31.3.3 Permits – Particular Uses – Forest Dwellings. Where a county approves a "forest template dwelling" under ORS 215.750(1)(c), arguments that the county relied on units of land that were unlawfully created through partition approval, rather than subdivision approval, provide no basis for reversal or remand since any procedural error the county committed in approving the land division cannot be collaterally attacked in an appeal of a subsequent decision that depends on the prior approval. *Landwatch Lane County v. Lane County*, 79 Or LUBA 65 (2019).

31.3.3 Permits – Particular Uses – Forest Dwellings. A county may not allow unlimited, successive one-year extensions of permits for residential development on resource land where state statute and regulation provide that such permits "shall be valid for four years" and that "[a]n extension" thereof "shall be valid for two years," where nothing in the legislative history suggests an intent to allow more than one extension. *Landwatch Lane County v. Lane County*, 79 Or LUBA 96 (2019).

31.3.3 Permits – Particular Uses – Forest Dwellings. A county errs in accepting with the applicant's final written argument, for purposes of determining whether at least three dwellings existed on surrounding lots or parcels on January 1, 1993, and therefore whether the subject property qualifies for a forest template dwelling under ORS 215.750, an email from a contractor who worked on one of the surrounding dwellings , even where the email is intended to provide context for evidence submitted by opponents, and thereby rebut opponents' arguments concerning that evidence. Under ORS 197.763(6)(e), new evidence may not be submitted with an applicant's final written argument and, under ORS 197.763(9), such an email is evidence rather than argument. In addition, opponents are not precluded from raising a county's admission of new evidence with the applicant's final written argument as procedural error on appeal to LUBA merely because they failed to object during the local proceedings, where the opportunity to object was provided after the county had already considered evidence, deliberated, and made its oral decision, and where the record was closed and no further testimony was allowed. *Eng v. Wallowa County*, 79 Or LUBA 421 (2019).

31.3.3 Permits – Particular Uses – Forest Dwellings. Where a county determines that a property qualifies for a forest template dwelling under ORS 215.750 because at least three dwellings existed on surrounding lots or parcels on January 1, 1993, based on a statement of the applicant, a recollection of the prior owner of one of the surrounding dwellings, an email from a contractor who worked on one of the surrounding dwellings, and a statement by the tax assessor that its records showed a dwelling in place on January 1, 1993, but where LUBA concludes that the county erred in accepting the email, where LUBA cannot determine whether the county would have reached the same conclusion without the email, and where the county's findings failed to address evidence that the tax rolls indicate existence of the dwelling as of July 1993 rather than January 1993, LUBA will remand for the county to adopt adequate findings. *Eng v. Wallowa County*, 79 Or LUBA 421 (2019).

31.3.3 Permits – Particular Uses – Forest Dwellings. Absent a legal definition for how the center point of a property must be established for purposes of determining whether it qualifies for a forest template dwelling under ORS 215.750, a county errs by not explaining the basis for its conclusion that its chosen method is the most appropriate and by not addressing opponents' arguments challenging that method. *Eng v. Wallowa County*, 79 Or LUBA 421 (2019).

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31.3.3 Permits – Particular Uses – Forest Dwellings. ORS 215.750 does not prohibit a local government from applying a local code provision requiring an applicant for a forest template dwelling to demonstrate that the dwelling is "necessary for and accessory to" the forest use. *Greenhalgh v. Columbia County*, 54 Or LUBA 626 (2007).

31.3.3 Permits – Particular Uses – Forest Dwellings. LUBA will not defer to a local government's interpretation of the phrase "necessary for and accessory to" forest management as meaning "convenient and efficient" to forest management, where such an interpretation is contrary to the plain meaning of the word "necessary," the express language of the provision at issue, and other language in the provision. *Greenhalgh v. Columbia County*, 54 Or LUBA 626 (2007).

31.3.3 Permits – Particular Uses – Forest Dwellings. Findings concluding that a proposed dwelling will not significantly increase fire hazards in a forest zone are not necessarily adequate to also show that the dwelling will not significantly increase fire suppression costs or risks to fire suppression personnel. *Central Oregon Landwatch v. Deschutes County*, 53 Or LUBA 290 (2007).

31.3.3 Permits – Particular Uses – Forest Dwellings. A hearings officer errs in concluding, based on expert testimony that isolated dwellings force firefighters to choose either to abandon such homes or to devote insufficient resources to defend them, that the proposed isolated dwelling will not significantly increase fire suppression costs or risks to fire suppression personnel because firefighters would simply abandon the dwelling. *Central Oregon Landwatch v. Deschutes County*, 53 Or LUBA 290 (2007).

31.3.3 Permits – Particular Uses – Forest Dwellings. Remand is necessary where the applicant's forest consultant recommends vegetation removal as necessary to ensure compliance with approval criteria for a large tract forest dwelling, but the hearings officer does not adopt a condition of approval to that effect or explain why such measures are not necessary to ensure compliance with approval criteria. *Central Oregon Landwatch v. Deschutes County,* 53 Or LUBA 290 (2007).

31.3.3 Permits – Particular Uses – Forest Dwellings. Under a code standard requiring that a forest dwelling be located at a site that minimizes the risks associated with wildfire, remand is necessary where the opponents' expert testified that the preferred site is isolated and will incur significantly more risk and cost to firefighters over alternative sites, there is no rebuttal of that testimony, and the findings do not state a sufficient basis to reject that testimony. *Central Oregon Landwatch v. Deschutes County*, 53 Or LUBA 290 (2007).

31.3.3 Permits – Particular Uses – Forest Dwellings. Where the purpose of code standards for siting a large tract forest dwelling is to identify a site that minimizes the loss of forest lands to non-forest uses, it is appropriate to favor sites that are already developed for non-forest uses over undeveloped sites, because developed sites do not require additional loss of forest lands to forest uses. *Central Oregon Landwatch v. Deschutes County,* 53 Or LUBA 290 (2007).

31.3.3 Permits – Particular Uses – Forest Dwellings. Where no county approval was required to create parcels of more than 20 acres in a transitional timber zone if the parcel was to be used for forest use and the question is whether a parcel that was created 16 years ago was created for forest use, the fact that the parcel was used only for growing trees for 16 years is sufficient to show the parcel was created for forest use and it does not matter that no trees were harvested during that 16-year period. *Neal v. Clackamas County*, 52 Or LUBA 248 (2006).

31.3.3 Permits – Particular Uses – Forest Dwellings. The broad statutory definition of "owner" under statutory lot- of-record provisions, which includes certain relatives of the fee title owner as the owner, does not apply in determining whether parcels are part of the same "tract" for purposes of approving a forest template dwelling. *Neal v. Clackamas County,* 52 Or LUBA 248 (2006).

31.3.3 Permits – Particular Uses – Forest Dwellings. Forest restocking requirements imposed by OAR 660-006-0029 do not constitute approval criteria that determine whether a dwelling may be approved on property zoned for forest use. *Hodge Oregon Properties, LLC v. Lincoln County*, 46 Or LUBA 290 (2004).

31.3.3 Permits – Particular Uses – Forest Dwellings. Where the local code neither requires the proposed conditional use to be the sole use of the entire subject parcel nor prohibits approval of a nonforest conditional use on a portion of a parcel on which a forest dwelling is located, a prior local decision approving a forest dwelling on the subject parcel does not prevent subsequent approval of a conditional use permit for a proposed nonforest use on a portion of that parcel. *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

31.3.3 Permits – Particular Uses – Forest Dwellings. A determination that an onsite dwelling is essential to carrying out the proposed forest management operation, supported by adequate findings and substantial evidence, demonstrates compliance with a local standard requiring that a forest management dwelling be "necessary for * * * a permitted forest use." *DLCD v. Coos County*, 25 Or LUBA 158 (1993).

31.3.3 Permits – Particular Uses – Forest Dwellings. The "necessary for and accessory to" test for approval of forest dwellings is a significant limitation on the approval of permits for construction of single-family dwellings on lands planned and zoned for forest use. Further, the necessary and accessory test is not satisfied simply because a proposed forest dwelling is convenient for, or will enhance the cost effectiveness of, the forest use of a forest parcel. *Barnett v. Clatsop County*, 23 Or LUBA 595 (1992).

31.3.3 Permits – Particular Uses – Forest Dwellings. Where the findings supporting a local government decision approving a forest dwelling under the "necessary for and accessory to test" fail to explain why living on-site is *required* for performance of the identified forest management duties, the findings are inadequate to establish that the proposed forest dwelling is "necessary." *Barnett v. Clatsop County*, 23 Or LUBA 595 (1992).

31.3.3 Permits – Particular Uses – Forest Dwellings. Where a local government interprets the phrase "necessary for and accessory to" in the local code as requiring only a showing that a proposed dwelling is convenient to the continuation of the resource use of the property, such interpretation is incorrect. *Tipperman v. Union County*, 22 Or LUBA 775 (1992).