BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

DAVE SULLIVAN
Petitioner,

vs.

POLK COUNTY,
Respondent.

LUBA No. 2005-137

FINAL OPINION
AND ORDER

Appeal from Polk County.

Dave Sullivan, Albany, filed the petition for review and argued on his own behalf.

David Doyle, County Counsel, Dallas, filed the response brief on behalf of respondent.

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

REMANDED 01/24/2006

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

Opinion by Bassham.

NATURE OF THE DECISION

Petitioner appeals a resolution that corrects the county official zoning map to reflect that a five to seven-acre portion of a 20-acre parcel is zoned Heavy Industrial (IH) rather than Exclusive Farm Use (EFU).

FACTS

Many of the pertinent facts were set out in *Sullivan v. Polk County*, 49 Or LUBA 543 (2005):

> "The subject property is a five to seven-acre portion of tax lot 205, a 20-acre parcel. Prior to 1989, tax lot 205 was part of a 234-acre parcel zoned EFU. The parent parcel adjoined tax lot 204, which was developed with the Ostrom timber mill and zoned Heavy Industrial (IH). The Ostrom mill site was (and still is) the center of an unincorporated community known as Pedee.
>
> "In 1989, the owner of the mill sought to expand the mill operation onto the adjoining 20-acre portion. The owner of the parent parcel and the owner of the timber mill filed a joint application to rezone the subject 20 acres from EFU to IH and to redesignate the 20 acres from Agriculture to Rural Community Center, which required an exception to Statewide Planning Goal 3 (Agricultural Lands). The application also sought approval for a lot line adjustment to add the 20-acre portion of the parent parcel to tax lot 204. The county approved the application in Ordinance 89-7, including a condition that limited uses on the 20-acre portion to uses 'closely associated with the existing mill and the wood products industry.' Record 155. Petitioner acquired the remainder of the parent parcel shortly after the adoption of Ordinance 89-7. The mill expansion contemplated by the 1989 decision never occurred, however, and by 1993 the mill had ceased operation and its equipment and buildings were sold as salvage.
>
> "Sometime prior to 1998, the county planning department converted the county's paper zoning map to a digital information system. In that process, the planning department erroneously depicted a portion of tax lot 205, approximately five to seven acres, with EFU zoning, and the remainder with the IH zoning imposed by the 1989 decision.
>
> "The McKinneys acquired tax lot 205 in 1999, and subsequently applied to the county for a permit to construct a single family dwelling on the IH-zoned portion. The county approved the dwelling. In 1999 and 2000, the county reviewed the planning and zoning for all ten of its rural communities. The result was Ordinance

> 00-05, which amended the comprehensive plan map and zoning map for the county's rural communities, including Pedee. The amended maps incorporated the 13 to 15-acre IH-zoned portion of tax lot 205 into the Pedee community boundary, and amended the plan and zoning designations for that incorporated portion from Rural Community Center to Unincorporated Community Residential, and IH to AR5. The amended maps depicted the five to seven-acre portion of tax lot 205 outside the Pedee community with a plan designation of Agriculture and an EFU zoning designation. Ordinance 00-05 also included a table of plan and zoning amendments, with entries indicating that 15 acres of tax lot 205 were re-designated and rezoned.
>
> In 2004, the McKinneys requested that the county review the zoning of tax lot 205, arguing that the county's intent in adopting Ordinance 00-5 was to bring the entire 20-acre property within the Pedee boundary and rezone it to AR5. If extended to the entire 20 acres, AR5 zoning would allow several additional dwellings to be constructed on tax lot 205. The county agreed to rezone the entire property AR5 and bring it within the Pedee boundary. The county treated the proposed amendments as a legislative 'map correction' to the plan and zoning maps, and therefore did not provide individual written notice of hearing to nearby property owners, as required for quasi-judicial plan or zoning map amendments. * * * The county planning commission held a hearing on December 7, 2004, at which no citizen appeared, and recommended approval. The county board of commissioners held a hearing December 22, 2004, at which no citizen appeared, and voted to approve the proposed amendments. On December 29, 2004, the board of commissioners adopted Ordinance 04-17, which includes all of tax lot 205 in the Pedee community boundary, amends the plan designation and zoning for the five to seven acre-portion formerly outside the boundary, and amends the tables adopted with Ordinance 00-05 to reflect that 20 acres, not 15 acres, of tax lot 205 are redesignated and rezoned. Although not required to under the procedures governing legislative amendments, the county sent notice of the decision to adjoining property owners, including petitioner. This appeal followed." *Id.* at 544-46.

LUBA remanded Ordinance 04-17, agreeing with petitioner that adoption of the ordinance was a quasi-judicial plan and zoning map amendment, and thus the county erred in failing to provide notice of the hearing to adjoining property owners, including petitioner. We rejected the county's argument that any procedural error in adopting Ordinance 04-17 was harmless. That argument was based on the county's theory that the county could have achieved the same end by adopting a resolution that "corrects" the zoning map, pursuant to Polk County Zoning Ordinance (PCZO)

111.120.[1] According to the county, adoption of a resolution under PCZO 111.120 would not require notice to petitioner or a hearing. We pointed out that the county had not in fact adopted a resolution under PCZO 111.120. In any case, we understood that code provision to allow the county to *correct* the official zoning map so that it conforms with zoning changes adopted by ordinance; it would not allow the county to *change* the zoning map to reflect amendments not authorized by previous ordinances. As we understood the facts, no county ordinance (other than Ordinance 04-17) had ever purported to rezone the five to seven-acre portion of tax lot 205 to AR5, or adopted the other plan amendments and textual changes effected by Ordinance 04-17. In conclusion, we noted:

> "[W]hile the county might be able to 'correct' the zoning map under PCZO 111.120 to remove the incorrect EFU designation on the five to seven-acre portion of tax lot 205 and replace it with the IH designation imposed by Ordinance 89-7, we see no basis under that code provision to change the zoning of that portion to AR5, much less to make plan map and ordinance text changes. To do so would 'have the effect of amending the ordinance' and therefore cannot be accomplished under PCZO 111.120." 49 Or LUBA at 552.

On remand, the county did not attempt to re-process Ordinance 04-17 as a quasi-judicial decision, nor did it provide petitioner with notice of the proceedings on remand. Instead, at the request of the property owner, the county initiated proceedings under PCZO 111.120 to correct

---

[1] PCZO 111.120 provides, in full:

> "**111.120. REPLACEMENT OF OFFICIAL ZONING MAP.** In the event the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, or when it is necessary or desirable for some other reason, the Board of Commissioners, upon recommendation of the Planning Commission, may adopt all or part of a new zoning map by resolution, and such map shall supersede the prior official zoning map. The superseded map shall be filed for reference purposes for at least one (1) year. *The new official map may correct drafting or other errors or omission in the prior official zoning map, but no such correction shall have the effect of amending the ordinance or any subsequent amendment thereof.* The replacement map or each page in the case of individual sheets or pages shall be certified by the Board of Commissioners and County Clerk that 'this official zoning map supersedes and replaces the official zoning map (date of map being replaced) as part of the Polk County Zoning Ordinance.'" (Emphasis added.)

the zoning map to reflect that Ordinance 89-7 had rezoned the five to seven-acre portion of tax lot 205 to IH in 1989. The county board of commissioners agreed to proceed under PZCO 111.120 at a September 6, 2005 meeting. No notice of that meeting was provided to petitioner. On September 14, 2005, the commissioners approved a consent calendar that included adoption of Resolution 05-23. Resolution 05-23 orders the planning director to change the zoning map to reflect the IH zoning adopted by Ordinance 89-7, as depicted in an exhibit attached to the resolution. No notice of Resolution 05-23 was sent to petitioner. Petitioner learned from a member of the local area advisory committee that the county had adopted Resolution 05-23, and filed this appeal on September 20, 2005.

STANDING

The county's response brief asserts that petitioner "lacks standing to bring this action" before LUBA. Response Brief 1. According to the county, "petitioner has no standing to assert that Polk County incorrectly processed the map correction," because Resolution 05-23 "was correctly processed pursuant to PCZO 111.120." *Id.* In a previous order we rejected the county's equally terse motion to dismiss.[2]

[2] We stated:

> "We do not understand the county's argument or its theory of standing. No petition for review has been filed in this case, and it is unknown whether petitioner will assert that the county incorrectly processed the challenged decision under PCZO 111.120, or whether petitioner will advance other procedural or non-procedural assignments of error. If petitioner argues in the petition for review that the county incorrectly processed the decision, and we disagree with that argument, we will deny that assignment of error. If no other assignment of error is sustained, we will affirm the decision rather than dismiss the appeal for lack of standing. The county does not explain why petitioner's standing to appeal to LUBA has anything to do with the kinds of assignments of error a petitioner may assert or the legal merit of such assignments.
>
> "Standing for purposes of appeal to LUBA is generally determined under ORS 197.830(2). Without some explanation from the county as to why petitioner lacks standing to appeal under ORS 197.830(2) or other applicable statutes, we decline to dismiss this appeal." *Sullivan v. Polk County*, ___ Or LUBA ___ (LUBA No. 2005-137, Order, October 25, 2005), slip op 2 (footnote omitted).

Subsequent to our order, petitioner filed the petition for review, which sets out several bases for petitioner's standing under the statutes governing our review. The response brief does not challenge those bases, but simply renews the brief argument in the motion to dismiss, *i.e.*, that Resolution 05-23 was correctly processed, and therefore petitioner lacks standing to assert any procedural error. For the reasons explained in our order, the county has failed to advance a cognizable challenge to petitioner's standing.

FIRST THROUGH SIXTH ASSIGNMENTS OF ERROR

The first through sixth assignments of error argue that the county committed various procedural errors in adopting Resolution 05-23. We address these assignments of error together.

A. Notice of Proceedings (First and Fifth Assignments of Error)

Petitioner contends that both the county comprehensive plan and a statute, ORS 215.223, required the county to provide notice of the proceedings leading up to adoption of Resolution 05-23 to nearby property owners, including petitioner.

With respect to the comprehensive plan, petitioner cites to language in the Citizen Involvement element of the plan for the proposition that the county has promised to allow "citizen participation in all aspects of land use planning." According to petitioner, area landowners have an obvious reason to participate when neighboring farm land is zoned for heavy industrial uses, and those landowners may have meritorious arguments for why such an action cannot be made as a "map correction." Petitioner concedes that the county citizen involvement program and the PCZO do not require that neighbors be provided individual written notice of a zoning map correction, but argues that the county was nonetheless required to provide a meaningful opportunity for interested citizens to participate in such decisions. Petitioner suggests four possible methods, including posting a meeting agenda on the county's website with sufficient information to inform neighbors of the property that the county intended to correct the zoning map with respect to that property.

The county responds that the comprehensive plan does not require that every action taken by the local government be subject to quasi-judicial land use notice requirements. We agree with

that general response, as far as it goes. The procedures for map corrections under PCZO 111.120 may be inconsistent with the *spirit* of the county citizen involvement program, but the fact remains that nothing cited to us in the plan or the PCZO requires the county to provide any particular notice of the proceedings under PCZO 111.120.[3]

Petitioner presents a closer question, however, in pointing out that "Resolution 05-23 is a direct outgrowth of LUBA No. 2005-024." Petition for Review 25. We understand petitioner to argue that the county adopted Resolution 05-23 as a result of or pursuant to our remand of its decision in LUBA No. 2005-024. As noted, we remanded that decision so that the county could provide notice to petitioner and satisfy the other procedural requirements for adopting a quasi-judicial decision. Under these circumstances, we understand petitioner to argue, the county was required to at least notify petitioner of the proceedings on remand.

Although petitioner does not cite it, there is some precedent for that view. *DLCD v. Crook County*, 37 Or LUBA 39, 42 (1999) (where a local government conducts additional hearings following remand of a decision by LUBA, all parties to the LUBA appeal that led to the remand are entitled to some form of individualized notice of the proceedings on remand). In other words, the nature and terms of the remand itself may require that the local government provide some notice of the proceedings on remand to the parties involved in the original decision, even if those parties would not otherwise be entitled to notice under the code. Whether that general proposition applies in the present case, however, depends on whether Resolution 05-23 is properly characterized as the result of the proceedings on remand of Ordinance 04-17. If instead Resolution 05-23 is

[3] Presumably, the county must provide the public notice required by ORS 192.640, which requires that the governing body provide public notice of the time and place for holding regular meetings that is reasonably calculated to give actual notice to interested persons. The notice must include a "list of the principal subjects anticipated to be considered at the meeting[.]" ORS 192.640(1). Although petitioner does not cite ORS 192.640, petitioner can be understood to argue that the agenda for the September 6, 2005 meeting at Record 11 fails to provide information, such as the address of the subject property, necessary to give actual notice to interested persons. It is not clear whether the agenda at Record 11 is the "public notice" that the county relied upon to satisfy ORS 192.640. In any case, as the county points out, exclusive jurisdiction over enforcement of ORS 192.610 to 192.690 lies with the circuit court. ORS 192.680(2), (6).

properly viewed as the result of a separate application, for example, then we do not see that proceedings on that separate application necessarily trigger an obligation under the remand to provide notice to parties involved in the original decision.

There is no doubt that adoption of Resolution 05-23 was prompted by the remand of Ordinance 04-17. However, it seems more accurate to understand the county's action as an entirely separate proceeding on a separate application. Ordinance 04-17, we determined, was a post-acknowledgment plan map, zoning map, and plan text amendment intended to facilitate residential development of the subject property, subject to statutory procedures for notice and hearing. Resolution 05-23, on the other hand, corrects the zoning map to accurately reflect that the relevant portion of the subject property is (and has been since 1989) zoned IH, pursuant to a code process that does not require notice and hearing. Under these circumstances, we cannot say that the proceedings leading to adoption of Resolution 05-23 are properly viewed as proceedings on remand in LUBA No. 2005-024.[4]

Finally, under the fifth assignment of error, petitioner argues that ORS 215.223(3) required the county to provide notice of the proceedings leading to adoption of Resolution 05-23.[5] The flaw in that argument is that ORS 215.223(3) is concerned with "zone changes." As we understand Resolution 05-23, it does not change the zoning of the relevant portion of the subject property. The

---

[4] That said, although the county may have had no *legal* obligation to notify petitioner of the proceedings leading to adoption of Resolution 05-23, it would certainly seem prudent to do so. Petitioner has made it clear that he is vitally interested in the zoning and development of the adjoining subject property, and he has requested in several ways that he be able to participate in any proceedings affecting the subject property. It seems entirely likely that at some point petitioner would discover the county's decision, and attempt to appeal it to LUBA pursuant to ORS 197.830(3), perhaps long after the decision became final. Under these circumstances, a prudent local government, especially one that is interested in fulfilling both the spirit and the letter of its citizen involvement program, might well choose to notify petitioner, notwithstanding that there is no legal obligation to do so.

[5] ORS 215.223(3) provides:

> "In effecting a zone change the proceedings for which are commenced at the request of a property owner, the governing body shall in addition to other notice give individual notice of the request by mail to the record owners of property within 250 feet of the property for which a zone change has been requested. The failure of the property owner to receive the notice described shall not invalidate any zone change."

IH zoning of that portion was established by Ordinance 89-7. Resolution 05-23 simply changes the county's official zoning map to reflect that ordinance. In most jurisdictions, apparently including Polk County, the zoning map is a graphic depiction of the zoning that was enacted pursuant to one or more underlying ordinances. Petitioner does not dispute that Ordinance 89-7 amended the subject portion of the property to IH in 1989, and does not argue that any other ordinance (the only means by which a zone change may be effected) has changed that IH zoning.

The first and fifth assignments of error are denied.

B. Planning Commission Proceedings (Second and Third Assignments of Error)

PZCO 111.120 provides that the "Board of Commissioners, upon recommendation of the Planning Commission, may adopt all or part of a new zoning map by resolution[.]" *See* n 1. Resolution 05-23 duly recites that "The Polk County Planning Commission recommended a correction to the zoning map." Record 4.

Under the third assignment of error, petitioner disputes that recital, arguing that the only occasion on which the planning commission has considered the zoning of tax lot 205 was at its December 7, 2004 meeting. At that meeting, petitioner argues, the planning commission recommended that the board of commissioners adopt an ordinance rezoning the subject portion of tax lot 205 from EFU to AR5, based on the belief that the county erred in failing to rezone the entirety of tax lot 205 to AR5 in 2000. The commissioners followed that recommendation in adopting Ordinance 04-17. At no point, petitioner contends, did the planning commission consider whether the county should correct the zoning map to reflect the IH zoning of the subject portion of tax lot 205, pursuant to PCZO 111.120. Because the planning commission did not recommend correcting the zoning map, as PCZO 111.120 requires, petitioner argues that Resolution 05-23 must be remanded.

The county does not respond to this argument. Petitioner appears to be correct that PCZO 111.120 contemplates a process where the planning commission first considers whether the county should correct the zoning map pursuant to that code provision, and adopts a

recommendation that the board of commissioners then reviews. A planning commission recommendation under PCZO 111.120 appears to be a condition precedent to action by the board of commissioners. That process contemplated by PCZO 111.120 did not occur. The planning commission did not consider or recommend correcting the zoning map under PCZO 111.120 during its December 7, 2004 meeting, and it certainly did not recommend correcting the zoning map to reflect the IH zoning of the property. Instead, it adopted a recommendation under an entirely different code provision. That recommendation, to rezone the subject portion to AR5, was based on the planning commission's view that the property should have been rezoned to AR5 in 2000. As discussed below, petitioner argues that there are a number of reasons why IH zoning on the subject property is entirely inappropriate. We understand petitioner to argue that had the planning commission actually considered the issue of correcting the zoning map to IH under PCZO 111.120, the planning commission would not have recommended that action.

The board of commissioners apparently believed that the December 7, 2004 planning commission recommendation to rezone the property to AR5 was a sufficient substitute for the recommendation required by PCZO 111.120. However, the decision does not explain the basis for that belief. Absent some response from the county under this assignment of error, we do not understand how the county can "substitute" a planning commission recommendation to rezone the property to AR5 as part of a post-acknowledgment plan amendment for the recommendation to correct the zoning map that is required by PCZO 111.120.

Under the second assignment of error, petitioner argues that to the extent the county relies on the December 7, 2004 planning commission meeting to satisfy PCZO 111.120, the county failed to provide adequate notice of that meeting. Petitioner argues that the publication notice provided for that meeting inaccurately summarizes the proposed action and does not even provide a street address or other identification of the subject property. As a result, petitioner contends, neither petitioner nor any other member of the public appeared at the meeting. Petitioner argues that he raised this issue in a February 2, 2005 letter to the board of commissioners.

The county again does not respond to this assignment of error. In our earlier decision, we remanded Ordinance 04-17 to the county to provide petitioner with the quasi-judicial notice and opportunity for hearing to which he was entitled. As noted, the county chose not to institute any proceedings on remand of Ordinance 04-17, but instead chose to proceed under what was essentially a separate application pursuant PCZO 111.120. However, as discussed above the county failed to seek and obtain a planning commission recommendation under PCZO 111.120. On remand of Resolution 05-23, the county must at a minimum conduct appropriate proceedings before the planning commission under PCZO 111.120. With that understanding, we do not see that any error in providing notice of the planning commission's December 7, 2004 hearing is a basis to reverse or remand Resolution 05-23.

The second assignment of error is denied; the third assignment of error is sustained.

C. ORS 215.503(2) (Fourth Assignment of Error)

Under the fourth assignment of error, petitioner argues that the language of PCZO 111.120 allowing the county to adopt a corrected zoning map by *resolution* has been partially superseded by ORS 215.503(2). ORS 215.503(2) requires that "[a]ll legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance." We understand petitioner to argue that legislative adoption of a corrected zoning map is "related to" zoning and thus must be adopted by ordinance. According to petitioner, if the county had adopted a corrected zoning map by ordinance rather than a resolution, more public notice and opportunity for public participation would have been required, petitioner likely would have learned of the proceedings on the ordinance, and petitioner would have participated in those proceedings, raising procedural and substantive issues that might have made this appeal unnecessary.

The county again does not respond to this assignment of error. We tend to agree with petitioner that *legislative* adoption of a new or corrected zoning map is "related to" zoning for purposes of ORS 215.503(2), and therefore must be accomplished by ordinance rather than resolution. However, we need not and do not decide that point, because it is not clear to us that

Resolution 05-23 is properly viewed as a legislative act. Under the standards that distinguish legislative from other land use actions, the action accomplished by Resolution 05-23 is almost certainly not accurately viewed as a legislative decision.[6] *See Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-03, 601 P2d 769 (1979) (describing three factors distinguishing quasi-judicial from legislative decisions); *see also Sullivan*, 49 Or LUBA at 548-49 (decision to amend zoning of subject property to AR5 is quasi-judicial decision). Certainly, petitioner has not demonstrated otherwise. Accordingly, even if petitioner is correct that ORS 215.503(2) has partially superseded PCZO 111.120, petitioner has not demonstrated that adoption of Resolution 05-23 is inconsistent with the statute, because ORS 215.203(2) only applies to legislative acts.

The fourth assignment of error is denied.

D. Board of Commissioners Proceedings (Sixth Assignment of Error)

Petitioner states that on February 2, 2005, he appeared at a regular meeting of the board of commissioners and informed staff that he wished to provide testimony, apparently during a portion of the meeting open to public comment on any topic. Petitioner states that just prior to the meeting, the chairman of the board of commissioners took him aside and told him that he could not talk to the Board about issues related to LUBA No. 2005-024, which was then on appeal to LUBA. According to petitioner, he went ahead and spoke at the meeting, but refrained from speaking on a number of issues involved with the subject property and the county's procedures. In this assignment of error, petitioner argues that it was inconsistent with Statewide Planning Goal 1 (Citizen Involvement) for the county to refuse petitioner permission to testify with respect to the procedural and substantive issues he wished to raise.

---

[6] Actions under PCZO 111.120 might be characterized as legislative (e.g., discretionary adoption of a new zoning map for the entire county), quasi-judicial (e.g., a discretionary map correction involving a small number of properties and discrete circumstances), or ministerial (e.g., a nondiscretionary map correction). We need not and do not decide how to characterize Resolution 05-23, other than to disagree with petitioner that it is a legislative action.

The county does not respond to this assignment of error, and it is not clear why the county chairman felt it necessary to restrict the content of petitioner's statements at the February 2, 2005 meeting. In any case, we do not see that any limitation on petitioner's testimony at that meeting is a basis to reverse or remand Resolution 05-23. That meeting of the board of commissioners apparently had nothing to do with the subject property, and at that date the county had no notion that it would adopt Resolution 05-23 to correct the zoning map pursuant to PCZO 111.120. Even if the county's actions during the February 2, 2005 meeting violated some applicable law, which petitioner has not established, that violation would not provide a basis to reverse or remand Resolution 05-23.

The sixth assignment of error is denied.

E. Conclusion

For the reasons set out above, the county erred in adopting Resolution 05-23 without first obtaining a planning commission recommendation, as required by PCZO 111.120. Remand is required for the city to follow the process required by PCZO 111.120. For the reasons discussed below, it is not at all clear to us why the owner of tax lot 205 wants the zoning map to reflect IH zoning. Be that as it may, if the county conducts proceedings on remand under PCZO 111.120, the county shall provide notice of those proceedings to petitioner, under the reasoning in *DLCD v. Crook County,* 37 Or LUBA at 43.

SEVENTH ASSIGNMENT OF ERROR

In 1989, the county rezoned tax lot 205 from EFU to IH pursuant to a reasons exception that limited use of tax lot 205 to "uses closely associated with the existing mill and the wood products industry." Supplemental Record 155. Petitioner argues that the purpose of that reasons exception—to facilitate expansion of the Ostrum Mill—can no longer be served, because the Ostrum Mill no longer exists and indeed no industrial uses or industrially zoned lands exist anywhere in the vicinity of tax lot 205. According to petitioner, OAR 660-004-0018 limits uses on lands

subject to a reasons exception to those uses justified by the exception.[7] Therefore, petitioner argues, any use of the property other than that closely associated with the mill and the wood products industry requires a new reasons exception.

From that premise, petitioner contends that the county should have prepared a new reasons exception before "changing the zoning on 7 acres of Tax Lot 205" from EFU to IH. Petition for Review 34. Petitioner further suggests that no new reasons exception could be justified for any industrial uses allowed in the IH zone under OAR 660-004-0022(3).

The county responds that OAR 660-004-0018(4) is not triggered by a map correction under PCZO 111.120, because such a map correction is not a zone change or a change in the types or intensities of uses allowed on tax lot 205. We agree. Petitioner may well be correct that the only uses authorized on the subject portion of tax lot 205 are those justified in the 1989 reasons

---

[7] OAR 660-004-0018 provides, in relevant part:

> "(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. * * * Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.
>
> "* * * * *
>
> "(4) 'Reasons' Exceptions:
>
> > "(a) When a local government takes an exception under the 'Reasons' section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;
> >
> > "(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a 'Reasons' exception, a new 'Reasons' exception is required;
> >
> > "(c) When a local government includes land within an unincorporated community for which an exception under the 'Reasons' section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent."

exception, and that any change in the types or intensities of uses allowed on tax lot 205 requires a new reasons exception. Given the demise of the Ostrum Mill, the apparent absence of any industrial uses in the area, and the restrictions imposed by the 1989 reasons exception, it may be that there is currently no practicable use of the subject portion of tax lot 205 under IH zoning. For that reason, it is not clear to us why the landowner sought, and the county approved, Resolution 05-23. Be that as it may, the county is correct that because Resolution 05-23 does not change the types or intensities of uses allowed on tax lot 205, the county is not required to comply with OAR 660-004-0018(4).

The seventh assignment of error is denied.

The county's decision is remanded.