

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. ORS 92.190(3) embodies a requirement that, where local governments choose to provide an alternative procedure for property line adjustments other than using replat procedures, that alternative procedure must include local government approval of some kind. However, ORS 197.190(3) does not specify any particular procedures or form of approval, and does not necessarily require that final approval be obtained prior to recordation of the adjustment deeds. Given the absence of more specific statutory requirements a county does not err in verifying property as a legal lot, notwithstanding that the property lines were adopted in 2007 without prior county approval, where following recordation of the deeds, the county preliminarily verified the adjustments as lawful and issued a final approval in 2017 when the property owner applied for, and the county approved, a development permit. This process, although partially post-hoc, is consistent with ORS 92.190(3). *Landwatch Lane County v. Lane County*, 77 Or LUBA 486 (2018).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. Oregon Laws 2008, chapter 12, legislatively overruled the holding in *Phillips v. Polk County*, 53 Or LUBA 194, *aff'd*, 213 Or App 498, 162 P3d 338 (2007), which provided that it was unlawful to adjust property boundaries in a way that results in parcels that fail to comply with applicable minimum parcel sizes. Oregon Laws 2008, chapter 12, authorizes property line adjustments of substandard size lots and parcels, even if the resulting lots or parcels continue to fail to comply with applicable minimum parcel sizes. Oregon Laws 2008, chapter 12, section 6 made that legislation retroactive to “property line adjustments approved before, on or after the effective date of this 2008 Act.” Therefore, Oregon Laws 2008, chapter 12 applies to a property line adjustment that took place in 2007, because the property line adjustment was “approved * * * before, on or after” the effective date of the 2008 Act. *Landwatch Lane County v. Lane County*, 77 Or LUBA 486 (2018).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. A petitioner fails to raise an issue with the specificity that is required by ORS 197.763(1) when the arguments in the cited record pages merely allege without developed explanation that the subject parcel was created by partition in 1980 as a sub-standard size parcel in the FF-20 zone, and therefore may not raise the issue that the post-partition zoning of the property to a zone that requires a 20-acre minimum parcel size means that the one-acre parcels approved by the county in 1980 were not lawfully created. *Landwatch Lane County v. Lane County*, 75 Or LUBA 151 (2017).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. Assignment in August 1979 of a zoning designation that required a minimum lot size of 20 acres to property that was previously partitioned in April 1979 into one-acre parcels does not mean that the parcel was not “lawfully created” in April 1979 when the county approved the partition application. *Landwatch Lane County v. Lane County*, 75 Or LUBA 151 (2017).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. ORS 215.750 and OAR 660-006-005(5) allow a county to approve a forest template dwelling if, after applying a 160-acre template centered on the subject property, at least 11 other “lots or parcels that existed on January 1, 1993, are” within the 160-acre area. A hearings officer’s finding that the applicant met the 11-lot requirement by counting three parcels with boundaries that were later reconfigured pursuant to property line adjustment after January 1, 1993, as long as the parcels as they existed on January 1, 1993 were “partly or completely within the template boundaries,” and counting a

fourth parcel that was partitioned into two parcels after January 1, 1993 as one parcel is consistent with the statute and the rule, where the administrative rule history of OAR 660-006-0005(5) indicates the Land Conservation and Development Commission (LCDC) did not intend to prohibit an applicant from relying on the January 1, 1993 configuration of a later-reconfigured parcel so long as “the effect of” later properly line adjustments was not “to qualify a lot, parcel or tract for the siting of a dwelling.” *Landwatch Lane County v. Lane County*, 75 Or LUBA 151 (2017).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. The minimum lot or parcel size requirements of ORS 215.780(1) for resource lands do not apply to decisions that rezone a portion of a resource parcel to nonresource use but do not partition or subdivide the parcel. *DLCD v. Coos County*, 39 Or LUBA 432 (2001).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. When determining whether land is “forest land” under the Goal 4 suitability standard, if the subject property is smaller than the county’s base forest zone minimum parcel size, all of the subject property, not a portion of it, must be considered. *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. Unless approval is given by LCDC under ORS 215.780(2) for a smaller minimum lot size or sizes, ORS 215.780(1) requires a county to apply minimum lot sizes of 80 acres (designated forestland and non-range farmland) or 160 acres (designated rangeland) in its farm and forest zones. *DLCD v. Josephine County*, 28 Or LUBA 459 (1994).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. The 1993 legislature adopted specific minimum lot and parcel sizes. For forestland and farmland that is not designated rangeland, the minimum lot or parcel size is 80 acres. ORS 215.780(1)(a) and (c). For land zoned for exclusive farm use and designated as rangeland, the minimum lot or parcel size is 160 acres. ORS 215.780(1)(b). *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. The ORS 215.780(2) provisions that allow counties to adopt a minimum lot size smaller than would otherwise be required for farmland and forestland by ORS 215.780(1), require that a county obtain LCDC approval for such smaller lot sizes *before* adopting such smaller lot sizes. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

8.5.2 Goal 4 – Forest Lands/ Goal 4 Rule – Land Divisions – Minimum Lot Sizes. ORS 215.780(1) unambiguously imposes an 80-acre minimum lot size on lands designated for forest use, unless the exceptions provided by ORS 215.780(2) or (3) apply. Neither of those exceptions allows the creation of parcels smaller than 80 acres for homestead dwellings. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).