



Oregon

Theodore R. Kulongoski, 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

02/25/2011

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 006-10

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, March 10, 2011

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
Katherine Daniels, DLCD Farm/Forest Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA

DLCD

Notice of Adoption



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 10-05 & ZC 10-06**

Date of Adoption: **2/16/2011**

Date Mailed: **2/17/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 10/22/2010

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 amendments consist of a Comprehensive Plan Map amendment from Forest to Farm/Forest and a Zoning Map amendment from Timber Conservation (TC) to Farm Forest Overlay (FFO).

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Forest**

to: **Farm/Forest**

Zone Map Changed from: **Timber Conservation**

to: **Farm Forest Overlay**

Location: 1600 North Oak Grove Road, Salem, OR

Acres Involved: **162**

Specify Density: Previous: **80 acre minimum parcel size** New: : **80 acre minimum parcel size**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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.

1
2
3
4
5 **BEFORE THE BOARD OF COMMISSIONERS**
6 **FOR THE COUNTY OF POLK, STATE OF OREGON**

7
8 In The Matter of Plan Amendment PA 10-05 and)
9 Zone Change ZC 10-06 on an approximately)
10 162.2 Acre Property Zoned Timber Conservation at)
11 Township 7S, Range 4W, Section 14, Assessment)
12 Map Tax Lot 500 and Township 7S, Range 4W,)
13 Section 15, Assessment Map Tax Lot 1900)
14

15 **ORDINANCE NO. 11-01**

16
17 **WHEREAS**, the Board of Commissioners held a public hearing on February 2, 2011
18 with due notice of such public hearing having been given, and provided an opportunity for public
19 comments and testimony; and
20

21 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
22 Amendment PA 10-05 and Zone Change ZC 10-06 from the Polk County Hearings Officer based
23 upon his public hearing and conclusions; and
24

25 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
26 Amendment PA 10-05 and Zone Change ZC 10-06 from Polk County Planning staff based upon
27 the findings and evidence in the record; and
28

29 **WHEREAS**, the Board of Commissioners publicly deliberated on February 2, 2011 and
30 unanimously passed a motion to approve Plan Amendment PA 10-05 and Zone Change ZC 10-
31 06; now, therefore:
32

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

34
35 Sec. 1. That Polk County adopts the findings for Plan Amendment PA 10-05 and Zone
36 Change ZC 10-06 located in the Hearings Officer's recommendation as shown on
37 Exhibit C.
38

39 Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for the
40 subject property from Forest to Farm/Forest as shown on Exhibit A.
41

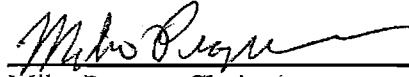
42 Sec. 3. That Polk County amends the Polk County Zoning Map for the subject parcel
43 from Timber Conservation (TC) to Farm Forest Overlay (FFO) as shown on
44 Exhibit B.
45

46 Sec. 4. An emergency is declared, and the provisions of this ordinance become effective
47 upon its adoption.
48
49


1111217

1
2 Dated this 16th day of February 2011 at Dallas, Oregon.
3
4

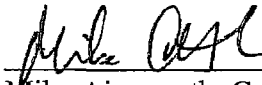
5 POLK COUNTY BOARD OF COMMISSIONERS
6
7
8

9
10 

11 Mike Propes, Chair
12

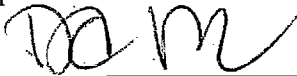
13 
14
15

16 Craig Pope, Commissioner
17

18
19 
20

21 Mike Ainsworth, Commissioner
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

38 Approved as to form:

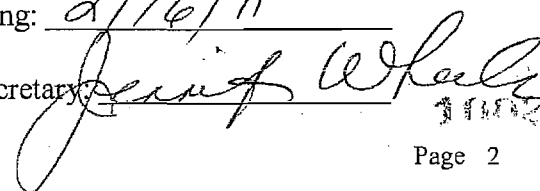
39 

40
41 David Doyle
42

43 County Counsel

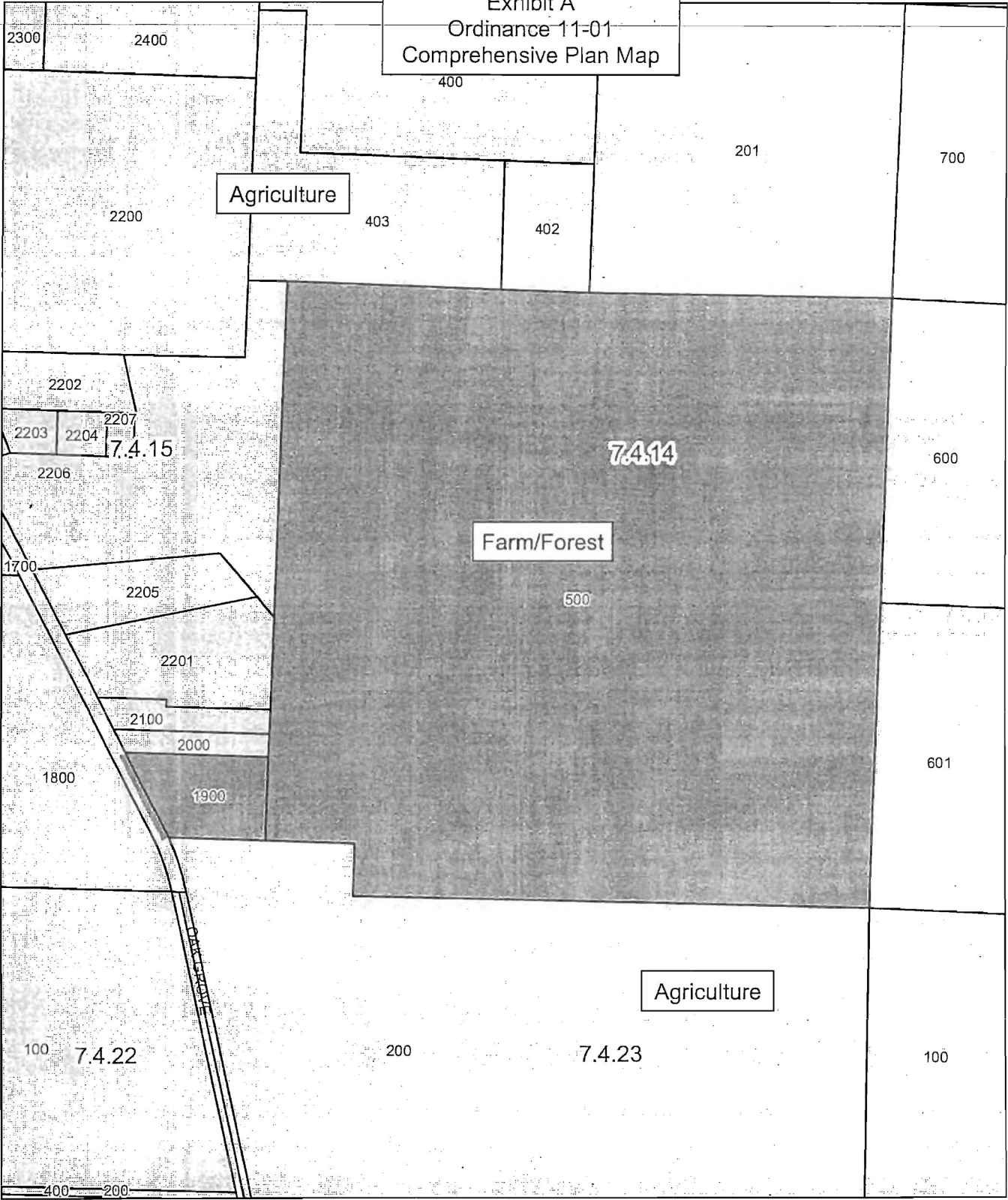
44 First Reading: 2/14/11

45 Second Reading: 2/16/11

46
47 Recording Secretary: 
48
49

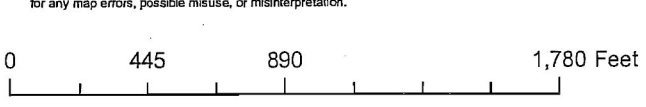
812011

Exhibit A
Ordinance 11-01
Comprehensive Plan Map



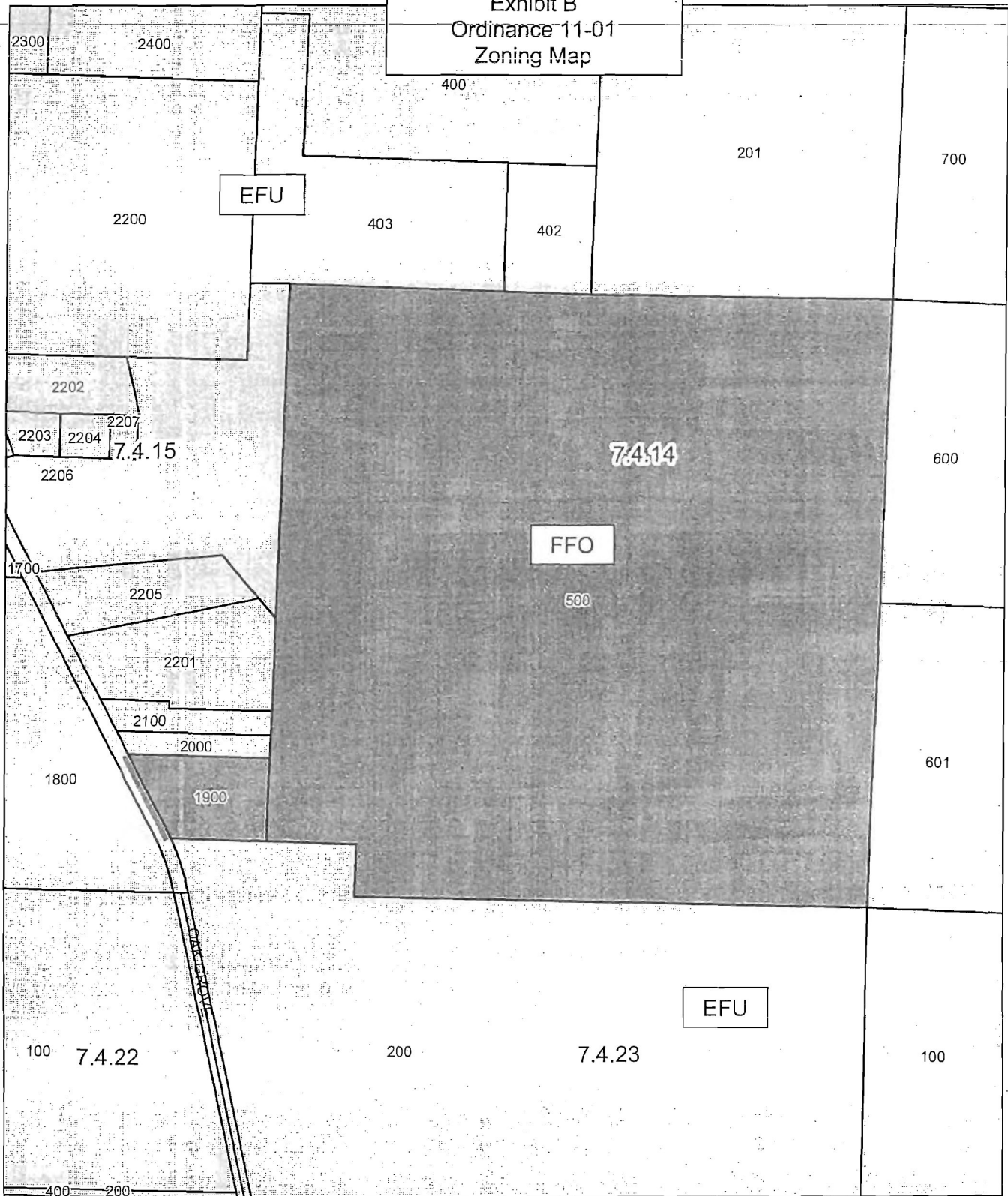
This map was produced from the Polk County geographic databases to support its governmental activities. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. The County is not responsible for any map errors, possible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

- 6-8 6-7 6-6 6-5 6-4 6-3
- 7-8 7-7 7-6 7-5 7-4
- 8-8 8-7 8-6 8-5
- 9-8 9-7 9-6 9-5 9-4
- 10-8 10-7 10-6 10-5



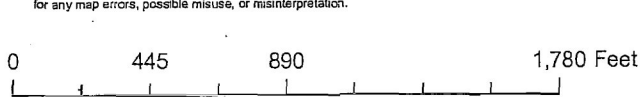
11/19/19

Exhibit B
Ordinance 11-01
Zoning Map



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.

- 6-8 6-7 6-6 6-5 6-4 6-3
- 7-8 7-7 7-6 7-5 7-4
- 8-8 8-7 8-6 8-5
- 9-8 9-7 9-6 9-5 9-4
- 10-8 10-7 10-6 10-5



100220

JAN 12 2011
POLK COUNTY
COMMUNITY DEVELOPMENT

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

In the Matter of the Application of) Plan Amendment 10-05
Eola Hills Wine Cellars, Inc.) Zone Change 10-06

SUMMARY OF PROCEEDINGS

This matter arose on the application of Eola Hills Wine Cellars, Inc. for an amendment to the Polk County Comprehensive Plan (PCCP) to change the designation of a 162.2-acre property from Forest to Farm Forest, and for a zoning map amendment to change the zoning of that property from Timber Conservation (TC) to Farm Forest Overlay (FFO). The subject property is located at 1600 North Oak Grove Road, Salem, Oregon, and is legally described as tax lot 500, section 14, T7S, R4W, WWM, and tax lot 1900, section 15, T7S, R4W, WWM. The applicable review and decision criteria are Polk County Zoning Ordinance (PCZO) 111.275, 111.140 and 115.050.

The applicant is requesting a PCCP amendment and a Zoning Map amendment for an approximately 162.2-acre property. The subject property is currently designated Forest on the PCCP Map and Timber Conservation (TC) on the Zoning Map. The applicant is proposing to change the PCCP designation of the subject property to Farm Forest and the zoning to Farm Forest Overlay (FFO). As stated in the applications, the primary purpose is to allow the property owner the option to establish a winery on the subject property. The proposed FFO zone allows a winery as a use subject to administrative review. Based on the information in the applications, the subject property contains approximately 65 acres of wine grapes, and the applicant intends to plant an additional 20 acres during the next two years. The applicant reports that the steep, north-facing slopes on the subject property are unsuitable for growing grapes, and they will be replanted with timber.

The applications were submitted complete on October 19, 2010. The Department of Land Conservation and Development (DLCD) 45-day notice was mailed on October 22, 2010. The Hearings Officer Hearing was held January 4, 2011 at 6:00 PM, and the Board of Commissioners Hearing is scheduled for February 2, 2011 at 9:00 AM.

The subject property currently is designated Forest in the PCCP, and zoned Timber Conservation. All adjacent properties are designated Agriculture, and zoned Exclusive Farm Use (EFU).

The subject property was lawfully created pursuant to Polk County Subdivision and Partition Ordinance Section 91.950(b) as a remainder of a parcel that was partitioned as depicted in Book of Record 139, Page 952 dated May 18, 1979. Based on a review of the Polk County Assessor records, the subject property contains one dwelling and one accessory structure. The dwelling was permitted by Polk County Planning Authorization FORD 94-1. Based on a review of Polk County Planning records, the subject property was approved in 1994 for a PCCP amendment from Agriculture to Forest, and Zoning Map amendment from EFU to TC. Those approvals are identified as PA 94-5 and ZC 94-5.

Based on a review of the Polk County Significant Resource Areas Map, the McNary Branch of Muddy Slough crosses the northern northwest corner of the subject property, and is identified as a fish-bearing stream. Based on a review of the National Wetland Inventory map, Rickreall quadrangle, the McNary Branch and an unnamed tributary to the McNary Branch are identified significant riparian areas. This request does not include a review of any specific new development. However, development within a riparian setback area may be prohibited or require county, state, and/or federal permits. As described in PCZO 182.050(B)(2); the size of the wetland/riparian setback ranges between 25 and 100 feet based on the type and size of the wetland. Any future non-structural development activity that is identified as a conflicting use in PCZO 182.070 within a riparian setback area would require a management plan filed with the Polk County Planning Division. Such development may also require state or federal permits. If a management plan is required, the applicant shall coordinate the plan with

100221

Department of State Lands (DSL) and other appropriate state and federal agencies. Structural development is prohibited within the riparian setback area. Within the riparian setback area, all trees and at least 50 percent of the understory shall be retained, excluding the exceptions authorized pursuant to PCZO 182.050(B)(1)(a-e). The property owner is responsible for obtaining any necessary county, state and federal permits prior to commencing development.

Based on Polk County's soil report for the subject property (Attachment D of the Staff Report), the subject property contains approximately 31.32% high value soils and 68.68% not high value soils. The subject property is cable of annually producing approximately 111.75 cubic feet of wood fiber per acre.

Notice of the January 4, 2011, public hearing before the Polk County Hearings Officer and the February 2, 2011, public hearing before the Board of Commissioners was provided as required by PCZO 111.340-111.370. Notice was mailed to property owners located within 750 feet of the outside perimeter of the subject property on December 9, 2010. Notice was printed in the Dallas, Oregon, *Itemizer-Observer* Newspaper on December 15, 2010. Notice was posted on the subject property on December 15, 2010.

The subject property has frontage along Oak Grove Road, a major collector as designated in the *Polk County Transportation Systems Plan*, figure 3. The western portion of the subject property is located in the area served by the Rickreall Water Cooperative. The subject property is served by a private sewage (septic) disposal system.

The Polk County Public Works Department states that Oak Grove Road is a minor collector of ADT 500-1500. The most recent ADT determination was 690 in the summer of 2010. No road improvements are required at this time. A new access permit will be required for any change of use of the property.

The Polk County Environmental Health Division finds no septic records for tax lot 500. For tax lot 1900, there is a construction permit for a Capping Fill System with a 1000-gallon tank with 450 feet of drainage. The drainfield was approved in November 1994. No dwelling.

No other written comments were received prior to the public hearing.

PUBLIC HEARING

A duly advertised public hearing was held in the Polk County Courthouse, Dallas, Oregon, on the evening of January 4, 2011. Applicant appeared through two of its officers, and was represented by Peter Idema, a land use consultant. No member of the public attended. Attending also were members of the county planning staff and the Hearings Officer. There were no objections as to jurisdiction, notice, or conflict of interest. The Hearings Officer recited the admonitions require by law and ordinance. Jerry Sorte, author of the Staff Report, recited the applicable decision criteria and summarized his findings and recommendation for approval of the application.

Idema spoke for the applicant, stating that his client agreed with the Staff Report.

No one else asked to be heard on the application. There was no request to hold the Record open for additional evidence, or for a continuance.

The Hearings Officer declared the Record closed, and declared the hearing adjourned.

Robert W. Oliver, Polk County Hearings Officer, was given authority by the Polk County Board of Commissioners to conduct the hearing and submit a recommendation.

FINDINGS

The review and decision criteria for a PCCP Map amendment and a Zoning Map amendment are provided under PCZO 115.050 and 111.275. Under those 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. Staff findings and analysis are included in the Findings below. The applicant proposed findings that are summarized below. The applicant's findings are also included as Attachment D of the Staff Report.

(Comprehensive Plan Amendment)

Amendments to the Comprehensive Plan Map must meet one or more of the following criteria: [PCZO 115.050(A)]

- 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)]**

Applicant says that when the PCCP was first adopted and acknowledged by the State of Oregon as part of the statewide planning program the subject property was designated Agriculture. This was consistent with the surrounding properties, which still have Agriculture designations. However, in 1994, the property owner requested a PCCP map amendment to Forest designation. At that time the property was owned by Zena Timber Company ("Zena"). While it was their stated intention to manage the parcel for growing and harvesting timber, the company also sought an amendment to obtain approval for a forest dwelling.¹

When the property went through the mapping amendment process in 1994, a Farm/Forest designation was considered. However planning staff noted on page 6 of the staff report that it was unclear at that time whether the mixed-use Farm/Forest designation would be retained by Polk County, due to new rules that were promulgated under House Bill 3661 (1994).

The Applicant in the present proceeding purchased the property in April 2008. Since then, 65 acres have been planted into wine grapes, predominately Pinot Noir. An additional 20 acres will be planted over the next two years. Because steep and north-facing slopes are unsuitable for growing grapes, those slopes will be replanted with Douglas fir and other suitable species.

The Applicant's plans for this property include an on-site winery and tasting room to help market the wines from this location. The winery cannot produce more than 100,000 gallons per year, or up to 40,000 cases.² The Applicant is not intending the winery to be nearly so large. More likely it will produce no more than 50,000 gallons per year, or up to 20,000 cases.

Topographically the property is within the Eola Hills, with elevations ranging from 320 feet (above mean sea level) on the west side to over 800 feet on the eastern boundary. Slopes range from 12 to 60 percent. Most of the property is oriented in a generally westward direction. According to the Natural Resources Conservation Service's soil survey for Polk County (1982), the four predominant soil series are Ritner, (45%), Nekia, (29%), Chehulpum (10%) and Jory (9%). The combination of topography, slope aspect, and soil types makes the property highly suitable for a vineyard.

Amending the PCCP designation to Farm/Forest is appropriate considering that the land use has reverted from the primary purpose of growing wood fiber to more of a mixed farm and forest use, with a vineyard being the primary farming activity, while much of the unfarmed portions will be of a forestry use.

Polk County recognizes that PCCP are not static documents and states, in part: "*The Plan...allows for flexibility in decision making as future circumstances are bound to change. As new information comes to light, objectives and priorities are altered, and goal and policies are modified, the Comprehensive Plan will change... The Plan is intended to influence and be*

¹ County files PA 94-5, ZC 94-5, and FORD 94-1.

² ORS 215.542.

111223

responsive to change rather than restrict opportunities for change."³

Applicant asserts the Forest PCCP designation is no longer appropriate because it does not reflect how a majority of the property is being managed and restricts an important allowed use associated with a vineyard, which is a winery and so the application complies with criterion "b" (PCZO 115.050(A)(1-2)).

Staff notes that the applicant is proposing this PCCP map amendment under the assertion that the current designation of Forest is no longer appropriate due to changing conditions in the surrounding area. The applicant emphasizes that the property is used for a mix of agricultural and forestry uses. The subject property is primarily managed for vineyard use. The applicant states in addressing the zone change criteria, which is also relevant here:

While the immediate surrounding properties are still zoned Exclusive Farm Use, in reality the land usage in this area is a mixture of different types of forestry and agricultural operations with scattered rural residences, predominately along Oak Grove Road. There are a number of other vineyards and wineries that have developed along Oak Grove in recent years. An additional winery along this route provides an incentive for persons taking wine tours to include this area on their itinerary.

Here the applicant supports the redesignation of the subject property by citing the increase in the number of wineries in the area. The growing number of wineries in the Eola Hills region, and Polk County in general, reflects a market for Polk County wines that has expanded since the property was designated for forest use in 1994. According to the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS)⁴, Polk County had 42 vineyards and 15 wineries in 1994. Those numbers increased to 71 vineyards and 32 wineries in 2009. In 1994, Polk County had 949 acres planted in wine grapes that produced a harvest of 2,046 tons. In 2009, Polk County had 2,769 acres planted in wine grapes that produced a harvest of 4,770 tons. The increase in acreage planted in vineyards, number of wineries, and wine grape harvest levels in Polk County demonstrate that agricultural markets have changed in the past 16 years. The Farm Forest PCCP designation, which would be implemented by the FFO zone, would allow the applicant to establish a winery on the subject property and take advantage of the growing wine market. The applicant could also manage the property for an array of farm and forest uses.

Based on the above, the Hearings Officer finds that the application complies with 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. Polk County will provide for the protection of productive forest lands. Designated forest lands will be areas defined as one of the following:
 - i. Predominately Forest Site Class I, II and III, for Douglas Fir as classified by the U.S. Soil Conservation Service;
 - ii. Suitable for commercial forest use;
 - iii. In predominately commercial forest use and predominately owned by public agencies and private timber companies;
 - iv. Cohesive forest areas with large parcels;

³ Polk County Comprehensive Plan (July 1, 2009), p.11.

⁴ Oregon's Vineyard and Winery reports produced by the USDA NASS are available online at http://www.nass.usda.gov/Statistics_by_State/Oregon/Publications/Vineyard_and_Winery/index.asp

- v. Necessary for watershed protection;
 - vi. Potential reforestation areas; and
 - vii. Wildlife and fishery habitat areas, potential and existing recreation areas or those having scenic significance. [PCCP Section 2, Forest Lands Policy 1.1]
- b. Polk County shall designate forest lands on the Comprehensive Plan Map consistent with Goal 4 and Oregon Administrative Rules Chapter 660, Division 6. [PCCP Section 2, Forest Lands Policy 1.2]
 - c. Polk County will endeavor to conserve for agriculture those areas which exhibit a predominance of agricultural soils, and an absence of nonfarm use interference and conflicts. [PCCP Section 2, Agricultural Lands Policy 1.1]
 - d. Polk County will place lands designated as agriculture on the Comprehensive Plan Map consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33 in an exclusive farm use zoning district. [PCCP Section 2, Agricultural Lands Policy 1.2]
 - e. It is the intent of the Farm/Forest designation to provide an opportunity for the continuance and the creation of large and small scale commercial farm and forestry operations. It is also intended that the addition and location of new structures and improvements will not pose limitations upon the existing farm and forest practices in the area or surrounding area and that additional density will not adversely affect the agricultural or forestry operations of the area through the increased use of roads, demands for ground water during the growing season, or demands for increased levels of public facilities and services.

It is the specific intent of the Farm/Forest Plan designation to ensure that land use actions are consistent with definitions of agricultural and forest lands contained within the Polk County Comprehensive Plan. The Farm/Forest Plan designation will be implemented through the use of the Farm/Forest (F/F) Zone which includes areas designated as Farm/Forest Overlay on the zoning map. [PCCP Section 4].

Applicants contend that according to Section 4 of the PCCP, the Farm/Forest designation applies to lands which, for the most part, are situated between the relatively flat agricultural areas and the foothills of the coast range. The intended purpose of the Farm/Forest designation is to: *“provide an opportunity for the continuance of large and small scale commercial farm and forestry operations.”*⁵ The PCCP further states that these *“lands are generally hilly, heavily vegetative, and have scattered residential development.”* The subject property meets these requirements.⁶

The Farm/Forest PCCP designation recognizes agriculture and forestry as appropriate resource activities. Therefore the amendment needs to be consistent with both provisions of the PCCP. The amendment is also consistent with the requirements of Section 2-B regarding agricultural lands, which contains three goals:

1. *To preserve and protect agricultural land within Polk County;*
2. *To diversity agriculture within Polk County; and*
3. *To preserve and protect those resources considered essential for the continued stability of agriculture within Polk County.*⁷

⁵ Comprehensive Plan, p. 68.

⁶ Comprehensive Plan, pp. 67-68.

⁷ Comprehensive Plan, p. 15.

11/17/25

These goals are supported by specific policies. The sections and policies relevant to the application are:

- 1.1 *Polk County will endeavor to conserve for agriculture those areas which exhibit a predominance of agricultural soils, and absence of nonfarm use interference and conflicts.*
- 1.2 *Polk County will place lands designated as agriculture on the Comprehensive Plan Map consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33, in an exclusive farm use zoning district.*
- 1.4 *Polk County will permit those farm and non-farm uses in agricultural areas authorized by Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules, Chapter 660, Division 33.⁸*

Applicant further argues that vineyards and wineries are becoming increasingly important to Polk County in its efforts to diversify and strengthen its agriculture economy. While the site mostly contains soils that are typically not considered high value for most types of farm crops, those soils are excellent for wine grapes, especially for Pinot Noir.

As previously stated, at the time the PCCP was acknowledged by the State, the property's former designation was Agriculture. This was amended in 1994 to Forest, because Zena intended to use the land for commercial tree production and to site a forest dwelling, which was not authorized in the EFU zone.⁹ Currently, the primary land use is agriculture with portions remaining as forest use. In conclusion, amending the PCCP designation to Farm/Forest with the FFO Zone is appropriate with how the land is being managed at this time.

The application also conforms to the requirements of Section 2-C, relating to forest lands, which contains two goals:

Section 2-C-Forest of the PCCP contains two goals:

1. *To conserve and protect, and encourage the management of forest lands for continued timber production, harvesting and related uses.*
2. *To conserve and protect watershed, fish and wildlife habitats, riparian areas and other such uses associated with forest lands.¹⁰*

These goals are supported by specific policies. Relevant policies to the application are:

- 1.8 *Polk County will encourage the conservation and protection of watersheds and fish and wildlife habitats on forest lands in Polk County in accordance with the Oregon Forest practices Act.*
- 1.5 *Polk County will encourage the reforestation of cut-over timber lands and the forestation of marginal agricultural lands.¹¹*

Applicant notes there are two springs that originate on the subject property. The larger spring is located in the northern portion of the property and is referred on Polk County's GIS map as the McNary Branch. It flows into Muddy Slough, which is several miles to the southwest. This waterway has been identified as a fish-bearing stream by the Oregon Department of Fish and Wildlife (ODFW). The applicant intends to maintain the existing riparian vegetation in this area to help protect this tributary and its status as identified by ODFW.

The second spring is a smaller spring on the property. The applicant obtained the right to draw water from the spring and a pipe from that spring serves an existing pond. The pond, in addition to providing a nice ambiance to this spectacular setting, could be used for irrigation during periods of prolonged draught. It could also be used if there was a wild fire. This spring also provides water to

⁸ Comprehensive Plan, pp. 15-16.

⁹ The EFU zone corresponds to the Agriculture Plan designation.

¹⁰ Comprehensive Plan, p. 17.

¹¹ Comprehensive Plan, pp. 18-19.

111226

two green houses. The Oregon Water Resources Department has issued a surface right permit for impounding 9.9 acre feet of water.¹²

Past administrative findings for the previous map amendments to the property show that, *the land is not part of a watershed for drinking water, nor is there any significant fish or wildlife habitat.*¹³

Other portions of the subject property which are considered marginal agricultural lands and unsuitable for a vineyard include excessively steep slopes and sites where there is inadequate sun exposure. These areas will be replanted into appropriate tree species, predominately Douglas fir, in keeping with Forest usage.

Staff notes that the applicant is proposing to change the PCCP Map designation of the subject property from Forest to Farm Forest. The Farm Forest designation implements both the Agricultural Land and Forest Lands PCCP goals and policies. The Farm Forest designation would be appropriate for the subject property because it contains both agricultural land and forest land. Based on a review of Polk County Planning records, the subject property was zoned EFU from 1980 to 1994, and was acknowledged by the state to be consistent with the statewide planning goals. In 1994, the subject property was approved for a PCCP Map amendment (PA 94-1) from Agriculture to Forest and a Zoning Map amendment (ZC 94-1) from EFU to TC. The Polk County Board of Commissioners adopted the Hearings Officers findings in Ordinance 94-16 and found that the subject property was generally unsuitable for production of agriculture and livestock due in large part to the steep slopes on the subject property. Staff at the time reported that the Farm Forest PCCP designation could not be applied to the subject property due to the passage of HB 3661. The Board of Commissioners found that the subject property met the definition of forest land under PCCP Forest Land Policy 2.1; which is substantively the same as current PCCP Forest Land Policy 1.1. Those proceedings recognized the subject property as forest land and zoned the property to allow an array of forestry uses.

The Farm Forest PCCP designation also implements the PCCP Agricultural Lands goals and policies. The applicant has provided evidence to demonstrate that the subject property is considered agricultural land. Oregon Administrative Rule (OAR) 660-033-0020(1) defines agricultural land as follows:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

¹² Approximately 75 percent of this water right is currently in use.

¹³ Administrative Action 94-8, Finding no. 4, p. 942392.

1111227

Based on the Polk County soil report for the subject property (Attachment D of the Staff Report), the subject property contains approximately 45 percent Class I-IV soils. While the subject property does not contain predominantly Class I-IV soils, the applicant indicates that the subject property is well suited for growing wine grapes. The subject property is predominantly used for the operation of a vineyard, which is a farm use as defined in ORS 215.203(2)(a). The subject property is now planted with approximately 65 acres of wine grapes and 20 additional acres will be planted over the next two years. Based on the applicant's plot plan, at least 15 acres of the existing vineyard is located on Class V and greater soils. Based on the soils and the existing land use patterns on the subject property, staff concluded that the subject property is "agricultural land."

In evaluating this property, staff was unsure in 1994 if the Farm Forest designation could be applied to the subject property due to the passage of HB 3661 in 1993. LCDC has subsequently acknowledged PCCP. This confirms that the PCCP's land use designations, including the Farm Forest designation, are consistent with state law. With respect to lands that are both agricultural land and forest land, OAR 660-006-0015(2) states:

When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation. [OAR 660-006-0015(2)]

The subject property satisfies the definition requirements of both agricultural land and forest land. Based on the history of the management of this property, and the information submitted by the applicant, staff agrees with the applicant that the Farm Forest designation is appropriate. Previous property owners demonstrated in 1994 that the land is suitable for commercial forestry, and managed the property as a commercial forestry operation. As demonstrated by the applicant, the subject property is also clearly suitable for farm use. The Farm Forest designation, which would be implemented by the FFO zone, would allow the subject property to be used for an array of both commercial forestry and agricultural purposes.

The applicant points out that the subject property contains an identified significant fish bearing stream and significant wetlands. If this application is approved, PCZO Chapter 182 would continue to apply to the development on the subject property. PCZO Chapter 182 provides development standards and restrictions for activities in proximity to these Goal 5 resources. The FFO zone, which would implement the Farm Forest PCCP designation has been acknowledged by the state to be consistent with both Goals 3 and 4.

It is the intent of the Farm Forest designation to provide an opportunity for the continuance and the creation of large and small scale commercial farm and forestry operations. It is also intended that new permitted structures not pose limitations upon the existing farm and forest practices in the area or surrounding area and that additional density will not adversely affect the agricultural or forestry operations of the area through the increased use of roads, demands for ground water during the growing season, or demands for increased levels of public facilities and services.

As described by the applicant, the proposed Farm Forest PCCP designation and corresponding FFO zoning would facilitate the continuance of the vineyard operation, and establishment of a winery, on the subject property. A winery would allow an additional location and method for the property owner to process and market the wine produced from the grapes grown on the subject property. The proposed FFO zone, which implements the Farm Forest PCCP designation, has an 80 acre minimum parcel size. That is the same as the current TC zone. Consequently, the proposed change would not increase the potential parcel density of the subject property.

Based on the findings above, staff concluded that applying the proposed Farm Forest PCCP designation to the subject property would be consistent with the goals and policies of the PCCP. The Hearings Officer agrees, and so finds.

- 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**

100228

Oregon Administrative Rules, Chapter 660, Division 4 shall apply; and [PCZO 115.050(A)(3)(b)]

Applicant contends that a PCCP amendment from Forest to Farm/Forest does not require a goal exception if the corresponding zone designation is Farm/Forest with a Farm/Forest Overlay.¹⁴ The Application must, however, still be found in compliance with the Statewide Planning Goals and related Oregon Administrative Rules. For a PCCP amendment, the Transportation Planning Rule (TPR) still needs to be considered under Goal 12-*Transportation* (OAR-660-012-0000-0070):

Applicant's proposed findings addressing the Statewide Goals and the TPR are contained in Exhibit A of the Staff Report and are made part of the Record.

The Application complies with criterion "C-2" (PCZO 115.050(A)(3)(b)).

(Statewide Planning Goals Compliance)

Applicant submitted Exhibit A of the Staff Report in support of its application for a PCCP amendment to the subject property. In such applications, Polk County must determine that the application is in compliance with the PCZO, Oregon Revised Statutes (ORS), Statewide Planning Goals, and related Oregon Administrative Rules (OAR) that apply to particular properties or situations. If an exception to one or more of the goals is necessary, the exception criteria in OAR Chapter 660, Division 4 shall apply.¹⁵

The Statewide Planning Goals and related administrative rules are addressed below:

GOAL 1 – *Citizen Involvement*: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

(Applicant's Findings/Conclusion): PCZO Chapter 111 specifies the procedure for the public to be notified and to participate in the public hearings required for the proposed PCCP and Zoning Map amendment.¹⁶ The Polk County Hearing Officer will conduct the initial hearing.¹⁷ The Board of County Commissioners will conduct its own hearing *de novo* prior to a final decision being rendered.¹⁸ This goal is met.

GOAL 2 – *Land Use Planning*: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

(Applicant's Findings/Conclusion): This goal requires that city, County, State and Federal agency and special district plans and actions related to land use be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268. This goal also sets forth the procedures for taking an exception when resource lands are proposed to be put into a non-resource use.

No goal exception is required, because the applicant is seeking the FFO Zone, which will maintain an 80-acre minimum parcel size. Polk County's land use procedures and its PCCP implementing ordinances have been determined to be in compliance with the Statewide Planning Goals. This goal is met.

GOAL 3 – *Agricultural lands*: To preserve and maintain agricultural lands.

(Applicant's Findings/Conclusion): While agricultural land in western Oregon is generally land of predominantly Class I, II, III, and IV soils, as identified in the Soil Capability Classification System of the United States Soil Conservation Service (1982), agricultural lands can also include

¹⁴ The F/F Overlay maintains an 80 acre parcel minimum.

¹⁵ PCZO 115.050(A)(3)(b) and PCZO 111.275(G).

¹⁶ PCZO 115.030(C).

¹⁷ PCZO 115.030(B).

¹⁸ PCZO 115.030(C).

1111229

other lands that are suitable for farm use. That classification includes taking into consideration soil fertility, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, any technological and energy inputs required, or accepted farming practices.

The Farm/Forest PCCP designation will be implemented through the adoption of a corresponding FF zone with a FFO overlay, which will maintain the 80-acre minimum parcel size.

When Polk County adopted its PCCP in compliance with the Statewide Planning Goals and submitted it to the State Land Conservation and Development Department (DLCD), the subject property and all of the surrounding lands had an Agriculture PCCP designation. This area is a mixture of medium to small scale forestry and agriculture. In many cases either use qualifies as suitable land uses depending on the individual owner's objectives.

The Applicant has changed the use of the property from growing trees for wood fiber to a vineyard, while maintaining existing trees along a riparian corridor. The Applicant also intends to replant suitable tree species on previously logged slopes not appropriate for vineyard use. This represents a long-term commitment to a mixed farm and forest use. Therefore, changing the PCCP designation of the Property into a Farm/Forest designation and rezoning it to FF with a FFO Overlay is consistent with this goal. This goal is met.

GOAL 4 – Forest Lands: To conserve forest lands for forest uses.

(Applicant's Findings/Conclusion): While the identified soil types on the property make it suitable for growing trees commercially, those same soil types are also excellent for vineyards. Either is an appropriate land use. The portion of the property currently forested is a riparian area that will be protected. Other areas less suitable for growing grapes are to be replanted into Douglas fir and other appropriate tree species. This goal is met.

GOAL 5 – Open Space, Scenic and Historic Resources and Natural Resources: To conserve open space and protect natural and scenic resources.

(Applicant's Findings/Conclusion): The Polk County Goal 5 Significant Resources map and the National Wetlands Inventory (NWI) maps indicate a couple of wetlands and a fishing-bearing stream. The identified fish-bearing stream is located in the northern quarter half of the property. It is referenced on Polk County's Geographic Information Systems map as the McNary Branch, which flows into Muddy Slough several miles to the southwest. The Applicant will protect this area by maintaining vegetation and other surroundings along the riparian corridor.

PCZO Chapter 182 is one of the primary ordinances that implements Goal 5.¹⁹ That chapter identifies specific "conflicting uses" with those resources that require a management plan. Any conflicting uses require those resources to be coordinated with the applicable state and federal agencies.²⁰ Riparian setbacks standards are also listed in PCZO Chapter 182. The PCCP and Zone Map amendments do not require an Economic, Social, Environmental, and Energy (ESEE) analysis. However, future development would be subject to Chapter 182.²¹

Currently none of the property is designated as an open space, cultural, or historic site by the PCCP. The proposed mapping changes are not in conflict with Goal 5. This goal is met.

GOAL 6 – Air, Water, and Land Resource Quality: To maintain and improve the quality of the air, water, and land resources of the state.

(Applicant's Findings/Conclusion): Vineyards, as an agricultural activity, are regulated primarily by the Oregon Department of Agriculture²². The Applicant will follow best management

¹⁹ PCZO 182.010, *et seq.*

²⁰ See also OAR 660-23-000 *et seq.*

²¹ PCZO 182.080.

²² Other State agencies that may have some jurisdiction would include Department of Environmental Quality, Water Resources Division, Department of Fish and Wildlife, and Department of Forestry.

practices in terms of applying chemicals, protecting riparian corridors, and preserving air and water quality. This goal is met.

GOAL 7 – *Areas subject to Natural Disasters and Hazards:* To protect life and property from natural disasters and hazards.

(Applicant's Findings/Conclusion): Polk County does not have an adopted landslide hazard map. However, steep slopes do exist on portions of the property, which range from nearly level up to 60 percent. The Applicant intends to replant trees on sites not appropriate for a vineyard to help ensure slope stability. Vineyard grapes are laid out along contours to capture moisture and reduce soil erosion. This goal is met.

GOAL 8 – *Recreational Needs:* To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

(Applicant's Findings/Conclusion): The Applicant is not intending to provide recreational facilities or develop a destination resort. Therefore, this goal does not apply.

GOAL 9 – *Economy of the State:* To diversify and improve the economy of the state.

(Applicant's Findings/Conclusion): In the early 1980s, approximately 30 wineries existed in Oregon. By the year 2000, more than 200 wineries were in operation, and by 2009 there were nearly 400 wineries and 800 vineyards in Oregon. Currently, Oregon has 17,400 acres planted in various types of wine grapes and more than 1.5 million cases are produced each year, making wine a \$200 million industry. Wine tourism is estimated to be worth over an additional \$100 million every year. This industry has become one of the State's most important agricultural commodities.²³ This goal is met.

GOAL 10 – *Housing:* To provide for the housing needs of citizens of the state.

(Applicant's Findings/Conclusion): The Applicant is not seeking any additional dwellings. There is currently one dwelling that was authorized in 1994 when the zoning was changed from EFU to TC.²⁴ Therefore, this goal does not apply.

GOAL 11 – *Public Facilities and Services:* To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

(Applicant's Findings/Conclusion): The existing dwelling is connected to the Rickreall Water District. The Applicant has obtained water rights from the Oregon Department of Agriculture to draw water from one of the two springs that originate on the property. A pipe from the smaller spring is used to maintain water in an impoundment, which could be used for irrigation during periods of prolonged drought. The Oregon Water Resources Department has issued a surface right permit for impounding up to 9.9 acre feet of water.²⁵ The spring also provides water to two greenhouses. Future water needs can be met, by expanding use from the water district. However, it is more likely that on-site usage will be increased, if necessary, from either the spring or by drilling a well.

Oak Grove Road provides access to the Property. That road is classified by Polk County as a minor collector. A driveway under permit from Polk County serves both the existing residence and vineyard.

Average Daily Trips (ADT) on Oak Grove Road ranges from 460 to 820. If upgrades to the driveway or roadway are needed to accommodate a winery and ingress and egress for tourists, the Applicant will work with Polk County on ensuring the design meets all County standards including

²³ This economic information was taken from the book published in 2010 titled *Oregon Wine Country* by Sherry L. Moore and Jeff Welsch, pp. 14-15.

²⁴ An employee of the vineyard stays in this residence.

²⁵ Approximately 75% of this water right is currently being used.

turn around and site distance requirements.

The property is in the Southwest Polk County Rural Fire Protection District and law enforcement is provided by the Polk County Sheriff Department. The Applicant does not need any public facilities or services beyond what is currently available. This goal is met.

GOAL 12 – *Transportation*: To provide and encourage a safe, convenient and economic transportation system.

Goal 12 is implemented by OAR 660-012-0060, the Transportation Planning Rule (TPR) and the Polk County Transportation System Plan (TSP), which has been approved by the State as being in compliance with the TPR. The purpose of the TPR is to maintain a balance between the land uses allowed under a comprehensive plan or land use regulation and the transportation system that supports those uses. The TPR provides that where a comprehensive plan or land use regulation would “significantly affect” an existing or planned transportation system, the local government must create measures to assure that the uses allowed by the amendment are consistent with the “identified function, capacity and performance standards” of the affected facility.²⁶

Those requirements are implemented by the Polk County TSP, which allows a PCCP and zone map amendment that may generate trips up to a planned capacity of the transportation system.²⁷ In determining that capacity, Polk County will consider road function, classification, road capacity, and existing and projected traffic volumes, as criteria for comprehensive plan amendments.

As stated above, Oak Grove Road is classified by Polk County as a minor collector with current traffic volumes ranging from 460 to 820 average trips per day. The defines a minor collector as a roadway intended to “*collect traffic from local road and bring all developed areas within reasonable distance of a collector road; and provide service to the remaining smaller communities; and link the locally important traffic generators with their rural hinterland.*”²⁸

In reviewing the accident history of that road, there were 14 crashes reported from 2003-2007 with no fatalities.²⁹ For the entire Polk County road system, a total of 674 crashes were reported during this same period of time. This number of crashes appears to be fairly typical of this type of road in the County with similar traffic volumes. The TSP does not identify any transportation deficiencies for this road and no future needed road improvements are identified.

Goal 1 of the County’s TSP, policy 2.8 states that “*Polk County will strive to maintain a volume to capacity ratio of 0.75 or less on all County arterials and collectors and will initiate corrective action to prevent a reduced level of operation greater than 0.75.*”

Oak Grove Road is operating under capacity.³⁰ According to the recent traffic counts for this section of Oak Grove Road, the volume to capacity ratio is just 0.41. Also, traffic volumes associated with a vineyard and winery tend to be small and typically occur during off-peak hours. Saturdays and Sundays tend to be busier than weekdays, when traffic volumes generally are higher. The Applicant’s wine-tasting facility in Rickreall averages less than 25 visitors per day during the week. Even on weekends there are generally 200 or fewer visitors per day, some of whom visit via bicycle.³¹ The Applicant anticipates that a winery at this location will experience even less traffic, because of its more remote location and smaller anticipated capacity of the winery. It is also likely that some of the traffic stopping at the proposed winery will be part of wine-tasting tours that would already be traveling along this roadway due to the other wineries now present.

Goal 3 of the TSP, policy 3.2 states: “*Polk County recognizes the importance of resource related uses such as agriculture and forestry to the local economy and the need to maintain a*

²⁶ OAR 660-012-0060(1).

²⁷ Polk County TSP, p. 3-7.

²⁸ Polk County TSP, p. 5-2.

²⁹ Polk County TSP, p. 9-7

³⁰ October 5, 2010 email from Fred Lowe, Polk County.

³¹ The winery visitor information was provided by Tom Huggins, General Manager of Eola Hills Winery.

transportation system that provides opportunities for the harvesting and marketing of agricultural and forest products."³²

In addition to daily visitors the vineyard and winery are expected to employ up to five full time employees. During peak operations, such as grape harvesting season and vine pruning in the spring, up to 50 persons may be employed for short durations. Oak Grove Road has sufficient capacity to handle this small increase in traffic generated by the vineyard and winery operations. This goal is met.

GOAL 13- *Energy Conservation:* To conserve energy.

Significant research has been done in recent years on ways wineries of all sizes can make improvements in energy and environmental performances and lower overall production costs for water and energy uses.³³ The Applicant will make use of this research when designing and operating its winery operation. Since the mid-1990s, the Applicant has been a leader in encouraging bicycle tours as an alternative way in which the Oregon "wine country" can be enjoyed. That effort evolved into "Bike Oregon Wine Country" now staged every Sunday in August. This goal is met.

GOAL 14 – *Urbanization:* To provide for an orderly and efficient transition from rural to urban land use.

The Property is not located in an urban growth boundary or urban reserve. Therefore, this goal does not apply.

GOAL 15 – *Willamette River Greenway:* To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of land along the Willamette River as the Willamette River Greenway.

The Property is not located with the designated Willamette River Greenway. Therefore, this goal does not apply.

GOALS 16-19: These are coastal goals and do not apply in the County.

In conclusion, the Applicant maintains that it has demonstrated compliance with all Statewide Planning Goals, as required by the PCZO, Oregon Revised Statutes, and Oregon Administrative Rules in application of the PCCP amendment.

Staff states that the applicant is proposing a PCCP amendment and Zoning Map amendment with the primary intention of allowing a winery to be a use that could be permitted in the future. The proposal would change the PCCP designation from Forest, which implements Goal 3, to Farm Forest, which implements both Goals 3 and 4. The subject property is currently zoned TC, which has an 80-acre minimum parcel size, and the applicant is proposing the FFO zone which also has an 80-acre minimum parcel size. Consequently, the applicant's proposal does not require an exception to any statewide planning goals.

OAR 660-006-0057 is applicable in this case and states the following:

Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone. [OAR 660-006-0057]

As described in the Staff Report, the subject property is used for a mixture of farm and forest purposes. The subject property was managed under uses permitted under Goals 3 until 1994, and under the uses that implement Goal 4 from 1994 until the present. The applicant would like to establish a winery on the subject property. A winery is permitted under the uses permitted in the EFU zone, which implements Goal 3 and the FF zones, which implement Goals 3 and 4. The applicant has indicated that the FFO zone, which implements the Farm Forest Plan designation and

³² Polk County TSP, p. 3-6.

³³ Source: Wine Institute and the American Vineyard Foundation.

Goals 3 and 4, is preferable because it would allow for commercial farm uses and forestry uses on the subject property. Those uses would allow the applicant increased flexibility to use the subject property for the current primary use of the property as a vineyard, and also allow forestry uses which have historically been permitted on the subject property. Forestry uses are proposed for the steeper, north slopes, because those areas are not suitable for vineyard use.

The subject property is accessed from Oak Grove Road, which in the location abutting the subject property, is a major collector identified on Figure 3 of the *Polk County Transportation Systems Plan* (TSP). If the proposed PCCP amendment and Zoning Map amendment are approved, the applicant would be able to establish the uses permitted in the FFO zone. The FFO zone permits those uses that are allowed in both the TC and EFU zones. The TC zone is currently applied to the subject property, and the EFU zone was applied to the subject property prior to 1994. The uses that would be added to the currently allowed uses in the TC zone by applying the FFO zone include uses that have the potential to attract traffic to the property. Uses such as a farm stand, winery, or commercial activity in conjunction with farm use could attract traffic associated with the retail sales of farm products and processed farm products, such as wine. The TC zone arguably permits fewer high traffic uses, but it does permit a private park and campground or permanent forest product processing facility. Such uses could also produce high levels of traffic. The applicant points out that if a winery is established on the subject property, traffic would typically occur during the weekend, which is during off peak commuting time periods. Based on the comments provided by the Public Works Department, and the information in the record, Oak Grove Road has capacity to accommodate up to 1500 average daily vehicle trips (ADT). At last count in summer 2010, Oak Grove Road receives 690 ADT. This indicates that even if the applicant was to establish a high traffic use in the FFO zone, there is generally adequate capacity within Oak Grove Road to accommodate additional traffic. Based on these factors, staff did not believe that applying the Farm Forest Plan designation and the FFO zone to the subject property would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant proposes a new access location to Oak Grove Road, or another county road, an access permit from the Polk County Public Works Department may be required.

Staff and the Hearings Officer believe the applicant has addressed all applicable Oregon Statewide Planning Goals. No goal exception is necessary in order to approve these applications. The Hearings Officer finds 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 or within an incorporated city. As a result, no intergovernmental agreements are applicable to this application. This criterion is not applicable to the proposed amendment.

(Zone Change)

- A. A 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. [PCZO 111.140]**

Authorization for a Zoning Map amendment is provided under PCZO 111.275. A zone change is subject to recommendation by the Hearings Officer after holding a public hearing pursuant to PCZO 111.190 and 115.030 and decision by the Polk County Board of Commissioners after holding a public hearing pursuant to PCZO 111.200 and 115.030. Planning Division staff reviews the proposed zone change, and prepares a report and recommendation for the Hearings Officer. The Hearings Officer makes a recommendation to the Board for a final local decision. This application has been processed in accordance with these procedural requirements of the PCZO.

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)]
 - a. It is the intent of the Farm/Forest designation to provide an opportunity for the continuance and the creation of large and small scale commercial farm and forestry operations. It is also intended that the addition and location of new structures and improvements will not pose limitations upon the existing farm and forest practices in the area or surrounding area and that additional density will not adversely affect the agricultural or forestry operations of the area through the increased use of roads, demands for ground water during the growing season, or demands for increased levels of public facilities and services.

It is the specific intent of the Farm/Forest Plan designation to ensure that land use actions are consistent with definitions of agricultural and forest lands contained within the Polk County Comprehensive Plan. The Farm/Forest Plan designation will be implemented through the use of the Farm/Forest (F/F) Zone which includes areas designated as Farm/Forest Overlay on the zoning map. [PCCP Section 4]

Applicant states that the Farm/Forest zone is the corresponding zone to the Farm/Forest PCCP designation. The purpose of this zone is to provide *"for the full ranges of agricultural and forest uses while providing for the maximum property tax benefits that are available."*³⁴ That designation will also allow the applicant to develop a winery pursuant to ORS 215.452, *et seq.* The Applicant views the winery as an important component to the vineyard operation at this location.

Applicant says it has demonstrated that the proposed zone change is consistent with the applicable purposes and policies for both the Agricultural Land and Forest PCCP designations. Consequently, the application complies with PCZO 111.275 (A).

Staff believes that, as described in Section 4 of the PCCP, the Farm Forest PCCP designation is implemented by both the FF and FFO zones. The single difference between the FF and FFO zones is that the FF zone has a 40-acre minimum parcel size and the FFO zone has an 80-acre minimum parcel size. The subject parcel is currently zoned TC, which has an 80-acre minimum parcel size. The TC zone and FFO zone have the same minimum parcel size, so zoning the subject property FFO would not allow for additional parcel density beyond what is currently permitted. The uses in the FFO zone have already been determined to be consistent with the Farm Forest PCCP designation, and the current management of the subject property for a commercial vineyard and forestry purposes demonstrates that the subject property is suited to be used consistently with the Farm Forest PCCP designation. Therefore, staff concluded that the application complies with this criterion, and the Hearings Officer concurs and so finds.

2. The proposal conforms with the purpose statement of the proposed zone; [PCZO 111.275 (B)]
 - a. The Farm/Forest (F/F) Zone is designed to provide for the full range of agricultural and forest uses for such lands, while providing for the maximum property tax benefits available (e.g. farm use assessment, timber tax treatment, open space deferral, wildlife habitat, etc.) and conformity with the Farm/Forest objectives and policies of the Polk County Comprehensive Plan.

³⁴ PCZO 138.010.

100235

Upon periodic revision of the Polk County Comprehensive Plan, the lands within the F/F designation shall be reviewed by the County Commissioners as to their continued appropriateness in such a designation or, alternatively rezoning to a more appropriate category.

As with other natural resource zones, there are isolated lands within the F/F Zone which have no actual or potential use for agricultural or forest purposes. In those cases, other non-natural resource uses may be permitted only as provided in this Chapter and in the Polk County Comprehensive Plan. Such uses must not be adverse to accepted agricultural or forest practices. Further, consistent with the diverse character of this zone and recognizing that the actual and potential land use conditions vary from intensive to extensive cultivation and use, the Board of County Commissioners has adopted this zone to deal with myriad potential uses, while recognizing the primary orientation of this zone towards farm and forest uses.

Applicant says the FF zone is contained in PCZO Chapter 138. The stated purpose of the FF Zone is to "provide for the full range of agricultural and forest uses for such land, while providing for the maximum property tax benefits available (e.g. farm use assessment, timber tax treatment, open space deferral etc.) and with the Farm/Forest objectives and policies of the Comprehensive Plan."³⁵

While a majority of the subject property will be agriculture, a significant portion, including the existing riparian area and areas with either steep slopes or lack of proper sun exposure for a vineyard, will be maintained as forest land. The FF zone allows for both types of land management

Staff states that the applicant has proposed a zone change from TC to FFO. The proposed FFO zone allows "farm use" and "use and management of forest lands" as outright permitted uses. The subject property is currently managed for vineyard use and forestry. Those uses would remain outright permitted if the proposed zone change is approved. The subject property contains approximately 162.2 acres and is generally rectangular in shape. The property is a size and configuration that generally allows for farm and forest use of the subject property. The applicant indicates that the steep, north-facing slopes will be planted in timber because those areas are less suitable for vineyard use. The subject property is already being used for farm and forest purposes, and the FFO zone is designed to permit an array of farm and forest uses. Future development of the subject property would be restricted to the uses permitted in the FFO zone, and for the above reasons, staff concluded that the applicant's proposal is consistent with the purpose and intent of the FFO zone, and the Hearings Officer concurs.

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

Applicant states that the adjacent area is comprised of a mixture of farming and forestry activities. As previously noted all surrounding lands are designated as agricultural land on the PCCP Map and as EFU on the county's Zoning map. The uses permitted in the FF zone are consistent with this type of rural land use pattern. Therefore, the proposed designation will not adversely impact allowed uses on adjacent lands, and the application complies with PCZO 111.275(C).

Staff notes that the subject property was most recently rezoned in 1994. According to Polk County planning files, the subject property was zoned EFU from 1980 to mid 1994. In 1994, the subject property obtained its current PCCP and Zoning designations. Polk County approved Polk County Planning Files PA 94-5 and ZC 94-5 to change the subject property's PCCP designation from Agriculture to Forest and Zoning Map designation from EFU to TC.

The applicant is proposing a zone change of the subject property from TC to FFO. With

³⁵ PCZO 138.010.

111236

limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. The subject property has been zoned both EFU and TC; therefore, the uses permitted in the proposed FFO zone have been permitted on the subject property at some point in history.

Based on a review of the 2008 Polk County aerial photograph, contiguous properties are used for a mix of agricultural and forest uses. These uses include management of orchard crops and timber.

The primary changes to the uses permitted on the subject property that would result if this application is approved is that the FFO zone allows several uses that support commercial agricultural operations that are not allowed in the TC zone. These uses include a farm stand, commercial activity in conjunction with farm use, and a winery. The applicant has indicated an intention to establish a winery on the subject property if the proposed zone change is approved. Based on a review of the Polk County Zoning Map, all properties contiguous to the subject property are zoned EFU. Consequently, those uses that would be added to the permitted uses already allowed on the subject property would be those uses that are currently allowed on neighboring properties. It is commonly accepted that properties that have the same permitted uses are generally compatible with one another. So, neighboring properties with the same zoning may be used for different functions, but they are generally compatible due to their similar nature. In this instance the "new" uses that would be permitted on the subject property are the uses allowed in the EFU zone. So, the new uses would not significantly adversely affect allowed uses on adjacent lands.

The FFO zone also permits the uses allowed in the TC zone, which is the subject property's current zoning designation. Those include uses that support commercial forestry and are not allowed on neighboring EFU zoned properties. Uses include permanent facilities dedicated to processing forest products. If such use is established on the subject property, staff anticipates that a forest product processing facility would have the same potential offsite impacts such as dust, noise, and traffic as other uses allowed on neighboring properties zone EFU, such as a commercial farm product processing facility. Further, a permanent forest product processing facility would require a conditional use permit where the applicant would need to demonstrate how their specific proposal would be designed to minimize impacts on surrounding farm and forest uses. In total, the uses permitted in the FFO zone would not significantly adversely affect allowed uses on adjacent lands because the FFO zone allows the uses in the EFU zone, which are the same as those uses allowed on neighboring properties. The FFO zone allows the uses in the TC zone, which currently applies to the subject property. These uses include an array of resource uses that would have similar offsite impacts as neighboring EFU zoned properties.

Based on the information provided by the applicant and the conclusions above, the Hearings Officer finds that the application complies with 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)]

Applicant states that the application will not create a greater demand on any public facilities, services, or the transportation network since the proposed activities will use minimal water supplemented by local springs, average daily trips, and no increase in police or fire infrastructure services.³⁶ The dwelling structure on the property is serviced by the Rickreall Water District and Southwest Polk Rural Fire Protection District. Funding for district services are collected through tax assessments.

The Polk County Sheriff Department provides emergency services to the property. Funding for those services is provided through property taxes paid to Polk County.

No additional dwellings are proposed. The vineyard is expected to eventually employ up to five or six persons, with seasonal increases up to 50 people during times of the year, when grapes are picked in the fall season and pruned in the spring season. Toilet and domestic water facilities

³⁶ See Exhibit A, p.p. 3-4.

will either be on-site via well or local springs, or from the Rickreall Water District.

The winery and tasting room will also not generate significant impacts on any public services. On average no more than 10 to 25 people per day are expected. On some occasions there may be larger gatherings, but those events can be easily accommodated on-site without the need for additional public facilities.

An existing driveway services both the existing residence and vineyard. This driveway is under permit with Polk County and provides a direct access from Oak Grove Road. Oak Grove Road is classified as a minor collector in Polk County's Transportation System Plan (TSP). According to County officials, average daily trips (ADT) on this road range from 460 to 820.³⁷ If upgrades to the driveway are needed to accommodate the vineyard and winery, *i.e.* to allow tour buses ingress and egress, the Applicant will work with Polk County to ensure the driveway and turnarounds are adequate and there are sufficient site distances along Oak Grove Road. Hence, the application complies with PCZO 111.275(D).

Staff notes that the applicant is proposing to change the zoning of the subject property from TC to FFO. The FFO zone permits the uses allowed in both the EFU and TC zones. The FFO zone allows limited residential development, and commercial development is largely restrained to activities in conjunction with farm use on the subject property.

The applicant has indicated a desire to establish a winery on the subject property if this zone change is approved. Similar to a host of other permitted uses in the TC, EFU, and FFO zones, a winery requires water and the disposal of wastewater. The applicant would be responsible for obtaining all necessary permits from the Polk County Environmental Health Division or the Oregon Department of Environmental Quality for the disposal of wastewater. Permits may also be needed from the Oregon Department of Water Resources if the applicant plans to collect and use surface water. These permits may place limitations on water-intensive uses that are out of scale with the land and water resources available on the subject property.

The subject property is accessed from Oak Grove Road, which in the location abutting the subject property, is a major collector identified on Figure 3 of the TSP. If the proposed PCCP amendment and Zoning Map amendment are approved, the applicant would be able to establish the uses permitted in the FFO zone. With limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. The TC zone is currently applied to the subject property, and the EFU zone was applied to the subject property prior to 1994. The uses that would be added to the currently allowed uses in the TC zone by applying the FFO zone include uses that have the potential to attract traffic to the property. Uses such as a farm stand, winery, or commercial activity in conjunction with farm use could attract traffic associated with the retail sales of farm products and processed farm products, such as wine. The TC zone arguably permits fewer high traffic uses, but it does permit a private park and campground or permanent forest product processing facility. Such uses could also produce high levels of traffic. The applicant points out that if a winery is established on the subject property, traffic would typically occur during the weekend, which is during off peak commuting time periods. Based on the comments provided by the Polk County Public Works Department, and the information in the record, Oak Grove Road has capacity to accommodate up to 1500 average daily vehicle trips (ADT). At last count in summer 2010, Oak Grove Road receives 690 ADT. This indicates that even if the applicant was to establish a high traffic use in the FFO zone that there is generally adequate capacity within Oak Grove Road to accommodate additional traffic. Based on these factors, staff does not believe that applying the Farm Forest PCCP designation and the FFO zone to the subject property would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant proposes a new access location to Oak Grove Road, or another county road, an access permit from the Polk County Public Works Department may be required.

Based on the above information, staff concluded that there are adequate public facilities, services, and transportation networks in place to support the proposed zone change. Approval of this

³⁷ August 4, 2010 email from Fred Lowe, Public Works Department.

11/12/18

proposed zone change and PCCP amendment would not authorize the applicant to establish a use that would exceed transportation, water and/or sewage disposal services until such services are planned or available. The western portion of the subject property is located in the area served by the Rickreall Water Cooperative. If the applicant plans to obtain water from a community water system, a "Statement of Water Availability" shall be submitted prior to building permit issuance. The applicant should also be required to comply with all applicable state and federal water laws. There have been no identified effects on local schools as a result of the proposed change. The Southwest Polk Rural Fire Protection District and the Polk County Sheriff Department provide emergency services at the subject property.

The Hearings Officer finds that the application complies with this criterion.

5. The proposed change is appropriate taking into consideration the following:

- a. **Surrounding land uses,**
- b. **The density and pattern of development in the area,**
- c. **Any changes which may have occurred in the vicinity to support the proposed amendment. [PCZO 111.275(E)(1-3)]**

Applicant states that a zone change to Farm/Forest with a Farm/Forest Overlay is consistent with the density and pattern of development in this area. While the immediate surrounding properties are still zoned EFU, in reality the land usage in this area is a mixture of different types of forestry and agricultural operations with scattered rural residences, predominately along Oak Grove Road. There are a number of other vineyards and wineries that have developed along Oak Grove in recent years. An additional winery along this route provides an incentive for persons taking wine tours to include this area on their itinerary. Consequently, the application complies with PCZO 111.275(E).

Staff concluded, as discussed above, based on a review of the 2008 Polk County Aerial Photograph, the subject property is surrounded by properties used for a mix of farm and forest purposes. The FFO zone allows for an array of uses. The FFO zone allows both the uses permitted in the current TC zone and the EFU zone. Surrounding properties are zoned EFU, so if these applications are approved, the property could be used for the same uses as neighboring properties and for the uses currently permitted on the subject property. Due to the similar nature of the uses permitted in the FFO zone and the EFU zone, staff believes the proposed FFO zoning would be generally compatible with surrounding land uses. The FFO zone has an 80-acre minimum parcel size, which is the same as the EFU zone. The proposed zoning would be consistent with the density and pattern of development in the area. The applicant points to the expansion of the wine market in Oregon. The applicant cited statistics indicating that the number of wineries in Oregon has doubled since 2000. Staff's research found that the production of wine grapes has more than doubled between 1994 and 2009. That expansion reflects an increase in demand for Polk County wines and visits to Polk County wineries. According to the applicant, the subject property is well suited for growing wine grapes. Zoning the subject property FFO would allow the applicant to establish a winery on the subject property. A winery would provide an additional method for the applicant to market their wine.

The Hearings Officer finds that the application 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. This criterion is therefore not applicable to this request.

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

100279

Rules, Chapter 660, Division 4 shall apply. [PCZO 111.275(G)]

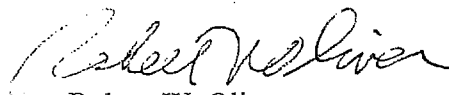
Applicant contends that Exhibit A in the Staff Report demonstrates how this application complies with relevant Oregon Revised States and the applicable Statewide Planning Goals and Oregon Administrative Rules, including the Transportation Planning Rule. No goal exception is required because the FFO zone will maintain the 80-acre minimum parcel size minimum. The Application furthers and supports the changing planning goals as set forth in the PCZO and PCCP, and applicable state requirements listed in the Oregon Revised Statutes and Oregon Administrative Rules. The requested changes will support the continuing vitality of the wine industry in Polk County.

Staff believes the applicant is proposing a zone change from a resource zone (TC) that implements Goal 4 to a zone (FFO) that implements both Goals 3 and 4. The minimum parcel size would remain unchanged if this zone change is granted. Consequently, a statewide planning goal exception is not needed. As discussed above, the subject property satisfies the definition requirement of both agricultural land and forest land. The applicant has supported changing the Zoning Map designation to the FFO zone, a mixed use zone, in order to allow both commercial farm and forest uses to be established on the subject property. As discussed in the findings, the applicant's proposal complies with the Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules. The Hearings Officer concurs, and so finds.

RECOMMENDATION

Based on the information submitted into the Record, and the findings presented above, staff and the Hearings Officer recommend that the Board of Commissioners APPROVE applications PA 10-05 and ZC 10-06. Future development on the subject property would be subject to the use and development standards listed in the PCZO. These include the standards for the Farm Forest Overlay zone listed in PCZO Chapter 138.

Dallas, Oregon, January 12, 2011.



Robert W. Oliver

Polk County Hearings Officer

111240

ADDRESS SERVICE
REQUESTED

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE
EITNEY BOWES
02 1M \$ 01.437
0004275527 FEB 17 2011
MAILED FROM ZIP CODE 97338

Polk County Community Development

Polk County Courthouse
850 Main Street
Dallas, Oregon 97338



TO:

DLCD
Plan Amendment Specialist
635 Capitol ST NE, Suite 150
Salem, OR 97301

DEPT OF
FEB 18 2011
LAND CONSERVATION
AND DEVELOPMENT