

FILED

APR 15 1981

ROSEMARY PATTERSON
DESCHUTES COUNTY CLERK

FINDINGS OF FACT
ORDINANCE NO. 81-015

A. FINDINGS.

1. The authority to impose increased setbacks on existing lots adjacent to SM and SMR Zones is necessary to balance the interest between such lot and the aggregate and mineral resources on the SM and SMR zoned property.
2. Increased setbacks on existing lots abutting SM and SMR Zones are needed to protect the mining resource.
3. The Oregon Land Use Board of Appeals, in its proposed Opinion and Order in LUBA No. 80-143 and LUBA No. 80-144, indicates that the County needs to have clear authority to impose necessary restrictions on lands adjoining SM and SMR Zones, so as to balance the interests where a conflict is present or is expected to occur.
4. The Deschutes County Planning Commission recommends adoption of the amendment.
5. The meeting between the Planning Director, applicant and property owner of land zoned SM or SMR, will mitigate future conflict and will be useful in reaching reasonable setback requirements to maximize resource utilization when balanced with the development rights on abutting property.

B. EVIDENCE.

1. The evidence upon which this decision was made is summarized in the record of the hearing, attached hereto and by this reference incorporated herein.

ADOPTED this 14 day of April, 1981

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Robert Paulson, Jr.
ROBERT C. PAULSON, JR., Chairman

Albert A. Young
ALBERT A. YOUNG, Commissioner

Clay C. Shepard
CLAY C. SHEPARD, Commissioner

ATTEST:

Susan Stoneman
SUSAN STONEMAN
Recording Secretary

DAILY AGENDA

DESCHUTES COUNTY BOARD OF COMMISSIONERS

MEETING

MARCH 31, 1981

10:00 A.M.

CALL TO ORDER

1. Amendment to the Agenda
2. Public Hearing regarding Amendment to PL-15 Section 5.250 - Setbacks adjoining SM and SMR Zones
3. Discussion regarding Surface Mining Reclamation Authority - John Andersen
4. Discussion regarding Expenditure for Services of Keep Oregon Green - Clay Shepard
5. Discussion regarding Selection of Financial Consultant - Bob Paulson
6. Other Staff/Public Concerns
7. For Signature:

1:30 P.M.

Reconvene with Chairman Brad Fancher and Co-Chairman Dick Carlson of the Public Advisory Team for Recommendation

NEXT MEETING: WEDNESDAY, APRIL 1, 1981
COURTDAY - ROOM A.

The following is a transcript of that portion of the Board of County Commissioners' meeting of March 31, 1981, relating to Ordinance No. 81-015, amendment to Section 5.250 of Ordinance No. PL-15.

CHAIRMAN PAULSON: The first item is public hearing regarding amendment to PL-15, Section 5.250, setbacks adjoining SM and SMR zones. I have no documents here, John, do you have them?

JOHN ANDERSEN: The--don't you have a copy of the proposed amendment?

CHAIRMAN PAULSON: I haven't seen it yet. Let me read it and then I'll open the hearing and have a hearing on it--or we'll do it the other way around. Open the hearing. First I will read the order--ordinance: "Before the Board of County Commissioners of Deschutes County, Oregon. An Ordinance Amending Deschutes County Ordinance No. PL-15, Deschutes County Zoning Ordinance of 1979, as Amended, by Amending Section 5.250 Relating to Setbacks on Lands Adjoining SM or SMR Zone. Ordinance No. 81-015. The Board of County Commissioners of Deschutes County, Oregon, ordains as follows: Section 1. That Section 5.250, Lands Adjoining SM or SMR Zones, is amended to read as follows: Section 5.250: Lands Adjoining SM or SMR Zones. Lots or parcels which abut an SM or SMR Zone may be required to establish setbacks in excess of those required in the zone in which the lot or parcel is located. The required setback shall be determined by the Planning Director after meeting with the applicant and the owner of adjoining SM or SMR zoned land to insure site and sound screening between the present and future uses on the properties. In no event shall the setback exceed 100 yards." That's it.

COMMISSIONER YOUNG: It was a first reading?

CHAIRMAN PAULSON: This is--was a first reading. This is the hearing. Okay, John do you have any comments?

JOHN ANDERSEN: Okay. What generated this request for an amendment was the recent LUBA recommendation, Land Use Board of Appeals, to LCDC. And, as a result of that, Rick Isham and I reported back to the Planning Commission basically what the LUBA decision--recommendation is--stated. As a result of that, we looked at our existing policies on setbacks for adjoining lands and discovered that some language had been inserted stating that--or restricting our authority to set those setbacks to lands that were transferred or created after the effective date of the amendment, giving it--the amendment was the amendment that gave us the authority to put those setbacks on. I'm not exactly sure the history of how that language got in there, but nevertheless it is in there. After discussion, the Planning Commission chose to make the following recommendation:

"Deschutes County Planning Commission has reviewed the recent Land Use Board of Appeals recommendation to the Land Conservation and Development Commission. The primary concern to LUBA was the County's lack of authority to mitigate conflicts on existing lots adjoining SM or SMR zones. We believe this lack of authority can be most easily remedied by excluding the words, transferred or created after the effective date of this amendment, in Section 5.250 of the County Zoning Ordinance. It is the Commission's unanimous recommendation this amendment be made by the Board as quickly as possible." Now, as a result, an amendment has been drafted up, and I will mention that when Rick rewrote it he decided that the language in here was a little inappropriate, that better language would clarify the situation, and so it's more than just removing those words "transferred or created

after the effective date of the amendment." He has clarified the language, giving us authority to set those setbacks. He has also placed in there a requirement that we have a meeting, so that this is between the people on both sides of that property line and the Planning Department so that we can set it in sort of a mutually acceptable situation rather than just arbitrarily setting it. So, that is the proposal now. Certainly, the Planning Department supports making that amendment. I think it's important that we do it as quickly as possible so that this kind of change can be communicated to LCDC while they are in the process of doing their review on our ordinances.

CHAIRMAN PAULSON: Do you feel that the Planning Commission would be in support of this as it's worded now?

JOHN ANDERSEN: Yes, I'm confident they would be. It's certainly consistent with what they said that night.

COMMISSIONER YOUNG: We are assuming, then, that if an applicant puts in an application for development of an area near an SM or SMR zone, that then all the parties are going to get together and decide how far this is going to be set back. We are assuming, then, that one, then when that--when the miner decides to mine his property there's going to be no argument, right? Is that--

JOHN ANDERSEN: Well, we're trying to eliminate that kind of argument.

COMMISSIONER YOUNG: Okay. We're--but supposing, now, that somebody goes in there and you get the setback and everything and they build it, they build their home in compliance with what's all agreed, and then at a later date they sell the home. The new owner might not want that guy to mine his property. Is he going to be bound by the original agreement? Or is he going to be--

JOHN ANDERSEN: Well, if the house--

COMMISSIONER YOUNG: Or is he going to be able to bring action?

JOHN ANDERSEN: No, the, you mean--this would occur at the time the house is being constructed.

COMMISSIONER YOUNG: Yeah, but the house may change hands before the guy decides to mine.

JOHN ANDERSEN: Right, but we wouldn't allow--well, he's bound by it, for sure. The house is already there.

COMMISSIONER YOUNG: Would he be not permitted, then, to start action? Would he be--he would have no recourse, in other words?

JOHN ANDERSEN: Well, not to come to the County. I mean--

COMMISSIONER YOUNG: The new owner. Okay.

JOHN ANDERSEN: If he, if the surface miner was to do something that damaged his property or something like that we couldn't stop them from taking civil action.

COMMISSIONER YOUNG: Well, we're assuming that this setback is going to prevent the miner doing anything that's going to damage his property.

JOHN ANDERSEN: That's right, that's what we're trying to do.

COMMISSIONER YOUNG: And that's what I'm getting at. Would the new owner, then, would he be bound by law, would he have--in other words, he couldn't object in any way, shape or form if that property--if the miner decides to mine his property. He would be bound by the original agreement? You can see what I'm getting at.

JOHN ANDERSEN: Yeah, he couldn't come to the County and say the County--County stop this guy from doing this, because we've

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JOHN ANDERSEN: Yeah, he couldn't come to the County and say the County--County stop this guy from doing this, because we've

already resolved our situation. What he, you know, but we can't stop somebody from undertaking civil action, I mean, that's their right.

COMMISSIONER YOUNG: In other words, the miner isn't really protected.

JOHN ANDERSEN: Well, I think he's got more protection this way than he has right now.

COMMISSIONER YOUNG: Well, he has more, but really he's not--I mean, if the new owner decides, hey, I don't want that guy to mine that, then he has the right to bring action to try and stop it.

CHAIRMAN PAULSON: I think we're confusing two things. A person can always object. The question is whether or not they're going to prevail. The odds of their prevailing are slim, though they could object to the County and to anybody they wanted to, and they may well do that, but this reduces the odds of their prevailing.

JOHN ANDERSEN: Right. What we're trying to do is eliminate the problem before it's created.

COMMISSIONER YOUNG: Well, yeah, (unintelligible), but the point is, the original owner he's evidently going to be happy because he's going to agree to everything, we assume--

CHAIRMAN PAULSON: Not necessarily.

COMMISSIONER YOUNG: Well, either that or he is going-- he's going to start action immediately.

JOHN ANDERSEN: He may be happy enough not to start action, is what we're hoping.

COMMISSIONER YOUNG: Well, that's what I'm getting at.

COMMISSIONER SHEPARD: He may not avoid it, I mean, if you buy a house on a busy street and you decide you don't like the

street noises, nobody's saying you can't start action to try to get the street closed. Nobody can take that right away from you. Whether you win in court or not is beyond our control. We have no control over that.

JOHN ANDERSEN: Yeah, I would say that--that's--I'm, you know, Rick is not here, and certainly this is more in his province than mine, but I would say that once the County has set a standard, you know, saying this is, you know, what is going to be, it's more difficult for them to prevail on some kind of legal action than it was before.

COMMISSIONER YOUNG: Okay, I guess we got one of the miners here. Maybe he's got a comment on what I, what I'm talking about. You understand what I'm talking about, don't you?

UNIDENTIFIED SURFACE MINER: Yeah, sure.

COMMISSIONER YOUNG: A new owner. (unintelligible) a new owner might have a different opinion of the situation than the original owner.

UNIDENTIFIED SURFACE MINER: Yeah, that's correct. I don't know how we'd address that (unintelligible).

COMMISSIONER YOUNG: Well, the thing is, I guess that both sides would be equally protected by the original agreement. If you went into, before a Board or something and they look at it and they say, you know, you bought it knowing the circumstances, maybe then-- maybe I'm barking up the wrong tree or trying to create something, but I just, I'm just trying to be (unintelligible).

JOHN ANDERSEN: Well, I don't think there's any way to resolve all of the potential problems that could come up. We're just trying to--

COMMISSIONER YOUNG: Okay. But we would say each side would be equally protected.

JOHN ANDERSEN: Yeah. We're trying to, you know. eliminate the problem before its created.

CHAIRMAN PAULSON: John, this as it's written right here, refers to the "setbacks shall be determined by the Planning Director." Am I correct in assuming that any party has the right to appeal that if they wish?

JOHN ANDERSEN: Yes, everybody's got--everybody's got authority to appeal my decisions.

COMMISSIONER YOUNG: You don't feel you're going to have the last word, either, John.

JOHN ANDERSEN: I can't remember the last time I had the last word on something.

COMMISSIONER YOUNG: It's never happened, has it? It's never happened.

CHAIRMAN PAULSON: The fact that that's not stated in there has no bearing on it, though.

JOHN ANDERSEN: No, there are separate sections for appeals of Planning Director's decisions.

MIKE KMENT: I've got two questions. There--

CHAIRMAN PAULSON: Would you give your name for the record?

MIKE KMENT: Oh, Mike Kment, Central Oregon Builders Association. Two--one--there was a committee set up, wouldn't that be a normal place to resolve, or begin resolution of setbacks that involve reclamation?

JOHN ANDERSEN: Well, as part of the--you're talking about the Surface Mining Committee, I think, right? For the site plan,

that's--they would have the authority to do that.

MIKE KMENT: Wouldn't that be, also be a normal, couldn't that be a normal function in terms of setback requirements on adjacent property, as well?

JOHN ANDERSEN: Well, we could. I was just thinking this was simpler, you know, that we'd only have three people getting together and it would just go a little faster than having to have a committee meeting.

UNIDENTIFIED SPEAKER: Since the--have you had any public or neighbors object already to use--I'm wondering how well disclosure is working on adjacent properties so far. Have you had any new--

JOHN ANDERSEN: New subdivisions next to surface mines? We haven't had any here lately.

CHAIRMAN PAULSON: It's my understanding--

UNIDENTIFIED SPEAKER: No, have you had any objections to neighbors--of neighbors who perhaps were not aware of the fact that land was in fact zoned SM or SMR?

JOHN ANDERSEN: Oh, when they moved in and didn't know that it was mine land, I see. Yes, one.

UNIDENTIFIED SPEAKER: How was that resolved?

JOHN ANDERSEN: I'm afraid it wasn't resolved other than we informed them that they, yes, they were next to a potential mining site and that yes, there was an extremely high probability that that site was going to be mined and that we would make every effort to have a site plan that would make it compatible as possible with their living in that home, but that they should anticipate mining occurring next door and that was a reality. We don't have anything that goes back in existing subdivisions to inform people unless they come in

and check the zoning, which they didn't in this case, they didn't come in and check on either their property or adjoining property. In fact, as I understand it, they took the word of the realtor who told them that (unintelligible).

UNIDENTIFIED SPEAKER: I'm just concerned again, you know, not to rehash an old issue, but you know, I think part of the--SM is a clear indicate of what's going to happen on the land, obviously, and I'm--SMR isn't, even though I think the Plan attempts to address that issue, I'm not certain that either neighbors or anybody else are--really believe that on some SMR sites that in fact that will be mined. I'm not certain exactly the message that you got from LUBA or from LCDC's, you know, request back to LUBA on their decision, but it seems to me that th eproblem hasn't exactly got resolved yet, that there's still a feeling of, on the part of neighbors and some uncertainty on the part of miners, uncertainty on our part, that in fact all lands so designated that's got at least two of those initials, SM or SMR that it's going to be mined, I mean--

JOHN ANDERSEN: Well, I guess, judging from the reaction of the neighbors who live next to SMR and their objections during the planning process and their objections now to LCDC about approving our Plan, I suspect that even though it's SMR they think it's going to be mined, and certainly if they come and ask us that's what we tell them is going to happen. So, I guess I would disagree.

UNIDENTIFIED SPEAKER: I guess I'm just suggesting that the amendment probably could have gone perhaps further and straighten that out one, you know, just get rid of that SMR designation.

COMMISSIONER YOUNG: That's what we gotta do.

JERRY CURL: Mr. Chairman?

CHAIRMAN PAULSON: Yes?

JERRY CURL: Jerry Curl. I'd like to ask John a question. I'm not too familiar with the amendment or what proceeded beforehand, so I'd like to get it clear in my mind by giving an example and asking how it would be handled. Say we have some lots surrounding an SM parcel of land, say it was converted from SMR to SM, and we have three lots that aren't built upon at that time. What's the procedure to determine the setback from those three lots that are adjacent to the SM property? Now, if this amendment is approved?

JOHN ANDERSEN: We would have a meeting between the person who bought the lot and wanted to build on it, the miner who was adjoining their property, and myself or my representative. At that time we would reach a mutually agreed upon decision as to what increased setback--the setback would probably only be something like 20 feet normally--under this amendment it could be up to 300 feet.

JERRY CURL: Okay. Would that--are we talking about whose property--the lot that the person's building upon or the surface mining operation?

JOHN ANDERSEN: The lot that's being built upon. A residential lot.

JERRY CURL: The lot that's being built upon. So the setback will apply to that property, regardless of what's decided.

JOHN ANDERSEN: Right. Not on the mine.

JERRY CURL: Okay. I just wanted to get that--

CHAIRMAN PAULSON: John, I'm confused by your use--I think you've said it a couple three times--of "mutually agreed upon." The ordinance says, the amendment proposed says the Planning Director's decision. I can well envision that there will be no

mutually agreed upon solution.

JOHN ANDERSEN: That's true. I was being optimistic, I, sorry.

COMMISSIONER SHEPARD: Why'd you have to bring that up?

CHAIRMAN PAULSON: I just want to be sure there's--

JOHN ANDERSEN: There probably will be times when the Planning Department will say "this is what it's going to be," and it may not be mutually agreed upon.

COMMISSIONER YOUNG: And then if it's not mutually agreed on they'll probably wind in here in front of us and we've got to make the decision.

JOHN ANDERSEN: Yeah, right.

COMMISSIONER YOUNG: That's all right, I like making decisions.

JERRY CURL: Would that appeal go to the Hearings Officer, Planning Commission and Commissioners, or directly to the Commissioners?

JOHN ANDERSEN: Right now, the process has been it goes right to the Board.

COMMISSIONER YOUNG: I would prefer that. It costs a lot less.

CHAIRMAN PAULSON: That's what's stated in the appeal section in the Plan?

JOHN ANDERSEN: Well, I thought it was that it went to the Hearings Officer, but we went and checked the other day and apparently that was in the amended PL-9 and never, which we have never adopted. So, the procedure now is just to go to the Board.

CHAIRMAN PAULSON: Only for site plans, or what are you talking about?

JOHN ANDERSEN: Well, all, you know, there has to be an appeal for anything the Planning Department decides. When somebody comes up to the front counter here and we say you know, farm use means this and they don't like that, then they have--

COMMISSIONER YOUNG: They come to the Board.

JOHN ANDERSEN: Right.

CHAIRMAN PAULSON: I need that back. Any other questions or discussion--

JOHN ANDERSEN: Well, there's more out in the, out here, I didn't bring any in because I thought you had them.

CHAIRMAN PAULSON: Any other questions or discussion?

COMMISSIONER YOUNG: Well, I would say that I think it's a reasonable approach to the thing. You know, before they was trying to make the miners set back everything and losing part of his product, and now, I think it's a good approach, and the fact that, you know, that the Department's going to try to come to agreement, if they can't the Commissioners will make the decision, and I personally think it's a pretty good idea.

CHAIRMAN PAULSON: Depends on which side of the fence you're looking from.

COMMISSIONER YOUNG: Well, you know, if you--

CHAIRMAN PAULSON: I think it's necessary.

COMMISSIONER YOUNG: It isn't set, it's something that's going to be negotiated. That's the part I like about it. Because if it's next to Jim's here, why he's going to be called in, and the guy that's going to build a home's going to be called in, and they're going to sit down and they're going to, with John or somebody, and they're going to work it out, and I think that's a good idea.

CHAIRMAN PAULSON: They're going to sit down and they're going to work him over. (laughter)

UNIDENTIFIED SPEAKER: Well, Mr. Chairman, I'd just like to comment that I think it's about--something like this is about ten years overdue, and, at the very least, and it's much easier to move a dwelling than it is a sand and gravel deposit, so I think we're on the right track.

JOHN ANDERSEN: That was Jim Curl, for the record.

CHAIRMAN PAULSON: John, in response to Jerry's question, in addition, am I correct that this does not apply only to new subdivisions that are being laid out, and laying out setbacks on those, but existing ones that are even partially built out and vacant lots would--

JOHN ANDERSEN: Yeah. We have even more authority for new subdivisions in things that we already have in effect, but this is for the ones that are already in existence.

UNIDENTIFIED SPEAKER: I have one question. Does that-- does it--both setback and screening? Does that give you the authority on screening on the adjacent property as well?

JOHN ANDERSEN: Well, it's for the purposes of screening, but it doesn't specifically say we could impose additional screening.

CHAIRMAN PAULSON: It could be negotiated. 100 yards, or 75 foot screening.

JOHN ANDERSEN: We have a Plan policy that gives us some authority to do that. But the ordinance authority is a little weaker yet, so it is right now more negotiable type of thing than a mandate.

CHAIRMAN PAULSON: Is it possible to act on this after

the second reading in the same meeting, or do we need to have a second reading at a--

COMMISSIONER PAULSON: To read it in its entirety at the same meeting and the vote is unanimous it can be adopted.

JOHN ANDERSEN: Right. If it's unanimous you can do it at one, but if it's not unanimous it'd have to be--

CHAIRMAN PAULSON: Any further discussion? Yes, sir.

ROB BAXTER: My name's Rob Baxter--

COMMISSIONER SHEPARD: What's the name, again?

ROB BAXTER: Rob Baxter. I'm wondering what the difference is between SMR and SM. What process you have to go through to change it.

CHAIRMAN PAULSON: John, do you want to answer that?

JOHN ANDERSEN: It's a zone change process where there's a public hearing held before the County Hearings Officer, and evidence is submitted as to whether the site is needed, you know, at this time, and if a finding--well, I'm really simplifying this a lot--but, if the finding is that it's needed at this time at that site, then the change is made to surface mining, and at that time mining is a permitted use subject only to approved site plan.

COMMISSIONER YOUNG: Basically what it requires is a zone change.

ROB BAXTER: Okay. Now, you've been talking about subdivisions all along. What about larger parcels (unintelligible), say 25 acres adjacent to the SMR?

JOHN ANDERSEN: You mean as far as the setback?

ROB BAXTER: Yes (unintelligible).

JOHN ANDERSEN: It would be the same. We would have that

authority on, for an increased setback on that property. Usually it doesn't turn out to be a problem, except in a subdivision, because usually there's enough land on 25 acres and if people know there's going to be a mine next door they're not going to build next to it anyway. But you do get into a problem sometimes on subdivisions where it's a much shorter distance and people might prefer to be up (unintelligible).

CHAIRMAN PAULSON: Any other questions?

COMMISSIONER YOUNG: I move we have the second reading.

COMMISSIONER SHEPARD: Second.

CHAIRMAN PAULSON: We have to close the hearing, first, before we get mixed up here. I'll close the hearing, there being no further questions. It's been moved and seconded that we have the second reading. Any call for question?

COMMISSIONER SHEPARD: Question.

CHAIRMAN PAULSON: Question called for. Commissioner Shepard?

COMMISSIONER SHEPARD: Aye.

CHAIRMAN PAULSON: Commissioner Young?

COMMISSIONER YOUNG: Aye.

CHAIRMAN PAULSON: Chair votes aye, motion carried.

COMMISSIONER SHEPARD: Has to be read in its entirety?

COMMISSIONER YOUNG: Yes.

CHAIRMAN PAULSON: Second reading of Ordinance No. 81-015.

[At this point, Chairman Paulson proceeded to read the entire ordinance in full into the record.] That's the second reading.

COMMISSIONER YOUNG: I move the ordinance be adopted.

COMMISSIONER SHEPARD: Second the motion.

CHAIRMAN PAULSON: It's moved and seconded that the ordinance be adopted. Discussion. I'm just curious if this is worded correctly, here. "Required setbacks shall be determined by the Planning Director after meeting with the applicant and the owner of the adjoining SM or SMR zone." Aren't there times when that could be reversed? Where the area would be mined or be about to be mined and it'd be determining the setback prior to the mining?

JOHN ANDERSEN: Well, we don't have authority to do that. The only time we get authority is when somebody comes in and asks us for a permit. So,--

CHAIRMAN PAULSON: But it's assumed by this that the only one that's going to be asking and initiating that action would be the person that owns the land not SM or SMR.

JOHN ANDERSEN: Right.

COMMISSIONER YOUNG: That's the only one that needs to.

JOHN ANDERSEN: Right. It's the only that--it's the one that gets the regulation imposed on it.

COMMISSIONER YOUNG: It's the only one affected.

JOHN ANDERSEN: Right.

CHAIRMAN PAULSON: So, if you've got a vacant parcel and someone starts to mine the SMR or the SM that's adjacent to it, there would be no statement as to what the setback would be on that adjacent until such time as the owner of that applied for it.

JOHN ANDERSEN: Right.

CHAIRMAN PAULSON: Any further discussion?

COMMISSIONER SHEPARD: Question.

CHAIRMAN PAULSON: Question called for. Commissioner Shepard?

COMMISSIONER SHEPARD: Aye.

CHAIRMAN PAULSON: Commissioner Young?

COMMISSINER YOUNG: Aye.

CHAIRMAN PAULSON: Chair votes aye, motion carried.

JOHN ANDERSEN: I don't know if you should sign that one, I'm not sure that's the original. Rick, I think, has the original. He's not here today.

COMMISSIONER YOUNG: With such a good copy machine as we got, how do you tell which is the original?

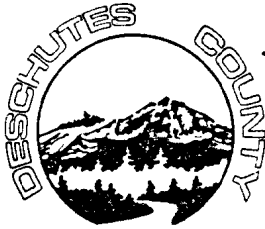
JOHN ANDERSEN: Well, that's true. Maybe that is the original, I don't know. It's the one he sent me.

COMMISSIONER SHEPARD: Is it working today?

CHAIRMAN PAULSON: Why don't we sign it, if it's not correct, you can bring the other one to us and we'll sign that.

JOHN ANDERSEN: Okay, fine.

END OF HEARING



Deschutes County Planning Department

COURTHOUSE ANNEX, ROOM 102 • PHONE 388-6556
BEND, OREGON 97701

March 12, 1981

TO: Board of County Commissioners
FROM: County Planning Commission
RE: SETBACKS ABUTTING S.M. AND S.M.R. ZONES

The Deschutes County Planning Commission has reviewed the recent Land Use Board of Appeals recommendation to the Land Conservation and Development Commission. A primary concern to LUBA was the County's lack of authority to mitigate conflicts on existing lots adjoining SM or SMR zones. We believe this lack of authority can be most easily remedied by excluding the words "...transferred or created after the effective date of this amendment..." in Section 5.250 of the County Zoning Ordinance. It is the Commission's unanimous recommendation this amendment be made by the Board as quickly as possible.

Respectfully submitted,

John E. Andersen, Secretary
Deschutes County Planning Commission

JEA:ss