

AGENDA COVER MEMO

DATE: February 28, 2005 (Date of Memo)
March 16, 2005 (Date of First Reading)
March 30, 2005 (Date of Second Reading / Public Hearing)

TO: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Public Works Department/Land Management Division

PRESENTED BY: Bill Sage, Associate Planner

AGENDA ITEM TITLE: ORDINANCE NO. PA 1213 - IN THE MATTER OF ADOPTING A CONFORMITY DETERMINATION AMENDMENT PURSUANT TO RCP GENERAL PLAN POLICIES – GOAL 2, POLICY 27 a.iv., TO CORRECT A SCRIVENER ERROR ON THE OFFICIAL ZONING MAP – PLOT # 525, AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES. (Lane County LMD).

I. ISSUE

In December 2003, the Board of County Commissioners adopted a “Conformity Determination Amendment” process in the Rural Comprehensive Plan – General Policies, as Policy 27 to the Goal Two Policies. The process provides for eight circumstances under which an amendment could be brought to the Lane County Planning Commission for review and recommendation to the Board. One of the circumstances was to correct scrivener errors on an adopted Official Plan or Zoning Plot. The provision is Policy 27, a. iv.:

- 27. *Conformity Determination. Lane County will annually initiate and process applications to correct identified plan or zoning designations in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the Official Plan and Zoning Plots. Changes to correct nonconformities shall comply with the procedures and requirements of Lane Code Chapter 12 (Comprehensive Plan), Chapter 14 (Application Review and Appeal Procedures), and Chapter 16 (Land Use & Development Code), except as provided for in 27 c. and d., below.*
 - a. *Circumstances qualifying for consideration by the Board of Commissioners under the Conformity Determinations Policy may include one or more of the following:*
 - iv. *Correction of a scrivener error on an adopted Official Plan or Zoning Plot.*

During the adoption of Official Zoning Plots for the McKenzie Watershed Periodic Review Work Tasks in May 2002, a scrivener error occurred on Zoning Plot No. 525. The diagonal community boundary line on the southern right-of-way of Highway 126 was drawn incorrectly and resulted in a property that had been designated as Rural Residential RR2 being inadvertently designated as Exclusive Farm Use E30. The error was not detected until the McKenzie Watershed work tasks were acknowledged by DLCD.

The error occurred on the Zoning Map Plot No 525 recorded in Book 165, Page 1536. A copy of the plot with the error is attached as Attachment "B" - Official Zoning Plot No. 525 (with scrivener error).

The correct boundaries were adopted in 1984 as a component of the Rural Comprehensive Plan. An excerpt from the original 17" x 26" Zoning Plot No. 525 is attached as Attachment "C" - 1984 Official Zoning Plot No. 525 (excerpt from original 17" x 26" plot).

A corrected Official Zoning Plot No. 525 is attached as Exhibit "A" - Official Zoning Plot No. 525 (corrected) to Attachment "A" Ordinance No. PA 1213.

II. LANE COUNTY PLANNING COMMISSION RECOMMENDATION

On August 3, 2004, the Lane County Planning Commission (LCPC) conducted a public hearing to hear testimony on this agenda item and in deliberations on September 7, 2004, the LCPC unanimously approved a recommendation to the Board of Commissioners that the correction on the scrivener error on Zoning Plot # 525 be corrected to reflect the original 1984 adopted boundaries for the Rural Community of Walterville and the boundaries of the Rural Residential (RR5) boundary.

IV. IMPLEMENTATION AND FOLLOW-UP

A. Alternatives/Options

1. Approved Ordinance No. PA 1213.
2. Do not approve Ordinance No. PA 1213.
3. Direct staff to provide additional findings and documentation.

B. Recommendation

Staff recommends Option 1.

C. Timing

If approved by the Board, Ordinance No. PA 1213 will go into effect 30 days from the date of adoption.

D. Notice

Notice of the action will be provided to DLCD and parties with standing.

V. ATTACHMENTS

- A. Ordinance No. PA 1213.
- B. Official Zoning Plot No. 525 (with scrivener error).
- C. 1984 Official Zoning Plot No. 525 (excerpt from original 17" x 26" plot)
- D. Lane County Planning Commission Minutes: August 3, 2004
- E. Lane County Planning Commission Minutes: September 7, 2004.
- F. Official Plan Map – Plot # 525.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**ORDINANCE NO. PA 1213 | IN THE MATTER OF ADOPTING A CONFORMITY
| DETERMINATION AMENDMENT PURSUANT TO RCP
| GENERAL PLAN POLICIES – GOAL 2, POLICY 27a.iv.,
| TO CORRECT A SCRIVENER ERROR ON THE OFFICIAL
| ZONING MAP – PLOT # 525, AND ADOPTING SAVINGS
{ AND SEVERABILITY CLAUSES. (Lane County LMD)**

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance No. PA 1192 and amended thereafter, has adopted the Conformity Determination Amendment process as Goal 2, Policy 27 of the General Plan Policies which is a component of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.252 sets forth procedures for rezoning of lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, in March, 2004, a Conformity Determination Amendment application (Lane County LMD) was initiated by Lane County to correct a scrivener error on Official Zoning Map – Plot # 525 pursuant to RCP General Plan Policies - Goal Two, Policy 27.a.iv.; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing on August 3, 2004; and

WHEREAS, the Lane County Planning Commission on September 7, 2004, recommended approval for correction of the scrivener error; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on March 30, 2005; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted a public hearing and is now ready to take action;

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

Section 1. The southern boundary of the Rural Community of Walterville, such territory depicted on Official Zoning Map # 525, is corrected to conform to the 1984 adopted boundary in the Rural Comprehensive Plan, and further identified as Exhibit "A" attached and incorporated herein.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts the findings in support of this action as set forth in the attached Exhibit "B".

The prior policies, zoning base designations and plan diagram base designations repealed or changed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

ENACTED this _____ day of _____, 2005.

Chair, Lane County Board of County
Commissioners

Recording Secretary for this Meeting of the
Board

APPROVED AS TO FORM

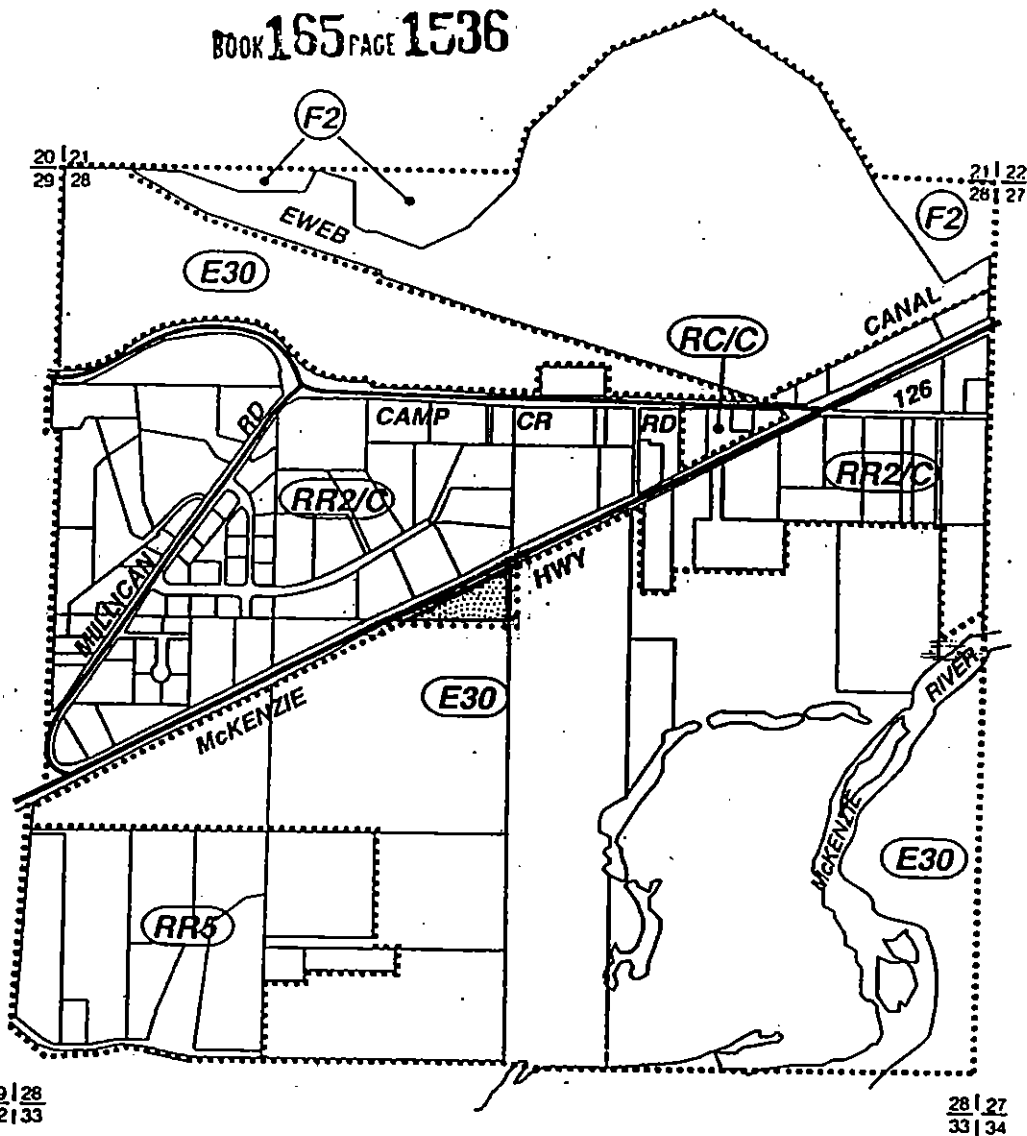
Date 3-9-2005 Lane County

Stephen J. Voshell
OFFICE OF LEGAL COUNSEL

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IN THE MATTER OF ADOPTING A CONFORMITY DETERMINATION AMENDMENT PURSUANT TO RCP
GENERAL PLAN POLICIES – GOAL 2, POLICY 27a.iv., TO CORRECT A SCRIVENER ERROR ON THE
OFFICIAL ZONING MAP – PLOT # 525, AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.
(Lane County LMD)


BOOK 165 PAGE 1536



514

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525A

 <p>lane county</p>	<p>OFFICIAL ZONING MAP</p>		<p>PLOT #525</p>
	<p>Twship Range Section 17 01 28</p>		
<p>ORIGINAL ORD. #</p>	<p>PA 884</p>	<p>DATE</p>	<p>2/29/1984</p>
<p>REVISION #</p>	<p>ORD#</p>	<p>DATE</p>	<p>FILE #</p>

Ordinance No. PA 1213
Exhibit "B"
Findings of Fact

Finding 1. Rural Comprehensive Plan – General Plan Policies: Goal Two, Policy 27 provides a conformity determination amendment process for the correction of identified plan or zoning designations in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the Official Plan and Zoning Plots.

Finding 2. Lane Code 16.252(1): This section of Lane Code requires that as the Rural Comprehensive Plan for Lane County is implemented, changes in zone and other requirements of this chapter will be by ordinances.

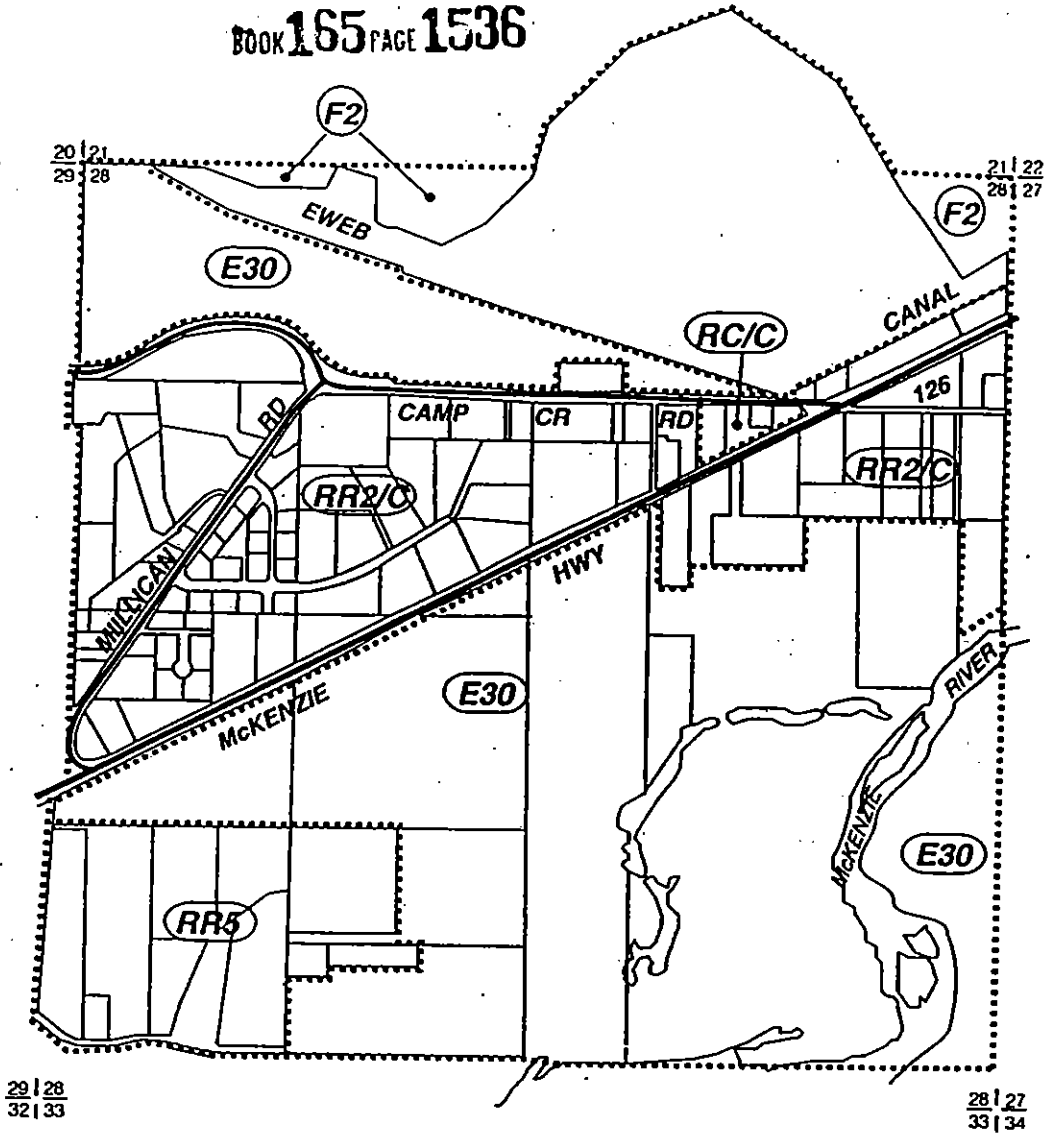
Finding 3. Lane Code 16.252(2) requires that rezoning shall be consistent with the specific purposes of the zone classification proposed and Statewide Planning Goals. Based on the findings below, Ordinance No. PA 1213 complies with applicable state laws and Statewide Planning Goals.

- a. Statewide Planning Goal 2 requires, "Opportunities shall be provided for review and comment by citizens during the preparation, review and revision of plans and implementation ordinances." Lane County provided the opportunities identified below for citizens to review and comment on the preparation and review of Ordinance No. PA 1213. These opportunities were adequate to comply with Goal 2.
 - On July 14, 2004, a legal ad was published in *The Register Guard*, providing notice of the Lane County Planning Commission public hearings in Harris Hall of the Lane County Public Service Building on August 3, 2004.
 - On July 15, 2004, LMD mailed to the Oregon Department of Land Conservation and Development (DLCD) a notice of the public hearing and pending adoption, and two copies of the proposed conformity determination amendment.
 - On August 3, 2004, the Lane County Planning Commission (LCPC) conducted a public hearing on the proposed Conformity Determination Amendment (Ordinance No. PA 1213) requesting consideration for correction of a scrivener error on Official Zoning Plot # 525 pursuant to the qualifying criterion of Goal Two, Policy 27.a.iv.:
 - iv. *Correction of a scrivener error on an adopted Official Plan or Zoning Plot.*
 - On September 7, 2004, the Lane County Planning Commission unanimously approved a recommendation to the Board of Commissioners to adopt the proposed correction pursuant to Goal Two, Policy 27.a.iv.
 - On March 2, 2005, a legal ad was published in *The Register Guard* providing notice of the Board of County Commissioners public hearing in Harris Hall of the Lane County Public Service Building at 1:30 PM on March 30, 2005.
 - On March 30, 2005, the Board of County Commissioners conducted a public hearing on the proposed Conformity Determination Amendment - Ordinance No. PA 1213 for correction of the scrivener error on Official Zoning Map – Plot # 525.
- b. Ordinance No. PA 1213 acknowledges the written testimony and documentation, and citizen comments received during the LCPC public hearings on August 3, 2004, and submitted into the official record thereafter.

- c. Ordinance No. PA 1213 acknowledges the deliberations of the LCPC on September 7, 2004, and their findings of fact, conclusions, and recommendation to correct the scrivener error on Official Zoning Map – Plot # 525.
- d. Ordinance No. PA 1213 acknowledges citizen testimony received during the Lane County Board of Commissioners public hearing on March 30, 2005.

Attachment B - Official Zoning Plot No. 525 (with scrivener error).


BOOK 165 PAGE 1536



514

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525A

 <p>lane county</p>	OFFICIAL ZONING MAP		PLOT #525	
	Twntp Range Section 17 01 28			
ORIGINAL ORD. #	PA 884	DATE	2/29/1984	FILE #
REVISION #	ORD#	DATE		FILE #



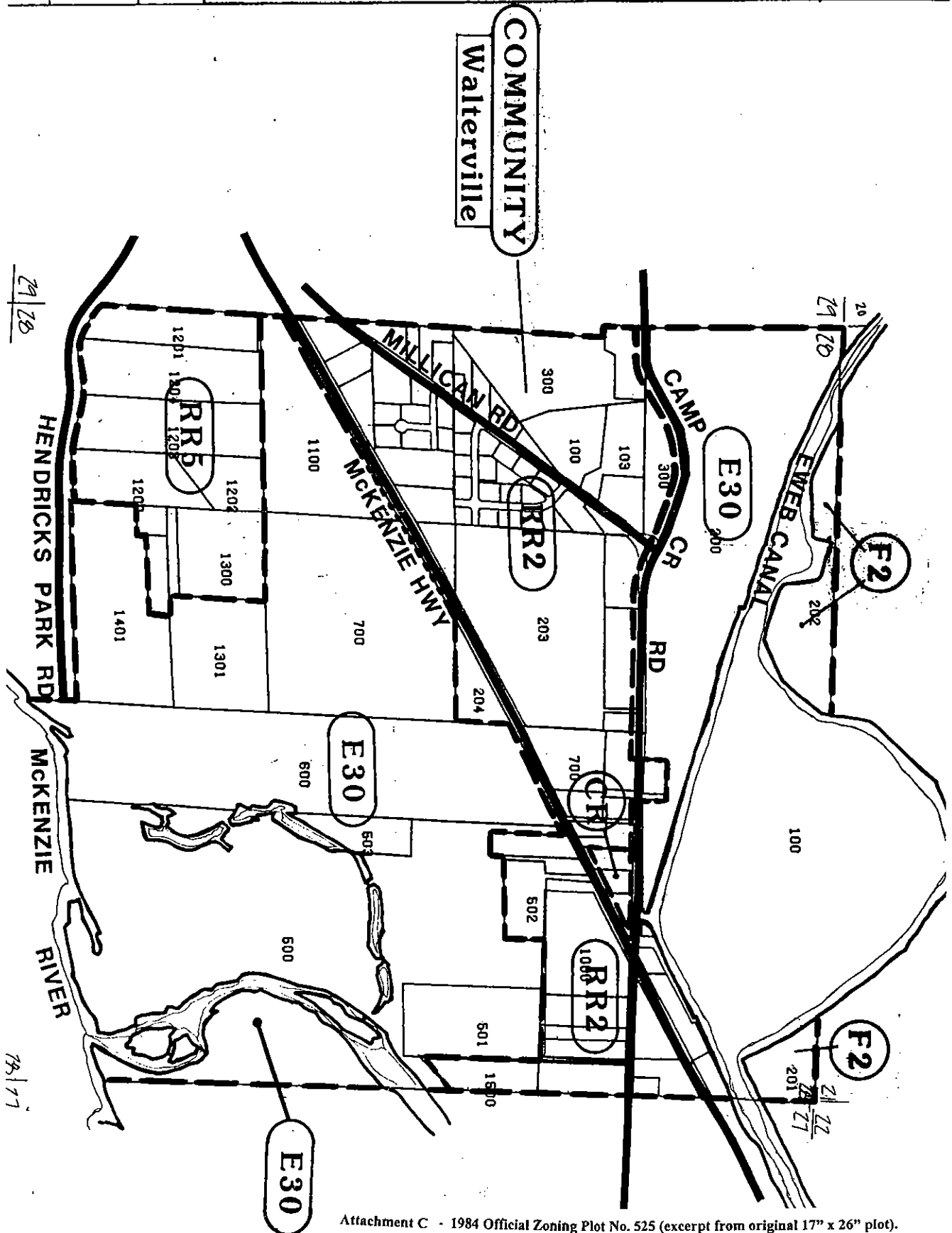
Township Range Section
17 01 28

ORIGINAL ORD.# PA 684 DATE 2 / 29 / 84 FILE #

REVISION# ORD.# DATE: FILE #

879.866

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Attachment C - 1984 Official Zoning Plot No. 525 (excerpt from original 17" x 26" plot).

MINUTES

Lane County Planning Commission
Harris Hall - Lane County Courthouse

August 3, 2004
7:00 p.m.

PRESENT: Ed Becker, Mark Herbert, Juanita Kirkham, Steve Dignam, James Carmichael, members;
Bill Sage, Kent Howe, Staff

ABSENT: Jacque Betz, Marion Esty

Ms. Kirkham convened the meeting at 7:00 pm. She called for public comment on issues not being covered by the commission that evening. Seeing no one she moved to the first agenda item.

I. PUBLIC HEARING: PA 04-5252

Bill Sage provided the staff report. He went through the process of errors and omissions and noted that the procedure applied to all three public hearings. He said there were several circumstances, under Policy 27, for requesting a conformity application. He said certain properties in 1984 may not have been recognized for uses, development, or management practices that would have put them into a certain category. He said the evening's hearings were the first hearings to be heard under the new errors and omissions policy in Policy 27. He outlined the criteria for the hearings. He said there were six or seven categories that had to be met before consideration under Policy 27 could be considered. He said once the criteria for Policy 27 were met then criteria for Goal 4 Policy 15 would have to be met. He said there were three general situations for the policy development.

1. Obvious Error - readily perceived as a necessary change that could be approved outright by the reviewer;
2. Subjective Determination – sufficient and verifiable documentation and findings of fact in the applicant's submittal for most reviewers to support a recommendation for approval; or
3. Marginal Circumstances – contested or soft facts where the review process could equally lead to a decision to approve or deny.

Mr. Sage stressed that the commission should not worry about setting precedent by their decisions since each application would be reviewed on the merits of the record and on a site specific basis. They should be aware that there were some situations where the decision could go either way depending on the individual philosophies of the members and the lack of compelling evidence for either approval or denial. He urged the commission members to vote as their individual backgrounds and experience in land use issues dictated.

Ms. Kirkham called for declarations of *ex parte* contacts or conflicts of interest. None were declared.

Ms. Kirkham opened the public hearing.

Jim Mann spoke as the applicant's representative. He said the application to make a correction from F1 zoning to F2 was clear and obvious. He outlined the characteristics of F1 and F2 zoning.

Showing an overhead projection of the property, Mr. Mann showed how the property had been cleared of a dwelling and accessory structures and outlined its topographic features and boundaries. He showed numerous photos of the property and noted that nearby properties were owned by large corporations and were not residential in nature. He said the Dorena area was more resource based in nature. He said the 1970's planning recognized the natural resource nature of the area. He acknowledged that there was some development along the roads but noted that nearby property was zoned F2. He said, in 1984 the Planning Commission did not have the information available that the current commission had access to.

In response to a question from Mr. Dignam regarding the tree plantation on the property, Mr. Mann said the plantation was 15 years old and had not been thinned or actively managed. He surmised that they were originally Christmas trees that had not been harvested. He said the untended plantation was now reduced to approximately seven acres.

In response to a question from Mr. Dignam regarding the topography of the site, Mr. Mann said the entire site was flat.

In response to a question from Ms. Kirkham regarding the size of the adjoining forest properties, Mr. Mann called attention to the application. He said lots owned by Weyerhaeuser to the east were 34, 1.5, and 55 acres. He added that the other site was 33.4 acres.

In response to a question from Ms. Kirkham regarding soil type on the site, Mr. Mann said almost all of the property was classified as Soil Type 20b. (Silty Clay with a forestry cubic foot per acre per year rating of 130)

Jim Just, 39625 Almond Drive, Lebanon, spoke for Goal One Coalition and Land Watch Lane County. He distributed written material to the commission. He said the thing that was most relevant was the ownerships of the properties in the area in 1984. He said the subject parcel had been part of a much larger site, owned by Bohemia Lumber Company, in 1984 that had been primarily forest use.

Mr. Just said the sites contiguous to the parcel were also part of a much larger contiguous ownership. He noted that the lot had not had legal access and stressed that there was nothing on the record of the use of the property other than being part of a large forest operation. He said the land had been correctly zoned F1 in 1984.

In response to a question from Mr. Becker regarding whether the land could support forest timber productivity, Mr. Just said the land was capable of producing forests even if the predominate use of the land had not been forest use in 1984. He said there was nothing in the policy criteria that addressed soil types. He noted that a farm operation could be counted as a forest use. He reiterated that the land was part of a forest operation if it had been used for forest purposes.

Mr. Becker clarified that Mr. Just was saying that the land, in 1984, more resembled F1 than F2 zoning because it was part of a large forest operation that had no non forest uses on the property.

Laurie Segel, 120 West Broadway, spoke on behalf of 1000 Friends of Oregon. She requested a continuance of the hearing because she had not received notice. She acknowledged that she was not part of the legal notice required of staff but noted that she had been confused by the way the hearings had been posted. She said she wanted time to prepare her information.

Mr. Sage said the County was required under state law to provide the following notice of hearings:

1. Notice in *the Register Guard* 20 days prior to the hearing. Mr. Sage noted that notice had been posted in that paper on July 14.
2. Post the Notice on the Property which had occurred.
3. A Mailing List of surrounding Property Owners which had occurred.

Mr. Sage noted that all of these notice requirements had been met. He said the record showed that staff had met the requirements of the law but noted that the commission could grant a continuance if it so desired. He added that the written record could be left open but noted that the applicant would have a chance to rebut any new evidence. He said the commission could also vote that the requirements of notice had been met. He stressed that one of the statewide planning goals and one role of the planning commission was to provide opportunity for citizen involvement.

Ms. Kirkham called for rebuttal from the applicant.

Mr. Becker noted that he had not seen the planning commission meeting in the events section of the *Register Guard* that day. He noted that this had been a point of confusion for him.

Mr. Mann said he was not opposed to leaving the record open for seven days but reserved the right to address any new evidence submitted. He added that there *was* access to the subject property contrary to the testimony of Mr. Just. He said there had been a dwelling there at one time that had access to the county road. He noted that there was frontage all along that county Road. He added that the owners would have to work with County Public Works to decide where a new driveway would be located.

Mr. Mann called attention to criteria for F1 zoning. He said F1 referred to commercial forestry. He said F2 zoning did not specify commercial forest uses. He said the applicant had shown that the property had not, in the recent past been under commercial forest management.

In response to a question from Mr. Carmichael regarding whether changing zoning because the land had not been used was setting precedent, Mr. Sage said Goal 4, Policy 15 required that that non forest uses had been present on or adjacent to the property. He reiterated that site by site assessments had to be made and added that decisions were not precedent setting but were based on compliance with criteria and standards that would eventually establish a clearer policy. He said evaluation of this particular site was what was required from the commission at this point.

Mr. Herbert suggested leaving the record open for seven days but said he was not interested in continuing the hearing.

Mr. Dignam, seconded by Mr. Herbert, moved to leave the record open for seven days with a further seven days for the applicant to rebut newly submitted information.

Mr. Dignam urged the public to be cautious when relying for information on public hearings in the general announcement sections of the newspapers.

The motion passed unanimously.

Mr. Sage said the written record would remain open until August 10, at 5 pm. He said the applicant would have until August 17, at 5 pm. to address any new evidence. He said the commission would deliberate on September 7, during its 5:30 work session.

II. PUBLIC HEARING: PA 04-5276

Ms. Kirkham called for declarations of *ex parte* contacts or conflicts of interest. None were declared.

Ms. Kirkham opened the public hearing.

Al Couper spoke as the applicant's representative. He noted that F1 and F2 were distinctive in that F1 was owned by large firms and access by logging roads with no utilities or services. He said F2 land was much more intensely developed. He showed an overhead projection of the land in question. He said the land had been zoned F2 originally.

Mr. Couper said Lane County had passed an ordinance in 1984, which changed the designation on the subject property. He said the ordinance contained a numerical list of tax lots that were intended to be changed. He said the one of the tax lots of the contiguously owned properties, (tax lot 400), had been left off the list.

Mr. Couper said the County had used assessor's maps as a basis for parcelization and had made an error in changing the zoning. He noted that the subject property was actually seven tax lots and three as the county had assumed in 1984. He showed a map of the current parcelization of the property that was on record with the county. He said the parcels were made in full conformance with state law. He said none of the parcels were more than 80 acres.

Mr. Couper said the language of the characteristics for F1 and F2 were unclear and confusing. He said numerous hearings officials were on record complaining about the language. He outlined the criteria, once again, for the commission.

Mr. Couper showed an overhead projection of a map of the area. He said 79 percent of the parcels contiguous to the subject property were 10 acres or less with rural residential and commercial development. He noted that the zoning map supported his statements.

Mr. Couper said he supported the Lane County regulations that stated that residential development could not occur on F1 lands.

In response to a question from Mr. Becker regarding whether the land in question had a road system intended for forest management, Mr. Couper said there was not. He noted that the property had been logged and had remnant logging roads.

There was some question over the definition of roads on the property.

Mr. Becker said it was clear that the property had been intensively used for forestry.

Jim Just, Goal One Coalition and Land Watch Lane County, 39625 Almond Drive, Lebanon, distributed written material to the commission. He called attention to the last page of his material, he said the lists of the tax lots was not official and was not complete or definitive. He said the control document was the zoning map that was approved by the Board of Commissioners and LCDC.

Mr. Just said the property line adjustments done on the site were not legal and would be illegal in Coos County. He said the property line adjustments were in fact re-platting and was not a legal act.

Laurie Segel 120 West Broadway, spoke on behalf of 1000 friends of Oregon. She said the land in question had the characteristics of the land in 1984 that were predominately F1 in nature. She stated no residences currently existed on the land in question and none existed in 1984. She said the entire site had been under one ownership and was approximately 300 acres in size. She said the ownership of the area in 1984 showed a commercial forest use. She said the development outside the site was not relevant to the question. She said the available evidence also showed that the site was contiguous to other forest use lands in 1984.

Ms. Segel stressed that, since the applicant was alleging that an error was made in 1984, the commission should look at what existed in the area in 1984. She noted that no services were available to the subject area. She said the facts showed that in 1984 the area in question fit the description of F1 lands.

Gwendolyn Farnsworth, Rattlesnake Road, displayed photos of the land taken in 1986 showing that the land was forested at that time. She showed photos of the surrounding properties and their uses. She said there was no access to the property other than logging roads and emphasized that there were no services available on the subject site. She said the surrounding properties were not relevant to the issue. She submitted her photos into the record.

In response to a question from Mr. Becker regarding the timber harvesting on the subject property, Ms. Farnsworth said the subject property had been logged as one entity and came out to the north on Rattlesnake Road.

Ms. Farnsworth requested that the record be left open for seven days.

Thom Lanfear, 38019 Lobo Lane, spoke as an abutting land owner. He said policy 27 would have the commission process the application based on an error made in 1984. He said there was no error made at that time. He said it was doubtful that the issue should even be in front of the commission. He said it would be a good future discussion for the commission to talk about the intent of the Board of Commissioners in the matter. He reiterated that staff had made the correct decision in 1984. He said there was no real staff perspective on whether the lot line adjustments were done correctly.

Mr. Lanfear suggested that if the commission was going to base a decision on the current lot lines, then it should look at individual lots.

In response to a question from Mr. Dignam regarding the reason why he thought staff had not made an error, Mr. Lanfear read law as it was in 1984. He said the legal lots had not shown up until 1985 when the law changed in Oregon.

Ms. Kirkham called for applicant rebuttal.

Mr. Couper asked that two additional weeks be granted to both sides so all legal questions could be addressed. He stressed that the property line adjustments done on the site were done legally. He acknowledged that the law had been changed since that time. He stressed that there was no re-plat in the case. He said he would be happy to submit to another legal lot verification process. He said services were available in the neighborhood of the lot.

Mr. Couper said F2 land provided 16 percent of the harvested timber in the State.

Mr. Sage said staff needed to review all of the new information submitted into the record. He suggested allowing the two-week time periods for submittals requested. He said the written record could close on August 17, and final rebuttal could be due on September 7. He suggested that the Commission deliberate on October 5, at the 5:30 work session.

Mr. Herbert, seconded by Mr. Dignam, moved to accept Mr. Sage's recommendation. The motion passed unanimously.

III. PUBLIC HEARING: Request for approval of a conformity determination amendment the Rural Comprehensive Plan

Ms. Kirkham opened the public hearing.

Mr. Sage said there was a scrivener's error that needed to be corrected within Zoning Plot 525 for the rural community of Waltherville. He called attention to exhibit C of the staff report which showed the error which occurred when McKenzie Watershed Zoning Plots were readopted in May 2002. He said the line around the subject property, tax lot 204, was what needed to be corrected. He recommended that the commission approve the correction to comply with the correctly drawn zoning boundary from 1984 to 2002.

Jim Just, , asked that the record be left open for seven days to confirm that the zone change was consistent with the plan map.

Laurie Segel, 120 West Broadway, complained that she had not known about the hearing. She suggested DLCD be notified about county planning hearings.

Mr. Sage said, if the commission wished to grant the request for leaving the record open, the Plan Map could be put into the record in the first seven days. He said the issue could be added to the deliberations on September 7, 2004.

Mr. Becker applauded the County staff for correcting errors. He suggested that the property owners be notified.

Mr. Herbert said it would be in the best interest of all concerned if the property owner were notified, as a party of interest that their property had been inadvertently zoned incorrectly and there was a public hearing on correcting the matter.

Mr. Dignam suggested that there be less process to correct a simple error. He said keeping the record open would add no benefit.

Mr. Dignam, seconded by Mr. Becker, moved to approve the correction of the scrivener's error on zoning map plot 525.

Mr. Becker added a friendly amendment, which was accepted, to have staff insure that the plan map definitely agreed with the zoning map.

Mr. Sage said the record should be left open if the request were not frivolous. He stressed that one of the basic goals of the commission was to insure public input and noted that there was no rush on the particular item.

Mr. Herbert said the request of leaving the record open was a reasonable one and was not onerous to grant.

The motion passed 3:1:1 with Ms. Kirkham voting in opposition and Mr. Herbert abstaining.

Planning Director Kent Howe noted that it was required to leave the record open if it had been requested. The motion was withdrawn.

Ms. Kirkham, seconded by Ms. Esty, moved to keep the record open until August 10, 2004 with deliberation in September. The motion passed 4:1 with Mr. Dignam voting in opposition.

The meeting adjourned at 9:30 pm.

(Recorded by Joe Sams)
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Attachment E. Lane County Planning Commission Minutes: September 7, 2004.

**Lane County Planning Commission
Work Session
September 7, 2004, 5:30 PM,
Commissioners Conference Room**

PRESENT: Members -- Ed Becker, Jacque Betz, James Carmichael, Steve Dignam, Mark Herbert, Juanita Kirkham,
Staff -- Bill Sage, Kent Howe

Ms. Kirkham convened the work session and asked for public comment.

Jozef Zdznesiki raised concern over the lack of legal knowledge present at commission hearings. He suggested that legal council be present at commission hearings to make sure procedure was followed correctly.

Deliberations – PA 04-5252 (Everett/Mann)

Associate Planner Bill Sage provided the Planning Commission (LCPC) with a staff report to guide the deliberations. He recapped the public hearings involved. He said two zone changes had been heard under the Errors or Omissions Goal Two, Policy 27.a.ii criteria and Goal 4, Policy 15b. and c. criteria on the evening of August 3rd. He noted that there had been testimony during the evening from Lauri Segel (1,000 Friends) and Jim Just (Goal One Coalition) concerning the Goal Four, Policy 15 criteria and Thom Lanfear regarding an assumed merger of legal lots in 1984 under Lane Code Chapters 13 and 16 affecting Goal Two, Policy 27 criteria.

Mr. Sage urged the commission to review RCP Goal Two - Policy 27 issues before deliberating on the two site specific applications. He stressed that both of the subject parcels of PA 04-5252 and PA 04-5276 were contiguous to larger ownerships and both applications would be affected by whatever policy decisions the planning commission made and forwarded as recommendations to the Board of County Commissioners. He said the first application, PA 04-5252 (Everett - Mann), did not have any of the oral or written testimony dealing with the legal lot status of properties in 1984 included in its record. The oral testimony was introduced during the second hearing for PA 04-5276 (Kronberger -Couper) and has been limited to the written record of PA 04-5276. He stressed that the LCPC needed to review and understand the state law and Lane County policy history from 1984 through 2004. He said it was not a good idea to process either of the applications until a recommendation on the policy issues had been made to the Board of Commissioners. He said the determinations made by the commission would be based on two factors:

1. Qualifying for consideration under the Goal Two, Policy 27 Errors or Omissions category a. ii.; and
2. Determination that the subject parcels predominantly met either the F2 Impacted Forest Land characteristics or the F1 Nonimpacted Forest Land characteristics under Goal Four, Policy 15,

Mr. Sage recommended approving a date/time certain continuance of the determinations on PA 04-5252 until October 5, when the hearing PA 04-5276 was scheduled for. He said the staff would coordinate with County Counsel to provide all the information could be accessed. He said the most important issue was what recommendation the LCPC would be making to the Board of Commissioners for interpreting Policy 27.a.ii., and possible revisions to the language in the

policy.

Mr. Sage outlined the amendments by ordinance to the RCP Plan Policies and Lane Code Chapter 13 and Chapter 16 that had been adopted during and since 1983-84. He said this evening's meeting packet contained Board of Commissioners Ordinance PA 921 adopted on September 10, 1986 and archive materials concerning HB 2381 (1985) from the Oregon State Archives. He noted that a re-enacted Errors or Omissions Policy 21 from 1986 through 1989 had been adopted by Ordinance PA 921, implemented during that time period and then misplaced in the LMD archives. He noted that there had been dozens of E&O decisions made using the 1986-89 policy. He noted that the previous 1984-1986 E&O Policy 21 had sunset and subsequently been repealed. He said the language and intent of the 1986 E&O policy should be considered when LCPC deliberated. He said the Planning Commission was being asked to review the material and make two decisions: (1) an interpretation of language and intent of Goal Two, Policy 27.a.ii.; and (2) a determination on the characteristics of the subject property under Goal Four, Policy 15 criteria.

In response to a question from Mr. Dignam regarding whether Mr. Sage was suggesting a complete revision of Policy 27, Mr. Sage said the LCPC had a wide range of possible responses to the information that was still coming into the record for PA 04-5276. He said deliberations on PA 04-5252 should be put on hold until the record of PA 04-5276 closed on September 21st. He said this would allow consideration by reference between the two records to happen if the commission continued the deliberation on PA 04-5252 to October 5th.

In response to a question from Mr. Carmichael regarding whether the deliberations on the Errors or Omission policy would result in changes to the characteristics of F1 and F2 lands in Policy 15, Mr. Sage said the zoning designation characteristics were not a subject for amendment at this time but could be a future task for LCPC.

In response to a question from Mr. Dignam regarding how new information could be incorporated in PA 04-5252 when the record was closed, Mr. Sage said the LCPC could choose to re-open the record to allow written testimony for new evidence that needed to be included in the record and considered in deliberations.

Mr. Sage distributed a letter from Al Couper, agent for Kronberger, received September 7, 2004 requesting the record of PA 04-5276 to be left open for new evidence submitted by staff on August 17th (Ord. No. 10-86, Ord. No. 11-86, and Ord. PA 921).

In response to a question from Ms. Betz regarding whether the commission would be setting a precedent by reopening the record, Mr. Sage said not every deliberation on policy issues was this evolving and he stressed that these LCPC deliberations were unique and required a continued effort to document the intent of the past and present policy and code language. He stressed that land use planning was a dynamic process and the LCPC should avoid accepting dogma until the record and options for interpretation were complete.

Mr. Herbert said he was not convinced that the new information was necessary to the public hearing. He said the bottom line was whether the county erred when it made its zoning decision in 1984. He expressed his annoyance with recent public hearings that had dueling interpretations of obscure land use law that was written 20 years previously.

Mr. Carmichael said he was ready to deliberate but was willing to deliberate on October 5th.

Mr. Sage said a final staff interpretation of the materials in the record would be available by the

October 5th meeting.

Mr. Dignam said he was in favor of the staff recommendation.

Mr. Dignam, seconded by Mr. Carmichael, moved to reopen the record of PA 04-5252 and PA 04-5276 for seven days until 4:00 PM on September 14th for all parties of record to review the materials submitted by staff into the record on August 17th and at the work session on September 7th. The record would remain open for final rebuttal by the applicant until September 21st. The motion passed unanimously. (the new evidence was identified as Ordinance No. 10-86 (1986), Ordinance No. 11-86 (1986), Ordinance PA 921 (1986), and Oregon State Archives re: HB 2381 (1985).

Mr. Herbert, seconded by Mr. Dignam, moved to continue deliberations on PA 04-5252 to October 5th. The motion passed unanimously.

II. RCP Plot #525 (unincorporated rural community of Walterville)

Mr. Sage said the scrivener error for the boundary of the singel parcel envolved had been corrected on Zoning Diagram #525 and that the Plan Diagram #525 which did not have an error had been provided to the LCPC and parties with standing as requested.

Mr. Herbert, seconded by Mr. Carmichael approved the correction of the scrivener's error in RCP Zoning Diagram Plot #525. The motion passed unanimously.

Mr. Herbert raised concern over attendance of committee meetings. There was general discussion of attendance rules.

Mr. Becker suggested a five minute review of the attendance by-laws at a future meeting.

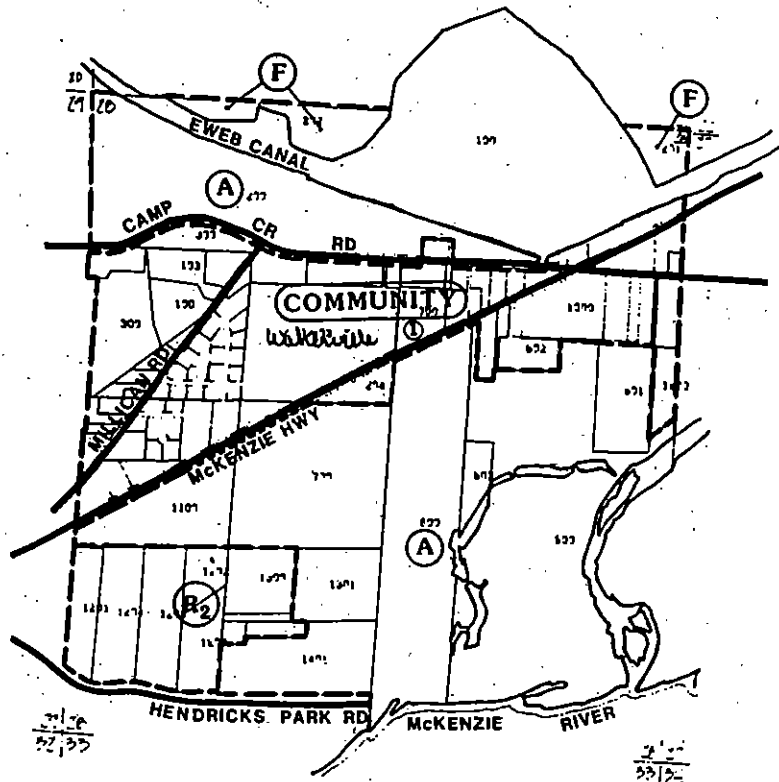
Regarding planning commission appointments, Planning Director Kent Howe said the interviews for filling the two vacant planning commission positions would go before the Board of Commissioners at the same time. He said two appointees would be on the Board by the end of October.

Ms. Betz expressed her regret at the resignation of Mr. Martorello.

The work session adjourned at 7 pm.

524A

514



535

525A



lane county



OFFICIAL PLAN MAP

PLOT # 525

Township Range Section
17 01 28

ORIGINAL ORD. # _____ PA 884 _____ DATE 2/29/1984 FILE # _____

REVISION # _____ ORD. # _____ DATE _____ FILE # _____