

NOTICE OF BOARD ACTION



LANE COUNTY BOARD OF COMMISSIONERS

This document, upon approval in a public meeting by the Board of County Commissioners, serves as official minutes of such meetings as required under the Open Meetings Law, ORS 192.650.

Pursuant to notice made by mailing agendas to news media, a selected list of jurisdictions and individuals in Lane County, a meeting of the Board of County Commissioners was held.

Questions should be directed to The Board Office Specialist 3, ext. 4203.

December 12, 1990	REGULAR MEETING	Harris Hall
1:30 p.m.	BOARD OF COUNTY COMMISSIONERS	Main Floor

Chair Bill Rogers presided with Steve Cornacchia, Ellie Dumdi, Jack Roberts and Jerry Rust present. Judy Haldeman, Recording Secretary.

1. COMMISSIONERS' ANNOUNCEMENTS

None.

2. SECOND READING AND PUBLIC HEARING/Ordinance No. PA 992/In the Matter of Amending the Lane County Rural Comprehensive Plan (NBA & PM 11/21/90)

Rogers read the ordinance into the record. Harvey Hoglund, Associate Planner, stated that since the Supreme Court ruling of 1988, the staff has presented evidence and/or findings to explain why each of the areas before the Board today met the State Administrative Rule for developed and committed exceptions. He stated that at least one effort had been made on each of these properties to defend the original boundaries described in the 1984 plan and staff has not been able to make a convincing argument.

Rogers opened the Public Hearing.

Warren Neer, 1336 Taft, 157-2, asked to have the current zoning retained as the site is a poor quality timber growing site with shallow soil. He stated that there were three to four houses within 400-500 feet on three sides of the property. He stated that he is surrounded on three sides by five-acre tracts and that the property was purchased with the idea of subdividing it into five acre tracts.

Art Voelsch, 23927 Highway 126, Veneta, 157-2, commented that the forestry department had determined that there was poor growth of trees on this soil and that some of the trees had blown down with the recent storm. He stated that he had owned this property for 30 years and stated that there will never be enough trees on it to pay the taxes. He stated that he

would like to be compensated to stand and wait for these trees to grow and added that he had been overtaxed on this property.

Eric Jacobson, 94082 Oaklea Drive, Junction City, 265-1, commented that this property was not able to be irrigated for farm ground and approximately 2 of the 13 acres are covered with road drainage water during the winter time.

Jerome Maliner, 3265 Filmore, 268-1, commented that he had tried to make a tree farm on this property and had been unsuccessful as the property was not suitable for forest or agriculture. He stated that there were many houses nearby though there was no house on the property itself.

Don Boyer, 4960 Sacramento Avenue, Acton, CA, 282-1, commented that there were houses on three sides of his property. He stated that his property was 4.7 acres and that 3 of these acres were underwater all winter and, therefore unfit for farm or forest. Heglund commented that his thought was to amend the boundary to include 2100, 2101 and 2002 at a minimum.

Peter Gutoski, 32587 Coburg Bottom Loop Road, 363-1, commented that he would like to have his property rezoned to EFU-30 and presented a brief history of the property as a farm. He commented that this is part of a continuous filbert orchard with residences interspersed on the perimeter.

Bill Ledford, 32443 Coburg Bottom Loop Road, 363-1, commented that he was opposed to changing the zoning to EFU. He stated that zoning boundaries should protect rural residents against objectionable practices that are unconditionally allowed in EFU zones (see full transcript of testimony on file).

Bob Rindy, Land Conservation and Development Commission, was available to answer questions that the Board might have regarding the developed and committed exception areas. He stated that there was never a magic stopping place in land use; there is a process in the statute for additional amendments to the plan. He commented that LCDC was close to having a secondary lands classification and that there will be a lot of opportunity for these people to have a secondary lands designation, hopefully within a year. Cornacchia commented that he appreciated that LCDC staff was working with the County and the attitude that has been exhibited since areas were noted as being not in compliance with rules and statutes; however, he is offended that LCDC uses correspondence and direction from 1000 Friends of Oregon based upon aerial photographs as a sole determination of whether or not properties were developed and committed. He suggested that LCDC provide substantial evidence and findings of fact on each case as a land use lawyer would be required to do for the case.

Rindy responded that 1000 Friends took the evidence that they were able to gather from the record to the Supreme Court and they won. This taught LCDC that it could not go to the Supreme Court unless it believes that it can prove that its rules have been addressed. Every time LCDC has lost a

case in the Supreme Court, the effects have often gone beyond the case itself and some bad law has been created. He commented that Lane County has been exemplary in following the land use laws that are set out by the Legislature and by LCDC, especially in this process.

Susan Hammond, 85521 Jasper Park Road, Pleasant Hill, 484-1, representing Leonard and Mae Gibson, commented that this land has been farmed for 40 years, but the owners have never received more than \$200-400 per year for their share of the crop. She stated that there is one residence on the property and that the property is completely surrounded by residences with no other properties in the area currently being farmed.

Ken Johnston, 32469 Coburg Bottom Loop Road, 363-1, commented that 13 families suffer noise and harassment from the owner of the adjacent filbert orchard. He stated that the land would grow just as many filberts if it were zoned residential as if it were zoned farm land. He stated that he is concerned that EFU zoning would send a signal to the owner of the land that he can get away with anything he wants to get away with. He stated that Rogers should abstain from voting on this issue.

Les Green, 32501 Coburg Bottom Loop Road, 363-1, commented that he was a third generation row crop farmer with 80 acres of property and his residence was approximately 200 yards from the property in question. He stated that this property was a rural area with urban encroachment and that EFU is the proper use.

Richard Funke, 32235 Coburg Bottom Loop Road, 363-1, commented that he was a fourth generation farmer in this area and that 75 of his acres border Mr. Gutoski's property. He commented that there was fertile soil on this 7.5 acres and was part of the entire filbert operation.

This meeting recessed at 3:24 p.m. to reconvene at 3:37 p.m.

Eli Keeran, 77047 London Road, Cottage Grove, 390-3 and 391-1, commented that starting in 1964, he and Pupke had put three pieces of property together and planned them to comply with the planning that was done at that time. He stated that there were three streams going through the property and that during the winter, the flat property stands under water. He stated that when he first bought the property he could have divided it into one acre plots; then it was changed to RR-5 and then to RR-10. Now he cannot build on the 10 acres that he has.

Cornacchia asked if it would be possible to give a recommendation to staff to go back to these particular sites if it appears warranted to see if there is evidence that would support findings for a committed use. Bill Van Vactor, County Counsel, commented that that would be possible with some time constraints or with a separate ordinance. Hoglund commented that his intention was that additional findings would be prepared where possible and filed by the end of next week and adopted by Board Order in early January. Van Vactor commented that the Board could take action to

delete parcels out of the ordinance, keep them in rural residential and then adopt additional findings prior to submittal.

John Rasmussen, P. O. Box 3530, 413-2, commented that he is basically interested in farming uses and that the zoning change should help him more than hurt him.

Don Pachkofsky, 961 South 70th, Springfield, 484-1, commented that he had purchased this 5 acres 10 years ago, that there were homes on 3 sides of the property with the Gibsons on the fourth side. He stated that the property was fenced, had a residential septic tank on it and a residential well.

Cheryl Cyphert, 92593 Pioch Lane, Springfield, 488-1, commented that Roger Dettering made an on-site visit and stated that the land was not suitable for farming. Doug Tisdat of the U.S. Forest Service stated that it would probably not be cost effective to raise trees in this area. The Soil Conservation Service gave her an updated soil map that indicated that the soil could not be used for farming or forest without great expense. She stated that her property is hillside, completely fenced and surrounded on three sides by residences.

Bernard Hiatt, 1218 North 13th, Springfield, 492-1, commented that he had purchased this property in 1976 with the intention to retire on it. In 1984 he had partitioned it for three five-acre parcels which were approved by the County. He commented that there was a septic tank on the property when he purchased it with approval for another septic tank and he had put in a well. He stated that there were houses all around the property, but no house on the property itself. He commented that he had planted 100 trees from Weyerhaeuser in 1980 and that not one had survived.

Herman Mitten, 38354 Mitten Lane, 512-1, commented that he had owned the property for 40 years and had not been able to drain the land to raise a productive crop. He commented that this land was presently divided to place the homesites on dry land. He stated that leaving this property in RR-1 would help the neighborhood, would mean more income to the County and would ease his burden of caring for the property.

Mike Evans, 1071 Harlow Road, Springfield, 512-1, representing Mitten and Benson, commented that 1000 Friends had pointed out that the property had a good quality for farm production and forest deferral, neither of which are supposed to be factors for the committed lands analysis. The Department of Land Conservation and Development added that even though there were dwellings to the north and west of this property, there was a road that intervened and separated the residences from the farmland and reduced the impacts. He stated that he had added information that addresses the concerns of 1000 Friends and DLCDC to give them a slightly different viewpoint and justifies the exception for the property. Conditions, covenants and restrictions were added to the property in 1975 which indicates that it was considered residential. This property is

bound on three sides by seven other homes and does not meet the 20 acre threshold.

Wendell Humphrey, 995 South 40th Place, Springfield, 544-1, commented that he owns 10 acres in Lowell and would like to retain his rights to have a home on this property. He stated that this property will not raise a good crop of timber as the growth on the trees is small each year. Rogers commented that Humphrey would have replacement rights on the existing home.

Jim Luke, 40307 Jasper Lowell Road, 544-2, commented that he was opposed to the change from RR-5 and stated that the forester's report found that this property cannot support forest crops. He stated that he had water to the property though there was no house on the property now. Hogle commented that he had informed Luke that he could go through the legal lot determination process and that he did not know what the outcome of the application had been. Rogers asked Hogle to find out the status of this application.

Cynthia Whitney, 40311 Jasper Lowell Road, 544-2, commented that this was beautiful property, but that it could not be plowed or have trees grown on it. She stated that there was no profit in the property, that the road was too narrow for heavy equipment and, therefore; inaccessible for commercial farming or forestry.

Sandra Olson, 1234 Hilo Drive, 569-1, stated that she would prefer that there be no rezoning on the land. She stated that David Erickson, BLM Forester, had inspected the property at tax lot 300 and based on his findings, she proposed an alternative (see material on file). Hogle stated that the combination of the testimony by Olson and the material submitted by the professional forester is basis for preparing another set of findings for LCDC.

Gibb Mitchell, 1375 Flintridge, 599-3 and 601-1, representing the Westfir Land and Development Company, commented that a majority of the property is surrounded by residential land and that the airport affects the use of the property. He stated that there was a BPA easement and that it was impracticable to use this for resource land as it was more suitable for residential use.

This meeting recessed at 5:17 p.m. to reconvene at 6:15 p.m. in North Harris Hall.

Jim Saul, 111 West 7th Street, 282-1, representing Chestnut, commented that there were two issues: 1) is the property developed and committed and 2) if it is, what is the proper planning and zoning designation? He stated that this is a 9.55 acre parcel of land with a fully developed wrecking yard which has been there since 1962 on the northern 5 acres and a residence on the southern portion of it. He stated that there was no zoning on this property until 1977. Saul would suggest that it be zoned industrial, M-2 for the northern 5 acres with a special use permit and RR-

5 for the southern portion. Hogleund commented that the County could try to make a case for the exception and then initiate another plan amendment taking it to industrial use.

Robert McCulloch, 74 East 18th Street, Suite 11, 413-2, representing Pacific Shops, commented that there was no way to make a living on this land. He stated that the highest and best use of this property is in five-acre parcels as it has houses on all sides.

Rogers commented that there were no other persons signed up to testify, but that he would leave the Public Hearing open in case someone should arrive later in the meeting.

MOTION: To tentatively approve rezoning for all properties except 157-2, 265-1, 268-1, 269-3, 282-1, 363-1, 390-3, 391-1, 413-2, 433-2, 483-2, 484-1, 488-1, 492-1, 512-1, 544-1, 544-2, 569-1 and 599-3/601-1. Cornacchia MOVED, Rust SECONDED. MOTION: To include all the tax lot numbers that were not personally represented today. Cornacchia MOVED. This motion dies for lack of a second. VOTE on initial motion: 5-0.

MOTION: To direct staff to send appropriate findings to LCDC for developed and committed zoning designations on 265-1, 268-1, 282-1 tax lots 2002, 2003, 2100 and 2101, 390-3, 391-1, 413-2 tax lots 100, 200 and 305, 484-1, tax lots 800 and 801, 488-1, 492-1 tax lot 500, 512-1 tax lots 801 and 803, 544-1 tax lot 700, 544-2 tax lots 2901, 2902 and 2112 and 569-1. Cornacchia MOVED, Dumdi SECONDED. Rust commented that no persuasive case was made on 390-3 or 413-2. MOTION: To amend the motion to remove 390-3 and 413-2 tax lot 305. Rust MOVED, Cornacchia SECONDED. VOTE: 5-0. VOTE on main motion as amended: 5-0. MOTION: To add 390-3 and 413-2 tax lot 305. Cornacchia MOVED, Dumdi SECONDED. VOTE: 4-1, Rust dissenting.

MOTION: Approval of sending findings to LCDC on 157-2 with the suggestion that the line be redrawn to make a logical boundary between residential and resource land. Rust MOVED, Dumdi SECONDED. VOTE: 5-0. Rogers asked about 269-3 and Hogleund commented that a revised plan map was offered to the Board which showed the northern tax lot going to non-resource use and non-resource findings which should be adopted by the Board to rezone all three of these tax lots. MOTION: To adopt staff recommendation on 269-3. Cornacchia MOVED, Roberts SECONDED. VOTE: 5-0. Cornacchia asked for clarification on 282-1 tax lots 1000 through 2001 and Hogleund commented that his proposal was that there would be an amendment in one week with all of the map corrections and a written analysis. He stated that there was a good case for retaining the tax lots on Greenhill and for rezoning the other areas. MOTION: To direct staff to reanalyze 282-1 and prepare the proper ordinance. Cornacchia MOVED, Roberts SECONDED. VOTE: 5-0.

MOTION: To direct staff to reanalyze 413-2 tax lots 300, 306, 307, 1300, 1301 and 1400 and prepare the appropriate ordinance. Cornacchia MOVED, Rust SECONDED. VOTE: 5-0. MOTION: To adopt the Planning Commission recommendation on 433-2. Rust MOVED, Cornacchia SECONDED. VOTE: 5-0.

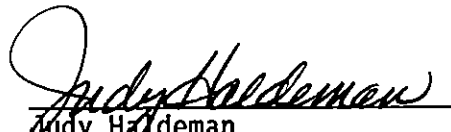
MOTION: To adopt the Planning Commission recommendation on 483-2. Rust MOVED, Dumdi SECONDED. VOTE: 5-0. MOTION: To direct staff to analyze 484-1 tax lots 1214 and 1218 and draft the appropriate ordinance. Cornacchia MOVED, Rust SECONDED. VOTE: 5-0. MOTION: To direct staff to analyze 492-1 tax lots 102, 607, 608 and 612 and draft the appropriate ordinance. Cornacchia MOVED, Rust SECONDED. VOTE: 5-0. Hogle commented that the owner of tax lot 500 in area 492-1 thought that a land division had been approved by the County, but it was a CPR request instead.

MOTION: To direct staff to analyze 512-1 tax lots 400, 401 and 412 and prepare the appropriate ordinance. Cornacchia MOVED, Rust SECONDED. VOTE: 5-0. MOTION: To direct staff to analyze 544-1 tax lot 2102 and 544-2 tax lot 1603 and prepare the appropriate ordinance. Cornacchia MOVED, Roberts SECONDED. VOTE: 5-0. Cornacchia asked for discussion on 599-3/601-1. Rogers commented that there had been no final approval on the subdivision and Hogle commented that this had already been sent to LCDC once. Hogle stated that what the County had tried to do throughout this process was to offer an explanation of why the rule was met. He stated that size is the essence of the problem with this parcel and that a less than reasoned argument to LCDC damages the credibility of the County.

Hogle stated that it was his intention to take the ordinance and make the changes to the maps and text and return to the Board by the end of the week. He stated that he would prepare a list of the 17 areas set out by the Board and have the findings written by the first week of January with delivery to the state by the end of January. Cornacchia commented that he was pleased with the staff of Land Management and Legal Counsel.

There being no one else present to testify, Rogers closed the Public Hearing.

There being no further business, this meeting adjourned at 7:48 p.m.

  
 Judy Haldeman  
 Recording Secretary