

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 12-12-11-10

IN THE MATTER OF ELECTING WHETHER
OR NOT TO HEAR ARGUMENTS ON AN
APPEAL OF A HEARINGS OFFICIAL'S
DECISION APPROVING A TEMPORARY
PERMIT FOR AN OUTDOOR EVENTS
VENUE (FILE 509-PA 12-05171/SHRIVES)

WHEREAS, the Lane County Hearings Official has made a decision, approving a Temporary Permit for an outdoor events venue, application 509-PA 12-05171; and

WHEREAS, the Lane County Planning Director has accepted an appeal of the Hearings Official's Decision to the Board of County Commissioners pursuant to LC 14.515; and

WHEREAS, the Lane County Hearings Official has affirmed his decision on application 509-PA 12-05171; and

WHEREAS, Lane Code 14.600 provides the procedure and criteria which 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, Lane Code 14.515(3)(f)(ii) provides the option that the appellant can request that the Board not conduct a hearing on the appeal and let the matter move forward to the Land Use Board of Appeals; and

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

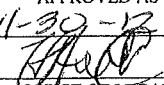
NOW, THEREFORE, the Board of County Commissioners of Lane County **Finds** and **Orders** as follows:

1. That the appeal complies with the criteria of Lane Code Chapter 14.600(3) and arguments on the appeal should therefore be considered. Findings in support of this decision are attached as Exhibit "A" and are adopted by the Board.
2. Persons who may participate in a Board on-the-record hearing for the appeal are identified in the attached Exhibit "B".

ADOPTED this 11th day of December 2012.



Sid Leiken, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 11-30-12 Lane County


OFFICE OF LEGAL COUNSEL

FINDINGS IN SUPPORT OF THE ORDER

1. Property involved in this action is identified as tax lot 201, map 19-03-25, located at 81930 Sears Road, with a base zone of F-2 (Impacted Forest Lands, LC 16.211). The entire parcel is located within the Willamette River Greenway (LC 16.254), and most of it is within the FEMA 100 year floodhazard zone (LC 16.244). The river, a Class 1 stream, is subject to the Riparian Regulations (LC 16.253). The property is within the jurisdiction of the Lane County Rural Comprehensive Plan and Lane Code Chapter 16.
2. In March, 2012, in the form of application 509-PA12-05171, the property owners and applicant, Margaret and Mark Shrives, requested that a Temporary Permit be granted by the Hearings Official for an outdoor events venue, pursuant to Lane Code 16.255(2)(a)(ii). After the provision of a traffic study, the application was deemed complete for processing on June 20, 2012.
3. On August 2, 2012, a public hearing was held. The record was left open until October 8, 2012 for written submittals, a site visit, and a sound test.
4. On October 30, 2012, the Hearings Official rendered his decision, conditionally approving the request.
5. On November 13, 2012, a timely appeal of the Hearings Official's decision was filed by a neighbor opposed to the request.
6. On November 14, 2012, the Planning Director accepted the appeal, and forwarded it to the Hearings Official for his review. On November 16, 2012, and after reviewing the appeal, the Hearings Official affirmed his decision.
7. The appeal states that the Approval Authority exceeded his jurisdiction and misinterpreted Lane Code 16.255.
8. In order for the Board to hear arguments on the appeal, Lane Code 14.600(3) requires one or more of the following criteria to be found by the Board to apply to the appeal:
 - *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.*
9. The Board of Commissioners finds that issues raised in the appeal to be of county-wide significance, since Temporary Permits are issued for properties of any zoning designation throughout the jurisdiction of the Rural Comprehensive Plan.
10. The Board of Commissioners finds that the Hearings Official has issued 19 Temporary Permits over the last 29 years. With that frequency of occurrence, the

Board finds that there is a need for policy guidance in regards to the issue of their “temporal” nature, and the proper interpretation of LC 16.255(2)(a)(ii).

11. The Board of Commissioners finds that there are no unique or rare environmental resources inventoried and located on the property.
12. The Planning Director has recommended review of the appeal.
13. 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.
14. The Board has reviewed this matter at its meeting of December 11, 2012, and finds that the appeal complies with the criteria of Lane Code Chapter 16.600(3)(a), (b) & (d), elects to hold an on the record hearing. Such hearing is tentatively set for February 5, 2013.

Parties of Record

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|-------------------------|-------------------------|-----------------|
| Margaret & Mark Shrives | Lori Segal | Nick Siezmore |
| Jacob Daniels | Wayne Tobin | John White |
| Robert Emmons | P. Veluscek | Joe Shaddick |
| Steve & Sulayh Fuller | William & Judy Griffith | Kim O'Dea |
| Martin & Sharlene Neff | Tony Marquess | Jeanne Olson |
| Christina Deschiane | Nancy Solomon | Carolyn Allen |
| Dorothy Schick | Ed Gunderson | Nancy Solomon |
| Ruby Miller | Sue Wolling | Don Walken |
| Theresa Loreman | Don Hansen | Gary Mounce |
| Todd Hamilton | Sid Voorhees | Sherry Smith |
| Jacob Daniels | Paul Veluscek | LaVae Robertson |
| Duane & Jann Toman | Gene Stevens | Sayer Strauch |
| Maureen Hudson | | |