

# Exhibit 13 - e-mail white to Skylar

Response to 12/15/22 e-mail:  
Responses from White's in Red

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On Dec 15, 2022, at 10:03 AM, Skylar Fisher <sfisher@trinitycounty.org> wrote:

Good Morning Scott,

I have received the lot line adjustment narrative and the requested pathways forward on this project. Thank you for your comments regarding postings at the post office, this concern is being addressed.

white [ This does not address the fact that you treated our application differently at the November 17 meeting (by not placing it on the agenda) when you put five other projects on the agenda that were also not noticed correctly (no notice in the Post Offices). Whether it was the intention of Planning or not, you treated us and our project differently than the other five - despite the fact that I pointed out in advance of the meeting that by doing so you would be violating our rights. You could have heard all items, or pulled all items - but Planning chose to proceed with some but not ours - treating us differently. County Code does not allow that. Fixing a problem after-the-fact does nothing to fix what happened to us. As you read further, you will see we are willing to let this go.

Are you interested in withdrawing the appeal of the Planning Commission's decision? Generally, if there is an application to appeal the decision of the Planning Commission, there cannot be action on the item until there has been a decision on the appeal.

white [ I noted in our cover letter for the appeal that out of the ten working days to file, Planning staff was only available the afternoon of day ten to talk about what happened. There may have been no ill intent, but the reality is that there was effectively no time for us to try and resolve issues in order to avoid the appeal. I had a proposal for you when we met the afternoon of the 5<sup>th</sup> that would fully comply with all local and State law, but you indicated it could not be considered. There was no time left for consideration of anything else. We had to submit.

white [ There weren't any Admin staff at the Court House that day for me to talk to. I have not filed an appeal before and had no one to help me, so I'm not sure of the parameters. I still see plenty of time to reach agreement and avoid the appeal, I had a number of options in before the 5<sup>th</sup> that Planning could have discussed with me - if there had been time and willingness to do so. I am still trying to do so - will you?

It is my understanding that you would like to have the lot line adjustment heard at the January 12, 2022 meeting. I have the Option 2 attached with your proposed conditions on the project. The application was not found to be complete by Planning Department staff. There was an attempt to make you aware that additional materials were required. Unfortunately, a mistake was made by staff and the surveyor who prepared your LLA exhibit was notified, but not an authorized agent. In order to get clarity on whether or not the application was sufficient to process without the materials requested by the county surveyor for review, the Planning Department referred the project to the

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Planning Commission. The Planning Commission passed a motion stating that the project would be marked complete with confirmation of legal access and vesting deeds. You submitted an appeal of this decision.

This response proves my point – you admit that “a mistake was made by staff”. As I pointed out in my October 21, 2022 letter, there are only three outcomes under the relevant section of County Code:

1. Application found complete and applicant notified in 30 days or less.
2. Application found incomplete and applicant notified in 30 days or less.
3. Application “deemed complete” after 30 days.

The reason for why the third option occurred is irrelevant – it occurs automatically by County Code. Once 30 days passes, the determination of complete is out of staff’s hands. It is out of my hands, it is out of the Planning Commissions hands. It happens as a matter of code. At that point, staff is required to proceed working with the applicant treating the application as complete. I also noted this in my October 21, 2022 letter. Rather than contact me to work on ways to move forward as I requested, staff chose to push the matter to the Planning Commission. You have my analysis which is now part of the record as to why you cannot do what you did.

You admit an error was made, but you don’t have a Planning Director to advise you to find a way to work with me rather than continue to compound the error. I appealed your action because it isn’t allowed. A Planning Director would have told you that. The Planning Commission has no role in complete – County Code is clear on this. I had lots of possible allowable options the Commission could have taken on the 17<sup>th</sup>, if I had been allowed to finish my presentation. The Board of Supervisors via County Code determines (authorizes) what the Planning Commission can do. Their authority is not unlimited. Show me the provisions of County Code that specifically outline the Planning Commission’s authority in this area (determination of complete). You won’t be able to. As you read further, you will see we are also willing to let this go.

I understand that you propose the revised LLA exhibit to be a condition of approval with the revised legal descriptions. My understanding is that you wish to change the project to be a two parcel lot line adjustment rather than a three parcel lot line adjustment. It would be very difficult to make any recommendation for the project without being able to review the LLA exhibit. Like I said in our last meeting, there will need to be review of any application resubmissions before the department can make a determination of completeness or approval.

I stated that I will have the updated plot plan and legal description to you next week – well in advance of January. I am not aware of any provision in County Code that requires a project that has been reduced in scope to be re-submitted. If you are aware of such a provision, please provide it. The reduction in scope removes issues, it does not increase them. I believe you are asking for what you want, not what is required. I stated I am not willing to give up “complete” but am more than willing to work with you on the site visit and other matters to get to approval. The Planning Commission is well within its authority to approve a scaled-down project that responds to its comments with no need for any resubmittal. I am asking to give this to them as one of their choices.

I have also followed up with the county surveyor to ensure that I am not missing language from our local ordinance or the map act that would allow a revised plot plan and legal descriptions to be conditions of approval to the LLA. Based on this conversation and independent review, it is standard practice to review the LLA exhibit and legal descriptions prior to approval.

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Those conditions were included to let Planning know we will do them. As noted above, you will have the revised plot plan and legal description next week – with plenty of time for the County Surveyor to look at in advance of the meeting. Since the County Surveyor's prior concerns were all related to the portion of the project that has been removed, it is reasonable to expect that there aren't any more issues to be discovered.

I actually expect that only the five findings of fact and conditions c and d (as required by County Code) in my proposal for Option 2 will be needed by the January 12 meeting. There is plenty of time for us to achieve this.

This does not clear up the concerns brought up by Environmental Health. In our last meeting, you referenced that Environmental Health is okay with the lot line adjustment as is. To my understanding, the Environmental Health Department still requests a site visit and verification that the existing septic system is adequate or for the system to be re-evaluated.

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After we met on December 5, I went home and forwarded to you the August 12, 2022 e-mail from Kristy Anderson to Ed Prestley which clearly states that the issue of considering the existing septic system for re-use is not part of the current project (read both the note from Jim Underwood and her response to see this). I am looking at what I sent to you on the 5<sup>th</sup> right now. The Director of Environmental Health has made a determination on this, I don't see how it is still an issue.

We performed the perc tests and submitted them with our application on September 8, 2022 as we had all agreed would be done when we met on August 7. Yes, Environmental Health wants to do a site visit, with that request falling by the wayside when our application was deemed complete. We are voluntarily proposing to let this occur, even though by County Code it was excluded. There is plenty of time to get this done and remove the condition I included.

For the Building Department, I have been informed of a request to submit plot plans to show the accurate location of the as built retaining wall and slab for the proposed metal building with setbacks to the property lines, in addition a set of plans showing how the retaining wall is constructed. The lot line adjustment, as currently proposed, looks to address the setback concern for the as built structures, they are waiting to issue the permit until the requested materials are submitted and until the LLA is complete so that the structures meet the yard requirements.

We submitted applications and fees for both on September 20, 2022. As you note, Building is "waiting ... until the LLA is complete". I had proposed a condition to let us proceed on working with Building on these after project approval but before filing of the "Notice of Lot Line Adjustment". I

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[ withdraw that request, so neither of these permits has any further relevance to the current project. We will continue under the present circumstances where nothing proceeds on either building permit until after the lot line adjustment is approved.

I have both departments cc'd to correct me if I am misquoting any information here.

For the minimum parcel size requirement for APN 025-520-15, I believe that as long as the newly configured boundaries are logical and don't impede future development, then there shouldn't be an issue with the parcel being smaller than the minimum allowed size permitted in the RR-5 district. As one of the conditions of approval described in the ordinance is that the lot line adjustment does not conflict with the county zoning ordinance, the interim deputy director made the major lot line adjustment determination for Planning Commission review – in addition to the concerns brought forth by Environmental Health and the previous Building Department concerns you've taken steps to resolve.

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[ This is very positive news. As you know from the materials I submitted originally, there are more parcels in our area that do not meet size requirements than do. You also know we have taken steps to make the revised (albeit smaller) parcel much more "turn-key" for future development. I look forward to the site visit to show you.

I've devoted time reviewing the letters, emails, and other materials you have submitted for this project. I wanted to conduct this review before responding to your most recent letter. There is no intention to stop this project progressing.

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[ Very good news.

Please let me know how you would like to proceed on the project – whether it is appealing, submitting materials for a two-parcel lot line adjustment instead of three, following the direction of the planning commission, or if you would like to take another path.

As stated in our November 25 letter, we want to put the three viable options forward for the Planning Commission to consider:

- Option 1 - Full project
- Option 2 - Revised project (issues removed)
- Option 3 - Deny

I won't spend time here addressing why we believe the first option is available since I have done this elsewhere. We have already submitted what is needed for consideration of the second option, excepting the plot plan and legal description which you will have next week. We absolutely want to proceed to January 12 for decision. We need to get done, so leaving the Boeger parcel for some future time is fine with us.

White

I am very excited; we are so close to agreement! I hope in your review of County Code you too will see that a full resubmittal is not necessary. The Planning Commission of its own authority could choose to scratch-out Parcel C and tell us to come back at a future time. By walking in with Option 2 ready and both parties in agreement, we make the Planning Commission's job easy.

Since you have concluded that the zoning verses parcel size issue isn't an obstacle, I encourage you to look at the points I put forward regarding moving toward greater compliance with the Lewiston Community Plan (LCP). Our project moves us toward the plan, not away. Since strict compliance on all aspects doesn't exist today, continuing to hold that our Option 2 project must be a major lot line adjustment doesn't make sense. It would effectively be holding us to a higher standard than the County held itself to in adopting the LCP.

Finding reasonable solutions to planning matters within an imperfect world is one of the fun parts of the job. If identified issues have been addressed, it doesn't make sense to require more than what is really necessary. I noted earlier we are willing to let past wrongs go and we mean it. If Planning will agree to move forward right from where are as I am requesting to the Planning Commission on January 12, the past stays in the past.

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