



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

4/27/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment  
DLCD File Number 005-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, May 13, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jerry Sorte, Polk County  
Jon Jinings, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative

<paa> YA

# Notice of Adoption

In person  electronic  mailed

DATE STAMP

**DEPT OF**

**APR 23 2010**

**LAND CONSERVATION AND DEVELOPMENT**

**THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

Jurisdiction: **Polk County**

Local file number: **PA 09-01 & ZC 09-01**

Date of Adoption: **4/21/2010**

Date Mailed: **4/22/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 12/1/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The adopted ordinance changed the comprehensive plan designation of a two acre property from Unincorporated Community Commercial (UCC) to Unincorporated Community Industrial (UCI). It also changed the zoning designation of the property from Eola Unincorporated Community Commercial (Eola UC-C) to Eola Unincorporated Community Industrial Commercial (Eola UC-IC).

Does the Adoption differ from proposal? No

Plan Map Changed from: **UCC**

to: **UCI**

Zone Map Changed from: **Eola UC-C**

to: **Eola UC-IC**

Location: **5232 Salem-Dallas Highway, Salem, OR**

Acres Involved: **2**

Specify Density: Previous: **No fixed minimum parcel size**

New: **No fixed min. parcel size**

Applicable statewide planning goals:

- |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** 005-09 (17979) [16102]

ODOT

APR 23 2010

LAND CONSERVATION  
AND DEVELOPMENT

Local Contact: Jerry Sorte

Phone: (503) 623-9237 Extension:

Address: 850 Main Street

Fax Number: 503-623-6009

City: Dallas

Zip: 97338

E-mail Address: sorte.jerry@co.polk.or.us

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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**BEFORE THE BOARD OF COMMISSIONERS  
FOR THE COUNTY OF POLK, STATE OF OREGON**

In the matter of Plan Amendment PA 09-01 )  
And Zone Change ZC 09-01 on a 2-acre parcel )  
Zoned Eola Unincorporated Community Commercial )  
At Township 7S, Range 4W, Section 26, )  
Assessment Map Tax Lot 3200 )

**ORDINANCE NO. 10-03**

**WHEREAS**, the Board of Commissioners held a public hearing on April 7, 2010 with due notice of such public hearing having been given, and provided an opportunity for public comments and testimony; and

**WHEREAS**, the Board of Commissioners received a recommendation in support of Plan Amendment 09-01 and Zone Change 09-01 from the Polk County Hearings Officer based on his public hearing and conclusions; and

**WHEREAS**, the Board of Commissioners received a recommendation in support of Plan Amendment 09-01 and Zone Change 09-01 from Polk County Planning staff based on the findings and evidence in the record; and

**WHEREAS**, the Board of Commissioners on April 7, 2010, publicly deliberated and unanimously passed a motion to approve Plan Amendment 09-01 and Zone Change 09-01; now, therefore:

**THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**

Sec. 1. That Polk County adopts the findings for Plan Amendment 09-01 and Zone Change 09-01 located in the Hearings Officer's recommendation as shown on Exhibit C.

Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for the subject parcel from Unincorporated Community Commercial (UCC) to Unincorporated Community Industrial (UCI) as shown on Exhibit A.


Sec. 3. That Polk County amends the Polk County Zoning Map for the subject parcel from Eola Unincorporated Community Commercial (Eola UC-C) to Eola Unincorporated Community Industrial Commercial (Eola UC-IC) as shown on Exhibit B.

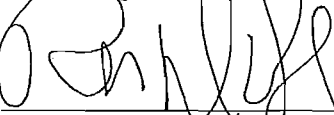
Sec. 4. An emergency is declared and the provisions of this ordinance become effective upon its adoption.

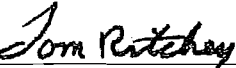
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Dated this 21<sup>st</sup> day of April 2010 at Dallas, Oregon.

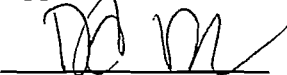
**POLK COUNTY BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
Mike Propes, Chair

  
\_\_\_\_\_  
Ron Dodge, Commissioner

  
\_\_\_\_\_  
Tom Ritchey, Commissioner

Approved as to form:

  
\_\_\_\_\_

David Doyle  
County Counsel

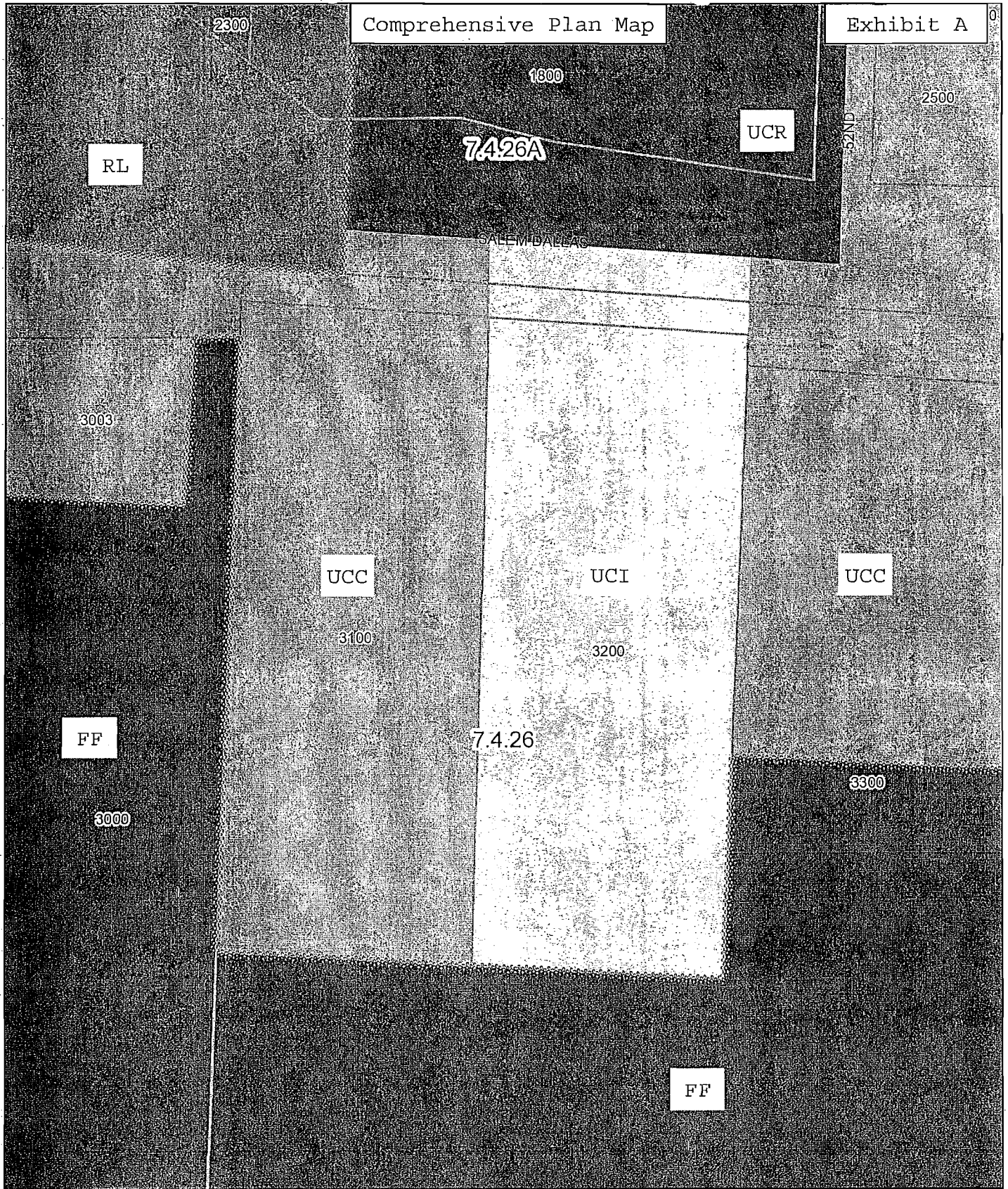
First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

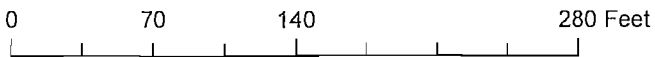
Recording Secretary: \_\_\_\_\_

Comprehensive Plan Map

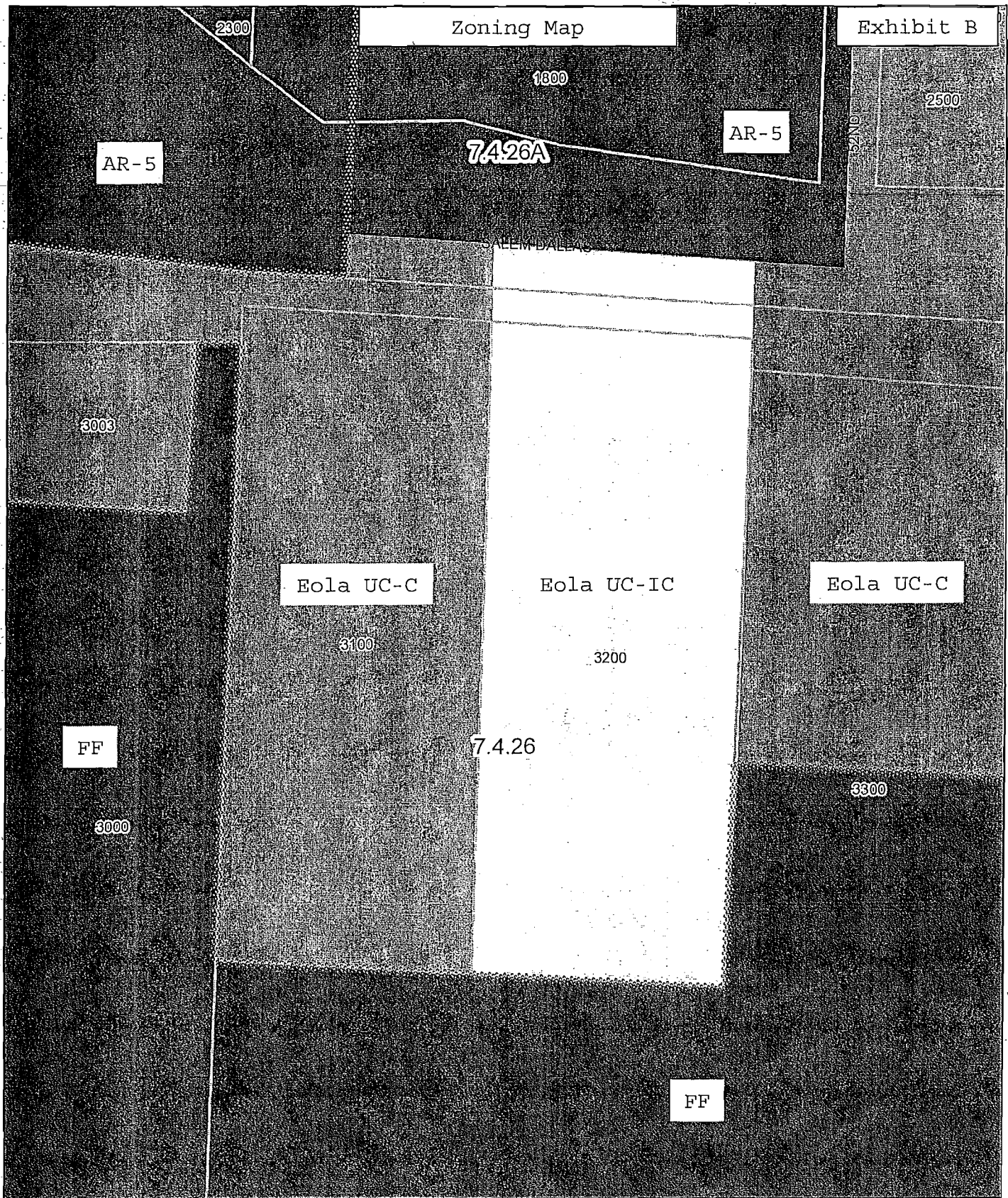
Exhibit A



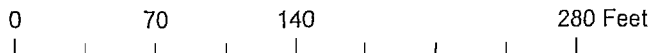
This map was produced from the Polk County geographic databases to support its governmental activities. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. The County is not responsible for any map errors, possible misuse, or misinterpretation.



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**BEFORE THE PLANNING DIVISION  
FOR POLK COUNTY, OREGON**

U U MAR 03 2010  
POLK COUNTY  
COMMUNITY DEVELOPMENT

In the Matter of the Application of ) Plan Amendment 09-01  
West Coast Metal Buildings, Inc. ) Zone Change 09-01

**SUMMARY OF PROCEEDINGS**

This matter arose on the application of West Coast Metal Buildings, Inc., to change the Polk County Comprehensive Plan (PCCP) of a 2.0-acre parcel from Unincorporated Community Commercial to Unincorporated Community Industrial, and to change the zoning of that parcel from Eola Unincorporated Community to Eola Unincorporated Community Industrial Commercial. The subject parcel is located at 5232 Salem-Dallas Highway NW, Salem, Polk County, Oregon, and is legally described as tax lot 3200, section 26, T7S, R4W, WWM. The applicable review and decision criteria are Polk County Zoning Ordinance (PCZO) 111.140, 111.275, 115.060, and the Oregon Statewide Planning Goals.

Applicant was represented by Jeffrey R. Tross, PC, a recognized land use consultant. The staff report was prepared by Jerry Sorte, Polk County Planning Supervisor.

The net effect of the proposed changes would be to allow a range of small-scale and low impact industrial uses, and industrial uses that require proximity to rural resources in addition to the commercial uses that are currently permitted on the subject property.

The proposed changes would allow the applicant to move the business, which consists of design, fabrication, assembly and installation of metal structures such as canopies, garages, barns and storage buildings, from a nearby parcel in the Eola Unincorporated Community to the subject property. The applicant markets and sells its products locally as well as regionally, from southern British Columbia to central California. The company employs fourteen office and production staff and up to nine contract installers. The proposed Eola UC-IC zone would allow the desired use of the subject property. PCZO 154.040(C)(2) allows "Metal fabricated products manufacturing (SIC Major Group 34); except metal stampings and screw machine products" subject to the small-scale, low-impact standards. SIC 3448 refers to "prefabricated metal buildings and components," which encompasses the use of the property proposed by the applicant. The applicant desires to move their business to the subject property in order to build a custom facility that will increase the efficiency of the business.

The applicant submitted a plot plan (Attachment A of the staff report) that depicts the development that would occur on the subject property if these applications are approved. As depicted on the plot plan, the applicant plans to construct a 200-foot by 125-foot building (25,000 square feet), provide for outdoor storage, and establish employee and customer parking.

The applications were submitted on November 3, 2009. The applicant submitted additional information into the record on January 6, 2010.

**Table 1. Comprehensive Plan and Zoning Designations for the Subject Property and Surrounding Properties.**

Location	Comprehensive Plan Designation	Zoning Designations (See Zone map Attachment B)
Subject Property	Unincorporated Community Commercial	Eola Unincorporated Community Commercial
Property North	Unincorporated Community Residential	Acreage Residential 5 Acre Minimum



Property South	Farm Forest	Farm Forest
Property East	Unincorporated Community Commercial	Eola Unincorporated Community Commercial
Property West	Unincorporated Community Commercial	Eola Unincorporated Community Commercial

According to a review of the 2008 Polk County aerial photograph, the subject property is bordered by the Highway 22 to the north. The property across Highway 22 to the north contains approximately 12 acres and contains a theater. The property to the east and south is split zoned. The portion of the property to the east is zoned Eola UC-C and the portion to the south is zoned Farm Forest (FF). The FF zone area appears to be managed as an orchard, and according to the information in the application, the portion of the property zoned Eola UC-C contains an auto sales lot and a farm stand. The property to the west contains approximately 2 acres, is zoned Eola UC-C, and is vacant.

The subject property is located in the Eola Unincorporated Community, and has frontage along Highway 22. The subject property was lawfully created pursuant to Polk County Subdivision and Partition Ordinance Section 91.950(a) as evidenced by the recording of Polk Deed Volume 122, Page 160, dated October 13, 1945. The subject property is currently described in Polk County Clerk Document 2007-9563, dated June 15, 2007. According to Polk County Assessor's records, the subject property currently contains one dwelling and three farm buildings.

The subject parcel is not identified as containing significant resources on the Polk County Significant Resource Areas Map. Based on a review of the National Wetland Inventory map, Staff found no identified wetlands on the subject property. The subject property is not located within an identified floodplain, pursuant to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel number 41053C0270F, dated December 19, 2006. There are no identified historic resources or Greenway areas located on the subject property.

Notice of the February 23, 2010 public hearing before the Hearings Officer and the April 7, 2010, public hearing before the Board of Commissioners was provided as required by PCZO 111.340 to 111.370. Notice was mailed to property owners located within 250 feet of the outside perimeter of the subject property on January 29, 2010. Notice was printed in the *Dallas, Oregon, Itemizer-Observer* newspaper on February 2, 2010. Notice was posted on the subject property on January 29, 2010.

The subject parcel has frontage along State Highway 22, a principal arterial as classified in the *Polk County Transportation Systems Plan*, figure 3. It is served by the Rickreall Water Association, and has a private sewage (septic) disposal system.

#### COMMENTS PRIOR TO PUBLIC HEARING

The Polk County Environmental Health agency notes there currently is a single dwelling on the parcel. The Rickreall Water Association is available to provide potable water. The applicant should apply for a major authorization notice to review the existing sewage disposal system due to increased sewage flow. A major alteration permit may be necessary to increase the existing drain field due to increased sewage flow.

The Oregon Department of Transportation submitted a letter dated February 23, 2010, noting that an approach road permit must be issued for the existing access; and, noting that future work on the interchange of Highways 22 and 51 may affect access to Highway 22.

## PUBLIC HEARING

A duly advertised public hearing was held in the Polk County Courthouse on the evening of February 23, 2010. Applicant was represented by Jeffrey Tross, a recognized land use consultant. With him were Alvaro Arellano, an officer of the applicant company, and Amber Newsome of that company's staff. There were no objections as to notice, jurisdiction or conflict of interest. The Hearings Officer recited the admonitions required by law. Staff recited the applicable decision criteria, and summarized its report, recommending approval.

Tross said the applicant agrees with the staff's recommendation. The application will facilitate relocation of the applicant's plant. He said the operation is not resource intensive, but involves fabrication and assembly of metal parts manufactured elsewhere. There will be no foundry work, painting or welding. In short, he asserted, the industry has low impact on its environment.

No one else appeared to speak on the matter at hand, so there was no occasion for a rebuttal.

There was no request to hold the record open or for a continuance. The Hearings Officer therefore declared the record closed, and adjourned the meeting. Robert W. Oliver, Polk County Hearings Officer, was authorized by the Polk County Board of Commissioners to conduct the proceeding and make a recommendation to the Board.

## FINDINGS

### (General)

Authorizations for a Polk County Comprehensive Plan (PCCP) amendment and a zone change are listed under PCZO 115.050 and 111.275. Under these provisions, the Hearings Officer conducts a public hearing pursuant to PCZO 111.190 and 115.030 and makes a recommendation to the Polk County Board of Commissioners. The Board conducts a public hearing pursuant to PCZO 111.200 and 115.030 and makes a final local decision. A complete copy of the applicant's proposed findings is included as Attachment D to the staff report.

### (Plan amendment)

PCZO 115.050 provides:

**Amendments to the Comprehensive Plan Map must meet one or more of the following criteria:**

- (A) The Comprehensive Plan designation is erroneous and the proposed amendment would correct the error, or [PCZO 115.050(A)(1)]**
- (B) The Comprehensive Plan Designation is no longer appropriate due to changing conditions in the surrounding area; and [PCZO 115.050(A)(2)]**

The applicant contended that the current PCCP designation is no longer appropriate because much of the commercial land in the Eola Unincorporated Community remains vacant as commercial development has not occurred to the extent anticipated when the land was designated. Staff believed this is reasonable justification for expanding the business opportunities on the subject property. The subject property is accessed from Highway 22, which during peak traffic periods it is often difficult to make a turn movement that crosses traffic. Designating the subject property Industrial on the PCCP map would allow the subject property to be zoned Eola UC-IC. The Eola UC-IC zone allows the commercial uses permitted by the current Eola UC-C zone, but also allows a host of industrial uses. In general a successful industrial operation does not require the high volume of visiting customers, and vehicle trips, that a successful commercial operation requires. The proposed zone change would allow the property to be used for additional uses, including those which generally require fewer vehicle trips.

Based on the above, the application meets this criterion.

(C) The purpose of the Comprehensive Plan will be carried out through approval of the proposed Plan Amendment based on the following: [PCZO 115.050(A)(3)]

(1) Evidence that the proposal conforms to the intent of relevant goals and policies in the Comprehensive Plan and the purpose and intent of the proposed land use designation. [PCZO 115.050(A)(3)(a)]

**A. GOALS** [PCCP, Section 2, Unincorporated Communities Plan Element]

1. To provide maximum opportunity for citizens to participate in unincorporated community planning.
2. To establish unincorporated community boundaries in order to distinguish land within the community from exception areas, resource lands and other rural lands.
3. To support the historically significant contribution that unincorporated communities have made to the economic structure of Polk County.
4. To provide for opportunities for development in unincorporated communities while preventing development that would exceed that ability of the area to provide potable water, wastewater management, or transportation services.
5. To provide for and maintain a viable economy while preserving the present sense of community and environment.

The applicant provided findings to address these goals and states, and staff agreed, that the Polk County notification and hearings process provides multiple opportunities for the public to be involved in reviewing and providing input into this planning process. The proposed use of the property would serve local customers in Polk County and the region, and the applicant states that this use is consistent with the type of industrial uses that have occupied and are intended in the Eola Unincorporated Community. The applicant also states that the subject property is served by potable water and an on-site sewage disposal system. The proposed use would not require large volumes of water, nor would it generate large volumes of wastewater. The traffic volume generated by the proposed use would be low. The applicant estimates that the proposed use of the property would generate approximately 35 vehicle trips per day and two or three truck trips per week. Highway 22 is a principal arterial and provides adequate traffic capacity to serve the property. The applicant also contends that the anticipated environmental impacts of the proposed use would be low with regards to water consumption, water disposal, other emissions, and traffic.

The Goals of the Unincorporated Community Plan Element of the PCCP are implemented through their associated policies. Staff determined that Policies 1.3, 1.6, 1.7, and 1.10 within the Unincorporated Community Plan Element are applicable to this application. Demonstrating compliance with those policies would in turn demonstrate compliance with the Goals listed above.

**B. POLICIES** [PCCP, Section 2, Unincorporated Communities Plan Element]

1. Polk County will only permit those uses in unincorporated communities for which it can be clearly demonstrated that such uses: [Unincorporated Communities Plan Element, Policy 1.3]
  - a. Contribute to the well-being of the community;
  - b. Do not seriously interfere with surrounding or adjacent activities;
  - c. Are consistent with the identified function, capacity and level of service of facilities.

The applicant is proposing to change the PCCP designation of the subject property from

Unincorporated Community Commercial to Unincorporated Community Industrial. The applicant is requesting a zone change from Eola UC-C to Eola UC-IC.

In addressing this policy, the applicant states that the proposed use of the subject property would maintain employment and add value to unused land. These factors would benefit the Eola community. The applicant contends that the proposed use would not seriously interfere with surrounding or adjacent activities because the proposed use is self-contained and would have minimal, if any, off-site impacts. The proposed use does not create emissions of smoke, odor, dust, or noises. The proposed use would generate low amounts of traffic and low requirements for water and wastewater disposal. The applicant states that surrounding uses are commercial or industrial in character and include a service station, auto sales lot, farm stand, and other high-traffic volume activities. Based on the nature of the proposed use, the applicant contends that the proposed use of the property will not seriously interfere with surrounding or adjacent activities. As described above, the applicant states that the proposed use would be consistent with identified function, capacity and level of service facilities because the use requires water mainly for employee usage, generates low traffic volumes, and is served by Highway 22. Water is provided to the property, and there is an on-site sewage disposal system.

The Eola UC-IC zone has been acknowledged by the Oregon Department of Land Conservation and Development (DLCD) as consistent with the Oregon Statewide Planning Goals. The uses allowed in the Eola UC-IC were determined by Polk County, through the local planning process, to be consistent with the goals and policies of the PCCP when the Eola UC-IC zone was adopted in 2001 by Ordinance 01-04 (Legislative Amendment 00-08). In the context of this PCCP policy, the relevant question becomes whether if changing the PCCP and zoning designations of the subject property to commercial-industrial designations would allow the uses on the property to continue to comply with this PCCP policy taking into account the characteristics of the neighborhood. The practical impact of this change is that it would allow some industrial use of the subject property in addition to the currently allowed commercial uses. The proposed change would allow the property owner more flexibility and options in utilizing their property. For the applicant, this would allow them to make an investment in their business and build a customized facility. Allowing the applicant to invest in their facility would maintain employment in Eola and contribute to the well-being of the community.

As described above, properties to the east and west are zoned Eola UC-C, the property to the south is zoned FF, and Highway 22 is adjacent to the northern property line of the subject property. The industrial uses that would be allowed on the subject property if these applications are approved are limited to small-scale and low impact uses and uses that require proximity to rural resources. Those uses are described in PCZO Chapter 154.

If the property is used for commercial and industrial uses it would be subject to the development standards in PCZO Chapter 112. These standards include requirements for building setbacks; landscaping; parking requirements; heat, glare, and light; noise; sewage disposal; and vibration. Those standards themselves are intended to minimize conflicts between neighboring properties. The applicant would be required to obtain all necessary permits from the Oregon Department of Environmental Quality, which regulates industrial air, land, and water discharges. Staff did not identify any significant negative offsite impacts that would occur if the industrial uses listed in the Eola UC-IC zone were permitted on the subject property.

The applicant intends to utilize water from the Rickreall Water Association. The subject property is served by an on-site sewage disposal system. Staff did not identify any effects that the proposal would have on local schools. The Salem Suburban Rural Fire Protection District and the Polk County Sheriff Department provide emergency services for the subject property. The proposed uses and any future parcels created could obtain access to Highway 22, a principal arterial, as defined by the Polk County *Transportation Systems Plan* with the proper access permits from the Oregon Department of Transportation (ODOT). In reviewing the applicant's proposal, it does not appear that permitting limited industrial uses on the subject property would create a substantial increase in traffic. Staff concluded that with conditions of approval there are adequate public facilities, services, and transportation networks available at this time for water provision, sewer

service and transportation facilities. The Hearings Officer concurs that the application complies with this criterion.

2. **Polk County shall ensure that new uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.** [Unincorporated Communities Plan Element, Policy 1.6]

The proposed PCCP amendment and zone change would allow limited industrial use of the property in addition to the currently permitted commercial uses. The industrial uses permitted in the Eola UC-IC zone are limited to small-scale and low impact uses and uses that require proximity to rural resources. Those uses are described in PCZO Chapter 154.

The applicant states that the property to the south, which is zoned Farm Forest, is currently used for growing hay and as a pasture. The applicant addresses this policy by stating that the proposed use would be self-contained on the property and would not produce emissions of smoke, odors, dust, or noise that could affect farm or forest uses. The applicant does not foresee any negative impacts that the proposed use of the subject property for a metal fabrication business would have on surrounding agricultural or forestry uses.

Also, the development standards in the PCZO place a practical limitation on the size of the industrial activity that could be established on the subject property. The industrial uses subject to the small-scale and low impact standard may be established in a building not to exceed 40,000 square feet. The applicant must provide adequate parking as described in PCZO Chapter 112, and the size of the subject property, approximately 2.0 acres, places a limitation on the size of industrial operation that could be established on the property. The applicant proposes to use the existing access to the subject property on Highway 22, so no new access would be required that may remove land from farm or forest use. All industrial uses must be permitted in accordance with all DEQ statutes and administrative rules which regulate air, land, and water discharges. With these regulations in place, staff did not identify any general characteristics of the industrial uses permitted in the Eola UC-IC zone that would adversely affect agricultural or forestry uses. The Hearings Officer concurs that the application complies with this criterion.

3. **Polk County shall ensure that the cumulative development within unincorporated communities will not:** [Unincorporated Communities Plan Element, Policy 1.7]
  - a. **Result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and,**
  - b. **Exceed the carrying capacity of the soil or of existing water supply resources and sewer services.**

The applicant states the proposed use of the property, for a metal building fabrication operation, is already located within the Eola Unincorporated Community. This proposal would move that operation to the subject property, and not increase water demand in the Eola Community. The proposed use of the subject property has low water requirements. Water would primarily be used to serve employees. Wastewater would be treated on-site as required by DEQ and Polk County. Based on these factors, the applicant contends that the proposed use should have only a minor affect on the water and wastewater disposal capacity in the Eola Community.

The subject property is within the area served by the Rickreall Water Association. Any development on the subject property would be subject to state and federal water quality regulations. Permits that could be required for industrial use of the subject property include a Water Pollution Control Facility permit issued by DEQ. The subject property is not served by a sewer system; therefore, all wastewater would need to be processed on-site. The Polk County Environmental Health Division reports that it does not have records on the existing septic system on the subject property. If these applications are approved, the applicant would be required to obtain all necessary septic permits from that Division. Staff recommended that the applicant contact the Environmental

Health Division to obtain a septic authorization notice to determine if the existing septic system on the subject property is adequately sized to serve the proposed industrial use. Staff recommended that a condition of approval require that the applicant obtain all necessary building, environmental health, access, and other applicable state and federal permits prior to any future structural development on the subject property. With these conditions, staff did not see evidence to suggest that permitting the proposed PCCP amendment and zone change would result in public health hazards or significant adverse environmental impacts or exceed the carrying capacity of the soil and water supply resources. The Hearings Officer concurs that the application complies with this criterion.

4. **Polk County shall allow commercial and industrial uses within unincorporated communities in accordance with the provisions of Oregon Administrative Rule OAR 660, Division 22, the Unincorporated Communities Rule.** [Unincorporated Communities Plan Element, Policy 1.10]

Polk County's Eola UC-IC zone has been acknowledged to be compliant with Oregon Administrative Rule (OAR) and Goal 14 requirements described in OAR 660-004-0040. If this PCCP amendment and zone change are approved the property owner would be limited to the uses described in the Eola UC-IC zone.

- C. **The Unincorporated Community Industrial Plan designation applies to areas within designated unincorporated communities suitable for industrial business activities. These sites are often associated with processing or storage of farm or forest products produced in the surrounding area and are connected to the historic development of these communities. In addition to industrial uses which make use of rural resources, industrial uses within unincorporated communities also include other uses which are small-scale and low impact.**

**It is the intent of the Unincorporated Community Industrial Plan designation to protect existing employment and provide limited employment opportunities for some of the residents living in and nearby unincorporated communities.** [PCCP, Section 4, Unincorporated Community Industrial]

The applicant contends that the proposal is consistent with the intent of the Unincorporated Community Industrial PCCP designation because it will protect employment that exists within the Eola Community at a location that remains in proximity to local residents. The proposed metal building design and fabrication operation meets the definition of "small-scale and low impact" because it would be located in a building that contains approximately 25,000 square feet, which is under the 40,000 square foot small-scale, low impact limit. The applicant concludes that the proposed use of the subject property is permitted in the Eola UC-IC zone, which would implement the Unincorporated Community Industrial zone, and the proposal is consistent with the land use pattern of the surrounding area.

If this PCCP amendment and zone change are approved, the Unincorporated Community Industrial PCCP designation would be implemented through application of the provisions in the Eola UC-IC zone, which are located in PCZO Chapter 154. The Hearings Officer concurs that the application complies with this criterion.

- (2) **Compliance with Oregon Revised Statutes, statewide planning goals and related administrative rules which applies to the particular property(s) or situations. If an exception to one or more of the goals is necessary, the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply; and [PCZO 115.050(A)(3)(b)]**

The applicant proposed findings to address each statewide planning goal:

With regards to Goal 1, Citizen Involvement, these applications are being reviewed during

duly noted public hearings which allow for citizen involvement in the planning process.

With regards to Goal 2, Land Use Planning, the proposed PCCP and zoning designations have been acknowledged to be consistent with all statewide planning goals.

With regards to Goal 3, Agricultural Lands, and Goal 4, Forest Lands, the subject property is an acknowledged exception area where these goals do not apply.

With regards to Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, as depicted on the Polk County Significant Resources Area map, the subject property does not contain inventoried Goal 5 resources.

With regards to Goal 6, Air, Water, and Land Resources Quality, the proposed use of the subject property is a low impact activity that does not create discharges into the air or water. Traffic volumes are estimated at 30-35 average daily trips. The proposed industrial facility would employ an approved on-site sewage disposal system.

With regards to Goal 7, Areas Subject to Natural Hazards, the subject property is not located in an area that is known to be at risk of natural hazards. The subject property is located outside of the 100-year floodplain, and Polk County does not have evidence to suggest that the subject property is in a known area at risk for landslides, earthquakes, or wildfires.

With regards to Goal 8, Recreational Needs, the subject property is not designated in the PCCP as an area intended to provide public recreational opportunities.

With regards to Goal 9, Economic Development, the proposed amendments would allow the applicant to move their existing business within the Eola Unincorporated Community to the subject property. This move would allow the applicant to build a custom, more efficient facility. This move would add value to the subject property.

Goal 10, Housing, does not apply to this application

With regards to Goal 11, Public Facilities and Services, the proposed use would require only the level of facilities and services that are currently available in the Eola Unincorporated Community. These include telephone and electric services. The Salem Suburban Rural Fire Protection District and the Polk County Sheriff Department provide emergency services for the subject property. The property can be accessed by Highway 22, a principal arterial, as defined by the Polk County Transportation Systems Plan with the proper access permits from the Oregon Department of Transportation (ODOT). Water is supplied by the Rickreall Water Association. The subject property would also be served by an on-site sewage disposal system.

With regards to Goal 12, Transportation, the subject property has frontage along Highway 22, which is designated as a principal arterial in the Polk County *Transportation Systems Plan*. Highway 22 adjacent to the property has a sidewalk and bike route. The applicant forecasts that the proposed use of the property would generate 30-35 vehicle trips per day, and no new roads or accesses would be required to serve the proposed use. This amount of traffic would not change the functional classification of Highway 22. The Oregon Department of Transportation manages access from the subject property onto Highway 22.

With regards to Goal 13, Energy Conservation, the applicant states that the proposed new building would be designed to specifically meet the needs of the proposed metal building fabrication operation. This will eliminate unneeded building space and allow for energy efficiencies related to the operation. The subject property is also located along a major highway which will save energy related to transportation. These factors will conserve energy associated with the proposed use.

With regards to Goal 14, Urbanization, the subject property is located within a designated unincorporated community. The boundary of the community would not be affected. The proposal does not affect an urban growth boundary.

Goals 15, 16, 17, 18, and 19 are not applicable to this application because the subject property is not located within the Willamette River Greenway and is not located on the Oregon Coast.

The applicant has addressed how the proposed PCCP amendment would comply with the statewide planning goals, and these findings are included in full within Attachment D of the staff report. There are no state statutes or administrative rules that must be applied directly to this application. The Hearings Officer concurs that the application complies with this criterion.

**(3) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land. [PCZO 115.050(A)(3)(c)]**

The subject property is not located within an urban growth boundary. As a result, there are no intergovernmental agreements applicable to this application.

**(Zone Change)**

PCZO 111.140 provides:

- (A) ZONING MAP AMENDMENTS. A map zone change is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter.**

The criteria for a zone change and a PCCP map amendment are listed under PCZO 111.275, and 115.050. These applications were reviewed by staff who prepared a report that compiles the facts of the case and makes a recommendation to the Hearings Officer. The Hearings Officer must hold a public hearing pursuant to PCZO 111.190 and 115.030, and make a recommendation to the Polk County Board of Commissioners. The Board must hold a public hearing pursuant to PCZO 111.200 and 115.030, and make a final local decision on this matter. The application has been processed following the proper review procedure and meets this criterion.

- (B) Pursuant to Section 111.160, a zone change may be approved, provided that the request satisfies all applicable requirements of this ordinance, and provided that with written findings, the applicant(s) clearly demonstrate compliance with the following criteria:**

- (1) The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the purpose and policies for the applicable comprehensive plan land use classification; [PCZO 111.275(A)]**

The applicant concurrently applied in PA 09-01 to change the PCCP designation of the subject property to Unincorporated Community Industrial. As stated in Section 4 of the PCCP, within the Eola Unincorporated Community, the Eola UC-IC zone is an implementing zone of the Unincorporated Community Industrial PCCP designation. Therefore, staff concluded that the proposed zone is consistent with the PCCP designation proposed in PA 09-01.

- (2) The proposal conforms with the purpose statement of the proposed zone; [PCZO 111.275(B)]**

- A. The purpose of the Eola Unincorporated Community Industrial Commercial (Eola UC-IC) Zoning District is to implement the Comprehensive Plan policies related to both industrial and commercial development by providing for a mixture of commercial and manufacturing activities. This zone is applied to designated lands within the unincorporated community of Eola.**

**Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.**



**Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact. [PCZO 154.010]**

The applicant concurrently filed an application for a PCCP amendment and a zone change. The applicant is responsible for showing compliance with criteria for the PCCP amendment in order for the zone change to be approved. The applicant proposes changing the zoning of the subject property to Eola UC-IC. The Eola UC-IC Zoning District is designated as an implementing zone for the Unincorporated Community Industrial designation in the Eola Unincorporated Community.

The applicant has indicated a desire to relocate a metal building fabrication operation that is currently located on another property in the Eola Unincorporated Community. If these applications are approved, the proposed use would be outright permitted on the property pursuant to PCZO 154.040(C)(2), subject to the small-scale, low impact standards. The small-scale, low impact standards would limit the operation of the proposed metal building fabrication operation to a building that does not exceed 40,000 square feet in size; not including outdoor storage areas. The applicant plans to establish a 25,000 square foot building, which would comply with this standard.

The purpose and intent of the Eola UC-IC zone provided in PCZO 154.010 does not contain discretionary review standards. It is implemented through the uses authorized and standards of the zone. The uses allowed in the Eola UC-IC were determined by Polk County, through the local planning process, to be consistent with the goals and policies of the PCCP when the Eola UC-IC zone was adopted in 2001 by Ordinance 01-04 (Legislative Amendment 00-08).

The Hearings Officer concurs with staff that the application complies with this criterion.

**(3) The uses allowed in the proposed designation will not significantly adversely affect allowed uses on adjacent lands; [PCZO 111.275(C)]**

The applicant proposes to change the zoning of the subject property from Eola UC-C to Eola UC-IC. The Eola UC-IC zone permits the commercial uses permitted in the Eola UC-C zone and a host of industrial uses that are small-scale and low impact uses, and uses that require proximity to rural resources. Properties to the west and east are zoned Eola UC-C. As stated by the applicant, the Eola UC-IC zone combines commercial uses and industrial uses that are generally compatible with one another, or could be compatible with one another through a conditional use permit process. This is evidenced by their inclusion in a single zone. The commercial uses permitted in the Eola UC-C zone are the same as the commercial uses permitted in the Eola UC-IC zone, so it is reasonable to conclude that the uses permitted in the Eola UC-IC zone would not significantly adversely affect the allowed uses on neighboring properties zoned Eola UC-C.

The property to the south of the subject property is zoned FF. The applicant states that the FF zone property would not be significantly adversely affected because the proposed use would be self-contained on the property. Activities related to the fabrication and assembly of metal structures would take place within the building. The operation does not require water for its fabrication activity, the industrial activity does not produce waste water, and there are no emissions of smoke, odors, dust, or noise associated with the operation that could affect farm or forest activities. The applicant also states that traffic volumes would be light and the site access is at the north end of the property, directly onto Highway 22. There is no access through any adjacent FF property. The property to the north is zoned AR-5, and contains a community theater. Staff believes that the emissions and access characteristics of the proposed use would also not significantly adversely impact the property to the north.

In consideration of the above factors, the uses permitted under the proposed Eola UC-IC zone would not significantly adversely affect allowed uses on adjacent lands. Staff concluded that the proposed zone change and PCCP amendment are appropriate when taking into account permitted uses on surrounding properties. The Hearings Officer finds that the application meets this criterion.

**(4) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; [PCZO 111.275(D)]**

The applicant is proposing to change the zoning of the subject property to Eola UC-IC in order to allow construction of a custom facility for their metal building fabrication operation. The applicant reports that the operation would not require water for the fabrication activity, but water would be used to accommodate employees. The industrial activity does not produce waste water, and there are no emissions of smoke, odors, dust, or noise associated with the operation. The applicant also states that the metal building fabrication operation would produce few average daily vehicle trips.

The applicant intends to utilize water from the Rickreall Water Association. The subject property is served by an on-site sewage disposal system. Staff did not identify any effects that the proposal would have on local schools. The Salem Suburban Rural Fire Protection District and the Polk County Sheriff Department provide emergency services for the subject property. The proposed uses and any future parcels created could obtain access to Highway 22, a principal arterial, as defined by the Polk County *Transportation Systems Plan* with the proper access permits from ODOT. In reviewing the applicant's proposal, it does not appear that permitting limited industrial uses on the subject property would create a substantial increase in traffic.

Staff concluded that there are adequate public facilities, services, and transportation networks available at this time for water provision, sewer service and transportation facilities. Approval of this proposed PCCP amendment and zone change would not authorize the applicant to establish a use that would exceed transportation, water and/or sewer services until such services are planned or available. The Hearings Officer finds that the application meets this criterion.

- (5) The proposed change is appropriate taking into consideration the following:**
- (a) Surrounding land uses, [PCZO 111.275(E)(1)]**
  - (b) The density and pattern of development in the area, [PCZO 111.275(E)(2)]**
  - (c) Any changes which may have occurred in the vicinity to support the proposed amendment. [PCZO 111.275(E)(3)]**

With regards to PCZO 111.275(E)(1), as described above in Subsection 2(B)(3), the uses permitted in the proposed Eola UC-IC zone would not significantly adversely impact permitted uses on surrounding properties. The proposed change would have the effect of adding a list of small-scale and low impact industrial uses and industrial uses that require proximity to rural resources to the list of commercial uses that are currently allowed on the subject property. These uses would allow the subject property to still offer commercial services within the unincorporated community, but add the flexibility of allowing the property owner industrial opportunities.

With regards to PCZO 111.275(E)(2), if the property owner applies to partition the subject property at some time in the future, the proposed Eola UC-IC zone has the same parcel size requirements as the existing Eola UC-C zone. The proposed adjustment would not change the existing density of the area and therefore is consistent with the pattern of development in the area.

With regards to PCZO 111.275(E)(3), the applicant points out that other parcels in the Eola unincorporated community have recently been approved for zone changes from Eola UC-C to Eola UC. It is the opinion of staff that those zone changes alone have not, in and of themselves, constituted changes that would support or not support the proposed amendments. The applicant has not shown that the expanded allowed uses on other properties in the Eola unincorporated community have changed the market dynamics of the community. An argument that greater flexibility is needed on the subject property in order to compete with other business in the community is possible, but it is not elucidated in the application. Staff did not, however, identify any changes in the surrounding area that would fail to support this application.

Based on the above factors, the Hearings Officer finds that the proposed zone change complies with this criterion.

- (6) The proposal complies with any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land; and [PCZO 111.275(F)]**

The subject property is not located within an Urban Growth Boundary.

- (7) **The proposal complies with Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules. If an exception to one or more of the goals is necessary, the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply. [PCZO 111.275(G)]**

The subject property is an exception area so an exception to Goals 3 and 4 is not necessary. The applicant is proposing the Eola UC-IC Zoning District to implement the proposed Unincorporated Community Industrial PCCP designation. Polk County's Eola UC-IC zone was acknowledged to be compliant with OAR and Goal 14 requirements established by DLCD in 2000 (OAR 660-004-0040).

- (8) **The road function, classification, capacity and existing and projected traffic volumes have been considered. To allow comprehensive plan map and zone map amendments that may generate trips up to the planned capacity of the transportation system, Polk County will consider road function, classification, road capacity and existing and projected traffic volumes, as criteria for comprehensive plan map and zone map amendments. [PCZO 111.275(H)]**

The subject property has frontage along Highway 22, which is designated as a principal arterial in the Polk County *Transportation Systems Plan*. The applicant proposes to change the zoning of the subject property from Eola UC-C to Eola UC-IC. The net effect of this change would be to allow some industrial use of the subject property in addition to the currently permitted commercial uses. In general a successful industrial operation does not require the high volume of visiting customers, and vehicle trips, that a successful commercial operation requires. The proposed zone change would allow the property to be used for additional uses, including those which generally require fewer vehicle trips. The applicant forecasts that the proposed use of the property would generate 30-35 vehicle trips per day, and no new roads or accesses would be required to serve the proposed use. Based on the applicant's projections, the amount of traffic that would result from approval of these applications would not change the functional classification of Highway 22. The Hearings Officer finds that this criterion has been satisfied.

### CONCLUSIONS

Based on the review and decision criteria identified above, the applications submitted for the proposed PCCP amendment and zone change;

- (a) Have followed the proper review process through a public hearing before the Polk County Hearings Officer for a recommendation to the Polk County Board of Commissioners,
- (b) Have findings to support the proposed change to the PCCP,
- (c) Are compatible with the proposed zoning designation as stated in the PCZO,
- (d) Include property that is served by adequate public facilities for transportation, emergency, school, and electric power services, and
- (e) Do not require an exception to the Statewide Planning Goals.

### RECOMMENDATION

Staff and the Hearings Officer recommend that the Board of Commissioners approve the applications, and change the PCCP designation from Unincorporated Community Commercial to Unincorporated Community Industrial; and, change the zoning classification from Eola Unincorporated Community Commercial to Eola Unincorporated Community Industrial Commercial, subject to the following conditions of approval:

- (1) Prior to development of the subject property, the property owner shall obtain all necessary

federal, state, and county permits, prior to release of building permits. These permits may include, but are not limited to, the following: Planning permits from the Polk County Planning Division; building, electrical and plumbing permits from the Polk County Building Division; septic permits from the Polk County Environmental Health Division; and, an access permit from the ODOT.

- (2) Any development that occurs on the subject property shall be established in accordance with the provisions for development within the Eola Unincorporated Community Industrial Commercial Zone as required in PCZO Chapter 112. Required setbacks are listed in PCZO 112.410(A).
- (3) If water is to be provided by a community water system, a "Statement of Water Availability" shall be submitted prior to building permit issuance. The applicant shall comply with all applicable state and federal water laws.

Dallas, Oregon, March 3, 2010.



Robert W. Oliver

Polk County Hearings Officer

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**Polk County Community Development**

Polk County Courthouse  
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TO:

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