 to 1964.
No. 28: 509-PA23-05345	Date Application Received: 5/15/2023	Application Initially Deemed Incomplete: 6/14/2023: Missing 5 deeds and deed illustrations, deeds must be certified, out-of-	Date Referral notices mailed: 8/15/2023	Date Range of the PDC Instruments: 1965 to 2022	Date Range of Instruments Analyzed by Mapping in the PD Decision:	**DENIED** by the PD 12/4/2023 **APPEALED** to the HO 12/14/2023 **DENIED** by the HO 3/13/2024 with the following findings: "In sum, for the reasons discussed above, and for the reasons provided in the Planning Director's decision, the Hearings Official concludes that the County owns only an

		date app. form Application Initially Deemed Incomplete 7/25/2023: need fees for additional deeds Application Deemed Complete 7/31/2023				easement interest in the relevant section of Territorial Highway. Consequently, Territorial Highway does not represent an intervening fee interest between the property and to the land lying to the west of Territorial Highway. This, the subject property was not created until 1982, when the subject property was transferred to Vickie Smith (nka Alwin Turiel-Strauss) via the last will of Willis Smith." ***3/13/2024 HO decision page 6*** "The remainder of the applicant's arguments are based upon its contention that the 1993 partition created the subject property as a separate, lawful unit of land, because it platted the western boundary of the subject property. As explained above, The Hearings Official disagrees with this analysis." ***3/13/2024 HO decision page 7*** "In conclusion the Supreme Court has done away with the local finality requirement. The exhaustion requirement as set forth in Oregon precedent the law of the land. *See West Linn Park, LLC, v. City of West Linn,* 349 Or 58, 240 P3d 29, (2010). In this case the applicant has not exhausted its administrative remedies; accordingly, the claim of a takings violation is not yet ripe." **No Violation** Even if the taking allegation were ripe, LandWatch and staff assert that no taking has occurred. Staff argues that a legal lot verification only determines whether a property was a lawfully

						established unit of land and that the applicant cannot be deprived of all viable use of property through the denial of a legal lot verification. The Hearings Official agrees with LandWatch that denial of a legal lot verification does not necessarily equate to a conclusion that the applicant is stripped of "all economically use" of its property. And applicant has not demonstrated that denial of a legal lot verification application would result in the applicant having no economically viable use of its land. **Conclusion** The Planning Director's denial of the subject application is affirmed" ***3/13/2024 HO decision pages 8 & 9*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds from 1929 to 1964. "Territorial Highway does not represent an intervening fee interest."
No. 29: 509-PA23-05372 Eymann Farm LLC	Date Application Received: 5/23/2023	Application Initially Deemed Incomplete 6/22/2023: "Application requires certified copies of deeds which can be acquired from Lane County Deeds & Records."	Date Referral notices mailed: 8/15/2023	Date Range of the PDC Instruments: 1973 – 2019 36 deeds, ranging in date from 1873 to 2021, were submitted by	Date Range of Instruments Analyzed by Mapping in the PD Decision: 39 deeds from 1862 to 1989	**APPROVED 3/8/2024** by the PD with the following findings: **PENDING LANDWATCH APPEAL TO THE HEARINGS OFFICIAL** "Finding 3: The Subject Property, Northeast portion 16-02-24-00-01209, qualifies as a lawfully established unit of land. DECISION 509-PA23-05372 Based on the findings above, staff find that the property identified

		Application Deemed Complete: 8/9/2023		the applicant.		as the Northeast portion of Assessor's Map and Tax Lot Number 16-02-24-00-01209, qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page 32*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from an 1862 patent deed to 1941.
No. 30: 509-PA23-05370 Eymann Farm LLC	Date Application Received: 5/23 /2023	Application Initially Deemed Incomplete 6/22/2023: Needed certified deed copies & "it appears that the parcels were unlawfully adjusted" Application Deemed Complete: 8/9/2023	Date referral Notices Mailed: 8/15/2023	Date Range of the PDC Instruments: 1973 – 2019 36 deeds, ranging in date from 1873 to 2021, were submitted by the applicant.	Date Range of Instruments Analyzed by Mapping in the PD Decision: 39 deeds from 1862 to 1989	**APPROVED 3/8/2024** by the PD with the following findings: **Appealed** 3/20/2024 by LandWatch Lane County **PENDING LWLC APPEAL TO THE HEARINGS OFFICIAL** "Finding 3: The Subject Property, Southwest portion 16-02-24-00-02500 together with the eastern strip of 16-02-24- 00-01209, qualifies as a lawfully established unit of land. DECISION 509-PA23-05370 Based on the findings above, staff find that the property identified as the Southwest portion of Assessor's Map and Tax Lot Number 16-02-24-00-02500 together with the eastern strip of taxlot 16-02-24-00- 01209, qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page 32***

						Comments. The deed mapping in the PD decision apparently indicates that the parent property was incrementally created by deeds beginning from a 1862 patent deed to 2021.
No. 31: 509-PA23-05371 Eymann Farm LLC	Date Application Received: 5/23/2023	Application Initially Deemed Incomplete 6/22/2023: Needed certified deed copies & "it appears that the parcels were unlawfully adjusted" Application Deemed Complete: 8/9/2023	Date Referral notices mailed: 8/15/2023	Date Range of the PDC Instruments: 1973 – 2019 36 deeds, ranging in date from 1873 to 2021, were submitted by the applicant.	Date Range of Instruments Analyzed by Mapping in the PD Decision: 39 deeds from 1862 to 1989	**APPROVED 3/8/2024** by the PD with the following findings: **Appealed** 3/20/2024 by LandWatch Lane County **PENDING LWLC APPEAL TO THE HEARINGS OFFICIAL** "LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3: The Subject Property, west portion 16-02-24-00-01209 qualifies as a lawfully established unit of land. DECISION 509-PA23-05371 Based on the findings above, staff find that the property identified as the west portion of Assessor's Map and Tax Lot Number 16-02-24-00-01209, qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page 32***
509-PA23-05428	6/26 /2023 CLOSED					

509-PA23-05426	6/26 /2023 CLOSED					
No. 32: 509-PA23-05442	Date Application Received: 6/30 /2023	Date Application Initially deemed Incomplete: 7/28/2023: "Lane Code Chapter 14.040(l)(d)&{e) requires signature of the applicant and agent on the form provided by the Director." Date Application Deemed (Forced) Complete: 8/2/2023 "before being forced complete by the applicant on August 2, 2023, without addressing the remaining incomplete items"	Date Referral notices mailed: 8/8/2023	Date Range of the PDC Instruments:	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1930 to 1960	**APPROVED** 1/12/2024 by the PD with the following findings: "Based upon the following information, the creation of the Subject Property as a separate parcel complied with effective land division and zoning regulations because: a. When the Subject Property was created as a separate unit of land (April 28, 1960), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on May 2, 1962, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (April 28, 1960), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on August 25, 1966 when it was zoned Rural Suburban (RA) by Ordinance Number 66- 091. The Subject Property, Taxlot Number 18-03-23-10-04901, was lawfully created prior to land division and zoning regulations and has not been vacated or further divided since. DECISION 509-PA23-05442 Based on the findings above, staff finds that the property identified as Assessor's Map and Tax Lot Number 18-03-23-10-04901 qualifies as one (1) Legal Lot. Therefore, Final Legal Lot

						status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings pages 9-10*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1930 to 1950.
509-PA23-05441	6/30 /2023 CLOSED					
No. 33: 509-PA23-05449	Date Application Received: 7/3 /2023	Date Application Initially Deemed Incomplete Complete: 7/29/2023 Missing a deed, requires certified copies of all deeds, requires illustrations of each deed, application requires owner signature Date Application Deemed Complete: 9/13/2023 "The land use application referenced above	Date Referral notices mailed: 10/30/2023	Date Range of the PDC Instruments: 1954 to 1989	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1934 TO 1989	**DENIED** 1/24/2024 by the PD with the following findings: "Based upon the following information, the creation of the Subject Property (July 19, 1989) as a separate parcel did NOT comply with effective land division and zoning regulations because: a. When the Subject Property was created (1989), there were land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. No Partitioning approval was found for this property. b. When the Subject Property was created (1989), there were zoning regulations in effect to govern its creation. The zoning for this property was adopted on February 29, 1984 by Ordinance Number PA884 when it was zoned to Impacted Forest (F-2) which required a

		has been forced complete and is, therefore, accepted for processing pursuant to LC 14.050." Comment: numerous items were submitted				minimum Lot or Parcel size of 80 Acres. The Subject Property did not meet the zoning minimum. LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3: The Subject Property, taxlot 18-03-31 -00-00500, was not lawfully created and therefore, does not qualify as a Legal Lot. The Subject Property was created by deed division at a time when Land Use Regulations required Partitioning approval. No approval for the division that created the Subject Property were provided or found by Staff." ***PD decision findings page 15*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1932 to 1989.
No. 34: 509-PA23-05465	Date Application Received: 7/11/2023	Application Initially Deemed Incomplete 8/9/2023 The application for 2 legal lots needs to clearly which legal lot is being requested Each deed with a different legal	Date Referral notices mailed: 12/28/2023	Date Range of the PDC Instruments: 1949 to 2006	Date Range of Instruments Analyzed by Mapping in the PD Decision:	**DENIED 5/1/2024 by the Planning Director with the following findings:** "Based upon the following information, the creation of the Subject Property (2004) as a separate parcel did not comply with effective land division and zoning regulations because: a. When the Subject Property was created (2004), there were land division regulations in effect to govern its creation. Lane County adopted applicable

		description must be accompanied by a map illustration. Date Application Deemed Complete: 12/28/2023				regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to create new parcels. b. When the Subject Property was created (2004), there were zoning regulations in effect to govern its creation. The applicable zoning for this property was adopted on February 29, 1984 by Ordinance Number PA884 when it was zoned to Rural Residential (RR-5). LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3: The submitted application does not show that the Subject Property, Taxlot 18-11-10-00-00402, was lawfully created or lawfully adjusted into its current configuration. The narrative accompanying the application indicates the property was created by the 2004 property line adjustment which, for the reasons stated above, is not possible. Staff has found that the relocation of the PLSS Section Line has introduced considerable contusion into the property history, and, although it is unclear how this discrepancy should have been resolved, it is clear that none of the potential resolutions would have served to create additional Legal Lots. Approving the Subject Property as a Legal Lot would indicate that the refinement of the underlying PLSS control network somehow created additional parcels.

						DECISION 509-PA23-05465 Based on the findings above, staff find that the property identified as Assessor's Map and Taxlot Number 18-11-10-00-00402 does not qualify as a (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot must be DENIED and is hereby NOTICED" ***PD findings page 15***
No. 35: 509-PA23-05469	Date Application Received: 7/13/2023	Date Application Initially Deemed Incomplete 8/11/2023: no application payment received Date Application Deemed Complete: 10/14/2023	Date Referral notices mailed: 10/30/2023	Date Range of the PDC Instruments: 1945 to 2011	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1944 to 2010	**APPROVED** 1/25/2024 by the PD with the following findings: Based upon the following information, the creation of the Subject Property (April 25, 1960) and subsequent reconfigurations complied with effective land division and zoning regulations because: a. When the Subject Property was created (April 25, 1960), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (April 25, 1960), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted by Ordinance Number 571/587 on February 25, 1976. c. When the Subject Property was adjusted (January 6, 2010) ORS Chapter 92 allowed for such adjustments between neighboring units of land. Lane County did not regulate Property

						Line Adjustments until January 10,2010. "Finding 3: The Subject Property, taxlot 20-03-13-00-00100, was lawfully created in 1957 and has not been vacated or further divided since." ***PD decision findings pages 8-9*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently created by a 1944 deed.
509-PA23-05490	7/21/2023	Application Initially Deemed Incomplete				
No. 36: 509-PA23-05511	Date Application Submitted 8/1/2023	Date Application Deemed Complete: 8/30/2023	Date Referral notices mailed: 8/31/2023	Date Range of the PDC Instruments: 1957 to 1972	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1942 to 1957	**APPROVED** 11/2/2023 by the PD with the following findings: "Based upon the following information, the creation of the Subject Property as a separate parcel (April 14, 1957) complied with effective land division and zoning regulations because: a. When the Subject Property was created as a separate unit of land (April 14, 1957), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (April 14, 1957), there were no zoning regulations in effect to govern its creation. The first zoning for this property

						was adopted on November 23, 1977 when it was zoned Agriculture/Grazing/Timber (AGT-5) by Ordinance Number 640. LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3: The Subject Property, Taxlot Number 16-45-29-20-00201, was lawfully created on April 14, 1957. The Subject Property has not been vacated or further divided since its creation. DECISION 509-PA23-05511 Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 16-45-29-20-00201 is one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page 7*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently created by a 1942 deed.
No. 37: 509-PA23-05543	8/18/2023	Application Initially Deemed Incomplete 9/16/2023: "Application is missing deed number 2021-007659 as well as an illustration for	Date Referral notices mailed: 10/30/2024	Date Range of the PDC Instruments: 1968 to 2001	Date Range of Instruments Analyzed by Mapping in the PD Decision 1956 to 1977 The 2 1956	**APPROVED** 2/1/2024 by the PD with the following findings: "Based upon the following information, the creation of the Subject Property as a separate parcel (January 4, 1956) complied with effective land division and zoning regulations because: a. When the Subject Property was created as a separate unit of

		each deed submitted". Date Application Deemed Complete 10/10/2023			deeds referenced by the Director were not in the application record.	land (January 4, 1956), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (January 4, 1956), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted on November 2, 1977, when it was zoned Forest Management (FM) by Ordinance Number 638. LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3: The Subject Property, Taxlot Number 16-25-36-00-01101, was lawfully created on January 4, 1956. The Subject Property has not been vacated or further divided since its creation." ***PD decision findings page 7*** **Comments:** The lawfully established status of the subject property and parent property was based on two 1956 deeds that were described in Finding 2 but that were not submitted by the applicant and that the Planning Director did not put in the application record on the LMD website. The required deeds in the chain of deeds for the

						parent property and parent going back to before April 7, 1949 were not in the record. Why did Staff not require this information when the completeness review was performed? LMD staff made the decision for LLV application PA23-05543 that clearly did not follow the requirements to have deeds in the record for the subject property and the parent property going back to before April 7, 1949. LMD Staff needs to start consistently following these requirements when they do their LLV application completeness checks and decisions.
509-PA23-05564	9/1/2023 CLOSED					
509-PA23-05572	Date Application Received: 9/8/2023	Application Initially Deemed Incomplete	Date Referral notices mailed:	Date Range of the PDC Instruments:	Date Range of Instruments Analyzed by Mapping in the PD Decision:	**No Action**
No. 38: Modification of 509-PA23-05574	Date Application Received: 9/11/2023	Application Initially Deemed Incomplete 10/7/2023: Need certified deed copies and illustrations for certain deeds	Date Referral notices mailed: 12/11/2024	Date Range of the PDC Instruments: 1951 to 1999	Date Range of Instruments Analyzed by Mapping in the PD Decision:	**APPLICATION PENDING PD DECISION**

		On 11/21/2023 the applicant apparently submitted the needed items. A copy of the application acceptance was not in the record				
No. 39: 509-PA23-05575	Date Application Received: 9/8/2023	Date Application Deemed Complete: 10/7/2023	Date Referral notices mailed: 12/28/2023	Date Range of the PDC Instruments: 1941 to 2021	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1873 to 2018	**DENIED** 3/28/2024 by the PD with the following findings: "Based upon the provided deed history, the Subject Property was never created as a discrete unit of Land. ***PD decision findings page 12*** "LC 13.010 Legal Lot. A lawfully created lot or parcel. 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. Finding 3: The Subject Property, taxlot numbers 16-05-24-10-00100 & 00200 together, was never created as a discrete unit of land. DECISION 509-PA23-05575 Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Numbers 16-05-24-10-00100 & 00200 together does NOT qualify as a (1) Legal Lot. Therefore, Final Legal Lot status

						for one (1) Legal Lot must be DENIED and is hereby NOTICED." ***PD decision findings page 13***
No. 40: 509-PA23-05573	9 Date Application Received: 9/8/2023	Application Initially Deemed Incomplete 10/7/2023: Needed payment of application fee, certified copies of all deeds, and illustrations of certain deeds Date Application Deemed Complete: 12/9/2023	Date Referral notices mailed: 12/11/2023	Date Range of the PDC Instruments: 1941 to 2021	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1873 to 2018	**APPROVED** 3/28/2024 by the PD with the following findings:
No. 41: 509-PA23-05577	Application Received: 9/13/2023	Application Deemed Complete 9/13/2023	Date Referral notices mailed 9/14/2023	Date Range of the PDC Instruments: 1949 to 2022	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1977 ("The subject property was created as Parcel 1 of Minor Partition No. M406-77") to 1998	**APPROVED** 10/11/2023 by the PD with the following findings: "The Subject Property, taxlot 18-06-11-00-00400, was lawfully created by Minor Partition in 1977 and was subsequently lawfully reconfigured into its current configuration in 1998, and has not been vacated or further divided since. DECISION 509-PA23-05577 Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 18-06-11-00-00400 qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one

						(1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page 8*** **Comments:** The subject property was initially created as Parcel 1 of minor partition No. M406-77. A property line adjustment was apparently done to it in 1998.
509-PA23-05592	Date Application Received: 9/20/2023	Application Initially deemed Incomplete				**Comments:** There is no application on file in the LMD property Information records. The application has apparently not been completed.
No. 42: 509-PA23-05619	Date Application Received: Date Application Received: 10/9/2023	Application Initially Deemed Incomplete 11/8/2023: Needed payment & missing deed 274/79407 Date Application Deemed Complete 2/2/2024	Date Referral notices mailed: 2/23/2024	Date Range of the PDC Instruments: 274/79407 (1964) to 1990, and the 1909 Plat of Lorane Orchards Lot 9	Date Range of Instruments Analyzed by Mapping in the PD Decision:	**APPLICATION PENDING PD DECISION**
No. 43: 509-PA23-05630	Date Application Received: 10/13/2023	Application Deemed Complete: 11/12/2023	Date Referral notices mailed: 11/28/2023	Date Range of the PDC Instruments: 2016 to 1965	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1945 to 1965	**APPROVED** 2/25/2024 by the PD with the following findings: "Based upon the following information, the creation of the Subject Property (June 9, 1965) complied with effective land division

						and zoning regulations because: a. When the Subject Property was created (June 9, 1965), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (June 9, 1965), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted by Ordinance Number 640 on November 23, 1977 when it was zoned to Farm Forest (FF20). LC 13.010 Legal Lot Finding 3: The Subject Property, taxlot 16-55-22-00-00101, was lawfully created in 1965 and has not been vacated or further divided since." "Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 16-55-22-00-00101 qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page 7*** **Comments.** The deed mapping in the PD decision indicates that the parent property was apparently, incrementally created by deeds beginning from 1945 to 1961.
No. 44:	Date Application	An initial notice of incomplete in the	Date Referral	Date Range of the PDC	Date Range of Instruments	**APPLICATION PENDING PD DECISION**

509-PA23-05695	Received: 11/29/2023 This date from the date stamp on the application form.	property file was emailed to the applicant on December 28, 2023. Application Deemed Complete on: 3/8/2024	notices mailed: 3/12/2024	Instruments: 1948 to 2017	Analyzed by Mapping in the PD Decision:	
No. 45: 509-PA23-05717	Date Application Received: 12/11/2023	Date Application Deemed Complete: 1/10/2024	Date Referral notices mailed: 1/18/2024	Date Range of the PDC Instruments: The PDC was not in the LMD permit website records.	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1944	**APPROVED 2**/21/2024 by the PD with the following findings: "Based upon the following information, the original creation of the Subject Property (September 18, 1944) as a separate parcel complied with effective land division and zoning regulations because: a. When the Subject Property was created (1944), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (1944), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted by Ordinance Number 613 on April 27, 1977 by when it was zoned to General Rural (GR-10). 509-PA23-05717 | Type II Legal Lot Verification Research & Notice Page 7 of 10 LC 13.010

						Legal Lot." "Finding 3: The Subject Property, taxlot 16-05-30-00-01202, was lawfully created in 1944 and has not been vacated or further divided since." ***PD decision findings pages 7 & 8*** **Comments.** The deed mapping in the PD decision indicates that the subject property was created by a deed in 1944.
No. 46: 509-PA23-05716	Date Application Received: 12/11/2023	Date Application Deemed Complete: 1/10/2024 e	Date Referral notices mailed: 1/18/2024	Date Range of the PDC Instruments: The submittal included a copy of the HO decision for LLV application 509-PA2-05536 that reversed a PD denial and determined this property and 2 others were created by a 1944 deed.	Date Range of Instruments Analyzed by Mapping in the PD Decision:1944	**APPROVED** 2/21/2024 by the PD with the following findings: "Based upon the following information, the original creation of the Subject Property (September 18, 1944) as a separate parcel complied with effective land division and zoning regulations because: a. When the Subject Property was created (1944), there were no land division regulations in effect to govern its creation. Lane County adopted applicable regulations for this kind of division on March 26, 1975, which required property owners to Partition property in order to lawfully divide it. b. When the Subject Property was created (1944), there were no zoning regulations in effect to govern its creation. The first zoning for this property was adopted by Ordinance Number 613 on April 27, 1977 by when it was zoned to General Rural (GR-10)." "Finding 3: The Subject Property, taxlot 16-05-30-00-01200, was lawfully created in

						1944 and has not been vacated or further divided since." "Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 16-05-30-00-01200 qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings pages 7 & 8*** **Comments.** The deed mapping in the PD decision indicated that the subject property was created by a 1944 deed.
No. 47: 509-PA23-05729	Date Application Received: 12/15/2023	Application Deemed Incomplete Complete: 1/11/2024	Date Referral notices mailed: 1/18/2024	Date Range of the PDC Instruments: 2006 Included other information	Date Range of Instruments Analyzed by Mapping in the PD Decision: 1992 approved subdivision plat & 1999 deeds	**APPROVED** 3/1/2024 by the PD: "Based upon the following information, the creation of the Subject Property (1992) and subsequent adjustment (1999) complied with effective land division, zoning, and ORS regulations because: a. The Subject Property was created (1992) as a Lot in an approved Subdivision. The Subject Property was created as Lot 1 of the Divine Estates subdivision. b. When the Subject Property was created (1992), there were zoning regulations in effect to govern its creation. The zoning for this property was adopted by Ordinance Number 606 on August 4, 1976 when it was zoned to Rural Residential (RR-2). c. When the Subject Property was adjusted (1999) it was subject to the criteria found in ORS Chapter 92. The executed

						adjustment met the applicable criteria to successfully reconfigure the properties." "Finding 3: The Subject Property, taxlot 17-05-20-10-00400, was lawfully created in 1992, was lawfully adjusted in 1999, and has not been vacated or further divided since." "Based on the findings above, staff find that the property identified as Assessor's Map and Tax Lot Number 17-05-20-10-00400 qualifies as one (1) Legal Lot. Therefore, Final Legal Lot status for one (1) Legal Lot is APPROVED and is hereby NOTICED." ***PD decision findings page*** **Comments.** The deed mapping in the PD decision indicates that the subject property was lawfully created as a lot in an approved subdivision plat.
509-PA23-05735	Date Application Received: 12/19/2023	Deemed Incomplete:				

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Report Attachment B3

Permit/Applicatio	Status	Record Type	Agency	Address	Opened	Expiration
509-PA23-05735	Deemed Incomplete	Type II	LANE_CO	87061 GRE	12/19/2023	
509-PA23-05729	Approved	Type II	LANE_CO	29821 JEA	12/15/2023	
509-PA23-05716	Approved	Type II	LANE_CO		12/11/2023	
509-PA23-05717	Approved	Type II	LANE_CO		12/11/2023	
509-PA23-05695	In Review	Type II	LANE_CO		11/29/2023	
509-PA23-05630	In Review	Type II	LANE_CO		10/13/2023	
509-PA23-05619	In Review	Type II	LANE_CO		10/9/2023	
509-PA23-05592	Deemed Incomplete	Type II	LANE_CO	88525 PER	9/20/2023	
509-PA23-05577	Approved	Type II	LANE_CO	24185 BOI	9/13/2023	
509-PA23-05573	In Review	Type II	LANE_CO	28410 MIL	9/11/2023	
509-PA23-05575	In Review	Type II	LANE_CO	28410 MIL	9/11/2023	
509-PA23-05574	In Review	Type II	LANE_CO		9/11/2023	
509-PA23-05572	Deemed Incomplete	Type II	LANE_CO		9/8/2023	
509-PA23-05564	Closed	Type II	LANE_CO	90130 LAK	9/1/2023	
509-PA23-05543	Approved	Type II	LANE_CO	47303 MC	8/18/2023	
509-PA23-05511	Approved	Type II	LANE_CO	91245 ELK	8/1/2023	
509-PA23-05490	Deemed Incomplete	Type II	LANE_CO	28362 BOI	7/21/2023	
509-PA23-05469	Approved	Type II	LANE_CO	34117 ME'	7/12/2023	
509-PA23-05465	In Review	Type II	LANE_CO	8136 HWY	7/11/2023	
509-PA23-05449	In Review - Appeal	Type II	LANE_CO	84814 HAI	7/3/2023	
509-PA23-05441	Closed	Type II	LANE_CO	29788 WIC	6/30/2023	
509-PA23-05442	Approved	Type II	LANE_CO		6/30/2023	
509-PA23-05426	Closed	Type II	LANE_CO		6/26/2023	
509-PA23-05428	Closed	Type II	LANE_CO		6/26/2023	
509-PA23-05371	In Review - Appeal	Type II	LANE_CO	91947 MA	5/23/2023	
509-PA23-05370	In Review - Appeal	Type II	LANE_CO	91945 MA	5/23/2023	
509-PA23-05372	In Review - Appeal	Type II	LANE_CO	91947 MA	5/23/2023	
509-PA23-05345	In Review - Appeal	Type II	LANE_CO		5/17/2023	
509-PA23-05329	Denied	Type II	LANE_CO		5/10/2023	
509-PA23-05306	Approved	Type II	LANE_CO	38965 HW	5/2/2023	
509-PA23-05289	Approved	Type II	LANE_CO		4/21/2023	
509-PA23-05270	Closed	Type II	LANE_CO	31776 GO'	4/14/2023	
509-PA23-05258	Approved	Type II	LANE_CO		4/5/2023	

509-PA23-05257	Approved	Type II	LANE_CO		4/5/2023
509-PA23-05253	Approved	Type II	LANE_CO	85239 HIC	4/4/2023
509-PA23-05248	Approved	Type II	LANE_CO	87502 TER	4/3/2023
509-PA23-05247	Closed	Type II	LANE_CO	24837 SUT	3/31/2023
509-PA23-05230	Closed	Type II	LANE_CO	38404 DEX	3/28/2023
509-PA23-05231	Approved	Type II	LANE_CO	38404 DEX	3/28/2023
509-PA23-05219	Approved	Type II	LANE_CO		3/22/2023
509-PA23-05221	Denied	Type II	LANE_CO		3/22/2023
509-PA23-05220	Closed	Type II	LANE_CO	80930 HW	3/22/2023
509-PA23-05211	Approved	Type II	LANE_CO		3/22/2023
509-PA23-05218	Closed	Type I	LANE_CO		3/22/2023
509-PA23-05209	Closed	Type II	LANE_CO	54771 MC	3/21/2023
509-PA23-05192	Complete	Type I	LANE_CO	215 BEACC	3/16/2023
509-PA23-05154	Denied	Type II	LANE_CO	93721 MA	3/2/2023
509-PA23-05152	Approved	Type II	LANE_CO		3/2/2023
509-PA23-05151	Approved	Type II	LANE_CO		3/2/2023
509-PA23-05155	Approved	Type II	LANE_CO		3/2/2023
509-PA23-05153	Denied	Type II	LANE_CO	93719 MA	3/2/2023
509-PA23-05144	Denied HO	Type II	LANE_CO	30549 IZA/	2/28/2023
509-PA23-05140	Closed	Type II	LANE_CO	87502 TER	2/27/2023
509-PA23-05142	Approved	Type II	LANE_CO	34783 RO\	2/27/2023
509-PA23-05092	Approved	Type II	LANE_CO	81624 TER	2/13/2023
509-PA23-05075	Approved	Type II	LANE_CO		2/6/2023
509-PA23-05074	Approved	Type II	LANE_CO		2/6/2023
509-PA23-05064	Denied	Type II	LANE_CO	34419 ME'	2/2/2023
509-PA23-05054	Denied	Type II	LANE_CO	2948 GAM	1/27/2023
509-PA23-05045	In Review - Appeal	Type II	LANE_CO	92664 N C	1/24/2023
509-PA23-05023	Approved	Type II	LANE_CO		1/13/2023
509-PA23-05019	Approved	Type II	LANE_CO	30747 LON	1/11/2023

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Report Attachment B4

Howe Mann Consulting report Attachment B4
Actual Timelines for the Processing of 2023 LLV Applications

App. No.	Date Rec'd.	Date Initially Deemed Complete & accepted	Date Initially Deemed Incomplete & date accepted	Total days for acceptance	Planning Director Approval Date	Planning Director Denial Date	Total days from acceptance to Director decision
1	1/11/2023		2/10/2023 2/15/2023	30 35	6/1/2023		130
2	1/11/2023		2/10/2023 2/15/2023	30 35	5/22/2023		122
3	1/24/2023	2/23/2023		30		9/15/2023	194
4	1/27/2023		2/23/2023 3/1/2023	27 33		5/26/2023	92
5	2/2/2023		3/3/2023 3/8/2023	29 34		7/5/2023	119
6	2/6/2023		3/6/2023 3/10/2023	28 32		12/19/2023	284
7	2/6/2023		3/6/2023 3/10/2023	28 32	12/23/2023		287
8	2/13/2023	3/13/2023		28	6/14/2023		93
9	2/27/2023		3/28/2023 5/6/2023	29 68	9/18/2023		134
10	2/28/2023	3/28/2023		28		6/14/2023	78
11	3/2/2023	3/28/2023		26		6/20/2023	84
12	3/2/2023	3/28/2023		26	6/20/2023		84
13	3/2/2023	3/28/2023		26	6/20/2023		84
14	3/2/2023	3/28/2023		26	6/20/2023		84
15	1/27/2023		2/23/2023 3/1/2023	27 32		6/20/2023	111
16	3/16/2023 Type I				3/29/2023 Date signed		13
17	3/22/2023		4/21/2022 5/8/2023	30 47	9/3/2023		179
18	3/22/2023	4/21/2023		30	8/30/2023		128
19	3/22/2023	4/21/2023		30	6/1/2023		71

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Actual Timelines for the Processing of 2023 LLV Applications

App. No.	Date Rec'd.	Date Initially Deemed Complete & accepted	Date Initially Deemed Incomplete & date accepted	Total days for acceptance	Planning Director Approval Date	Planning Director Denial Date	Total days from acceptance to Director decision
20	3/28/2023		4/27/2023 6/6/2023	30 70	10/26/2023		173
21	4/3/2023		5/3/2023 5/24/2023	30 51	9/15/2023		145
22	3/30/2023	4/29/2023		30	7/17/2023		79
23	4/5/2023		5/4/2023 8/1/2023	30 111	10/27/2023		68
24	4/5/2023		5/4/2023 8/1/2023	30 111	9/15/2023		45
25	4/21/2023		5/19/2023 5/24/2023	28 33	10/26/2023		155
26	5/2/2023		6/1/2023 8/26/2023	30	12/4/2023		100
27	5/10/2023		6/8/2023 8/9/2024	29 91		11/13/2023	96
28	5/15/2023		6/14/2023 7/31	30 90		12/4/2023	126
29	5/23/2023		6/22/2023 8/9/2023	30 79	3/8/2024		273
30	5/23/2023		6/22/2023 8/9/2023	30 79	3/8/2024		273
31	5/23/2023		6/22/2023 8/9/2023	30 79	3/8/2024		273
32	6/30		7/28/2023 8/2/2023	28 33 "forced"	1/12/2024		163
33	7/3/2023		7/29/2023 9/13/2023	26 72		1/24/2024	133
34	7/11/2023		8/9/2023 12/28/2023	29 170		5/1/2024	125
35	7/13/2023		8/11/2023 10/14/2023	29 93	1/25/2024		103
36	8/1/2023	8/30/2023		29	11/2/2023		95
37	8/18/2023		9/16/2023 10/10/2023	29 53	2/1/2024		114
38	9/11/2023		10/7/2023 11/21/2023	26 71			Pending decision
39	9/8/2023		10/7/2023 12/14/2023	29 97		3/28/2024	105

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Actual Timelines for the Processing of 2023 LLV Applications

App. No.	Date Rec'd.	Date Initially Deemed Complete & accepted	Date Initially Deemed Incomplete & date accepted	Total days for acceptance	Planning Director Approval Date	Planning Director Denial Date	Total days from acceptance to Director decision
40	9/8/2023		10/7/2023 12/9/2023	29 92	3/28/2024		110
41	9/13/2023	9/13/2023		0	10/11/2023		28
42	10/13/2023		11/8/2023 2/2/2024	26 112			Pending decision
43	10/13/2023	11/12/2023		30	2/25/2024		105
44	11/29/2023		12/28/2024 3/8/2024	29 100			Pending decision
45	12/11/2023	1/10/2024		30	2/21/2024		44
46	12/11/2023	1/10/2024		30	2/21/2024		44
47	12/15/2023	1/11/2024		27	3/1/2024		63

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Report Attachment B5

LUBA Opinions re Legal Lots and Property Line Adjustments

Date	Petitioner	Respondent	Intervenor
1.8.24	Planktown	Lane Co	
7.7.23	Jenkinson	Lane Co	
3.10.23	LandWatch Lane Co	Lane Co	Urness
2.13.23	Johnson	Lane Co	LandWatch
7.27.22	Sikora	Lane Co	LandWatch
6.23.22	Christian Futures, Inc	Lane Co	LandWatch
4.27.22	ATR Services	Lane Co	LandWatch
4.8.22	Maher	Multnomah Co	
5.10.21	LandWatch Lane Co	Lane Co	(Culwell)
4.29.20	LandWatch Lane Co	Lane Co	Ford
3.19.21	LandWatch Lane Co	Lane Co	Large
2.22.21	Gansen	Lane Co	
1.29.21	Kine	Deschutes Co	Various
1.25.21	LandWatch Lane Co	Lane Co	
10.20.20	LandWatch Lane Co	Lane Co	Fallon
2.13.20	Kuether	Washington Co	
2.13.20	Urstadt	Washington Co	
2.3.20	Turner	Multnomah Co	
1.31.20	Central Or LandWatch	Deschutes Co	

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Report Attachment C1

Lane County Land Management Division 2024 Audit
Barriers to Affordable Housing

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ABSTRACT OF FINDINGS & RECOMMENDATIONS
From 15 Land Use Attorney's Responses

The following land use attorneys were interviewed on April 29th - May 3rd :
Bill Kloos, Mike Reeder, Michael Farthing, Sara Chinske, Aaron Noteboom, Pablo Valentine, Michael Gelardi, Mark Shipman, Windie Kellington, Dave Hunnicutt, Andrew Stamp, Anne Davies, Gary Darnielle, Rebecca Dorhman, and Liam Sherlock.

The attached compiled responses indicate that 71% of the attorneys ranked the permit processing service provided by the LMD as very poor to poor and 62% ranked the written and verbal information provided to explain the requirements for a permit as very poor to poor. In addition, 64% of the compiled responses stated that the advice at the front counter was not accurate and 79% of the land use attorneys felt that the LMD Staff were not knowledgeable of the applicable requirements and do not consistently and objectively apply the code requirements in a timely fashion. **And finally, 80% of the land use attorneys stated that Staff are not well managed with adequate training and support to provide the needed customer service in administering Lane County's land use permit program.**

With this level of perceived dissatisfaction, supported by factual analysis of Hearings Official appeals and Legal Lot Verifications we have provided recommendations to Management to improve customer service by establishing a Customer Service Improvements Goal, training, dedicated County Counsel support and specific measurable outcomes that are achievable, relevant and timely.

The Recommendations would utilize the Lane County Planning Commission to evaluate and advise the Board of County Commissioners about the effectiveness of the LMD's efforts to implement the Customer Service Improvements Goal. The recommendations include an LMD website for searchable Hearings Official decisions for the last 5 years including Remand Proceedings and Documents from the Land Use Board of Appeals and the Oregon Court of Appeals. In addition, because 62% of the Legal Lot Verification applications were deemed incomplete, it indicates that significant improvements can be made to the application form with a recommended checklist and explanation about the information that needs to be submitted for a complete application.

Because 49% of the Planning Director decisions appealed to the Hearings Official in 2022 and 30% in 2023 were reversed or remanded, it is apparent Staff are making their own erroneous legal interpretations of the law or of deeds or contracts. These legal interpretations should be done by a land use attorney working for the LMD and we recommend the Board of County Commissioners hire a fulltime land use attorney dedicated to timely assisting the LMD Staff and the Board of County Commissioners with land use legal matters and training.

FINDINGS & RECOMMENDATIONS
From 15 Land Use Attorney's Responses

1. What one recommendation would you make to the Board of Commissioners that could help remove barriers to affordable housing?
   - **Neither the Director, HO nor parties can effectively relate proposals to law articulated in the four decades of local decisions, because the decisions are not compiled in a useful manner by LMD. Staff ignore historic decisions of which they are not aware. This all contributes to inefficiency (recreating the wheel); conflicting local decisions; wrong decisions; unnecessary appeals to the HO and LUBA and their associated costs.**
     Recommendation: ***Hearings Official Information and Website***

   - **LMD staff do not ask for advice from County Legal Counsel when they should, and when they do, they don't follow the legal counsel advice given.**
     Recommendation: ***County Counsel Position and Support***

   - **ORS 215.427(8) requires that if the 150-day clock is blown, the county must refund 50% of the filing fee and charge no more fees. The HO Darnielle said this is an affirmative duty of the County to refund. The County only refunds when the applicant makes a demand.**
     Recommendation: ***Management***

   - **Relatively speaking, Staff is young, inexperienced and does not understand the Statewide Planning Program, the Lane County Comprehensive Plan and Lane Code, local case law; so they end up giving bad advice, including across the counter causing problems for the applicants (extra time and costs).**
     Recommendation: ***Management***

   - **Staff Reports/Legal Memos are often not identified with a Staff Person. No one takes responsibility or is accountable. Staff memos and positions need to be attributable.**
     Recommendation: ***Management***

   - **The need for owner authorization is unnecessary when application is represented by an attorney. This type of Staff demand clogs up application processing.**
     Recommendation: ***Management***

   - **Staff need to honor previous "preliminary" Legal Lot decisions made without a hearing in the context of a new Type II application for the same unit of land. If someone wants to take issue with the preliminary decision being relied upon, they can file an appeal of the Type II application decision and get a hearing.**
     Recommendation: ***Code Amendments***

- **If a PLA is being done involving a single boundary line between two properties, and land is being added to and taken from both properties, it does not take two applications to be processed. A single PLA application will suffice, is more efficient and less costly.**
  <u>Recommendation</u>: *Management and Code Amendments*

- **Staff and the HO now reject the *Tarjoto* presumption stated by the Board of County Commissioners in 1998 and affirmed at LUBA. This puts Legal Lot applicants in an impossible spot when they need to rely on a *de facto* PLA done prior to the date requiring deed formalities. Need to fix by codifying presumptions or incorporating statutory presumptions.**
  <u>Recommendation</u>: *Code Amendments*

- **Require the Planning Director to approve Legal Lot and the correct boundary lines, if possible.**
  <u>Recommendation</u>: *Management*

- **Require the Planning Director to approve all Legal Lots found in a Legal Lot application if extra are found when only one was applied for, subject to paying additional fee.**
  <u>Recommendation</u>: *Management and Code Amendments*

- **The HO should be required to address all issues clearly in an appeal, not just the one issue that can resolve the appeal. It is inefficient when all issues are not addressed, as it causes the parties to have a yo-yo effect going back and forth between the HO and LUBA.**
  <u>Recommendation</u>: *Management*

- **Amendments to Lane Code Chapter 14 approximately 8 years ago took the Board of County Commissioners out of the land use decision appeal process and gave the Planning Director the sole right to "elevate' a HO decision to the Board. It has never happened. The code change combined with the Planning Director's benign neglect on land use policy questions in the Board's wheelhouse, has left land use policy making to the Planning Director and LUBA, rather than the Commissioners elected to make county land use policy.**
  <u>Recommendation</u>: *Code Amendments*

- **Need to codify presumptions that the HO and Staff will apply that are more favorable to property owners when applying the code standards, (i.e., assume property owners acted according to the law with respect to conveyances and PLAs; and regard a real estate transaction as legal if it is technically and legally possible.)**
  <u>Recommendation</u>: Management

- **The BCC needs to develop proposed legislation dealing with legal lot issues, (e.g., the legal lot status survives an unpermitted sale of part, you still have a legal lot, just one that is illegally partitioned; and a method for unscrambling a bundle of non-legal lots – create a mechanism for validating a new conforming footprint for multiple legal lots without having to do reconveyances.)**
  Recommendation: *State Law Amendments*

2. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), **64% of the attorneys ranked the permit processing service provided by LMD as very poor to poor.**
   Recommendation: *Customer Service Goal*

3. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), **61% of the attorneys ranked the written and verbal information provided by LMD to explain the requirements for a permit as very poor to poor.**
   Recommendation: *Customer Service Goal*

4. **In the last year 57% of the land use attorneys have been in contact (Phone, email, in-person) with the LMD Staff 20+ times.**

5. **80% of the land use attorneys usually received a timely response from LMD Staff?**

6. **79% of the land use attorneys felt that LMD Staff were not knowledgeable of the applicable requirements and do not consistently and objectively apply the code requirements in a timely fashion?**
   Recommendation: *Customer Service Goal*

7. **64% of the land use attorneys stated that the advice given at the front counter was not accurate?**
   Recommendation: *Management*

8. What things would you say are going well in the Land Management Division's processing of permit applications?
   - **"The surveyor, sanitation and building programs are going well."**
   - **"They seem to be staffed appropriately"**
   - **"Digitizing the records during review"**
   - **"Seem to be meeting the 150-day timeline"**
   - **"Seem up-to-date with the backlog"**
   - **"Interactions are professional, maintaining decorum and respectability"**
   - **"Staff who process permits are dedicated to doing a good job and finding a way to approval"**
   - **"Everyone is more responsive since the audit started."**

   Recommendation: *Customer Service Goal*

9. **57% of the attorney's worst experiences with the LMD dealt with legal lot issues**.
   Recommendation: ***Legal Lot Processing***

10. **61% of the attorneys described their LMD experience as negative**.
    Recommendation: ***Customer Service Goal and Legal Lot Processing***

11. What issues need to be improved in the permit processing services provided by the LMD?
    - **"Access to County Counsel needs to be a priority."**
    - **"Staff are not referring to County Counsel or the County surveyor and doing things outside of their expertise."**
    - **"County has secret law (HO decisions) not accessible online."**
    - **"Hearings official cases are not accessible."**
    - **"Clear and objective standards for LLVs but no nested HO decisions."**
    - **"Stop trying to interpret the Code to deny."**
    - **"Change the mindset to be geared toward property owners."**
    - **"More responsiveness to the applicant."**
    - **"Willingness to approve applications."**
    - **"Staff needs to be retrained to not look for ways to deny" or look for options that could be approved**
    - **"Inadequate training about how the Constitution plays into land use law."**
    - **"Clear communication"**
    - **"Timeliness of process"**
    - **"Consistency, training and timely turnarounds."**

    Recommendation: ***County Counsel Position and Support, Management, Hearings Official Information and Website, and Legal Lot Processing***

12. What is the most important thing you want the Board of County Commissioners to know about your experience in getting your permit approved?
    - **"Staff access to County Counsel needs to be a priority."**
    - **"Staff attitude is to try to say no."**
    - **"Management of the LMD is hostile toward applicants."**
    - **"Applications cost way more than they should because of issues created by staff."**
    - **"Staff overly complicates the simple."**
    - **"Staff needs to be trained to apply the code as written and to not obstruct."**
    - **"Need to find a solution to staff doing what they can to deny an application rather than finding solutions."**
    - **"Getting denials that must be appealed to the Hearings Official and LUBA are costly to reverse."**

    Recommendation: ***Customer Service Goal, County Counsel Position and Support, and Management***

13. **54%** of the land use attorneys stated that the information provided at the Customer Service Center was not understandable to provide the applicant with what the County needed to approve a permit.

Recommendation: ***Customer Service Goal and Legal Lot Processing***

14. **67%** of the land use attorneys stated that LMD Staff do not give consistent answers in explaining the information needed to make findings in support of permit applications?
    Recommendation: ***Management***

15. **79%** of the land use attorneys stated that LMD Staff are not providing valuable customer service to assist applicants through the permit process to achieve a successful approval?
    Recommendation: ***Customer Service Goal***

16. **80%** of the land use attorneys stated that Staff are not well managed with adequate training and support to provide the needed customer service in administering Lane County's land use permit program?
    Recommendation: ***Management***

17. **55%** of the land use attorneys stated that Staff are well managed with adequate training and support to provide the needed customer service in administering Lane County's building permit program?

Compiled Responses of 15 Land Use Attorneys

1. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), how would you rank the permit processing service provided by LMD?

   - 1
   - 1
   - 2
   - 2
   - 2
   - 3
   - 2
   - 1.5
   - 2
   - NA
   - 2
   - 4, not negative if approvals are given
   - 3.5
   - 5
   - 2

2. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), how well did the written and verbal information provided explain the requirements for a permit?

- 4
- 1
- 2
- 2
- 2
- 2
- 2
- 2
- 1
- NA
- 3
- NA
- 4
- 5
- 3

3. How many times in the last year have you been in contact (Phone, email, in-person) with the LMD Staff? (<5 times, 5 – 20, 20+)

    - 20+
    - 20+
    - 20+
    - <5
    - <5
    - 5 - 20
    - 20+
    - 20+
    - NA
    - <5 got voice mail and had to wait a week for an answer
    - 5 - 20
    - 20+
    - 20+
    - 20+
    - 5 - 20

4. How often did you receive a timely response from staff? (Usually, once in a while, hardly ever)

    - Usually
    - Usually but lacking in substance
    - Usually
    - Once in a while
    - Usually
    - Usually

- Sometimes
- Usually
- Usually
- Usually
- Usually
- Usually
- Usually
- Usually

5. Are Staff knowledgeable of the applicable requirements and do they consistently and objectively apply the code requirements in a timely fashion?

    - No
    - No absolutely
    - Very inconsistent
    - Staff is knowledgeable about delays
    - No, staff seem minimally trained, staff are moving outside their training when they engage in legal interpretations
    - Clients get mixed advice depending on who they talk to
    - No, responses are inconsistent with mistakes and changing interpretations
    - No, they obfuscate the code when they interpret it
    - No----------
    - No, they are biased not objective
    - Yes, generally but the LMD needs to set up when and how long they should talk to customers
    - Yes, generally but in different positions give different interpretations of the code
    - Staff who process permits are dedicated to doing a good job and finding a way for approval
    - Staff give baffling and over burdensome answers in an untimely manner

6. Was the advice given at the front counter accurate?
    - Often not
    - I avoid the front counter
    - I avoid the counter
    - No, streamlining the process is needed
    - I don’t go to the counter
    - No, advice is inconsistent
    - I generally avoid the front counter
    - I don’t use the front counter
    - NA
    - I don’t go there
    - Yes, they seem to do a good job
    - Generally, yes
    - Accuracy is high on LMD staff and answers may not be what the customer wanted
    - Most face to face are neutral or positive
7. What things would you say are going well in the Land Management Division’s processing of permit applications?
    - Everyone is more responsive since the audit started
    - They seem to be staffed appropriately
    - Don’t know
    - NA
    - Not a lot unless saying denying permits makes things go well

- Surveyor and sanitation and building are doing well, most problems are with planning staff
- Digitizing the records during review
- 10% of the time staff are helpful but 90% of the time staff are negative
- NA
- There are a fair amount of precedents but not a way to find them
- Seem to be meeting the 150 days timeline
- Seem up to date with backlog
- Staff who process permits are dedicated to doing a good job and finding a way to approval
- Interactions are professional, maintaining decorum and respectability

8. What is the worst experience you've had with the Land Management Division's processing of permit applications?

- Applied for 2 LVs, they interpreted that there was only 1, but denied both and said to go back and apply for 1
- Perkins, Basarabba, Planktown
- Road divisions for legal lots
- NA
- Staff created a legal issue that resulted in a denial and appeal to overturn at the Hearings Official. This was very expensive to correct.
- Planning matters are a long, complicated and expensive process that takes a professional to help
- Disputes on completeness review and timeliness meeting the 150 day timeline
- Legal lot verification and validation of a unit of land applications are nightmares because the County views the code so stringently
- No----------

- The mindset of some staff appears that they are out to get the landowners
- Getting complaints on both sides other than denials
- Not knowing the case law supporting their positions
- Basaraba case and Perkins case
- An application for a use was denied and there was no meaningfuly enforcement after two years

9. What's one word you would use to describe how you feel about your experience with LMD?

- Miserable
- Frustrated
- Poor
- Frustrated
- Frustrated
- Frustrating
- Discouraged
- Challenging
- Frustrated
- Confident and hard working
- Mixed good/bad
- Positive
- Mixed

10. What's the three most important issues that you feel need to be improved in the permit processing services provided by the LMD?

- 1 clear and objective standards for LLVs but no nested HO decisions, 2 Nimkish rendered F2 nondevelopable, don't wit to the last minute for LLV decisions
- 1 Change mind set to be geared toward property owners, 2 stop trying to interpret the Code to deny, 3 you are wasting time when you deny
- 1 service, 2 accuracy and 3 willingness to approve applications
- 1 clear communication, 2 timeliness of process, 3 more responsiveness to the applicant
- 1 staff not referring to County Counsel or the County surveyor and doing things outside of their expertise, 2 County has secret law not accessible online, 3 inadequate training about how the Constitution plays into land use law.

- 1 cost, 2 timeliness, customer service
- 1 timelines, 2 transparency in policy goals, 3 enforcement seems arbitrary
- 1 Hearings official cases are not accessible
- 1 staff needs to be retrained to not look for ways to deny, 2, do not insert new requirements, 3 regular people have to hire professionals because of put up obstacles
- 1 a new Hearings Official, 2 getting staff to be more objective
- Access to County Counsel needs to be a priority
- 1 speed, 2 technical advice to applicant, and 3 feedback if the applicant gets off the tracks
- 1 consistency, 2 training and 3 timely turnarounds

11. What is the most important thing you want the Board of County Commissioners to know about your experience in getting your permit approved?

- Staff attitude is to try to say no.
- Management of the LMD is hostile toward applicants
- Get involved with property owners
- NA
- Applications cost way more than they should because of issues created by staff
- Folks feel like the planning is a black box that they are not sure what's going on and what will come out
- How difficult, uncomfortable, time consuming and expensive it is to applicants to navigate the land use system
- Staff overly complicates the simple
- Staff is treating citizens as pond scum and needs to be trained to apply the code as written and to not obstruct

- Need to find a solution to staff doing what they can to deny an application rather than finding solutions
- Getting denials that must be appealed to the Hearings Official and LUBA are costly to reverse
- Access to County Counsel needs to be a priority
- Planning needs somebody who can talk to the Board with strength and confidence and who can standup against special interests
- Property owners need to have their reasonable expectations met in a timely manner

12. Oregon's land use program is complex and complicated. Was the information provided at the Customer Service Center understandable so that you could provide the County with the information needed to approve a permit?

- Often not
- No, needs overhaul
- Spotty
- It is complicated and convoluted to clearly communicate
- NA
- No because the mindset is to find obstacles and not approve
- As an attorney I can't rely on the County's inconsistent information
- The land use system can be complicated
- No, the paradigm is a successful denial
- The state laws need to be changed: to allow replacement of long established dwellings and legal lot properties created in the 1960's or earlier, the County's revocation ordinance needs to be changed so that it does not harm innocent buyers
- I know what is required but the get the County's interpretations
- Yes, generally

- Generally yes and it depends on the listener knowing the right questions to ask
- Yes but maybe not for a lay person

13. Is your experience that LMD Staff are knowledgeable and give consistent answers in explaining the information needed to make findings in support of your permit application?

- No
- Often not
- No, the exact opposite, staff are openly hostile
- Staff insert their opinion to obstruct
,,
- No, answers vary depending on who you talk to
- Staff are generally knowledgeable and have to deal with multiple lawyers of jurisdiction but answers are inconsistent depending on who you talk to
- No, based on doing numerous applications in other jurisdictions, Lane County has triple are quadruple the number of issues
- No, the County as a process that you can't talk to a person but have to leave a message and don't know when they will get back
- Yes, knowledgeable and biased
- Yes, certain staff are good at tracking things and understanding legal lots
- Generally yes but to help this a logbook of administrative interpretations is needed
- It depends on the staff you are interacting with and it's a crap shoot

14. Do you feel that LMD Staff are providing you valuable customer service to assist you through the permit process to achieve a successful approval?

- Senior staff give better advice than newer staff
- No
- No!

- Need clearer guardrails to stay in the lane
- No
- No, the mindset is to not approve
- No, staff do not see themselves as providing customer service
- No, not consistent
- No, the paradigm is a successful denial
- No, they are against approvals
- Yes, generally
- No because there are not enough hours in the day to do this
- 90% of the time but sometimes things go sideways
- Staff are working with an assumption for denial unless the applicant can show why the application should be approved.

15. Are Staff well managed with adequate training and support to provide the needed customer service in administering Lane County's land use permit program?

- No, this is a major problem
- No
- No
- No----------

- Need more training and consistency in giving information
- No, a formal training plan is needed
- No, there are enough pervasive problems that should have been resolved by management
- No but management is a difficult job

- Staff are nice people but management wants things done a certain way
- A certain staff is not trainable and needs a lot more training
- Training is not the issue, it is bias
- Could use more training and access to County Counsel
- Generally, yes but new hires take years to train
- Staff are well trained and supported and this could be better if they had more resources
- Don't know, it's not an easy job

16. Are Staff well managed with adequate training and support to provide the needed customer service in administering Lane County's building permit program?

- No, the building official is becoming more hostile
- No
- They lay out a clearer path than planning staff
- Not sure
- No, institutional knowledge people have is not being passed on when they retire
- Building is working fine and tries to solve problems
- No, but there is a huge demand from people trying to get their advice
- Yes, they are micromanaged
- NA
- This is not an issue, their requirements are clear and objective
- Planners do not have a good understanding of the building code and their job is to send customers to building
- BP staff have been correct and the applicant wasn't happy with the decision
- Building staff tend to be more objective

Howe Mann Consulting

Report Attachment C2

Lane County Land Management Division 2024 Audit
Barriers to Affordable Housing

Howe Mann Consulting

ABSTRACT OF FINDINGS & RECOMMENDATIONS Report Attachment C2
From 13 Land Use Professional's Responses

The following Land Use Professionals were interviewed on May 1st through May 6th :
Thom Lanfear, Mike Evans, Geri Betz, Harry Taylor, Jeremy Keepers, Casey Jones, Jim McGlaughlin, Don Nickell, Ryan Erickson, Ted Baker, Jim Belknap, Gary Rose and Tom Bowerman.

The attached compiled responses indicate that 77% of the Land Use Professionals ranked the permit processing service provided by the LMD as very poor to poor and 61% ranked the written and verbal information provided to explain the requirements for a permit as very poor to poor. In addition, 77% of the compiled responses stated that the advice at the front counter was not accurate and 85% of the Land Use Professionals felt that the LMD Staff were not knowledgeable of the applicable requirements and do not consistently and objectively apply the code requirements in a timely fashion. **And finally, 77% of the Land Use Professionals stated that Staff are not well managed with adequate training and support to provide the needed customer service in administering Lane County's land use permit program.**

With this level of perceived dissatisfaction, we have provided recommendations to Management to improve customer service by establishing a Customer Service Improvements Goal, training, dedicated County Counsel support and specific measurable outcomes that are achievable, relevant and timely.

The Recommendations would utilize the Lane County Planning Commission to evaluate and advise the Board of County Commissioners about the effectiveness of the LMD's efforts to implement the Customer Service Improvements Goal. The recommendations include an LMD website for searchable Hearings Official decisions for the last 5 years including Remand Proceedings and Documents from the Land Use Board of Appeals and the Oregon Court of Appeals. In addition, because 62% of the Legal Lot Verification applications were deemed incomplete, it indicates that significant improvements can be made to the application form with a recommended checklist and explanation about the information that needs to be submitted for a complete application.

Because 48.5% of the Planning Director application decisions made in 2022 and 30% in 2023 were reversed or remanded on appeal, it is apparent Staff are making their own erroneous legal interpretations of the law or of deeds or contracts. These legal interpretations should be done by a land use attorney working for the LMD and we recommend the Board of County Commissioners hire a fulltime land use attorney dedicated to timely assisting the LMD Staff and the Board of County Commissioners with land use legal matters and training.

FINDINGS & RECOMMENDATIONS
From 13 Land Use Professional's Responses

1. What one recommendation would you make to the Board of Commissioners that could help remove barriers to affordable housing?
   - **Staff now advocate aggressively for the Planning Director's initial position in appeals to the HO, instead of simply preparing a neutral staff report with the facts for the HO. Appeals have become the applicant v. Staff. This diverts Staff resources which drives up costs of all applications and subsidizes Staff advocacy to the HO against the applicants.**
     Recommendation: ***Customer Service Goal, County Counsel Position and Support, and Management***

   - **Type I applications should not get in the 150-day decision queue, as they do now. Most Type I applications should be resolvable across the front counter, (e.g., Land Use Compatibility Statements needed for State permitting.)**
     Recommendation: ***Customer Service Goal, County Counsel Position and Support***

   - **Application completeness reviews should be done before 30 days and some should be done at the Front Counter.**
     Recommendation: ***Management and Customer Service Goal***

   - **LMD requires a Planner to meet with an applicant prior to accepting a new application to review for completeness. This violates state law, which requires an application to be accepted, (*Doumani v City of Eugene*). The statute deals with a 30-day requirement for a determination of completeness. This extra review at the front end is inefficient and redundant with the statute.**
     Recommendation: ***Customer Service Goal***

   - **Staff are not applying fuel break standards consistent with ODF recommendations and state law.**
     Recommendation: ***Management***

   - **Staff exceed their authority under the law by referring to DSL any application for development on sites with hydric soils when the statutes require referral only when a site has mapped wetlands (ORS215.418).**
     Recommendation: ***Management***

   - **Staff do not accept boundary line determinations made by licensed surveyors. (In HO appeal of McMullen (509-PA21-05913) Staff argue with a licensed surveyor over the boundary line.**
     Recommendation: ***Management***

- **Staff required a lot line elimination for issuing a Building Permit for a structure on a lot line between lots in common ownership. In the past, this was dealt with by requiring only a covenant that bound the properties to be sold together as long as the building existed. The current process is more expensive and potentially unnecessarily eliminates a legal lot.**
  <u>Recommendation</u>: *Code Amendments*

- **The Planning Director looks for ways to deny legal lots, rather than how to confirm them or fix them.**
  <u>Recommendation</u>: *Customer Service Goal*

- **The Planning Director requires an adjustment between two property owners, where the adjustment involves land being added to both properties, even an exchange of land, to require two applications, even when the adjustment involves only one common line between two properties.**
  <u>Recommendation</u>: *Management*

- **The County Surveyor had required more monumenting than is required by state law. The Surveyor's Office "policy" states easements must be sufficiently monumented to locate a right-of-way. The additional monumentation costs the applicant an additional $1,000 and is not required by statute and "sufficiently" is not an objective standard.**
  <u>Recommendation</u>: *Management*

- **The Building Official is requiring geotechnical review for all dwellings which is costly and often unnecessary in some situations.**
  <u>Recommendation</u>: *Management*

- **Staff are adding a 50-foot buffer to flood plain footprints rather than relying on maps of floodplains prepared by surveyors. The Division Manager says he has the authority to interpret the boundary for cases when the boundary was obviously in error or there was some question, but not just a unilateral expansion of the floodplain zone.**
  <u>Recommendation</u>: *Management*

- **There should be no local limitation on the magnitude of a Property Line Adjustment that otherwise complies with state law. Lane Code requires a "replat" of PLAs over a certain size (not reducing a parcel to less than 2 acres and not modifying the acreage of the smaller lot or parcel by more than 25%).**
  <u>Recommendation</u>: *Management*

- **A presumption that needs articulation in Lane Code is to codify that unrecorded subdivisions filed as surveys before 1949 are lawful units of land.**
  <u>Recommendation</u>: *Code Amendment*

- **The Board should develop legislation for replacing forest dwellings that are not present after a fire or if the owner has recently removed the dwelling and there should be no need for a Legal Lot determination to replace a lawfully existing dwelling.**
  <u>Recommendation</u>: *Code Amendment and State Law Amendment*

- **The Board should develop legislation to validate units of land that are illegal lots because of a bad Property Line Adjustment, not just a bad sale.**
  <u>Recommendation</u>: *State Law Amendment*

- **The Board should develop legislation that codifies the presumption that favors legal lot status.**
  <u>Recommendation</u>: *State Law Amendment*

- **The Board should publish their expectation that Staff only use codified laws and work to find solutions for property owners.**
  <u>Recommendation:</u> *Customer Service Goal and Management*

2. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), **77% of the land use professionals ranked the permit processing service provided by LMD as very poor to poor.**
   <u>Recommendation</u>: *Customer Service Goal*

3. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), **61% of the land use professionals ranked the written and verbal information provided by LMD to explain the requirements for a permit as very poor to poor.**
   <u>Recommendation</u>: *Customer Service Goal*

4. **In the last year 77% of the land use professionals have been in contact (Phone, email, in-person) with the LMD Staff 20+ times.**
   <u>Recommendation</u>: *Customer Service Goal*

5. **38% of the land use professionals usually received a timely response from LMD Staff?**
   <u>Recommendation</u>: *Customer Service Goal*

6. **85% of the land use professionals felt that LMD Staff were not knowledgeable of the applicable requirements and do not consistently and objectively apply the code requirements in a timely fashion?**
   <u>Recommendation</u>: *Customer Service Goal*

7. **77% of the land use professionals stated that the advice given at the front counter was not accurate?**
   <u>Recommendation</u>: *Management*

8. **The land use professionals stated that the following are going well in the Land Management Division's processing of permit applications**:
    - **"Fee intake staff are friendly and effective."**
    - **"Sanitation and surveying services are good."**
    - **"Replacement dwellings and site plans are consistent and working well with the building program."**
    - **"Surveying"**
    - **"Mixed from good to not so good."**
    - **"Surveying and Transportation Planning"**
    - **"Like the mail submittal option, credit card payments and digital submittals."**
    - **"Surveying"**
    - **"The big screen and phone system that tells you how long your wait is."**
    - **"Process for photo reviews of fuel breaks and replacement rights"**
    - **"The permit process is always work and a necessary evil to get through."**
    - **"The front door always opens promptly at 9:00am."**
    - **"The Board doing this audit and some staff are trying to be helpful."**

9. **69% of the land use professional's worst experiences with the LMD dealt with shifting and inconsistent interpretations of Lane Code and statutes over legal lot issues and what they felt were unnecessary and costly appeals. When Staff processes land use applications, these applications must comply with the legal requirements. It appears that Staff are not all proactively working to assist customers to find way ways to get their applications approved. A cultural change is needed to establish proactive customer services as a goal for all Staff**.
   Recommendation: ***Customer Service Goal***

10. **92% of the land use professionals described their LMD experience as negative**.
    Recommendation: ***Customer Service Goal***

11. What issues need to be improved in the permit processing services provided by the LMD?
    - **"The Board needs to hear land use appeals so they are in the position of setting policy."**
    - **"Legal lot staff training including identifying applicable criteria and identifying the parent legal lot."**
    - **"Staff are out of their lane dealing with ownership title issues."**
    - **"Legal lot verification applications and property line adjustments need to be processed by a licensed surveyor."**
    - **Process applications in a timely fashion. "Don't wait to decide until the last minute for legal lot verifications."**
    - **"Clear and objective requirements for legal lot verifications."**
    - **"Hearings Official should address all issues on appeal and stop nesting decisions for legal lot verifications."**
    - **"Staff needs to look for solutions not obstacles."**
    - **"Seek to approve the application unless not allowed by Code."**

- **"Staff needs to work with the public to help them get their permit."**
- **"Streamline the process so more can be done on-line or the phone."**
- **"The Lane County Strategic Plan, Goal 2, says to invest in sustainable staffing levels and technology including transcribing the recordings of Hearings Official decisions so they can be searched."**
- **"Legal lot verification application fees at the City of Eugene are $35 but in Lane County $3,182 – ways need to be found to reduce these fees."**
- **"Property line adjustments were done on 3 lots that had to be done 1 line at a time and required 7 legal lot verifications."**
- **"Lack of training on code and how to professionally handle clients."**
- **"Should be more than 1 incomplete application notice."**
- **"Every five years it is necessary to go through an introspection process to look for ways to make process improvements."**
- **"Electrical permits should be allowed for wells without needing to have a dwelling approval."**
- **To limit unwarranted housing costs, "Access permit requirements for applications need to be clarified for driveway entrance on a county road. "**
- **To limit unwarranted housing costs, "A title company can provide a certified deed description in two days rather than a two week delay waiting to obtain from Lane County Deeds and Records."**
- **To limit unwarranted housing costs, amend LC13.140(1)(a) to state … "is in the same configuration or has been lawfully reconfigured or reconfigured through an approved property line adjustment."**

Recommendation: ***County Counsel Position and Support, Management, Customer Service Goal***

12. What is the most important thing you want the Board of County Commissioners to know about your experience in getting your permit approved?
    - **"The Board has abdicated is policy role and Staff has no concept of local government control."**
    - **"A Staff ideology change is needed to approve applications unless they do not meet Code."**
    - **"Staff are not looking for solutions and, no accountability for making decisions without considering past practice and law."**
    - **"Because staff is nesting Hearings Official decisions, in addition to code requirements, into legal lot verification decisions, it's a guessing game figuring out the requirements.**
    - **"The permit process is slow and difficult and staff waits until the end of the timeline instead of processing it early."**
    - **"Staff are there to deny applications and not to work for LWLC."**
    - **"Timeliness is not being considered and delays cost the property owner a lot of money."**
    - **"It's not just the cost of the permit that is high, but you also have to hire professionals."**

Recommendation: ***Customer Service Goal, County Counsel Position and Support, Management***

13. **69% of the land use professionals stated the information provided at the Customer Service Center would not allow an applicant to provide the County with the information needed to approve a permit.**
    Recommendation: ***Customer Service Goal***

14. **85% of the land use professionals stated that they could not support the statement that LMD Staff are knowledgeable and give consistent answers in explaining the information needed to make findings in support of permit applications? "However, the preapplication process with senior staff is valuable."**
    Recommendation: ***Management***

15. **83% of the land use professionals stated the assistance provided through the permit process would not achieve a successful approval.**
    Recommendation: ***Customer Service Goal***

16. **75% of the land use professionals stated the Staff are not well managed with adequate training and support to provide the needed customer service in administering Lane County's land use permit program.**
    Recommendation: ***Management***

17. **62% of the land use professionals stated Staff are well managed with adequate training and support to provide the needed customer service in administering Lane County's building permit program? However, some issues with Building Staff trying to assume a planning role, sometime added piecemeal requirements, and inconsistencies.**
    Recommendation: ***Management***

Compiled Responses of 13 Land Use Professionals

1. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), how would you rank the permit processing service provided by LMD?

    - 2
    - 2
    - 2
    - 3
    - 1
    - 2
    - 2

- 1
- 2
- 1
- 2.5
- 4
- 1

2. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), how well did the written and verbal information provided explain the requirements for a permit?

    - 3
    - 2
    - 2
    - 3
    - 4
    - 2
    - 2
    - 2
    - 1.5
    - 1
    - 2.5
    - 4
    - 1

3. How many times in the last year have you been in contact (Phone, email, in-person) with the LMD Staff? (<5 times, 5 – 20, 20+)

    - 20+
    - 20+
    - 20+
    - 20+
    - 20+
    - 20+
    - 20+
    - Send clients for in-person
    - 20+
    - 5 – 20
    - 20+
    - 5-20
    - 20+

4. How often did you receive a timely response from staff? (Usually, once in a while, hardly ever)

- Usually
- Once in a while
- Once in a while
- Once in a while
- Usually
- Hardley ever
- Once in a while
- Depends on the planner
- Usually
- Usually
- Hardly ever, it depends on staff
- Usually
- Once in a while

5. Are Staff knowledgeable of the applicable requirements and do they consistently and objectively apply the code requirements in a timely fashion?

    - No
    - No, it depends on which staff
    - No, it depends on which staff
    - Some are and some aren't and do not know the geography and history
    - No, with legal lots and CUP's in the F2 zone the staff denials on Hearings Official decisions rather than the code
    - No for planning, you have to know who to ask
    - The answers are inconsistent in planning and building because of turnover, surveyors are available in two minutes and give good advice

- No and the requirements are not being consistently applied
- No
- Generally, no
- Yes
- No, some staff are practicing law
- No

6. Was the advice given at the front counter accurate?
    - No
    - No, it depends on which staff
    - Sometimes
    - Basic information is generally OK, more involved or complicated less so
    - No, 50% for legal lots and for residences generally yes
    - No, the person at the front counter had to leave and ask someone in a back room for the answer
    - No. Staff are biased and provide an over reaching review
    - Had to go through 3 counters to the person with the advice
    - Don’t use the front counter because the information is not accurate
    - No
    - No and you have to know the questions to ask
    - I do not use the front counter and go there just to drop off or get forms
    - No
7. What things would you say are going well in the Land Management Division’s processing of permit applications?

- Fee intake staff are friendly and effective
- The sanitation and surveying services are good
- Mixed from good to not so
- Replacement dwellings, site plans consistent and working well with building
- Surveying
- At the front counter, like the big screen and phone system to tell you how long your wait is and to call on
- The front door is always open promptly at 9:00am.
- Surveying and transportation planning
- Like mail submittal option, credit card payments and digital submittals
- Surveying
- Process for photo reviews of fuel breaks and replacement rights where staff were knowledgeable and helpful
- The permit process is always work and a necessary evil that goes through steps to get done
- The Board doing this audit and some people are trying to be helpful

8. What is the worst experience you've had with the Land Management Division's processing of permit applications?

    - Shifting and wrong interpretations of Lane Code and statutes during legal lot verification application process resulting in bad decisions
    - The culture and mindset are to find ways to deny rather than providing customer service to help approve applications
    - Requiring multiple legal lot verification applications for a property overly complicates the process
    - Submitted deeds in support of a legal lot verification but staff got into the interpreting the intent of the deed and had to go through the process twice to get it approved

- When you get an incorrect “No” answer and have to spend money to show staff the correct decision
- Staff take decision personally and manage from a defensive posture
- ----------
- Having to appeal an incorrect decision to get it overturned
- A property line adjustment where staff interpreted a legal description and knew more than others, and cost the owner an appeal
- _____
- If staff feels that an application cannot be supported, it is not communicated in a professional manner
- None, it’s a necessary process
- Spent 140K to get through a permit process to use my land that is still not done

9. What’s one word you would use to describe how you feel about your experience with LMD?

- Disappointed
- Frustrated
- Frustrated
- Frustrated
- Frustrated
- Difficult, can’t take the first answer and need a lawyer to help
- Distrustful
- Unprofessional
- Frustrating
- Negative
- Disheartened
- Pathetic
- Satisfactory

10. What’s the three most important issues that you feel need to be improved in the permit processing services provided by the LMD?

- 1 legal lot staff training including identifying applicable legal lot verification criteria, 2 Hearings Official should address all issues on appeal, 3 staff are not identifying the parent legal lot

- 1 the Board needs to be in the position of setting policy, 2 legal lot verification applications and property line adjustments need to be processed by a licensed surveyor

- Staff needs to look for solutions not obstacles

- 1 better define the intricacies of uses and what it really takes to develop property, 2 better define, have more site visits to get hands on experience, process some land use permits in 60 days

- 1 Clear and objective requirements for legal lot verifications, stop nesting Hearings Official decisions, 2 get Nimpkish resolved, to wait to decide until the last minute for legal lot verifications

- 1 streamline the process so if 21 days is allowed, do it in 7, there are too many staff reviewing the same applications for approvals, dealing with the same approvals, streamline the process so more can be done on-line or the phone

- 1 The Lane County strategic plan, goal 2, needs to be to invest in sustainable staffing levels and technology including transcribing the recordings of Hearings Official decisions so they can be searched, 2 legal lot verification application fees at the City of Eugene are $35 but in Lane County $3,182 – ways need to be found to reduce these fees, 3, property line adjustments were done on 3 lots that had to be done 1 line at a time and required 7 legal lot verifications, 4 the Board needs to publish their expectations including to respect property rights

- 1 counter intake process needs to be streamlined, 2 lack of training on code and how to professionally handle clients, 3 should be more than 1 incomplete application notice

- 1 seek to approve the application unless not allowed by Code, 2 staff are out of their lane dealing with ownership title issues, 3 staff code interpretations

- 1 answer the phone, 2 give correct information, 3 provide legitimate options

- 1 staff needs to work with the public to help them get their permit, 2 help applicants

- 1 timeliness, 2 accuracy and 3 improve communication of problems

- 1 every five years it is necessary to go through an introspection process to look for ways to make improvements

11. What is the most important thing you want the Board of County Commissioners to know about your experience in getting your permit approved?

- The Board has abdicated is policy role and Staff has no concept of local government control
- Customer service staff are not looking for solutions
- No accountability for making decisions without considering past practice and law
- Professionals represent 100s of years of experience and, the Board needs to get back into its policy making role
- Because staff is nesting Hearings Official decisions, in addition to code requirements, into legal lot verification decisions, it's a guessing game figuring out the requirements.
- Staff search for issues with applications, often resulting in denials
- There is a liberal staff with anti-development mentality who need to mesh with conservative people coming in
- Staff are there to deny applications and not to work for LWLC
- A Staff ideology change is needed to approve applications unless they do not meet code
- The permit is slow and difficult and staff waits until the end of the timeline instead of processing it early
- Timeliness is not being considered and delays cost the property owner a lot of money
- The Board needs to listen to and respect the planning commission
- It's not just the cost of the permit that is high, but you have to hire professionals

12. Oregon's land use program is complex and complicated. Was the information provided at the Customer Service Center understandable so that you could provide the County with the information needed to approve a permit?

- I avoid contact with the front counter because it is useless
- No, one has to seek professional help
- No

- The information should not be just a repeat of the code but should be summarized and outlined in a way that lay people can understand it

- Replacement dwelling and partition requirements are generally clear and objective but anything for farm and forest has hidden requirements beyond the code

- No, it takes a person a long time to learn the system and the average person has difficulty learning it

- No the Staff that manage the POD counter are very inexperienced

- Vague answers were given about how many times a property line can be adjusted and code does not say you can only do it once

- No, the State land use program is definitely complex and can't get good information from staff - A way is needed to work together and address problems ahead of time

- No

- Generally, yes

- It depends on who you are talking to and certain staff have been good

- To understand Oregon's land use program, you have to read and invest time to do this, and it takes trained professionals, and certain policy choices are made on an ideological basis

13. Is your experience that LMD Staff are knowledgeable and give consistent answers in explaining the information needed to make findings in support of your permit application?

- No
- No
- No
- No, staff are educated but lack field experience
- The preapplication process with senior staff is valuable and generally good
- No
- No, Staff that manage the POD counter are very inexperienced
- No particularly with type I and type II dwelling replacements in the EFU zone
- No, they need more experience and education
- No
- No, inconsistent from staff to staff

- No, it depends on who you are talking to
- Staff are generally congenial, responsible and responsive in doing their jobs, giving answers and consistency is a matter of sorting out the complexity

14. Do you feel that LMD Staff are providing you valuable customer service to assist you through the permit process to achieve a successful approval?

- No
- No
- No
- Marginally, not getting return phone calls or emails
- For simple applications yes, but for type II applications no
- No, they don't approach permits trying to find ways to make them work
- No way, it's a crap shot of inconsistencies with planning
- No, they work against permits
- No
- No, less experience staff at POD with limited details provide general knowledge
- No
- Yes
- NA

15. Are Staff well managed with adequate training and support to provide the needed customer service in administering Lane County's land use permit program?

- No evidence of well managed
- Partially
- Only partially
- No, staff has to be cross-trained including how to read legal descriptions and about wetlands
- Yes, however multiple turnovers of staff keep coming up
- No, there does not appear to be any management to support customer service
- No, POD provides limited details and only general knowledge
- No
- No, there is inadequate training, staff do not seek legal advice from County Counsel, and staff do not seek solutions
- No, front counter staff need more training

- No, planning staff are difficult to work with
- No, communication is not professional
- The land use program emphasis is to go up and not out, need to figure out ways to be more flexible

16. Are Staff well managed with adequate training and support to provide the needed customer service in administering Lane County's building permit program?
    - There may be an issue with building trying to assume some of the roles of planners
    - Issue with Building requiring a cultural permit with Geotech information
    - Generally, yes but sometimes it's too easy to say that you need an engineering report
    - Building Staff are overly broad in extending Geotech requirements
    - Building lays out a clear path forward, much clearer and more objective than planning, and is responsive if changes are needed
    - Building is better than planning but piecemeal adds requirements along the way
    - Yes, Staff that manage the BOD counter are more experienced and knowledgeable than POD
    - Building staff are inconsistent
    - Yes, because Building Staff are dealing with more clear and objective requirements than Planning
    - Does not need an elevation certification in an A zone from an engineer or surveyor
    - Building is OK
    - Yes, the building permit process has gone well
    - The building code provides latitude to interpret with the bottom line being fire life and safety

Howe Mann Consulting

Report Attachment C3

Lane County Land Management Division 2024 Audit
Barriers to Affordable Housing

Howe Mann Consulting

ABSTRACT OF FINDINGS & RECOMMENDATIONS report Attachment C3
From 13 Property Owner Applicant's Responses

The following Property Owner Applicants were interviewed on May 6th and May 12th.
Daniel Basaraba, Toby Mickalson, Don Kahle, Sharon Simpson Carroll, Ed King, Mellani Blite-Stanley, Mary Beth Rubib, Penny Jordon Eymann, Ed Napper, Eric Thompson, Pete Sikora, Mike Miller and Damon Raposa.

The attached compiled responses indicate that 77% of the Property Owner Applicants ranked the permit processing service provided by the LMD as very poor to poor and 77% ranked the written and verbal information provided to explain the requirements for a permit as very poor to poor. In addition, 85% of the compiled responses stated that the LMD Staff were not helpful in trying to get their permit approved and 91% described their LMD experience as negative. **And finally, 69% of the Property Owner Applicants required 3-6 land use professionals (planners, surveyors and/or attorneys) to assist them with their application.**

With this level of perceived dissatisfaction, we have provided recommendations to Management to improve customer service by establishing a Customer Service Improvements Goal, training, dedicated County Counsel support and specific measurable outcomes that are achievable, relevant and timely.

A common theme in the Findings from the Property Owner Applicants was the need for a philosophical adjustment in the mindset of LMD Staff that they are there to explore the options available to serve customers as long as their application meets the law. The Recommendations would utilize the Lane County Planning Commission to evaluate and advise the Board of County Commissioners about the effectiveness of the LMD's efforts to implement the Customer Service Improvements Goal. The recommendations include an LMD website for searchable Hearings Official decisions for the last 5 years including Remand Proceedings and Documents from the Land Use Board of Appeals and the Oregon Court of Appeals. In addition, because 62% of the Legal Lot Verification applications were deemed incomplete, it indicates that significant improvements can be made to the application form with a recommended checklist and explanation about the information that needs to be submitted for a complete application.

Because 49% of the Planning Director decisions appealed to the Hearings Official in 2022 and 30% in 2023 were reversed or remanded, it is apparent Staff are making their own erroneous legal interpretations of the law or of deeds or contracts. These legal interpretations should be done by a land use attorney working for the LMD and we recommend the Board of County

Commissioners hire a fulltime land use attorney dedicated to timely assisting the LMD Staff and the Board of County Commissioners with land use legal matters and training.**FINDINGS &**

RECOMMENDATIONS

From 13 Property Owner's Responses

1. What one recommendation would you make to the Board of Commissioners that could help remove barriers to affordable housing?

   - **The government's job is to care for the people – dealing with the County has become worse.**
     Recommendation: ***Customer Service Goal***

   - **A complete philosophical adjustment from the top down is needed in the planning department to say that we are here to serve customers as long as they meet the law.**
     Recommendation: ***Management***

   - **The planning process is too challenging, make it more user friendly.**
     Recommendation: ***Customer Service Goal***

   - **Get the Board more involved in hearing certain application policy matters on Appeal.**
     Recommendation: ***Code Amendment***

   - **Simplify the land use laws.**
     Recommendation: ***State Law Amendment***

   - **Look at other counties that don't have roadblocks.**
     Recommendation: ***Customer Service Goal***

   - **Remove some of the timeline barriers from legal lot verifications so that owners do not have go back to 1949, and adopt a policy that if people got a building permit approved by the County, then they do not need a legal lot verification.**
     Recommendation: ***Customer Service Goal***

   - **Hold the line workers accountable and reward workers that get to yes.**
     Recommendation: ***Management***

   - **There needs to be in place a way to fast track permits after a disaster has occurred.**
     Recommendation: ***Code Amendment***

- **The legality of property needs to be validated.**
  Recommendation: *Customer Service Goal*

- **Had to go to the Recorder's office to pay for deeds and then to the LMD. There should be the ability to do this online to save the expense of physically going from one place to another.**
  Recommendation: *Customer Service Goal*

- **Provide known legal lot information on the property search data online.**
  Recommendation: *Customer Service*

- **Change in management to correct the culture and mindset of LMD and instill Staff with the motivation to provide customer service that tries to find legal options to get to "yes".**
  Recommendation: *Management*

2. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), **77% of the property owners ranked the permit processing service provided by LMD as very poor to poor.**
   Recommendation: *Customer Service Goal*

3. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), **77% of the property owners ranked the written and verbal information provided by LMD to explain the requirements for a permit as very poor to poor.**
   Recommendation: *Customer Service Goal*

4. **46% of the property owners stated that the information given to them by staff was not understandable.**
   Recommendation: *Customer Service Goal*

5. **In the last year 54% of the property owners have been in contact (Phone, email, in-person) with the LMD Staff 5-20 times.**
   Recommendation: *Customer Service Goal*

6. **69% of the property owners usually received a timely response from LMD Staff.**
   Recommendation: *Customer Service Goal*

7. **85% of the property owners felt that LMD Staff were not helpful in trying to get their permit approved.**
   Recommendation: *Customer Service Goal*

8. **91% of the property owners described their LMD experience as negative**.
   Recommendation: *Customer Service Goal*

9. **69% of the property owners required 3-6 land use professionals (planners, surveyors and/or attorneys) to assist them with their application.**
   <u>Recommendation</u>: ***Customer Service Goal***

10. What one suggestion would you use to improve customer service in the LMD?
    - **A complete philosophical adjustment from the top down is needed to say that we are here to serve customers as long as they meet the law.**
      <u>Recommendation</u>: ***Management***

    - **Leadership and direction are needed and the Board should be more involved in hearing certain cases.**
      <u>Recommendation</u>: ***Management and Code Amendment***

    - **A cultural change is needed to assist land owners find solutions and to get to yes.**
      <u>Recommendation</u>: ***Management***

    - **Staff are pursuing efficiency and not trying to help people get to yes – A cultural change is needed. Hold managers responsible to help customers get to yes.**
      <u>Recommendation</u>: ***Customer Service Goal and Management***

    - **Don't make it so difficult, complicated and expensive to be able to use property.**
      <u>Recommendation</u>: ***Customer Service Goal and County Counsel Position and Support***

    - **Make staff truly accountable for good service and responding in a timely manner.**
      <u>Recommendation</u>: ***Customer Service Goal***

    - **Make the process more transparent – drop the planning jargon and use lay people language.**
      <u>Recommendation</u>: ***Customer Service Goal***

    - **Provide answers to how many legal lots there are – the decisions did not provide answers.**
      <u>Recommendation</u>: ***Customer Service Goal***

    - **Have to figure out ways to allow more houses in the rural area rather than trying not to.**
      <u>Recommendation</u>: ***Customer Service Goal***

    - **The front counter staff are OK but the people who handle the later actions have a bad beside manner and are numbers and law driven.**
      <u>Recommendation</u>: ***Customer Service Goal and Management***

    - **Job hours conflict with open hours. Would like to be able to make an appointment for front counter assistance.**

Recommendation: ***Customer Service Goal and Management***

- **Provide answers to how many legal lots there are – the decisions did not provide answers.**
  Recommendation: ***Customer Service Goal***

Compiled Responses of 13 Property Owner Applicants

1. What one recommendation would you make to the Board of Commissioners that could help remove barriers to affordable housing?

   - The government's job is to care for the people – dealing with the County has become worse.
   - Remove some of the timeline barriers from legal lot verifications so that owners do not have go back to 1949, and adopt a policy that if people got a building permit approved by the County, then they do not need a legal lot verification.
   - Hold the line workers accountable and reward workers that get to yes.
   - There needs to be in place a way to fast track permits after a disaster has occurred.
   - The legality of property needs to be validated.
   - Had to go to the Recorder's office to pay for deeds and then to the LMD. There should be the ability to do this online to save the expense of physically going from one place to another.
   - Simplify the land use laws.
   - The planning process is too challenging, make it more user friendly.
   - Look at other counties that don't have roadblocks.
   - A complete philosophical adjustment from the top down is needed in the planning department to say that we are here to serve customers as long as they meet the law.
   - Get the Board more involved in hearing certain application policy matters on appeal
   - Provide known legal lot information on the property search data online.

- Change in management to correct the culture and mindset of LMD and instill Staff with the motivation to provide customer service that tries to find legal options “to get to yes”.

2. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), how would you rank the permit processing service provided by LMD?

    - 1
    - 1
    - 1
    - 3
    - 0
    - 3
    - 2
    - 2
    - 1
    - 1
    - 1
    - 1
    - 2

3. On a scale of 1 – 5 (1 very poor, 2 poor, 3 fair, 4 good, 5 fantastic), how well did the verbal information provided explain the requirements for a permit?

    - 2
    - 1
    - 1
    - 2
    - 1
    - 4.5
    - 3
    - 4
    - 1
    - 1
    - 1
    - 1
    - 1

4. Was the information given to you by staff understandable?

    - No,
    - Yes but staff do not understand the code
    - Yes
    - No – It depends on who answers and the answers are inconsistent
    - No – confusing

- Yes
- Yes to some extent my agent helped
- Yes
- Yes sometimes but it depends on what it was
- No
- No
- No

5. How many times in the last year have you been in contact (Phone, email, in-person) with the LMD Staff? (<5 times, 5 – 20, 20+)

    - 5-20,
    - 5-20,
    - 5-20,
    - 20+
    - 20+
    - 5-20
    - <5
    - 5-20
    - 20+
    - 0 but my professionals 20+
    - 20+
    - 20+
    - 20+

6. How often did you receive a timely response from staff? (Usually, once in a while, hardly ever)

    - Hardly ever,
    - Usually but the response is not accurate,
    - Usually but the quick answer is no
    - Usually after my professional was involved
    - Usually but confusing answers given
    - Usually but the decision on my application took nine months
    - Hardly ever
    - Usually
    - Usually but it did not answer the question
    - Usually they knew the time limits and asked for extensions
    - Hardly ever
    - Usually

7. Do you feel the staff were helpful in trying to get your permit approved?

    - No – Those trying to do things are considered the bad guys
    - No – The mindset of staff seems to be in trying to get applications not approved.

- Absolutely No
- Yes but it depends on who responds
- Absolutely not
- Yes
- No staff recommended hiring an attorney which I could not afford
- No – there was no proactive support
- No
- No, just the opposite, they were working to not approve it
- No
- No - One Staff in particular will find a problem
- No

8. What's one word you would use to describe how you feel about your experience with LMD?

    - Angry-frustrated
    - Frustrated
    - Dread
    - Lackluster
    - Criminal – the process is to not approve and very costly
    - Satisfied
    - Disgusted
    - Frustrated
    - Dreadful
    - Hostile
    - Terrible
    - Abusive
    - Horrific

9. How many professional consultants (planners, surveyors) and/or attorneys did you need to hire to assist you with your application?

    - 2 to 3,
    - 5
    - 0 - I just bang my head against the wall
    - 1 with extensive experience
    - 4
    - 0
    - 0
    - 3
    - 4
    - 4
    - 3
    - 4
    - 6

10. What is one suggestion you would recommend to improve customer service in the LMD?

- Make staff truly accountable for good service and responding in a timely manner.
- A cultural change is needed to assist land owners find solutions and to get to yes.
- Staff are pursuing efficiency and not trying to help people get to yes – A cultural change is needed. Hold managers responsible to help customers get to yes.
- Make the process more transparent – drop the planning jargon and use lay people language
- Provide answers to how many legal lots there are – the decisions did not provide answers
- Should remove the covid screens at the public service counter because it is hard to hear
- Don't make it so difficult, complicated and expensive to be able to use property
- Have to figure out ways to allow more houses in the rural area rather than trying not to.
- The front counter staff are OK but the people who handle the later actions have a bad beside manner and are numbers and law driven.
- A complete philosophical adjustment from the top down is needed to say that we are here to serve customers as long as they meet he law.
- Leadership and direction are needed and the Board should be more involved in hearing certain cases
- Change management to instill customer service with attitude to find options to get to yes.
- Would like to be able to make an appointment to meet with front counter staff.

Howe Mann Consulting

Report Attachment C4

Lane County Land Management Division 2024 Audit
Barriers to Affordable Housing

Howe Mann Consulting

ABSTRACT OF FINDINGS & RECOMMENDATIONS Report Attachment C4
From 14 Land Management Division Staff

The following LMD Staff were interviewed on June 11th, 13th, and 17th :
Josh Gattis, Emily Connor, Jane Burgess, John Webster, Noray Sprading, Lindsey Eichner, Rachel Serslev, Gareth Warr, Taylor Carsley, Keir Miller, Marianne Nolte, Jared Bauder, Amber Bell, and Shawna Adams.

The attached compiled responses indicate that 100% of the LMD Staff interviewed were satisfied with their work. They like the LMD team. However, only one staff mentioned providing customer service. The staff emphasized the need for County Counsel support and central access to countywide digital records. Regular training on Code requirements, legal training, and training on documented institutional knowledge. They are open to improvement and want more support from the BCC.

FINDINGS and RECOMMENDATIONS
From 14 LMD Staff'S Responses

1. What do you do in your job at the LMD?
   - **Staff itemized the category of work they were in, applications they processed, meetings attended, requirements they implemented.**
   - **One staff mentioned providing customer service.**

   Recommendation: ***Customer Service Goal***

2. Part of what we want to find out is what's working well and build on that. What is your top contribution that you do well?
   - **Staff itemized the category of work they were in, applications they processed, requirements they implemented.**
   - **One staff mentioned providing customer service.**

   Recommendation: ***Customer Service Goal***

3. How could you do your job better?
   - **Staff itemized the need for County Counsel support, collaboration with planners, improving application forms, Staff turnover, support from the BCC and better GPS tools**

   Recommendation: ***Management, County Counsel Position and Support, Customer Service Goal***

4. What kinds of training would help you in your position?

- **Regular training for all on Code requirements, records access, professional development, big picture training (OAPA), legal training, and documented institutional knowledge.**

  Recommendation: ***Management, County Counsel Position and Support, Customer Service Goal***

5. Are you satisfied with your work?
   - **100% stated they were satisfied with their work.**
   - **They like their job, the team they work with, the challenges**
   - **They are open to improvement**
   - **They feel planning is too litigious and professionals are asking for non-approvable requests**

   Recommendation: ***Management, Customer Service Goal***

6. What is outside your control that could improve your work?

- **Need dedicated County Counsel**
- **Central access to Countywide records**
- **Code amendments to improve process and simplify the land use system**
- **Public education**
- **Training**
- **More support from the BCC**
- **More use of digital application submittal, inspections, field photos, GPS**

Recommendation: ***Management, County Counsel Position and Support, Customer Service Goal***

Howe Mann Consulting

Report Attachment C5

Sean Malone <seanmalone8@hotmail.com> 5/28/2024 1:01 PM

Re: Howe Mann Consulting Land Use Attorney Interviews

To James Mann LLC <jamannllc@comcast.net> Copy Kent Howe <kenthoweplanning@gmail.com>

James,

Unfortunately, I am unable to participate in the interview for practical and policy reasons. The questions are not applicable to my work before the County, the questions have the potential to reduce staff's effectiveness and role in the land use process at a time when more and more responsibility is laid at their feet, and the interview appears to lack transparency.

The questions do not pertain to those that regularly participate in the land use system but do not regularly file applications before the County. The result of using questions aimed solely at applicants will result in one-sided answers. The questions also appear problematic because your direction is to address affordable housing, but the questions are not specific to dwelling applications. Furthermore, developing housing outside of an urban area will be inherently costly because of the lack of services (sewer, water, electricity, transportation, *etc*.), and it should not be mistaken with affordability of housing inside of an urban area where services are readily available. Inherent in the Board's direction is the problem that affordable housing is better met within urban areas than outside of urban areas for the simple fact that it is more efficient and cost-effective to do so within cities.

This brings me to my next point: the questions appear to be worded so as to put staff on the defensive against unsatisfied applicants, despite staff's excellent work and timely processing of applications. For example, in my most recent testimony before the Hearings Official, I noted that the staff did an excellent job in reviewing and plotting out the numerous conveyances that occurred across decades and a series of properties. That type of work product is exactly what is expected of staff, and, oftentimes, depending on the outcome, an applicant may be unhappy with staff's good work. To the extent the questions will result in less staff and less staff time devoted to processing applications, it is important to remember that Lane County recently found that false deeds and false property description cards were used to secure legal lot verifications, property line adjustments, and even a forest template dwelling, and the Court of Appeals laid the blame directly at the feet of staff because the staff person did not perform their due diligence. If you recommend that staff numbers are reduced or that staff spend less time on applications, then that will reduce the likelihood that staff will identify and prevent fraudulent documents in support of applications.

Moreover, the statistics maintained by staff show that staff is acting efficiently in processing applications, so it is unclear why staff would be the focus of almost every question. Staff is not the problem, and their expertise has nothing to do with cost of housing. Overall, according to LMD's own statistics, processing time for applications has improved. This is important because counties are statutorily obligated to take final action on an application within certain timelines. Staff is already under pressure to efficiently review applications and any reduction in staff numbers or review could result in the violation of statutory deadlines. Staff's role is significant, and their review can identify errors, omissions, and even fraud. Your review will have to draw a direct connection between the questions directed at staff and affordable housing, a connection that is not evident on its face.

Finally, I am concerned about the lack of transparency involved in this review. If your goal is to identify and present solutions to the Board of Commissioners regarding affordable housing in the county, then the information that will lead to those ends should be open to public review. You suggest that these interviews and answers will be confidential. Lack of transparency can result in a lack of trust in the outcome. For example, if criticism of staff is a result of not obtaining an approval for their application, then that criticism is not legitimate. Instead, it is simply an unhappy applicant criticizing staff, instead of taking responsible for their own actions and the actions of their consultants. If the study does not disclose the underlying information, then the results will be problematic. I cannot, in good faith, participate in your review unless the information is made available to the public and not kept confidential.

Please include this email in your submission and recommendation to the County Board of Commissioners.

Thank you,

Sean Malone
Attorney at Law
PO Box 1499
Eugene, OR 97440
ph. 303.859.0403
seanmalone8@hotmail.com

From: James Mann LLC <jamannllc@comcast.net>
Sent: Thursday, April 25, 2024 2:51 PM
To: seanmalone8@hotmail.com <seanmalone8@hotmail.com>
Cc: Kent Howe <kenthoweplanning@gmail.com>
Subject: Howe Mann Consulting Land Use Attorney Interviews

Hello Sean,

Kent Howe LLC and James A. Mann LLC, as Howe Mann Consulting, are working under a contract with Lane County to assess and make recommendations to help reduce barriers to affordable housing in rural Lane County. Part of our work will include confidential, fifteen to minute interviews with attorneys who have done land use work in Lane County and to hear your feedback to the attached list of questions. To maintain confidentiality, we will take notes regarding your responses and our notes will not be connected to names. So, we ask that you not email or hand your written responses to us. The results of our interviews will part of the Howe Mann Consulting report that will be presented the Lane County Board of Commissioners.

We can do the interviews by telephone next week during these times: Monday 2 - 4 P.M., Tuesday 2 - 4 P.M., or Wednesday through Friday 8 A.M. and 4 P.M. You may notify us by telephone or email regarding one or more meeting times that would work for you. I will also telephone you.

Thank you for your consideration and, we look forward to hearing from you and any helpful insights you might wish to share.

Sincerely,

James A. Mann LLC for Howe Mann Consulting
jamannllc@comcast.net
541-514-3051

Howe Mann Consulting

Report Attachment D1

Lane County Land Management Division 2024 Audit
Barriers to Affordable Housing

Howe Mann Consulting

FINDINGS and RECOMMENDATIONS report Attachment D1
from Literature Review

1. In 2019 the Oregon Legislature passed HB 2001 requiring cities with populations over 25,000 to adopt a middle-housing code to expand the ability of property owners to build certain housing types, like duplexes, in residential zones. In Lane County, this included the cities of Eugene and Springfield.

   Finding: This bipartisan bill passed to help provide Oregonians with more housing choices, especially housing choices more people can afford. Local rules have limited what sorts of housing people could build which has led to increased housing costs. The new law lets people build certain traditional housing types that already exist in most cities, instead of being limited to a single housing type. Because the composition of Oregon households is shifting (more than 25% of households today are a single person living alone), homebuyers have different needs over time (young adults verses a retired person). This bill requires cities to allow people to build duplexes, triplexes, fourplexes, cottage clusters, and townhouses in residential areas.

2. In 2019 the Oregon Legislature passed HB 2003 requiring cities with populations over 10,000 to study the future housing needs of their residents and to develop strategies that encourage the production of housing their resident's need.

   Finding: In Lane County, this bill is directed at the cities of Eugene, Springfield and Cottage Grove. These cities must analyze what housing is needed for current and future residents every six to eight years. Each city must adopt a housing production strategy within a year of completing the analysis. The strategy must list specific actions each city will take to promote the development of all identified housing needs. Oregon cities have long had to study their future housing needs when proposing to expand their Urban Growth Boundaries. The bill also authorizes cities to allow affordable housing to be built on public land inside urban growth boundaries, and allows multiple buildings for affordable housing to be built next to places of worship.

3. In 2020, Lane County and Better Housing Together published an Affordable Housing Action Plan. Recommendations included (among others):
   - Leverage Public Land for Housing
   - Initiate Required Planning for Large County-owned property
   - Lead Inter-jurisdictional Siting Collaboration to prioritize sites for Affordable Housing
   - Assess Public-Partnership and Public development potential on County-owned property
   - Create Property Development and First Right of Refusal Program to support land acquisition and new housing development
   - Expand Land Bank Program to 8-10 sites ready for State RFPs

   Finding: The Goal of the Affordable Housing Action Plan is to increase housing options and reduce the risk of homelessness. Recommendations of the Plan include loan programs, leveraging land for housing, and focusing on building smaller homes. The study found that close to 55% of Lane

County renters are considered cost-burdened by their housing, spending more than 30% of their income on their housing.

Finding: Rural and unincorporated communities present a particular challenge to housing affordability. Minimal economic pressure and non-urban land regulations limit the range of housing options available. Rural communities have also traditionally skewed toward ownership rather than rental housing, which is even less accessible to low- and moderate-income households.

Finding: Almost half of Lane County's population is within the Eugene- Springfield metropolitan service area, but Lane County includes 23 smaller, unincorporated communities. Housing recommendations for rural communities are scaled to the context and accessory dwellings are a recurring type. Co-op tiny home clusters and affordable rural ADUs modeled after the Hacienda Small House program can add meaningful capacity.

4. In 2021, the Oregon Legislature directed the Department of Land Conservation and Development (DLCD), in partnership with Oregon Housing and Community Services (OHCS), to prepare a set of recommendations to modernize how local cities and counties plan for housing in a manner that results in more affordable, fair, and equitable housing outcomes. That year, ECONorthwest published The Regional Housing Needs Analysis with recommendations that the Legislature should make statutory changes necessary to make needed urban growth boundary (UGB) expansions more efficient and certain and support housing production within the UGB.

   Finding: The Regional Housing Needs Analysis (RHNA) provided a comprehensive look at statewide housing needs, including projected housing to accommodate 20 years of population growth, underproduction of housing to accommodate the current population, and units needed for those who are experiencing homelessness. It provides a city-by-city estimate of housing needs by income, along with data and information about how local housing outcomes vary by race and ethnicity, age, disability status, and other identity markers. The RHNA estimated that Lane County needed over 1,600 single family homes and 1,200 multifamily units outside of UGBs.

5. In early 2022, Oregon Housing and Community Services and the Department of Land Conservation and Development developed a framework document, titled Meeting Oregon's Housing Needs: Next Steps for Equitable Housing Production.

   Finding: This framework document provides a new methodology to be incorporated into the state's Goal 10 processes that builds on the recommendations of the 2021 Regional Housing Needs Analysis which makes urban growth boundary (UGB) expansions more efficient and certain and support housing production within the UGB.

   Summary reports produced by Oregon Housing and Community Services and the Department of Land Conservation and Development found that the current system "chronically underestimates housing need, especially for lower-income households, does not identify or enforce the responsibilities of local governments to comprehensively address housing need, and perpetuates geographic patterns of racial and economic segregation, exclusion, and inequity".

   Finding: Oregon has been dramatically under-building housing for decades. We are already 140,000 homes behind in meeting the housing demand of a growing population and would need to double the pace of production in the next five years to dig our way out. Resulting in rising housing costs, more unhoused people, and fewer choices for individuals and families trying to make ends

meet. As prices rise, households with lower incomes and communities of color are disproportionately impacted.

The recent legislation was designed to help bring more diverse, affordable housing choices by jurisdictions across the state by analyzing the housing needs and documenting implementation strategies to close the gap between housing need and production. Finding: Over the next 20 years, Oregon's communities will need to add more than 580,000 units, nearly 30% of which will house Oregon's lowest income residents and will require public funding.

The Legislature could specify that local jurisdictions use projections and affordability thresholds provided by the Oregon Housing Needs Analysis instead of locally produced projections of housing need. Then plan and zone locally based on their share of population and economic growth, as well as the previous underproduction and inequitable distribution of housing. The resulting zoned capacity would provide the land supply needed to implement the Housing Production Strategy. This would improve on the existing Goal 10 process by ensuring that land use plans provide sufficient zoned capacity to accommodate the full housing needed to implement the Housing Production Strategy.

6. In late 2022, the Department of Land Conservation and Development and Oregon Housing and Community Services published the Oregon Housing Needs Analysis. This effort culminates in recommendations on how the state of Oregon, and its communities, can work together to make real progress in addressing Oregon's housing crisis by supporting cities Housing Production Strategies that promote equitable housing production and overcome locally specific development barriers.

   Finding: The cities would craft Housing Production Strategies that promote equitable housing production and overcome locally specific development barriers, streamline UGB amendments, the Legislature would establish a Housing Production Team to help cities build on challenging development sites, remove barriers, and focus state resources.

7. In early 2023, Governor Kotek signed Executive Order 23-04 setting a statewide housing production goal of 36,000 homes per year over the next 10 years and established the Housing Production Advisory Council to develop comprehensive budget and policy recommendations.

   Finding: It states that insufficient investment in affordable housing at all levels of government, and especially the federal level, has resulted in the severe shortage of affordable housing in the State of Oregon. People are currently becoming homeless faster than the state has been able to rehouse people living outside. It requires more than 50% of the annual statewide production target must be affordable to households making less than 80% of the Area Median Income to meet the need and would require a public subsidy. The lack of affordable housing is exacerbating the state's workforce shortages, impacting healthcare, public safety, education, and business.

8. August 1, 2023, The Register-Guard, What can be done to help Oregon's housing shortage? April Ehrlich, Oregon Public Broadcasting
   "Across the state – from big and mid-sized cities to small, rural towns – Oregonians are straining under the pressure of an increasingly unaffordable housing market."
   "Renters are the hardest hit. More than half of renters in the state don't have enough money after paying rent to afford other basics, including food, child care, internet access and transportation. Because the state's housing inventory is so limited – Oregon simply doesn't have enough units for the people who need them – there are limited rental vacancies, so landlords can raise rents with few repercussions.

Finding: As a result, **Oregon is among states with the lowest supply of rentals that are affordable to people at or below poverty levels.** (A unit is considered affordable if it costs someone 30% or less of their income."
"We have the worst affordability, said state economist Josh Lehner."
"As housing has become more unaffordable, more people have been pushed into homelessness."
Finding: **In a 2022 national homelessness report, Oregon had a 22% increase in people experiencing homelessness between 2020 and 2022 – the second highest increase in the country, behind California. An additional 2,591 people in Oregon became homeless during those two years."**
"Housing experts say homelessness is intertwined with the availability of affordable housing in a given area. And the crux of Oregon's housing affordability issues, Lehner and other local researchers say, is decades of underproduction.
Finding: **Oregon ranks fourth in underproducing housing, behind California, Colorado, and Utah."**
"It's tempting to oversimplify how Oregon's housing market failed to keep up with demand. Some people blame the state's stringent land-use laws for restricting the ability to expand where new construction could go. Other's blame the private sector's control of real estate, or developers who only want to build large single-family homes, or bureaucratic permitting processes."
"It's a really complex issue, and there are all these different parts, and pointing the finger at one thing – that's what makes us lose sight of the overall systematic issues", said Rebecca Lewis, an associate professor in planning, public policy and management at the University of Oregon.
Finding: "**Lewis is among several researchers who have been digging into studies and data to help policymakers figure out how Oregon reached a point of being 140,000 housing units short of what's needed**".
Finding: "**…researchers published the Oregon Housing Needs Analysis, saying the state needed to build 555,000 more housing units to meet demand over the next 20 years. In response to the report, Gov. Tina Kotek, just after taking office, issued three states of emergency related to housing, and called on the state to build 36,000 homes a year – an 80% increase from current production.**"
Finding: "**In 2023, Lawmakers passed a massive $200 million package to help cities address the housing crisis. In addition to money for homelessness services and to help people stay in their current homes, the package requires cities to set building targets for buyers at different income levels, and it streamlines the process for expanding urban growth boundaries."**
Finding: "**While experts agree that Oregon needs more housing for people at all income levels, the biggest hole the state must fix is affordable housing.** That is something the state can't rely on the private sector to build, not without financial incentives."
"The Oregon Housing Needs Analysis calls on lawmakers to make significant investments in publicly supported affordable housing."
"Builders can't just plop a housing subdivision on an empty piece of land. They need what's called 'buildable land' – that is, land that has access to water, sewer, roads and electricity. It's usually up to cities and counties to provide that infrastructure. But, many local governments can hardly afford maintaining the infrastructure they already have."
"Sewer systems degrade, asphalt needs to be repaved, and so on, and cities are going to face a huge financial obligation to do the capital improvements and maintenance on those facilities, said Robert Parker, co-director of the Institute for Policy Research and Engagement at the University of Oregon."
Finding: "**Many Oregon cities and counties have relaxed ordinances related to accessory dwelling units on single-family lots."**

9. **January 2, 2024, The Oregonian**, Oregon has 3rd highest homelessness rate in the country, Nicole Hayden

"Oregon has the third highest rate of homelessness in the nation, trailing only New York and Vermont, according to a new federal count of homeless individuals in 2023. … The lack of affordable housing is a significant factor." "Between 2022 and 2023, the number of unhoused families in Oregon rose 16%." Since the federal government began requiring data collection, Oregon has frequently reported the highest rate of unsheltered family homelessness in the nation…"
"Where the homeless crisis is most pervasive, California, Washington, Oregon and New York, the housing and rental costs are greatest in the country.

10. April 21, 2024, The New York Times, One Town's Homelessness Fight Could Reshape a National Crisis, Abbie Vansickle
"Grants Pass, Ore. – "After Grants Pass stepped up enforcement of local ordinances that banned sleeping and camping in public spaces by ticketing, fining and jailing the homeless, lower courts ruled that it amounted to 'cruel and unusual punishment' by penalizing people who had nowhere else to go."
"Many states and cities that are increasingly overwhelmed by homelessness are hoping the Supreme Court overturns that decision – or severely limits it. They argue that it has crippled their efforts to address sprawling encampments, rampant public drug use and fearful constituents who say they cannot safely use public spaces."
Finding: "Homelessness across the country climbed to the highest total on record last year, increasing by 12% to more than 650,000 people, according to a count by the federal government."
Finding: "In 2018, the appeals court, in a case from Boise, Idaho, ruled that penalizing someone for sleeping outdoors if no shelter beds were available was a violation of the Eighth Amendment's protection against cruel and unusual punishment."
Finding: "Mayor Sara Bristol, a registered independent who survived a recall campaign by residents angry about the homeless people camping in the parks, acknowledged the difficulties of a comprehensive solution given that more systemic issues were often at play… I do believe the people are local people. I see that they are in many cases older or disabled. They're not people who could just go get a job and find housing."

11. April 23, 2024, The Register-Guard, Homeless people fight Oregon city's ordinances, Andrew Chung and John Kruzel, Reuters
Finding: "The case involves an anti-vagrancy policy in Grants Pass, Oregon. The city is appealing a lower court's ruling that enforcing these anti-camping ordinances against homeless people when there is no shelter space available violates the U.S. Constitution's Eighth Amendment prohibition on cruel and unusual punishment."
Finding: "Advocates for the homeless, various liberal legal groups and other critics have said laws like these criminalize people simply for being homeless and for actions they can't avoid, such as sleeping in public."
Finding: "All the ordinances do is turn the city's homelessness problem into someone else's problem by forcing its homeless residents into other jurisdictions."

12. April 29, 2024, The Register-Guard, Lane County Commission Candidates Talk About the Issues, Alan Torres
"What strategies or policies do you support to increase housing affordability and/or supply in Lane County?
Finding: Commissioner Farr: … Continuing Lane County's role in helping with denser infill of residences inside urban growth boundaries through property tax incentives for multi-unit properties and considering Lane County owned land inside UGB's, including Market District Commons, on former underutilized land. Ensuring that, while working inside Oregon's strict land use codes,

residential opportunities are allowed in Rural Residential zoned areas including allowed Additional Dwelling Units (ADU)."

13. June 3, 2024, The Register-Guard, Lawmakers hear update on Kotek's housing plan for Oregon, Hannarose McGuiness
    Finding: "The housing production framework stands on six pillars: tracking statewide housing production outcomes, maintaining existing housing investments, procuring land and preparing it for housing, reducing complexities and costs associated with housing, funding programs supporting housing and developing a stronger workforce for planning, permitting and construction of housing."
    "The committee also discussed modular and manufactured housing and rural housing development… the Small Home Specialty Codes, set to expire in 2026, will integrate small homes into the State Building Code, making them eligible for the Prefabricated Structures Program."

14. June 5, 2024, The Register-Guard, Report: Oregon exceeds housing goals, Hannarose McGuiness
    Finding: "Last year marked the largest housing investment from the Oregon legislature to support efforts to support the state housing crisis. This legislative investment provided $1.14 billion toward housing supply solutions, emergency homelessness response, community homeless resources, home ownership resources…"
    "…Oregon Housing and Community Services surpassed the actionable goals the governor set in place."
    "Work done by the OHCS and partner agencies throughout 2023 resulted in the creation of 1,047 low-barrier shelter beds, the rehousing of 1,426 unsheltered households and the prevention of 9,024 households from experiencing homelessness."

15. June 9, 2024, Insider Monkey, The Top City with the Highest Homeless Population Per Capita in the US, Laiba Immad
    "The methodology analyzed the 2022 report from the City Mayors Society to determine which 25 US cities have the largest per capita number of homeless people."
    Finding: "Eugene, Oregon tops the list for being one of the cities with the highest homeless population per capita in the US with around 432 per 100,000 people being homeless. Around 44% (1,182) of the 2,690 homeless adults aged 25-64 in Eugene were experiencing chronic homelessness in January 2022. In total, 73% of homeless people in the Eugene area live unsheltered which is one of the highest rates in the country."

Recommendations:
The legislation adopted in 2019 (HB 2001 and HB 2003) does not apply to rural areas outside Urban Growth Boundaries in Lane County. However, the Board of County Commissioners can support the city's study of their future housings needs and resulting Urban Growth Boundary expansion proposals for affordable housing.

The Board of County Commissioners can support the cities of Eugene and Springfield when they co-adopt their Comprehensive Plans to adopt a middle-housing code to further the city's efforts to achieve more affordable, fair and equitable housing outcomes for Lane County within their Urban Growth Boundaries.

The Board of County Commissioners can further the city's efforts to achieve more affordable, fair and equitable housing outcomes within Lane County by supporting their UGB expansion proposals for housing production within the city's UGBs, consistent with the Housing Production Strategy, and supporting the city's subsidy programs.

The Board of County Commissioners can further the city's efforts to achieve more affordable, fair and equitable housing outcomes within Lane County by continuing Lane County's role in helping with denser infill of residences inside urban growth boundaries through property tax incentives for multi-unit properties and considering Lane County owned land inside UGB's.

The Board of County Commissioners can further the County's efforts to achieve more affordable, fair and equitable housing outcomes within Lane County by ensuring that, while working inside Oregon's strict land use codes, residential opportunities are allowed in Rural Residential zoned areas include allowing Accessory Dwelling Units (ADUs).

Howe Mann Consulting

Report Attachment E1

Chapter 16

LANE COUNTY LAND USE AND DEVELOPMENT CODE

INTRODUCTORY AND GENERAL PROVISIONS

16.001 Authority~~.~~, Title and Legislative History.

(1) This chapter is enacted pursuant to the provisions of ORS Chapters 92, 197, 203, 215 and the Lane County Home Rule Charter. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

~~**16.002 Title and Legislative History.**~~

~~(1)~~**(2)** This chapter shall be known as the Lane County Land Use and Development Code.

~~(2)~~**(3)** Legislative History Ordinance #7-87. On June 17, 1987, by and through Ordinance #7-87, the Board of County Commissioners adopted omnibus changes to LC Chapter 16. Because of the magnitude of the changes, it was not feasible to recreate changes on each page of the chapter. A copy of said changes remain on permanent file in the office of the Board of County Commissioners, County Counsel and Land Management Division of the Department of Public Works. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.002 Preamble.

(1) Affordable Housing: There is a direct correlation between an increase in the supply of homes and the affordability of homes. There is also a direct correlation between affordable housing and home ownership. There are many benefits to increasing the supply of homes resulting in home ownership, including:

(a) Creating wealth and economic stability for all homeowners regardless of race, education, or income.

(b) Leading to better education outcomes, including higher rates of graduation and college attendance, especially among children of low-income homeowners.

(c) Promoting civic and social engagement regardless of income level.

(d) Improving physical and mental health.

(e) Reducing energy consumption and energy burden.

(2) Private property rights are one of the pillars of our legal system. The Fifth Amendment of the United States Constitution prohibits the government from taking private property without providing fair compensation in exchange. The Fourteenth Amendment states that no state shall deprive a person of life, liberty, or property without due process of law. Article I, Section 18 of the Oregon Constitution states that private property shall not be taken for public use without just compensation first assessed and tendered.

16.003 Purpose.

This chapter is designed to provide and coordinate regulations in Lane County governing the development and use of lands ~~to implement~~**consistent with the Fifth and Fourteenth Amendments of the United States Constitution, Article I, Section 18 of the Oregon Constitution, and** the Lane County Rural Comprehensive Plan. To these ends, it is the purpose of this chapter to:

(1) Encourage the provision of housing in quantities sufficient to ensure affordable housing and to allow all citizens some reasonable choice in the selection of a place to live.

(2) Protect private property rights.

~~(1)~~**(3)** Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

~~(2)~~**(4)** Protect**, strengthen** and diversify the economy of the County.

~~(3)~~**(5)** Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.

~~(4)~~**(6)** Conserve farm and forest lands for the production of crops, livestock and timber products.

~~(1) Encourage the provision of affordable housing in quantities sufficient to allow all citizens some reasonable choice in the selection of a place to live.~~

~~(6)~~**(7)** Conserve all forms of energy through sound economical use of land and land uses developed

on the land.

~~(7)~~**(8)** Provide for the orderly and efficient transition from rural to urban land use.

~~(8)~~**(9)** Provide for the ultimate development and arrangement of efficient public services and facilities within the County.

~~(9)~~**(10)** Provide for and encourage a safe, convenient and economic transportation system within the County.

~~(10)~~**(11)** Protect the quality of the air, water and land resources of the County.

~~(11)~~**(12)** Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

~~(12)~~**(13)** Provide for the recreational needs of residents of Lane County and visitors to the County.

~~(13)~~**(14)** Conserve open space and protect historic, cultural, natural and scenic resources.

~~(14)~~**(15)** Protect, maintain, and where appropriate, develop and restore the estuaries, coastal shorelands, coastal beach and dune area and to conserve the nearshore ocean and continental shelf of Lane County. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.004 Scope and Compliance.

(1) A tract of land may be used or developed, by land division or otherwise, and a structure may be used or developed, by construction, reconstruction, alteration, occupancy or otherwise, only as this chapter permits.

(2) In addition to complying with the criteria and other provisions within this chapter, each development shall comply with the applicable standards adopted and published by the ~~Director.~~**Board of Commissioners.**

(3) The requirements of this chapter apply to the person undertaking a development or the user of a development and to the person's or user's successors in interest.

(4) Prior to the zoning or rezoning of land under this chapter, which will result in the potential for additional parcelization, subdivision or water demands or intensification of uses beyond normal single-family residential equivalent water usage, all requirements to affirmatively demonstrate adequacy of long-term water supply must be met as described in LC 13.080(1)(n).

(5) Prior to the zoning or rezoning of land under this chapter, for lands situated within the designated community areas listed below, an affirmative conclusion stating the reasoning and facts relied upon, must be made that densities allowed by the proposed rezoning are low enough to provide reasonable assurance that any existing sewage problems will not be further aggravated by development of the subject property:

(a) Cheshire.
(b) Elmira.
(c) Goshen.
(d) Heceta.
(e) Mapleton.
(f) Marcola.
(g) Vaughn. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 18-07, 12.27.18)*

16.005 Use of a Development.

(1) A Development May Be Used Only For a Lawful Use. A lawful use is a use that is not prohibited by law or which is nonconforming pursuant to LC 16.251 below of this chapter.

(2) Grading, Excavation and Clearing. Grading and clearing by mechanical equipment for either road and/or development purposes may be restricted or regulated by the Approval Authority either at the time of approval of a development permit or of an application if there is a finding that such grading or clearing presents a real threat of pollution, contamination, silting of water bodies or water supplies, erosion and slide damage, or alteration of natural drainage patterns in the area. In all cases, excessive grading, excavation and clearing shall be avoided when detrimental to soil stability and erosion control. The character of soils for fills and the characteristics of parcels or lots made usable by means of fill shall be suitable for the intended purpose.

(3) Conditions. The following conditions may be imposed at the time of approval of a development for which a permit or application is required and for which a finding has been made as required

in LC 16.005(2) above in order to ensure site and area stability:

(a) Maintain vegetation and eliminate widespread destruction of vegetation.

(b) Carefully design new roads and buildings with respect to:

(i) Placement of roads and structures on the surface topography.

(ii) Surface drainage on and around the site.

(iii) Drainage from buildings and road surfaces.

(iv) Placement of septic tank disposal fields.

(c) Careful construction of roads and buildings:

(i) Avoid cutting toeslopes of slump blocks.

(ii) Careful grading around the site, especially avoiding oversteepened cut banks.

(iii) Revegetating disturbed areas as soon as possible.

(d) Certification by a geologist or engineer that the above conditions have been complied with and/or that a hazard does not exist.

(4) Sensitive Bird Habitat Protection Standards and Criteria. All uses or activities permitted or conditionally permitted within the zones identified in LC 16.005(4)(a) below shall be subject to the additional procedures and requirements in LC 16.005(4)(b)-(g) below, provided such uses are located on property identified as a sensitive bird habitat area via Rural Comprehensive Plan Flora and Fauna Policy 18 and LM 11.400.

(a) Applicable Zones.

Zone Classification	Abbreviation	Section No.
Nonimpacted Forest Lands	F-1, RCP	16.210
Impacted Forest Lands	F-2, RCP	16.211
Exclusive Farm Use	E-RCP	16.212
Natural Resource	NR-RCP	16.213
Marginal Lands	ML-RCP	16.214
Park and Recreation	PR-RCP	16.215
Sand, Gravel and Rock Products	SG-RCP	16.217
Sand, Gravel and Rock Products Combining Processing	SG-CP-RCP	16.218
Public Facility	PF-RCP	16.219
Limited Commercial	C-1, RCP	16.220
Neighborhood Commercial	C-2, RCP	16.221
Commercial	C-3, RCP	16.222
Rural Commercial	C-R, RCP	16.223
Limited Industrial	M-1, RCP	16.224
Light Industrial	M-2, RCP	16.225
Heavy Industrial	M-3, RCP	16.226
Inmate Work Camp	IWC, RCP	16.227
Suburban Residential	RA-RCP	16.229
Garden Apartment Residential	RG-RCP	16.230
Rural Residential	RR-RCP	16.231
Destination Resort	DR-RCP	16.232
Clear Lake Watershed Protection	CLWP-RCP	16.258

(b) Development Plan Submittal. The person proposing the development shall submit plans to the Department which sufficiently identify the location, nature and scope of the proposed use or activity.

(c) Referral. Upon receipt of the plans identified in LC 16.005(4)(b) above, the Department shall refer a copy of the plans to the Oregon Department of Fish and Wildlife (ODFW).

(d) ODFW Review. Upon receipt of the plans identified in LC 16.005(4)(b) above, the ODFW shall review the proposed use of activity and make a determination of whether or not the use or activity would affect a sensitive bird habitat. In making this review and determination, the ODFW shall consult with the affected landowner(s) and appropriate state agencies, and shall address the standards in LC 16.005(4)(d)(i) and (ii) below. The basis for the determination shall be stated in writing, completed within

seven working days of receipt, and then submitted to the Department (Lane County).

(i) A sensitive bird habitat will be considered affected by a use or activity if the use or activity is located within 660 feet of an eagle or osprey site or within 300 feet of a heron rookery or pigeon mineral spring.

(ii) A sensitive bird habitat may also be considered affected by a use or activity if the use or activity is located a greater distance than specified in LC 16.005(4)(d)(i) above, considering unique conditions of topography or the individual habits of the bird(s).

(e) No Affects Determined. If the ODFW determines that the sensitive habitat area will not be affected, then the ODFW will give the Department written notice of its determination, and Lane County may proceed with authorization of the use or activity, or with the processing of any other required applications.

(f) Affects Determined and Protection Plan. If the ODFW determines that the sensitive habitat area will be affected, the ODFW shall work with the affected landowner(s) in the development of a site specific habitat protection plan. The plan shall consider the proposed use or activity and its interrelationship to and affects upon nesting trees, perch trees, critical nesting period roosting sites and/or buffers for wind, vision and noise. The plan must contain a statement of reasons, supported by facts, explaining why the sensitive bird habitat would not be adversely affected by the proposed use or activity. The plan shall then be submitted to the Department.

(g) Director Approval. The proposed uses or activities identified in the habitat protection plan shall be reviewed using Type II procedures of LC Chapter 14 and shall be allowed if in conformance with the following approval criteria:

(i) The proposed use or activity would not adversely impact a sensitive wildlife habitat.

(ii) Conditions placed upon the approval of the habitat protection plan would avoid or eliminate any adverse impacts upon a sensitive wildlife habitat. Conditions may include setbacks, limitations upon the time period for the operation of the use or activity and/or prohibition of conflicting uses.

(h) LC 16.005(4)(a)-(g) do not apply to the protection of sensitive bird habitat from forest practices as regulated by the Forest Practices Act and as regulated by the COOPERATIVE AGREEMENT BETWEEN OREGON STATE BOARD OF FORESTRY AND OREGON STATE FISH AND WILDLIFE COMMISSION as adopted by Lane County in Rural Comprehensive Plan Goal 5 Flora and Fauna Policy 17.

(5) Scenic Byway/Tour Route Off-Premise Sign Requirements. New or relocated off-premise signs shall not be allowed on any property adjacent to or within 660 feet of any designated state scenic byway or tour route recognized by the Board and listed in LC 16.005(5), below. "Off-Premise Sign" means a sign designed, intended or used to advertise, inform or attract the attention to the public as to: goods, products or services which are not sold, manufactured or distributed on or from the premises on which the sign is located; facilities not located on the premises on which the sign is located; or activities not conducted on the premises on which the sign is located.

(a) The South Lane Tour Route as specifically identified in Ordinance No. 10-99. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 17-87, 12.25.87; 12-90, 10.11.90; 11-91A, 8.30.91; 6-98, 12.2.98; 10-99, 1.15.00; 7-10, 11.26.10; 20-05, 6.16.20)*

16.006 Compliance Required.

(1) No person shall engage in, or cause to occur, a development which does not comply with the Lane County Land Use and Development Chapter. **Notwithstanding the foregoing, this chapter does not prohibit, and a dwelling is allowed, if the development complies with all relevant State of Oregon legislation, rules and regulations.**

(2) A development shall be approved by the Director, or other Approving Authority, according to the provisions of this chapter.

(3) Unless appealed, a decision on any application shall be final upon expiration of the period provided for filing an appeal or, if appealed, upon rendering of the decision by the reviewing body. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.007 Compliance With Rural Comprehensive Plan.

In the event of any conflict between any provision of this chapter and provisions of the Rural Comprehensive

Plan of Lane County, or duly adopted portions, elements or amendments of such Plan, the more restrictive Provisions shall prevail. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.008 Interpretation.

~~When~~ In the administration of this chapter **all provisions shall be construed strictly in favor of the property owner, and in the absence of express words, it will be presumed that the provisions are not intended to interfere with or prejudice private property rights. If after applying the foregoing rule of strict construction,** there ~~is~~**continues to be a** doubt regarding ~~the intent of the~~ **this** chapter**, or any provision thereof,** or the suitability of uses not specified, the Director **or the Hearings Official** shall request an interpretation of the ~~provision~~ **ambiguous provisions** by the Board of County Commissioners**, provided, however, that an applicant in the proceeding extends the deadline for making the decision to allow the Board's consideration**. The Board shall issue an interpretation to resolve the doubt, but such interpretation shall not have the effect of amending the provisions of this chapter. Any interpretation of the chapter shall be deemed an administrative action and shall be based on the following considerations~~:~~ **in the following order:**

(1) The Fifth and Fourteenth Amendments of the United States Constitution and Article 1, Section 18 of the Oregon Constitution, and the Lane County Comprehensive Plan.

(2) The rule of strict construction described above.

(3) The purpose and intent of the chapter as applied to the particular section in question.

~~(1) The opinion of the County Counsel. Copies of such interpretations shall be indexed and kept on file in the Department and may be reviewed by the public upon request.~~ *~~(Revised by Ordinance No. 7-87, Effective 6.17.87)~~*

~~**16.009 Restrictiveness.**~~

~~Where the conditions imposed by a provision of this chapter overlap, the provisions which are more restrictive shall govern. (Revised by Ordinance No. 7-87, Effective 6.17.87)~~

16.009 Presumptions.

In the administration of this chapter, absent credible and contradictory evidence to the contrary, the following presumptions will apply:

(1) Owners of the subject property have obeyed and acted in compliance with the law.

(2) Real property transactions are legal, fair, regular, and in compliance with the law.

(3) Official duties have been performed.

(4) The ordinary course of business has been followed.

(5) Conveyed tracts created by filed subdivisions prior to 1949 are lawfully created units of land.

(6) Deeds executed prior to 1949 conveying multiple separately listed or identified units of land create lawful and separate tracts.

(7) Information, testimony, or evidence submitted by a property owner is truthful.

16.010 Severability.

If any section, paragraph, subsection, clause, sentence or provision of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate or nullify the remainder of this chapter, and the effect thereof shall be confined to the section, paragraph, subsection, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this chapter notwithstanding the parts so declared unconstitutional or invalid. Further, should any section, paragraph, subsection, clause, sentence or provision of this chapter be judicially declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration or judgment shall not affect, impair, invalidate or nullify such section, paragraph, subsection, clause, sentence or provision as to any other premises or use. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.011 Introductory Provisions.

In order to achieve the purposes outlined in LC 16.003, and to assure that the development and use of land in

Lane County conforms to the Rural Comprehensive Plan, zone classifications have been established for all unincorporated areas outside of adopted urban growth boundaries and within Lane County. These zones specify regulations for the use of land and property development standards, and use applied by boundaries indicated on the Lane County Rural Comprehensive Plan Zoning Maps. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.012 Zone Classifications.
For the purpose of this chapter of Lane Code, the following zones are hereby established:

Zone Classification	Abbreviation	Section No.
Nonimpacted Forest Lands	F-1, RCP	16.210
Impacted Forest Lands	F-2, RCP	16.211
Exclusive Farm Use	E-RCP	16.212
Natural Resource	NR-RCP	16.213
Marginal Lands	ML RCP	16.214
Park and Recreation	PR-RCP	16.215
Quarry and Mining Operations	QM-RCP	16.216
Sand, Gravel and Rock Products	SG-RCP	16.217
Sand, Gravel and Rock Products Combining Processing	SG-CP-RCP	16.218
Public Facility	PF-RCP	16.219
Limited Commercial	C-1, RCP	16.220
Neighborhood Commercial	C-2, RCP	16.221
Commercial	C-3, RCP	16.222
Rural Commercial	C-R, RCP	16.223
Limited Industrial	M-1, RCP	16.224
Light Industrial	M-2, RCP	16.225
Heavy Industrial	M-3, RCP	16.226
Inmate Work Camp	IWC, RCP	16.227
Suburban Residential	RA-RCP	16.229
Garden Apartment Residential	RG-RCP	16.230
Rural Residential	RR-RCP	16.231
Destination Resort	DR-RCP	16.232
Historic Structures or Sites Combining	/H-RCP	16.233
Natural Estuary	/NE-RCP	16.234
Conservation Estuary	/CE-RCP	16.235
Development Estuary	DE-RCP	16.236
Significant Natural Shorelands Combining	/SN-RCP	16.237
Prime Wildlife Shorelands Combining	/PW-RCP	16.238
Natural Resources Conservation Combining	/NRC-RCP	16.239
Residential Development Shorelands Combining	/RD-RCP	16.240
Shorelands Mixed Development Combining	/MD-RCP	16.241
Dredge Material/Mitigation Site Combining	/DMS-RCP	16.242
Beaches and Dunes Combining	/BD-RCP	16.243
Floodplain Combining	/FP-RCP	16.244
Commercial Airport Safety District	/CAS-RCP	16.245
Airport Safety District	/AS-RCP	16.246
Airport Operation	AO-RCP	16.247
Clear Lake Watershed Protection	CLWP-RCP	16.258
Rural Residential	RR, RCP	16.290
Rural Commercial	RC, RLP	16.291
Rural Industrial	RI, RCP	16.292
Rural Public Facility	RPF, RCP	16.294
Rural Park and Recreation	RPR, RCP	16.295

Private Use Airport Overlay	/PUAO-RCP	16.296
Interchange Area Management Plan Combing Zone	/IAMP-RCP	16.297

(Revised by Ordinance No. 7-87, Effective 6.17.87; 17-87, 12.25.87; 12-90, 10.11.90; 11-91A, 8.30.91; 6-98, 12.2.98; 6-02, 5.16.02; 15-07, 2.1.08; 6-11, 7.21.11)

16.013 Location of Zones.
The boundaries of the zones indicated on the Lane County Zoning Maps are hereby adopted by reference. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.014 Plan Designation and Zoning Maps.

(1) Official plan designation and zone maps for Lane County shall consist of county-wide maps and detailed township and range-based maps. County-wide maps will indicate plan designation and zoning where an entire township and range is in a single plan designation or zone. Detailed maps shall be maintained for each township and range (i.e., township 18, south, range 05, west) that contains more than one plan or zone designation. The plan designation and zone boundaries depicted on the official maps may be modified in accordance with the procedures set forth in LC 16.015(1) – (3).

(2) The official plan designation and zone maps shall be maintained by the Planning Director in the offices of the Land Management Division. A digital layer of the adopted plan and zone maps shall be maintained within the Lane County geographic information system. These digital layers shall be identical to the official adopted paper maps but whenever a discrepancy arises between the digital layers and the adopted paper maps, the paper maps shall be considered the authoritative source.

(3) Official adopted maps will be 46 x 36 inches overall and in full color. The scale of official maps shall be 1":1000'. Working maps may be developed at a different size and scale.

(4) Each adopted official map shall contain the following information:

(a) Map location reference (i.e. Township 18, South, Range 05, West).

(b) Location reference map inset.

(c) North arrow.

(d) Plan designation or zoning legend.

(e) Section legend.

(f) Scale.

(g) Title (Official Lane County Plan Map; or Official Lane County Zoning Map; or Official Lane County Coastal Zoning Map).

(h) Adoption/Revision tracking table containing: revision or adoption number, ordinance or order number, planning action number, effective date of map amendment and revision description.

(5) To the maximum extent feasible, plan designation and zone boundaries shall follow features recognizable or reproducible. Line preference shall be given to going from a known point to a known point (i.e., property corner, section corner, etc.). In the event a zone boundary does not or cannot conform to the above, angle points and intersection points of that boundary shall be annotated with the coordinates of the points or with the distance and bearing of the boundary.

(6) Where uncertainty exists as to the boundaries of any zone shown upon the Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

(b) Boundaries indicated as approximately following property lines shall be construed as following such property lines.

(c) Boundaries indicated as approximately following the city limits shall be construed as following such city limits.

(d) Boundaries indicated as following railroad lines and public utility easements and right of ways shall be construed to be midway between the main tracks or the utility easements or the right of way, whichever is applicable.

(e) Boundaries indicated as parallel to or extensions of features indicated in LC 16.014(6)(a) through (d) above shall be so construed.

(f) Boundaries indicated as following shorelines shall be construed as following the ordinary low waterline, except where the body of water is specifically zoned Natural Estuary (/NE-RCP), Conservation Estuary (/CE-RCP) or Development Estuary (/DE-RCP), in which case the boundary shall be construed as following the ordinary high waterline. In the event of a change of high or low waterline, the boundary will follow that line no matter how it shifts.

(g) Where zones are separated by a river, lake, reservoir or other body of water, the boundary between the zones shall be construed as being the centerline of such body of water. No matter how such centerline may shift, the boundary shall remain the centerline as shifted.

(h) Except as hereinafter noted, where a zone boundary divides an ownership of property, unless the same is indicated by dimensions, map coordinates or similar notation, the boundary shall be determined by the use of the scale appearing on the Official Zoning Map. In the case of the /SN-RCP, /PW-RCP, /NRC-RCP, /RD-RCP, /MD-RCP, /DMS-RCP and /BD-RCP Zones and the /NE-RCP, /CE-RCP and /DE-RCP Zones, the boundaries shall be determined through interpretation of the Coastal Resources Management Plan.

(i) Where physical features existing on the ground are at variance with those shown on the Zoning Map or in other circumstances not covered by LC 16.014(6)(a) through (h) above, the Planning Director shall interpret the zone boundaries.

(j) Treatment of Vacated Property. Where a public street or alley is officially vacated, the Zone requirements applicable to the property to which the vacated area becomes a part shall apply to the vacated property.

(k) Where zoning boundaries follow the centerline of a public utility easement or railroad right of way that has been officially vacated or conveyed, the Zone requirements applicable to the property to which the vacated or conveyed area becomes a part shall apply to the vacated or conveyed area previously part of the easement or right of way. Adjustments of zone boundaries due to a conveyance described in LC 16.014(6)(k) shall occur only upon the initial conveyance. Future conveyances or property line adjustments shall not change the zone boundaries. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 5-08, 7.11.08)*

16.015 Amendments to the Lane County Plan Designation and Zoning Maps.

(1) All amendments to the Lane County Zoning and Plan Maps shall be made by Ordinance, for legislative matters, and by Order or Ordinance, for quasi-judicial matters, of the Approval Authority as specified in this chapter of Lane Code.

(2) The official adopted plan designation and zone maps shall be amended as follows:

(a) A working copy of the map to be amended shall be modified and annotated to describe the proposed amendments.

(b) Upon the effective date of the adopted amendments, the Planning Director will produce an official paper map. This map will reflect the adopted amendments and will contain the information required in LC 16.015(3). On the same date that the official paper map is created, the Planning Director will also update the corresponding map layer in the Lane County geographic information systems to reflect the amendment.

(c) The Planning Director will maintain an historical digital copy of all zone and plan maps amended pursuant to LC 16.015(1) on permanent media, such as a CD. Metadata for these maps shall be annotated to include the date range that the maps were in effect and the Ordinance or Order number which rendered the maps obsolete.

(d) Outdated and amended paper maps shall be maintained in an historical map reference file in the Land Management Division.

(3) Each time a plan designation or zone map is revised or a new map is created, that action shall be indicated by placing the ordinance or order number, effective date, planning action number and revision description in the revision tracking table of the amended map as shown in the following example:

Revision	Ordinance or Order Number	Date Effective	Planning Action Number	Revision Description
1	Ord. #PA1246	7/11/2008	N/A	Map created (plot maps retired)
2	Ord. #PA1320	11/26/2010	pa10-5218	18-03-27-00-00301 rezoned F2 to ML

(Revised by Ordinance No. 7-87, Effective 6.17.87; 5-08, 7.11.08)

PAGES 16-10 THROUGH 16-25
ARE RESERVED FOR FUTURE EXPANSION

REVIEW OF LANE COUNTY CODE PROVISIONS THAT IMPEDE AFFORDABLE HOUSING PRODUCTION AND RECOMMENDATIONS TO AMEND LANE CODE TO INCREASE HOUSING PRODUCTION AND REDUCE COSTS

RECOMMENDATIONS

1. ***Articulate the Relationship Between Housing Supply and Affordable Housing***. Increasing the supply of homes reduces the price of homeownership. According to studies (e.g., Habitat for Humanity U.S. Research and Management Team Evidence Brief (2020)), homeownership also leads to numerous positive outcomes that extend well beyond the new home.

(i) Economic Stability. Homeownership is the engine that drives much of the wealth-building that occurs in the United States. U.S. homeowners have an average net worth that is 400% higher than renters with similar demographics and earnings. Home equity represents the largest portion of wealth for all U.S. households at 35%. When a family owns their own home and has a fixed rate mortgage their payments do not increase and remain for the life of the loan. On the other hand, rent increases are common over time, particularly over 30 years (the life of a standard purchase loan). The interest paid on a home mortgage, insurance premiums, property taxes, and improvements for energy efficiencies provide for the opportunity to take a tax deduction on federal and state tax returns.

(ii) Education. Children of homeowners have better test scores and higher rates of graduation and college attendance, especially among children of low-income homeowners. Children of low-income homeowners are 11% more likely to graduate from high school and are 4.5% more likely to graduate from post-secondary education than low-income renters. Homeowners also have the ability to leverage their house equity to finance post-secondary education for their children, especially for lower and moderate-income homeowners. For lower and moderate-income households, a $10,000 increase in home equity raises the probability of college attendance by 14%.

(iii) Civic and Community Engagement. Regardless of income and the length of time an owner has owned their home, homeowners are 30% more likely to become involved in neighborhood groups and civic associations than renters. This provides the owner and family unit with increased social resources and networks.

(iv) Homeowners are more likely than renters to live in homes that have fewer repair needs. According to the U.S. Center for Disease Control and Prevention, increased housing quality improves general health, respiratory health, mental health, and reduces the risk of injury. Decreasing housing costs for cost-burdened households spending more than half of their expenditures on housing releases money to spend on nutritious food and health care. According to Children's HealthWatch, unstable housing for families with children increases health and education costs by $111 billion per decade.

(v) Increasing the supply of homes not only includes lower pricing, it lessens energy burdens. Newer homes have significant energy efficiencies. As of

2015, 17% of single-family homes built before 1980 lacked proper insulation and 21% had archaic heating systems over 20 years old. In contrast, only 1% of homes built after 2002 have substandard insulation and 90% have double or triple-pane windows. This is particularly important to low-income households who spend three times the share of their income (7.2%) on energy costs as compared with other households (only 2.3%).

2. ***Articulate the Relationship Between Private Property Rights and Affordable, Efficient, and Sufficient Housing in Rural Lane County***. Private property rights of individual landowners is one of the pillars of our legal system in the United States. Secure property rights are the cornerstone of any efficient economy. They give confidence to individuals to invest in land, to borrow money using land as collateral for personal homes, job creation, education, and to enable the government to collect property taxes necessary to finance the provisions of infrastructure and services to citizens. In this regard, we recommend:

(i) Articulating in the Introductory provisions of the Lane County Land Use Development Code the importance of property rights recognizing the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 18 of the Oregon Constitution.

(ii) Codifying the interpretive concepts set forth by the Oregon Supreme Court in *Lane County v. RA Heintz Construction Co.,* 228 Or 152 (1961), that the Lane Code shall be construed strictly in favor of the property owner when the code encroaches on the property owner's property rights, and in absence of express words to the contrary, it will be presumed that the Lane Code is not intended to interfere or prejudice the owner's property rights. If after applying the rule of strict construction of the Lane Code, there continues to be ambiguity or doubt regarding the meaning of the relevant code language, the interpretation of the relevant provisions should be made by the Board of Commissioners.

(iii) Codifying in the Lane Code relevant presumptions found in Common Law and the Oregon Rules of Evidence relating to the interpretation of the Lane Code.

3. ***To the Extent Allowed by State Law, Remove All Code Provisions that Impede Affordable Housing.*** The scope of work requires the consultants to identify county Land Use Code provisions that impede affordable housing. At the state level, Oregon arguably has as many or more impediments and barriers to the building of homes than any other state in the country. Therefore, there is little justification to provide additional impediments and barriers at the county level. The Lane Code, therefore, should be revised as needed to be consistent with, and not exceed, relevant state legislation, rules and regulations.

See Appendix _____.

Howe Mann Consulting

Report Attachment E2

Amendments to Chapter 14 to Reestablish Elective Board Review of Land Use Decisions

14.080(5) Director Request for Board Review
(add the following new material before (5)(a))

Director Information and Party Petitions:

(i) The Director will provide the Board with a monthly written summary of issues then pending in Hearing Official proceedings that: (1) may involve interpretation of ambiguous county plan or code language; or (2) otherwise may raise opportunities for Board policy making. Such summaries will not be part of the record of any pending proceeding.

(2) As an informational item for the Board and the public, within the 12-day window for reconsideration of any Hearing Official final decision, the Director will document, with reference to the four factors in LC 14.080(5)(a), their reasons for not elevating the decision to the Board for review.

(3) Any party may petition the Board to elect to hear an appeal of a Hearing Official decision: (a) During the 12-day window for reconsideration of any Hearing Official decision (b) during the reconsideration of any Hearing Official decision, or (c) at any time prior to the matter being appealed to LUBA by that party. A petition may be accompanied by any previous final local decisions by the Hearing Official or Board that the petitioner considers relevant to the decision whether to hear the matter. The Board is not required to act on such a petition.

(add the following new material before after (5):

Board Initiation of Hearing Official Decision.

The Board may elect to review a Hearing Official decision at any time prior to the filing of an appeal to LUBA, or, if an appeal has been filed to LUBA, prior to the time set for filing the record (ORS 197.830(13)(b)).

The Hearing Official will hold in abeyance any pending request for reconsideration in the event: (a) the Director elevates a decision to the Board for review, or (b) the Board has elected to consider the matter on appeal.

The Board's decision to review a Hearing Official decision is conditioned on the applicant consenting within 5 days to waiver of any remaining statutory timelines for a final local decision.

If the Board elects to review a Hearing Official decision, all parties to the proceeding may participate in the Board's review proceeding.

If the Board elects to review a Hearing Official decision. and upon further consideration determines to not complete the review, it may enter an Order to that effect, and such Order becomes the final local decision with respect to the application, unless a request for reconsideration to the Hearing Official is pending at the time of the Board election.

If the Board elects to review a Hearing Official decision, the Board will determine whether the review will be: on the record with no new evidence and with written or oral argument or both; or with new evidence on issues identified by the Board.

14.080(5)(b)(vii):
(delete this limitation on party participation in Board review)

Findings in Support of Proposed Revisions to LC 14.080(5)
to Reestablish Elective Board Review of Land Use Decisions

Effective in 2020, the Board took itself out of the process for review of site-specific land use decisions. For decades before that the Board was directly involved on an elective basis. At the request of the staff or a party the Board could elect to review a matter. The process for making that election and then undertaking the review, was a bit cumbersome and inefficient in terms of time, staff work, and expense. The code changes effective in 2020 fully insulate the Board from the review process, unless the Director decides to elevate a matter to the Board. In the several years since the code change, the Director had not elevated a matter on their own initiative, although parties in several cases have urged the Director to elevate based on the issues involved. The Director has brought one matter to the Boad – the matter of Comprehensive Plan Policy 11 and whether there is a minimum lot size requirement for forest template dwellings in Lane County. However, the Board told the Director to elevate that matter in a second application after the Director declined to elevate in the first application.

1. The Board should put itself back into the land use decision process, at least in a limited, efficient way. If the Boad has the final say on how to interpret ambiguous plan and code language, the Board's interpretation is likely to stick if the matter is appealed to LUBA. When LUBA reviews a Hearing Official interpretation of plan or code language, that interpretation is given no deference by LUBA. LUBA will read the ambiguous language and decide what it means, regardless of what the Hearing Official has said. In contrast, when a Board interpretation is taken to LUBA on appeal, it must be deferred to if the interpretation is "plausible." "Plausible" is a relatively low standard. That means the Board gets to choose from a range of possible plausible interpretations. This amounts to flexibility to make policy choices that the Board feels are in the best interest of citizens. An example of how this deference by LUBA works can be seen in the matter of minimum lot sizes for forest template dwellings in Big Game habitat. When that issue went straight from the Hearing Official to LUBA, the Hearing Official decision, which applied several decades of county practice, was remanded by LUBA, which found that Plan Policy 11 under Goal 5 requires 80 or 40 acre minimum lot size. LUBA picked what it thought was the best interpretation of Policy 11. That matter then came to the Board for the first time, at the direction of the Board, in the context of the King applications. As the staff reports have explained, the Board has discretion to pick any plausible interpretation of Policy 11. One of those interpretations could dispense with the minimum lot size requirement. LUBA will review that Board interpretation to decide if it is "plausible," not if it is the best interpretation in LUBA's view. In summary, Board interpretation of ambiguous language in the plan or code allows the Board to choose the plausible meanings that the Board believes are in the best interest of citizens. This is an important function of the Board. That is what the Board is elected to do.

2. On an interim basis, pending changes in the code, the Board needs to stay on top of land use issues so that it can guide the Director in what to elevate to the Board under the current code. Once the Board was taken out of the review process, the Board became largely disconnected from land use decision making issues. To do its job well, the Board

needs to be better informed about important issues that arise in Director and Hearing Official decisions. There is not presently an efficient way to do this. Pending code changes to formally put the Board back in the review process, there are a couple of things the Board could do to stay better informed. First, the Board should request the Planning Director to provide, on a regular basis, a summary of interpretive issues that have arisen in both Director and Hearing Official decisions. This should include current, pending matters, which (1) could be the subject of a Director referral to the Board for an interpretation under LC 16.008, and (2) Hearing Official appeals that are under way. Second, the Board should ask the Director to articulate, in writing, their reasons for not electing to elevate a matter to the Board for review, as allowed by the current code. There has not yet been a voluntary referral by the Director of any Hearing Official decision. In making their decision not to elevate, the Director necessarily has applied the criteria listed in the code for deciding whether to elevate. The suggestion here is that Director articulate their evaluation in deciding not to refer and make that analysis available to the Board and the public. That explanation would be an information item, not an appealable land use decision. Getting both kinds of information from the Director immediately under the current code would give the Board a much better, immediate sense of what is going on.

3. We are including code language that lets the Board elect to hear certain issues. The Board will determine whether and to what extent it wants to get back into the business of reviewing land use decisions. Admittedly, the process prior to 2020 was cumbersome in terms of time, paperwork, staff work and costs. It was entirely driven by what parties wanted to bring before the Board. The current code leaves it entirely up to the Director what Hearing Official decisions come to the Board. This approach is not working well either because in more than three years the Director has not elevated a single issue to the Board on their own initiative. The Director has isolated the Board from review of land use decisions. We have attached draft code language that would allow the Board to elect to hear land use appeals that it believes warrant review. Once a matter is elevated by the Board, all parties would have an opportunity to be heard either based on the existing record or with new evidence on issues identified by the Board. The Board elective review model suggested here would ensure that the Board is in charge of its workload. It would hear the matters it believes are worth hearing, and it would set the scope of the hearing.

4. The Board also should insist that ambiguities in the plan and code be referred to the Board by the Director for interpretation, as required by the code. The current code requires the Director to ask the Board for interpretations. LC 16.008 says, in part: “When in the administration of this chapter there is doubt regarding the intent of the chapter or the suitability of uses not specified, the Director shall request an interpretation of the provision by the Board of County Commissioners.” This is a mandatory referral process. However, it is not working. Review of Director and Hearing Official decisions shows that plan and code interpretive issue arise on a regular basis in the course of Director decision making. If the Director were to ask the Board for an interpretation, as the code requires, the ambiguities could be resolved at the Director level. Equally important, the Board interpretation would be entitled to deference in any appeal from the County to LUBA. Again, as discussed above, this allows the Board to make policy choices, by choosing among plausible interpretations, the one it believes is in the best interest of county

citizens. Recent years show numerous instances where ambiguous plan and code provisions are being applied by the Director, based on the Director's preferred choice of meanings, without the required input from the Board. Very recent examples include: the meaning of Plan Goal 5 Policy 11 regarding big Game habitat and dwellings (King); presumptions about lawful conveyancing in connection with property line adjustments and legal lots (Tarjoto and Franklin-Clarkson); and whether and when roads divide property into separate legal lots ( ). If the Director were doing what the code requires of them, these interpretative questions would be resolved by the Board instead of the Director and the Hearing Official, and the Board would be in charge of the direction of county policy rather than the Director. The failure of the Director to do their mandatory duty under the code is difficult to explain. However, it would be easy to remedy.

5. Issues worth consideration by the Board should not be kept from the Board due to cost considerations. The Director or others might argue that it is too expensive to refer interpretive questions to the Board in the context that they usually arise – site specific development applications for permits. This is not a sound argument. First, the code mandate is clear: refer ambiguous standards to the Board of interpretation. The mandate is not to refer interpretations to the Board unless the Director believes it is not cost-effective. Second, provided applicants are willing to extend timelines to allow for Board interpretations, using a site-specific application for the Board to resolve an ambiguity is efficient. It is an alternative to a long, drawn-out legislative process.

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Report Attachment E3

Lane Code Ch 13 Amendments relating to PLAs, LLs and VULs

Delete from 13.030 Definitions:
from definition of Minor Shift eliminate:

~~(r)(i) Modification of acreage of the smaller lot or parcel by more than 25%.~~

Changes to Chapter 13.130 relating to Property Line Adjustments

Add rules to 13.130 General Criteria:

Units of land referenced in a M49 Order shall not be subject to legal lot review by the County. [*Fern Hollow Farms v. Linn Co.*, 321 Or App 783, 515 P3d 142 (2022)].

A single property line adjustment deed may add land to both affected properties.

The County will presume that boundary determinations made by a licensed surveyor on behalf of an owner are correct. [*McMullen*, 509-PA21-05913]

The County will make no decision that negates a previous, noticed land use decision or limited and use decision. [correcting *Svarverud*, 509-PA21-05022, PA21-05023]

The County will not require a property line adjustment or property line elimination approval to place improvements on the boundary line between units of land in common ownership.

13.130(5)(a): Property Line Adjustments within a Plat

~~(a) "Property line adjustments within a plat must comply with the replatting requirements of LC 13.120. The proposal can be processed as a property line adjustment if the proposal is only a minor shift in the property lines."~~

13.140 Legal Lot Verification
(Replace all of 13.140)

Purposes and Process:

Purposes:

Legal lot verification determines what units of land are lawfully established, regardless of whether that unit of land is part of a larger ownership or is in multiple ownerships.

Legal lot verification is intended to facilitate development of land, lawful conveyance of land, and valuation of land for purposes of assessment, taxation and generation of revenue for public benefit.

Legal lot verification is intended to promote, to the extent allowable by state and local law, the confirmation of any discrete unit of land as being a lawfully established unit of land.

Legal lot verification is not a discretionary review by the County. Rather, it is a declaration of the status of property that is made by applying established law, as it has changed over time, to the history of the creation and conveyancing of any unit of land.

Legal lot verification, at the initiative of the County or a property owner, does not assign a burden of proof on any party. It is the county's obligation to make a correct determination, subject to appeal and review by those with standing.

Where a legal lot verification has been denied, the owner or the County may initiate subsequent proceedings for the same determination.

Process:

A legal lot verification must be reviewed pursuant to Type II procedures according to LC Chapter 14, except in the following instances where units of land are deemed to be lawfully established:

A unit of land shown on 1941 Metzger mapping and associated with a deed is one legal lot and, subject to verification, may have multiple legal lots contained therein.

Lots or parcels shown in a recorded partition or subdivision plat.

Parcels shown on a filing or recording of a minor or major partition between 1949 and 1990.

A unit of land verified by Lane County in a signed and dated decision, which is not qualified on its face as being "preliminary" in nature.

A unit of land, in a survey of units of land that was filed with the County prior to April 7, 1949, which is identified in a deed or contract given prior to that date. [*Koffler*, PA22-05536, June 12, 2023]

Any land validated by the County as a lawfully established unit of land in the meaning of ORS Chapter 92.176, as amended.

A unit of land that existed prior to April 7, 1949, which can be identified in the same configuration.

Any unit of land treated as a legal lot in support of any approved land use permit decision, made with Type II notice, whether or not that legal lot status is explicitly called out in the decision.

The Director or a property owner (a person or entity with a legal or equitable interest in the property) may initiate a legal lot verification.

In conducting a legal lot verification for a unit of land, the duty of the Director is to determine all legal lots that are contained wholly or partially within the boundaries of the unit of land or that together with the unit of land constitute a legal lot.

Where a unit of land is found to contain multiple legal lots, the Director will determine the boundaries of each legal lot.

Where a unit of land is found to be an illegal lot standing alone, but would be a legal lot together with an adjacent unit of land, the Director will determine the boundaries of the illegal lot and the larger legal lot of which it is a part.

Prior to making a legal lot determination, the Director will send notice and opportunity to comment only to the following persons:

The owner(s) of any portion of the subject property;

The owners of any property that the Director's investigation determines is a legal lot that contains in whole or in part the subject property; and

The owners of any property adjacent to the boundary of the property above.

The notice and opportunity to comment sent by the Director to the owners of the legal lot that contains in whole or in part the subject property shall include the following statement in bold print:

"You are receiving this notice because you own property that under review by the Lane County Land Management Director in connection with a legal lot verification. The Director will determine which units of land related to the subject property are

lawfully established or can be validated as lawfully created units of land under ORS 92.176. Units of land that are not lawfully established may not be legally sold (ORS 92.018) and, generally, they may not be developed. You are advised to take part in this proceeding to become aware of the Director's determination, which may affect the property that you own. The Director's determination is subject to appeal to the Lane County Hearing Official."

If the Director has previously determined the unit of land to be lawfully established, but that determination was qualified as "preliminary," the Director will charge no more than a noticing fee for a Type II decision involving the same unit of land.

Where the Director identifies illegal lots in conjunction with verifying a legal lot, the Director, with the consent of an owner, will proceed to review the illegal lots for compliance with the standards for "Validation of Unit of Land Not Lawfully Created" in ORS 92.176.

The Director's determination regarding validation of a unit of land shall be consolidated with their notice of a proposed decision of legal lot verification.

Standing to Participate in Director Proceeding:

Participation in a Director legal lot proceeding is limited to the following persons:

An owner of any part of the subject property; and

An owner of any property receiving notice and opportunity to comment mailed by the Director.

Standing to Appeal:

Any person entitled to participate in the Director legal lot proceeding, as listed above, may appeal the determination of the Director to the Hearing Official under the provisions of Lane Code Chapter 14 whether or not that person appeared in the Director proceeding.

Notice to Owners of Remedies:

The Director's decision identifying ownerships that are not lawfully created units of land, or not validated units of land, shall include, as an information item and not part of the binding decision, what steps are available to the property owner to attain legal lot status.

Notice of Final County Determination to Assessor:

When a legal lot verification and validation of unit of land proceeding is concluded at the county level, and further appeals are exhausted, the Director shall, within 30 days, notify the Lane County Assessor what land ownerships have been determined to be not lawfully established units of land or validated units of land. Furthermore, the notice shall inform the Assessor that such properties may not be lawfully sold, and, for most purposes under the zoning regulations, may not be developed.

Criteria:

In verifying a unit of land as lawfully established the Director shall apply the relevant law and also the following rules and presumptions:

> A conveyance that separately identifies tracts, parcels, lots or other units of land is presumed to convey separate units of land, regardless of formatting of the deed or conjunctions used to separate listed units of land. [*Koffler, McCown*]
>
> A lawfully established unit of land does not lose its status as a discrete legal lot if it is included in subsequent conveyances with other property, included in a single legal description with other legal lots, or consolidated with another tax lot number.
>
> Tax lot identification is not related to legal lot status; changing, eliminating or consolidating tax lot identifications has no impact on legal lot status.
>
> Two legal lots do not become a single legal lot when conveyed with an instrument using a single legal description. [*Ford, LW v. LC*, LUBA No. 2020-085 (April 29, 2021)]
>
> A lawfully established unit of land remains a single legal lot even if a portion is conveyed into another name without the required county approval for a division of land. [*Kasle v. Lane County,* 79 Or LUBA 111 (2019), *aff'd without opinion* 297 Or App 582, *rev den 3*65 Or 369 (2019)]
>
> All contiguous land conveyed to an individual from the United States in a single instrument is a single lawfully established unit of land despite the number of Government Lots included in the instrument.

Presumptions:

The County will apply the following presumptions in legal lot verifications:

The property owner has no burden of proof on the issue of legal lot status in any land use proceeding; the County has the obligation to make a correct determination based on the law and on the facts related to the deed history.

Evidence willfully suppressed would be adverse to the party suppressing it. (OEC Rule 311(c))

Official duty has been regularly performed. (OEC Rule 311(j))

The law has been obeyed. (OEC Rule 311(x))

Real estate transactions are regarded as legal if that is technically and legally possible. (*Tarjoto*)

Property ownership is a natural right. [*Bileu v. Paisley*, 18 Or 47 (1889)] The County views the evidence and the law in a way that is the least restrictive to property rights. [*Lane County v. R.A. Heintz Construction Co.*, 229 Or 152 (1961)]

13.150 Validation of Units of Land
(Add to LC 13.150)

(8) When the Director validates a unit of land they shall also validate the unit of land from which the subject property was illegally separated. A single partition plat may be recorded for both validated units of land.

Findings in Support of Proposed Changes to LC 13 for PLAs LLVs and VULs

Review of decisions shows, legal lot determinations are a very big percentage of Director, Hearing Official and LUBA decisions. It is a very contentious area of county decision making. Lane County legal lot decisions are vastly over represented in LUBA decisions as compared to other counties. Something is askew in Lane County on this subject, and it needs attention.

Property owners whose lots have been determined to be illegal have "dead" property. It cannot be lawfully sold; it cannot be approved for most development that people want to make, including housing; and its value has been dramatically reduced. In many instances, a person's most valuable asset has been devastated.

The County is in a position to make the process much more user friendly, and it should do that in the following respects.

1. The County should restructure the legal lot verification process to make it a declaratory process instead of a permitting process in which the property owner has the burden of proof.

The County currently treats legal lot determinations the same as permitting decisions for land development. This puts the burden of proof on the property owner. That is a very tough spot. For example, in situations where the subject property was involved in a conveyance between adjoining owners decades ago, the current owner is assigned the burden of proof to show the intent of those historic owners to do a property line adjustment and NOT to create a new unit of land that required but did not get County land division approval. That is an unrealistic burden for anyone to carry in most circumstances. See for example, Sikora, Franklin-Clarkson.

Legal lot determinations need not be treated like permitting decisions for land development. No development of land is proposed. What is being requested is a determination of the legal status of the property. Did the subject unit of land get to its current size and shape in compliance with all applicable land division laws over the decades? That inquiry is the responsibility of the county based on the deed history. The nature of the inquiry is similar to a declaratory judgment action in circuit court. There is not a burden of proof as there is with a standard land development proposal.

2. The County should articulate in the code evidentiary presumptions that facilitate owners getting positive legal lot determinations.

The proposed code language lists presumptions that the county should apply in making legal lot determinations. These have been borrowed from the Oregon Evidence Code. They are standard rules in court proceedings. The Director, Hearing Official and LUBA have declined to invoke OEC presumptions, as there is no statute that makes them applicable to land use decisions. However, the County Board can make the apply by

stating them in the code. The ones we have suggested should have the most utility in legal lot determinations.

Note that one of the presumptions listed is the Tarjoto rule stated by the County Board in that case and affirmed by LUBA on appeal. It is a simple, common sense concept — It should be presumed that real property conveyances have been conducted lawfully if technically and legally feasible. This presumption will go a long way to facilitating findings of legal lot status because it is a positive starting point for conveyances done long, long ago. It is listed here because to date the Director and Hearing Official have explicitly refused to honor that presumption in county decisions. See Sikora, Franklin-Clarkson as examples. And the Director has declined to elevate to the Board the question of whether staff should still honor that presumption. They should.

3. When the County conducts a legal lot verification it should determine all the legal lots that are related in any way to the subject property.

The Director currently takes a narrow view of the legal lot verification process — viewing it like any application for land development approval. File your application; the County reviews it; if the Director thinks you have proven up exactly you get an approval; if you have failed the showing in any respect you get a denial, and you can start over in another six months or longer process. If you applied for one legal lot but the Director finds two, you only get one approved because that is all you paid for.

The proposal made in the draft code is very different. When the Director gets a legal lot application, they ask this question: What is the lawfully established unit of land that includes the subject unit of land? Based on the deeds it may be exactly the subject property. Or the subject property may include two legal lots. Or the subject property may be a part of a larger unit of land that is the legal lot. The Director determines the boundaries of the legal lot that includes the subject property, whatever that may be.

If the Director determines that that adjacent land is a part of the legal lot that includes the subject property, notice is given to those owners as stakeholders. They get notice and an invitation to comment and participate. Of course, if the determination is that the subject property standing alone is not a legal lot, that application is denied, but it includes a picture of what is the legal lot. That will provide all the owners who are stakeholders with information they need to straighten things out.

Yes, the process suggested here could be more work for the Director in some circumstances. However, it is the most useful information the Director can provide to property owners.

4. If the County determines that the subject property standing alone is not a legal lot, it should proceed to determine if it can be validated as a lawful unfit of land under ORS 92.176.

This suggestion is reflected in the draft code. This is the process that would be most

useful for property owners who need to fix a bad situation. The review process should proceed seamlessly from the legal lot determination through the validation of unit of land process.

5. Only stakeholders in the subject property should be involved in the verification process and any local appeal.

The suggestion here is that the county process for review of legal lots should be limited to those persons with a legal interest in the subject property and the surrounding property that may be impacted. Persons who do not have a legal interest in the subject property, or the property the Director determines is directly related to the legal lot, have no real stake in the determination. The County should take a hard look at what statutory notice to surrounding owners or others is strictly required, if any, and limit the notice to those persons. This should greatly limit the cost and litigation associated with the whole process. Because a legal lot determination is likely not a statutory "permit" decision approving land development, there may be no notice requirement to surrounding owners whose land is not involved. The entire process should be scaled down to the extent allowed by state law.

Howe Mann Consulting

Report Attachment E4

Proposed amendment to LC 14.080(3) to add subsection (b) for Hearings Official Scope of Review

Underlined material is new.

14.080 (3) (b) In issuing a decision in a Type II matter, the Hearing Official will address all issues and arguments that are sufficiently developed to warrant a response. If a request for reconsideration is filed by a party in a Type II decision, and the request is to address an issue that was stated in the record of the proceeding but not addressed in the decision, the Director will refund the fee paid for reconsideration.

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Findings in Support of Proposed amendment to LC 14.080(3) for Hearings Official Scope of Review

The code should be amended to direct the Hearing Official to decide all issues presented with sufficient clarity to be addressed in their final decision.

In nearly all instances the Hearing Official makes the final local decision on development applications, legal lot determinations, and similar matters. The Hearing Official's approach in recent years has been to identify a dispositive issue in the matter, decide that issue in their opinion, and leave other issues unaddressed. This is a very attractive approach in terms of efficiency in resolving the matter immediately before the Hearing Official. In the long term, however, it is inefficient for the parties and the county.

The following is an example that illustrates the inefficiency of leaving issue unaddressed the final Hearing Official decision. The Director approves a dwelling on resource land. On appeal of the dwelling approval by an opponent group, the applicant makes state two legal theories that support approval of the application. Both theories are fully briefed on the merits by all parties to the proceeding. In their final decision the Hearing Official approves the proposal based on legal theory "A." The Hearing Official leaves legal theory "B" for approval unaddressed in the final decision. Only one basis is needed to approve the use, not two. On appeal to LUBA by the opposing group, LUBA holds that legal theory "A" is flawed, and it remands the whole matter to the County for further consideration. The applicant then needs to file with the Director an application to start the proceeding on remand – again before the same Hearing Official. This application comes with a filing fee of several thousand dollars. The Hearing Official must then do the remand proceeding, which involves addressing the second issue for approval that was fully briefed by the parties in Round I. Presumably, the Hearing Official will address theory "B" relying on the briefing that was completed in Round I. This wasteful in terms of time and in terms of process and staff time for the County. Furthermore, the applicant is paying for a remand process when none would be needed if the Hearing Official had decided all issues in the initial appeal.

In summary, it is false economy for the parties to raise and brief all issues related to an appeal, but to have the Hearing Official take shortcuts that leave relevant issues unaddressed in the initial proceeding.

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Report Attachment F1

Subscriber Name	Cost
Eugene Water and Electric Board	$300 / year
Law Office of Bill Kloos	$300 / year
Land Watch Lane County	$300 / year

Howe Mann Consulting

Report Attachment F2

Revenue

Subtype	2022 Revenue	2023 Revenue	
Elavated Type I to Type II Procedure	$2,756.00	$0.00	
Farm Dwelling	$14,124.64	$18,687.04	
Final Legal Lot Verification with Notice	$13,051.42	$6,381.12	
Floodplain Development Permit: Watercourse Alteration/Relocation	$3,688.16	$0.00	
Floodway Development Permit: Stepback Water Analysis	$11,713.28	$6,284.48	
Forest Dwelling	$0.00	$0.00	
Forest Dwelling: Template Dwelling	$6,890.00	$19,312.48	
Greenway Development Permit	$11,713.28	$6,367.68	
Home Occupation	$13,542.43	$6,284.48	
Legal Lot Verification	$223,417.40	$195,634.17	
M49 Farm or Forest Dwelling	$2,210.00	$3,856.96	*2022 only
M49 Tentative Partition	$4,581.60	$4,707.04	
M49 Tentative Subdivision	$0.00	$0.00	
Modify Planning Director Application or Decision other than timelines	$4,993.79	$5,048.32	
Non Conforming Use	$2,756.00	$0.00	
Phase 2 Site Investigation Report (Chp 10)	$0.00	$0.00	
Property Line Adjustment & Legal Lot Verification Review + Notice	$5,772.86	$24,443.04	
Property Line Adjustment Type II Review	$84,763.84	$41,345.60	*Appears t
Riparian Setback Special Use Permit	$10,635.73	$6,284.48	
Site Review	$0.00	$3,183.84	
Small Wireless Facility (up to five)	$0.00	$0.00	
Small Wireless Facility with New Pole	$0.00	$0.00	
Telecommunications Tower: Collocation	$0.00	$0.00	
Temporary Medical Hardship Dwelling	$6,299.72	$7,044.80	
Tentative Partition	$60,605.07	$76,917.13	
Tentative Replat Plan	$8,268.00	$0.00	
Tentative Subdivision	$6,564.00	$0.00	
Type II Application (Special Use Permit)	$58,149.45	$77,776.74	
Validation of a Unit of Land Research & Notice	$19,085.12	$14,175.12	
Variance	$11,713.28	$0.00	
Verification of Lawfully Existing Use (16.290/16.291/16.292) w/ notice	$0.00	$0.00	
Verification of Replacement Rights (F1/F2/EFU)	$22,240.15	$15,752.80	
Verification of Resource Zone Siting Standards	$2,367.08	$1,780.54	
Vested Rights	$0.00	$0.00	

Approvals - by year

Subtype	2022	2023
Elavated Type I to Type II Procedure	1	
Farm Dwelling	6	7
Final Legal Lot Verification with Notice	5	7
Floodplain Development Permit: Watercourse Alteration/Relocation	1	1
Floodway Development Permit: Stepback Water Analysis	4	5
Forest Dwelling	2	1
Forest Dwelling: Template Dwelling	5	1
Greenway Development Permit	1	3
Home Occupation	3	3
Legal Lot Verification	46	39
M49 Farm or Forest Dwelling	9	9
M49 Tentative Partition	1	1
M49 Tentative Subdivision		
Modify Planning Director Application or Decision other than timelines	2	8
Non Conforming Use	1	
Phase 2 Site Investigation Report (Chp 10)		
Property Line Adjustment & Legal Lot Verification Review + Notice	1	2
Property Line Adjustment Type II Review	18	14
Riparian Setback Special Use Permit	1	3
Site Review		
Small Wireless Facility (up to five)		
Small Wireless Facility with New Pole		
Telecommunications Tower: Collocation		
Temporary Medical Hardship Dwelling	4	4
Tentative Partition	19	15
Tentative Replat Plan		1
Tentative Subdivision		1
Type II Application (Special Use Permit)	22	23
Validation of a Unit of Land Research & Notice	5	3
Variance		2
Verification of Lawfully Existing Use (16.290/16.291/16.292) w/ notice		
Verification of Replacement Rights (F1/F2/EFU)	6	6
Verification of Resource Zone Siting Standards		2
Vested Rights		
TOTAL	163	161

Denials - by year

Subtype	2022	2023
Elavated Type I to Type II Procedure		
Farm Dwelling		1
Final Legal Lot Verification with Notice	3	
Floodplain Development Permit: Watercourse Alteration/Relocation		
Floodway Development Permit: Stepback Water Analysis	1	
Forest Dwelling	1	
Forest Dwelling: Template Dwelling		
Greenway Development Permit	1	
Home Occupation		
Legal Lot Verification	21	21
M49 Farm or Forest Dwelling		
M49 Tentative Partition		
M49 Tentative Subdivision		
Modify Planning Director Application or Decision other than timelines		
Non Conforming Use		
Phase 2 Site Investigation Report (Chp 10)		
Property Line Adjustment & Legal Lot Verification Review + Notice	2	
Property Line Adjustment Type II Review	4	4
Riparian Setback Special Use Permit		
Site Review		
Small Wireless Facility (up to five)		
Small Wireless Facility with New Pole		
Telecommunications Tower: Collocation		
Temporary Medical Hardship Dwelling		1
Tentative Partition	2	
Tentative Replat Plan		
Tentative Subdivision		
Type II Application (Special Use Permit)	1	
Validation of a Unit of Land Research & Notice	2	
Variance	2	1
Verification of Lawfully Existing Use (16.290/16.291/16.292) w/ notice		
Verification of Replacement Rights (F1/F2/EFU)	1	
Verification of Resource Zone Siting Standards		1
Vested Rights		
TOTAL	41	29

Type II applications and staff who processed them in 2022-2023

Subtype	GWARR	JDOBBERSTEIN
Elavated Type I to Type II Procedure		
Farm Dwelling		X
Final Legal Lot Verification with Notice		
Floodplain Development Permit: Watercourse Alteration/Relocation		
Floodway Development Permit: Stepback Water Analysis		
Forest Dwelling: Template Dwelling		X
Greenway Development Permit		
Home Occupation	X	
Legal Lot Verification		
M49 Farm or Forest Dwelling	X	X
M49 Tentative Partition	X	
Modify Planning Director Application or Decision other than timelines	X	X
Non Conforming Use		
Property Line Adjustment & Legal Lot Verification Review + Notice		
Property Line Adjustment Type II Review		
Riparian Setback Special Use Permit	X	
Site Review		
Temporary Medical Hardship Dwelling	X	
Tentative Partition/Replat/Subdivision	X	X
Type II Application (Special Use Permit)	X	X
Validation of a Unit of Land Research & Notice		
Variance		
Verification of Replacement Rights (F1/F2/EFU)	X	X
Verification of Resource Zone Siting Standards	X	X

JGATTIS	KGILBRIDE	NSPRADLING	RSERSLEV	SADAMS	TCARSLEY
				X	
	X	X		X	X
X					
					X
		X			X
		X		X	X
		X			X
		X		X	X
X					
		X	X		X
		X			X
				X	
X					
X					
	X			X	X
					X
	X	X			X
	X	X	X	X	X
	X	X	X	X	X
X					
			X		X
	X		X		X

Zoning by Subtype

Subtype	F1	F2	EFU	ML
Elavated Type I to Type II Procedure				
Farm Dwelling			X	
Final Legal Lot Verification with Notice		X	X	
Floodplain Development Permit: Watercourse Alteration/Relocation			X	
Floodway Development Permit: Stepback Water Analysis	X		X	
Forest Dwelling: Template Dwelling				
Greenway Development Permit	X	X	X	
Home Occupation		X	X	X
Legal Lot Verification	X	X	X	
M49 Farm or Forest Dwelling	X	X	X	
M49 Tentative Partition			X	
Modify Planning Director Application or Decision other than timelines	X	X	X	
Non Conforming Use		X		
Property Line Adjustment & Legal Lot Verification Review + Notice	X			
Property Line Adjustment Type II Review	X	X	X	
Riparian Setback Special Use Permit	X		X	
Site Review	X	X		
Temporary Medical Hardship Dwelling		X	X	
Tentative Partition/Replat/Subdivision	X	X	X	
Type II Application (Special Use Permit)	X	X	X	X
Validation of a Unit of Land Research & Notice		X	X	
Variance	X		X	
Verification of Replacement Rights (F1/F2/EFU)		X	X	
Verification of Resource Zone Siting Standards		X		X

RR	OTHER
X	
X	X
X	X
X	X
X	
X	X
X	X
X	
X	
X	X
X	X
X	
X	X
X	X
X	
	X

Filed Appeals to HO By Subtype from 1/1/2022-12/31/2023

Subtype	Total # of Appeals	Appeal to HO
Farm Dwelling	7	6
Forest Dwelling	1	0
Home Occupation	1	1
Legal Lot Verification	37	34
Modification of Type II Application or Decision	3	3
Non Conforming Use	1	1
Property Line Adjustment & Legal Lot Verification Review + Notice	4	3
Property Line Adjustment Type II Review	5	5
Sit Investigation Report	1	1
Special Use Permit	3	3
Template Dwelling	3	3
Temporary Medical Hardship Dwelling	2	2
Tentative Partition Plan	2	2
Tentative Re-Plat	2	1
Validation of a Unit of Land Research & Notice	4	2
Variance	2	1
Verification of Replacement Rights	1	1
Verification of Siting Standards	1	1
	80	70

Appeal of HO Decision
1
1
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3
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1
2
1
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10

Appellants for all appeals filed in 2022 & 2023

Appellant	Appellant Rep
(Applicant) 4 W's LLC	Bill Kloos
(Applicant) Anna and Steven Binford	Kim O'Dea
(Applicant) Barbara Dumsell	Kim O'Dea
(Applicant) Bruce Greene	N/A
(Applicant) Bruce Koffler	Bill Kloos
(Applicant) Bryan Clough	Don Nickell
(Applicant) Carl and Sheri Welle	Kim O'Dea
(Applicant) Cindy Royce	Jed Truett
(Applicant) Compeau Family Trust	Bill Kloos
(Applicant) Craig and Cindy Royce	Kim O'Dea
(Applicant) Dalta Cook	N/A
(Applicant) David and jane Love-Jeremy Keepers	Kim O'Dea
(Applicant) Dieter Boehm	N/A
(Applicant) Douglas and David Mart	Kim O'Dea
(Applicant) Edwin and Wendy Aro	Mark Shipman
(Applicant) Hines	Kim O'Dea
(Applicant) Howard and Laura Fielder/Don and Jena Phillips	Aaron Noteboom
(Applicant) Janessa Bruce	N/A
(Applicant) Jenkinson	Zack Mittge
(Applicant) Jeremiah Marsden	Kim O'Dea
(Applicant) Jeremy Sherer	N/A
(Applicant) Jim Hunt, Franklin-Clarkson Timber Co.	Bill Kloos
(Applicant) Jim Jorgensen	Bill Kloos
(Applicant) Jon Ekstrom	James Dole
(Applicant) Justin Brown	Jim McLaughlin
(Applicant) Kevin McGlinchey	Mike Farthing
(Applicant) Knudtson Revocable Trust	Matthew Martin
(Applicant) London Springs Farm, LLC	Michael Gelardi
(Applicant) Luis Martinez	Kim O'Dea
(Applicant) Mark and Jennifer Leach	Kim O'Dea
(Applicant) Matthew Urness	Mike Reeder
(Applicant) McDougal Brothers Investments, LLC	Kim O'Dea
(Applicant) Norm McDougal	Bill Kloos/Garret Stephenson
(Applicant) Pat Goodwin	N/A
(Applicant) Patrick Mooney	Andrew Stamp
(Applicant) Penny Jordan/Eymann Farm LLC	Bill Kloos
(Applicant) Phil and Joan Marvin	Kim O'Dea
(Applicant) Planktown Holdings - Basaraba	Mike Reeder
(Applicant) Reanos and Sandra Cochran	Jim McLaughlin
(Applicant) Robert and Becky Miles	Kim O'Dea
(Applicant) Robin Pfeiffer	Mike Reeder
(Applicant) Russel Evans Living Trust	Don Nickell
(Applicant) Sage and Lynn Dorsey	Zack Mittge
(Applicant) Steven Bailey	Kim O'Dea

(Applicant) Thompson Timber	Alan Sorem
(Applicant) Tommy Dugan	Kim O'Dea
(Applicant) Weyerhaeuser Company	Garret Stephenson
(Applicant) Wiese-Rakestraw TRust	Zack Mittge
Barry L. Taub, Jessica N. Bridges	Barry Taub
Brian Fields and Mariann Hyland	Jeffrey Kleinman
Clear Lake Cabin, LLC	Mike Reeder
Cynthia Land	N/A
Jim Chenoweth	Charles W. Woodward, IV
LWLC	Charles W. Woodward, IV
LWLC	Sean Malone
LWLC	LWLC
North Hideaway Hills Neighbors	Liam Sherlock
Raloa Keeney	Zack Mittge
Richard Dvorak	Mike Farthing
Russel and Jeanette Bond	Kim O'Dea

Appeal Fees Received

2022	$12,682.00
2023	$19,715.04

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Report Attachment F3

Attachment 10 – Staff Identified Barriers to Affordable Housing

1. **Lack of residentially zoned land.** This is the result of several factors, including:
    - Complexity of the UGB expansion process.
    - Limited political will on the part of the City of Eugene to expand the UGB (historically).
    - Geographic constraints limiting UGB expansions .
    - Highly restrictive state-mandated land use rules protecting farm and forest lands and limiting development outside of UGBs.
    - A diminishing supply of unconstrained or easily developable Rural Residential (RR) land in unincorporated Lane County. Most of the RR land has already been built out. The remaining RR parcels often have constraints that limit development to some extent such as wetlands, floodplain, greenway and riparian areas, too small to meet setbacks, etc.
2. **Recent case law that further limits development options outside of UGBs**. Some of these cases include:
    - **Weyerhauser Real Estate Dev. Co. v. Polk County, Or App, A148925** (2011). Legal lots are vacated through platting process.
    - **McKenzie Bowerman and Bowerman Family LLC v. Lane County, Or App, A164236** (2017) Prohibits historic practice of reviewing multiple "serial" property line adjustments through a ministerial review process.
    - **McDougal/LCC PA17-05220, LUBA 2018-013** (F-2), HO/LUBA interpreted the AG exemptions of 1962 Subdivision Ordinance Section III.G.4.a to require demonstration from applicant that a property created through a deed conveyance was created for agricultural purposes if they wish to verify under that exemption.
    - **Doughty, PA17-05820, LUBA 2019-044** (F-2), LUBA determined that once a property has been unlawfully divided it remains unlawful until rectified through a lawful process. This decision unraveled the HO's previous interpretation that enabled staff to ignore unlawful divisions and revert back to the last lawful configuration of a property or consider a later lawful division of a property if applicable. This took away a lot of the leeway in interpretation of a property's lawful status because once an unlawful division occurred, the analysis essentially stops.
    - **Wolcott v. Lane County, 77 OR LUBA 165** (2018), Solidified the requirement from the County that the approval language of "preliminary" legal lot verifications had meaning, i.e. that if a property was verified and then modified it needed a new

verification and that "preliminary" legal lot determinations were not finale until noticed. That decision led to the re-review of many past, more lenient, determinations under modern case law. Review under modern case law for the past preliminaries was affirmed by HO in PA17-05713, Thorpe.

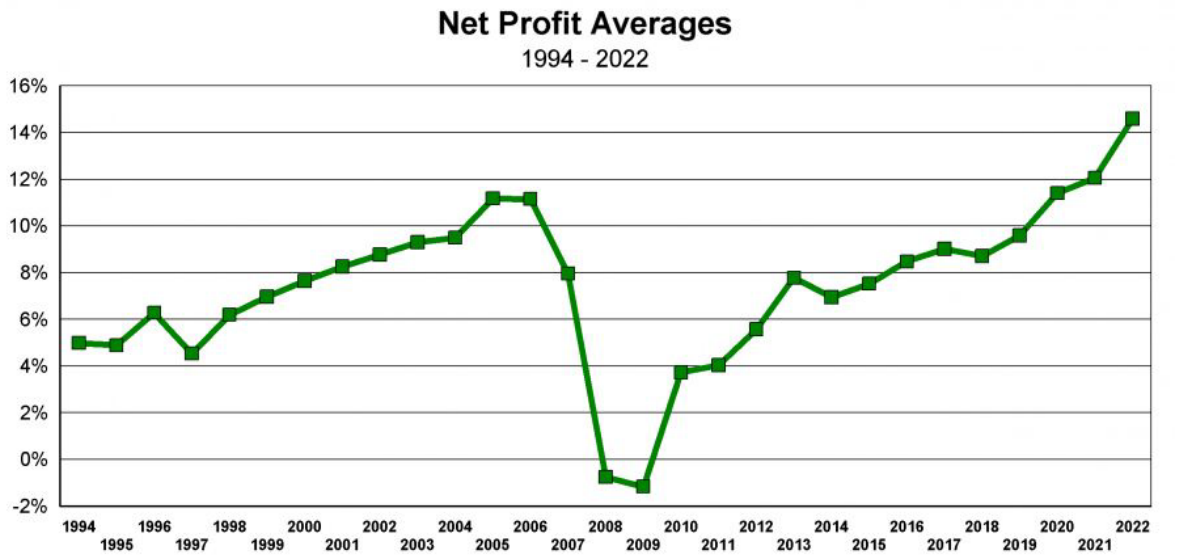
- **Landwatch Lane County vs Lane County / Nimpkish, LUBA No. 2020-030** LUBA rejected the County's position that the County's Goal 5 Big Game Habitat protections are implemented solely through zoning and siting standards and the County's past practice of applying Policy 11 only in the context of land division and zone change proposals. LUBA sustained the opponent's contention that 1) Policy 11 applies to template dwelling applications; 2) the proposed template dwelling exceeded the applicable density standard of one dwelling unit per 80 acres in conflict with Goal 5; and 3) the proposed template dwelling could be allowed only after resolution in accordance with the Goal 5 process in OAR 660-16-000 (ESEE). LUBA further held that Policy 11 must be interpreted in a "in a manner that is not inconsistent with Goal 5."
- **Moolenijzer, PA21-05280** (RR), HO decision affirmed that the entire history of the creation of a property must be considered through the LLVRN process, including review of how the parent property and its parents were created. Applied the "rule of 4" to the review of all divisions and the concepts of Doughty, in that if an unlawful division occurred at any point throughout a property's history, the property could not be verified.

3. **Low inventory of entry level housing.** There is lack of housing in general but especially smaller, more affordable housing. This is because housing geared towards middle or lower-income residents is less profitable. resulting more higher end homes being constructed.
4. **Slow wage growth that has not kept pace inflation**: In Lane County the gross median household income is $65,176. The median gross rent is $1,093 and the median home sales price is $464,000.
5. **High mortgage rates.**
6. **High real estate agent fees and closing costs.**
7. **Increased permit fees.**
8. **Increased materials costs.**
9. **Lack of qualified construction and design professionals.** This has resulted in increased demand, longer wait times and higher costs.

10. **Increased profit margins for builders**. While higher interest rates and increased materials costs receive a fair amount of attention as contributor to high housing costs, increased profit margins for builders are a major but commonly overlooked factor. A July 2023 study by the Shinn Group, an industry leading home builder consultancy, found that during 2022 strong demand combined with very low existing home inventory allowed builders to:

    - Raise prices to cover material and labor cost increases.
    - Change sales strategies from pre-selling to building spec and take advantage of the price appreciation afforded during the extended construction time.
    - Offer discounts and sales concessions due to better margins from selling price increases once affordability issues created by interest rate increases became a sales impediment.

    This study found that the net result of these practices was the best profit performance since 1994, when Shinn started tracking profitability performance for home builders. Average profit for The Shinn Group 2022 Comparative Financial and Operations Analysis is 14.59 percent.



Source: The Shin Group

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Report Attachment F4

Lane County Public Works Department

LMD Planning – 2023 Expectations

Planning Team,

The following are intended to help us all succeed in our mutual goals of doing great planning work and serving the public as well as our internal and external agency partners. Of the points listed below, it is rare that any of us are chronically failing on any of these fronts. **We have an incredibly smart, talented, professional team!** And most often, we consciously perform these items, day-in and day-out. Please take a moment to reflect upon these items, if only for a general reminder for group consistency.

1. **Practice Kindness & Assume the Best**

2. **Provide Quality Customer Service and Value Public Interests**
   - Demonstrate active listening and empathy
   - Meet customers where they are at
   - Strive to find law or code-supported options, when they exist
   - Clearly and thoroughly explain answers and the "why"
   - Identify considerations that customers may not be aware of
   - Take time to research questions where the answer is not immediately apparent, as appropriate to do so
   - Provide response within 24-48 business hours for POD calls and planning permit-related inquiries
   - Communicate changes in turnaround time estimates or assigned staff
   - Notify applicants when we find "red flags." Reach out at least once before issuing a potential denial or significantly modified application. Document this outreach.
   - Respond to referrals comments in decisions
   - Seek out and consider public input/involvement as appropriate for work/projects

3. **Support and Build our Team**
   - Back one another up
   - Build collective knowledge and skills, and support learning of all team members
   - When problems arise or when we make mistakes, identify them for supervisor and other teammates as soon as possible, and discuss potential solutions, as needed
   - Generate ideas to improve efficiency or enjoyment of tasks
   - Participate in staff meetings by providing info shares and asking questions. Use step up, step back approach.
   - Professional development is encouraged
   - Celebrate successes

4. **Planning Application Timelines**
   - In all aspects of our program:
     - Strive to issue Type I determinations within 30 days
     - Ensure final Type II and III County decisions are issued by Day 150 including appeals
       - To do so, strive to issue the initial Planning Director decision by Day 70
     - Trade permits or discuss with supervisor if timelines are advanced
     - Provide drafts for review at least two (2) business days in advance

Building Department Expectations
7/10/23

The following are some guidelines to help us all succeed in our mutual goals in providing a high quality of service to the general public, other agencies, and partnering professionals. Of the points listed below, it is rare that any of us are chronically failing on any of these fronts. Most often, we consciously perform these items, day-in and day-out. Please take a moment to reflect upon these items, if only for a general reminder for group consistency.

Serving the Public

- Cultivate and practice kindness.
- Provide quality service in reviews, consultations, and communications by actively engaging in clear responses. Foster engagement with others you work with to build them up.
- Meet people where they are at. Practice patience with those who are less informed.
- Strive for the capacity to listen to the public's concerns and try to empathize with their situation. If more time is needed to research a question, see if time can be made to assist with a workable solution, within reason.
- Promote a healthy and positive reputation of the organization as a whole. Refrain from speaking negatively to the public about staff or different departments in the organization. This undermines our team's cohesion. Please bring your concerns to your supervisor instead.
- Do your best to respond to phone calls, emails, and other communications within the 24-48 hour policy. Remember to check your voicemail inbox for messages. Routinely listen and clear messages so that new recordings can be left if you are unable to answer.

Reviews & Inspections

- Strive for innovative solutions, where ever possible, within policy or code regulations. Thinking creatively may mean the difference between a project succeeding or stalling. Do not be afraid to offer guidance within the safe framework of the regulations we are tasked to uphold.
- If reviewing plans, notify the applicant of any "reg flags" that could substantially delay the issuance of the permit. The following timelines are approximate goals. Wherever possible, try to beat these timeframes and practice the "under-promise, over-deliver" strategy.

    - ✓ Residential Dwellings: 3-4 weeks
    - ✓ Holiday Farm Fire Rebuilds: Prioritized or 2-3 weeks
    - ✓ Residential Alterations and Additions: 3-4 weeks, depending upon complexity.
    - ✓ Residential M.E.P: 3-5 Business days
    - ✓ Garages, Accessory Buildings, Shops: 2-3 weeks
    - ✓ Commercial Buildings and Structures: 4-6 weeks depending upon complexity.
    - ✓ Commercial M.E.P: 1-2 weeks, depending upon complexity.

- When inspecting sites and structures, please try and honor the applicant's inspection requests wherever possible. Follow standard safety procedures while driving or performing inspections in the field. When dealing with the public, please maintain a patient and courteous demeanor at all times. If a member of the public becomes recalcitrant or an exchange becomes heated, respectfully disengage from the situation. Keep management informed of any negative interactions so that they are aware of what has transpired and can document the incident where necessary.
- When reviewing plans or resulting inspections, cite your code references when identifying a correction needed. This familiarizes owners and stakeholders of where our regulations come from.

Teamwork & Collaboration

- Support your team and coworkers as you would wish to be supported. Be available to assist if they are out of the office by helping with inspection duties or plan reviews if needed. If another is falling behind, see if work can be traded to alleviate the load.
- It is encouraged to be involved. If you have the capacity, please consider volunteering your time and knowledge to others in the form of training, or updating handouts or procedures. Remember that teaching others reinforces your own learning and understanding. If there is an area you would like additional training to perform you duties better or gain skills, it is highly encouraged to discuss this with your supervisor.
- Manage your TM and vacation time effectively with courtesy to your peers. It is the department's policy to discuss your planned TM with others in your work group so that we have adequate staff to cover normal operations at any one time. Please make sure that your plans do not significantly overlap with others' vacations times, wherever possible.
- When on paid time, be mindful of the time spent on personal devices, cell phones, etc. Excessive use of personal devices for personal use on paid time can create the perception of abuse of public resources. This is a bad look and none of us desire this type of reputation.
- Other departments rely on you and you rely on them. Never feel as though you cannot ask questions to other departments or provide feedback and background for assisting them in return.

Thank you all for the dedication and professionalism.

Coordinated Services Goals and Expectations

July, 2023

The following are some guidelines to help us all succeed in our mutual goals of providing high quality service to the general public and partner agencies, and creating a productive, supportive, and enjoyable working environment for our staff.

Senior OA Team Goals

Provide quality service to in-person and phone customers

- Practice kindness
- Demonstrate active listening and empathy
- Meet customers where they are at
- Respond to email inquiries within 48 hours
- Issue over-the-counter and online permits within three business days of receipt
- Take time to research questions where the answer is not immediately apparent, and reply to customer within 48 hours

Provide accurate and timely reports to PW accounting staff

- Prepare bank deposit by 10:00 am each day
- Complete journal, including documents for Accounts Receivable and LC Cash Receipts, by noon each day
- Notify team lead by 10:30 am if the journal is squirrely
- Count cash boxes in each morning, and out each evening, according to Public Works' cash handling standards
- Secure cash boxes each evening

Work collaboratively with Coordinated Services team

- Back each other up
- Build collective knowledge and skills, and support learning for all team members
- When problems arise or when we make mistakes, identify them for supervisor and other teammates as soon as possible, and discuss potential solutions
- Generate ideas to improve efficiency or enjoyment of tasks
- Help train and onboard new teammates: identify key job responsibilities, walk through processes with new staff, provide shadowing for new staff, and identify areas in need of re-training
- Celebrate successes, participate in group activities

LMD Technician Goals

Provide quality service to in-person and phone customers

- Practice kindness
- Demonstrate active listening and empathy
- Meet customers where they are at
- Strive to find law- or code-supported options
- Clearly and thoroughly explain answers and the "why"
- Identify areas of concern that customers may not be aware of
- Take time to research questions where the answer is not immediately apparent, and reply to customer with 48 hours
- Return phone calls from the POD/BOD lines within 24-48 hours

Issue permit numbers and Type I decisions in a timely manner

- Process PAC packets within a week of receipt
- Strive to issue Type I determinations within 30 days of receipt
- Notify applicants about red flags and missing information as soon as you can. Reach out by email and phone before issuing a potential denial or putting the packet in the "hold" stack
- Communicate with customers about timelines and if time expectations change

Work collaboratively with Coordinated Services team to complete daily tasks

- Back each other up
- Take weekly PAC shifts to keep up on submittals
- Build collective knowledge and skills, and support learning for all team members
- When problems arise or when we make mistakes, identify them for supervisor and other teammates as soon as possible, and discuss potential solutions
- Generate ideas to improve efficiency or enjoyment of tasks
- Help train and onboard new teammates: identify key job responsibilities, walk through processes with new staff, provide shadowing for new staff, and identify areas in need of re-training
- Celebrate successes, participate in group activities

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Report Attachment F5

Hearings Official Decision Tracker

PA #	Name Reference	Appellant	Zone	Proposal	PD Decision	HOff. Decision
PA2305587	Mickalson	(Applicant) Toby Mickalson	RR	PLA/LLVRN	Denial	Affirmed (Reconsideration Requested)
PA2305449	Leckie	(Applicant) Mike Leckie	F2	LLVRN	Denial	Affirmed
PA2305372	Eymann Farms	LWLC	EFU	LLVRN	Approval	Pending
PA2305371	Eymann Farms	LWLC	EFU	LLVRN	Approval	Pending
PA2305370	Eymann Farms	LWLC	EFU	LLVRN	Approval	Pending
PA2305345	Thompson Timber	(Applicant) Thompson Timber	EFU	LLVRN	Denial	Affirmed
PA2305313	Camp Lutherwood	LWLC	PR, F1	SUP (Modification of Approval)	Approval	Affirmed
PA2305221	Bond	Russel and Jeanette Bond	EFU, RR	LLVRN	Denial	Appeal Withdrawn
PA2305196	Pfeiffer	(Applicant) Robin Pfeiffer	EFU	PLA	Denial	Reversed (With Conditions)
PA2305144	Harmony Oaks	(Applicant) Barbara Dumsell	F2	LLVRN	Denial	Affirmed
PA2305071	Speiser	LWLC	F2	SUP (Modification of Approval)	Approval	Affirmed
PA2305054	Martinez	(Applicant) Luis Martinez	EFU	LLVRN	Denial	Appeal Withdrawn
PA2305045	Brown	(Applicant) Justin Brown	EFU,	LLVRN	Denial	Affirmed
PA2205796	Digmancernozov	LWLC	EFU	TMH	Approval	Appeal Withdrawn
PA2205786	Carroll	(Applicant) Sharon Simpson Carroll	RR	LLVRN	Denial	Pending
PA2205780	Phoenix & Gryphon	Brian Fields and Mariann Hyland	F2	LLVRN	Approval	Appeal Withdrawn
PA2205766	Mart	(Applicant) Douglas and David Mart	RR	LLVRN	Denial	Reversed
PA2205765	Bailey	(Applicant) Steven Bailey	RR	LLVRN	Denial	Affirmed
PA2205763	Clough	(Applicant) Bryan Clough	RR	LLVRN	Denial	Appeal Withdrawn
PA2205748	Weyerhaeuser	(Applicant) Weyerhaeuser Company	RR	PLA/LLVRN	Denial	Appeal Withdrawn
PA2205745	Marsden	(Applicant) Jeremiah Marsden	F2	SUP (Verification of Siting Standards)	Denial	Appeal Withdrawn
PA2205679	Leach	(Applicant) Mark and Jennifer Leach	EFU	Dwelling (Primary Farm)	Denial	Affirmed (Affirmed on Reconsideration)
PA2205655	Hunt	(Applicant) Jim Hunt, Franklin-Clarkson Tim	F1	LLVRN	Denial	Affirmed (Affirmed on Reconsideration)
PA2205616	BK, LLC	Cynthia Land	F2	Dwelling (Template Modficiation)	Approval	Affirmed
PA2205608	Mooney	(Applicant) Patrick Mooney	RR	LLVRN	Denial	Affirmed
PA2205599	Binford	(Applicant) Anna and Steven Binford	F1, RR	LLVRN	Denial	Affirmed
PA2205594	Royce	(Applicant) Cindy Royce	EFU	LLVRN	Denial	Reversed (With Conditions)
PA2205578	Mattson	LWLC	EFU	LLVRN	Approval	Application Withdrawn
PA2205536	Koffler	(Applicant) Bruce Koffler	EFU	LLVRN	Denial	Reversed
PA2205528	Planktown	(Applicant) Planktown Holdings - Basaraba	RR	VUL	Denial	Affirmed
PA2205464	Hoyt	(Applicant) Hoyt Family Trust	RR	Preliminary Investigation	Approval (Reconsidered)	Appeal Withdrawn
PA2205448	Love 1	(Applicant) David and jane Love-Jeremy Kee	RR	LLVRN	Denial	Affirmed
PA2205447	Love 2	(Applicant) David and jane Love-Jeremy Kee	RR	LLVRN	Denial	Affirmed
PA2205370	Ebbage	Barry L. Taub, Jessica N. Bridges	RR	SUP (Horse Facility)	Approval	Affirmed (Modified)
PA2205344	Knudtson	(Applicant) Knudtson Revocable Trust	EFU	LLVRN	Denial	Affirmed
PA2205328	Aro	(Applicant) Edwin and Wendy Aro	EFU	Dwelling (Primary Farm)	Denial	Affirmed
PA2205274	Brandt	LWLC	F2	Dwelling (TMH)	Approval	Reversed
PA2205260	Gould	Clear Lake Cabin, LLC	F2	LLVRN	Approval	Application Withdrawn
PA2205255	Giudici	Richard Dvorak	EFU	Dwelling (Replacement)	Approval	Affirmed
PA2205247	Webb	LWLC	F2	Dwelling (Template)	Approval	Affirmed (Modified)
PA2205203	Hines	(Applicant) Hines	RR	LLVRN	Denial	Affirmed
PA2205165	Jenkinson	(Applicant) Jenkinson	RR	LLVRN	Denial	Affirmed
PA2205164	Jenkinson	(Applicant) Jenkinson	RR	LLVRN	Denial	Affirmed (Modified)
PA2205158	Bruce	(Applicant) Janessa Bruce	RR	LLVRN	Denial	Application Withdrawn
PA2205157	Bruce	(Applicant) Janessa Bruce	RR	LLVRN	Denial	Application Withdrawn
PA2205098	Pluckett	LWLC	EFU	SUP (Indoor/Outdoor Golf Facility)	Approval	Filed Writ
PA2205092	Sherer	(Applicant) Jeremy Sherer	EFU	Tentative Re-Plat	Approval	Affirmed
PA2205049	Burch	North Hideaway Hills Neighbors	ML	SUP (Kennel Home Occupation)	Approval	Affirmed (Revised Conditions)
PA2205021	Cook	(Applicant) Dalta Cook	EFU	PLA/LLVRN	Denial	Affirmed
PA2106048	Urness	(Applicant) Matthew Urness	EFU	LLVRN	Denial	Reversed

PA2106040	Corbin	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA2106031	Greene	(Applicant) Bruce Greene	RR	LLVRN	Denial	Affirmed	
PA2106012	Dugan-Kubacki	(Applicant) Tommy Dugan	RR	LLVRN	Denial	Appeal Withdrawn	
PA2105933	McGlinchey	(Applicant) Kevin McGlinchey	EFU	LLVRN	Denial	Affirmed	
PA2105932	McGlinchey	(Applicant) Kevin McGlinchey	EFU	LLVRN	Denial	Affirmed	
PA2105928	Helsel	LWLC	EFU	Dwelling (Relative Farm Help)	Approval	Affirmed	
PA2105913	Fielder-Phillips	(Applicant) Howard and Laura Fielder/Don a	RR	PLA	Denial	Reversed	
PA2105909	McDougal	(Applicant) Norm McDougal	F2	PLA	Denial	Reversed	
PA2105891	McKeon	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA2105856	Decker	LWLC	EFU	PLA/LLVRN	Approval	Appeal Dismissed by HO	
PA2105832	Miles	(Applicant) Robert and Becky Miles	F2	LLVRN	Denial	Affirmed	
PA2105806	Ferguson Creek	(Applicant) Sage and Lynn Dorsey	EFU	SUP (Non-Conforming Use)	Denial	Affirmed (Affirmed on Remand from LUBA 11/28/23)	
PA2105768	Goodwin	(Applicant) Pat Goodwin	EFU	LLVRN	Denial	Reversed	
PA2105759	4 W's	(Applicant) 4 W's LLC	EFU	PLA	Denial	Reversed	
PA2105737	Evans	(Applicant) Russel Evans Living Trust	F2	PLA	Denial	Affirmed	
PA2105706	Boehm	(Applicant) Dieter Boehm	EFU	SUP (Setback Variance)	Denial	Appeal Withdrawn	
PA2105678	London Springs	(Applicant) London Springs Farm, LLC	EFU	Dwelling (Primary Farm)	Denial	Filed Writ	
PA2105621	Welle	(Applicant) Carl and Sheri Welle	F2	LLVRN	Denial	Reversed	
PA2105555	McDougal/LCC	(Applicant) McDougal Brothers Investments	F2	LLVRN	Denial	Affirmed	
PA2105529	Walsh Trucking	Jim Chenoweth	RI	SUP (Trucking Terminal Expansion)	Approval	Affirmed	
PA2105525	Jorgensen	(Applicant) Jim Jorgensen	RR	VUL	Denial	Reversed	
PA2105523	Compeau	(Applicant) Compeau Family Trust	RR	VUL	Denial	Affirmed	
PA2105521	Compeau	(Applicant) Compeau Family Trust	RR	VUL	Denial	Affirmed	
PA2105507	Eyman Farm	(Applicant) Penny Jordan/Eymann Farm LLC	EFU	LLVRN	Denial	Affirmed	
PA2105506	Eyman Farm	(Applicant) Penny Jordan/Eymann Farm LLC	EFU	LLVRN	Denial	Reversed	
PA2105467	Balmer	(Applicant) Aaron and Shannon Balmer	RR	LLVRN	Denial	Affirmed	
PA2105452	Moolenijzer	(Applicant) Nicolaas Moolenijzer	RR	LLVRN	Denial	Affirmed	
PA2105341	Royce	(Applicant) Craig and Cindy Royce	F1, EFU	LLVRN	Denial	Affirmed	
PA2105330	Rohl Resources	(Applicant) Rogl Resources	F1, F2	PLA/LLVRN	Denial	Affirmed	
PA2105317	Compeau	(Applicant) Compeau Family Trust	RR	LLVRN	Denial	Affirmed	
PA2105280	Arcuri	LWLC	EFU	Dwelling (Primary Farm)	Approval	Affirmed	
PA2105220	Tranquil Lands	LWLC	F1	Tentative Re-Plat	Approval	Affirmed	
PA2105210	Caraway	(Applicant) Nell Caraway	F2	PLA/LLVRN	Denial	Affirmed	
PA2105209	Sikora	(Applicant) Peter Sikora	EFU	LLVRN	Denial	Affirmed	
PA2105108	Williams	Raloa Keeney	RR	SUP (Type II Site Investigaion Report)	Approval	Appeal Withdrawn	
PA2105046	Baskett	(Applicant) Keith and Michelle Baskett	EFU	SUP (Floodway Development Permit)	Denial	Affirmed	
PA2105033	Fallon 2	LWLC	F2	Dwelling (Large Tract)	Approval	Affirmed	
PA2105023	Vieira	(Applicant) Terri Vieira	F2, RR	LLVRN	Denial	Affirmed	
PA2105022	Vieira	(Applicant) Terri Vieira	F2, RR	LLVRN	Denial	Affirmed	
PA2105014	Hendrickson	LWLC	EFU	Dwelling (TMH)	Approval	Reversed	
PA2005767	Stubblefield	(Applicant) Stan Stubblefield	RR	LLVRN	Denial	Reversed	
PA2005755	Wiese-Rakestraw	(Applicant) Wiese-Rakestraw TRust	EFU	Dwelling (Relative Farm Help)	Denial	Reversed	
PA2005753	Kesey	(Applicant) Kesey Farm Project	EFU	SUP (Community Center)	Denial	Affirmed	
PA2005747	Behrends	LWLC	EFU	Dwelling (SFD Convert to GH)	Approval	Application Withdrawn	
PA2005730	ATR Services	(Applicant) Greg Demers	RR	VUL	Denial	Affirmed	
PA2005710	Schrenk	(Applicant) Schrenk Joint Trust	EFU	LLVRN	Denial	Reversed	
PA2005703	Hansen	(Applicant) Max Hanse and Daniel Landry	EFU	PLA	Denial	Affirmed	
PA2005665	Keepers	Judy Kemp	F1	PLA	Approval	Affirmed	
PA2005645	Triple J	(Applicant) Casey Jones, Triple J, LLC	RI	SUP (Industrial Warehouse)	Denial	Appeal Withdrawn	
PA2005639	Christian Futures	(Applicant) Christian Futures, Inc.	F2	LLVRN	Denial	Affirmed	
PA2005622	Laurella	(Apllicant) Carl and Vanessa Laurella	EFU	LLVRN	Denial	Reversed	
PA2005595	Christian Futures	(Apllicant) Christian Futures, Inc.	F2	Dwelling (Replacement)	Denial	Affirmed	
PA2005583	Ladd	(Applicant) Gerald Ladd, Victor Artaxet	F2	PLA/LLVRN	Denial	Reversed	
PA2005566	Brown	(Applicant) Jill Brown	EFU	LLVRN	Denial	Affirmed	
PA2005565	Jones	(Applicant) Molly Jones	EFU	LLVRN	Denial	Affirmed	

PA2005532	Christian Futures	LWLC	F2	LLVRN	Approval	Reversed (3 Reconsiderations)	
PA2005531	Christian Futures	LWLC	F2	LLVRN	Approval	Reversed (3 Reconsiderations)	
PA2005519	Bowman	(Applicant) Michael and Maureen Bowman	F2	LLVRN	Denial	Affirmed	
PA2005475	Wiley Mt.	LWLC	F2	Dwelling (Large Tract)	Approval	Affirmed (Reconsidered)	
PA2005471	Ray Family Trust	LWLC	EFU	Dwelling (TMH)	Approval	Affirmed	
PA2005452	Green	(Applicant) Charles and Connie Green Trust	F2	PLA	Denial	Affirmed	
PA2005448	Ladd	(Applicant) Janessa Ladd, Gerald Ladd, Victo	F2	PLA	Denial	Affirmed	
PA2005429	Kinard	(Applicant) Jeremy Kinard	RR	LLVRN	Denial	Reversed	
PA2005428	Ellis	(Applicant) Ron Ellis	RR	LLVRN	Denial	Reversed	
PA2005395	Soaring Estates	(Applicant) Soaring Estates, LLC.	F2, ML	PLA/LLVRN	Denial	Affirmed	
PA2005336	Hunt	LWLC	EFU	Dwelling (Large Tract)	Approval	Affirmed	
PA2005319	Gribskov	(Applicant) Gribskov, Gammel, Gaard, Inc.	EFU	LLVRN	Denial	Reversed	
PA2005280	Elms	(Applicant) Elms Family Trust	RR	LLVRN	Denial	Reversed	
PA2005278	Minnozzi	(Applicant) Michael and Patricia Minnozzi	RR	LLVRN	Denial	Affirmed	
PA2005230	Oak Management	(Applicant) Oak Management, LLC.	EFU	VUL	Denial	Reversed	
PA2005228	Wolf Creek Timber	LWLC	F2	Dwelling (Template)	Approval	Reversed	
PA2005217	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005216	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005215	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005214	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005213	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005212	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005211	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005210	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005209	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005208	Pacific Overlook (Hento	LWLC	F2	Dwelling (M49)	Approval	Affirmed	
PA2005207	Pacific Overlook (Hento	LWLC	F2	Tenative Subdivision (M49)	Approval	Affirmed	
PA2005200	Brewer	LWLC	EFU	Dwelling (M49)	Approval	Affirmed	
PA2005165	Seaton	(Applicant) William and Mary Seaton	RR	LLVRN	Denial	Reversed	
PA2005164	Seaton	(Applicant) William and Mary Seaton	RR	LLVRN	Denial	Reversed	
PA2005163	Seaton	(Applicant) William and Mary Seaton	RR	LLVRN	Denial	Reversed	
PA2005154	Big D Logging	LWLC	EFU	LLVRN	Approval	Affirmed	
PA2005127	Franklin	(Applicant) Gerald Franklin	EFU	Dwelling (Replacement)	Denial	Affirmed	
PA2005089	Oak Management	(Applicant) Oak Management, LLC.	EFU	VUL	Denial	Reversed	
PA2005077	Fuller	LWLC	F2	Tentative Partition	Approval	Reversed	
PA2005068	Beach II	LWLC	F2	VUL	Approval	Reversed	
PA2005066	EJK	LWLC	F2	Dwelling (Template)	Approval	Reversed	
PA2005064	EJK	LWLC	F2	Dwelling (Template)	Approval	Reversed	
PA2005063	EJK	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA2005050	Large	LWLC	EFU	Dwelling (Large Tract)	Approval	Affirmed	
PA2005043	Leech	(Applicant) Thomas Leech	EFU	VUL	Denial	Affirmed	
PA2005025	Gansen	(Applicant) Michael Gansen	RR	LLVRN	Denial	Reversed	
PA1905981	McCord	(Applicant) Lynda McCord	F2	Dwelling (Template)	Denial	Affirmed	
PA1905974	Behm Family Trust	LWLC	F2	Dwelling (Template)	Approval	Application Withdrawn	
PA1905969	Howell	(Applicant) Gerald and Barbara Howell	F2	Dwelling (Template)	Denial	Appeal Withdrawn	
PA1905968	Howell	(Applicant) Gerald and Barbara Howell	F2	Dwelling (Template)	Denial	Appeal Withdrawn	
PA1905966	Howell	(Applicant) Gerald and Barbara Howell	F2	Dwelling (Template)	Denial	Affirmed	
PA1905957	Soaring Estates	(Applicant) Soarings Estates, LLC	F2	Dwelling (Template)	Denial	Affirmed	
PA1905953	Jaqua	(Applicant) James and Mary Jaqua	F2	Dwelling (Template)	Denial	Reversed	
PA1905952	Jaqua	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905923	Langliers	LWLC	F2, RR	PLA/LLVRN	Approval	Affirmed	
PA1905919	Allison Living Trust	LWLC	EFU	Dwelling (M49)	Approval	Reversed	
PA1905918	Allison Living Trust	LWLC	EFU	Dwelling (M49)	Approval	Reversed	
PA1905911	Russell	LWLC	F2	Dwelling (Template)	Approval	Reversed	
PA1905908	Rapozo	LWLC	EFU	Dwelling (Non-Farm)	Approval	Appeal Withdrawn	

PA1905906	Ford	(Applicant) Stephen Mikel Ford	F2	PLA/LLVRN	Denial	Reversed (Reconsidered)	
PA1905860	Matthews	(Applicant) Clinton Matthews	EFU	Dwelling (Non Farm, Modification of A	Denial	Affirmed	
PA1905849	Allison Living Trust	LWLC	EFU	Tentative Partition (M49)	Approval	Reversed	
PA1905844	Planktown-Basaraba	(Applicant) Daniel Basaraba/Planktown Hol	RR	LLVRN	Denial	Affirmed	
PA1905828	Christian Futures, LLC	LWLC	F2	Dwelling (Large Tract)	Approval	Affirmed (Reconsidered)	
PA1905811	Christian Futures, LLC	LWLC	F2	Dwelling (Large Tract)	Approval	Affirmed	
PA1905760	Smith	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905754	Lobben-Howe	LWLC	F2, EFU	LLVRN	Approval	Application Withdrawn	
PA1905678	Mattson	(Applicant) Deboarah Mattson	EFU	LLVRN	Recjection	Affirmed	
PA1905659	Fallon	LWLC	F2	Dwelling (Large Tract)	Approval	Affirmed	
PA1905620	Kistinger	(Applicant) Gavin and Claudia Kistinger	RR	Riparian Modification	Denial	Appeal Withdrawn	
PA1905607	Hartness	LWLC	RR	FLLVRN	Approval	Application Withdrawn	
PA1905606	Hartness	LWLC	RR	FLLVRN	Approval	Application Withdrawn	
PA1905585	Sandgathe	(Applicant) Matt Sandgathe	RR	PLA/LLVRN	Denial	Reversed	
PA1905493	McCauley	LWLC	F2	LLVRN	Approval	Reversed	
PA1905490	Ybanez	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905426	Bessetts	(Applicant) Bessett's Lucky LLC	F2	Dwelling (Template)	Denial	Affirmed	
PA1905425	Bessetts	(Applicant) Lonny Bessett	F2	Dwelling (Template)	Denial	Affirmed	
PA1905422	Bessetts	(Applicant) Lonny Bessett	F2	Dwelling (Template)	Denial	Affirmed	
PA1905421	700 Trust	(Applicant) 700 Trust	F2	Dwelling (Template)	Denial	Affirmed	
PA1905386	Leech	LWLC	EFU	Dwelling (Replacement)	Approval	Full Waiver	
PA1905378	Knighten	LWLC	F2	Riparian Modification	Approval	Affirmed	
PA1905364	Leelynn	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905335	Kato	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905332	Perkins	LWLC	EFU	LLVRN	Approval	Affirmed	
PA1905306	Cantrell	Mike and Marvis Remboldt	EFU	Tentative Partition	Approval	Affirmed	
PA1905305	Pincus	LWLC	F2	Dwelling (Template)	Approval	Full Waiver	
PA1905299	Goodman	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905298	Nimpkish	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905273	Noti (McDougal)	(Applicant) Melvin McDougal	F2	Dwelling (Template)	Denial	Affirmed	
PA1905272	Noti (McDougal)	(Applicant) McDougal Brothers, Inc.	F2	Dwelling (Template)	Denial	Affirmed	
PA1905271	Noti (McDougal)	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905270	Noti (McDougal)	(Applicant) McDougal Bros. Investments	F2	Dwelling (Template)	Denial	Affirmed	
PA1905268	Smejkal	LWLC	F2	Dwelling (Template)	Approval	Application Withdrawn	
PA1905267	Noti (McDougal)	(Applicant) McDougal Bros. Investments	F2	Dwelling (Template)	Denial	Affirmed	
PA1905263	Noti (McDougal)	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905250	McCabe	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1905184	Patterson	(Applicant) Carrie Patterson	EFU	LLVRN	Denial	Reversed	
PA1905183	Patterson	(Applicant) Carrie Patterson	EFU	LLVRN	Denial	Reversed	
PA1905092	Fielder-Phillips	(Applicant) Laura and Howard Fielder	EFU	LLVRN	Denial	Affirmed	
PA1905023	Fern Hollow	(Applicant) Fern Hollow Farms	F2	LLVRN	Denial	Reversed	
PA1905005	Weyerhaeuser	Edward Gonet	F2	LLVRN	Approval	Appeal Rejected	
PA1805945	Egge	LWLC	EFU	LLVRN	Approval	Application Withdrawn	
PA1805934	Schumate	LWLC	F2	Tentative Partition	Approval	Reversed	
PA1805913	Green	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805881	Gribskov	(Applicant) Gibskov Gammel Gaarde, inc.	EFU	LLVRN	Denial	Reversed	
PA1805873	Baskett	Tom Bowerman	EFU	SUP (Floodway Development Permit)	Approval	Reversed	
PA1805866	McKenzie L&T	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805836	Rapozo	(Applicant) Damon Rapozo	EFU	LLVRN	Denial	Reversed (Modified)	
PA1805804	Burkert	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
Pa1805801	Ellis	(Applicant) Gloria Lopes Living Trust	EFU	LLVRN	Denial	Reversed	
PA1805768	McDougal Bros.	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805767	McDougal Bros.	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805743	Marvin	(Applicant) Philip Marvin	RR	LLVRN	Denial	Reversed	
PA1805731	Oak Management	(Applicant) Oak Management LLC	EFU	LLVRN	Denial	Appeal Withdrawn	

PA1805707	Boyce	(Applicant) Mildred BOyce Trust	RR	FLLVRN	Denial	Reversed	
PA1805699	Beach	(Applicant) Tami Beach	F2	LLVRN	Denial	Reversed	
PA1805653	Paddock	LWLC	ML	Tentative Partition	Approved	Reversed	
PA1805645	Thomas	Rowdy Road Association	RR	SUP (Home Occupation)	Approval	Affirmed	
PA1805627	Fulks	LWLC	EFU	Dwelling (Relative Farm Help)	Approval	Reversed	
PA1805613	Henton	(Applicant) Doug Henton	EFU	Dwelling (Non Farm)	Denial	Appeal Withdrawn	
PA1805607	Knighten	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805604	Ladd	(Applicant) ROnald Ladd	RR	FLLVRN	Denial	Reversed	
PA1805596	McDougal Bros.	(Applicant) McDougal Bros. Investments	F2	SUP (Chapter 15 Variance)	Denial	Appeal Withdrawn	
PA1805509	McCown	(Applicant) McCown Living Trust	EFU	LLVRN	Denial	Reversed (Modified)	
PA1805499	Burke	(Applicant) Linda Burke	F2	VUL	Denial	Affirmed	
PA1805492	Skarin-Willey	(Applicant) Paul Skarin-Willey	EFU	LLVRN	Denial	Affirmed	
PA1805479	Zettle	(Applicant) Kenneth Zettle	EFU	LLVRN	Approval (Partial)	Affirmed	
PA1805474	Miller	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805473	Miller	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805471	Miller	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805464	McDougal Bros.	(Applicant) McDougal Brothers Investments	F2	LLVRN	Denial	Reversed	
PA1805444	Hudson	LWLC	F2	LLVRN	Approval	Affirmed (Reconsidered)	
PA1805440	Lemhouse	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805399	Nelson-Sick	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805361	Barrowcliff	LWLC	F2	Dwelling (TMH)	Approval	Affirmed	
PA1805332	McKenzie L&T	(Applicant) McKenzie L&T	RR	LLVRN	Approval (Partial)	Affirmed	
PA1805331	McKenzie L&T	(Applicant) McKenzie L&T	F2	LLVRN	Approval (Partial)	Affirmed	
PA1805330	McKenzie L&T	(Applicant) McKenzie L&T	F2	LLVRN	Denial	Appeal Withdrawn	
PA1805325	McKenzie L&T	(Applicant) McKenzie L&T	RR	LLVRN	Approval (Partial)	Affirmed (Modified)	
PA1805296	Gibson	LWLC	EFU	Dwelling (TMH)	Approval	Reversed	
PA1805289	Bielefeld	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805243	McDougal	LWLC	F2	Dwelling (Large Tract)	Approval	Application Withdrawn	
PA1805224	O'Neill	(Applicant) Eva O'Neill	EFU	LLVRN	Denial	Application Withdrawn	
PA1805217	Bartlett	(Applicant) Frank and Teresa Bartlett	EFU	SUP (Home Occupation)	Denial	Reversed	
PA1805208	Hill	LWLC	F2	VUL	Approval	Reversed	
PA1805191	Johnson	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1805186	Prado	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1805161	Yurash	LWLC	EFU	Dwelling (Replacement)	Approval	Appeal Withdrawn	
PA1805138	Hawaiian Seed Co.	Lorane Grange	RC	SUP (Rec MJ Production)	Approval	Affirmed	
PA1805083	Shoop	Frank and Chris Beltran	F2	LLVRN	Approval	Affirmed	
PA1805049	Goodman	LWLC	F2	PLA	Approval	Affirmed	
PA1706011	Bergey	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1705998	Northwest Mineral	LWLC	SG	LLVRN	Approval	Affirmed (Modified/Reconsidered)	
PA1705996	Podhorsky	LWLC	EFU	LLVRN	Approval	Reversed (Modified)	
PA1705983	Koffler	LWLC	F2	LLVRN	Approval	Reversed	
PA1705951	Betz Evans	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1705918	Thurston	Thurston Ridge LLC	F2	LLVRN	Denial	Reversed	
PA1705917	Miles	LWLC	F2	PLA/LLVRN	Approval	Reversed	
PA1705908	Doughty	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1705898	EWEB Reservoir	LWLC	F2	SUP (Reservoir)	Approval	Full Waiver	
PA1705876	Jensen	LWLC	EFU	Dwelling (Replacemen)	Approval	Affirmed	
PA1705822	Gray	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1705778	King	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1705775	Kasle	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1705773	Nielsen	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1705769	Keppler	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1705716	Schilt	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1705713	Thorpe	LWLC	F2	LLVRN	Approval	Affirmed	
PA1705645	Embree Asset Group	(Applicant) Embree Asset Group	RC	SUP (General Store)	Denial	Affirmed	

PA1705644	Ziegler	LWLC	F2	SUP (New Site Accessory Structure)	Approval	Affirmed	
PA1705600	Daywitt	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1705553	Lin	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1705487	Jennings-Kryl	LWLC	EFU	LLVRN	Approval	Affirmed	
PA1705427	Strategic Invetments	LWLC	F2/ML	Tentative Subdivision	Approval	Application Withdrawn	
PA1705414	Russell	(Applicant) Gerald Russell	EFU	Dwelling (replacement)	Denial	Application on Hold	
PA1705387	Vandercook	LWLC	F2	SUP (Transfer of M49 Development Ri	Approval	Affirmed	
PA1705312	Reerslev	LWLC	EFU	LLVRN	Approval	Affirmed	
PA1705309	Vannett	(Applicant) Vannett Properties LLC	EFU	Dwelling (M49)	Revocation	Affirmed	
PA1705297	McDougal	LWLC	F1	LLVRN	Approval	Reversed	
PA1705286	Mayer	LWLC	EFU	LLVRN	Approval	Affirmed	
PA1705220	McDougal	LWLC	F2	LLVRN	Approval	Affirmed (Modified)	
PA1705200	Home Federal Bank	(Applicant) Industrial Avenue Properties, LL	RI	SUP (Trucking Terminal in Greenway)	Denial	Reversed	
PA1705193	Petersen	LWLC	F2/EFU	FLLVRN	Approval	Appeal Withdrawn	
PA1705184	Oliveira	(Applicant) Dennis Oliveira	RR	SUP (Chapter 16 Variance)	Denial	Application on Hold	
PA1705174	Jones	LWLC	F2	LLVRN	Approval	Affirmed	
PA1705159	Tannerite	Simpkins	N/A	LLVRN	Approval	Appeal Rejected	
PA1705111	Harwood Farms	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1705071	Wolf	LWLC	F2	Dwelling (Large Tract)	Approval	Affirmed	
PA1605950	Smart	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1605920	Verizon Wireless	(Applicant) Verizon Wireless	EFU	SUP (Telecommunications Tower)	N/A	Approved (Reconsidered)	
PA1605820	Mokashi	James Finney Jr.	RC	SUP (Vacation Rental Facility)	Approval	Affirmed	
PA1605630	King	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1605629	King	LWLC	EFU	Dwelling (Replacement)	Approval	Affirmed	
PA1605623	Perrott	(Applicant) Perrott Trust	EFU	SUP (Home Occupation)	Approval	Affirmed	
PA1605609	Henton	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1605596	Swanson Bros.	LWLC	F1	LLVRN	Approval	Affirmed	
PA1605590	Farver	LWLC	EFU	FLLVRN	Approval	Affirmed	
PA1605513	Booth	LWLC	EFU	PLA/LLVRN	Approval	Affirmed	
PA1605498	Smith	LWLC	N/A	LLVRN	Approval	Appeal Withdrawn	
PA1605474	Telew	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1605465	Bowerman	McKenzie Bowerman	F2	PLA	Approval	Reversed	
PA1605459	Kerby	LWLC	ML	FLLVRN	Approval	Reversed	
PA1605445	Perrott	LWLC	EFU	PLA	Approval	Affirmed	
PA1605321	Oak Hill School	LWLC	EFU	SUP (Expansion of Existing School)	Approval	Affirmed	
PA1605319	NEM LLC	LWLC and Coburg Hills Community Associat	F2	Dwelling (Template)	Approval	Affirmed	
PA1605314	Leeper	LWLC	F2	Dwelling (Template)	Approval	Appeal Withdrawn	
PA1605280	Magney	LWLC	F2	Dwelling (Template)	Approval	Appeal Withdrawn	
PA1605275	McDougal	LWLC	F2	Dwelling (Modification of Approval)	Approval	Affirmed	
PA1605239	Hansen	LWLC	F2	FLLVRN	Approval	Application Withdrawn	
PA1605207	Stewart	LWLC	F2	FLLVRN	Approval	Affirmed	
PA1605161	Weyerhaeuser	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1605136	Evans	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1605125	Clements	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1605122	Sullivan	LWLC	F2	Dwelling (Template)	Approval	Appeal Withdrawn	
PA1605058	Anderson	LWLC	EFU	FLLVRN	Approval	Application Withdrawn	
PA1605028	Sandford	(Applicant) John Sandford	F2	Dwelling (Template)	Denial	Application Withdrawn	
PA1505856	Willamalane	Lee C. Weichselbaum	EFU	SUP (Transportation Facility)	Approval	Appeal Withdrawn	
PA1505785	Towle	LWLC	EFU, PR	Dwelling (Replacement)	Approval	Appeal Withdrawn	
PA1505777	Sayre	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1505770	Wolcott	(Applicant) James and Nancy Wolcott	F2	Dwelling (Template)	Denial	Affirmed	
PA1505735	Wolf	LWLC	F2	Dwelling (Template)	Approval	Affirmed (Reconsidered)	
PA1505734	SMejkal	LWLC	F2	Dwelling (Template)	Approval	Affirmed	
PA1505664	Glenn	Linda and Billy Householder	F2	Dwelling (Template)	Approval	Appeal Withdrawn	
PA1505660	Tet	LWLC	EFU	Dwelling (Non Farm)	Approval	Affirmed (Reconsidered)	

Howe Mann Consulting

Report Attachment F6

LANE COUNTY PUBLIC WORKS - LAND MANAGEMENT



Division Manager
Keir Miller

Building

Office Ass't 2 (1040)
Brittany Brown

Building Official
John Webster

Assistant Building Official
Ryan Rook

Inspectors

Sr. Bldg. Inspect.
Ralph Brown

Bldg. Safety Spec. 2
Christopher Pukalo
Dale Russell

Bldg. Safety Spec. 1
Ray Hutchinson

Contractor

Extra Help (520)
1 position

Electrical

Electrical Inspect.
Gavin Quick
Bill Wilcox

Contractor

Extra Help (520)
1 position

Plans Examiners

Sr. Plans Exam.
VACANT

Plans Exam. 2
Andrew Cooke
Duane Smith

Bldg. Safety Spec. 2
Scott Evans

Extra Help (520)
2 position

Sanitation

Environmental Health Spec. 2
George Ehlers
Jay Mathison

Environmental Health Spec. 1
Riley Robinson

Storm Water Permitting

Eng Analyst
Louranah Janeski

Code Enforcement

Code Enforcement Officer
Luis Soria
Amber Watson

Code Enforcement Officer (1040)
Jane Burgess

Coordinated Services

Coordinated Services Supervisor
Marianne Nolte

Public Assistance

Sr. LMD Technician
VACANT

LMD Technician
Ted Alberon
Stephanie Beck
Ron Eggleston
Emma Engberg
Rhianna Foster
Lucas Rhyan

LMD Reception

Sr. Admin Analyst
Jessica Gryziec

Sr. Office Ass't
Lucy Cernas Aguirre
Johanna Stiffler
Makaela Vinson

Extra Help (520)
1 position

Sr. Office
David Ruiz

Assist
Lin

Assoc. Planne
Noray Spradlin

Planner
Emily Connor
Julia Dobberste
Gareth Warr