

FILED

FEB 01 1996

COUNTY CLERK
BY Pam DeWille

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

Order No. 96-1-30-3 (In the Matter of Electing Whether or Not to
(Consider An Appeal of a Hearings Official
(Decision Approving a Rezoning of a Property from
(RR-5 to RR-2 (file PA 0941-95; McDougal Bros)

WHEREAS, the Lane County Hearings Official has made a decision on application PA 0941-95; and

WHEREAS, the Lane County Hearings Official has affirmed his decision on application PA 0941-95; and

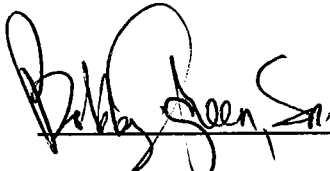
WHEREAS, the Lane County Planning Director has accepted an appeal of the Hearings Official's Decision to the Board of County Commissioners pursuant to LC 14.515; and

WHEREAS, Lane Code 14.600 provides the procedure and criteria for which the Board shall follow in deciding whether or not to conduct an on the record hearing for an appeal of a decision by the Hearings Official; and

WHEREAS, the Board of County Commissioners has reviewed this matter at a public meeting of the Board; NOW

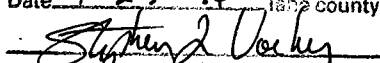
THEREFORE, BE IT ORDERED the Board of County Commissioners of Lane County finds that the appeal does not comply with the criteria of Lane Code Chapter 14.600(3) and should therefore not be considered. Findings in support of this decision are attached as Exhibit "A".

DATED this 30 day of January, 1996.



Chairperson, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 1-23-96 Lane county

OFFICE OF LEGAL COUNSEL

Findings In Support of Order No. 96- 1-30-3

1. Property involved in this action is identified as tax lot 1200, map 17-15-01.3, located between McKenzie Highway and Greenwood Drive near Leaburg, and zoned RR-5 within the jurisdiction of the Lane County Rural Comprehensive Plan and Lane Code Chapter 16.
2. In the form of application PA 0941-95, the property owner in March 1995 requested Lane County Hearings Official approval of a rezoning to RR-2 pursuant to Lane Code 16.231(5) rezoning criteria.
3. A hearings before the Lane County Hearings Official was held on June 1, 1995. The record was held open until June 15.
4. On June 23, 1995, the Hearings Official issued a decision denying the rezoning proposal, citing nonconformance with Rural Comprehensive Plan Policy 11(a) of Goal 2/Land Use Planning, as interpreted by the Board of County Commissioners in 1988 by means of Board Order 88-2-10-14.
5. A timely appeal of the Hearings Official decision was filed by the applicant on July 6, 1995. On July 14, the Hearings Official reviewed the appeal and agreed to reconsider his decision following Board evaluation of policy 11(a) as interpreted by him. On July 21 the Hearings Official requested Board review pursuant to Lane Code 14.300(7).
6. Board review took place at Board meetings of September 20 and October 17; on the latter date, the Board adopted Order 95-9-20-4 responding to the Hearings Official request by addressing issues involving appropriate levels and availability of public services and facilities to lands affected by rezoning requests.
7. On December 7, the Hearings Official held a reconsideration hearing limited to issues of area development patterns and public services/facilities in the area of the request.
8. On December 26, the Hearings Official issued a decision approving the requested rezoning.
9. A timely appeal of the approval was filed January 5, and accepted by the Director. It alleges that the Approval Authority rendered a decision which exceeded Hearings Official jurisdiction, failed to follow applicable procedure, was unconstitutional, misinterpreted applicable local and state law, and violated statewide planning goals. Arguments presented in the appeal were directed exclusively toward the implications of the Board's interpretation of policy 11(a) and did not address or otherwise discuss the facts of the McDougal rezoning decision being contested.

10. The Board of Commissioners finds that the issue presented in the appeal -- that is, the interpretation of policy 11(a) -- is one addressed by the Board in 1988 and again in 1995. The issue is significant in that Board interpretation of the policy will affect future rezoning in rural areas, but it is also one which has been dealt with appropriately by the Board, most recently in the form of Board Order 95-9-20-4. The Board finds no further reason to re-evaluate or otherwise interpret its earlier interpretations of policy 11(a). The Board also finds in the appeal no other documentation of arguments or issues of County significance.
11. The Board of Commissioners finds that rezonings may occur with frequency in rural areas. The Board further finds that adequate policy guidance with respect to the applicability of policy 11(a) has been given in the form of Board Orders 88-2-10-14 and 95-9-20-4, and thus no further need for policy guidance has been established.
12. The Board of Commissioners finds that tax lot 1200 is not property of unique environmental significance, nor has it been demonstrated by the appeal that a unique environmental resource is involved.
13. Neither the Planning Director nor the Hearings Official recommend review.
14. The Board finds that the appeal does not satisfy the requirements of Lane Code 14.600(3) and thus the Board elects not to hear the appeal.