

Date: February 10, 2017



**To:** Interested Parties  
**From:** Keir Miller, Lane County Planning Supervisor  
**RE:** Effective Immediately - Change in Lane County Property Line Adjustment Review Procedures

You are receiving this notice because the Land Use Board of Appeals (LUBA) has issued a Final Opinion that will result in changes to the way Lane County processes Property Line Adjustment (PLA) applications.

### Background

On April 28, 2015, Lane County issued a single approval for a Ministerial property line adjustment involving nine serial property line adjustments in the F-2 zone, without notice. A timely appeal was filed with LUBA and LUBA issued a Final Opinion on January 26, 2017 (2016-008 Bowerman v. Lane County (Egge))<sup>1</sup>. That decision is linked, below:

<http://www.oregon.gov/LUBA/docs/Opinions/2017/01-17/16008.pdf>

### Changes in Procedures

The LUBA Final Opinion necessitates two major changes to how Lane County will process PLA applications.

- 1) Regarding Ministerial PLA applications, LUBA stated that due the construction of the code language in LC 13.450(4)(c), staff cannot accept a Surveyor's statement that setbacks are conforming or the nonconformity of a parcel is not increased. Staff must make findings that the PLA complies with zoning setbacks and siting standards (First Assignment of Error, page 9). To further clarify our understanding of the decision:
  - a. Most zones have clear and objective setbacks and no siting standards are involved however, the LUBA decision appears to compel staff to prepare findings related to setbacks. This new requirement will prevent staff from issuing over-the-counter approvals of Ministerial PLA applications for the time being.
  - b. Additionally, Ministerial PLA applications between lands zoned F1, F2, or EFU involve siting standards that are discretionary in nature. Because of this PLAs within these zones will now require a Director-level PLA application. Exceptions to a Director PLA include:
    - i. Ministerial PLA's in the F1, F2, or EFU zone if the application is made pursuant to LC 13.450(4)(a) or (b). (both properties are vacant)
    - ii. Ministerial PLA's in the F1, F2, or EFU zone if the application is made pursuant to LC 13.450(4)(c) and the PLA results in setbacks from non-farm structures to be over 500 feet from land zoned F1 or over 100 feet from land zoned F2 or EFU.

Note: PLA's that result in setbacks less than what is listed above may be allowed, but require staff to write discretionary findings and require a Director PLA application.

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<sup>1</sup>This decision is still in the appeal period and may be appealed to the Court of Appeals. However, the act of filing an appeal does not invalidate a LUBA Final Order.

- 2) LUBA also ruled that it is unlawful to approve serial PLA's in one application. In January 2016, Lane County issued a change in policy preventing the approval of serial PLA's from occurring in one Ministerial PLA application. For the last year these types of have applications have instead been reviewed through a single Director-level PLA application. This practice will cease immediately and apply to pending applications as well.
- a. The Final Opinion states (Third Assignment of Error, page 29, line 4-11):

'We conclude that under existing statutes multiple property line adjustment may be approved in a single decision, so long as those property line adjustments adjust common property lines between existing properties. But **"further adjustment of adjusted properties" is not permissible under existing statutes in a single decision.** To approve a property line adjustment and then approve another property line adjustment for one or both of the adjusted properties, the statutorily required conveyance to complete the first property line adjustment must first be recorded.'  
[emphasis added]

Please be advised that there may be circumstances where Lane County can process multiple property line movements in one Director PLA application and still comply with the statement above. The Applicant will need to justify why it is not a serial PLA, but an adjustment between existing properties in their application.

New Application forms and handouts related to these revised processes will be posted to the Lane County Land Use and Planning website (linked below) by end of day on Wednesday, February 8, 2017.

[http://lanecounty.org/government/county\\_departments/public\\_works/land\\_management\\_division/land\\_use\\_planning\\_zoning/](http://lanecounty.org/government/county_departments/public_works/land_management_division/land_use_planning_zoning/)

If you have additional questions regarding these revised processes, please feel free to contact me.

Sincerely,



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