

# SUPPLEMENTAL MATERIAL

## Deliberations Guidelines

---

**DATE:** May 4, 2005 (date of deliberations)  
**TO:** LANE COUNTY BOARD OF COMMISSIONERS  
**FROM:** Public Works Department/Land Management Division  
Bill Sage, Associate Planner

**AGENDA ITEM TITLE:** **ORDINANCE NO. PA 1212 - IN THE MATTER OF ADOPTING A CONFORMITY DETERMINATION AMENDMENT PURSUANT TO RCP GENERAL PLAN POLICIES – GOAL 2, POLICY 27 a.ii., GOAL 2, POLICY 27 a.vii. AND GOAL 4, POLICY 15 TO REZONE 83.58 ACRES FROM NONIMPACTED FOREST LAND (F-1, RCP) TO IMPACTED FOREST LAND (F-2, RCP) FOR FOUR PARCELS IDENTIFIED AS TAX LOTS 4100 (15.69 ACRES) AND 4200 (23.19 ACRES) ON LANE COUNTY ASSESSOR’S MAP 19-01-08, AND TAX LOTS 1800 (26.01 ACRES) AND 401 (18.69 ACRES) ON LANE COUNTY ASSESSOR’S MAP 19-01-17, AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES. (File: PA 04- 5276, Kronberger).**

### **I. OPTIONS**

The applicant, Darren Kronberger, is requesting consideration under two circumstances or options of Goal Two, Policy 27:

**Option 1:** *Goal Two, Policy 27 a.vii - Correction of an inconsistency between the text of an order or ordinance adopted by the Board of Commissioners and an Official Plan or Zoning Diagram.*

**Option 2:** *Goal Two - Policy 27 a.ii., and Goal Four – Policy 15, which are reproduced below:*

*Goal Two - Policy 27 a. ii. - Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate the property Nonimpacted Forest Land (F-1, RCP) zone did not display actual existing legal lots adjacent to or within the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.*

*Goal Four – Policy 15. Lands designated with the Rural Comprehensive Plan as forest land shall be zoned Non-Impacted Forest Lands (F-1, RCP) or Impacted Forest Lands (F-2, RCP). A decision to apply one of the above zones or both of the above zones in a split zone fashion shall be based upon:*

- a. A conclusion that characteristics of the land correspond more closely to the characteristics of the proposed zoning than the characteristics of the other forest zone. The zoning characteristics referred to are specified below in subsections b. and c. This conclusion shall be supported by a statement of reasons explaining why the facts support the conclusion.*
- b. Non-impacted Forest Land Zone (F-1, RCP) Characteristics:*

- (1) *Predominantly ownerships not developed by residences or nonforest uses.*
  - (2) *Predominantly contiguous ownerships of 80 acres or larger in size.*
  - (3) *Predominantly ownerships contiguous to other lands utilized for commercial forest or commercial farm uses.*
  - (4) *Accessed by arterial roads or roads intended primarily for forest management. Primarily under commercial forest management.*
- c. *Impacted Forest Land Zone (F-2, RCP) Characteristics:*
- (1) *Predominantly ownerships developed by residences or nonforest uses.*
  - (2) *Predominantly ownerships 80 acres or less in size.*
  - (3) *Ownerships general contiguous to tracts containing 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan.*
  - (4) *Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences.*

**The Board of Commissioners will need to reach decisions on both Options.**

Both decisions stem from the analysis of the Goal 4, Policy 15 characteristics on whether the subject parcels are more closely defined as F1 Nonimpacted Forest Land or F2 Impacted Forest Land. For this reason, it is staff's recommendation that the Board first deliberate on the four sets of individual "characteristics". Once the Board has decided on the four preliminary decisions it can then determine the predominant designation for the properties under each of the options.

**Assigning the drafting of Findings of Fact for review by County Counsel:**

Either way the Board elects to go, approval or denial, findings of fact to support the decisions will have to be written to reflect the Board's determinations on the Goal 4 characteristics.

- If the Board finds in favor of either of the applicant's requests for rezoning, staff recommends that the Board assign the drafting of the findings in support to the applicant's agent.
- If the Board elects to deny either or both requests, the Board should assign the writing of the findings of fact to staff.

**Policy issue for consideration.**

Which time period and what ownership is most pertinent to the Board's review of the Goal 4, Policy "characteristics"?

- In 1984, when the four original legal lots (200+ acres) were represented on Assessor's map TRS 19-01-17 as part of a single ownership as "tax lot 400" of TRS 19-01-17, 200+ acres in size; or
- In 2000, when LMD determined that there were four original legal lots within tax lot 401 (200+ acres) of TRS 19-01-17 and were reconfigured in 2002-03 into the four subject parcels (83.58 total acres) under the current ownership?

**Goal 4, Policy 15.b. and c.**

Do the circumstances of this particular proposal predominantly (more closely) comply with Goal 4 –Policy 15.b., for retaining the Nonimpacted Forest Land (F-1) zoning designation; or Policy 15.c., for granting the request for the Impacted Forest Land (F-2) zoning designation?

- [ ] F-1: (1) *Predominantly ownerships not developed by residences or nonforest uses.*  
or,  
[ ] F-2: (1) *Predominantly ownerships developed by residences or nonforest uses.*
- 

- [ ] F-1: (2) *Predominantly contiguous ownerships of 80 acres or larger in size.*  
or  
[ ] F-2: (2) *Predominantly ownerships 80 acres or less in size.*
- 

- [ ] F-1: (3) *Predominantly ownerships contiguous to other lands utilized for commercial forest or commercial farm uses.*  
or,  
[ ] F-2: (3) *Ownerships generally contiguous to tracts containing 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan.*
- 

- [ ] F-1: (4) *Accessed by arterial roads or roads intended primarily for forest management. Primarily under commercial forest management. (\* See note below)*  
or,  
[ ] F-2: (4) *Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences.*
- 

- [ ] F-1: (5) *Primarily under commercial forest management.*
- 

## II. MOTIONS

**Option 1** - *Correction of an inconsistency between the text of an order or ordinance adopted by the Board of Commissioners and an Official Plan or Zoning Diagram.*

Based on the current Board's determination of which designation (F-1 or F-2) was most likely intended by the 1984 Board, the Board will need to adopt one of the following two decisions:

### **Motions:**

- (1) **Map diagram prevails:** The 82.6-acre subject tract, a portion of tax lot 401 of TRS 19-01-17 (circa 1984) including the four subject parcels, was designated as Nonimpacted Forest Land (F-1, RCP). The discrepancy between the interim zoning diagram in Exhibit "A" of Ordinance No. PA 891 and the listing of the affected parcels in Exhibit "C", is found in favor of the diagram pursuant to the current Board of Commissioner's review of the record and 1984 Board's intent, and Goal Four, Policy 15 characteristics.
- (2) **Omission in the text prevails:** The 82.6-acre subject tract, a portion of tax lot 401 of TRS 19-01-17 (circa 1984) including the four subject parcels, was designated as Impacted Forest Land (F-2, RCP). The discrepancy between the interim zoning diagram in Exhibit "A" of Ordinance No. PA 891, and the absence of the subject tract in listing of parcels in Exhibit "C" of Ordinance No. PA 891, is found in favor of the text by virtue of the expressed intent of affected parcels being "further delineated" in the text of the ordinance pursuant to the current

Board of Commissioner's review of the record and 1984 Board's intent, and Goal Four, Policy 15 characteristics.

---

**Option 2** *Goal Two - Policy 27 a. ii. - Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate the property Nonimpacted Forest Land (F-1, RCP) zone did not display actual existing legal lots adjacent to or within the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.*

**Policy Issue for consideration**

Two policy questions form the basis for the Board's making a decision on Option 2:

1. **Were the verified descriptions of the four discrete parcels actually "legal lots" at the time Lane County adopted the zoning designation by Ordinance No. PA 884 on February 29, 1984?**

The LCPC reviewed the policy language in a work session and deliberations on October 5, 2004, and approved an interpretation concerning the "legal lot" issue of Policy 27.a.ii. for forwarding to the Board along with their recommendation on this application.

**LCPC recommendation** "applied a common sense interpretation to the 1983-1986 definition for 'legal lot' in Lane Code Chapter 13 and 16, based on the clarification of ORS 92 by HB 2381 in 1985, and Lane County's adoption of three ordinances in 1986 in response to the enactment of HB 2381, that discrete parcels created lawfully by recorded deed or real estate contract prior to the 1983-1986 period were not merged during that period, and were during that period and are today, discrete legal lots."

2. **Do the circumstances of this particular proposal predominantly (more closely) comply with Goal 4 –Policy 15.b., for retaining the Nonimpacted Forest Land (F-1) zoning designation; or Policy 15.c., for granting the request for the Impacted Forest Land (F-2) zoning designation?**

Based on the Board's deliberations under Goal 4, Policy 15. b. and c.:

**Motions**

- (1) **Affirm -- The Board finds the subject parcels pursuant to Goal 4, Policy 15b. and c. "characteristics", qualify for designation as Impacted Forest Land (F2).**
  - (2) **Deny -- The Board finds the subject parcels pursuant to Goal 4, Policy 15b. and c. "characteristics", do not qualify for designation as Impacted Forest Land (F2).**
-