

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO:
15-09-29-09

In the Matter of Electing Whether or Not to Hear an Appeal of a Hearings Official's Decision denying a Request for A Verification of Nonconforming use to allow placement of a manufactured dwelling for student housing as Phase III of a 2004 land use decision (509-PA04-06222) approving a school building and two dormitories in an Exclusive Farm Use (E-25) zone pursuant to LC 16.251(1). (Property Map / Tax Lot 18-02-25 TL 304; File No. 509-PA14-05775; Owner, McDougal Foundation; Applicant/Appellant, Laurelwood Academy; Appellant's Representatives, Land Planning Consultants & Bill Kloos).

WHEREAS, the Lane County Hearings Official has made a decision denying a request for a Nonconforming Use in the Exclusive Farm Use Zone pursuant to Lane Code 16.251(1), Map T18-R02-S25, Tax Lot 304, File No. 509-PA14-05775; and

WHEREAS, the Lane County Planning Director has received an appeal of the Hearings Officials Decision to the Board of County Commissioners pursuant to LC 14.515(3)(f)(ii) and LC 14.515(3)(f)(ii); and

WHEREAS, the Lane County Hearings Official has affirmed his decision on the application after reviewing the appeal in File No. 509-PA14-05775; and

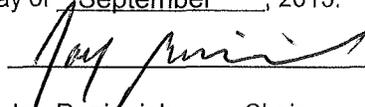
WHEREAS, Lane Code 14.600 provides the procedure and criteria that the Board follows in deciding whether or not to conduct an on the record hearing for an appeal of a decision by the Hearings Official; and

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

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

1. That the appeal complies with the criteria of Lane Code 14.600(3) and the arguments set forth in the memo on the appeal should be considered in an on the record hearing. Findings in support of this decision are attached as Exhibit "A."
2. The tentative date for the on the record hearing is October 20, 2015, and the parties that qualify to participate in the hearing on the record for the appeal are the applicant/appellant and their representative, the Director, and other parties of record.

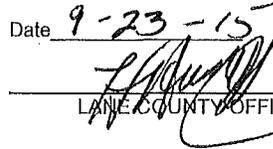
ADOPTED this 29th day of September, 2015.



Jay Bozievich, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 9-23-15



LANE COUNTY OFFICE OF LEGAL COUNSEL

ORDER EXHIBIT "A"

FINDINGS IN SUPPORT OF THE ORDER

1. The applicant/appellant on this application is Laurelwood Academy. The subject property is identified as tax lot 101 assessor's map 18-05-06-40. The approximate 20 acre subject property is located approximately 1 mile south east of the rural community of Jasper, south west of Jasper-Lowell Road, and approximately 2.6 miles from the Springfield Urban Growth Boundary. The property is zoned Exclusive Farm Use (E-25) Zone and is designated Agriculture in Lane County Comprehensive Plan and is owned by the McDougal Foundation.
2. On May 23, 2005, the Applicant obtained approval for a Special Use Permit (file 509-PA04-06222) for a three-phased construction of a school that included two 20-room dormitories and a classroom/administrative building.
3. The current application (file 509-PA14-05775) was submitted as a request for a Vested Rights determination to finish the construction of a multi-phased school project. The application was deemed complete on April 22, 2015. The Planning Director subsequently modified the request to be an application for the Verification of a Non-conforming Use and determined the applicant had a right to complete the multi-phased construction and approved the application request on May 15, 2015.
4. On May 27, 2015, the decision was appealed to the Lane County Hearing's Official by LandWatch Lane County. Most of the testimony at the Hearing Official public hearing on June 18, 2015 focused upon how Vested Rights law, instead of Non-conforming Use law, was applicable to this request. On July 23, 2015 the record closed for final rebuttal for the hearing.
5. On August 6, 2015, the Hearing Official issued a denial of the request and the applicant appealed the decision on August 18, 2015. Staff mailed notice of the appeal of the Hearing's Official decision to interested individuals and agencies on August 20, 2015.
6. On August 21, 2015 the Hearing's Official choose not to reconsider and affirmed his August 6, 2015 decision. Staff mailed notice of appeal elect hear to interested individuals and agencies on August, 21, 2015.
7. In order for the Board to hear arguments on either appeal, Lane Code 14.600(3) requires one or more of the following criteria to be found by the Board to apply to the appeals:
 - *The issue is of Countywide significance.*
 - *The issue will reoccur with frequency and there is a need for policy guidance.*
 - *The issue involves a unique environmental resource.*
 - *The Planning Director or Hearings Official recommends review.*
8. The issue is of Countywide significance and there is a need for Board review. The question of whether the structures in a phased development request needs to be "completed" rather than "begun" before the expiration of the permit needs policy guidance from the Board.
9. The Planning Director recommends review of the appeal.
10. To meet the requirements of Lane Code 14.600(2)(b), the Board is required to adopt a written decision and order electing to have a hearing on the record for the appeal or declining to further review the appeal.
11. The Board has reviewed this matter at its meeting of September 29, 2015, finds that the appeal does comply with the criteria of Lane Code Chapter 14.600(3), and has elected to hear the appeal, and hold an on the record hearing.