BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

JAMES JUST,
Petitioner,

vs.

LANE COUNTY,
Respondent.

LUBA No. 2005-071

FINAL OPINION
AND ORDER

Appeal from Lane County.

James Just, Lebanon, filed the petition for review and argued on his own behalf.

Stephen L. Vorhes, Assistant County Counsel, Eugene, filed the response brief and argued on behalf of respondent.

HOLSTUN, Board Member; DAVIES, Board Chair; BASSHAM, Board Member, participated in the decision.

REMANDED 10/14/2005

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Opinion by Holstun.

NATURE OF THE DECISION

Petitioner appeals a county decision that grants a zoning map change from Non-impacted Forest Land (F-1) to Impacted Forest Land (F-2).

FACTS

The critical facts that bear directly on our disposition of this appeal are not in dispute. To facilitate an understanding of the relationship of the subject property to surrounding properties, we have included a map from page 97 of the record on the following page. The subject 34-acre property is tax lot 300, which is located at the top of the map and shaded to distinguish it from other properties. Row River Road and an adjacent railroad right of way run in a generally north-south direction in the vicinity of the rural community of Dorena. The subject property lies on the east side of Row River Road and the railroad right of way. The rural unincorporated community of Dorena lies on the west side of Row River Road and the railroad right of way. An unpaved road that has been used in the past in conjunction with forest management activities runs through the southern and eastern parts of the subject property. A small property improved with a church adjoins the subject property on the south, but the subject property is otherwise bordered by F-1 zoned lands to the east and south. A house was located on the 34 acres until 1982 when the house burned down. The county issued a permit for a replacement dwelling, but no replacement dwelling was ever constructed. Although the property includes soils that are suitable for forest use, it has few trees and has been used primarily for pasture.

508

Rezoned from F-1 to F-2

RR2

F1

CR

M3

COMMUNITY
Dorena

THE ZONING WITHIN
THE COMMUNITY
BOUNDARY IS NOT
BEING CHANGED

RR2

ROW RIVER

ROW RIVER RD

CR

RR2

OPERR

COMMUNITY
Culp Creek

THE ZONING WITHIN
THE COMMUNITY
BOUNDARY IS NOT
BEING CHANGED

F1

M3

520

M3

NORTH

Although the precise acreage involved apparently cannot be determined from the record, in 1984, when the F-1 zoning was applied to the subject property, the subject property was one of a number of contiguous parcels owned by Bohemia Lumber Company. In 1984 many of Bohemia's parcels, including the subject parcel, were zoned F-1. A mill and related structures were located on a nearby portion of Bohemia's property in 1984 and that property was zoned industrial. That industrially zoned area appears on the map as the area zoned M-3. Bohemia became Willamatte Industries, which was later acquired by Weyerhauser. Sometime after that, Everett acquired the subject 34-acre property.

Utilizing a Policy of the Lane County Rural Comprehensive Plan (hereafter RCP) that allows "Errors or Omissions" in zoning to be corrected, Everett sought to have the subject property rezoned from F-1 to F-2. The county approved Everett's application, and petitioner challenges that rezoning in this appeal.

INTRODUCTION

In the appealed decision, the county applied two RCP Policies. As already mentioned, one of those policies is RCP Goal 2, Policy 27, Errors or Omissions. Once the county found that RCP Goal 2, Policy 27 applies to the subject property, it applied RCP Goal 4, Policy 15 and found that the subject property should be rezoned from F-1 to F-2. We first set out and briefly discuss those RCP policies before turning to petitioner's assignments of error.

A. RCP Goal 2, Policy 27 Errors or Omissions

RCP Goal 2 concerns "Land Use Planning" generally. Goal 2, Policy 27(a) sets out a number of circumstances that may establish that there have been "Errors or Omissions" that provide a basis for changing the existing zoning of property. RCP Goal 2, Policy 27(a)(ii) is the only circumstance that applies specifically to F-1 zoned property, and we set that policy

1 out in the margin.[1] Simply stated, RCP Goal 2, Policy 27(a)(ii) permits the county to rezone
2 property from F-1 to F-2 if two circumstances are shown to exist. First, the maps that the
3 county relied on in 1984 did not show legal lots within or adjacent to the property alleged to
4 be improperly zoned F-1. Second, had legal lots been accurately displayed on the maps that
5 were used in 1984, Goal 4 policies would have dictated F-2 zoning for the property at issue
6 at that time.

7 Whether the first circumstance exists appears to call for a finding of fact by the
8 county, presumably based on a comparison of the maps that were used in 1984 and corrected
9 maps or other information that disclose any additional legal lots that existed in 1984 but were
10 not displayed on the 1984 maps. The standards that govern the county's determination
11 regarding whether the second circumstance exists are set out in the RCP Goal 4 policies. We
12 now turn to the Goal 4 policy that the county relied on in this case.

13 **B. RCP Goal 4, Policy 15**

14 RCP Goal, Policy 15 sets out the characteristics that govern whether lands that the
15 RCP designates as forest land are to be zoned F-1 or F-2.[2] Those characteristics include

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[1] RCP Goal 2, Policy 27 provides, as relevant:

> "Errors or Omissions. Lane County will * * * process applications to correct identified errors or omissions in the [RCP] and Zoning Plots resulting from the [RCP] and Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the [RCP] and Zoning Plots. * * *
>
> "a. Circumstances qualifying for consideration by the Board of Commissioners under the Errors or Omission Policy may include one or more of the following:
>
> "* * * * *
>
> "ii. Failure to zone a property [F-2], where maps used by staff to designate the property [F-1] 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[.]"

[2] RCP Goal 4, Policy 15 provides:

> "Lands designated within the Rural [Plan] as forest land shall be zoned [F-1] or [F-2]. A decision to apply one of the above zones * * * shall be based upon:

1 some wording ambiguities and differences that neither the decision nor the parties discuss in
2 any detail. One particularly important choice in wording in RCP Goal 4, Policy 15(b) and (c)
3 is the use of the term "ownerships," rather than one of the more commonly used words to
4 describe units of land such as "lots," "parcels," or "tracts."

5 ORS 92.010 defines both "lot" and "parcel" as a "single unit of land."[3] As defined,
6 the only difference between a "lot" and "parcel" is the way in which the unit of land is

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"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 subsection 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] 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 ot[h]er 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] Characteristics:

"(1) Predominantly *ownerships* developed by residences or nonforest uses.

"(2) Predominantly *ownerships* 80 acres or less in size.

"(3) *Ownerships* generally contiguous to tracts containing less th[a]n 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." (Emphases added.)

[3] As relevant, ORS 92.010 provides:

"As used in ORS 92.010 to 92.190, unless the context requires otherwise:

"* * * * *

"(3) 'Lot' means a single unit of land that is created by a subdivision of land.

1 created. ORS 92.010 does not provide a definition of "ownership," and the parties do not
2 claim that the current versions of the RCP or the Lane County Land Use and Development
3 Code (LC) provide a definition of that term now, or that they defined the term in 1984.
4 However, the 1984 LC, the current LC and ORS 215.010 provide definitions of "tract."[4]
5 With the above introduction to the relevant RCP policies, we turn to petitioner's
6 assignments of error.

7 **FIRST ASSIGNMENT OF ERROR**

8 **A. In Applying RCP Goal 4, Policy 15 the County Erred in Considering**
9 **Legal Lots Rather than Ownerships**

10 Although this subassignment of error is the fourth of the subassignments of error
11 presented in the petition for review, we address this subassignment of error first, because it
12 lies at the heart of the real dispute between the parties.

"* * * * *

"(5) 'Parcel' means a single unit of land that is created by a partitioning of land."

ORS 215.010 provides definitions for purposes of statutes concerning county planning. ORS 215.010(1) adopts the definitions in ORS 92.010 except that it adds to the ORS 92.010(5) definition of parcel, units of land that were created by deed or land sale contract before land use regulations applied. Although there are some wording differences, the current LC definitions of "lot" and "parcel" are consistent with the statutory definitions in ORS 92.010(3) and 215.010(1).

[4] ORS 215.010(2) provides the following definition:

"'Tract' means one or more contiguous lots or parcels under the same ownership."

In 1984, the LC defined "tract" is as follows:

"A lot, parcel or unsubdivided or unpartitioned land under the same ownership. Contiguous units of unsubdivided or unpartitioned land under the same ownership shall be considered a single tract."

The current LC defines "tract" is as follows:

"A lot or parcel as defined in LC 16.090."

Neither the 1984 LC definition nor the current LC definition of "tract" is consistent with the ORS 215.010(2) definition set out above. Under the 1984 LC definition of "tract," contiguous lots or parcels under the same ownership did not qualify as a single "tract." Under the current LC definition of "tract," tracts are the same as lots or parcels.

1 As noted above in our discussion of RCP Goal 4, Policy 15, the terms "lot," "parcel,"
2 and "tract" are defined terms. As the current LC defines "tract," the term has the same
3 meaning as "lot" and "parcel." However as ORS 215.010(2) defines tract, a tract could be a
4 single lot or a single parcel, or it could be a collection of more than one lot or more than one
5 parcel, if those multiple lots or parcels are contiguous and under the same ownership. A
6 central problem in this appeal is that most of the ultimate criteria that must be applied to
7 decide whether the subject property is to be zoned F-2 or to remain zoned F-1 require an
8 analysis of "ownerships." With one exception, those criteria do not mention lots, parcels or
9 tracts.[5] Nevertheless, the county has proceeded as though the term "ownership" in RCP
10 Goal 4, Policy 15(b) and (c) means "lot" or "parcel." Petitioner believes that the term
11 "ownership" has the same meaning as "tract," as ORS 215.010(2) defines that term. *See* n 4.
12 However, petitioner makes no direct attempt to explain why the undefined term "ownership"
13 should be interpreted and applied as though it has the same meaning as a different, defined
14 term that is used only once in RCP Goal 4, Policy 15(c)(3). Similarly, the county makes no
15 attempt to explain why the word "ownership" has the same meaning as other defined terms
16 that are not used at all in RCP Goal 4, Policy 15(b) and (c).

17 Petitioner simply assumes the term "ownership" must mean the same thing as the
18 term "tract," but never explains why that should be the case or why the county did not simply
19 use the word "tract" if that is what it meant. The county's reasoning is almost as difficult to
20 discover. It appears to rely on a misunderstanding that the county had until the middle 1980s
21 about contiguous parcels that are in common ownership.[6] The record includes a July 30,

[5] The one exception is RCP Goal 4, Policy 15(c)(3), which uses both the term "ownership" and the term "tract." *See* n 2. As we have already noted, in 1984 the LC defined tract as including multiple lots or parcels in common ownership. *See* n 4. If it is not obvious at this point, it does not appear that the terms "lot," "parcel," "tract," and "ownership," are used with a great deal of precision and consistency in the RCP and the LC. We are not sure what significance to attach to the solitary use of the term "tract" in RCP Goal 4, Policy 15(c)(3).

[6] The challenged decision includes the following finding:

1 1986 memorandum from county counsel in which he takes the position that under the LC
2 definitions of "parcel," "partition," and "partition land," subdivided "lots" retain their
3 separate identity notwithstanding that two or more lots may be held in common ownership.
4 But under those definitions, parcels (by which county counsel means units of land that were
5 created by some other method than subdivision) lose their separate identity on January 1 of
6 each year if two or more contiguous parcels are held in common ownership. Record 327-30.
7 According to the county counsel memorandum, contiguous parcels in common ownership
8 became or become a single parcel by operation of law under existing statutes and parallel
9 county laws. Following statutory amendments in 1985, the county apparently changed its
10 view and thereafter did not assume that contiguous parcels in common ownership merged
11 into single parcels.[7]

12 Although no clear explanation is ever provided in the challenged decision, the county
13 apparently relies on this statutory change and the contemporaneous county change in view
14 regarding merger of contiguous lots and parcels in common ownership either to interpret the
15 word "ownership" in Goal 4, Policy 15 to mean "legal lots or parcels" or to allow the county
16 to perform the analysis that is required by Goal 4, Policies 15(b)(1)-(3) and 15(c)(1)-(3) on
17 the basis of "legal lots or parcels" rather than on the basis of "ownerships."

> "On October 5, 2004, the [Lane County Planning Commission] approved a motion * * * to apply a common sense interpretation of the 1983-1986 definition for 'legal lot' in Lane Code Chapter 13 and 16, based on the clarification of ORS 92 with the enactment of [ORS 92.017] by the Oregon Legislative Assembly, and Lane County's adoption of three ordinances in 1986 * * * that contiguous, discrete parcels created lawfully by recorded deeds or real estate contracts prior to the 1983-1986 period were not merged during that period, and were during that period and are today, discrete legal lots." Record 15-16.

[7] Oregon Laws 1985, chapter 702, section 2 provided:

> "A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are changed or vacated or the lot or parcel is further divided, as provided by law."

The above is now codified in amended form at ORS 92.017.

A reality that neither petitioner nor respondent appear to appreciate is that while the county's prior view regarding whether contiguous lots and parcels in contiguous ownership merge through operation of law may have some bearing on the correct application of RCP Goal 2, Policy 27(a)(ii), it is hard to see how it has any particular bearing on the meaning of "ownerships" in RCP Goal 4, Policies 15(b)(1)-(3) and 15(c)(1)-(3). For land use planning purposes, units of land other than "lots" or "parcels" may be the required unit of analysis if the relevant law so specifies. For example, while ORS 215.750 requires consideration of "lot[s] or parcel[s]" in approving alternative forestland dwellings, "tracts" must be considered in approving large tract forest dwellings under ORS 215.740.[8] That tracts are considered in a particular context, rather than the individual lots or parcels that make up the tracts, does not mean that the lots or parcels that make up those tracts lose their separate legal identify as individual units of real property. Neither is a legal requirement to consider "tracts" affected by an erroneous understanding about whether certain parcels in common ownership merge. It simply means that for land use planning or other purposes, a local government may wish to treat multiple lots or parcels as a single unit when applying a standard to make a land use decision.

In this case, whether the county was right or wrong in 1984 about whether contiguous parcels in common ownership merged to form a single parcel has no obvious bearing on whether the requirement in RCP Goal 4, Policy 15(b) and (c) to consider "ownerships" requires the county to consider "lots or parcels" or "tracts," or some other unit of land. Because the term is not defined in RCP Goal 4, Policy 15(b) and (c), it is not clear what units of land constitute "ownerships."

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[8] We use the term "tract" here as it is defined in ORS 215.010(2), recognizing that the LC now defines the term tract in a way that equates tracts with lots and parcels. When we use the word "tract" we are using that word with its statutory meaning, which as relevant here means a tract may be a single lot, a tract may be a single parcel or a tract may be more than one contiguous lot or parcel in common ownership.

1 While we tend to agree with petitioner that the word "ownership" could logically be
2 read to require consideration of groups of contiguous legal lots or parcels that are held in
3 common ownership as a single unit, that interpretation is hard to square with the fact that the
4 county could easily have used the term "tract," as that term is defined in ORS 215.010(2), if
5 that is what it intended. On the other hand, the county may be able to rely on the apparent
6 confusion in the 1980s about contiguous parcels in common ownership, and its failure to use
7 the term "tract" as that term is defined in ORS 215.010(2), to justify expressly interpreting
8 "ownership" in RCP Goal 4, Policy 15(b) and (c) to mean legal lots or parcels. Indeed,
9 although the county's decision never clearly recognizes the interpretive problem posed by the
10 use of the word "ownerships" in RCP Goal 4, Policy 15(b) and (c), the historic confusion
11 about the legal status of contiguous parcels in common ownership appears to be the reason
12 why the county proceeded to analyze current "lots" and "parcels" rather than "tracts" or
13 "ownerships." However, because the county's decision never expressly recognizes the
14 ambiguity that is presented by the use of the undefined term "ownerships" in RCP Goal 4,
15 Policy 15(b) and (c), we believe remand for the county to adopt the needed interpretation is
16 the appropriate course.
17 Before moving to petitioners' arguments concerning RCP, Goal 2, Policy 27(a)(ii),
18 we note that the interpretive question presented by the county's use of the word
19 "ownerships" in RCP Goal 4, Policy 15 has little or nothing to do with the county's use of
20 the concept of "legal lots" in RCP Goal 2, Policy 27(a)(ii). RCP Goal 2, Policy 27(a)(ii)
21 postdates RCP Goal 4, Policy 15, which means the ambiguity presented by the use of the
22 word "ownerships" in RCP Goal 4, Policy 15 predated RCP Goal 2, Policy 27(a)(ii). We
23 also note that because the ambiguity presented by the use of the word ownerships must be
24 resolved in any event, it is hard to see why the county would want to apply RCP, Goal 2,
25 Policy 27(a)(ii) at all, rather than simply apply RCP Goal 4, Policy 15 directly. As our
26 discussion of petitioner's other subassigments of error below shows, doing so would allow

the county to avoid some problems that it encountered in arriving at RCP Goal 4, Policy 15 through RCP, Goal 2, Policy 27(a)(ii).

This subassignment of error is sustained.

B. Maps did not Display Existing Legal Lots

Petitioner contends that RCP Goal 2, Policy 27(a)(ii) requires that the county look back in time. Specifically, petitioner contends that, according to its terms, RCP Goal 2, Policy 27(a)(ii) only applies "where maps used by staff to designate the property [F-1] did not display actual existing legal lots adjacent to or within the subject property * * *." Petitioner argues:

> "As a threshold matter, the county made no finding that the maps used by the county when it initially assigned the F-1 zoning to the subject property did not display actual *existing* legal lots adjacent to or within the subject property, and there is no evidence in the record to support such a finding." Petition for Review 6 (emphasis added).

Petitioner's understanding of the threshold requirement under RCP Goal 2, Policy 27(a)(ii) is certainly consistent with the words of that policy, and it appears that the county in fact did not proceed in the way that petitioner contends is required. We do not understand the county to contend that the maps that were available to the county in 1984 failed to show the subject 34-acre parcel, the other parcels that were owned by Bohemia, or the other contiguous and nearby parcels. If an error was committed in 1984, apparently it had nothing to do with what was shown on the maps. Rather, any error had to do with the county's view at that time that contiguous individual parcels in common ownership that were shown on those maps were merged into a single parcel by operation of law.

We question the county's apparent interpretation of RCP Goal 2, Policy 27(a)(ii) to the effect that its old assumption regarding the legal status of contiguous parcels in common ownership constitutes the kind of mapping error that Goal 2, Policy 27(a)(ii) requires. That interpretation may or may not be sustainable under the deferential standard of review that is required by ORS 197.829(1) and *Church v. Grant County*, 187 Or App 518, 524, 69 P3d 759

1 (2003). However, because we must remand the county's decision in any event, we sustain
2 this assignment of error. On remand, the county must adopt findings to more adequately
3 explain why maps that were used in 1984 to first apply the F-1 zoning "did not display actual
4 existing legal lots," within the meaning of Goal 2, Policy 27(a)(ii).

5 This subassignment of error is sustained.

6 **C. Goal 4 Policies Would Have Dictated F-2 Zoning**

7 The challenged decision includes a number of findings. Petitioner argues that Goal 2,
8 Policy 27(a)(ii) expressly requires that the county must determine that "*had* the actual
9 parcelization pattern been available to County staff, the Goal 4 policies *would have* dictated
10 the F-2 zone." (Emphasis added.) Petitioner argues, and we agree, that Goal 2, Policy
11 27(a)(ii) requires the county to apply the Goal 4 policies to a correct view of parcelization as
12 it existed in 1984, not to parcelization as it may exist today. Petitioner cites findings that
13 were adopted by the county that petitioner contends shows the county incorrectly applied the
14 Goal 4 policies to parcelization as it exists today.[9]

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[9] Petitioner quotes the following findings;

> "2. Pursuant to Goal Four, Policy 15b.(1) – the record supports a determination that the 'ownerships', subject and/or adjacent, *are* predominantly developed with residences or nonforest uses, thus F-2 Impacted Land was justified under this characteristic.
>
> "3. Pursuant to Goal Four, Policy 15c.(2) – the record supports a determination that the 'ownerships', subject and/or adjacent, *are* predominantly ownerships 80 acres or less in size, thus F-2 Impacted was justified under this characteristic.
>
> "4. Pursuant to Goal Four, Policy 15c.(3) – the record supports a determination that the subject parcel *is* contiguous to tracts containing less than 80 acres and residences and adjacent to two developed or committed areas for which an exception has been taken in the Rural [Plan], thus Impacted Forest Land (F-2) was justified under this characteristic.
>
> "5. Pursuant to Goal Four, Policy 15c.(4) – the record supports a determination that the subject parcel *is* provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences. Thus, Impacted Forest Land (F2) was justified under this characteristic." Record 16 (emphases added).

We agree with petitioner that the disputed findings appear to apply RCP Goal 4, Policy 15 to lots and parcels as they exist today, rather than to the parcelization that existed in 1984, as Goal 2, Policy 27(a)(ii) requires. Respondent contends that the county supplemental findings at page 17 of the record address certain conditions on the site in 1984. While that may be true, it is equally true that the findings cited by petitioner appear to be based on current conditions. Respondent points to nothing in the record that allows us to assume that the findings' apparent references to current conditions rather than 1984 conditions can be overlooked as harmless error.

This subassignment of error is sustained.

D. Legal Lots Status in 1984

Simply stated, under this subassignment of error petitioner contends the county erred by applying its current view of contiguous parcels in common ownership in applying RCP Goal 2, Policy 27(a)(ii), as opposed to its different view of contiguous parcels in common ownership before ORS 92.017 was adopted in 1985. Because the F-1 zoning was applied in 1984, we understand petitioner to argue that the county's prior understanding of the legal status of certain parcels in common ownership must be applied now under RCP Goal 2, Policy 27(a)(ii).

As far as we know, the 1984 maps that the county used to zone the property F-1 accurately displayed property lines. As we have already explained, we question the county's apparent interpretation of RCP Goal 2, Policy 27(a)(ii) to the effect that 1984 maps nevertheless "did not display actual existing legal lots," within the meaning of RCP Goal 2, Policy 27(a)(ii), simply because the county believed certain contiguous commonly owned parcels merged by operation of law. Again, that seems to be an arguable legal error rather than a mapping error. However, that arguable error aside, we do not agree with petitioner that the county is bound to apply RCP Goal 2, Policy 27(a)(ii) based on its prior

understanding of what it means to be a "legal lot" rather than its current understanding of what it means to be a "legal lot."

This subassignment of error is denied.

The first assignment of error is sustained in part

SECOND ASSIGNMENT OF ERROR

Under the first three subassignments of error under the second assignment of error, petitioner challenges the county findings concerning RCP Goal 4, Policy 15(b)(1)-(3) and 15(c)(1)-(3). In applying each of those factors or characteristics, the meaning of the word "ownership" will affect the analysis. That will particularly be the case if Goal 4, Policy 15(b)(1)-(3) and 15(c)(1) is applied through RCP Goal 2, Policy 27(a)(ii) and the word "ownerships" is interpreted to mean "tract" or some other unit of land that is larger than "lots" or "parcels." In that event, the larger Bohemia Lumber Company ownership of which the subject parcel was a part in 1984 must be considered together, and it seems highly unlikely that those factors or characteristics in RCP Goal 4, Policy 15(b)(1)-(3) and 15(c)(1)-(3) support F-2 zoning. On the other hand, if the word "ownerships" in Goal 4, Policy 15(b)(1)-(3) and 15(c)(1)-(3) is properly interpreted to require consideration of individual lots and parcels, it seems much more likely that the factors or characteristics in Goal 4, Policy 15(b)(1)-(3) and 15(c)(1)-(3) support F-2 zoning. This would particularly be the case if Goal 4, Policy 15(b)(1)-(3) and 15(c)(1)-(3) is not applied through RCP Goal 2, Policy 27(a)(ii) and existing parcelization and development is considered. Because we must remand for the county to adopt a reviewable interpretation of the word "ownerships," before it applies those factors or characteristics, we do not decide these subassignments of error.

Petitioner's fourth subassignment of error challenges the county's application of Goal 4, Policy 15(b)(4) and 15(c)(4). Although Goal 4, Policy 15(b)(4) and 15(c)(4) does not expressly state that "ownerships" must be considered, neither does it say that a lot or parcel proposed for rezoning may be considered in isolation. Viewed in context, it could be that

one of the characteristics stated in Goal 4, Policy 15(b)(4)—"[p]rimarily under commercial forest management"—requires the county to consider whether the entire Bohemia Lumber Company ownership in 1984 was properly viewed as being in commercial forest management.[10] On the other hand, if the county is to apply that consideration to only the subject 34-acre parcel, we tend to agree with the county that it is not properly viewed as being in "commercial forest management," and that RCP Goal 4, Policy 15(c)(4) seems to support F-2 zoning. The threshold question of interpretation that requires remand will affect the county's application of this factor or consideration as well. We therefore do not reach this subassignment either.

We do not decide the second assignment of error.

The county's decision is remanded.

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[10] As we noted earlier, there was a house on the 34 acres until 1982 and the 34 acres were not being used to grow trees for commercial harvest. However, as far as we know the other contiguous Bohemia Lumber Company parcels were being used for commercial forest production.