

PASSED

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**ORDINANCE NO. PA 1243 | IN THE MATTER OF ADOPTING CONFORMITY
| DETERMINATION AMENDMENTS TO THE RURAL
| COMPREHENSIVE PLAN (RCP) PURSUANT TO
| RCP GENERAL PLAN POLICIES – GOAL 2,
| POLICY 27 a. iv., TO CORRECT SCRIVENER
| ERRORS ON THE OFFICIAL PLAN AND ZONING
| MAPS – PLOT # 621, 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 May 2007, a Conformity Determination Amendment application (Lane County LMD) was initiated by Lane County to correct three scrivener errors on Official Plan Map – Plot No. 621 and one scrivener error on Official Zoning Map – Plot No. 621 within the unincorporated rural community of Blue River, 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 June 19, 2007; and

WHEREAS, the Lane County Planning Commission on June 19, 2007, forwarded a recommendation to the Board of County Commissioners for approval to correct the scrivener errors; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on September 19, 2007; 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 Lane County Rural Comprehensive Plan is amended by the re-designation and rezoning of the following properties or portions thereof:

- a. Re-designation of the western 0.20 of-an-acre of tax lot 5800 of Assessor's map 16-45-28.2, from "Public Facility" (RPF/C) to "Rural" (R/C) on Official Plan Map – Plot No. 621 and further identified as Exhibit "A", attached and incorporated herein; and
- b. Re-designation of the western 0.20 of-an-acre of tax lot 5800 of Assessor's map 16-45-28.2, from "Rural Public Facility" (RPF/C) to "Rural Residential" (RR2/C) on Official Zoning Map – Plot No. 621 and further identified as Exhibit "B", attached and incorporated herein; and
- c. Re-designation of tax lot 300 of Assessor's map 16-45-28.2, from "Public Facility" (RPF/C) to "Rural" (R/C) on Official Plan Map – Plot No. 621 and further identified as Exhibit "A", attached and incorporated herein; and
- d. Re-designation of tax lot 201 of Assessor's map 16-45-28.2, from "Parks and Recreation" (PR/C) to "Parks and Recreation" (PR) on Official Plan Map – Plot No. 621 and further identified as Exhibit "A", attached and incorporated herein; and

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 "C".

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 19th day of SEPTEMBER, 2007.

Faye Hunt
Chair, Lane County Board of County Commissioners

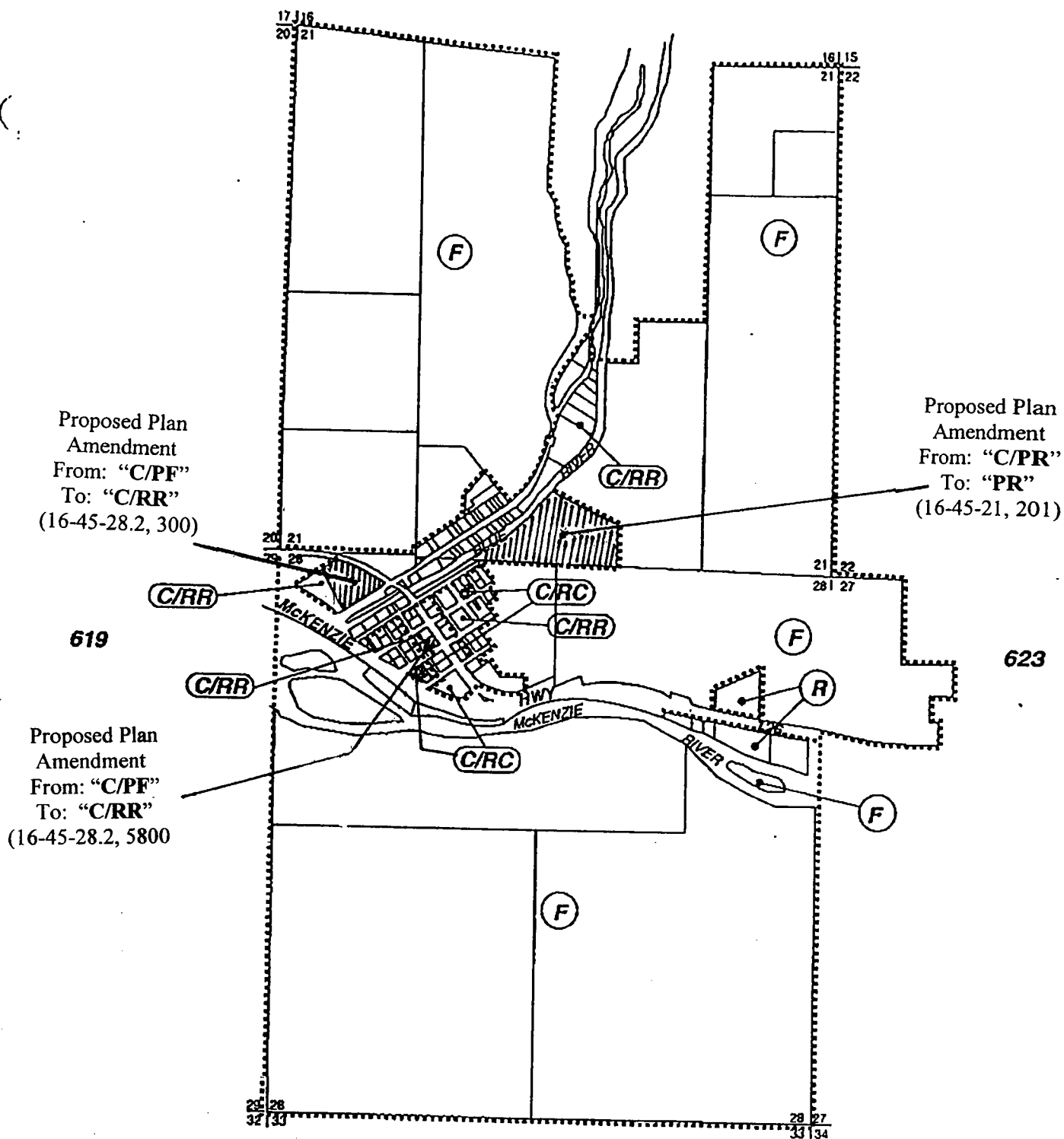
Melissa L. Z...
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 8/21/07 Lane County

[Signature]
OFFICE OF LEGAL COUNSEL

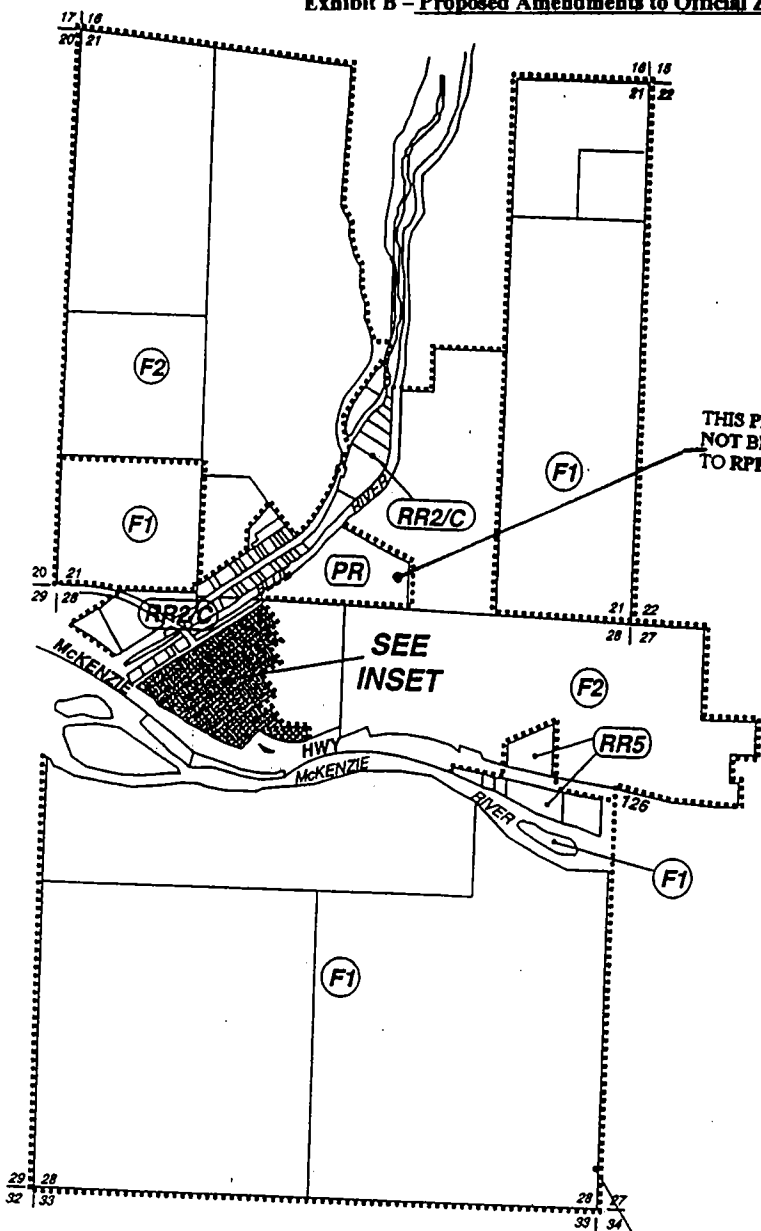
BLUE RIVER



	OFFICIAL PLAN MAP		PLOT #621
	Township Range Section 16 45 21 / 16 45 28		
ORIGINAL ORD. #	PA 884	DATE	2/29/1984
REVISION #	ORD#	DATE	FILE #

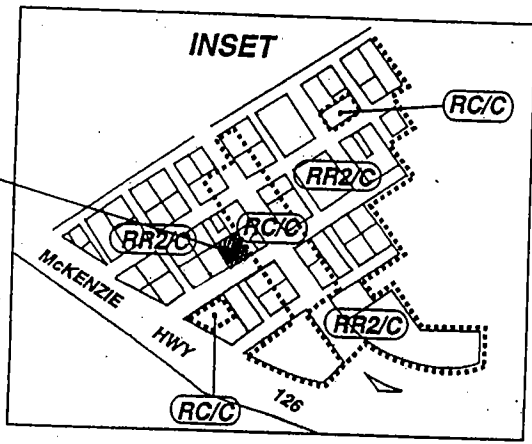
FLOODPLAIN

619



623

Western 0.20 acre of tax lot 5800 of Map 16-45-28.2 - Rezoned from RPF/C to RR2/C



The RR zones on this map are changed as follows: FROM: RR LC 16.231 TO: RR LC 16.290. The RR zone parcel size remains the same.

lane county



OFFICIAL ZONING MAP

PLOT #621

Township Range Section

16 45 21

16 45 28

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

REVISION # ORD# PA 1168 DATE 4/17/02 FILE # CN23

Ordinance No. PA 1243
Exhibit “C”
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. 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.*

Finding 3. Lane Code 16.400: The Conformity Determination Amendment process was enacted originally as an “errors or omissions” policy on 1984 (Ordinance PA 883) and re-enacted on December 17, 2003 (Ordinance PA 1192) based on compliance with the adopted policy statement in Lane Code 16.400(1), which are the implementing guidelines for Rural Comprehensive Plan amendments:

Lane Code 16.400 Rural Comprehensive Plan Amendments

- (1) Purpose. The Board shall adopt a Rural Comprehensive Plan. The general purpose of the Rural Comprehensive Plan is the guiding of social, economic and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare. The Rural Comprehensive Plan shall be considered to be a dynamic policy instrument that can be modified to reflect changing circumstances and conditions as well as to correct errors and oversights. It is recognized that the Rural Comprehensive Plan affects the people of Lane County and it is, therefore, important that the ability by individuals to propose amendments be free of restraint.*

Finding 4. 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 5. 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 1243 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 1243. These opportunities were adequate to comply with Goal 2.
 - On May 2, 2007, 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 amendments.
 - On May 16, 2007, 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 June 19, 2007, at 7:00 P.M.
 - On June 1, 2007, written notices were mailed to adjacent and nearby property owners surrounding the three subject properties informing the property owners of the date, time and place of the Lane County Planning Commission public hearing.
 - On June 19, 2007, the Lane County Planning Commission (LCPC) conducted a public hearing on the proposed Conformity Determination Amendment (Ordinance No. PA 1243) requesting consideration for correction of three scrivener errors on Official Plan Map - Plot No. 621, and one scrivener error on Official Zoning Map - Plot No. 621, 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 June 19, 2007, the Lane County Planning Commission unanimously (6-0) approved a recommendation to the Board of Commissioners to adopt the proposed corrections pursuant to Goal Two, Policy 27 a. iv.
 - On August 29, 2007, 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 September 19, 2007.
 - On August 27, 2007, written notices were mailed to adjacent and nearby property owners surrounding the three subject properties informing the property owners of the date, time and place of the Lane County Board of Commissioners’ public hearing.
 - On September 19, 2007, the Board of County Commissioners conducted a public hearing on the proposed Conformity Determination Amendment - Ordinance No. PA 1243 for correction of the scrivener errors on Official Plan Map and Official Zoning Map - Plot No. 621.
- b. Ordinance No. PA 1243 acknowledges the written testimony and documentation, and citizen comments received during the LCPC public hearings on June 19, 2007, and submitted into the official record thereafter.
- c. Ordinance No. PA 1243 acknowledges the deliberations of the LCPC on June 19, 2007, and their findings of fact, conclusions, and recommendation to correct three scrivener errors on Official Plan Map - Plot No. 621 and one scrivener error on Official Zoning Map - Plot No. 621.
- d. Ordinance No. PA 1243 acknowledges citizen testimony received during the Lane County Board of Commissioners public hearing on September 19, 2007.

Finding 6. Lane County Assessor's Map 16-45.282, tax lot 5800: During the adoption of the Rural Comprehensive Plan and Ordinance No. 884 on February 29, 1984, Lane County applied zoning designations to rural properties countywide. Within the "Community" of Blue River, a scrivener error occurred on Official Zoning Map – Plot 621, designating the western 0.20 of-an-acre of tax lot 5800 of Lane County Assessor's map 16-45-28.2 as "PF" (Public Facility). The eastern 0.09 of-an-acre of tax lot 5800 that fronts Cascade Street was zoned "C3" (Commercial Zone) in 1984 and was correctly re-designated "RC/C" (Rural Commercial) in 2002. Tax lot 5800 of Assessor's map 16-45-28.2 is privately owned and no public facilities are known to have existed on the property. The western 0.20 of-an-acre that fronts Dexter Street, should have been designated in 1984 for residential use compatible with the surrounding zoning and uses to the north, west and south.

The correct designation of "R" (Rural) proposed for tax lot 5800 of Assessor's Map 16-45-28.2 on the Official Plan Map – Plot No.621, is depicted on Exhibit A - Proposed Amendments to Official Plan Map – Plot No. 621. The correct designation of "RR2/C" (Rural Residential, Lane Code 16.290) proposed for tax lot 5800 of Assessor's Map 16-45-28.2 on the Official Zoning Map – Plot No.621, is depicted on Exhibit B - Proposed Amendments to Official Zoning Map – Plot No. 621.

Finding 7. Lane County Assessor's Map 16-45-28.2, map 300: During the adoption of Ordinance No. PA 1173 amending plan and zoning designations for the McKenzie Watershed Periodic Review Work Tasks within the McKenzie Watershed on April 17, 2002, scrivener errors occurred on Official Plan Map - Plot 621 and Official Zoning Map - Plot 621. On that same date, during the adoption of Ordinance No. PA 1168 enacting post-acknowledgement plan amendments to amend Plan and Zoning designations within the unincorporated rural community of Blue River, scrivener errors were duplicated on Official Plan Map - Plot No. 621.

Between February 29, 1984 and April 17, 2002, tax lot 300 was designated as part of the "Community" of Blue River on Official Plan Map – Plot 621, and "RA" (Suburban Residential) on Official Zoning Map – Plot 621. On April 17, 2002, the adoption of Ordinance No. PA 1173 included the zoning designation of "PF/C" (Public Facility) on Official Zoning Map – Plot 621, for tax lot 300. The Ordinance also included the Plan designation of "C/PF" (Public Facility) on Official Plan Map – Plot No. 621, for tax lot 300. These amendments were in error and not authorized by the Willamette National Forest – Blue River District, owner of the property at the time.

In the Board's subsequent action on April 17, 2002, the adoption of Ordinance No. PA 1168, Control No. 23 included an Official Zoning Map – Plot 621, which accurately designated the subject property, tax lot 300, as "RR2/C" (Rural Residential) in conformity with the rezoning of all other properties within the unincorporated rural community boundaries of Blue River from the prior "RA" designation to "RR2/C", with a two-acre minimum lot size for the creation of new lots or parcels.

The correct designation of "R" (Rural) proposed for tax lot 300 of Assessor's Map 16-45-28.2 on the Official Plan Map – Plot No.621, is depicted on Exhibit A - Proposed Amendments to Official Plan Map – Plot No. 621.

Finding 8. Lane County Assessor's Map 16-45-21, tax lot 201. The adoption of Ordinance No. PA 1168, Control No. 23 on April 17, 2002, included an Official Zoning Map – Plot 621, which accurately designated the subject property, tax lot 201 of map 16-45-

21, as "PR" (Park and Recreation). This designation had been applied in 1984 indicating the property was outside the unincorporated rural community boundaries of Blue River. As further evidence of the resource designation "PR" for the subject property, a notation was placed in the right-hand margin on Plot 621 stating: "This PR zoning is Not Being Rezoned to RPR." However, the Official Plan Map – Plot No.621 adopted by Ordinance No. PA 1168, Control No. 23, mistakenly indicated the subject property, tax lot 201, as "C/PR" (Community/Parks & Recreation).

The correct designation of "PR" (Park and Recreation) proposed for tax lot 201 of Assessor's Map 16-45-21 on the Official Plan Map – Plot No.621, is depicted on Exhibit A - Proposed Amendment to Official Plan Map – Plot No. 621.

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